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265

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY
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POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

Howe Hess:

April 15, 1988

April 19, 1988

April 20, 1988

Original sponsor: Hudson

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 265 (H.E.S.S.)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to community service by, and drug
7 and alcohol abuse treatment for, delinquent minors
8 who violate criminal laws relating to drugs and
9 alcohol."

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

11 * Section 1. FINDINGS. The legislature finds that

12 (1) an alarming number of minors try drugs or alcohol, or both,
13 at an early age;

14 (2) many juvenile arrests are drug related or alcohol related;

15 (3) chemical dependency is a disease characterized by the loss
16 of control over drug or alcohol use, and that related problems, such as
17 suicide and motor vehicle accidents, have become the major health problems
18 of teenagers;

19 (4) chemical dependency among minors causes serious legal,
20 health, and social problems for the entire state;

21 (5) the 15 to 20 percent of minors who drop out of school may be
22 in need of preventive education and treatment for chemical dependency;

23 (6) drug or alcohol use by minors frequently results in truancy,
24 poor scholastic performance, and impairment of short-term memory and atten-
25 tion abilities, and retards the social and emotional development of minors;

26 (7) the health and welfare of many minors in the state can be
27 improved if the problem of chemical dependency is properly addressed in the
28 disposition of delinquent minors in cases involving violation of criminal
29 laws relating to drugs and alcohol.

1 * Sec. 2. AS 09.65.070(d) is amended to read:

2 (d) No action for damages may be brought against a municipali
3 or any of its agents, officers, or employees if the claim

4 (1) is based on a failure of the municipality, or i
5 agents, officers, or employees, when the municipality is neither own
6 nor lessee of the property involved,

7 (A) to inspect property for a violation of a
8 statute, regulation or ordinance, or a hazard to health or saf
9 ty;

10 (B) to discover a violation of any statute, regula
11 tion, or ordinance, or a hazard to health or safety if an in
12 spection of property is made; or

13 (C) to abate a violation of any statute, regulation o
14 rdinace, or a hazard to health or safety discovered on propert
15 inspected;

16 (2) is based upon the exercise or performance or th
17 failure to exercise or perform a discretionary function or duty by
18 municipality or its agents, officers, or employees, whether or not th
19 discretion involved is abused;

20 (3) is based upon the grant, issuance, refusal, suspension
21 delay or denial of a license, permit, appeal, approval, exception
22 variance, or other entitlement, or a rezoning;

23 (4) is based on the exercise or performance during th
24 course of gratuitous extension of municipal services on an extra
25 territorial basis; [OR]

26 (5) is based upon the exercise or performance of a duty o
27 function upon the request of, or by the terms of an agreement o
28 contract with, the state to meet emergency public safety requirements

29 (6) is for injury to a minor that occurred while the minor

1 was performing community service under AS 47.10.080.

2 * Sec. 3. AS 47.10.080 is amended by adding new subsections to read:

3 (1) If the court finds that a minor is delinquent as a result of
4 violating a criminal law relating to the possession, use, or sale of a
5 controlled substance or an alcoholic beverage, the court may, in
6 addition to an order issued under (b) of this section, issue an order

7 (1) that a drug and alcohol screening and evaluation be
8 administered to the minor by a program approved by the office of
9 alcoholism and drug abuse, Department of Health and Social Services;
10 and

11 (2) specifying community service to be performed by the
12 minor.

13 (m) In this section,

14 (1) "alcoholic beverage" has the meaning given in AS 04.-
15 21.080;

16 (2) "controlled substance" has the meaning given in AS 11.-
17 71.900.

Original sponsor: Hudson

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 265 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to restitution and community service
7 by, and drug and alcohol abuse treatment for, delin-
8 quent minors who violate criminal laws."

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

10 * Section 1. FINDINGS. The legislature finds that

11 (1) an alarming number of minors try drugs or alcohol, or both,
12 at an early age;

13 (2) many juvenile arrests are drug related or alcohol related;

14 (3) chemical dependency is a disease characterized by the loss
15 of control over drug or alcohol use, and that related problems, such as
16 suicide and motor vehicle accidents, have become the major health problems
17 of teenagers;

18 (4) chemical dependency among minors causes serious legal,
19 health, and social problems for the entire state;

20 (5) the 15 to 20 percent of minors who drop out of school may be
21 in need of preventive education and treatment for chemical dependency;

22 (6) drug or alcohol use by minors frequently results in truancy,
23 poor scholastic performance, and impairment of short-term memory and atten-
24 tion abilities, and retards the social and emotional development of minors;

25 (7) the health and welfare of many minors in the state can be
26 improved if the problem of chemical dependency is properly addressed in the
27 disposition of delinquent minors in cases involving violation of criminal
28 laws relating to drugs and alcohol.

29 * Sec. 2. AS 09.65.070(d) is amended to read:

1 (d) No action for damages may be brought against a municipality
2 or any of its agent , officers, or employees if the claim

3 (1) is based on a failure of the municipality, or its
4 agents, officers, or employees, when the municipality is neither owner
5 nor lessee of the property involved,

6 (A) to inspect property for a violation of any stat-
7 ute, regulation or ordinance, or a hazard to health or safety;

8 (B) to discover a violation of any statute, regula-
9 tion, or ordinance, or a hazard to health or safety if an in-
10 spection of property is made; or

11 (C) to abate a violation of any statute, regulation or
12 ordinance, or a hazard to health or safety discovered on property
13 inspected;

14 (2) is based upon the exercise or performance or the fail-
15 ure to exercise or perform a discretionary function or duty by a
16 municipality or its agents, officers, or employees, whether or not the
17 discretion involved is abused;

18 (3) is based upon the grant, issuance, refusal, suspension,
19 delay or denial of a license, permit, appeal, approval, exception,
20 variance, or other entitlement, or a rezoning;

21 (4) is based on the exercise or performance during the
22 course of gratuitous extension of municipal services on an extra-
23 territorial basis; [OR]

24 (5) is based upon the exercise or performance of a duty or
25 function upon the request of, or by the terms of an agreement or
26 contract with, the state to meet emergency public safety requirements;

27 (6) is for injury to a minor that occurred while the minor
28 was performing community service under AS 47.10.080.

29 * Sec. 3. AS 47.10.080 is amended by adding new subsections to read:

1 (1) If the court finds that a minor is delinquent as a result of
2 violating a criminal law, the court may, in addition to an order
3 issued under (b) of this section, issue an order

4 (1) specifying restitution to be made, and community ser-
5 vice to be performed, by the minor; and

6 (2) that a drug and alcohol screening and evaluation be
7 administered to the minor by a program approved by the office of
8 alcoholism and drug abuse, Department of Health and Social Services,
9 if the law that was violated relates to the possession, use, or sale
10 of a controlled substance or an alcoholic beverage.

11 (m) In this section,

12 (1) "alcoholic beverage" has the meaning given in AS 04.-
13 21.080;

14 (2) "controlled substance" has the meaning given in AS 11.-
15 71.900.

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: Bill Version: CS HB 265
Publish Date: 04/20/88

Revision Date: Agency Affected: Alaska Court System
Title: An act relating to community BRU: Trial Courts
service of minors
Sponsor: Hudson Components:
Requestor: House HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL

REVENUE

FUNDING: (Thousands of Dollars)

General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact. Fiscal note assumes the Alaska Court System will not be responsible for monitoring minor's compliance with community service.

Prepared by: *Jan Strandberg* Jan Strandberg, General Counsel Phone: 264-8228
 Divisor: Alaska Court System Date: 04/20/88

Approved by: *Arthur H. Snowden, II* Arthur H. Snowden, II, Administrative Director Date: 04/20/88
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 13, 1988

SUBJECT: Municipal liability for minor injured while
performing court-ordered community service
(HB 265)

TO: Representative Bill Hudson

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked whether a municipality can be held liable for injury to a minor who is performing court-ordered community service in the municipality, as provided under Sec. 2 of HB 265.

A civil action may be brought against a municipality regarding activities or conditions within the scope of the municipality's authority, unless an action is barred under AS 09.65.070. That section does not bar an action against a municipality for injury to a person who is performing a service for the municipality. A minor who is injured while performing court-ordered community service conceivably could successfully sue a municipality if the municipality was under a duty to supervise the minor's service activities and the injury was caused by the municipality's failure to adequately supervise or by some dangerous condition that was allowed to exist because of the municipality's negligence, except as provided in AS 09.65.070.

If you wish to ensure that municipalities will not be held liable for such a minor's injuries, I suggest that you amend AS 09.65.070(d) by adding a new paragraph to read: "(6) is for injury to a minor that occurred while the minor was performing community service under AS 47.10.080;"

If you have further questions about this matter, feel free to contact me at your convenience.

EHH:bb
b4/130

Municipality of Anchorage



P.O. BOX 196650
ANCHORAGE, ALASKA 99519-6650
(907) 343-4674

Tom Fink
MAYOR

MUNICIPAL HEALTH & HUMAN SERVICES COMMISSION

March 9, 1988

Representative Johnny Ellis
House Health Education and
Social Services Committee, Chair
Alaska State Legislature
POB V
Juneau, Alaska 99811

Dear Representative Ellis,

The Municipal Health and Human Services Commission would like to lend their full support to the passage of HB265. Substance abuse is ranked as the second highest behavioral and mental health problem priority in the Anchorage Health and Human Services Plan (January 1988).

The provision of clear consequences for youth who break laws related to the acquisition, possession, and use of alcohol and controlled substances is essential to successful long-term prevention efforts. It is also appropriate that youth in need are provided the opportunity to elect treatment in lieu of community service if a first time offender. HB265 is consistent with Objective #2, Substance Abuse in Volume 3 of the Anchorage Health and Human Services Plan, Policy Recommendations and Objectives (page 4-98) which recommends altering public opinion about the acceptability of social and recreational use of drugs in the community-at-large.

If you have any questions, I would be happy to answer them. You can reach me at 562-2828, or our staff at 343-4674.

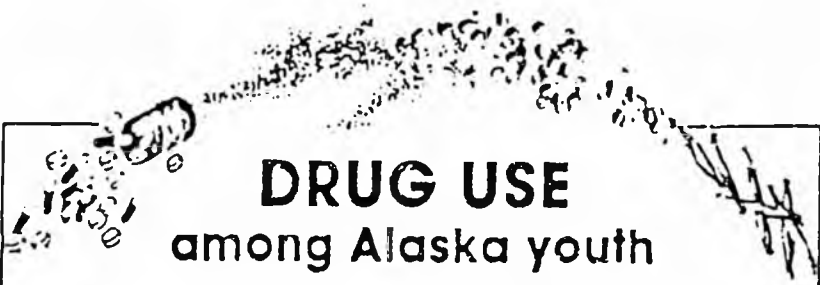
Sincerely,

A handwritten signature in cursive script, appearing to read "Gari B. Andreini".

Gari B. Andreini, Chair
Municipal Health and Human Services Commission

cc: House HESS Committee
Representative Bill Hudson, Sponsor
Anchorage Municipal Assembly
Tom Fink, Mayor, Municipality of Anchorage
Ron Garzini, Manager, Municipality of Anchorage
Robert A. (Bert) Hall, Director, Health and Human Services,
Municipality of Anchorage

SJ20/dPD20



DRUG USE among Alaska youth

Percentage of Alaska, U.S. youth who have tried drugs

<u>Drug</u>	<u>Alaska youth ages 12-17</u>	<u>U.S. youth ages 12-17</u>
Marijuana	47.4	26.7
Hallucinogens	7.9	5.2
Cocaine	16.6	6.5
Heroin	2.3	0.1
Stimulants	25.9	6.7
Depressants	14.0	5.8
Tranquilizers	11.1	4.9
Alcohol	71.7	65.2
Tobacco	55.0	49.5

Source: Alaska Medicine, January-March
1987 Issue

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Health & Social Services
 Title: "...relating to community services by, and drug and alcohol abuse treatment for delinquent minors."
 Sponsor: Hudson BRU: _____
 Requestor: _____ Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Yvonne M. Chase, ACSW, Director Phone: 465-3170
 Division: Family & Youth Services Date: 4-14-88

Approved by Commissioner: Myra M. Munson Date: 4-15-88
 Agency: Dept. of Health & Social Services

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
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- Office of Management and Budget
- Impacted Agency(ies)

