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DATE: 4/20/90

FURTHER

DATE TURNED INTO OFFICE: 4/21/90

The Finance Committee considered

SB 336

Treatment related to the use of alcohol and other drugs; amending Rules 501 - 512 and 803, AK Rules of Evidence.

and recommended:

[x] replace with CS SB 336 (Fin)
[ ] or adopt CS
[ ] attached amendment(s)
[ ] letter of intent adopted

[ ] same title
[x] new title
[ ] technical title change (HB only)

[x] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] further referral to

ATTACHES NEW FISCAL NOTE(S):

APPROVES PREVIOUS:

[ ] fiscal note(s) Dept/Date:

[ ] fiscal note(s) Dept/Date:

[ ] zero fiscal note(s)

[x] zero fiscal note(s)

Courts DFLSS
DOR DOLaw

[ ] appropriation-no fiscal note

SIGNING DO PASS:

OTHER RECOMMENDATIONS:

Handwritten signatures and 'DO PASS' text.

1. [Signature] DO PASS

2. \_\_\_\_\_

Co-Chairs: Signatures and Recommendations

# FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Alaska Court System  
 Title: An Act relating to treatment related BRU: Trial Courts  
to the use of alcohol and other drugs...  
 Sponsor: Uehling Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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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						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

No fiscal impact. See attached analysis.

Prepared by: Jan Strandberg, General Counsel  
 Division: Alaska Court System  
 Approved by: Arthur H. Snowden, II, Administrative Director  
 Agency: Alaska Court System

Phone: 284-8228  
 Date: 03/14/90  
 Date: 03/14/90

Changes in CSSB 336 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/21/90 *AL*

Changes in CSSB336 (HES) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

**Fiscal Analysis - SB 336**

Although this bill would normally increase the number of involuntary commitments proceedings, whether this will occur depends on what treatment facilities will be available for placement. The court system cannot predict with any certainty what the fiscal impact may be at this time.

If, as a result of this legislation, more involuntary commitment proceedings are needed and these proceedings require longer time for hearing, the court system will seek supplemental appropriation.

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to treatment re-  
lated to the use of alcohol..."  
Sponsor: Senator Uehling  
Requestor: Senate

Agency Affected: Dept. of Administration  
BRU: Public Defender Agency  
Components: Third Judicial District

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
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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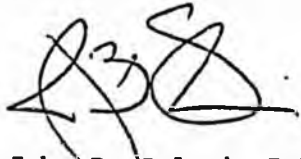
FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary) FY 90 impact is zero.



Prepared by: John B. Salemi, Public Defender  
Division: Public Defender Agency  
Phone: 279-7541  
Date: 3/5/90  
Approved by Commissioner: Frank Baxter  
Date: 3/2/90  
Agency: Department of Administration

Changes in CSSB 336 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/1/90

Changes in CSSB 336 (HESS) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

Judge

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: Health and Social Services  
 Title: "An Act relating to treatment to the use of alcohol and other drugs." BRU: Alcohol and Drug Services  
 Sponsor: Uehling Components: Alcohol Grants  
 Requestor: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

-OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

**FUNDING:** (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	-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)

Senate Bill 336 will not have any FY90 fiscal input.

*M.F. by Sen. Munson*

Prepared by: Matthew C. Felix Phone: 586-6201  
 Division: Office of Alcoholism and Drug Abuse Date: 2/13/90  
 Approved by Commissioner: Myra M. Munson Date: 2/20/90  
 Agency: Health and Social Services

Changes in CSSB 336 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/21/90

Changes in CSSB336 (H&SS) have no fiscal impact. This fiscal note is appropriate. Projections of no fiscal impact would continue through 1996.

STATE OF ALASKA  
1990 LEGISLATIVE SESSION

CSSB 336 (HESS)  
BILL VERSION: ~~58-336~~ (d)  
PUBLISH DATE: 4/20/90  
FEB 24 1990

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: "An Act relating to treatment related to the use of alcohol and other drugs..."  
Sponsor: Sen. Uehling  
Requestor: Senate Finance

Agency Affected: Department of Law  
BRU: Legal Services  
Components: Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
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 the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Date: February 21, 1990  
 Approved by Commissioner: Douglas B. Bailly, Attorney General Date: February 21, 1990  
 Agency: Department of Law

Changes in CSSB 336 (Fin) have no fiscal impact. This fiscal note is appropriate. 4/21/90

Changes in CSSB 336 (HESS) have no fiscal impact. This fiscal note is appropriate.

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 336

This bill amends AS 47.37, the state's Uniform Alcoholism and Intoxication Treatment Act, to extend the provisions of the Act to drug addicts. The bill also amends state policy concerning the treatment afforded to alcoholics, drug addicts, and intoxicated persons to be within available funds. Numerous other changes are included in the bill, which among other things would extend the emergency detention period from 48 to 72 hours, extend the long-term commitment period from 30 to 60 days, permit treatment personnel at an approved treatment facility to use reasonable physical restraint to retain an incapacitated or gravely disabled person for up to 72 hours from the time of admission, and provide for early release for a person to a less restrictive treatment program before expiration of the period of commitment.

As its stretched resources permit, the Department of Law represents the Department of Health and Social Services in court actions involving involuntary commitments, except for persons taken into protective custody due to incapacitation. Consequently, Law's involvement is somewhat limited. The expansion of the Act, to include drug addicts, would normally cause a substantial fiscal impact for the Department of Law. However, because of the lack of available treatment facilities, a fiscal impact is not expected. Without such facilities, commitment cannot take place.

6-1528H  
Lauterbach  
4-19-90  
Adopted  
JFC  
4-21-90

Original sponsor(s): SEN. UEHLING

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 336 (Finance)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
SIXTEENTH LEGISLATURE - SECOND SESSION  
A BILL

For an Act entitled: "An Act relating to treatment related to the use of alcohol and other drugs."

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

\* Section 1. AS 47.37.010 is amended to read:

Sec. 47.37.010. DECLARATION OF POLICY. It is the policy of the state that alcoholics and intoxicated persons should not be criminally prosecuted for their consumption of alcoholic beverages or other drugs and that they should, within available funds, be afforded a continuum of treatment so they may lead normal lives as productive members of society. Within available funds, treatment should also be provided for drug addicts.

\* Sec. 2. AS 47.37.160(a) is amended to read:

(a) An alcoholic or drug addict may voluntarily apply for treatment directly to an approved public treatment facility.

\* Sec. 3. AS 47.37.160(c) is amended to read:

(c) When a patient receiving inpatient care leaves an approved public treatment facility, the patient shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility that the patient is an alcoholic or drug addict who requires help, the administrator shall arrange for assistance in obtaining supportive services and residential facilities.

\* Sec. 4. AS 47.37.170(b) is amended to read:

(b) Except for a person who may be apprehended for possible

1 violation of laws not relating to alcoholism, drug addiction, or  
2 intoxication and except for a person who may be apprehended for possi-  
3 ble violation of laws relating to operating a vehicle while intoxi-  
4 cated, a [A] person who appears to be incapacitated or gravely dis-  
5 abled by alcohol or other drugs and who is in a public place or has  
6 threatened, attempted, or inflicted physical harm on that person or  
7 another, shall be taken into protective custody by a peace officer or  
8 a member of the emergency service patrol and, as soon as practicable  
9 but in no event beyond eight hours, [IMMEDIATELY] brought to an ap-  
10 proved public treatment facility, an approved private treatment facil-  
11 ity, or another appropriate health facility or service for emergency  
12 medical treatment. If no treatment facility or emergency medical  
13 service is available, the [A] person [WHO APPEARS TO BE INCAPACITATED  
14 BY ALCOHOL IN A PUBLIC PLACE] shall be taken to a state or municipal  
15 detention facility in the area, if that appears necessary for the  
16 protection of the person's health or safety.

17 \* Sec. 5. AS 47.37.170(d) is amended to read:

18 (d) A person who, after medical examination, is found to be  
19 incapacitated or gravely disabled by alcohol or other drugs at the  
20 time of admission or to have become incapacitated or gravely disabled  
21 at any time after admission, may not be detained at a facility after  
22 the person is no longer incapacitated or gravely disabled by alcohol  
23 or other drugs. A person may not be detained at a facility if the  
24 person remains incapacitated or gravely disabled by alcohol or other  
25 drugs for more than 72 [48] hours after admission as a patient, unless  
26 the person is committed under AS 47.37.180. The treatment personnel  
27 at an approved treatment facility may use reasonable physical re-  
28 straint necessary to retain an incapacitated or gravely disabled  
29 person for up to 72 hours from the time of admission. A person may

consent to remain in the facility as long as the physician in charge considers it appropriate.

\* Sec. 6. AS 47.37.170(e) is amended to read:

(e) A person who is not admitted to an approved public treatment facility, is not referred to another health facility, and has no funds, may be taken to the person's home, if any. If the person has no home, the approved public treatment facility shall provide [ASSIST] the person with information and assistance to access available community shelter resources [IN OBTAINING SHELTER].

\* Sec. 7. AS 47.37.170(f) is amended to read:

(f) If a patient is admitted to an approved public treatment facility, the patient's family or next of kin shall be promptly notified by the treatment facility. If an adult patient who is not incapacitated requests that there be no notification of next of kin, the patient's request shall be granted.

\* Sec. 8. AS 47.37.170(h) is amended to read:

(h) If the physician in charge of the approved public treatment facility determines that appropriate treatment is available [IT IS FOR THE PATIENT'S BENEFIT], an attempt shall be made to encourage the patient to submit to further diagnosis and appropriate voluntary treatment.

\* Sec. 9. AS 47.37.170(j) is amended to read:

(j) For purposes of (b) of this section, "incapacitated by alcohol or other drugs" means a person who, as the result of consumption of alcohol or other drugs, is rendered unconscious or has judgment or physical mobility so impaired that the person cannot readily recognize or escape conditions of apparent or imminent danger to personal health or safety. The definition in AS 47.37.270 applies to other portions of this chapter.

1 \* Sec. 10. AS 47.37.180(a) is amended to read:

2 (a) An intoxicated person who (1) has threatened, attempted to  
3 inflict, or inflicted physical harm on another or is likely to inflict  
4 physical harm on another unless committed, or (2) is incapacitated by  
5 alcohol or other drugs, may be committed to an approved public treat-  
6 ment facility for emergency treatment if placement is available and  
7 considered appropriate. A refusal to undergo treatment does not, by  
8 itself, constitute evidence of lack of judgment as to the need for  
9 treatment.

10 \* Sec. 11. AS 47.37.180(b) is amended to read:

11 (b) The certifying physician, spouse, guardian, or relative of  
12 the person to be committed, or any other responsible person, may make  
13 a written application for commitment under this section, directed to  
14 the administrator of the approved public treatment facility. The  
15 application shall state facts to support the need for emergency treat-  
16 ment and be accompanied by a physician's certificate supporting the  
17 need for emergency treatment and stating that the physician has exam-  
18 ined the person sought to be committed within five [TWO] days before  
19 the certificate's date, unless the person whose commitment is sought  
20 has refused to submit to a medical examination, in which case the fact  
21 of refusal shall be alleged in the petition. The certificate must set  
22 out the physician's findings in support of the allegations of the  
23 petition.

24 \* Sec. 12. AS 47.37.180(c) is amended to read:

25 (c) Upon approval of the application by the administrator in  
26 charge of the facility, the person may be brought to the facility by a  
27 peace officer, a health officer, a member of the emergency service  
28 patrol, the applicant for commitment, the patient's spouse, the pa-  
29 tient's guardian, or any other interested person. The person shall be

retained at the facility to which the person was admitted, or transferred to another appropriate public or private treatment facility, until discharged under (e) of this section. However, a [NO] person may not be detained under this section for more than 72 [48] hours unless a district or superior court judge has reviewed and approved the commitment application.

\* Sec. 13. AS 47.37.190(a) is amended to read:

(a) After a hearing initiated by petition of a spouse or guardian, a relative, the certifying physician, or the administrator in charge of an approved public treatment facility, a person may be committed to the custody of a private or public facility by the superior court if placement is available and considered appropriate. The petition shall allege that the person is an alcoholic or drug addict [WHO HABITUALLY LACKS SELF-CONTROL IN USING ALCOHOLIC BEVERAGES] and that the person (1) has threatened, attempted to inflict, or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another; [OR] (2) has twice before in the preceding twelve months been admitted for detoxification or for treatment under this chapter; or (3) is incapacitated by alcohol or other drugs. A refusal to undergo treatment does not, by itself, constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within five [TWO] days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate must [SHALL] set out the physician's findings in support of the allegations of the petition.

\* Sec. 14. AS 47.37.190(b) is amended to read:

1 (b) After the petition is filed, the court shall fix a date for  
2 a hearing no less than two and no later than seven [10] days after the  
3 date the petition was filed. A copy of the petition and of the notice  
4 of the hearing, including the date fixed by the court, shall be served  
5 on (1) the petitioner; (2) the person whose commitment is sought; (3)  
6 the next of kin of the person whose commitment is sought; (4) the  
7 administrator in charge of the approved public treatment facility in  
8 which the committed person has been committed for emergency care; and  
9 (5) any other person the court considers appropriate. A copy of the  
10 petition and certificate shall be delivered to each person notified.

11 \* Sec. 15. AS 47.37.200(a) is amended to read:

12 (a) At the hearing required under AS 47.37.190(b), the court or  
13 the jury, if requested under AS 47.37.190(c), shall hear all relevant  
14 testimony, which may be telephonic, including, if possible, the testi-  
15 mony of at least one licensed physician who has examined the person  
16 whose commitment is sought. The person whose commitment is sought  
17 shall be present unless the court believes that being present is  
18 likely to be injurious to the person, in which case the court shall  
19 appoint a guardian ad litem to represent the person throughout the  
20 proceeding. The court may examine the person in open court, or if  
21 advisable, examine the person out of court. If the person has refused  
22 to be examined by a licensed physician, the person shall be given an  
23 opportunity to request examination by a court-appointed licensed  
24 physician. If the person fails to request a medical examination and  
25 there is sufficient evidence to believe that the allegations of the  
26 petition are true, or if the court believes that more medical evidence  
27 is necessary, the court may issue a temporary order committing the  
28 person to a private or public facility for a period of not more than  
29 five days for purposes of a diagnostic examination.

\* Sec. 16. AS 47.37.200(b) is amended to read:

(b) If after hearing all relevant evidence, including the results of any diagnostic examination by the private or public facility, the court or the jury finds that grounds for involuntary commitment have been clearly established, the court shall issue an order of commitment to the private or public facility. A court may not order the commitment of a person unless it determines that a private or public facility is available and able to provide adequate and appropriate treatment for the person.

\* Sec. 17. AS 47.37.200(c) is amended to read:

(c) A person committed under AS 47.37.190 - 47.37.200 shall remain in the custody of a private or public facility for treatment for a period of up to 60 [30] days. At the end of the 60-day [30-DAY] period, the person shall be discharged automatically unless the office, before the expiration of the period, obtains a court order for recommitment upon the grounds set out in AS 47.37.190(a) for a further period of up to 90 days. If a person has been committed because the person is an alcoholic or drug addict likely to inflict physical harm on another, the office shall apply for recommitment if after examination it is determined that the likelihood still exists.

\* Sec. 18. AS 47.37.200(e) is amended to read:

(e) Upon the filing of a petition for recommitment under (c) [OR (d)] of this section, the court shall fix a date for hearing no less than two and no later than seven [10] days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on (1) the petitioner; (2) the person whose commitment is sought; (3) the next of kin of the person whose commitment is sought; (4) the original petitioner under AS 47.37.190(a), if different from the petitioner for

recommitment; (5) any other person the court considers appropriate. AS 47.37.180(c) applies to hearings for recommitment under this section. At the hearing the court or the jury shall proceed as provided in (a) of this section.

\* Sec. 19. AS 47.37.200(g) is amended to read:

(g) A person committed to the custody of the office for treatment shall be discharged at any time before the end of the period for which the person has been committed if either of the following conditions is met:

(1) in the case of [WHEN] an alcoholic or drug addict committed on the grounds of likelihood of infliction of physical harm to that person or [ON] another,

(A) [IS NO LONGER CONSIDERED AN ALCOHOLIC OR] the likelihood of the person inflicting physical harm no longer exists;

(B) [OR (2) WHEN, IN THE CASE OF AN ALCOHOLIC COMMITTED ON THE GROUNDS OF THE LIKELIHOOD OF INFLICTION OF PHYSICAL HARM ON ANOTHER, EITHER (A)] further treatment will not be likely to bring about significant improvement in the person's condition; [,] or

(C) [(B)] treatment is no longer adequate or appropriate; or

(2) in the case of an alcoholic or drug addict committed on the grounds of the need for treatment and incapacity, that the incapacity no longer exists.

\* Sec. 20. AS 47.37 is amended by adding a new section to read:

Sec. 47.37.203. PROVISIONS FOR EARLY RELEASE. (a) When, in the opinion of the professional person in charge of a facility providing involuntary treatment under this chapter, the committed patient can be

appropriately served by less restrictive treatment before expiration of the period of commitment, the less restrictive care may be required as a condition for early release for a period that, when added to the initial treatment period, does not exceed the period of commitment. If the facility designated to provide the less restrictive care is not the facility providing the initial involuntary treatment, the second facility must agree in writing to assume responsibility for the person.

(b) The original facility shall give a copy of the conditions for early release to the patient, the office, and the court of original commitment. The facility designated to provide less restrictive care may modify the conditions for continued release if the modifications are in the best interests of the patient.

(c) If the facility providing less restrictive care and the office determine that a conditionally released patient is failing to adhere to the terms and conditions of release or that substantial deterioration in the patient's functioning has occurred, the office shall notify the court of original commitment and request a hearing to determine whether or not the person should be returned to the more restrictive care. The hearing shall be held no less than two and no more than seven days after the date of the request.

(d) With a request under (c) of the section, the office shall file a petition with the court stating the facts substantiating the need for the hearing along with treatment recommendations. The patient has the same rights with respect to notice, hearing, and counsel as for the original involuntary treatment proceeding. The issues to be determined at the hearing are

(1) whether the conditionally released patient did or did not adhere to the terms and conditions of release to less restrictive

care or whether substantial deterioration of the patient's functioning has occurred; and

(2) whether the conditions of release should be modified or the person should be returned to a more restrictive facility.

(e) The hearing under (d) of this section may be waived by the patient and the patient's counsel, guardian, and conservator, if any, but only if each of these persons agrees to the waiver. Upon waiver, the person may be returned for involuntary treatment or continued on conditional release on the same or modified conditions.

\* Sec. 21. AS 47.37.210 is amended to read:

Sec. 47.37.210. RECORDS [OF ALCOHOLICS AND INTOXICATED PERSONS]. (a) Except as provided in (b) - (d) of this section and [REQUIRED BY] AS 28.35.030(d), the registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(b) The [NOTWITHSTANDING (a) OF THIS SECTION, THE] coordinator may make available information from patients' records for purposes of research into the causes and treatment of alcoholism or drug addiction. Information [NO INFORMATION] may not disclose a patient's name.

\* Sec. 22. AS 47.37.210 is amended by adding new subsections to read:

(c) The administrator in charge of a treatment facility may make allegations in a petition filed in proceedings under this chapter that are based on information contained in records of the treatment facility.

(d) In proceedings under this chapter, there is no privilege under (a) of this section for records created within one year of the date the petition was filed under this chapter if the records relate to the condition or treatment of the respondent that is at issue in the proceedings.

\* Sec. 23. AS 47.37.240 is amended by adding new subsections to read:

(c) The department may not refuse admission for diagnosis, evaluation, guidance, or treatment to an applicant because it is determined that the applicant is financially unable to contribute fully or in part to the cost of a service or facility available under this chapter.

(d) The department may limit admissions of applicants under this chapter or modify its programs in order to ensure that expenditures for services or programs do not exceed amounts appropriated by the legislature and allocated for the services or programs. The department may establish admission priorities for use in the event that the number of eligible applicants for services under this chapter exceeds the limits set by the department.

\* Sec. 24. AS 47.37 is amended by adding a new section to read:

Sec. 47.37.245. AVAILABILITY OF SERVICES NOT GUARANTEED. This chapter may not be construed to entitle an individual to services authorized in this chapter or to require the department or its contractors to reallocate funds in order to ensure that services are available to an eligible person upon demand.

\* Sec. 25. AS 47.37.250(a) is amended to read:

(a) Nothing in this chapter affects a statute, ordinance, or regulation relating to (1) drunken driving, driving under the influence of alcohol, driving while intoxicated, or other similar offenses involving alcohol or other drugs and the operation of a vehicle, aircraft, boat, machinery, or other equipment, (2) the sale, purchase, dispensation, possession, or use of alcoholic beverages or other drugs at specified times and places or by a particular class of persons, including prohibitions against drinking intoxicating beverages in specified public places, or (3) being upon the traveled portion of a

highway so as to be a hazard to the motoring public

\* Sec. 26. AS 47.37.270(1) is amended to read:

(1) "alcoholic" means a person who suffers from the disease of alcoholism, characterized by a physiological dependency on alcoholic beverages, loss of control over the amount and circumstances of use, symptoms or tolerance, physiological or psychological withdrawal if use is reduced or discontinued, and impairment of health or disruption of social or economic functioning [HABITUALLY LACKS SELF-CONTROL IN USING ALCOHOLIC BEVERAGES, OR USES ALCOHOLIC BEVERAGES TO THE EXTENT THAT THE PERSON'S HEALTH IS SUBSTANTIALLY IMPAIRED OR ENDANGERED, OR THE PERSON'S SOCIAL OR ECONOMIC FUNCTION IS SUBSTANTIALLY DISRUPTED];

\* Sec. 27. AS 47.37.270(10) is amended to read:

(10) "incapacitated by alcohol or other drugs" means a person who, as a result of the use of alcohol or other drugs, is unconscious or whose judgment is otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to a need for treatment or care, as evidenced objectively by extreme physical debilitation, physical harm or threats of harm to the person or to others or chronic inability to hold regular employment;

\* Sec. 28. AS 47.37.270(13) is amended to read:

(13) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or other drugs;

\* Sec. 29. AS 47.37.270(15) is amended to read:

(15) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care which may be extended to alcoholics, drug addicts, persons incapacitated or gravely disabled by alcohol or other drugs, and intoxicated persons, including

diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling;

\* Sec. 30. AS 47.37.270 is amended by adding new paragraphs to read:

(17) "drug addict" means a person who uses drugs other than alcohol in a chronic, compulsive, or uncontrollable manner to the extent that it is seriously interfering with the person's health, economic, or social functioning, characterized by a compulsive desire for one or more drugs, loss of control when exposed to one or more drugs, and continued use in spite of adverse consequences;

(18) "gravely disabled by alcohol or other drugs" means that a person, as a result of the use of alcohol or other drugs,

(A) is in danger of serious physical harm resulting from a failure to provide for the person's essential human needs for health or safety; or

(B) manifests severe deterioration in routine functioning evidenced by a repeated and escalating loss of cognition or volitional control over the person's actions and is not receiving care that is essential for the person's health or safety.

\* Sec. 31. AS 47.37.200(d) is repealed.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 27, 1990

SUBJECT: Sectional Summary  
(SB 336)

TO: Senator Rick Uehling

FROM: Terri Lauterbach *TLL*  
Legislative Counsel

Following is the sectional analysis you requested for SB 336:

The main changes achieved by the bill are to provide for emergency and involuntary commitment procedures for drug addicts similar to those that currently exist for alcoholics and to clarify that treatment in public facilities is subject to the availability of funds for treatment. Certain time limits relating to commitment proceedings are also changed and new sections relating to evidence used in the proceedings are added.

Sec. 1. Changes the policy declaration for the chapter.

Secs. 2 - 3. Add drug addicts to the voluntary treatment statute.

Sec. 4 - 9. Modify the protective custody statute (AS 47.-37.170) by changing the criteria for protective custody, changing certain time limit requirements for action, authorizing reasonable physical restraint to retain certain persons for up to 72 hours, and emphasizing that decisions must be based on availability of appropriate treatment.

Secs. 10 - 12. Modify the emergency commitment statute (AS 47.37.180) by adding drug addiction, emphasizing availability of treatment, increasing the time period applicable to medical examinations before commitment, and increasing from 48 to 72 hours the time a person can be held before court review.

Secs. 13 - 19. Modify the involuntary commitment statutes (AS 47.37.190 - 47.37.200) by adding placement of drug addicts, adding provisions related to persons who repeatedly require detox or treatment, changing certain time limit requirements, and allowing telephonic testimony.

Sec. 20. Adds a new section relating to early release of persons from commitment.

Sec. 21. Adds a new section waiving an evidentiary privilege relating to communications for the purposes of commitment proceedings.

Sec. 22. Adds a new section that will make it easier for medical records to be used as evidence in commitment proceedings.

Sec. 23. Technical amendments.

Sec. 24. Prohibits DHSS from refusing service to persons who cannot pay, but allows DHSS to limit acceptance of patients in order to stay within budgetary constraints.

Sec. 25. Clarifies that treatment services are not an entitlement.

Sec. 26. Technical amendments.

Sec. 27. Changes the definition of "alcoholic."

Sec. 28. Changes the definition of "incapacitated by alcohol" by adding references to drugs and by including self-harm as a criteria for determining incapacitation.

Sec. 29. Changes the definition of "intoxicated person" by adding a reference to drugs.

Sec. 30. Changes the definition of "treatment."

Sec. 31. Adds new definitions of "drug addict" and "gravely disabled by alcohol or other drugs."

Sec. 32. Repeals a recommitment provision.

Sec. 33 - 34. Refer to court rule changes.

# Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee  
International Trade & Tourism Committee  
State Affairs Committee

## Senate Bill 336

"An Act relating to treatment related to the use of alcohol and other drugs..."

### List of Statutes Affected by SB 336:

AS 47.37.010  
47.37.160 (a)  
      . (c)  
47.37.170 (b)  
      . (d)  
      . (e)  
      . (f)  
      . (h)  
      . (j)  
47.37.180 (a)  
      . (b)  
      . (c)  
47.37.190 (a)  
      . (b)  
47.37.200 (a)  
      . (b)  
      . (c)  
      . (e)  
      . (g)  
47.37.210  
47.37.240  
47.37.250. (a)  
47.37.270. (1)  
      . (10)  
      . (13)  
      . (15)

# Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee  
International Trade & Tourism Committee  
State Affairs Committee

## Revisions to SB 336 (Finance)

1. Delete section 21.
2. Delete section 22.
3. Revise section 23 as follows:

(a) Except as provided in (b), (c), and (d) of this section and [REQUIRED BY] AS 28.35.030(d), the registration and other records of treatment facilities shall remain confidential and are privileged to the patient.

(b) The coordinator may make available information from patient records for purposes of research into the causes and treatment of alcoholism or drug addiction. Information [NO INFORMATION] may not disclose a patient's name.

(c) The administrator in charge of a treatment facility may make allegations in a petition filed in proceedings under this chapter based upon information contained in treatment facility records.

(d) In proceedings under this chapter, there is no privilege under (a) of this section for records pertaining to the condition or treatment of the respondent that were created within 12 months of the date the petition was filed.

Submitted by: Chairman of the Assembly  
at the Request of the Mayor  
Prepared by: Department of Health and  
Human Services  
For Reading:

ANCHORAGE, ALASKA  
AR NO 90-

A RESOLUTION OF THE ANCHORAGE MUNICIPAL ASSEMBLY SUPPORTING SENATE  
BILL 336 REGARDING TREATMENT RELATED TO THE INVOLUNTARY COMMITMENT OF  
PUBLIC INEBRIATES AND SEVERELY INCAPACITATED PERSONS.

WHEREAS, the Anchorage Mayor's Blue Ribbon Task Force on Public  
Inebriates finds that public inebriates can pose a danger to themselves  
or others, and

WHEREAS, public inebriates or chronic alcoholics may be incapable  
of making reasoned decisions regarding long-term alcohol treatment or  
rehabilitation while in an incapacitated state, and

WHEREAS, throughout the state, local community service and law  
enforcement officers need authorization to place public inebriates into  
protective custody and/or treatment facilities until such time that the  
individual regains the capacity to make reasoned decisions about the  
need for treatment, and

WHEREAS, current laws can be amended to allow the public inebriate  
to receive protective custody and treatment to the benefit of both the  
inebriate and the community, and

WHEREAS, the Anchorage Mayor's Blue Ribbon Task Force on the  
Public Inebriate has passed a resolution supporting legislative action  
amending Title 47 to be more workable for communities in their efforts  
to place public inebriates into treatment facilities.

NOW, THEREFORE, the Anchorage Municipal Assembly resolves:

Section 1. That it is appropriate to support the concepts  
contained in SB 336, "An act relating to treatment related to the use  
of alcohol and other drugs" which extend the duration of involuntary  
commitment of public inebriates and severely incapacitated persons.

Section 2. That copies of this resolution be forwarded to the  
Governor and the leadership of the legislature.

PASSED AND APPROVED by the Anchorage Assembly this 7<sup>th</sup> day  
of February, 1990.

\_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Municipal Clerk

# Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage



Co-Chairman, Senate Finance Committee  
International Trade & Tourism Committee  
State Affairs Committee

## BILL SUMMARY

CSSB 336

"AN ACT RELATING TO TREATMENT RELATED TO THE USE  
OF ALCOHOL AND OTHER DRUGS..."

The main changes achieved by SB 336 are to provide for emergency and involuntary commitment procedures for drug addicts similar to those that currently exist for alcoholics, and to clarify that treatment in public facilities is subject to the availability of funds for treatment. Certain time limits relating to commitment proceedings are also changes and new sections relating to evidence used in the proceedings are added.

The bill has a zero fiscal note.

MAR 1 1990

POSITION PAPER

Senate Bill No. 336

"An Act relating to treatment related to the use of alcohol and other drugs; amending Rules 501-512 and 803, Alaska Rules of Evidence."

ANALYSIS

Senate Bill 336 would amend AS 47.37, Uniform Alcoholism, Intoxication and Treatment Act, in a number of ways. First, it will extend the provisions of the Uniform Act to include drug addicts for purposes of emergency and involuntary commitment. Also, it further defines the population of individuals who can be taken into protective custody by including those who are gravely disabled by alcohol or other drug or who are threatening another person or are suicidal. SB 336 increases the time a person may be detained in protective custody from 48 to 72 hours and it permits treatment personnel to use reasonable physical restraint to retain an incapacitated, or gravely disabled, person.

SB 336 alters procedures used for longer-term-involuntary commitment to state approved treatment facilities. Most significantly, it add, as criteria for commitment, an individual's previous detoxification treatment history. Also, SB 336 allows an individual to be committed to a treatment facility in an emergency basis without a medical examination if the individual to be committed refuses the examination. If the individual is examined by a physician, the examination may occur within five days of the commitment. Current law requires this examination occur within two days of commitment.

SB 336 also increases the term of custody from 30 to 60 days while adding provisions for early release and for transferring patients to a less restrictive setting if the patient can be appropriately served by this type of service.

POSITION

SB 336 follows a trend which has been established in other states to recognize the need to bring seriously impaired drug and alcohol abusers into treatment. The changes proposed in SB 336 will likely increase the number of involuntary commitments sought, and the Department supports these needed changes in the current commitment law. However, SB 336 also provides that involuntary commitments are subject to the availability of appropriate treatment services. In many parts of the State, treatment programs have waiting lists of individuals seeking treatment. Although the Department supports the intent of SB 336, we also recognize that the effectiveness of the legislation will be mitigated by lack of available treatment resources within the State.

Recommended by:

Matthew C. Felix

Matthew C. Felix, Coordinator  
Office of Alcohol & Drug Abuse

Date:

2/20/90

Approved by:

Myra W. Munson  
Myra W. Munson, Commissioner  
Department of Health and  
Social Services

Date:

2/22/90

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: An Act relating to alcohol and other drgus treatment ...  
 Sponsor: Hebling  
 Requestor: \_\_\_\_\_

Agency Affected: Department of Administration  
 BRU: Office of Public Advocacy  
 Components: \_\_\_\_\_

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING	FY91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

**POSITIONS:**

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

**ANALYSIS :** (Attach a separate page if necessary)

This agency anticipates only incremental changes in workload if this bill passes.

Prepared by: Brant McGee, Director Phone: 274-1684  
 Division: Office of Public Advocacy Date: 2/27/90  
 Approved by Commissioner: Frank S. Baxter Date: 2/27/90  
 Agency: Department of Administration

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

*This fiscal note did not accompany the bill.*