

HB

136



February 26, 1991

Representative Georgianna Lincoln, Co-Chair  
House HESS Committee  
PO Box V  
Juneau, Ak. 99811

Re: House Bill 136

Dear Representative Lincoln,

The purpose of this letter is to request that the committee pass House Bill 136: An act giving children of divorce legal access to grandparents and others who are important in the child(rens) lives.

Research is showing that when children are denied access to their biological parents, grandparents, and other loved ones, serious developmental psychological problems often occur. Many of these children do not do well in school, have low self esteem, have a high incidence of drug and alcohol abuse, and are involved in crime.

We support this bill because we believe it is good public policy to provide emotional as well as monetary support for children.

Sincerely,

*Handwritten:* P.O. Box 521155  
Steven P. Staube, President

*Handwritten:* P.O. Box 521155  
Big Lake, AK 99652

TO: PATTI BEARDMAN;  
HOUSE HESS COMM.

PLEASE DISTRIBUTE  
TO COMMITTEE MEMBERS

THANKS,  
STEVE  
STAUBE

\*\*\*\*\*  
 FAX TRANSMITTAL MEMO  
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**FAMILIES**  
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A Clearinghouse For FAMILIES And CHILDREN For Information About  
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Dedicated to Strengthening and Supporting The FAMILY Offering Hope and  
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-----  
 (National Office) (Western Regional Office)  
 P.O. Box 1648 Palmer, Alaska 99648 P.O. Box 210594  
 (907) 735-1011 (907) 531-0594

Refer To: 0006.091

March 6, 1991

Representative Georgiana Lincoln  
 Chairperson, Health, Ed. & Social Services  
 P.O. Box V  
 Juneau, Alaska 99811

Madam Chairman,

My name is Emil Portscheller, Jr. I am here today representing the National Center For Families And Children. I would like to thank each of you for the opportunity to provide information regarding House bill No. 136, and I would like to offer thanks that each of you has exhibited the refreshing responsibility to address key issues of families and children in Alaska.

We are currently in the process of establishing a informational clearinghouse, national library and computer information network dealing with a broad scope of family and children related subject areas.

One of the very most alarming issues that we are encountering more and more frequently is the highly unstable circumstances and general position that families and children in Alaska are faced with. We find ever increasing evidence that in Alaska we have perhaps the most destabilized society of any of the 50 U.S. States. We base this not on the indicators of drug involvement in our state, although certainly this is a factor in the general destabilization, but rather on the extremely high rates of family disruption, disfunction, dissolution, and family child separation.

As we referenced to the Senate Health and Social Services Committee yesterday in discussion of Senate Bill No. 100, we feel that before the legislature and representatives of this committee pursue changes in existing legislation or initiate entirely new legislation regarding family, marriage, and children we recommend strongly establishing as a basic principle and top priority for this legislature and this committee that the family unit is yet the basis or cornerstone for our state's society.

When considering legislation affecting families, marriages, and children we must clearly place our focus on the present and future welfare of families, marriages, and children and not an emphasis on further entrenching power fiefdoms in the judiciary and its affiliates. In simpler terms we must afford every option to families and children as there "cases" enter into and "progress" through the legal arena and we must not continue to concentrate the power of the judiciary.

We feel this proposed legislation HB No. 136 not only further concentrates the power of the judiciary but the legislation clearly puts the judiciary in the drivers seat in regard to making decisions affecting families and children as opposed to quite simply implementing the laws derived in the legislature. We feel this bill must not go forth as proposed.

We feel there is an imperative existing in Alaska that bespeaks ever so loudly of the need for virtual total revision of the statutes dealing with family, marriage, and children. We are in the process of drawing together interested professionals, legislators, and members of the public to a general conference on statute revision. In the interim we have developed several option recommendations for the committee regarding this proposed legislation: *HB 136*

(1) LINE 5 The court shall award custody on the basis of the best interests of the child. In determining the best interests of the child the court shall consider all relevant factors including those factors enumerated in AS 25.24.150(c).

Recommendation:

Here we have one of the key flaws in our child related law... Child custody is such a very delicate and far ranging issue that it demands input from private sector sources wholly unaffiliated with the judiciary to achieve the best possible objective input and decisions and determinations. It is terribly wrong to place the judiciary in the position of acting as the professional sector representative in determining custody. The judiciary should be permitted only to implement existing statutory requirements. The judiciary should not should not be given the authority to make DETERMINATION as to what is "In the best interest of the child". The court should implement STATUTE which requires professional private sector determination. In other words do not permit the judiciary in effect to pass law, but rather require the judiciary to simply implement statute. The judiciary is not in a position to make professional determination of the best interests of a child. Our judiciary in this state is dramatically ill equipped in training and education to function as professional sector representative. The judiciary is in strong position to function in the implementation of statute. This is a key distinction needed in family and child law in Alaska.

Proposed amendment:

Delete: In determining the best interests of the child the court shall consider all relevant factors including those factors enumerated in AS 25.24.150(c).

Insert: The court in initiating custody award shall consider all relevant factors including those factors enumerated in AS 25.24.150(c). Custody award shall be made based on implementation of PRIVATE SECTOR determination of custody that is in the best interests of the child which includes the specific input of the child(ren) whenever possible.

(2) LINE 7-8-9 In a custody Determination under this section, the court shall provide for visitation by a grandparent or other person if that is in the best interests of the child.

Recommendations:

The basic thrust in the proposed amendment of providing for avenue for contact by grandparents with a child(ren). However, two problems exist in the wording and the general approach to this subject area. The first problem area is quite similar to that noted in the first recommendation and amendment we have offered. The amendment to the proposed existing legislation leaves the judiciary once again in the drivers seat as to determination. We must restate here that the judiciary should function to implement statute and not make determination. The second problem area with the line 7-9 proposed amendment to the existing statute is that as written it fails to give any to say nothing of adequate recognition to the fact that grandparents are, based on statistical information, frequently the perpetrators of marriage and family disfunction and dissolution, and child family separation. One of the cases serving as best example of this is that of Carolyn Smith v. Smith in Houston, Texas. It has become a landmark in this particular area of family and child law. Therefore in addressing whether there is an indication of a need for grandparents to play a role in contact with the child(ren) we feel strongly that such determination should not be left to the judiciary but rather to the private sector professional community (and clergy).

Proposed Amendment:

Delete: In a custody Determination under this section, the court shall provide for visitation by a grandparent or other person if that is in the best interests of the child.

Insert: In a custody determination under this section the court shall provide for visitation by a grandparent or other person if that is determined to be in the best interests of the child to include the direct input of the child(dren) whenever possible.

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(3) LINE 11-12 A divorce may be granted for an incompatibility of temperment that has caused irremedial breakdown of the marriage.

Recommendation:

Our state statutes addressing dissolution and divorce already provide for many ways out of marriage and often out of marriages that can be saved and strengthened if our judiciary and support service sector had the proper tools.

Line 11-12 is definitely the groundwork for an easy way out. However if the negative attitude toward marriage unity or lack thereof is so deeply entrenched in the minds of our lawmakers that we must retain this section then we recommend at least the one following amendment:

Proposed Amendment:

Delete: A divorce may be granted for an incompatibility of temperment that has caused irremedial breakdown of the marriage.

Insert: A divorce may be granted, for an incompatibility of temperment that has caused irremedial breakdown of the marriage, except where mental incapacity has been documented to be affecting the marriage partner seeking the divorce.

(4) LINES 16-19 support, and visitation are just as between the spouses and in the best interests of the children of the marriage; in determining whether the parents' agreement on visitation is in the best interests of the children under this paragraph, the court shall also consider whether the agreement should include visitation by grandparents and other persons;

Recommendation:

The first and gutt level response to this proposed amendment is that it is yet another attempt at encroachment by the judiciary on the rights and responsibilities of parents.

Second, we see some of the same problems with this amendment that we described in previous discussion and recommendations.

Proposed Amendment:

Delete: support, and visitation are just as between the spouses and in the best interests of the children of the marriage; in determining whether the parents' agreement on visitation is in the best interests of the children under this paragraph, the court shall also consider whether the agreement should include visitation by grandparents and other persons;

Insert: support, and visitation are just as between the spouses, and in the best interests of the children of the marriage as achieved through private sector determination and report; the court may direct that visitation by grandparents and or others shall be considered (in the achievement of determination) as to whether the parents' agreement on visitation is in the best interests of the children under this paragraph;

We would like once again to thank the committee for the opportunity to provide input on this proposed legislation. I will be glad to provide a written copy of our position on this legislation and our proposed amendments.

Sincerely

  
Emil Partscheller, Jr.

EPJR/e

cc: Senate Family Law Review Task Force Committee

Lt. Governor

Coghill

Alaska family Support Group  
Governor's Commission On Children And Youth  
Rep. Terry Martin  
Rep. Randy Phillips  
Rep. Ron Larson  
Rep. Ramona Barnes

5

# ALASKA STATE LEGISLATURE

## ELECTIVE DISTRICT 1

HYDER  
KETCHIKAN  
KUPREANOF  
MEYERS CHUCK  
PETERSBURG  
SAXMAN  
WRANGELL



## IN KETCHIKAN

352 FRONT ST.  
KETCHIKAN, AK 99901  
PHONE 225-9449

## DURING SESSION

P.O. BOX V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3424

**Representative Cheri L. Davis**

## **STATEMENT ON HOUSE BILL 136**

Current Alaska Statutes allow grandparents to petition the court to allow visitation with their grandchildren in the event of a divorce.

The intent of this bill is to insure grandparents have the right to petition for visitation in the event there is no marriage, and thus, no divorce.

Section 5 of the bill is simply language to "clean up" the divorce statutes and to eliminate unnecessary criteria for divorce which are no longer used by the courts.

———— SPONSOR STATEMENT ————

# HOUSE COMMITTEE REPORT

(7)

Date Referred: February 13, 1991

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3-7-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 136

HOUSE BILL NO. 136

MISC. DIVORCE AND CHILD CUSTODY LAWS

"An Act relating to divorce, dissolution, and child custody."

**RECOMMENDATIONS:**

be replaced with \_\_\_\_\_  the same title  
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(s): \_\_\_\_\_ (Dept)

APPROVES PREVIOUS: \_\_\_\_\_ (Dept/Date)

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note AK COURT SYSTEM

zero fiscal note(s) \_\_\_\_\_

**SIGNING DO PASS:**

**SIGNING OTHER RECOMMENDATIONS:**

	Check appropriate column:	Do Not Pass	No Rec	Amend
<i>Cheri Davis</i>				
	<i>Mary Miller</i>			X
	<i>Mark Hanley (HANLEY)</i>		X	
	<i>Bettye Davis (DAVIS)</i>			X
<i>J. G. Gonzales (GONZALES)</i>				
<i>Patricia Carney (CARNEY)</i>				
	<i>Lincoln</i> (LINCOLN)			X

*[Signature]*  
 CO-Chairman's Signature

Propriety of exhibition of child to jury to show family resemblance or lack of it on issue of paternity, 55 ALR3d 1087.

Death of putative father as precluding action for determination of paternity or child support, 58 ALR3d 188.

Admissibility, in disputed paternity proceedings, of evidence to rebut mother's claim of prior chastity, 59 ALR3d 659.

Statute of limitations in illegitimacy or bastardy proceedings, 59 ALR3d 685.

Long-arm statutes, obtaining jurisdiction over nonresident parent in filiation or support proceeding, 76 ALR3d 708.

Legitimation by marriage to natural

father of child born during mother's marriage to another, 80 ALR3d 219.

Proof of husband's impotency or sterility as rebutting presumption of legitimacy, 84 ALR3d 495; 14 Am. Jur. POF2d, pp. 409-481.

Who may dispute presumption of legitimacy of child conceived or born during wedlock, 90 ALR3d 1032.

Right of indigent defendant in paternity suit to have assistance of counsel at state expense, 4 ALR4th 363.

Right of illegitimate child to maintain action to determine paternity, 19 ALR4th 1082.

**Sec. 25.20.060. Custody of the child.** (a) If there is a dispute over child custody, either parent may petition the superior court for resolution of the matter under AS 25.20.060 — 25.20.130. The court shall award custody on the basis of the best interests of the child. In determining the best interests of the child, the court shall consider all relevant factors including those factors enumerated in AS 25.24.150(c).

(b) Neither parent, regardless of the question of the child's legitimacy, is entitled to preference in the awarding of custody.

(c) The court may award shared custody to both parents if shared custody is determined by the court to be in the best interests of the child. An award of shared custody shall assure that the child has frequent and continuing contact with each parent to the maximum extent possible. (§ 6 ch 63 SLA 1977; am § 5 ch 88 SLA 1982)

**Effect of amendments.** — The 1982 amendment added the subsection (a) and (b) designations, substituted "AS 25.20.060 — 25.20.130" for "this section unless an action between the parents is pending under AS 09.55" at the end of the first sentence in subsection (a), substituted "AS 09.55.205(c)" for "AS 09.55.205" at the end of the subsection (a), and added subsection (c).

**Editor's notes.** — Section 1, ch. 88, SLA 1982, provides: "LEGISLATIVE INTENT. (a) The legislature finds that it is generally desirable to assure a minor child frequent and continuing contact with both parents after the parents have separated or dissolved their marriage and that it is in the public interest to encourage parents to share the rights and responsibilities of child rearing. While actual physical custody may not be practical or appropriate in all cases, it is the intent of the legislature that both parents have the opportunity to guide and nurture their child and to meet the needs of the child on an equal footing beyond the considerations

of support or actual custody.

(b) The legislature also finds that it is in the best interests of a child to encourage parents to implement their own child care agreements outside of the court setting."

**Collateral references.** — 10 Am. Jur. 2d, Bastards, §§ 60-66.

Modification of child support order as justified by change in circumstances, 1 Am. Jur. POF2d, pp. 1-63.

Pleadings in custody litigation, 22 Am. Jur. Trials, pp. 347-516.

Court's power in habeas corpus proceedings relating to custody of child to adjudicate questions as to child's support, 17 ALR3d 764.

Award of custody of child where contest is between child's father and grandparent, 25 ALR3d 7.

Award of custody of child where contest is between child's parents and grandparents, 31 ALR3d 1187.

Modern status of maternal preference rule or presumption in child custody cases, 70 ALR3d 262.

Award of custody is between natural parents, 10 ALR4th 76  
Right of inheritance

**Sec. 25.2**  
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**Editor's note**  
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**Sec. 25.2**  
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§ 25.20.060

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§ 25.20.070

MARITAL AND DOMESTIC RELATIONS

§ 25.20.090

Award of custody of child when contest  
is between natural parent and step-parent,  
10 ALR4th 767.

Right of incarcerated mother to retain

custody of infant in penal institution, 14  
ALR4th 748.

Propriety of awarding joint custody of  
children, 17 ALR4th 1013.

**Sec. 25.20.070. Temporary custody of the child.** Unless it is shown to be detrimental to the welfare of the child, the child shall have, to the greatest degree practical, equal access to both parents during the time that the court considers an award of custody under AS 25.20.060 — 25.20.130. (§ 6 ch 88 SLA 1982)

**Editor's notes.** — For legislative intent behind the 1982 change in the child custody law, see editor's note to AS 25.20.060.

**Collateral references.** — Necessity of notice of application for temporary custody of child, 31 ALR3d 1378.

**Sec. 25.20.080. Mediation of child custody matter.** (a) At any time within 30 days after a petition for child custody is filed under AS 25.20.060 the court may order the parties to submit to mediation. Each party shall have the right to challenge peremptorily one mediator appointed.

(b) Mediation shall be conducted informally as a conference, or by telephone, or series of conferences, as determined by the mediator. The parties to the action and a court-appointed representative of the minor children shall attend.

(c) If the mediator determines that mediation efforts are unsuccessful, the mediator shall terminate mediation and notify the court that mediation efforts have failed. The custody proceeding shall proceed in the usual manner.

(d) Upon submission of the parties to mediation under this section, a pending child custody proceeding shall be stayed for a period of 30 days or until the court is notified that mediation efforts have failed. All court orders made during the pending custody proceeding remain in effect during the period of mediation.

(e) Costs of mediation shall be paid as ordered by the court by one party, by both parties, or by the state if both parties are indigent. (§ 6 ch 88 SLA 1982)

**Sec. 25.20.090. Factors for consideration in awarding shared child custody.** In determining whether to award shared custody of a child the court shall consider

- (1) the child's preference if the child is of sufficient age and capacity to form a preference;
- (2) the needs of the child;
- (3) the stability of the home environment likely to be offered by each parent;
- (4) the education of the child;

§ 25.24.170

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§ 25.24.180

MARITAL AND DOMESTIC RELATIONS

§ 25.24.200

**Sec. 25.24.180. Effect of divorce.** The effect of a judgment decreeing a divorce is to restore the parties to the state of unmarried persons. (§ 12.16 ch 101 SLA 1962)

**Revisor's notes.** — Formerly AS 09.55.230. Renumbered in 1983.

**Collateral references.** — Effect of annulment of marriage on rights arising out of prior acts of or transactions between parties, 2 ALR2d 637.

Divorce or annulment as affecting will previously executed by husband or wife, 18 ALR2d 697.

Pendency of prior action for absolute or limited divorce between same spouses in same jurisdiction as precluding subsequent action of like nature, 31 ALR2d 442.

Effect of divorce upon right to administer upon estate of spouse, 34 ALR2d 876.

Effect of divorce or annulment on competency of one former spouse as witness against other in criminal prosecution, 38 ALR2d 570.

Paternity, legitimacy, or legitimation as determined in action for divorce, separation, or annulment upon vacating or opening decree, 65 ALR2d 1390.

Effect of divorce on homestead, 84 ALR2d 703.

Effect of divorce on widow's pension or bonus rights or social security benefits, 85 ALR2d 242.

Presumption of legitimacy of child born after annulment, divorce, or separation, 46 ALR3d 158.

Divorce or annulment as affecting will previously executed by husband or wife, 71 ALR3d 1297.

Spouse's liability, after divorce, for community debt contracted by other spouse during marriage, 20 ALR4th 211.

## Article 2. Dissolution of Marriage.

### Section

- 200. Dissolution of marriage
- 210. Petition for dissolution
- 220. Hearing
- 230. Judgment

### Section

- 240. Effect and modification of decree
- 250. Forms
- 260. Miscellaneous

**Cross references.** — For interaction between ch. 260, SLA 1976 and court rules in effect at that time, see § 2, ch. 260, SLA 1976, in the Temporary and Special Acts.

**Collateral references.** — 24 Am. Jur. 2d Divorce and Separation, §§ 147-155, 166.

27A C.J.S., Divorce, § 41.

Validity, construction, and effect of "no-fault" divorce statute providing for dissolution of marriage upon finding that relationship is no longer viable, 55 ALR3d 581.

Fault as consideration in alimony, spousal support, or property division awards pursuant to no fault divorce, 86 ALR3d 1116.

What constitutes "incompatibility" within statute specifying it as substantive ground for divorce, 97 ALR3d 989.

Dissolution of marriage on statutory ground of incompatibility, 19 Am. Jur. POF2d, pp. 221-238.

**Sec. 25.24.200. Dissolution of marriage.** (a) A husband and wife together may petition the superior court for the dissolution of their marriage under AS 25.24.200 — 25.24.260 if the following conditions exist at the time of filing the petition:

(1) incompatibility of temperament has caused the irremediable breakdown of the marriage;

(2) if there are minor children of the marriage or the wife is pregnant, the spouses have agreed on which spouse or third party shall be awarded custody of each minor child of the marriage and the extent of visitation, including visitation by grandparents and other persons, and support to be provided on the children's behalf, whether the payments are to be made through the child support enforcement agency and the tax consequences of that agreement;

(3) the spouses have agreed as to the distribution of all jointly owned real and personal property and the payment of spousal support, if any, and the tax consequences resulting from these payments; and

(4) the spouses have agreed as to the payment of all unpaid obligations incurred by either or both of them, and as to payment of obligations incurred jointly in the future.

(b) A husband or wife may separately petition for dissolution of their marriage under AS 25.24.200 — 25.24.260 if the following conditions exist at the time of filing the petition:

(1) incompatibility of temperament, as evidenced by extended absence or otherwise, has caused the irremediable breakdown of the marriage;

(2) the petitioning spouse has been unable to ascertain the other spouse's position in regard to the dissolution of their marriage and in regard to the division of property, payment of debts, and custody, support and visitation because the whereabouts of the other spouse is unknown to the petitioning spouse after reasonable efforts have been made to locate the absent spouse; and

(3) the other spouse cannot be personally served with process inside or outside the state.

(c) Nothing in this section prohibits a spouse who has been personally served with a copy of a petition made under (a) of this section from executing an appearance, waiver of time to answer, and waiver of notice of hearing. The appearance and waivers shall include an acknowledgment signed before an officer authorized to administer an oath or affirmation that the spouse being served has read the petition; assents to the terms relating to custody of the children, child support, visitation, spousal support and resultant tax consequences, division of property, and allocation of debts; agrees that the conditions otherwise required by (a) of this section exist; understands fully the nature and consequences of the action; and is not signing the appearance and waivers under duress or coercion.

(d) The action created under this section is separate from the action created by AS 25.24.010. The procedures prescribed by AS 25.24.200 — 25.24.260 do not apply to an action brought under AS 25.24.010, nor do procedures prescribed under AS 25.24.010 — 25.24.180 apply to an action brought under this section, except as specifically provided. (§ 1 ch 260 SLA 1976; am § 2 ch 15 SLA 1982)

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MARITAL AND DOMESTIC RELATIONS

§ 25.24.210

Revisor's notes. — Formerly AS 09.55.231. Renumbered in 1983.

Cross references. — For jurisdiction of court to consider child custody, see AS 25.30.020.

Effect of amendments. — The 1982 amendment, in subsection (a), inserted "including visitation by grandparents and other persons" in the middle of paragraph (2).

NOTES TO DECISIONS

Jurisdiction. — The superior court has no jurisdiction to make the "child custody determination" that is a prerequisite to the entry of a decree of dissolution under AS 25.24.230(a) unless one of the conditions listed in AS 25.30.020(a) exists.

Layne v. Niles, Sup. Ct. Op. No. 2396 (File No. 5887), 632 P.2d 234 (1981).

Cited in Szmyd v. Szmyd, Sup. Ct. Op. No. 2472 (File No. 5854), 641 P.2d 14 (1982).

**Sec. 25.24.210. Petition for dissolution.** (a) The caption in a petition for dissolution of marriage under AS 25.24.200 — 25.24.260 shall be styled substantially "In the Matter of the Dissolution of the Marriage of . . . . . and . . . . ."

(b) The petition shall be filed with the superior court and shall either

(1) recite that the conditions enumerated under AS 25.24.200(a) exist and shall be signed and verified by both of the petitioners or by one petitioner, if that petitioner personally serves the petition on the other spouse in accordance with the Alaska Rules of Civil Procedure in anticipation that the spouse will comply with AS 25.24.200(c); or

(2) recite that the conditions enumerated under AS 25.24.200(b) exist and be signed and verified by one of the petitioners.

(c) The petition shall state that the spouse or spouses executing the petition consent to the jurisdiction of the court.

(d) The petition shall request that the marriage be dissolved and that the prior name of a spouse be restored, if desired by that spouse.

(e) If the petition is brought by both spouses under AS 25.24.200(a), the petition shall state in detail the terms of agreement as between the spouses with regard to the custody of children, child support, visitation, spousal support and tax consequences, if any, division of property, and allocation of debts, and, in addition, shall state

- (1) the respective occupations of the spouses;
- (2) the income, assets, and liabilities of the respective spouses at the time of filing the petition;
- (3) the date and place of the marriage;
- (4) the name, date of birth, and current custodial status of each minor child born of the marriage or adopted by the petitioners;
- (5) whether the wife is pregnant;
- (6) other facts and circumstances which the petitioners believe should be considered; and
- (7) any other relief sought by the spouses. (§ 1 ch 260 SLA 1976)

Revisor's notes. — Formerly AS 09.55.232. Renumbered in 1983.

Sec. 25.24.220. Hearing. (a) After a petition for dissolution is filed under the provisions of AS 25.24.210, a hearing shall be scheduled in accordance with the Alaska Rules of Civil Procedure.

(b) If the petition is brought by both spouses under AS 25.24.200(a), both the husband and wife are required to attend the hearing personally and not through counsel unless the court, for good cause, provides otherwise, or unless a spouse has complied with AS 25.24.200(c), in which case only the spouse filing the petition is required to attend. Either spouse may have counsel at the hearing.

(c) If the petition is brought by one spouse under AS 25.24.200(b), that spouse shall submit proof of diligent inquiry as to the whereabouts of the absent spouse and provide notice by publication, posting, or other means as ordered by the court in accordance with the Alaska Rules of Civil Procedure.

(d) If the petition is brought by both spouses under AS 25.24.200(a), the court shall examine the petitioners or petitioner present and consider whether

(1) the spouses fully understand the nature and consequences of their action;

(2) the agreements between the spouses concerning child custody, child support, and visitation are fair, just, and equitable as between the spouses and in the best interests of the children of the marriage;

(3) the agreements between the spouses relating to the division of property, spousal support, and the allocation of obligations are fair, just, and equitable; and

(4) the conditions in AS 25.24.200(a) have been met.

(e) If the petition is brought by one spouse under AS 25.24.200(b), the court shall examine the petitioner and consider whether the petitioner fully understands the nature and consequences of the action and whether the conditions in AS 25.24.200(b) have been met.

(f) The court may appoint a guardian ad litem to represent the best interests of the child. Appointment of a guardian ad litem or attorney for the child shall be made under the terms of AS 25.24.310.

(g) The court may amend the agreements between the spouses relating to child custody, child support, visitation, spousal support, division of the property, and allocation of obligations, but only if both petitioners concur in the amendment. (§ 1 ch 260 SLA 1976)

Revisor's notes. — Formerly AS 09.55.233. Renumbered in 1983.

Sec. 25.24.230. Judgment. (a) If the petition is brought by one or both spouses under AS 25.24.200(a), the court may grant the spouses a final decree of dissolution and shall provide the other relief as pro-

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**Alaska State Legislature**  
**House of Representatives**  
 COMMITTEE ON HEALTH, EDUCATION  
 AND SOCIAL SERVICES

DATE: March 7, 1991

PLACE: Capitol Room 106

SUBJECT OF MEETING:  
 \*HB 136 MISC. DIVORCE & CUSTODY LAWS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
SHERRIE GON	AWL	22156 JSD	99802		463-6744	<input checked="" type="radio"/> Y	<input type="radio"/> N	HB 136
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	
						<input type="radio"/> Y	<input type="radio"/> N	

\*\*\*\*\*  
\*  
\* DELIVER TO: LHSCHES \*  
\*  
\* ORIGINAL \*  
\* SENT: 03/07/91 TIME: 10:08 \*  
\* FROM: LTCCSOL \*  
\* SUBJECT: 91-03-012:FS-HB50,93,136;3-7 \*  
\* PRINT DATE: 03/07/91 TIME: 10:08 \*  
\*  
\*\*\*\*\*

SUBJECT LINE TO READ: TC NO.,SHORT SUBJECT,DATE

T/C NO: 91-03-012  
DATE: 3-7-91  
SPONSOR: HOUSE HEALTH EDUCATION AND SOCIAL SERVICES  
SUBJECT: HB50,93,136  
MODERATOR: ALYSON  
SITE: SOLDOTNA

FINAL STATS

\*\*\*\*\*  
WE HAD NO PARTICIPANTS AND DID NOT DIAL INTO THE TELECONFERENCE  
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* DELIVER TO: LHSCHES
*
* ORIGINAL
* SENT: 03/07/91 TIME: 10:50
* FROM: LTCCMAT
* SUBJECT: 012 FS HHESS FAM 3/7/91
* PRINT DATE: 03/07/91 TIME: 10:50
*
*****

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SUBJECT LINE TO READ: TC NO,; PL/FS;SHORT SUBJECT;DATE

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T/C NO: 91-03-012
DATE: 3/7/91
SPONSOR: H HESS
SUBJECT: HOUSE BILLS 50, 93, AND 136--FAMILY
MODERATOR: MARY
SITE: MAT-SU LIO

```

FINAL STATS

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TESTIFIED:  
NAME/REPRESENTING ADDRESS PHONE BILL NO.

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1 EMIL PORTSCHELLER JR NATIONAL-CENTER-FOR-FAMILIES-AND-CHILDREN
   FOR 1645 PALMER 99645 746-3011
2 JIM COLVER FOR 427 PALMER 99645 745-8474
3

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\*\*\*\*\*

OBSERVED  
NAME/REPRESENTING ADDRESS PHONE BILL NO.

1  
2

\*\*\*\*\*

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TESTIFIED: 2
UNABLE:
OBSERVED:
TOTAL: 2

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START TIME: 8:30 AM END TIME: 10

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*****
*
* DELIVER TO: LHSCHES
*
* ORIGINAL
* SENT: 03/07/91 TIME: 10:26
* FROM: LIOCMIL
* SUBJECT: 91-03-012;FS;CHILD;3/7
* PRINT DATE: 03/07/91 TIME: 10:26
*
*****

```

SUBJECT LINE TO READ: TC NO.; PL FS;SHORT SUBJECT;DATE

```

T/C NO: 91-03-012
DATE: 3/7
SPONSOR: H HESS
SUBJECT: CHILDREN'S TRUST
MODERATOR: JUDY
SITE: ANCHORAGE

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FINAL STATISTICS

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*****
TO TESTIFY
NAMES/REPRESENTING ADDRESS PHONE BILL NO.
1. PAT WILLIAMS/CHILD ADVOCACY NETWORK HB 50
2. RICHARD HERMOSILLO HB 93/136
*****

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```

TO OBSERVE:
NAME/ REPRESENTING ADDRESS PHONE BILL NO.
1. SUE MILES POB 772196 ER 696-0604 50,93,136
*****

```

```

TESTIFIED: 2
UNABLE: 0
OBSERVED: 1
TOTAL: 3

```

START TIME: 8:30 END TIME: 10:00

# HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

DATE 3/7/91

JOINT \_\_\_\_\_

TAPE # 18

JOINT \_\_\_\_\_

TIME CALLED TO ORDER 8:35 am pm

TIME ADJOURNED 10:05 A.M.

ROLL CALL:	PRES	ABST	TIME ARRVD	JOINT MEMBERS PRESENT:
Rep. Patrick Carney	✓			
Rep. Georgiana Lincoln	✓			
Rep. Bettye Davis	✓			
Rep. Cheri Davis	✓			
Rep. John Gonzales	✓			
Rep. Mark Hanley	✓			late @ 8:38 AM
Rep. Mary Miller	✓			late @ 8:37 AM

**AGENDA:**

BILL NO.	SHORT TITLE	ACTION TAKEN
*HB 50①	Approp.: Children's Trust Fund	Passed w/ ind. recommendations
*HB 93③	Child Custody Investigators	Need to be heard Fri Mar 8 <sup>th</sup>
*HB 136②	Misc. Divorce and Custody Laws	Passed w/ ind. Recommendations

**OTHER:**

Rep. Fran Ulmer?

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**SPECIAL ANNOUNCEMENTS:** Teleconference bet. Juneau, Anch, Alaska, Soldotna + Chicago

**FISCAL NOTE**

**STATE OF ALASKA**  
**1991 LEGISLATIVE SESSION**

**Bill No. HB 196**

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to divorce, dis- BRU: Trial Courts  
           solution, and child custody Components: \_\_\_\_\_  
 Sponsor: C. Davis  
 Requestor: House HESS COMPONENT SERIAL NO. 

000   000	000   768
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**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>						
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUNDS	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0


**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year impact: None

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

No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-8228  
 Division: Alaska Court System Date: 03/04/91

Approved by: Arthur H. Snowden, II, Administrative Director  Date: 03/04/91  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).