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SENATE FINANCE COMMITTEE REPORT

DATE: 3/26/90

FURTHER:

DATE TURNED INTO OFFICE: 4/18/90

The Finance Committee considered

SB 522

Authorizing the Alaska Court System to establish and evaluate a mediation pilot project.

and recommended:

- replace with _____ CS _____
- or adopt _____ CS _____
- attached amendment(s)
- _____ letter of intent adopted

- same title
- new title
- technical title change (HB only)

do pass

do not pass

no recommendation

individual recommendations

further referral to _____

ATTACHES NEW FISCAL NOTE(S):

fiscal note(s) _____ Dept/Date: _____

zero fiscal note(s) _____

appropriation-no fiscal note

SIGNING DO PASS:

[Signature]
Paul Grati
Paul Ueb

APPROVES PREVIOUS:

fiscal note(s) _____ Dept/Date: Courts 3/23/90
_____ 110.2

zero fiscal note(s) _____ Dept/Date: DPS 3/22/90

OTHER RECOMMENDATIONS:

[Signature] no Rec.
[Signature] No Rec
[Signature] - no rec

1. [Signature] No Rec. 2. _____
Co-Chairs. Signatures and Recommendations

ANOTHER 2 NEW STATE EMPLOYEES!

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 522 (a)
PUBLISH DATE: 3/23/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act ... to establish and evaluate a mediation pilot project
Sponsor: Senate Judiciary
Requestor: Senate Judiciary

Agency Affected: Public Safety
BRU: Council on Domestic Violence and Sexual Assault
Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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	- 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/PROG RCPT						
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)

This bill is expected to have no fiscal impact on the Department of Public Safety.

Prepared by: Barbara Miklos, Executive Director
Division: Council on Domestic Violence and Sexual Assault

Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Phone: 465-4356
Date: 3/22/90

Date: 3-22-90
Page 1 of 1

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: Alaska Court System
 Title: An Act authorizing the BRU: Trial Courts
Alaska Court System to establish mediation pilot project
 Sponsor: Senate Judiciary Committee Components: _____
 Requestor: Senate Judiciary Committee

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services		107.5				
Travel						
Contractual						
Supplies						
Equipment		3.3				
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	110.8	0.0	0.0	0.0	0.0

CAPITAL						
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REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

General Funds	0.0	110.8	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	110.8	0.0	0.0	0.0	0.0

POSITIONS:

Full-time		2.0				
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Jan Strandberg, General Counsel
 Division: Alaska Court System

Phone: 264-8228
 Date: 3/23/90

Approved by: Arthur H. Snowden, II, Administrative Dir.
 Agency: Alaska Court System

Date: 3/23/90

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

Alaska Court System
SB 522
Fiscal Analysis

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
1 - Mediator, PFT, 18A, Anchorage	\$37,548	\$12,900	\$50,448
1 - Mediator, PFT, 18A, Fairbanks	42,984	14,096	<u>57,080</u>
Total Personal Services			<u>107,528.</u>

Equipment

File cabinet, typewriter and dictating machine for
each position

3,270

Total one-time cost

\$110,798

Fiscal Analysis of Mediation Pilot Project

Purpose of Project

The purpose of this pilot project is to determine the effectiveness of mediation in divorce cases in Anchorage and Fairbanks. In the 1988 court system budget the legislature stated its intent:

that the court system educate judges, attorneys and the public on the potential benefits of mediation. The court system should evaluate and quantify the potential benefits to the consumers as well as the court system of mediation, as an option.

Scope of Project

During the period of the project, contested domestic relations cases would be assigned to one of two "tracks" upon filing. Cases assigned to the "trial track" would be handled under current procedures, which focus on readying the case for trial before a judge. Cases assigned to the "mediation track" would be transferred to the office of the mediator, where the parties would be scheduled for mediation session. Should mediation not be successful in an individual case, the case will be assigned a trial date.

Guidelines for assignment of cases to the tracks will insure that a number of each type of dispute (custody, visitation and/or property issues) will be assigned to both tracks. Information will be gathered about the resolutions of the cases handled on each track, through the use of questionnaires and statistics from case files. The court should be able to compare the two tracks to determine:

1. the time to resolution of the dispute
2. the parties' satisfaction with the process
3. the parties' satisfaction with the result
4. the cost to the parties

At the end of the pilot period, information about the value of mediation services in domestic relations disputes in Anchorage and Fairbanks will be available. Using this information, a determination can be made whether mediation services should continue to be provided.

Other states have found that mediation is most successful in jurisdictions where there is some degree of court support. Because the pilot project will require some but not all parties in domestic disputes to participate in mediation, it is not feasible to assess a cost to the parties for the mediation services during the pilot period. However, should mediation be expanded to require that all domestic disputes attempt mediation prior to proceeding to trial, systems would be developed to require the parties to bear the cost of mediation. Charges could also be assessed if a system is developed in which parties have the option to enter mediation, but it is not required.

Costs of Project

The costs associated with the project would be incurred only once as the project would last one year. The project would consist of a mediator in Anchorage and a mediator in Fairbanks. Their personal services and associated equipment costs would total \$110,798.

If the pilot project were to be limited to one mediator in Fairbanks, the cost would be \$58,715.

If the pilot project were to be limited to one mediator in Anchorage, the cost would be \$52,083.

58475 { If section three is deleted in its entirety, the bill has no fiscal impact.

BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 522

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act authorizing the Alaska Court System to estab-
7 lish and evaluate a mediation pilot project."

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

9 * Section 1. MEDIATION PILOT PROJECT. (a) The Alaska Court System
10 shall

11 (1) create a pilot project for mediation using a court mediator
12 in Anchorage and Fairbanks for specified cases; and

13 (2) evaluate the project created under (1) of this subsection
14 for cost effectiveness, efficiency, and participant satisfaction.

15 (b) In establishing the pilot project for mediation under (a) of this
16 section, the Alaska Court System shall

17 (1) exclude from the scope of the project cases involving domes-
18 tic violence on any family members;

19 (2) limit mandatory participation of parties to one mediation
20 session, after which either party may choose to withdraw from mediation;

21 (3) inform all parties of their rights and the scope and purpose
22 of the pilot project before mediation begins; and

23 (4) allow parties to consult with their attorneys at any point
24 during the mediation process.

25 (c) If a matter is submitted to mediation under the pilot project for
26 mediation established under (a) of this section and the mediation fails,
27 the Alaska Court System shall

28 (1) ensure that the resolution of the matter is not delayed by
29 the court because of the mediation; and

1 (2) disqualify the mediator from making recommendations to the
2 court about the disposition of the controversy.

3 * Sec. 2. Section 1 of this Act is repealed one year after the effec-
4 tive date of this Act.

STEVE COWPER
GOVERNOR



4/11/90
PHONE
(907) 561-4227

STATE OF ALASKA
OFFICE OF THE GOVERNOR

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

March 20, 1990

Senator Faiks
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, AK 99801

Dear Sen. Faiks and members of the Judiciary Committee:

I am writing concerning two bills: SB519 and SB522.

I have serious concerns with and do not support SB519, an act relating to child custody determination and visitation rights. The use of the word "possession", which does not appear elsewhere in our statutes, raises a red flag about the attitude of the person or persons who drafted this bill. Children are not possessions whose individual needs are unworthy of consideration. Infants and pre-school children may be seriously traumatized by the schedule proposed in SB519. For older children this schedule may be more appropriate but there are still many individual variations in families that should be considered.

By requiring a rebuttable presumption the custodial parent would, in most cases, have to hire an expert to attempt to prove the need for a different schedule. So many cases of physical and sexual abuse received by DFYS are not pursued for lack of sufficient evidence. What burden of proof will be required here? Emotional abuse (including witnessing domestic violence) is not child abuse under the law.

Adding up the days required in this bill, I get 112 days, pushing it just over the 110 day limit of "sole" custody and thus into "shared" custody. Is this bill an attempt to reduce child support payments by non-custodial parents? To do so would have a serious economic impact on custodial parents, mostly women, and their children. Yet the cost of raising children is not significantly reduced by this schedule.

Finally, the bill appears to allow modification of all present visitation schedules, which I would oppose as seriously disruptive both emotionally and economically to families.

If we are going to look at statutes from other states (I believe

this is a Texas law) perhaps you would consider a California law requiring reimbursement of babysitting costs incurred when a non-custodial parent does not exercise visitation. Many non-custodial parents do not use court ordered visitations in a punctual or regular manner. The custodial parent who has made plans dependent on this must then find or hire a babysitter.

Another concern is a need for the ready availability of supervised visitation. Judges who have concerns for the child's well-being but want to provide visitation access by the non-custodial parent, not infrequently recommend supervised visitation. Access to supervised visitation is very limited in this state.

SB522, the mediation pilot project, poses some concerns which I would like you to consider. These concerns are for domestic relations cases. However, the bill does not appear to limit mediation to domestic relations cases. If the purpose is to evaluate mediation then landlord/tenant cases, contract disputes and employment termination cases should be part of this project. The project calls for evaluation on the basis of "cost effectiveness, efficiency and participant satisfaction". I would like you to consider adding "economic impact on participants".

I have reviewed some of the recent literature on divorce mediation. Some of the earlier research had methodological problems. In one widely cited study, 50% of couples offered mediation refused it and thus participating families were the more cooperative families prior to intervention.

A study Robert Emery, PhD and Melissa Wyer, MA, entitled "A Systematic Comparison of Child Custody Mediation and Litigation" showed that significantly fewer court hearings resulted from mediation. However, this study also showed that fathers in the mediation group indicated greater satisfaction, while women in the litigation group were less depressed than women following mediation, and reported winning more and losing less of what they wanted.

Mediation resulted in a dramatic increase in joint custody over attorney negotiated or judicial decisions. In Alaska, judges are increasingly hesitant about joint custody because of the higher number of ensuing requests for modifications. A study by Myers, Gallas, Hanson and Keilitz "Court-sponsored Mediation of Divorce, Custody, Visitation and Support" reported mixed findings on re-litigation with some studies reporting decreases and some increases.

Problems with mediation arise from an unequal power balance between the parties and from women's greater socialization to compromise. While the bill excludes domestic violence cases, realistically many victims of domestic violence, particularly where the abuse has been more psychological than physical, are in denial about it. Shame and feelings of guilt, which are expressed by all victims of domestic violence who enter shelters, are part of this denial.

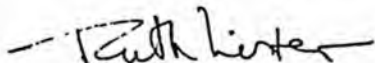
I have serious concerns about the absence of legal protections in the mediation process. Without a personal advocate for their interests, many women will be gravely disadvantaged.

Skilled mediators whose own biases do not come into play may be able to identify power imbalances. However the bill does not address training of mediators or licencing. What accountability exists here?

In conclusion, I would ask the Senate Judiciary Committee to proceed with extreme caution on mediation for divorce in order to ensure legal protection for the parties and to protect the best interests of the children.

Thank you for your consideration of this rather lengthy letter. I would be glad to provide more specific information if requested.

Sincerely



Ruth Lister
Executive Director

RL/bh

SB 522c



ALASKA DADS and MOMS

5974 North Street
Juneau, Alaska 99801

Phone: (907) 780-4684

" A Child's Right - 2 Parents After Divorce "

April 17, 1990

Senate Finance Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Re: SB 522 Court Médiation

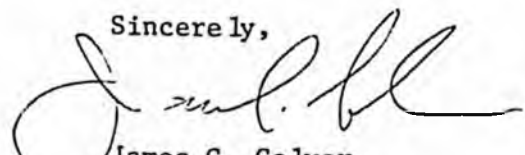
Dear Senator:

We support a pilot mediation process as an alternative to expensive divorce litigation. The financial, emotional, and family stress that accompanies divorce litigation is tremendous. The children suffer because the stress often filters to them. Mediation can help seperating parents work together instead of fighting. Mediation lessens the impact post divorce when both parties are alienated; it will help them communicate in the future over the development and needs of their children.

And..... it will save the state money by cutting the Superior Court caseload.

Please support Families, support this bill.

Sincerely,


James C. Colver
Legislative Liason

DEPARTMENT OF
PUBLIC SAFETY

BILL NO: SB 522

DATE: March 22, 1990

TITLE: An Act authorizing the
Alaska Court System to
establish a mediation
pilot project

CONTACT: Barbara Miklos
465-4356

SB 522 authorizes the Court System to establish and evaluate a mediation pilot project. The Council on Domestic Violence and Sexual Assault appreciates and supports the following provisions in the bill agreed upon by the Court System: the exclusion from the project of cases involving domestic violence; limiting mandatory mediation to one session, after which either party may choose to withdraw; ensuring that cases participating in mediation will not be delayed by the court; informing all parties of their rights, and the scope and purpose of the mediation project before mediation begins; disqualifying the mediator from making recommendations to the court about the disposition of the controversy should mediation fail; and allowing parties to consult with their attorneys at any point during the mediation process.

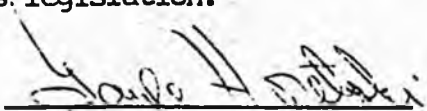
It is very important to exclude domestic violence cases from mediation. Mediation depends on equality of personal, social and economic power between the disputing parties. Violence severely distorts the balance of power in a relationship. Violent men physically and psychologically coerce women, by domination and intimidation. Women who are severely intimidated and frightened of the violence will not be able to make independent decisions in their own best interests or those of their children. It is important to note that violence often does not decrease after a separation and, in fact, may increase in severity.

The Council has concerns about the pilot project being mandatory. To be effective, mediation must be voluntary. Research on conflict resolution indicates that to the extent that one or both parties to mediation feels coerced, negotiations will be deadlocked, or agreements that are reached are likely to fail to be implemented.

Another concern about the project is that it will not exclude property from mediation. There are built-in protections in our legal system for addressing financial and property matters. Mediation will occur behind closed doors, without legal protections, and may be done by persons with no expertise in financial matters. It has been known that, in divorce cases, some women have bargained away financial assets in order to retain custody of minor children. We believe that this could be a serious problem under the pilot project, leading to unfair settlements.

We believe that the evaluation criteria need to be revised. The primary goal of mediation, when there are children, should be the best interests of the children; therefore, this needs to be an evaluation criteria. If property is included in mediation, criteria need to be developed to evaluate the settlements to insure they are just for both parties.

The Council is generally neutral about this project. Our major concern, that all cases of domestic violence be excluded from the project, has been addressed in this legislation.


Arthur English
Commissioner

Jim Colver 4/18/90



Through C A Child's Eyes

Family stress can shape a kid's success or failure

By Cecelia Goonow
P.I. Reporter

Children who consider their parents happy and successful have the best chance of doing well in school, persisting in difficult tasks and making friends.

"The strongest predictor of a child's self-esteem is how the child perceives the parent," said Molly Reid, chief psychologist at the University of Washington's Child Development and Mental Retardation Center.

Reid has spent four years studying middle-class families from King, Pierce and Snohomish counties to learn how family structure affects child development. Her study is one of only a few to look at families from the child's point of view.

"Children who saw their parents as doing well, being loving and being happy tended to rate themselves the same way," she said.

"Children will fight to feel good about their parents."

Researchers are just beginning to understand the link between family relationships, children's social success and the powerful consequences these intertwining forces can have on a child's development. Self-esteem, for instance, influences how well children play with other kids — a factor that researchers now consider an important window into a child's future.

"The patterns kids establish with other children are very predictive of what they are going to be like when they grow up," said John Gottman, a UW psychology professor who is beginning a 20-year study of how families develop, from newlyweds on. He will follow the progress of 300 couples, observing them at a research laboratory where they will spend weekends.

Children of socially inept parents run a higher risk of becoming social failures themselves, said Michael Guralnick, director of the Child Development Center. And children who don't become emotionally attached to their parents in the first year of life probably will have trouble playing and making friends as they get older.

Family stress may prevent some of these children from forming strong emotional attachments to their parents. That, in turn, can lead to communication problems, poor reasoning skills and more aggressive behavior, Guralnick said.

"In a sense," he said, "it's double jeopardy for those children."

In Reid's study, children with the most difficulties were those whose parents were in the middle of bitter divorces. Parental mudslinging is especially damaging because children's self-worth is so closely tied to their image of their parents, she said.

Researchers are taking a broader look at child development partly because young children are spending less time in the home. "The whole thing is exacerbated by the day-care issue, where children have so much exposure to other children for extended periods of time," Guralnick said.

A better understanding of the spillover between politics at home and in the sandbox may help therapists find ways to keep children on track. Already, researchers know that about 10 to 12 percent of all children are social outcasts, largely as a result

Children: Some aren't able to fit in

From Page C1

of behavior that can be changed.

"A lot of times kids who get rejected are kids who are kind of awkward," Gottman said. "They don't know how to psyche out what kids are doing and fit in. They call attention to themselves."

Children typically blossom socially during their preschool years. By age 3½, children in day care interact more with other children than with adults, Guralnick said.

Kids who don't play well with other children are at risk for developing communication problems and an inability to resolve conflict, he said. Weak play skills also may be a sign of existing problems.

Children with developmental disabilities face extra hurdles because they tend to be socially isolated. They seldom attend informal play groups, which offer mental stimulation and practice in handling conflict.

There's a difference between children who are natural loners — about 10 percent of the population — and those who are simply unable to function with other children. The difference shows up by age 3 or 4.

"Children who elect to play alone are not necessarily at great disadvantage," Guralnick said.

He added, however, that parents still need to give these children opportunities for social growth.

Young children form surprisingly stable friendships despite the emotional storms that can erupt during play. At least half the children in day care are deeply attached to their friends and grieve when they move away, Guralnick said.

For emotionally fragile children, these losses can be serious enough to interfere with their adjustment to kindergarten or first grade.

Still, the sadness is "trivial" for most children compared to the benefits they derive from close friendships.

"The quality of their play is far superior," Guralnick said. "They are stimulated to a greater degree."

Study tells how kids feel about their families

Children care deeply about their families and are aware of what goes on at home, according to a new study that lets them tell their side of the story.

Molly Reid, a University of Washington psychologist, interviewed children ages 6 to 12 as part of a four-year study on family life. She and Sharon Landesman looked at 400 healthy, middle-class families in King, Pierce and Snohomish counties, making this one of the largest studies of its kind.

Some highlights:

■ Parents and children consistently ranked good family relations as their most important goal — ahead of academic and professional success, friendships and personal achievement. The emphasis was so strong, it suggests people are making unrealistic demands on their families.

"Perhaps we want things from family relationships that we should get from outside the family," Reid said.

■ 12-year-olds are more critical of their parents than 6-year-olds. However, they value their family's love and support just as highly. "Friends don't take the place of parents in their lives," Reid said.

■ Mothers have to work harder than fathers to be rated as loving. Children consider

Mothers have to work harder than fathers to be rated as loving.

mothers loving because mothers cook, clean and take care of them when they're sick. But Dad just has to be Dad.

"I know my dad loves me because he just likes to be around me," was a typical response.

Fathers, however, tend to be less satisfied with their roles. They said they wanted to spend more time with their children.

■ Children of both sexes rated their fathers as extremely important. Sons, however, described their fathers as more loving and supportive. This came as a surprise to dads, who believed they treated all their children the same.

■ Because children see their parents as a unit, a weak parent often benefits from the "halo effect," taking on the qualities of the stronger parent in the child's eyes.

■ Children have more conflict with their brothers and sisters than with anyone else.

When parents are busy or depressed, siblings compete harder for their parents' limited attention.

The way to reduce the conflict is to make each child feel special by pointing out what they do well and how they are unique. These definitions should be open-ended, however, so children aren't stereotyped.

■ Surprisingly, children in busy single-parent or two-career homes do fewer chores than children in traditional homes probably because it's often easier for parents to do the job themselves.

Yet chores are important preparing children for the world of work and should be given equal weight with gymnastic, soccer and band lessons, Reid said.

Children said they were most willing to undertake a task if their parents helped them.

"A lot of children don't know how to do the chore right unless they do it with their parents."

■ Children in single-parent homes fare just as well as those in two-parent homes, especially if the parent has clear goals and lots of social support. These kids even gave their parents high marks, compared to children in two-parent homes.

"I don't think they love them any more," Reid said, "but they see them working harder."

Marital stress can short-circuit children's social development, however. Gottman has found that 4-year-olds from combative families tend to avoid conflict by playing alongside their friends rather than joining in cooperative or competitive games.

"When the family is under stress," Gottman said, "kids tend to have a lot less fun with their best friends. They play with their

best friend in such a way that they minimize conflict."

Although these children generally avoid disputes, they have trouble controlling anger once it arises. Their inability to calm themselves may lead to problems in school, Gottman said, because regulation of emotion plays a big role in concentration.

"We know kids respond to anger between their parents," he

said. "They see it, they notice and it raises their blood pressure."

It is unclear, however, whether children suffer as a result of occasional marital spats — Gottman calls "run-of-the-family misery."

"It may well be that if kids see a marital conflict that is resolved in a happy, affectionate way, that's good for them," Gottman said. "We just don't know."

If you have the time, note the need

Opportunities for volunteers in the Seattle area include the following:

Ballard Convalescent Center: Volunteers needed for a variety of duties. 782-0100

Community Assist Network Founder: People experienced in banking, investments, public relations or

Volunteers

Jeanne DiMartino, 338-2400.

Women's Funding Alliance: Assist with office support including bulk mailings, computer input and phonathons. Training on Apple computer provided

Board of Director applications available also. Traci Drake, 467-6733.

Woodland Park Zoo: Volunteers needed in the following areas: Family Farm, Gardener Aides and Office Aides. Shirley Cotter, 684-4845.

■ Send listings information to Lisa Thomas, Seattle P-I, 101 Elliott Ave. W., Seattle 98119.

