

HB

497

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: HB 497

Sponsor: Governor

Date referred to committee: 4/30/86

Synopsis completed:

Fiscal note:

Further referrals:

CONTACTS:

- ✓ Kathy Marshall, Women's Commission
x3568
- ✓ Sherry Gell, Women's Lobby
- ✓ Karla Forsythe, courts 264-0634
- ✓ Joan Brooks, ^{Patty Lee} Vital Statistics 3393

COMMITTEE REPORT

SENATE

FURTHER: JUDICIARY

4/30/86

Date 5-8-86

Mr. President

The Committee on HESS considered CSHB 497(Jud)am relating to custody, support, visitation, and birth certificates of children.

and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 497(Jud)am
- new title
- same title and recommends Do Pass
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Joe P. Josephson

Adrian Szymanski

Edna De Vries

Fahrenkamp DePass
Chairman

Chairman recommendation _____

5/8/86

Memorandum to Senator Fahrenkamp, Chair, Senate HESS

From: Senator Josephson

Subject: CSHB 497

As requested, I have reviewed CS HB 497. I have spoken with advocates and with a member of the judiciary who handles domestic relations dockets. I have not spoken with Rep. Gruenberg, at this writing, whom I understand crafted some of the language. (Rep. Gruenberg specializes as a lawyer in domestic relations matters and probably brings some expertise to this issue).

My conclusions are as follows:

1. Proposed Section 1. I would delete Section 1. Section 1 as written puts the court in a really impossible position. The court is called on to "examine the agreements between the parties. . . to ensure that (they) are in the best interests of the child and that neither parent has been subjected to duress or coercion to accept the agreements." There is really no way to ensure those facts unless both parties are in court. (Even if both parties are in court, of course, one spouse may still intimidate the other). At present, "Appearance and Waiver" forms already recite that the party executing the Waiver is doing so voluntarily. Similarly, acknowledgement forms signed by the parties before notaries public at the end of a custody or property settlement agreement also contain language stating that the execution was done freely and voluntarily.

By the same token, it is difficult for the court to determine from the documentation whether the agreement is "in the child's best interest", unless the court has some bias (e.g., for or against the mother, for or against the father, for or against split custody), which is the actual predicate of such a determination. I believe that in most cases -- assuming

voluntariness and freedom from coercion -- the parents are in at least as good a position as the court to decide what is "in the child's best interest." In Anchorage, there is a custody investigator who can do interviews at the courthouse on the day of the hearing, but there is no such investigator provided in other sites. The essential questions raised by Section 1, in sum, are whether Section 1 does anything useful (and we should bear in mind Ms. Forsythe's testimony that the court system does not take Section 1 as requiring that both parties appear or that the court should do anything except ask a few more questions), and to what extent (if the agreement of the parents is voluntary and not coerced) we should desire the state to intervene more than is done under present practice.

2. Section 2. I would retain section 2, but I would delete the second section of subsection (f). As you recall, in our hearing we were unable to ascertain what ^{the second sentence of} section 2 really means. It would appear to invite the court to distract itself from the central issue of the well-being of the child. Subsections (d) and (3) conform to existing law, but by enacting them we may bring about greater public awareness of these options on visitation and child support. The second sentence of the proposed subsection (f), by the way, is in conflict with AS 25.24.150(d) which says that "In awarding custody the court may consider only those facts that directly affect the well-being of the child."

3. Section 3. Attached is copy of AS 25.24.150, so that you can see the factors that the court is required to consider under existing law. The proposed section 3 would put a burden on the court because the court would have to state on the record the court's "reasoning" about

each of the factors. In most cases, the court would probably accept the agreement or joint decision or request of the parents. And in most cases, there would be no basis for the court to have any "reasoning" about the factors in any event, since the court would be operating on the papers, very brief testimony of one party, or extremely superficial information. Perhaps one solution would be to change the new language proposed at lines 15-16 to read: "including the court's reasoning, in the event that the request for shared custody is denied, on each of the factors enumerated in AS 25.24.150(c). In all cases in which a request for shared custody is made, the court shall state on the record, or in the court order or decree, that the decision of the court with respect to the request is not, ^{shown to be} inconsistent with the factors enumerated in AS 25.24.150(c)."

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



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Sandra

Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, May 6, 1986

DATE: May 2, 1986

On Tuesday, May 6, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following bills:

HB 418 An Act relating to liability for providing emergency medical care.

Current statute shields an Emergency Medical Technician (EMT) and a paramedic from liability for ordinary negligence in life saving situations only. HB 418 would expand this protection to include rendering emergency care to any person "who is in need of immediate aid in order to avoid serious harm." EMTs and paramedics would still be liable in cases of gross negligence or intentional misconduct. The State of Alaska currently licenses both EMTs and paramedics.

CSHB 497 (Jud) am Relating to custody, support, visitation, and birth certificates of children

HB 497 amends Alaska's divorce and dissolution statutes to:
1) require the court to examine child custody agreements between parents, whether the case is disputed or undisputed, to ensure the agreement is in the best interest of the child and that

neither parent has been subjected to coercion or duress in accepting the agreement. The court would be authorized to disapprove the agreement and enter an appropriate child custody order.

2) permit the court to award visitation to a grandparent or another person,

3) require the court to list the reasons why shared custody has been awarded or denied, rather than only when denied as under current statute,

4) repeal the provision which allows the state registrar to file birth certificates of children born to unmarried parents separate from certificates of children born to married parents. According to the state registrar, separate filing procedures have never been used.

The bill is intended to ensure that custody arrangements are made in the best interests of the child.

SB 435 Relating to the Alaska Children's Trust Corporation; the Alaska children's trust fund; contributions to the trust fund from permanent fund dividends.

SB 435 would establish the Alaska Children's Trust Fund as a continuing source of funding for community-based programs and projects that aid in the prevention and treatment of child abuse and neglect. The trust fund would consist of contributions solicited through a "check off" on the Permanent Fund Dividend application form, and would be managed by the public corporation established in the bill.

The Department of Health and Social Services has recommended several amendments to the bill (see attached).

**STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date : 4/22/86

REQUEST

Bill/Resolution No. : CSHR 497 (HESS)
 Title : An Act relating to . . .
and child custody

 Sponsor : Ruler
 Requestor : Gov nor
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Alaska Court System
 BRU : Trial Courts

 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME		-0-	-0-	-0-	-0-	-0-
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Karla Forsythe Phone : 264-8228
 Division : Alaska Court System Date : 4/22/86

Approved by Commissioner : Arthur H. Snowden, AHS II Date : 4/22/86
 Agency : Alaska Court System *by K. Forsythe*

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

Fiscal Impact

CSHB 497

CSHB 497 deletes language contained in the original bill which would have required the courts in all custody cases, disputed or undisputed, to actively solicit information about the factors enumerated in AS 25.24.150(c). The procedures adopted in the current version of this bill will require courts to ask a few additional questions of the parties and to spend a slightly longer time explaining the reasoning for award or denial of shared custody. Because this bill does not appear to require substantial deviation from existing judicial practice and will not require lengthy custody investigations in every case, it appears that existing court resources will be adequate to carry out the intent of the bill.

Offered: 4/23/86
Referred: Rules

DRAFT
changes marked in text

Original sponsor: Rules/Governor

1 IN THE HOUSE
2 SCS CS FOR HOUSE BILL NO. 497 (Judiciary) ^{H E S S} am
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to custody, support, visitation, and
7 birth certificates of children."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 25.20.060(a) is amended to read:

10 (a) In a case involving [IF THERE IS A DISPUTE OVER] child
11 custody, either parent may petition the superior court for resolution
12 of the matter under AS 25.20.060 - 25.20.130. The court shall award
13 custody on the basis of the best interests of the child in either a
14 disputed or undisputed case. In determining the best interests of the
15 child, the court shall consider all relevant factors, including those

16
17
18

any party giving testimony or present whether ^{inquire on the record of}
~~examine the agree-~~
~~ments between the parents regarding custody to ensure that the agree-~~
~~ments are in the best interests of the child and that neither parent~~
^{whether}

19 has been subjected to duress or coercion to accept the agreements.
20 The court may approve agreements that are in writing and filed with
21 the court or that are made orally on the record and subsequently set
22 out in full in the court order or decree. If the court finds the
23 custody agreement is not in the child's best interest, the court shall
24 (1) disapprove the agreement in whole or in part and set
25 out the reasons for disapproval on the record or in a written decis-
26 ion;

27 (2) solicit all relevant information regarding all relevant
28 factors, including those factors enumerated in AS 25.24.150(c); and

29 (3) enter an appropriate child custody order.

1 * Sec. 2. AS 25.20.060 is amended by adding new subsections to read:

2 (d) The court may award visitation to a grandparent or another
3 person if visitation is in the best interest of the child.

4 (e) The court may award child support in an appropriate case,
5 whether custody is sole, shared, or split.

6 (f) In awarding custody, the court shall consider only those
7 factors that directly affect the well-being of the child. This sub-

8 section does not prohibit the court from considering the impact of a
9 custody award on either parent, ^{but only} to the extent such impact ^{is proved to have a direct} ~~may affect~~ ^{and substantive} ~~impact on~~
10 the best interests of the child.

11 * Sec. 3. AS 25.20.100 is amended to read:

12 Sec. 25.20.100. [DENIAL OF] SHARED CHILD CUSTODY. If a parent
13 or the guardian ad litem requests shared custody of a child and the
14 court awards or denies the request, the reasons for the award or
15 denial must [SHALL] be stated on the record, ^{and the Court shall} ~~including the court's~~
16 note its consideration of ~~reasoning on each of the factors enumerated in AS 25.24.150(c).~~

17 * Sec. 4. AS 25.20 is amended by adding a new section to read:

18 Sec. 25.20.140. DEFINITION. In this chapter "split custody"
19 means a custody arrangement in which the decision as to who has custo-
20 dy of each child is not the same for all children of the marriage.

21 * Sec. 5. AS 18.50.160(f) is repealed.

Sec. 25.24.150. Judgments for custody. (a) In an action for divorce or for legal separation or for placement of a child when one or both parents have died, the court may, if it has jurisdiction under AS 25.30.020, and is an appropriate forum under AS 25.30.050 and 25.30.060, during the pendency of the action, or at the final hearing or at any time thereafter during the minority of a child of the marriage, make, modify, or vacate an order for the custody of or visitation with the minor child that may seem necessary or proper, including an order that provides for visitation by a grandparent or other person if that is in the best interests of the child.

(b) If a guardian ad litem for a child is appointed, the appointment shall be made under the terms of AS 25.24.310(c).

(c) The court shall determine custody in accordance with the best interests of the child under AS 25.20.060 — 25.20.130. In determining the best interests of the child the court shall consider

(1) the physical, emotional, mental, religious, and social needs of the child;

(2) the capability and desire of each parent to meet these needs.

(3) the child's preference if the child is of sufficient age and capacity to form a preference;

(4) the love and affection existing between the child and each parent;

(5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(6) the desire and ability of each parent to allow an open and loving frequent relationship between the child and the other parent.

(d) In awarding custody the court may consider only those facts that directly affect the well-being of the child.

(e) Notwithstanding the provisions of (d) of this section, in awarding custody the court shall comply with the provisions of 25 U.S.C. 1901 — 1963 (P.L. 95-608, the Indian Child Welfare Act of 1978). (§ 1 ch 160 SLA 1968; am § 1 ch 167 SLA 1975; am § 2 ch 61 SLA 1977; am § 1 ch 63 SLA 1977; am § 1 ch 15 SLA 1982; am §§ 2, 3 ch 88 SLA 1982)

Revisor's notes. — Formerly AS 09.55.205. Renumbered in 1983.

Cross references. — For intent of 1982 amendments, see § 1, ch. 88, SLA 1982, in the Temporary and Special Acts; for enforcement of visitation rights, see AS 25.24.300.

Effect of amendments. — The first 1982 amendment designated the former first sentence as subsection (a), the second sentence as subsection (b), and the rest of the section as subsection (c), inserted "or for placement of a child when one or both parents have died" and "modify, or vacate" in subsection (a), substituted "a child of the marriage" for "any child of the marriage," and the language beginning "that

may seem necessary or proper" for "which may seem necessary or proper and may at any time modify or vacate the order" as subsection (a), and substituted "If for "Any appointment of" and "AS 09.65.130(c)" for "AS 09.65.130" and inserted "is appointed, the appointment" in subsection (b).

The second 1982 amendment, in subsection (c), substituted "under AS 25.20.060 — 25.20.130" for "neither parent is entitled to preference as a matter of right as awarded custody of the child" at the end of the first sentence, deleted "all relevant factors including" from the end of the introductory language in the second sentence, added "if the child is of sufficient

Title 25
Legislation

Title 25
Marital and Domestic
Relations



STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

TESTIMONY

Kathy Marshall

CSHB 497 - Child Custody
House Judiciary
April 22, 1986

The Women's Commission requested the Governor to introduce the bill because of our concern about the plight of Alaska's children following divorce. Nationally, the Census Bureau projects 2/3 of the children born in 1980 will experience divorce by the time they are 17. Here in Alaska, 50 percent of all marriages end in divorce and children frequently experience emotional crisis during a divorce. Child custody arrangements impact the quality of their lives for a substantial period of time.

Over the past ten years there has been a major shift in child custody laws, from the concept of maternal preference to the gender neutral standard of the "best interests of the child." Although legal rules now give fathers equal right to custody, mothers continue to be awarded physical custody of the children 90 percent of the time. The reason appears to be that maternal custody is preferred by the parents themselves. There has been no change in the percentage of fathers who request custody. While judges appear to maintain their preference for maternal custody, only 10 percent of the contested cases actually go to trial. Most cases are negotiated out of court. When fathers do request custody in negotiated settlements, they succeed 66 percent of the time. This high success rate is due to the fact that women are less secure than they used to be under maternal preference about potential custody threats because the "best interests of the child" standard is often interpreted in favor of the father. Under the "best interest" standard, the focus shifts from unfitness to a consideration of each person's relationship with the child and to which parent is best able to care for the child. Women are perceived often as less able for the following reasons:

- 1) Courts regard women's employment, as opposed to men's, as a "diminished capacity" to care for children.
- 2) Judges assume that when both parents have worked outside the home they have been equal in the amount of

care given to the child. Research indicates, however, that men provide even less care of the children when both parents work because they are less willing to relieve a mother who has spent the day with the child.

- 3) "Quality of care" is equated with financial resources and women earn only 2/3 of that earned by men.
- 4) Courts favor two parent living situations for children and men are most likely to remarry in the first year following a divorce.

As a result, when custody is negotiated women feel compelled to give up or compromise financial interests (child support, alimony, property) in order to gain custody. So, although women are receiving custody in 90 percent of the cases, it is because they have bargained for it.

The Women's Commission is committed to custody arrangements being made in the "best interests of the child". Sec. 1 of CSHB 497 would require the court to examine the agreements between parents regarding custody to ensure neither parent has been subjected to coercion or duress. If coercion is suspected the court would then treat the custody arrangement as a disputed case and solicit additional information regarding the relevant factors listed in AS 25.24.150(c). These factors include:

- 1) the physical, emotional, mental, religious, and social needs of child;
- 2) the capability and desire of each parent to meet these needs;
- 3) the child's preference if the child is of age and capacity to form a preference;
- 4) the love and affection existing between the child and parent;
- 5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
- 6) the desire and ability of each parent to allow an open and loving frequent relationship between the child and the other parent;

This section also recognizes that in some cases custody investigators may be assigned to solicit the information about these relevant factors.

Sec. 2 of the bill adds three new subsections which also ensure that custody arrangements are in the best interests of the child:

- (d) permits the court to award visitation to a grandparent of another person. The Women's Commission believes children suffer less if they can continue to be involved in relationships that are important to them.
- (e) clarifies that child support should not necessarily be dependent on the type of custody arrangement made.
- (f) restricts the kinds of factors that can be considered by the court in custody determinations.

Sec. 3 would require the court to list the reasons why shared custody has either been awarded or denied. Under current law this only occurs when joint custody is denied. Joint custody is an important means of ensuring children get access to both parents. A five year study of the impact of divorce on children concluded children adjust best when they maintain a continuing relationship with both parents. However, the single most dangerous consequence to children from divorce is hostility between parents. If the joint custody arrangement is voluntary and both parents truly want it, it is the preferred custody choice. If, however, coercion has occurred, there is a high likelihood of hostility. In fact, a number of studies have indicated higher rates of conflict and relitigation among couples with joint custody. Careful investigation of these cases is essential.

The last section of the bill repeals AS 18.50.160(f) which permits the state registrar to require a different procedure be followed for filing a birth for a child born to unmarried parents than for a child born to married parents. The state registrar assured us that in the past nine years separate procedures have never been used and that there was no reason the law should not be repealed.

KM/dn

information required by the certificate within five days after the birth.

(c) When a birth occurs outside an institution, the certificate shall be prepared and filed by one of the following in the indicated order of priority:

(1) the physician in attendance at or immediately after the birth; or in his absence

(2) a person in attendance at or immediately after the birth; or in his absence

(3) the father, mother, or, in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurs.

(d) If the mother was married at the time of conception or birth, the name of the husband shall be entered on the certificate as the father of the child unless paternity has been determined otherwise by a court of competent jurisdiction, in which case the name of the father, if determined by the court, shall be entered.

(e) If the mother was not married at the time of conception or birth, the name of the father shall not be entered on the certificate of birth unless paternity has been determined by a court of competent jurisdiction, or both the mother and father request the entry, or otherwise as specified by statute.

(f) In the case of a child born out of wedlock, the certificate of birth shall be filed in accordance with (a), (b), and (c) of this section unless the state registrar directs another procedure. (§ 13 ch 118 SLA 1960; am § 83 ch 127 SLA 1974)

Sec. 18.50.170. Foundling registration. (a) The person who assumes the custody of a living infant of unknown parentage shall within seven days report the information prescribed by the state registrar on a form and in the manner prescribed by the state registrar to the local registrar of the registration district in which the child was found.

(b) The place where the child was found shall be entered as the place of birth and the date of birth shall be determined by approximation.

(c) A report registered under this section constitutes the certificate of birth for the infant.

(d) If the child is identified and a certificate of birth is found or obtained, a report registered under this section shall be sealed and filed in accordance with instructions of the state registrar, and may be opened only by order of a superior court or as provided by regulation. (§ 14 ch 118 SLA 1960)

Sec. 18.50.180. Delayed registration of birth. (a) When the birth of a person born in the state has not been registered a certificate may be filed in accordance with regulations issued under this chapter. The certificate shall be registered subject to the evidentiary requirements the department prescribes by regulation to substantiate the alleged facts of birth.

Sec. 25.24.150. Judgments for custody. (a) In an action for divorce or for legal separation or for placement of a child when one or both parents have died, the court may, if it has jurisdiction under AS 25.30.020, and is an appropriate forum under AS 25.30.050 and 25.30.060, during the pendency of the action, or at the final hearing or at any time thereafter during the minority of a child of the marriage, make, modify, or vacate an order for the custody of or visitation with the minor child that may seem necessary or proper, including an order that provides for visitation by a grandparent or other person if that is in the best interests of the child.

(b) If a guardian ad litem for a child is appointed, the appointment shall be made under the terms of AS 25.24.310(c).



(c) The court shall determine custody in accordance with the best interests of the child under AS 25.20.060 — 25.20.130. In determining the best interests of the child the court shall consider

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(d) In awarding custody the court may consider only those facts that directly affect the well-being of the child.

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STATE OF ALASKA

OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION

3601 C STREET - SUITE 742

ANCHORAGE, ALASKA 99503

TESTIMONY

Kathy Marshall

CSHB 497 - Child Custody
Senate Health, Education
and Social Services Committee
May 6, 1986

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The Women's Commission is committed to custody arrangements being made in the "best interests of the child". Sec. 1 of CSHB 497 would require the court to examine the agreements between parents regarding custody to ensure neither parent has been subjected to coercion or duress. If coercion is suspected the court would then treat the custody arrangement as a disputed case and solicit additional information regarding the relevant factors listed in AS 25.24.150(c). These factors include:

- 1) the physical, emotional, mental, religious, and social needs of child;
- 2) the capability and desire of each parent to meet these needs;
- 3) the child's preference if the child is of age and capacity to form a preference;
- 4) the love and affection existing between the child and parent;
- 5) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;
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This section also recognizes that in some cases custody investigators may be assigned to solicit the information about these relevant factors.

Sec. 2 of the bill adds three new subsections which also ensure that custody arrangements are in the best interests of the child:

- (d) permits the court to award visitation to a grandparent or another person. The Women's Commission believes children suffer less if they can continue to be involved in relationships that are important to them.
- (e) clarifies that child support should not necessarily be dependent on the type of custody arrangement made.
- (f) restricts the kinds of factors that can be considered by the court in custody determinations.

Sec. 3 would require the court to list the reasons why shared custody has either been awarded or denied. Under current law this only occurs when joint custody is denied. Joint custody is an important means of ensuring children get access to both parents. A five year study of the impact of divorce on children concluded children adjust best when they maintain a continuing relationship with both parents. However, the single most dangerous consequence to children from divorce is hostility between parents. If the joint custody arrangement is voluntary and both parents truly want it, it is the preferred custody choice. If, however, coercion has occurred, there is a high likelihood of hostility. In fact, a number of studies have indicated higher rates of conflict and relitigation among couples with joint custody. Careful investigation of these cases is essential.

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THE CHILDREN'S BILL

HB 497

Attitudes toward children and the family have changed dramatically over the past century. When our country was in its industrial infancy, children were considered little more than chattel with no rights of their own. Many worked like slave laborers in factories and coal mines, or stayed at home to raise younger brothers and sisters while their parents struggled to make a living. Their responsibilities were many, but their rights few.

As the social consciousness of the country matured, with government as the ultimate guardian, so did the status of children. The emergence of the traditional family concept redefined the importance of children and their station within the family unit. But today, family life is going through a new set of changes, changes that once again affect the lives of children. The increasing rate of divorce and dissolution, a greater number of working mothers, and a higher incidence of women with children who live in poverty, suggests that the traditional family is in transition.

In Alaska, over one-half of all marriages end in divorce. Nearly half of all women go to work leaving someone else to care for the families. And, a quarter of all single-family households, almost always headed by women, live in poverty. That means if a woman is left to care for three children and has no income, that family lives on \$823, or less, per month.

These facts indicate that more and more children are faced with the emotional crises of living in nontraditional families. New concepts of parenting have developed to keep pace with the changing family structure. Such concepts include how to cope with shared custody, single parenting, and how to preserve the family when both parents work outside of the home.

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The Children's bill addresses three critical issues involving parents and their children. These issues include responsibility for a child's actions, child custody, and preparation of birth certificates.

Section 1.

Under present law (AS 09.65.110(b)), the parent with legal custody of a minor child is responsible when that minor shoplifts. This law creates problems for divorced families where one parent has legal custody and the other has the child part-time.

For example, assume the mother has legal custody, but the father has the child for the summer months. Under present law, the mother must bear the financial responsibility for the summer acts of shoplifting even though the child was living with the father at the time. Since the child is influenced by both parents, both should be held accountable for the child's acts.

The Children's Bill will:

amend the shoplifting law to provide the courts the same option of assigning joint parental responsibility for a child's actions, as it currently does for acts of vandalism caused by minors.

Sections 2 and 3.

Under the current law governing child custody, the interests of children are not always considered when the case goes to court. Custody arrangements are inadequately scrutinized by judges, especially when prearranged by the parents. This limited oversight frequently results in custody arrangements that are made from unequal bargaining positions between the parents at the expense of their children.

For example, when the husband proposes joint custody--often as a threat or as a means used to manipulate the division of the marital assets--the wife may agree in order to escape the emotional turmoil. What results is two independent people who have some hostility towards each other, trying to make joint decisions about their child. The couple sought divorce because they could not agree on equal terms. The result of this arrangement usually hurts the child the most.

Moreover, the court is allowed to look at any factors it considers pertinent when awarding child custody. The possibility exists that parental lifestyles, or parental sexual activity, may be considered even if such conduct has no effect on the parent's relationship with the child. Women who choose a nontraditional lifestyle may fare poorly under such an open-ended standard, regardless of the quality of their relationship with the children, while similar behavior by fathers may be regarded as insignificant or expected behavior.

The statutes also do not distinguish custody arrangements from the child support obligation. If the judge considers the income of each parent as a factor in determining the best custodian, women--particularly homemakers--would seriously be disadvantaged because women generally earn less money. Furthermore, a joint custody arrangement should not influence an award of child support since the financial status of each parent is a distinct issue from the custody arrangement.

The Children's Bill will:

increase judicial scrutiny and require the court to report more explicitly its findings on custody cases. The bill also requires the court to consider only those factors, in child custody cases, that directly affect the well-being of the child. Lastly, the law is amended to separate out the custody arrangement determined in the best interests of the child from the matter of child support.

Section 4.

Under present law, AS 18.50.160(f), the state registrar can require that a different procedure be followed for the filing of a birth from unmarried parents than from married parents. The provision has been unused by the registrar and appears to have no apparent purpose other than to stigmatize the relationship of the parents.

The Children's Bill will repeal this law.