

SB

BO

STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST: _____

Bill Version: SB 30

Publish Date: _____

Revision Date: _____

Agency Affected: Administration

Title: "An Act relating to termination of parental rights..."

BRU: Office of Public Advocacy

Sponsor: Fischer

Components: _____

Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate

Phone: 274-1684

Division: Office of Public Advocacy

Date: 2/22/87

Approved by Commissioner: Garrey Peska

Date: 2/4/87

Agency: Department of Administration

Distribution (by preparer):

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

POSITION PAPER

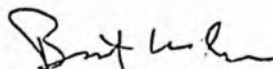
SB30

"An Act relating to termination of parental rights to perpetrators of certain sexual offenses"

This Bill allows the parental rights of a perpetrator of sexual abuse to be terminated if necessary to protect the best interests of the child.

The Bill is unlikely to generate an increase in the number of Child In Need of Aid actions because such cases are almost always the subject of such proceedings under current law. However, the Bill does mandate the appointment of an attorney from the Office of Public Advocacy where current law mandates that such appointments be from the Alaska Public Defender Agency. Because OPA now almost invariably acts as guardian ad litem for the child victim, the appointment of OPA will necessitate costly contracts with private attorneys to provide this representation.

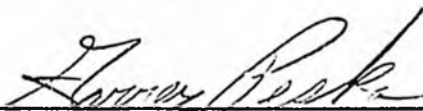
The Office of Public Advocacy supports this legislation but opposes the provisions mandating OPA appointment to represent alleged perpetrators as unnecessarily costly.



Brant McGee, Public Advocate
Office of Public Advocacy

2/22/87

Date



Commissioner Garrey Peska
Department of Administration

2/14/87

Date

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

Bill Version: SB 30
Publish Date: _____

REQUEST: _____

Revision Date: _____
Title: "An Act relating to termination
of parental rights ..."

Agency Affected: Department of Law
BRU: Legal Services

Sponsor: Senator Fischer
Requestor: Senator Fischer

Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -	- 0 -

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Please see attached analysis.

Richard I. Pegues
Prepared by: Richard I. Pegues, Director Phone: 465-3672
Division: Administrative Services / FOR Date: March 5, 1987
Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 5, 1987
Agency: Department of Law

Distribution (by preparer):

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

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 30

SENATE BILL 30

This bill amends AS 47.17 by adding new sections that provide for the termination of parental rights of perpetrators of certain sexual offenses. Upon petition to the superior court, the court would be empowered to terminate the parental rights of a perpetrator to a child conceived as the result of sexual abuse of a minor or of incest, when termination is in the best interests of the child. Petition could be made by certain private party family members of the child, and this process would not involve the state, except that the Office of Public Advocate would represent indigent respondents. Consequently, this bill will not have a fiscal impact on the Department of Law. The department does note that it would probably not be able to assist petitioners, where they lack the means to petition the court, because of the severity of the department's current and projected budget constraints.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1987

SUBJECT: Section-by-section analysis of SB 30, An Act
Relating to Termination of Parental Rights of
Perpetrators of Certain Sexual Offenses

TO: Senator Paul Fischer

FROM: George Utermohle *GU*
Legislative Counsel

The following is the section-by-section analysis of SB 30,
requested by Jack Sanderson of your staff.

A sectional analysis or summary of a bill should not be con-
sidered an authoritative interpretation of a bill, and the
bill itself is the best statement of its contents.

Section 1. Section 1 of the bill adds a new article to
AS 47.17 providing for the termination of parental rights of
certain sexual offenders.

Sec. 47.17.180 states the purpose of the article.

Sec. 47.17.190 lists who may file a petition to terminate
the parental rights of a perpetrator of sexual abuse of a
minor or of incest to the child conceived as a consequence
of the sexual offense.

Sec. 47.17.200 sets out who must receive notice of the
action to terminate parental rights.

The biological mother of the child, the biological or
alleged biological father, and the guardian or custodian of
the child must receive notice of the petition.

If the biological father of the child is unknown or not
disclosed, the court must inquire of the biological mother
as to information about the biological father unless the
court finds that disclosure is harmful to the mother or
child.

The court shall decide what notice should be given to
unknown, undisclosed, or unlocated biological fathers.

The court may order blood tests to determine the biological father of the child and assess the costs on the parties to the petition.

If the court finds that notice given to a party to the action to terminate parental rights was not adequate the court may continue the hearing until the defect of notice is cured.

Sec. 47.17.210 sets out the powers of the court to terminate parental rights of a sexual offender.

The court shall terminate the parental rights of a biological parent of a child if the court finds by clear and convincing evidence that (1) required notice has been given or the person has relinquished parental rights, (2) the child was conceived by an act constituting sexual abuse of a minor or incest, and (3) the termination of parental rights is in the best interests of the child.

The court may order preparation of a new birth certificate for the child if the court terminates the parental rights of the biological father.

The court may order disclosure of the name of the biological parent only if disclosure is necessary for medical or extraordinary circumstances and the parties are given notice. Notice is not required if there is a medical emergency.

Sec. 47.17.220 states the legal effect of a termination of parental rights under these provisions. The order terminating parental rights voids all legal relationships between the biological parent and child and is a determination that parental rights never attached between the child and biological parent.

Sec. 47.17.230 provides that proceedings under these provisions are closed to non-essential persons and that court records are closed.

Sec. 47.17.240 provides the circumstances under which a biological parent may relinquish parental rights under these provisions.

Sec. 47.17.250 provides for the modification of the procedures in these provisions to comply with the requirements of the Indian Child Welfare Act of 1978. The most significant requirements of the Act include notice to the tribe to which the child is related and proof of facts beyond a reasonable doubt. An "Indian child" is defined as an unmarried person

under 18 years old who is either a member of an Indian tribe or is eligible for membership in a tribe and is a biological child of a member of a tribe.

Sec. 47.17.260 provides that an order terminating parental rights is final and not appealable after six months.

Sec. 47.17.270 provides that the respondent to a petition to terminate parental rights is entitled to representation by an attorney. The court may appoint an attorney to represent the respondent if the respondent cannot afford an attorney.

Sec. 47.17.280 provides that the court may award reasonable attorney fees and costs to a prevailing party.

Sec. 47.17.290 provides that an order terminating parental rights under these provisions does not affect the right of a victim of sexual abuse or of incest to recover civil damages for injuries and costs arising out of the conduct of a perpetrator of sexual abuse or incest.

Sec. 47.17.300 provides that a proceeding to terminate parental rights under these provisions is a child custody proceeding subject to AS 25.30.

Sec. 47.17.310 defines "child", "court", "incest", and "sexual abuse of a minor."

Section 2. Section 2 of the bill amends AS 25.23.050(a) to include references to AS 47.17.210 and 47.17.240.

Section 3. Section 3 of the bill amends AS 44.21.410(a) to allow the office of public advocacy to represent indigent respondents in proceedings to terminate parental rights under this bill.

Section 4. Section 4 of the bill amends AS 47.10.010(a), relating to a "child in need of aid," to include a reference to AS 47.17.210.

GU:mkr
m9/049



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Health & Social Services	DIVISION Family & Youth Services	BILL NUMBER SB 30	SPONSOR Senator Paul Fischer
DEPARTMENT POSITION Recommend Support			
PREPARED BY Randall P. Burns	DATE 3/25/87	COMMISSIONER'S SIGNATURE <i>Margie M. Murrain</i>	DATE 3/25/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Law - Civil and Criminal Divisions Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL Victims of incest or the sexually abused minors
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

In order to protect the child conceived as the result of sexual abuse of a minor or of incest, the court may terminate the parental rights of the perpetrator to the child when the termination is in the best interests of the child.

ANALYSIS OF BILL/PROGRAM EFFECTS

The Department of Health and Social Services supports SB 30. This bill would allow the relationship of parent and child to be terminated on grounds that the child was conceived by an act constituting sexual abuse of a minor or incest, when the termination of the parental rights of the biological parent would be in the best interest of the child. The bill sets out that consent to adoption is not required when parental rights have been terminated by order of the court under AS 25.23.180(c) (3). Sec. 180(c) (3) is a new section providing for termination of parental rights when the child was conceived as a result of sexual abuse or incest.

The committee substitute responds well to the Department's earlier concerns and we are in full support of the legislation as it is now drafted.

AMENDMENTS PROPOSED

Original sponsors: Fischer and Sturgulewski

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 30 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to termination of parental rights of
7 perpetrators of certain sexual offenses."

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

9 * Section 1. AS 25.23.030(b) is amended to read:

10 (b) If the court finds in the interest of substantial justice,
11 under AS 22.10.040, that the adoption proceeding [MATTER] should be
12 heard in another judicial district, the court may transfer, stay or
13 dismiss the proceeding in whole or in part on [ANY] conditions that
14 are just.

15 * Sec. 2. AS 25.23.030 is amended by adding a new subsection to read:

16 (c) Proceedings for the termination of parental rights on the
17 grounds set out in AS 25.23.180(c)(3) shall be brought in the superior
18 court for the district in which the child that is the subject of the
19 action resides.

20 * Sec. 3. AS 25.23.050(a) is amended to read:

21 (a) Consent to adoption is not required of

22 (1) for purposes of this section, a parent who has aban-
23 doned a child for a period of at least [NOT LESS THAN] six months;

24 (2) a parent of a child in the custody of another, if the
25 parent for a period of at least one year has failed significantly
26 without justifiable cause, including but not limited to indigency,

27 (A) to communicate meaningfully with the child, or

28 (B) to provide for the care and support of the child

29 as required by law or judicial decree;

1 (3) the father of a minor if the father's consent is not
2 required by AS 25.23.040(a)(2);

3 (4) a parent who has relinquished the right to consent
4 under AS 25.23.180;

5 (5) a parent whose parental rights have been terminated by
6 order of the court under AS 25.23.180(c)(3) or AS 47.10.080(c)(3);

7 (6) a parent judicially declared incompetent or mentally
8 defective if the court dispenses with the parent's consent;

9 (7) a [ANY] parent of the person to be adopted, if the
10 person is 19 or more years of age, and the court dispenses with the
11 consent of the parent;

12 (8) a [ANY] guardian or custodian specified in AS 25.23.-
13 040(a)(3) or (4) who has failed to respond in writing to a request for
14 consent for a period of 60 days or who, after examination of the
15 guardian's or custodian's written reasons for withholding consent, is
16 found by the court to be withholding consent unreasonably; or

17 (9) the spouse of the person to be adopted, if the require-
18 ment of consent to the adoption is waived by the court by reason of
19 prolonged unexplained absence, unavailability, incapacity, or circum-
20 stances constituting an unreasonable withholding of consent.

21 * Sec. 4. AS 25.23.130 is amended by adding a new subsection to read:

22 (d) A decree terminating parental rights on the grounds set out
23 in AS 25.23.180(c)(3) voids all legal relationships between the child
24 and the biological parent so that the child is a stranger to the
25 biological parent and to relatives of the biological parent for all
26 purposes, including inheritance, unless the decree specifically pro-
27 vides for the continuation of inheritance rights, and interpretation
28 of documents executed before or after the termination of parental
29 rights that do not include the child by name or by a description not

1 based on a parental or blood relationship.

2 * Sec. 5. AS 25.23.140 is amended by adding a new subsection to read:

3 (c) Subject to the disposition of an appeal, one year after a
4 decree is issued terminating parental rights on grounds set out in
5 AS 25.23.180(c)(3), the order may not be challenged on any ground,
6 including fraud, misrepresentation, failure to give notice, or lack of
7 jurisdiction of the parties or of the subject matter.

8 * Sec. 6. AS 25.23.150(b) is amended to read:

9 (b) The papers and records relating to an adoption or a termina-
10 tion of parental rights under AS 25.23.180(c)(3) that are a part of
11 the permanent record of a court are subject to inspection only upon
12 consent of the court. The papers and records relating to an adoption
13 or a termination of parental rights under AS 25.23.180(c)(3) on file
14 with the department, an agency, or an individual are subject to
15 inspection only with consent of all interested persons or by order of
16 a court for good cause shown. Except as provided in this section,
17 adoption records of the Bureau of Vital Statistics are subject to
18 inspection under the provisions of AS 18.50.

19 * Sec. 7. AS 25.23.150(c) is amended to read:

20 (c) Except as otherwise provided by law, or as authorized in
21 writing by the adopted child, if 14 or more years of age, or by the
22 adoptive parent, or upon order of the court for good cause shown, a
23 person may not disclose the identity or address of [EITHER] an adop-
24 tive parent, [OR] an adopted child, or a party to a proceeding for the
25 termination of parental rights on grounds set out in AS 25.23.-
26 180(c)(3).

27 * Sec. 8. AS 25.23.150(d) is amended to read:

28 (d) The court may order the disclosure of a natural parent's
29 identity or address only if

1 (1) the court makes an express finding that the disclosure
2 is required because of a medical necessity or other extraordinary
3 circumstance; and

4 (2) the natural parent unless the parent's parental rights
5 have been terminated on grounds set out in AS 25.23.180(c)(3), the
6 [ADOPTED] child, and the adoptive parents are afforded proper notice
7 and a hearing; the court may waive the hearing and notice requirement
8 if it finds there is a medical necessity that poses an immediate risk
9 to life.

10 * Sec. 9. AS 25.23.170 is amended to read:

11 Sec. 25.23.170. APPLICATIONS FOR BIRTH CERTIFICATES. Within 30
12 days after an adoption decree becomes final, the clerk of the court
13 shall, if requested by the adoptive parents, prepare an application
14 for a birth certificate in the name of the adopted person. Upon
15 issuing a decree terminating parental rights on grounds set out in
16 AS 25.23.180(c)(3) the court may order the preparation of an applica-
17 tion for a birth certificate in the name of the child without refer-
18 ence to the parent whose parental rights have been terminated. The
19 clerk of the court shall [AND] forward the application

20 (1) for a person born in the United States, to the appro-
21 priate vital statistics office of the place, if known, where the
22 adopted person was born and a copy of the decree to the department for
23 statistical purposes; and

24 (2) for a person born outside the United States to the
25 state registrar of vital statistics.

26 * Sec. 10. AS 25.23.180(c) is amended to read:

27 (c) The relationship of parent and child may be terminated by a
28 court order issued in connection with a [AN ADOPTION] proceeding under
29 this chapter or a proceeding under AS 47.10:

1 (1) on the grounds specified in AS 47.10.080(c)(3); [OR]

2 (2) on the grounds that a parent who does not have custody
3 is unreasonably withholding consent to adoption, contrary to the best
4 interest of the minor child; or

5 (3) on grounds that the child was conceived by an act
6 constituting sexual abuse of a minor or incest under the laws of this
7 state or a comparable offense under the laws of the state where the
8 act occurred and that termination of the parental rights of the bio-
9 logical parent is in the best interests of the child.

10 * Sec. 11. AS 25.23.180(e) is amended to read:

11 (e) A petition for termination of the relationship of parent and
12 child made in connection with an adoption proceeding or in an inde-
13 pendent proceeding for the termination of parental rights on grounds
14 set out in (c)(3) of this section may be made by

15 (1) either parent if termination of the relationship is
16 sought with respect to the other parent;

17 (2) the petitioner for adoption, the guardian of the per-
18 son, the legal custodian of the child, or the individual standing in
19 parental relationship to the child;

20 (3) an agency; or

21 (4) another [ANY OTHER] person having a legitimate interest
22 in the matter.

23 * Sec. 12. AS 25.23.180(g) is amended to read:

24 (g) Notwithstanding the provisions of (b) of this section, a
25 relinquishment of parental rights with respect to a child, executed
26 under this section, may be withdrawn by the parent, and a decree of a
27 court terminating the parent and child relationship on grounds set out
28 in (c)(1) and (2) of [UNDER] this section may be vacated by the court
29 upon motion of the parent, if the child is not on placement for

1 adoption and the person having custody of the child consents in writ-
2 ing to the withdrawal or vacation of the decree.

3 * Sec. 13. AS 25.23.180 is amended by adding new subsections to read:

4 (h) The respondent to a petition filed for the termination of
5 parental rights on grounds set out in (c)(3) of this section is enti-
6 tled to representation in the proceedings by an attorney. If the
7 respondent is financially unable to employ an attorney, the court
8 shall appoint the office of public advocacy to represent the respon-
9 dent in the proceedings.

10 (i) Proceedings for the termination of parental rights on the
11 grounds set out in (c)(3) of this section do not affect the rights of
12 a victim of sexual abuse of a minor or incest to obtain legal and
13 equitable civil remedies for all injuries and damages arising out of
14 the perpetrator's conduct.

15 * Sec. 14. AS 25.23.240(5) is amended to read:

16 (5) "court" means the superior court of this state, and,
17 when the context requires, the court of another [ANY OTHER] state
18 empowered to grant petitions for adoption or to terminate parental
19 rights;

20 * Sec. 15. AS 25.23.240 is amended by adding new paragraphs to read:

21 (10) "incest" means a sexual offense defined in AS 11.41.-
22 450;

23 (11) "sexual abuse of a minor" means a sexual offense
24 defined in AS 11.41.434, 11.41.436, or 11.41.438.

25 * Sec. 16. AS 44.21.410(a) is amended to read:

26 (a) The office of public advocacy shall

27 (1) perform the duties of the public guardian under AS 13.-
28 26.360 - 13.26.410;

29 (2) provide visitors and experts in guardianship

1 proceedings under AS 13.26.131;

2 (3) provide guardian ad litem services to children in child
3 protection actions under AS 47.17.030(e) and to wards and respondents
4 in guardianship proceedings who will suffer financial hardship or
5 become dependent upon a government agency or a private person or
6 agency if the services are not provided at state expense under AS 13.-
7 26.112;

8 (4) provide legal representation in guardianship proceed-
9 ings to respondents who are financially unable to employ attorneys
10 under AS 13.26.106(b), to indigent parties in cases involving child
11 custody in which the opposing party is represented by counsel provided
12 by a public agency, [AND] to indigent parents or guardians of a minor
13 respondent in a commitment proceeding concerning the minor under AS
14 47.30.775, and to indigent respondents in cases involving the termina-
15 tion of parental rights on grounds set out in AS 25.23.180(c)(3);

16 (5) provide legal representation and guardian ad litem
17 services under AS 25.24.310; in cases arising under the Uniform Inter-
18 state Compact on Juveniles (AS 47.15); in cases involving petitions to
19 adopt a minor under AS 25.23.125(b) or petitions for the termination
20 of parental rights on grounds set out in AS 25.23.180(c)(3); in cases
21 involving petitions to remove the disabilities of a minor under AS
22 09.55.590; in children's proceedings under AS 47.10.050(a); and in
23 cases involving indigent persons who are entitled to representation
24 under AS 18.85.100 and who cannot be represented by the public defend-
25 er agency because of a conflict of interests.

26 * Sec. 17. AS 47.10.010(a) is amended to read:

27 (a) Proceedings relating to a minor under 18 years of age resid-
28 ing or found in the state are governed by this chapter, except as
29 otherwise provided in this chapter, when the court finds the minor

1 (1) to be a delinquent minor as a result of violating a
2 criminal law of the state or a municipality of the state; or

3 (2) to be a child in need of aid as a result of

4 (A) the child being habitually absent from home or
5 refusing to accept available care, or having no parent, guardian,
6 custodian, or relative caring or willing to provide care, includ-
7 ing physical abandonment by

8 (i) both parents,

9 (ii) the surviving parent, or

10 (iii) one parent if the other parent's rights and
11 responsibilities have been terminated under AS 25.23.180(c)
12 or AS 47.10.080 or voluntarily relinquished;

13 (B) the child being in need of medical treatment to
14 cure, alleviate, or prevent substantial physical harm, or in need
15 of treatment for mental harm as evidenced by failure to thrive,
16 severe anxiety, depression, withdrawal, or untoward aggressive
17 behavior or hostility toward others, and the child's parent,
18 guardian, or custodian has knowingly failed to provide the treat-
19 ment;

20 (C) the child having suffered substantial physical
21 harm or if there is an imminent and substantial risk that the
22 child will suffer such harm as a result of the actions done by or
23 conditions created by the child's parent, guardian, or custodian
24 or the failure of the parent, guardian, or custodian adequately
25 to supervise the child;

26 (D) the child having been, or being in imminent and
27 substantial danger of being, sexually abused either by the
28 child's parent, guardian, or custodian, or as a result of condi-
29 tions created by the child's parent, guardian, or custodian, or

1 by the failure of the parent, guardian, or custodian adequately
2 to supervise the child;

3 (E) the child committing delinquent acts as a result
4 of pressure, guidance, or approval from the child's parents,
5 guardian, or custodian;

6 (F) the child having suffered substantial physical
7 abuse or neglect as a result of conditions created by the child's
8 parent, guardian, or custodian.
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STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

OFFICE OF PUBLIC ADVOCACY

900 W. 5TH AVENUE
SUITE 525
ANCHORAGE, ALASKA 99501
PHONE: (907) 274-1684

January 23, 1987

The Honorable Paul Fischer
Alaska State Senator
Pouch V
Juneau, Alaska 99811

JAN 27 1987

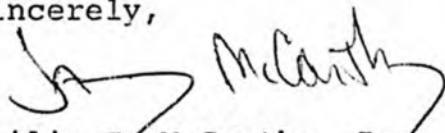
RE: SB 30

Dear Senator Fischer:

Pursuant to our telephone conversation, I have enclosed an article about the case of Faye Cruz, a client of the Office of Public Advocacy. I will be contacting Ms. Cruz to determine when she will be available to testify at future committee hearings.

Keep up the good work.

Sincerely,


Philip J. McCarthy, Jr.
Assistant Public Advocate
Attorney for Faye Cruz

PJM/jdg

Enclosure (1)

Sex abuse conviction frees mom, daughter

By SHEILA TOOMEY
Daily News reporter

A mother and daughter have joined hands across a generation to help jail the man who for nearly 30 years used them as sex partners.

The man is their father. He is stepfather to the older woman and father/grandfather to the younger.

He was convicted this week of many counts of child sexual abuse, and Anchorage District Attorney Victor Krumm said he hopes for a sentence that will keep the 49-year-old man behind bars for the rest of his life.

"We want people to know

about this," said Faye Cruz, the first-generation victim, after the verdict was returned. She agreed to let her name be used, but asked that the identity of her daughter, the second-generation victim, be protected. For that reason, the family name will not be mentioned.

With her help, trial testimony and court records, it is possible to go back to the beginning of the story and piece it all together.

It began in 1954 when Doretha H., a deeply religious woman with a 2-year old

See Back Page, MOTHER

6/6/85³ Anchorage Daily News

Re. SB. 30

the back page

Mother, daughter join hands to help convict

Continued from Page A-1

daughter named Faye, married Floyd H., a laborer and fisherman. The marriage lasted 22 years and produced four children.

About two years after Doretha and Floyd were married, Floyd began having sexual intercourse with 4-year-old Faye whenever he could get her alone. To Faye, he was her dad. She didn't learn until she was 12 that he was her stepfather.

For a long time the family lived near Kenai. Floyd worked in construction and fished on Cook Inlet. From the witness stand last week, Faye told a Superior Court jury that Floyd took her on business trips so he could sleep with her.

"We stayed in a motel and we drank. He let me smoke. I wasn't allowed to smoke."

Floyd denies abusing Faye. He says the sex didn't start until she was 12 and that she was willing.

When she was 14 he took her out of school and aboard his fishing boat where for four years she functioned as his "wife."

When Doretha went to church three or four times a week and took the younger children with her — three boys and a girl — Floyd kept Faye at home for sex.

Faye was not allowed to go out alone, not allowed to have friends she might confide in. Isolation and threats kept her quiet. "He said if I told mom it would kill her," Faye said.

When she showed signs of rebellion, he got at her through her brothers and sisters. "If I didn't stay home and do what he wanted, my family couldn't do the things

families should be able to do ... My mom and the kids, they would suffer."

At 32, Faye is a small, slim woman with strawberry blond bangs that nearly cover her eyes. She sat stiffly in the witness chair, her hands clenched. She spoke hesitantly but with confidence and only once came close to tears.

"I did what I had to do to take care of my family," she said, her voice breaking — "to eat and have a roof over my head and clothes."

The years passed and, as far as Faye was concerned, sleeping with her dad was just part of ordinary life.

When Faye was 17, she got pregnant. "I was 18 by one month and one day when 'J' was born," she said. Floyd blamed the pregnancy on a rape that never happened and that lie held for a while. But slowly, the already divided family began to come apart.

Running away several times hadn't solved anything. She had no place to go. So Faye was now drinking heavily. "I was already an alcoholic."

The time came when Floyd decided to tell his wife what had been going on in her home for 14 years. The participants tell different stories about why the situation finally exploded in 1972, but when the pieces fell back to earth, Doretha divorced Floyd and Faye told the police what he had been doing to her. He was charged with impairing the morals of a minor.

"The court case was handled like a rape case," Faye said. "I was 20 years old then. The lawyer asked me, 'Why did you seduce him. What did you do that you turned him on?'"

"I came up out of the chair. I said you can't tell me a 4-year-old can dress in a way to seduce a grown man."

Floyd eventually pleaded guilty to the charge, always maintaining that the sex hadn't started until Faye was 12. Under the impression that everything was settled, Faye took baby "J," go, married and left Alaska.

Shortly afterward, Floyd took back his plea and said he wanted a trial. Prosecutors couldn't find Faye. The charge was dismissed.

Before he was arrested, Floyd told Faye that he loved her; that he wanted her and baby "J" to come live with him as his new family. He had several times tried to kidnap the baby, to use the baby to pressure her. During this time there was violence, restraining orders, police, judges.

In 1973, Faye was living in Ohio with her husband and "J" when her dad showed up, grabbed the baby and fled.

Faye didn't see "J" again for 12 years, but not for lack of trying.

She tried the law, but they never could catch up with Floyd. Faye doesn't think anyone tried very hard. He was charged with child stealing but never prosecuted. At one point the governor passed up a chance to extradite him back to Alaska.

Soon, immersed in her own self-destruction, Faye stopped fighting.

"The law was not going to do anything," Faye said. "I felt there was nowhere else to turn. I tried to commit suicide. After I got out of the hospital I still didn't want to live. I had given up on the law, on life, on myself. I was

father who sexually abused them for years

drinking so heavily I was bleeding internally. I had a stroke. I had to learn to walk and go to the bathroom, all those things.

"I married three times, all men much older than me — one 27½ years older than me. I had another baby at 23 and gave him up for adoption."

Meanwhile, Floyd remarried in 1973 or 1974. He married Carlene. They are still married. They had four children of their own, three boys and a girl. And they had with them "J," who was now about 4 years old.

The family was living in Hawaii the day Floyd took his 4-year-old daughter/granddaughter into the bedroom and first had sexual intercourse with her.

"I just remember laying on the bed and he had his penis in me," "J" told the jury last week. "I was small then . . . I didn't think anything was wrong."

For 10 years "J" lived a mirror image of the life her mother had lived before her, as Floyd's child sex partner. And like her mother before her, she sometimes tried to rebel.

Last year "I told him that I didn't like it and that I didn't want to do it anymore. He said, 'After all these years I thought you liked it.' I said I didn't and then he said, 'Well, all right.' And for two days he didn't do anything. And the second night I was sitting in the bedroom and he said, 'You know, you're breaking my heart.' He said, 'You're doing just what your mother did.'"

So "J" agreed to a deal. Sex only every other night.

"He said when I'm 15 then I'll have a baby and he'll be

really smart and we'll start a human race."

Why didn't "J" tell anyone? "Because I didn't have nobody to tell."

Last September, Pam, a daughter from Floyd's first family — the one daughter who had fought him, the one he apparently never dared abuse, visited her father and his second family. By now, they were back in Alaska, working a gold mine at Petersburg near Talkeetna. She went to try and renew a relationship with her dad, to let bygones be bygones.

What she found at the mine was *deja vu* — Floyd paired with his teen-age daughter/granddaughter, taking her on business trips, keeping her out of school, friendless, isolated — obsessed with her the way he had been obsessed with Faye more than 20 years earlier.

She called Faye, who had by then begun to put her own life back together. They called in the authorities and Floyd was arrested.

"J," now 14, was taken into custody, bewildered by what was happening. She had no idea who her real mother was. To help her understand, Faye had sent a letter, to be handed to her when "dad" was arrested:

"I want you to be with me," Faye wrote. "My heart has been broke for so long, not knowing if you knew about me or how you were. Listen to your Aunt Pam, she's going to talk to you. Okay? Don't let Floyd touch you on your body, where you don't want him to. He did that to me when I was a little girl and he would keep secrets and I couldn't tell because I was so scared. Aunt

Pam can help get you to me. If you will trust us. Look up to the beautiful sky and say, God please help me! I want you to go to school, have friends, go to movies, go shopping and do those things a girl your age should be doing, be happy to be free. I love you from the bottom of my heart. All my love. Your Mom Faye."

This week, Floyd was convicted for what he did to "J," but he will never be convicted for what Faye went through. "I feel the time he is serving in jail is my time," she said.

In January, when "J" was taken into protective custody, police also took Floyd's youngest daughter, 9-year-old Y.H. from the home. On Tuesday, the jury also convicted Floyd of sexual abuse of Y.H.

Today Faye and "J" are together. Faye has been sober for 18 months, is happily married and adopted a child in January. She credits Alcoholics Anonymous with saving her life.

"I thought I could never have fun and be straight. I was in a cage for 20 years. I have mostly good days now because now I choose for them to be that way.

"I want people to know about this," Faye said Wednesday. Children who are being hurt must tell somebody. "If you don't trust anybody, scream it in the streets if you have to.

"If I did it, anybody can do it."

As for Floyd, he has filed a \$900 million lawsuit in federal court, accusing police and social workers of a witch hunt against him, of inflicting a nightmare upon the lives of his children.

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

February 24, 1987

SUBJECT: Section-by-section analysis of SB 30, An Act
Relating to Termination of Parental Rights of
Perpetrators of Certain Sexual Offenses

TO: Senator Paul Fischer

FROM: George Utermohle *GU*
Legislative Counsel

The following is the section-by-section analysis of SB 30,
requested by Jack Sanderson of your staff.

A sectional analysis or summary of a bill should not be con-
sidered an authoritative interpretation of a bill, and the
bill itself is the best statement of its contents.

Section 1. Section 1 of the bill adds a new article to
AS 47.17 providing for the termination of parental rights of
certain sexual offenders.

Sec. 47.17.180 states the purpose of the article.

Sec. 47.17.190 lists who may file a petition to terminate
the parental rights of a perpetrator of sexual abuse of a
minor or of incest to the child conceived as a consequence
of the sexual offense.

Sec. 47.17.200 sets out who must receive notice of the
action to terminate parental rights.

The biological mother of the child, the biological or
alleged biological father, and the guardian or custodian of
the child must receive notice of the petition.

If the biological father of the child is unknown or not
disclosed, the court must inquire of the biological mother
as to information about the biological father unless the
court finds that disclosure is harmful to the mother or
child.

The court shall decide what notice should be given to
unknown, undisclosed, or unlocated biological fathers.

The court may order blood tests to determine the biological father of the child and assess the costs on the parties to the petition.

If the court finds that notice given to a party to the action to terminate parental rights was not adequate the court may continue the hearing until the defect of notice is cured.

Sec. 47.17.210 sets out the powers of the court to terminate parental rights of a sexual offender.

The court shall terminate the parental rights of a biological parent of a child if the court finds by clear and convincing evidence that (1) required notice has been given or the person has relinquished parental rights, (2) the child was conceived by an act constituting sexual abuse of a minor or incest, and (3) the termination of parental rights is in the best interests of the child.

The court may order preparation of a new birth certificate for the child if the court terminates the parental rights of the biological father.

The court may order disclosure of the name of the biological parent only if disclosure is necessary for medical or extraordinary circumstances and the parties are given notice. Notice is not required if there is a medical emergency.

Sec. 47.17.220 states the legal effect of a termination of parental rights under these provisions. The order terminating parental rights voids all legal relationships between the biological parent and child and is a determination that parental rights never attached between the child and biological parent.

Sec. 47.17.230 provides that proceedings under these provisions are closed to non-essential persons and that court records are closed.

Sec. 47.17.240 provides the circumstances under which a biological parent may relinquish parental rights under these provisions.

Sec. 47.17.250 provides for the modification of the procedures in these provisions to comply with the requirements of the Indian Child Welfare Act of 1978. The most significant requirements of the Act include notice to the tribe to which the child is related and proof of facts beyond a reasonable doubt. An "Indian child" is defined as an unmarried person

under 18 years old who is either a member of an Indian tribe or is eligible for membership in a tribe and is a biological child of a member of a tribe.

Sec. 47.17.260 provides that an order terminating parental rights is final and not appealable after six months.

Sec. 47.17.270 provides that the respondent to a petition to terminate parental rights is entitled to representation by an attorney. The court may appoint an attorney to represent the respondent if the respondent cannot afford an attorney.

Sec. 47.17.280 provides that the court may award reasonable attorney fees and costs to a prevailing party.

Sec. 47.17.290 provides that an order terminating parental rights under these provisions does not affect the right of a victim of sexual abuse or of incest to recover civil damages for injuries and costs arising out of the conduct of a perpetrator of sexual abuse or incest.

Sec. 47.17.300 provides that a proceeding to terminate parental rights under these provisions is a child custody proceeding subject to AS 25.30.

Sec. 47.17.310 defines "child", "court", "incest", and "sexual abuse of a minor."

Section 2. Section 2 of the bill amends AS 25.23.050(a) to include references to AS 47.17.210 and 47.17.240.

Section 3. Section 3 of the bill amends AS 44.21.410(a) to allow the office of public advocacy to represent indigent respondents in proceedings to terminate parental rights under this bill.

Section 4. Section 4 of the bill amends AS 47.10.010(a), relating to a "child in need of aid," to include a reference to AS 47.17.210.

GU:mkr
m9/049



STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS

DEPARTMENT Health & Soc Services	DIVISION Family & Youth Services	BILL NUMBER SB 30	SPONSOR Senator Paul Fisher
DEPARTMENT POSITION Qualified support (please see analysis below)			
PREPARED BY Myra Munson	DATE 3/13/87	COMMISSIONER'S SIGNATURE <i>Myra K. Munson</i>	DATE 3/13/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Law, Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL Victims of incest, perpetrators of incest
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

In order to protect the child conceived as the result of sexual abuse of a minor or of incest, the court may terminate the parental rights of the perpetrator to the child when the termination is in the best interests of the child.

ANALYSIS OF BILL/PROGRAM EFFECTS

The Department of Health and Social Services supports the objectives of SB 30. This bill would allow termination of the parental rights of a biological parent who conceives a child as a result of sexual abuse of a minor or incest. The department believes this objective can be better accomplished, however, by amendments to AS 25.23, which relates to adoptions. This is preferable to amending AS 47.17, which relates primarily to child abuse and neglect reporting.

AMENDMENTS PROPOSED

Please see attached memo from Alaska Legal Services attorney Andrew Harrington to Randall Burns, Special Assistant, Department of Health and Social Services.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

To: Randall Burns
From: Andy Harrington
Re: SB 30
Dated: 3/11/87 Wed

In response to your request, I am sending along suggestions for how the substance of SB 30 can be accomplished by amending existing statutes rather than creating a separate chapter of statutes.

This focuses on AS 25.23.180, which already contains several of the provisions regarding termination of parental rights. This is contained in the adoption chapter.

There are two substantive matters I'd like to bring to your attention: first, inserting the the private cause of action into AS 25.23.180 will make it possible for a private individual to terminate parental rights based on the child sexual abuse/incest ground; it will enable a private individual to terminate another's parental rights if that private individual can make the same showings the State makes in terminating parental rights in child-in-need cases. (It may be that private individuals can already do so; as far as I know, the State Supreme Court hasn't ruled on that.)

Second, I noted that, in the draft of the bill I received, parental rights can be terminated based on violations of Sexual Abuse of a Child in the First, Second, and Fourth Degrees, but not in the Third (AS 11.41.434, 11.41.436, 11.41.440, but not 11.41.438). I assume this was an oversight. Sexual Abuse of a Minor in the Fourth Degree is an A Misdemeanor, committed by offenders under sixteen against children at least three years younger; Sexual Abuse of a Minor in the Third Degree is a C felony, committed by offenders over sixteen against children at least three years younger. I'm assuming the bill was meant to include SAM 3d and exclude SAM 4th, and have drafted my suggestion accordingly.

I've tried to underline new material and bracket old material being eliminated, but I don't guarantee the accuracy of that.

After the proposed changes, I've listed the sections of the current bill and how that provision is incorporated.

AS 25.23.030: Jurisdiction and venue.

(a) Proceedings for adoption shall be brought in the superior court for the district in which, at the time of filing or granting the petition, the petitioner or the person to be adopted resides or is in military service, or in which the agency having the care, custody or control of the minor is located. Proceedings for non-adoptive termination of parental rights shall be brought in the superior court in which the minor child resides.

(b) [same as original]

(c) For jurisdictional purposes, a proceeding under this chapter is a child custody proceeding subject to the Uniform Child Custody Jurisdiction Act, AS 25.30.020.

AS 25.23.050: Persons as to whom consent and notice not required.

(a) Consent to adoption is not required of

(1) [same as original]

(2) [same as original]

(3) [same as original]

(4) [same as original]

(5) a parent whose parental rights have been terminated by order of the court under AS 47.10.080(c)(3) or under AS 25.23.180;

(6) [same as original]

(7) [same as original]

(8) [same as original]

(9) [same as original]

(b) [same as original]

AS 25.23.140: Appeal and Validation of [Adoption] Decree

(a) [same as original]

(b) [same as original]

(c) Subject to the disposition of an appeal, upon the expiration of one year after a decree of non-adoptive termination of parental rights is issued, the order may not be challenged on any ground, including fraud, misrepresentation, failure to give notice, or lack of jurisdiction of the parties or of the subject matter.

AS 25.23.150: Confidential nature of hearings and records in adoption and non-adoptive termination proceedings.

(a) [same as original]

(b) All papers and records pertaining to [an adoption] proceedings under this chapter that are a part of the permanent record of a court of are subject to inspection only upon consent of the court. The papers and records relating to [an adoption] such proceedings on file with the department, an agency, or an individual are subject to inspection only with consent of all interested persons or by order of a court for good cause shown. Except as provided in this section, adoption records of the Bureau of Vital Statistics are subject to inspection under the provisions of AS 18.50.

(c) Except as authorized by law, or as authorized in writing by the adopted child, if 14 or more years of age, or by the adoptive parent, or upon order of the court for good cause shown, a person may not disclose the identity or address of [either] an

adoptive parent or an adopted child or any party to an adoption or non-adoptive termination case.

(d) The court may order the disclosure of a natural parent's identity or address only if

(1) the court makes an express finding that the disclosure is required because of a medical necessity or other extraordinary circumstance; and

(2) the natural parent, the [adopted] child, the child's other natural parent (unless that parent's rights have been terminated), and the adoptive parents are afforded proper notice and a hearing; the court may waive the hearing and notice requirement if it finds there is a medical necessity that poses an immediate risk to life.

AS 25.23.170: Applications for birth certificates.

Within 30 days after an adoption decree becomes final, the clerk of court shall, if requested by the adoptive parents, prepare an application for a birth certificate in the name of the adopted person. Upon a non-adoptive termination of parental rights under section 180 of this chapter, the court may order the preparation of an application for a birth certificate in the name of the child without reference to the parent whose rights have been terminated. Such applications shall be forwarded

(1) [same as original]

(2) [same as original]

AS 25.23.180: Relinquishment and termination of parent and child relationships.

(a) [same as original]

(b) [same as original]

(c) The relationship of parent a child may be terminated by a court order issued in connection with an adoption proceeding under this chapter, an independent proceeding under this section, or a proceeding under AS 47.10 on any of the following grounds:

(1) on the grounds specified in AS 47.10.080(c)(3);

(2) on the grounds that a parent who does not have custody is withholding consent to adoption, contrary to the best interests of the minor child; or

(3) on the grounds that (a) the child was conceived by an act constituting sexual abuse of a minor or incest under the laws of this state, or by a comparable offense under the laws of the jurisdiction where the act occurred; and (b) termination of the parental rights of the biological parent is in the best interests of the child.

(d) An order terminating parental rights issued by a court of competent jurisdiction in this or any other state voids all legal relationships between the child and the biological parent so that the child is a stranger to the biological parent, and to the relatives of the biological parent, for all purposes including but not limited to, inheritance, unless the decree specifically provides for continuation of inheritance rights; and including the interpretation or construction of documents, statutes, and instruments, whether executed before or after the termination is

decreed, which do not expressly include the person by name or by some designation not based on a parent and child or blood relationship; and including dispensing with the required

(1) consent by that parent to an adoption of that child; and

(2) notice of a proceeding to that parent unless otherwise required by this section.

(e) A petition for termination of the relationship of parent and child, whether or not made in connection with an adoption proceeding, may be made by

(1) either parent if termination of the relationship is sought with respect to the other parent;

(2) the petitioner for adoption, the guardian of the person, the legal custodian of the child, or the individual standing in parental relationship to the child;

(3) an agency; or

(4) any other person having a legitimate interest in the matter.

(f) [same as original]

(g) [same as original]

(h) Proceedings under this section are to be governed, where applicable, by the provision of the Indian Child Welfare Act, 25 U.S.C. 1901 et seq.

(i) The respondent to a petition filed for adoption or non-adoptive termination of parental rights is entitled to representation by an attorney in the proceedings. If the respondent is financially unable to employ an attorney, the court shall appoint the Office of Public Advocacy to represent the respondent.

(j) Proceedings under this section do not affect the right of a victim of sexual abuse or incest to obtain legal and equitable civil remedies for all injuries and damages arising out of the perpetrator's conduct.

AS 25.23.240 Definitions.

In this chapter, unless the context otherwise requires,

(1) [same as original]

(2) [same as original]

(3) [same as original]

(4) [same as original]

(5) "court" means the superior court of this state, and, when the context requires, the court of any other state empowered to grant petitions for adoption or terminate parental rights:

(6) [same as original]

(7) [same as original]

(8) "incest" means a sexual offense defined in AS 11.41.450:

(9) "sexual abuse of a minor" means a sexual offense defined in AS 11.41.434, 11.41.436, or 11.41.438:

(10) [renumbered subsection 8 of original]

(11) [renumbered subsection 9 of original]

AS 44.21.410 Powers and Duties of Public Advocacy Office.

(a) The office of public advocacy shall

(1) [same as original]

(2) [same as original]

(3) [same as original]

(4) provide legal representation in guardianship proceedings to respondents who are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases involving child custody in which the opposing party is represented by counsel provided by a public agency, to indigent respondents who are financially unable to employ attorneys in non-adoptive termination cases under AS 25.23.180, and to indigent parents or guardians of a minor respondent in a commitment proceeding concerning the minor under AS 47.30.775;

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under the Uniform Interstate Compact on Juveniles (AS 47.15); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for non-adoptive termination of parental rights under AS 25.23.180; in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests.

The following list points out where the provision of the former bill are dealt with in the above version.

AS 47.17.180: can probably be eliminated, as the purpose of the statute seems self-evident.

AS 47.17.190: 25.23.180(e) lists the people who can bring the action and seems broad enough to include the people listed.

AS 47.17.200: AS 25.23.180(f) requires notice.

AS 47.17.210: the new grounds can be listed in an addition to AS 25.23.180(c).

AS 47.17.220: 25.23.180(d) specifies the effect of a termination decree.

AS 47.17.230: AS 25.23.150 provides for confidentiality; a small amendment can specify that this applies to non-adoptive termination cases.

AS 47.17.240: 25.23.180(a) covers relinquishments.

AS 47.17.250: A sentence added to section 180 can specify that ICWA controls where applicable.

AS 47.17.260: The finality provision can be inserted into AS 25.23.140 which deals with finality of adoptions.

AS 47.17.270: The availability of an appointed attorney can be added as a subsection to 25.23.180.

AS 47.17.280: The ability to get costs and fees need not be stated as Rule 82 would apply.

AS 47.17.290: The preservation of other victims' rights can be added as a subsection to AS 25.23.180.

AS 47.17.300: Since this clarifies that the UCCJA applies, it would be better to add this as a separate provision applicable to adoptions as well as non-adoptive terminations. I'd put it in AS 25.23.030 and re-label that section "jurisdiction and venue."



**STATE OF ALASKA
OFFICE OF THE GOVERNOR
BILL ANALYSIS**

DEPARTMENT Health & Social Services	DIVISION Family & Youth Services	BILL NUMBER SB 30	SPONSOR Senator Paul Fischer
DEPARTMENT POSITION Recommend Support			
PREPARED BY Randall P. Burns	DATE 3/25/87	COMMISSIONER'S SIGNATURE <i>Margaret M. Murrain</i>	DATE 3/25/87

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Department of Law - Civil and Criminal Divisions Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL Victims of incest or the sexually abused minors
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT: NONE FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT
In order to protect the child conceived as the result of sexual abuse of a minor or of incest, the court may terminate the parental rights of the perpetrator to the child when the termination is in the best interests of the child.

ANALYSIS OF BILL/PROGRAM EFFECTS
The Department of Health and Social Services supports SB 30. This bill would allow the relationship of parent and child to be terminated on grounds that the child was conceived by an act constituting sexual abuse of a minor or incest, when the termination of the parental rights of the biological parent would be in the best interest of the child. The bill sets out that consent to adoption is not required when parental rights have been terminated by order of the court under AS 25.23.180(c) (3). Sec. 180(c) (3) is a new section providing for termination of parental rights when the child was conceived as a result of sexual abuse or incest.

The committee substitute responds well to the Department's earlier concerns and we are in full support of the legislation as it is now drafted.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.