

HB

438

B

HOUSE COMMITTEE REPORT

3/19

(7)

Date Referred: January 24, 1990

FURTHER REFERRALS:

JUDICIARY

Date of Committee Action: 3/14/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 438

HOUSE BILL NO. 438 PARENTAL RIGHTS AFTER ADOPTION

"An Act relating to adoption."

RECOMMENDATIONS:

- be replaced with CS HB 438 (HES) the same title
- have attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S): (Dept) APPROVES PREVIOUS: (Date/Dept)

- fiscal impact _____ fiscal note(s) _____
- zero fiscal note DHSS zero fiscal note(s) _____
- zero with analysis _____ zero fn/analysis _____

SIGNING DO PASS:

SIGNING: (Check approp. column)

Do Not Pass No Rec Amend

<u>Peter Goll</u> GOLL			
<u>George Jacko</u> GROENBERG JACKO		X	
<u>Ellis</u> ELLIS			

Ellis
Chairman's Signature

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

March 19, 1990

TO: Rep. Peter Goll, Co-Chair
Rep. Max Gruenberg, Co-Chair
House Judiciary Committee

FROM: Rep. Fran Ulmer

RE: HB 438, relating to parental rights after adoption

The purpose of this bill is to clarify the authority of Alaska's courts to grant adoptions on such terms that are in the child's best interest. Currently there is a split of authority in Alaska's trial court system regarding whether the court can permit an adoption where the natural parent's rights are not terminated, when the natural parent is not married to the adoptive parent.

This bill clarifies that the court has the authority to permit a person to adopt a child who is not married to the child's natural or legal parent and, if it is in the child's best interest, to leave the natural/legal parent's rights intact. The bill makes clear that the marital status of the adoptive parent does not preclude an adoption which the court finds is in the child's best interest. The adoption requires the consent of the natural/legal parent.

This bill will be of special benefit to the family which has been split up by death, divorce or cases in which one parent has abandoned the child. An additional, legal (adoptive) parent who is unmarried to the natural parent will ensure that the child is cared for financially and otherwise should anything happen to incapacitate the natural parent. It is in the state's interest to provide this opportunity for willing parties to assume responsibility for minor children.

This bill is consonant with the purposes of Alaska's adoption act which generally permits a court to issue adoptive decrees in accord with the child's best interests.

District 4B — Juneau

P.O. BOX V • Juneau, Alaska 99801-3100 • (907) 465-4947

Rep. Ulmer
3/19/90

SECTIONAL ANALYSIS -- HB 438

Section 1

Except as provided in Section 2 of the bill, an adoption decree shall have the effect of severing relations between the adopted child and former relatives for all purposes, unless the adoption decree specifically provides for continuation of rights between the adopted child and the child's natural/legal parents or other relatives. The persons whose rights survive the adoption decree must be specifically named.

Section 2

Allows a person unmarried to the natural/legal parent to adopt a child, without terminating the parental rights of the natural parent(s), provided that:

- a) the court makes a specific finding that it is in the best interest of the child;
- b) the natural parent(s) consents.

This applies to all family situations, regardless of whether the parent is the natural parent or the legal parent through a prior adoption.

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Adoption
Sponsor: Illmer
Requestor: _____

Agency Affected: DHSS
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
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-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

No fiscal impact FY 90.

Prepared by: Russell Webb, Director Phone: 465-3170
Division: Family and Youth Services Date: _____
Approved by Commissioner: Myra M. Munson, Commissioner Date: 2/22/90
Agency: Department of Health and Social Services

Distribution (by preparer):

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

FISCAL NOTE

cc

REQUEST:

Revision Date: _____ Agency Affected: Health & Social Services
 Title: An Act relating to adoption BRU: _____
 Sponsor: Ulmer Components: _____
 Requestor: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE	0.0	0.0	0.0	0.0	0.0	0.0

FUNDING: (Thousands of Dollars)

GENERAL FUNC						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME	0.0	0.0	0.0	0.0	0.0	0.0
TEMPORARY	0.0	0.0	0.0	0.0	0.0	0.0

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact in FY 90

Prepared by: Russell Webb, Director
 Division: Family and Youth Services
 Approved by Commissioner: Myra M. Munson
 Agency: Department of Health and Social Services

Phone: 465-3170
 Date: 3/16/90
 Date: 3/16/90

Distribution (by preparer):

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

**STATE OF ALASKA
1990 LEGISLATIVE SESSION**

Bill Version: **HB 438**

Public Date: **1/24/90**

FISCAL NOTE

REQUEST:

Revision Date:	Agency Affected:	<u>Alaska Court System</u>
Title: <u>An Act relating to adoption</u>	BRU:	<u>Trial Courts</u>
Sponsor: <u>Ulmer</u>	Components:	
Requestor: <u>Judiciary</u>		

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
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						
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REVENUE						
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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.

Prepared by: Jan Strandberg, General Counsel

Division: Alaska Court System

Approved by: Arthur H. Snowden, II, Administrative Director

Agency: Alaska Court System

Phone: 264-8228

Date: 03/20/90

Date: 03/20/90

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



Alaska State Legislature

Please enter into the record my testimony to the HES
 committee name
 committee on H. B. 438, dated March 1, 1990
 bill/subject

On behalf of Tanana Chiefs Conference, I would like to express support for H.B. 438. The bill closely tracks Athabascan traditional customary adoption principles which allow adoption without total extinguishment of parental rights. T.C.C. will continue to review bill to determine if the terms are adequate to reflect this custom.

Signed: Michael J. Waller
 Testifier
Tanana Chiefs Conference
 Representing (Optional)
122 First Ave., Fbks Alc. 99701
 Address
(907) 452-8251
 Phone No.

Alaska State Legislature

HOUSE OF REPRESENTATIVES



REPRESENTATIVE FRAN ULMER

MEMORANDUM

February 27, 1990

TO: Rep. Johnny Ellis, Chair
House Health, Education and Social Services
Committee

FROM: Rep. Fran Ulmer

RE: HB 438, relating to parental rights after adoption

HB 438 allows a person to adopt a child, at the request of the child's parent, and allows retention of the natural parents' rights and responsibilities unless those rights have been terminated by the court. This will allow multiple, parental relationships to be established and will provide an opportunity for a person who is unable or unwilling to marry the child's legal parent(s) to adopt the child. Under current law, in order for an adoptive decree to be issued, the adoptive parent must be married to the natural or legal parent. The court must also find that the adoption is in the best interests of the child.

This bill is in accord with the purposes of Alaska's adoption act which generally permits a court to issue adoptive decrees in accord with the child's best interests.



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name
committee on HB 438, dated 12 Mar 90
bill/subject

If fewer disrupted adoptions and compliance with federal law are the underlying goals of HB 438, then I suggest you let this bill die and get out into the Native communities to view an alternate perspective from your own.

HB 438 ignores P.L. 95-608, Nov. 8, 1978, Title I, sections 101 (c) and (d), sections 102 (c) and (d), section 104, section 106, and section 107. Your proposed bill ignores the Congressional assurances of continued intervention toward family reunification of Native people.

Your efforts toward a State/Tribal I.C.W.A. agreement signature would ensure fewer disruptive adoptions and compliance with the law including protection of the best interest of the Indian child. Thank you for your time and consideration.

Signed: Karen L. Roberts Strong
Testifier

SCA - Human Services Dept.
Representing (Optional)

P.O. Box 1450 Sitka, Ak. 99835
Address

(907) 747-3207
Phone No.

Original sponsor(s): REP. ULMER

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 438 ()
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to adoption."

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

8 * Section 1. AS 25.23.130(a) is amended to read:

9 (a) A final decree of adoption, whether issued by a court of
10 this state or of any other state, has the following effect as to
11 matters within the jurisdiction or before a court of this state:

12 (1) except with respect to a spouse of the petitioner and
13 relatives of the spouse and except as provided in (c) and (f) of this
14 section, to relieve the natural parents of the adopted person of all
15 parental rights and responsibilities [,] and [, EXCEPT AS PROVIDED IN
16 (c) OF THIS SECTION,] to terminate all legal relationships between the
17 adopted person and the natural parents and other relatives of the
18 adopted person, so that the adopted person thereafter is a stranger to
19 the former relatives for all purposes including inheritance, unless
20 the decree of adoption specifically provides for continuation of
21 inheritance rights, and the interpretation or construction of docu-
22 ments, statutes, and instruments, whether executed before or after the
23 adoption is decreed, which do not expressly include the person by name
24 or by some designation not based on a parent and child or blood rela-
25 tionship; and

26 (2) to create the relationship of parent and child between
27 petitioner and the adopted person, as if the adopted person were a
28 legitimate blood descendant of the petitioner, for all purposes in-
29 cluding inheritance and applicability of statutes, documents, and

1 instruments, whether executed before or after the adoption is decreed,
2 which do not expressly exclude an adopted person from their operation
3 or effect.

4 * Sec. 2. AS 25.23.130 is amended by adding a new subsection to read:

5 (f) A court may issue an adoption decree granting an adoption by
6 a petitioner who is not married to a natural parent of the adopted
7 person without terminating the parental rights and responsibilities of
8 the natural parent if the court makes a specific finding that re-
9 tention of the natural parent's rights and responsibilities is in the
10 best interests of the adopted person and the natural parent consents.
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