

**HB**

**122**



Alaska Court System  
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

CHARLES S. CHRISTENSEN III  
Staff Counsel

April 1, 1993

303 K Street  
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The Honorable Brian Porter  
Chairman, House Judiciary Committee  
P. O. Box V  
Juneau, Alaska 99811

Dear Representative Porter:

Thank you for scheduling a hearing on House Bill 122, relating to the findings and recommendations of a neutral mediator when awarding shared child custody. As you will recall, this bill was introduced by the Judiciary Committee 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 view that mediation communications be kept confidential. The majority view also does not envision a mediator making a

LETTER OF SUPPORT  
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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*  
*bh*

C. S. Christensen III  
Staff Counsel

CSC:bh

# FISCAL NOTE

Bill Version: HB 122

(S) Publish Date: 1-20-94

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

Revision Date: 01/18/94 Dept. 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 EXPENDITURES	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
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 EXPENDITURES						
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CHANGE IN REVENUES ( )						
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### FUND SOURCE (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						
1008 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 94) cost: \$ None

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

Prepared by: C. S. Christensen III, Staff Counsel  Phone: 264-3228  
 Agency: Alaska Court System Date: 01/18/94  
 Approved by: Arthur H. Snowden, II, Administrative Director  Date: 01/18/94  
 Agency: Alaska Court System

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