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**407**



# Alaska State Legislature

SENATE

*Committee on Finance*

Official Business

P.O. Box V  
State Capitol  
Juneau, Alaska 99811

MEMORANDUM

April 9, 1990

TO: Senator Paul Fischer, Chairman  
Senate Health, Education and Social Services Committee

FROM: Senator John Binkley *John Binkley*

RE: SB 407 - Setting a priority relating to treatment of persons  
for alcoholism, drug abuse, inhalant abuse, and intoxication

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Senate Bill 407 adds a new section to existing statutes relating to regulations governing acceptance for treatment in state-funded programs. The new section (6) directs that priority shall be given, whenever possible, to persons who would likely inflict harm and pregnant women whose continued use of alcohol, drugs or inhalants is likely to harm the fetus.

Forty-two state-funded programs are currently offering inpatient or outpatient treatment.

The Division of Alcohol and Drug Abuse is supportive of the legislation and has submitted a -0- fiscal note.

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 7, 1990

SUBJECT: Restriction of Priority to Pregnant Women  
(SB 407)

TO: Senator John Binkley

FROM: Terri Lauterbach *TL*  
Legislative Counsel

You have asked me to comment on the legality of the Tanana Chiefs Conference, Inc.'s proposal that SB 407 be amended to give priority in admissions only to pregnant women instead of to pregnant women and other persons who would be likely to inflict physical harm on another.

There is great likelihood that a priority for pregnant women would violate the prohibition against sex discrimination in the provision of public services found in AS 18.80.255, which provides

It is unlawful for the state or any of its political subdivisions...to refuse, withhold from or deny to a person any local, state or federal funds, services, goods, facilities, advantages or privileges because of race, religion, sex, color or national origin...

Granting an advantage to pregnant women who are alcoholics so that they have greater access to treatment facilities than men who are alcoholics appears to me to be unlawful under AS 18.80.255.

A priority for pregnant women might also be unconstitutional under art. I, sec. 3, Constitution of the State of Alaska, which provides

No person is to be denied the enjoyment of any civil or political right because of race, color, creed, sex, or national origin...

Senator John Binkley  
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By giving equal priority to both pregnant women and other persons who would be likely to harm others, SB 407 avoids violating AS 18.80.255 and art. 1, sec. 3 of the state constitution.

I hope you find this information helpful. Please let me know if I can be of further assistance.

TML:lmb  
L10/053

*Tanana Chiefs Conference, Inc.*

122 First Avenue  
Fairbanks, Alaska 99701-4897  
(907) 452-8251  
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March 27, 1990

Senator Paul A. Fischer  
Chairman, HESS  
Alaska State Legislature  
P.O. Box V (MS 3100)  
Juneau AK 99811

Dear Senator Fischer:

The Tanana Chiefs Conference, Inc. (TCC) supports Senate Bill 407 (with minor amendments) and its intent - a bill giving priority in admission to pregnant women who are likely to continue using alcohol, drugs or inhalants.

The nationwide birth rate of FAS children is 1 to 3 for every 1,000 births. The Native-Alaskan birth rate is 4.2 children out of every 1,000 births. In the Tanana Chiefs region, it is estimated at 5.9 FAS cases per 1,000 births. Our region has one of the highest FAS birth rates nationwide. It is imperative to TCC that priority treatment be given to women who are pregnant and who continue using alcohol. The TCC Regional Health Board endorsed this bill at its meeting held during the week on March 1, 1990. FAS education and treatment continues to be of high priority for this area.

TCC supports this bill with the following amendment to the last paragraph of the bill:

(6) priority in admissions shall be given, whenever possible, to pregnant women who are likely to continue using alcohol, drugs, or inhalants.

We feel the inclusion of those persons who would be likely to inflict physical harm on another perpetuates the myth that it's okay to then inflict harm (e.g. suicide) on oneself. In addition, Washington State studies reflected an increase in violence by mentally ill persons when commitment for treatment was restricted to those who were a danger to others.

On the second portion of that same paragraph, we would like to see eliminated the phrase in a manner that is likely to harm the fetus. First, adding that section appears to be redundant in that you have already identified the women as being pregnant. Any use of alcohol or drugs during pregnancy may harm the fetus. Secondly, this statement opens the controversial subject of fetal rights to pro-choice/anti-abortion advocates.

The basic premise of the bill is worth fighting for - we want to give pregnant women access to treatment centers. For pregnant women who cannot control their drinking, priority treatment is so crucial especially in the first trimester. Let's eliminate this other unnecessary language and concentrate on the real issue of the bill - helping alcohol abusing pregnant women in the short and crucial time they really need assistance.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

*Michael Graf*

Michael Graf, Director  
Community Health Services

LAC/de

cc: Senate HESS Committee  
Jim Duncan  
Al P. Adams  
Lloyd Jones  
Tim Kelley

FISCAL NOTE

REQUEST:

Revision Date: 1/29/90  
 Title: "An Act setting a priority relating to treatment of person for alcoholism..."  
 Sponsor: \_\_\_\_\_  
 Requestor: \_\_\_\_\_  
 Agency Affected: Health & Social Services  
 BRU: Alcohol & Drug Abuse  
 Components: Alcohol Grants

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	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

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 FY90 fiscal impact

Prepared by: Matthew C. Felix Phone: 586-6201  
 Division: Alcoholism & Drug Abuse Date: 3-20-90  
 Approved by Commissioner: Myra M. Munson Date: \_\_\_\_\_  
 Agency: Health & Social Services

Distribution (by preparer):

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