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# HOUSE COMMITTEE REPORT

(9)

Date Referred: February 3, 1993

FURTHER REFERRALS:

Judiciary

Date of Committee Action: 3-17-93

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 122

HOUSE BILL NO. 122

CHILD CUSTODY PROCEDURES

"An Act eliminating a requirement that a court consider the findings and recommendations of a neutral mediator when awarding shared child custody."

- RECOMMENDATIONS:  the same title  
 be replaced with \_\_\_\_\_  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 Courtsystem  zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
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*[Signature]*  
 CHAIRMAN'S SIGNATURE



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

70 389

DATE: MARCH 17, 1993

PLACE: Capitol Room 106

SUBJECT OF MEETING:  
 \*HB 122: CHILD CUSTODY PROCEDURES  
 \*HB 128: EARLY ACKNOWLEDGEMENT OF PATERNITY  
 \*HB 30: HUMAN SERVICES MATCHING GRANTS  
 CONFIRMATION HEARINGS - VARIOUS COMMISSIONS

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
CHRIS CHRISTENSEN	UNIVERSITY SYSTEM	305 K ST ANCH	99501		264 3208	<input checked="" type="radio"/>	N	HB 122
SHARLE GOLL	AK. LOONCH'S LORRY	P.O. Box 22156 JUNO	99802		463-6744	<input checked="" type="radio"/>	N	HB 128
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

LTN1100-R01  
03/17/93

LEGISLATIVE TELECONFERENCE NETWORK

PAGE 01  
21:39:27

TCN: 30389 DATE & TIME: 03/17/93 15:00 TO 16:30 STATUS:6 ADJOURNED

\*\*\*\* ORDER SUMMARY \*\*\*\*

SPONSOR: HHES HOUSE HEALTH, EDUCATION AND SOCIAL SERVI CHAIRS: TOOHEY  
PURPOSE: PUB PUBLIC HEARING BUNDE  
CONTACT: LYNN SMITH TEL#: (907)465-6825  
CHAIRING SITE: JUNEAU CAPITOL CAP106

SPONSOR REMARKS(PUB): TESTIMONY:I INVITATION ONLY 10 MINUTE LIMIT  
TESTIMONY BY INVITATION ONLY ON HB 122  
TESTIMONY BY INVITATION ONLY ON HB 128 FROM ANC LIO.  
TCN REQUESTED ON 03/17/93 AND HAS 4 UPDATES

\*\*\*\* AGENDA \*\*\*\*

- 1 HB 122 CHILD CUSTODY PROCEDURES
- 2 HB 128 EARLY ACKNOWLEDGEMENT OF PATERNITY

\*\*\*\* PARTICIPATING LIOS \*\*\*\*

ANC ANCHORAGE	3111 C STREET	LOCATION STAFF
BAR BARROW	COURTHOUSE #305	LOCATION STAFF
* JNU JUNEAU	CAPITOL	LOCATION STAFF
MAT MATSU	165 E PARKS HWY.	LOCATION STAFF

\*\*\*\* VOLUNTEER & OFFNET SITES \*\*\*\*

ZZZ OF1 OFFNET 1 ANCHORAGE VINCENT VATALE (907)276-7576

PARTICIPANTS IN: ANCHORAGE ANC

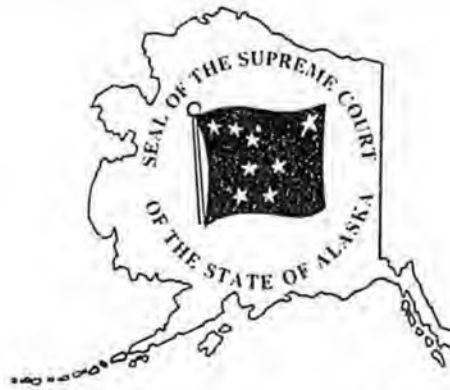
1 GLENDA STRAUBE ANCHORAGE TSFY. HB 128  
1318 N ST AK 99501 (907)274-2010

PARTICIPANTS IN: BARROW BAR

1 ROSANNA MALABED BARROW AWIC. NSB HEALTH OBSV. HB 122  
BOX 69 AK 99723 (907)852-0261

PARTICIPANTS IN: MATSU MAT

1 MR. EMIL PORTSCHELLER JR. MAT TSFY. HB 122  
P.O. BOX 2544 PALMER AK 99645 (907)373-0831



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

303 K Street  
Anchorage, AK 99501  
(907) 264-8223

February 28, 1993

The Honorable Cynthia Toohey, Co-Chair  
The Honorable Con Burde, Co-Chair  
House HESS Committee  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative Toohey and Representative Bunde:

I am writing to request that the HESS Committee schedule a hearing on House Bill 122, relating to the findings and recommendations of a neutral mediator when awarding shared child custody, at its earliest convenience. This bill was introduced at the request of the Alaska Supreme Court.

In December, 1988, Chief Justice Warren Matthews created the Task Force on Mediation in response to an instruction from the Fifteenth Legislature. The purpose of the task force was to evaluate the potential benefits of mediation to consumers and to the court system. In its report, issued in June, 1990, the task force recommended the statutory change contained in HB 122.

Currently, AS 25.20.090 reads in pertinent part:

In determining whether to award shared custody of a child the court shall consider

.....

(7) any findings and recommendations of a neutral mediator;

.....

After study, the task force concluded that this statute as written endangers the mediation process and runs contrary to the majority

Sponsor Statement

The Honorable Cynthia Toohey  
The Honorable Con Bunde  
February 28, 1993  
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view that mediation communications be kept confidential. The majority view also does not envision a mediator making a recommendation about the resolution of a dispute, should mediation be terminated without agreement. The mediator's role is to guide the parties to a mutual decision, and not to impose a decision upon the parties, even in the form of a recommendation, if they cannot reach a decision.

To correct this problem, HB 122 would simply delete from the statute the requirement that the findings and recommendations of a neutral mediator be considered by the court.

Thank you for your courtesy. Please contact me if you have any questions or comments concerning this legislation.

Very truly yours,

C. S. Christensen III  
Staff Counsel

CSC:bh

**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;
- (5) the advantages of keeping the child in the community where the child presently resides;
- (6) the optimal time for the child to spend with each parent considering
  - (A) the actual time spent with each parent;
  - (B) the proximity of each parent to the other and to the school in which the child is enrolled;
  - (C) the feasibility of travel between the parents;
  - (D) special needs unique to the child that may be better met by one parent than the other;
  - (E) which parent is more likely to encourage frequent and continuing contact with the other parent;
- (7) any findings and recommendations of a neutral mediator;
- (8) any evidence of domestic violence, child abuse, or child neglect in the proposed custodial household or a history of violence between the parents;
- (9) evidence that substance abuse by either parent or other members of the household directly affects the emotional or physical well-being of the child;
- (10) other factors the court considers pertinent. (§ 6 ch 88 SLA 1982; am § 1 ch 52 SLA 1989)

**Effect of amendments.** — The 1989 amendment, effective August 24, 1989, re-wrote paragraph (8), added present para-

graph (9), and redesignated former paragraph (9) as present paragraph (10).

#### NOTES TO DECISIONS

Quoted in *McClain v. McClain*, 716 P.2d 381 (Alaska 1986); *Bell v. Bell*, 794 P.2d 97 (Alaska 1990).

**Sec. 25.20.100. Reasons for denial to be set out.** If a parent or the guardian ad litem requests shared custody of a child and the court denies the request, the reasons for the denial shall be stated on the record. (§ 6 ch 88 SLA 1982)

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill No. HB 122

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: Child custody procedures BRU: Trial Courts  
 Components: \_\_\_\_\_  
 Sponsor: House Judiciary  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL						

REVENUE FUND SOURCE:						
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FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/PROGRAM RECEIPTS						
1006 GF/MHTIA						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 93) impact: None

ANALYSIS: (Attach a separate page if necessary)  
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel *CS* Phone: 264-8228  
 Division: Alaska Court System Date: 03/01/93  
 Approved by: Arthur H. Snowden, II, Administrative Director *AS*  
 Agency: Alaska Court System Date: 03/01/93

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