

SB

105

SFIN

FILE

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 105(EIN)

Revision Date: _____
 Title: "An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion..."
 Sponsor: Senator Leman
 Requestor: Senate Judiciary

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	84.0	84.0	84.0	84.0	84.0	84.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	84.0	84.0	84.0	84.0	84.0	84.0

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	84.0	84.0	84.0	84.0	84.0	84.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	84.0	84.0	84.0	84.0	84.0	84.0

Estimate of any current year (FY 96) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. The bill mandates the appointment of counsel for the minor but does not identify which agency would provide these services. This fiscal note assumes that Office of Public Advocacy (OPA) would be appointed because that agency currently represents children in most other civil cases. The fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12 percent of abortions per year (288) are performed on women aged 17 or younger; (3) 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

(continued)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 224-1684
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Administration

Date: 3/1/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)

ANALYSIS: (continued)

This office has located no data regarding the number of abortions performed on females aged 15 or younger. We have, therefore, further assumed that this group represents approximately half of minor women. Thus, OPA could be expected to provide attorney representation to 56 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$84.0 per year.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSSB 105(FIN)

Revision Date: 03/06/96 Dept. Affected: Health and Social Services
 Title: Relating to parental consent before a minor BRU: Medical Assistance
receives an abortion; establishing a judicial bypass.... Component: Medicaid Services
 Sponsor: Leman COMPONENT SERIAL NO. 2077
 Requestor: Senate Rules See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: 10.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation would have very little impact on the funding of abortions by the Medicaid and General Relief Medical Assistance Programs. Very few abortions are funded under these programs for minors.

Prepared by: Nancy Weller, Medical Assistance Administrator *BZ* Phone: 465-3355
 Division: Medical Assistance Date: 03/06/96
 Approved by Com: Karen Perdue, Commissioner Date: 3/5/96
 Agency: Department of Health & Social Services

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SENATE FINANCE COMMITTEE REPORT

DATE: 4/13/95

4-25-95

FURTHER:

DATE TURNED INTO OFFICE: 4/25/95

The Finance Committee considered SENATE BILL NO. 105

Requirement that a parent, guardian, or custodian consent before a minor receives an abortion; and amending Alaska Rules of Civil Procedure 40, 53, and 79; Alaska Rules of Appellate Procedure 204, 210, 212, 213, 508, and 512.5; and Alaska Administrative Rule 9.

and recommends:

- be replaced with CS SB105 (FIN)
- adopt previous CS ()
- attached amendment(s)
- adopt Letter of Intent by Committee
- further referral to the Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical change
 - new: SCR

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Steve Tamm</i>	✓		
		<i>Carol E. Miller</i>	✓		
		<i>David J. ...</i>		✓	
<i>Bob ...</i>	✓	<i>Tom ...</i>	✓		
Co-Chair: <i>...</i>			✓		
Co-Chair: <i>Keith Halford</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>DLG</i> DDA	4/13/95		168.0

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

#1 DHSS (Medicaid)	3/1/95		0
#2 DHSS (Medicaid)	1/1/95		0
#5 Courts	4/1/95		9.6

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

#16

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)

Revision Date: _____
 Title: "An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion..."
 Sponsor: Senator Leman
 Requestor: _____

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	168.0	168.0	168.0	168.0	168.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	168.0	168.0	168.0	168.0	168.0	168.0

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	168.0	168.0	168.0	168.0	168.0	168.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	168.0	168.0	168.0	168.0	168.0	168.0

Estimate of any current year (FY 95) cost: \$ 0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. The bill requires OPA to provide attorneys for the minors. The fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12 percent of abortions per year (288) are performed on women aged 17 or younger; (3) 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide attorney representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$168,000 for each year.

Prepared by: Brant McGee, Director
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: 4/20/95

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 4/20/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 105 (JUD)

Revision Date: 04/10/95 Dept. Affected: Alaska Court System
 Title: Parental consent before minor's BRU: Trial Courts
abortion Components: _____
 Sponsor: Sens. Leman, Miller, Halford, Taylor...
 Requestor: _____ COMPONENT SERIAL NO. 788

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	9.6	9.6	9.6	9.6	9.6	9.6
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	9.6	9.6	9.6	9.6	9.6	9.6

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	9.6	9.6	9.6	9.6	9.6	9.6
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
TOTAL	9.6	9.6	9.6	9.6	9.6	9.6

POSITIONS

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 284-8228
 Agency: Alaska Court System Date: 04/10/95

Approved by: Arthur H. Snowden, II, Administrative Director *AHS*
 Agency: Alaska Court System Date: 04/10/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 105

3/21/95
(5) HESS, JUD

#2

Revision Date: _____
 Title: relating to parental consent before a minor
receives an abortion; establishing a jud...
 Sponsor: Senator Leman
 Requestor: Senate HESS

Dept. Affected: Health and Social Services
 BRU: Medical Assistance
 Component: Medical-Facilities
 COMPONENT SERIAL NO. 230
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	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

Estimate of any current year (FY95) cost: 80.0

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation would have very little impact on the funding of abortions by the Medicaid or General Relief Medical Assistance Programs. Very few abortions are funded under these programs for minors.

Prepared by: Nancy Weller, Med Assist Admin
 Division: Medical Assistance

Phone: 465-3355
 Date: 03/17/95

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 3/17/95

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FISCAL NOTE

#1 3/21/95
BILL NO. SB 105 (S)HES 100

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: relating to parental consent before a minor
receives an abortion; establishing a jud...
 Sponsor: Senator Leman
 Requestor: Senate HESS

Dept. Affected: Health and Social Services
 BRU: Medical Assistance
 Component: Medicaid Non-Facility
 COMPONENT SERIAL NO. 229
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	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

Estimate of any current year (FY95) cost: 10.0

ANALYSIS: (Attach a separate page if necessary)

Enactment of this legislation would have very little impact on the funding of abortions by the Medicaid or General Relief Medical Assistance Programs. Very few abortions are funded under these programs for minors.

Prepared by: Nancy Weller, Med Assist Admin
 Division: Medical Assistance

Phone: 465-3365
 Date: 03/17/95

Approved by Commissioner: Karen Parker, Commissioner
 Agency: Department of Health & Social Services

Date: 3/17/95

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BB 105

Include Amendment #1 (separate faxed page)

Conceptual Amendment:

Change all reference to age of "18" to "16":
Pg 2, line 26
Pg 3, line 28
Pg 4, line 7, 15
Pg 7, line 26

Conceptual Amendment:

Pg 8, line 11: insert after "representation", "in cases involving judicial bypass procedures for minors seeking abortions under AS 18.16.030;"

Pg 8, line 22, 23: remove: "in cases involving judicial bypass procedures for minors seeking abortions under AS 18.16.030;".

Fin
CS FOR SENATE BILL NO. 105(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 4/1/95

Referred: Finance

Sponsor(s): SENATORS LEMAN, Miller, Halford, Taylor, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a requirement that a parent, guardian, or custodian consent
2 before a minor receives an abortion; establishing a judicial bypass procedure by
3 which a minor may petition a court for authorization to consent to an abortion
4 without consent of a parent, guardian, or custodian; amending the definition of
5 'abortion'; and amending Alaska Rules of Civil Procedure 40 and 79; Alaska
6 Rules of Appellate Procedure 204, 210, 212, 213, 508, and 512.5; and Alaska
7 Administrative Rule 9."

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

9 * Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this
10 Act to further the important and compelling state interests of
11 (1) protecting minors against their own immaturity,
12 (2) fostering the family structure and preserving it as a viable social unit,
13 (3) protecting the rights of parents to rear children who are members of their

1 household; and

2 (4) protecting the health of minor women.

3 (b) The legislature finds that

4 (1) immature minors often lack the ability to make fully informed choices that
5 take account of both immediate and long-range consequences;

6 (2) the physical, emotional, and psychological consequences of abortion are
7 serious and can be lasting particularly when the patient is immature;

8 (3) the capacity to become pregnant and the capacity for mature judgment
9 concerning the wisdom of an abortion are not necessarily related;

10 (4) parents ordinarily possess information essential to a physician's or surgeon's
11 best medical judgment concerning the child;

12 (5) parents who are aware that their minor daughter has had an abortion may
13 better ensure that the daughter receives adequate medical attention after the abortion;

14 (6) parental consultation is usually desirable and in the best interest of the minor;

15 and

16 (7) parental involvement legislation enacted in other states has shown to have
17 a significant effect in reducing abortion, birth, and pregnancy rates among minors.

18 * Sec. 2 AS 18.16.010(a) is amended to read:

19 (a) An abortion may not be performed in this state unless

20 (1) the abortion is performed by a physician or surgeon licensed by the
21 State Medical Board under AS 08.64.200;

22 (2) the abortion is performed in a hospital or other facility approved for
23 the purpose by the Department of Health and Social Services or a hospital operated by
24 the federal government or an agency of the federal government;

25 (3) before an abortion is knowingly performed on an unmarried,
26 unemancipated woman under 18 years of age, consent has been given as required
27 under AS 18.16.020 or a court has authorized the minor to consent to the abortion
28 under AS 18.16.030 and the minor consents; for purposes of enforcing this
29 paragraph, there is a rebuttable presumption that a woman who is unmarried and
30 under 18 years of age is unemancipated [CONSENT HAS BEEN RECEIVED FROM
31 THE PARENT OR GUARDIAN OF AN UNMARRIED WOMAN LESS THAN 18
32 YEARS OF AGE]; and

1 (a) The office of public advocacy shall

2 (1) perform the duties of the public guardian under AS 13.26.360 -
3 13.26.410;

4 (2) provide visitors and experts in guardianship proceedings under
5 AS 13.26.131;

6 (3) provide guardian ad litem services to children in child protection
7 actions under AS 47.17.030(e) and to wards and respondents in guardianship proceedings
8 who will suffer financial hardship or become dependent upon a government agency or
9 a private person or agency if the services are not provided at state expense under
10 AS 13.26.112;

11 (4) provide legal representation ^{new language 11/23} in guardianship proceedings to
12 respondents who are financially unable to employ attorneys under AS 13.26.106(b), to
13 indigent parties in cases involving child custody in which the opposing party is
14 represented by counsel provided by a public agency, to indigent parents or guardians of
15 a minor respondent in a commitment proceeding concerning the minor under
16 AS 47.30.775;

17 (5) provide legal representation and guardian ad litem services under
18 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
19 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
20 petitions for the termination of parental rights on grounds set out in AS 25.23.180(c)(3);
21 in cases involving petitions to remove the disabilities of a minor under AS 09.55.590,
22 in children's proceedings under AS 47.10.050(a); in cases involving judicial bypass
23 procedures for minors seeking abortions under AS 18.16.030; and in cases involving
24 indigent persons who are entitled to representation under AS 18.85.100 and who cannot
25 be represented by the public defender agency because of a conflict of interests;

26 (6) develop and coordinate a program to recruit, select, train, assign, and
27 supervise volunteer guardians ad litem from local communities to aid in delivering
28 services in cases in which the office of public advocacy is appointed as guardian ad
29 litem.

30 (7) provide guardian ad litem services in proceedings under
31 AS 12.45.046;

32 (8) establish a fee schedule and collect fees for services provided by the

1 of another person. In the interest of justice, the supreme court, in an appeal under this
2 subsection, shall liberally modify or dispense with the formal requirements that normally
3 apply as to the contents and form of an appellant's brief.

4 (k) Each hearing under this section, and all proceedings under (j) of this section,
5 shall be conducted in a manner that will preserve the anonymity of the complainant. The
6 complaint and all other papers and records that pertain to an action commenced under
7 this section, including papers and records that pertain to an appeal under this section,
8 shall be kept confidential and are not public records under AS 09.25.110 - 09.25.120.

9 (l) The supreme court shall prescribe complaint and notice of appeal forms that
10 shall be used by a complainant filing a complaint or appeal under this section. The clerk
11 of each superior court shall furnish blank copies of the forms, without charge, to any
12 person who requests them.

13 (m) A filing fee may not be required of, and court costs may not be assessed
14 against, a complainant filing a complaint under this section or an appellant filing an
15 appeal under this section.

16 Sec. 18.16.090. DEFINITIONS. In this chapter,

17 (1) "abortion" means the use or prescription of an instrument, medicine,
18 drug, or other substance or device to terminate the pregnancy of a woman known to be
19 pregnant, except that "abortion" does not include the termination of a pregnancy if done
20 with the intent to

21 (A) save the life or preserve the health of the unborn child;

22 (B) deliver the unborn child prematurely to preserve the health
23 of both the pregnant woman and the woman's child; or

24 (C) remove a dead unborn child;

25 (2) "unemancipated" means that a woman who is unmarried and under
26 18 years of age has not done any of the following:

27 (A) entered the armed services of the United States;

28 (B) become employed and self-sustaining;

29 (C) been emancipated under AS 09.55.590, or

30 (D) otherwise become independent from the care and control of
31 the woman's parent, guardian, or custodian.

32 * Sec. 5. AS 44.21.410(a) is amended to read:

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)

Revision Date: _____
 Title: "An Act relating to the requirement that a parent, guardian, or custodian consent before a minor receives an abortion..."
 Sponsor: Senator Leman
 Requestor: _____

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	168 0	168 0	168 0	168 0	168 0	168 0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	168 0	168 0	168 0	168 0	168 0	168 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	168 0	168 0	168 0	168 0	168 0	168 0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	168 0	168 0	168 0	168 0	168 0	168 0

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. The bill requires OPA to provide attorneys for the minors. The fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12 percent of abortions per year (288) are performed on women aged 17 or younger; (3) 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide attorney representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$168,000 for each year.

Prepared by: Brant McGee, Director
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: 4/26/95

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 4/26/95

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April 26, 1995

TO: Jerry Burnett *OK*
Val Rader
Ann Ringstad *OK*

FROM: Norma Strickland, Sec'y
Senate Finance Committee

SUBJECT: CSSB 105 (FIN)

The attached final has been returned from legal. Please review to ensure that the new language is correct. I am holding the new CS for your approval and will pass on to the Senate Secretary once I receive your concurrence.

Please note that Legal has amended the title to reflect "certain minors". Amendment for page 8 lines 8 and 9 reflect a better description, per Terri Lauterbach.

Thank you,

Norma Strickland
x4935

April 26, 1995

TO: Jerry Burnett
Val Rader *VR*
Ann Ringstad

FROM: Norma Strickland, Sec'y
Senate Finance Committee

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Withdrawn 4/25/95 Adopted 4-25-95

SENATE FINANCE
COMMITTEE

Amendment Number: 1

Bill Number: SB 104

Sponsor: H. Halford Date: 4/22/95

Logged In By: [Signature]

AMENDMENT

OFFERED IN THE SENATE

BY SENATOR HALFORD

Page 5, line 10-11

Delete "The court shall appoint a guardian ad litem to protect the interests of the complainant at the hearing that is held under this section."

Page 5, line 13-14

Delete "If the guardian ad litem is an attorney admitted to practice of law in this state, the court also may appoint the guardian ad litem to serve as the complainant's attorney."



SENATOR LOREN LEMAN

Northwest Anchorage

716 W 4th Ave, Ste 342, Anchorage AK 99501 258-8100

Session: State Capitol, Juneau AK 99801 465-2005

MEMORANDUM

TO: Senator Rick Halford, Co-Chairman
Senator Steve Frank, Co-Chairman
Senate Finance Committee

FROM: Senator Loren Leman *Loren Leman*

RE: Senate Bill 105; Judicial bypass of parental consent requirement
for minors seeking an abortion

DATE: April 13, 1995

I respectfully request that you schedule a hearing on Senate Bill 105, at your earliest possible convenience.

Alaska law requires parental consent for a girl under 18 to have an abortion. However, this law has not been enforced for the past 20 years because a former Attorney General concluded the law is unconstitutional. Providing a mechanism for the pregnant minor to get consent from the court, instead of one of her parents satisfies the requirements of the U.S. Supreme Court and Alaska's privacy provision. Unfortunately, these requirements also provide a large loophole for minors who want an abortion without parental consent.

Parental involvement legislation in other states, including Pennsylvania, Minnesota, Michigan and Ohio has reduced the number of abortions among teenage girls by up to 27 percent. Twenty-two states now require parental involvement in minor girls' abortion decisions.

More than 70 percent of Alaskans support a parental right to be involved in abortion decisions of their minor daughters. However, most people are surprised to learn that the parental consent provision is not now enforced.

Although SB 105 is not a cure-all for the devastating impacts of abortion, it is a big step in encouraging parental participation, a vital element of proper decision making for children.

ALASKA STAT. § 09.55.590(d)

Removal of disabilities of minority.

The person who institutes a petition under this section must obtain the consent of each living parent or guardian having control of the person or property of the minor. If the person who is to consent to the petition is unavailable or the whereabouts of that person are unknown, or if a parent or guardian unreasonably withholds consent, the court, acting in the best interest of the minor, may waive this requirement of consent as to that parent or guardian.

ALASKA STAT. § 11.61.220(a)(3)

Misconduct involving weapons in the fifth degree.

A person commits the crime of misconduct involving weapons in the fifth degree if the person ... being an unemancipated minor under 16 years of age, possesses a firearm without the consent of a parent or guardian of the minor ...

ALASKA STAT. § 11.81.430(a)(5)(A)

Justification: Use of force.

The use of force upon another person that would otherwise constitute an offense is justified under any of the following circumstances: ... A licensed physician, ... or any person who renders emergency care at the scene of an emergency, may use reasonable and appropriate nondeadly force for the purpose of administering a recognized and lawful form of treatment ... if the treatment is administered with the consent of the patient or, if the patient is a child under 18 years of age or an incompetent person, with the consent of the parent, guardian, or other person entrusted with care and supervision of the child or incompetent person ...

ALASKA STAT. § 13.26.020

Delegation of powers by parent or guardian.

A parent or a guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding one year, any powers regarding care, custody, or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward.

ALASKA STAT. § 14.30.191(a) and (c)

Educational evaluation and placement.

1) A school district shall obtain the consent of the child's parent before an initial evaluation or placement in a program of special education and related services. ... Before a school district
2) initiates or refuses a change in a child's placement or program, the district shall notify the child's parent.

ALASKA STAT. § 14.30.193(a)

School district hearings.

If a parent refuses to consent, or does not respond within 30 days to the school district's request for consent, ... the school district may appoint an impartial hearing officer to conduct a hearing to determine whether the school district may initiate the evaluation or placement of the child, or transfer the child.

ALASKA STAT. § 14.30.272(a)

Public Education for Exceptional Children. Procedural safeguards. A school district shall inform the parent of an exceptional child of the right to review the child's educational record, to review evaluation tests and procedures, to refuse to permit evaluation or a change in the child's educational placement, to be informed of the results of evaluation, to obtain an independent evaluation by choosing a person from a list provided by the district or by choosing a person by agreement between the parent and school district, to request an impartial hearing, to appeal a hearing officer's decision, and to give consent or deny access to others to the child's educational record.

ALASKA STAT. § 14.30.285(f)

Public Education. Transfers of exceptional children. A school district shall obtain the consent of the child's parent before a child may be transferred to a school outside the district in which the child resides.

ALASKA STAT. § 18.31.040(3)

Duties of school officials.

* ... each city or borough school district and each regional educational attendance area shall ... notify the parents of students about the results of asbestos inspections in their children's schools.

ALASKA STAT. § 25.20.025

Examination and treatment of minors.

(a) Except as prohibited under ALASKA STAT. § 18.16.010(a)(3) (Parental Consent to Abortion requirement), (1) a minor who is living apart from the minor's parents or legal guardian and who is managing the minor's own financial affairs, regardless of the source or extent of income, may give consent for medical and dental services for the minor; (2) a minor may give consent for medical and dental services if the parent or legal guardian of the minor cannot be contacted or, if contacted, is unwilling either to grant or withhold consent; however, where the parent or legal guardian cannot be contacted or, if contacted, is unwilling either to grant or to withhold consent, the provider of medical or dental services shall counsel the minor keeping in mind not only the valid interests of the minor but also the valid interests of the parent or guardian and the family unit as best the provider presumes them; (3) a minor who is the parent of a child may give consent to medical and dental services for the minor or the child; (4) a minor may give consent for diagnosis, prevention or treatment of pregnancy, and for diagnosis and treatment of venereal disease ...

ALASKA STAT. § 25.23.180(a), (b), and (f)

Relinquishment and termination of parent and child relationships.

(a) The rights of a parent with reference to a child, including parental right to control the child or to withhold consent to an adoption, may be relinquished and the relationship of parent and child terminated in or before an adoption proceeding as provided in this section.

(b) All rights of a parent with reference to a child, including the right to receive notice of a hearing on a petition for adoption, may be relinquished and the relationship of parent and child terminated by a writing, signed by the parent, regardless of the age of the parent, a copy of which shall be given to the parent,

...
 (2) Before [a petition for termination of the relationship of parent and child made in connection with an adoption proceeding or in an independent proceeding for the termination of parental rights] is heard, notice of the hearing on the petition and opportunity to be heard shall be given the parents of the child, the guardian of the person of the child, the person having legal custody of the child, and, in the discretion of the court, a person appointed to represent any party.

ALASKA STAT. § 47.10.020(d)

Delinquent Minors and Children in Need of Aid. Investigation and petition.

When the agency decides that an informal adjustment or disposition of a matter should be made, that informal adjustment or disposition may not be made without the agreement or consent of the minor and the minor's parents or guardians to the terms and conditions of the adjustment or disposition.

ALASKA STAT. § 47.10.030(b)

Delinquent Minors and Children in Need of Aid. Summons and custody of minor.

In all cases under this chapter the minor, each parent of the minor and the guardian of the minor shall be given notice adequate to give actual notice of the proceedings and the possibility of termination of parental rights and responsibilities, taking into account education and language differences that are known or reasonably ascertainable by the petitioner or the department.

ALASKA STAT. § 47.10.080(b)(3)

Children's Proceedings.

... the department [of Welfare and Social Services] may transfer the minor, in the minor's best interests, from one of the probationary placement settings ... to another, and the minor, the minor's parents or guardian, and the minor's attorney are entitled to reasonable notice of the transfer ...

ALASKA STAT. § 47.10.130(b)

Children's Proceedings. Detention.

When a minor is detained under this chapter, the person having responsibility for the facility in which the minor is detained shall immediately make reasonable attempts to notify the minor's parent, guardian, or custodian of the minor's detention.

ALASKA STAT. § 47.10.140(b)

Children's Proceedings. Temporary detention and detention hearing.

A peace officer who has a minor detained ... shall immediately, and in no event more than 12 hours later, notify the court and make

reasonable efforts to notify the minor's parents or guardian, and the department of the officer's action.

ALASKA STAT. § 47.10.142(c)

Children's Proceedings. Emergency custody and temporary placement hearing.

When a child is taken into custody ... the department shall immediately, ... notify the parents or the person or persons having custody of the child.

ALASKA STAT. § 47.17.027(a)

Duties of school officials.

If the department or a law enforcement agency provides written certification to the child's school officials that (1) there is reasonable cause to suspect that the child has been abused or neglected by a person responsible for the child's welfare ... (2) an interview at school is a necessary part of an investigation to determine whether the child has been abused or neglected; and (3) the interview at school is in the best interests of the child, school officials shall permit the child to be interviewed at school by the department or a law enforcement agency before notification of, or receiving permission from, the child's parent, guardian, or custodian. ... Immediately after conducting an interview ... the department or agency shall make every reasonable effort to notify the child's parent, guardian, or custodian that the interview occurred unless it appears to the department or agency that notifying the child's parent, guardian, or custodian would endanger the child.

ALASKA STAT. § 47.17.064

Photographs and x-rays.

(a) ... a practitioner of the healing arts may, without the permission of the parents, guardian, or custodian, take the following actions with regard to a child who the ... practitioner has reasonable cause to suspect has suffered physical harm as a result of child abuse or neglect:

(1) take or have taken photographs of the areas of trauma visible on the child; and

(2) if medically indicated, have a medical or radiological examination of the child performed by a person who is licensed to administer the examination.

(b) The ... practitioner ... shall notify the parents, guardian, or custodian of a child as soon as possible after taking action under

(a) of this section with regard to the child.

ALASKA STAT. § 47.30.690(c)

Mental Health Treatment. Release of minors under 18 years of age. The minor may be released by the treatment facility at any time if the professional person in charge or the minor's designated mental health professional determines the minor would no longer benefit from continued treatment and the minor is not dangerous. The minor's parents or guardian must be notified by the facility of the contemplated release.

ALASKA STAT. § 47.30.693

Mental Health Treatment. Notice to parent or guardian or minor. When a minor under 18 years of age is detained at or admitted or committed to a treatment facility, the facility shall inform the parent or guardian of the location of the minor as soon as possible after the arrival of the minor at the facility.

ALASKA STAT. § 47.30.775Commitment of minors.

... all notices required to be served on the respondent in ALASKA STAT. §§ 47.30.700 - 47.30.815 shall also be served on the parent or guardian of a respondent who is a minor, and parents or guardians of a minor respondent shall be notified that they may appear as parties in any commitment proceeding concerning the minor

...

STATUS - PARENTAL INVOLVEMENT STATUTES

Operative Statutes

Inoperative Statutes

One Parent Has the Right to Consent

Alabama (bypass)
Indiana (bypass)
Louisiana (bypass)
Missouri (bypass)
Rhode Island (bypass)
Wyoming (bypass)
South Carolina (bypass)

Alaska (no bypass)
Arizona (bypass)
California (bypass)
Colorado (no bypass)
Florida (bypass)
Michigan (bypass)
New Mexico (no bypass)
Pennsylvania (bypass)
South Dakota (no bypass)

Two Parents Have the Right to Consent

Massachusetts (bypass)
North Dakota (bypass)

*Illinois (bypass)
Kentucky (bypass)
Mississippi (bypass)

One Parent Has the Right to be Notified

Georgia (bypass)
Nebraska (bypass)
Ohio (bypass)

Montana (no bypass)
Nevada (bypass)

Two Parents Have the Right to be Notified

Arkansas (bypass)
Minnesota (bypass)

*Illinois (bypass)

Ineffective Statutes

Idaho: Abortionist need only notify one parent of immature minor "if possible."
Utah: Abortionist need only notify one parent of immature minor "if possible."
Wisconsin: Abortionist need only obtain the consent of an adult relative.

Abortionist Consent Statutes

Connecticut: Abortionist or counsellor need only discuss possibility of involving a parent, guardian, or other adult family member.

Kansas: Abortionist is given complete discretion to disregard a provision allowing one-parent notice.

Maine: Abortionist is given complete discretion to disregard a provision allowing one-parent consent.

Maryland: Abortionist is given complete discretion to disregard a provision allowing one-parent notice, and is immune to lawsuit.

Tennessee: Abortionist is given complete discretion to disregard a provision allowing two-parent notice.

West Virginia: Unaffiliated physician may waive a provision allowing one-parent notice.

*indicates state which has both consent and notification laws on the books

State Parental-Involvement Statutes

States having parental-involvement laws

September 1994

State	Type	Citation	Status
Alabama	one-parent consent judicial bypass	Ala Code §26-21-2 (Supp. 1990)	in force
Alaska	one-parent consent	Alaska Stat. §18.16.310 (1991)	constitutionality of §11.15.060 questioned, Co. Alaska Att'y Gen. Oct. 21, 1976)
Arizona	one-parent consent judicial bypass	Ariz. Rev. Stat. Ann. §§26-2152, 26-2153 (1986 & Supp. 1991)	unconstitutional in Planned Parenthood v. Neely, No. Civ. 89-489, 702 A.2d 10 (Ariz. Dist. Ct. 1992)
Arkansas	one-parent notice 48-hour waiting period judicial bypass	Ark. Code Ann. §§20-16-801 - 20-16-808 (Michie Supp. 1991)	in force
California	one-parent consent judicial bypass	Health & Safety §25958 (West Supp. 1991)	unconstitutional under Cal. Const. Art. I, §1, paragraph 15, subpart 1, in P. v. Lingren, No. ACS8627 (Cal. Ct. App. June 30, 1994)
Colorado	one-parent consent	Colo. Rev. Stat. §18-6-10111 (1986 & Supp. 1991)	declared unconstitutional in P. v. Vanover, 389 F. Supp. 347 (D. Colo. 1975)
Connecticut	no law		
Delaware	one-parent consent	Del. Code Ann. tit. 24 §1790(b) (1987 & Supp. 1991)	unconstitutional and unenforceable, attorney general statement of policy on March 27, 1977
District of Columbia	no law		
Florida	one-parent consent judicial bypass	1972 Fla. Laws 608, ch. 72-176 §3 (based on Model Penal Code §230.3(1962))	unconstitutional under state constitution, see In re T.W., 551 So. 2d 1160 (Fla. 1989)
Georgia	one-parent notice 24-hour waiting period 72-hour notice by mail judicial bypass	Ga. Code Ann. §15-11-110-117 (Michie 1990 & Supp. 1991)	upheld in Planned Parenthood Int'l v. Miller, 774 F. 2d 1462 (11th Cir. 1992), in force
Hawaii	no law		
Idaho	two-parent notice 24-hour waiting period	Idaho Code §18-6096 (1987)	unenforced
Illinois	two-parent notice 48-hour waiting period judicial bypass	70 ILCS §2011 et seq. (West 1992)	enjunction continued in Hardigan v. Zbarak, 776 F. Supp. 375 (N.D. Ill. 1991)
Indiana	one-parent written consent judicial bypass	Ind. Code Ann. §15-1-58.5-2.5 (West 1986 & Supp. 1991)	in force, see In re T.H., 486 N.E.2d 568 (Ind. 1985), In re T.P., 475 N.E.2d 312 (Ind. 1985)
Iowa	no law		
Kansas	one-parent notice judicial bypass eight-hour waiting period	K.S.A. 65-4705	enacted into law on April 23, 1992, in force

State	Type	Citation	Status
Kentucky	one-parent written consent judicial bypass	Ky Rev Stat. §311.722 (amended by S 3 136, 1994 Sess.)	recently passed amendment, not yet challenged
Louisiana	one-parent consent judicial bypass	La Rev Stat. §1299.35.5 (West Supp. 1991)	constitutional in <i>Margaret S. v. Trem</i> , 597 F Supp. 636 (E.D. La 1984), aff'd 794 F.2d 994 (5th Cir 1986), in force
Maine	adult family member or one-parent 24-hour notice, unless counseled by doctor 48-hour notice by mail judicial bypass	Me Rev Stat Ann tit 22 §1537-A (West Supp. 1990)	in force
Mainland	one-parent notice available at physician's discretion	Me Health-Ser Code Ann §20-103(c)(1) (Supp. 1993)	in force
Massachusetts	two-parent written consent judicial bypass	Mass Ann Laws ch 112 §125 (West 1983 & Supp. 1991)	preliminary injunction denied in <i>Planned Parenthood League of Massachusetts v. Bellotti</i> , 495 F Supp 215 (D Mass 1980), aff'd in part, vacated in part on other grounds and remanded, 641 F 2d 1006 (1st Cir 1981), in force
Michigan	one-parent consent judicial bypass	Mich Comp Laws Ann §722.701 et seq (West Supp. 1991)	preliminary injunction denied in <i>Planned Parenthood of Mid-Michigan v. A.G. of Michigan</i> , No. 89-10571-A2 (Kalamazoo Co. Cir Ct.), in effect during litigation
Minnesota	two-parent notice 48-hour waiting period judicial bypass	Minn Stat Ann §124.34 (West 1982)	upheld in <i>Hodgson v. Minnesota</i> , 110 S Ct 2529 (1989), in effect August 1989
Mississippi	two-parent written consent judicial bypass	Miss Code Ann. §41-41-51 et seq. (Supp. 1989)	upheld in <i>James v. Mississippi</i> , No. 92-7264 (5th Cir May 27, 1993), cert. denied by U.S. Supreme Ct., 114 S Ct 448, in force
Missouri	one-parent written consent judicial bypass	Mo Ann Stat. §169.028 (Vernon Supp. 1991)	upheld in <i>Planned Parenthood Ass'n of Kansas City, Mo. v. Ashcroft</i> , 462 U.S. 476 (1983), <i>T.J. v. Webster</i> , 792 F.2d 734 (8th Cir 1986), in force
Montana	one-parent notice	Mont. Code Ann. §50-10-107(b)	declared unconstitutional and permanently enjoined in <i>Wickland v. Savagni</i> (U.S. Dist. Ct. Montana, Dec. 21, 1993) (C-93-02-BU-78)
Nebraska	one-parent 48-hour notice judicial bypass	1991 Neb. Laws No. 425 §11	in force
Nevada	one-parent notice judicial bypass	Nev Rev Stat. §442.255 442.2553 (Michie 1986 & Supp 1989)	unconstitutional in <i>Glick v McKay</i> , 618 F Supp 322 (D Nev 1985), aff'd 937 F.2d 474 (9th Cir 1991)
New Hampshire	no law		

State	Type	Citation	Status
New Mexico	one-parent consent	N.M. Stat. Ann. §20-5-11(C) (Michie 1984 & Supp. 1991); enacted 1969	unconstitutional under <i>Planned Parenthood v. Danforth</i>
New York	no law		
North Carolina	no law		
North Dakota	two-parent written consent judicial bypass	1981 N.D. Laws, ch. 164, § 1, 1985 N.D. Laws, ch. 334, § 2 (codified at N.D. Cent. Code, §14-02.1-03; (Supp. 1989)	in force
Ohio	one-parent 24-hour notice judicial bypass	Ohio Rev. Code Ann. §2913.12	upheld in <i>Ohio v. Akron Center for Reproductive Health</i> , 110 S.Ct. 2972 (1990); in force, as-isolated challenge, rejected, <i>Cleveland Surgi-Center v. Jones</i> , 2 F.3d 586 (6th Cir. 1993), cert. denied, 114 S.Ct. 536 (1994)
Oklahoma	implied two-parent consent	Okl. Stat. Ann. tit. 53 §§ 2601, 2602	probably unconstitutional under <i>Planned Parenthood v. Danforth</i>
Oregon	no law		
Pennsylvania	one-parent informed consent judicial bypass	Pa. Cons. Stat. Ann. tit. 18 §2206, 2209 (Parson 1983 & Supp. 1990)	upheld in <i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i> , 112 S.Ct. 2791 (1994), vacated by Id. Ct., January 1994; in force since February 9, 1994
Rhode Island	one-parent consent judicial bypass	R.I. General Laws §23-4-7-4 (1989)	in force
South Carolina	one-parent or grandparent consent judicial bypass	1990 S.C. Acts P.A. 341 (codified at S.C. Code Acts §44-41-10 et seq. (1991))	in force
South Dakota	one-parent notice 48-hour waiting period	HB 1131, 1993	temporary restraining order, <i>Planned Parenthood v. Miller</i> , CV 93-3033
Tennessee	two-parent notice (Ct. interpreted it as one) 48-hour waiting period	§19-15-202(f) (1991, 1992; enacted in 1989)	upheld by State Circuit Ct., <i>P.P. Assn. of Nashville, Inc. v. MissShetter</i> (November 19, 1992) (Cocket No. 92C-1673), not enforced during litigation
Texas	no law		
Utah	two-parent notice (Ct. interpreted it as one)	Utah Code Ann. §76-7-104(C) (1990) (enacted in 1974)	upheld, <i>M.L. v. Matheson</i> , 450 U.S. 398 (1981); in force
Vermont	no law		
Virginia	no law		
Washington	no law		
West Virginia	one-parent 24-hour notice 48-hour notice by mail judicial bypass	Laws 1984, ch. 1, codified at §16-2F-1 et seq., W.Va. Code Ann. (1991)	in force

State	Type	Citation	Status
Wisconsin	one-parent or adult family-member consent judicial bypass	1991 WI Act 263	enacted into law on May 2, 1992. in force
Wyoming	one-parent 48-hour written notice and consent judicial bypass	Wyo Stat. §35-6-118 (Supp. 1989)	in force

For further information contact: Americans United for Life
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Restoring Parental Rights

The Supreme Court on Teen Abortion

In the raging debate over abortion, one subject has received increasing support from those on both sides of the issue. Most Americans, no matter what their views on abortion, advocate parental notification before a teenager may have an abortion. According to a June 1990 *New York Times*/CBS News poll, 76 percent of those surveyed believe that both parents should be notified before their teenage daughter's abortion (see p. 2).

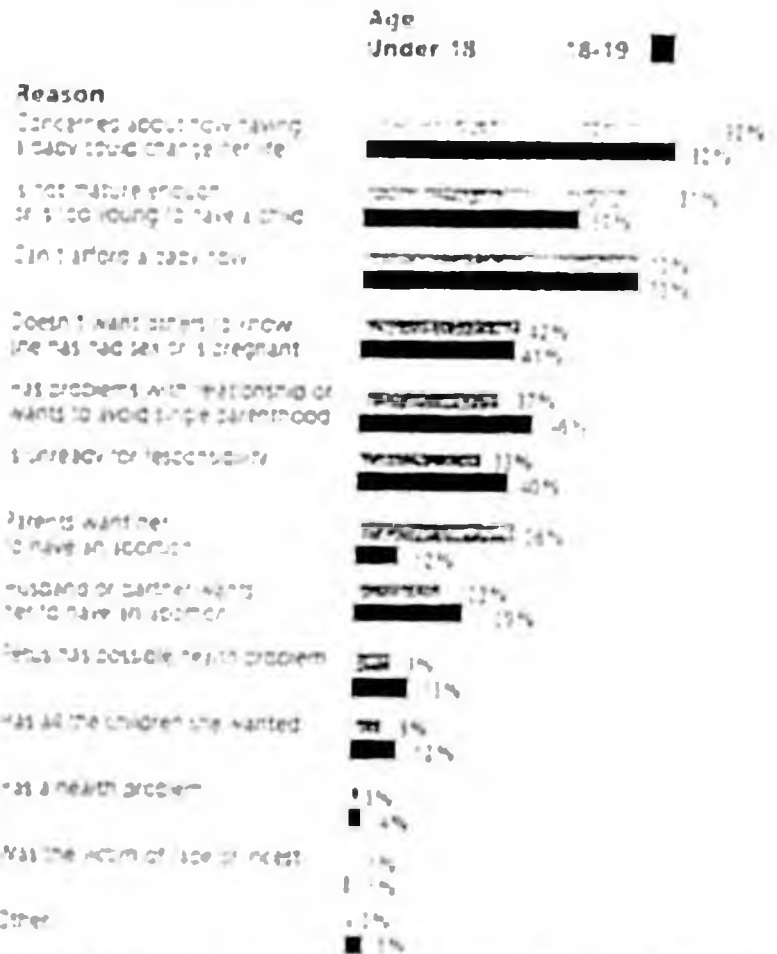
On June 25, 1990, the United States Supreme Court upheld Minnesota and Ohio laws which acknowledge the right of parents to be informed of their daughter's intention to undergo this potentially life-changing procedure. Yet legitimate questions continue to surface about the sufficiency of parental involvement laws. In this first issue of *ACL Insights*, we will explore some of the commonly asked questions about these laws and the Supreme Court's most recent decisions.

In This Issue:

- *The Parental Rights We Know* - p. 2
- *How Many Teenagers are Having Abortions?* - p. 3
- *Minnesota's Success Story* - p. 4
- *State Courts are Answering* - p. 5
- *What Could Be Done Next?* - p. 9
- *How We Fight for Our Rights* - p. 7

Why Do Teenagers Choose Abortion?

Most of the respondents in this 1987 survey said that more than one factor contributed to their decision to have an abortion.



ACLU, American Council on Life, 1111 Pennsylvania Avenue, N.W., Washington, D.C. 20037
 Journal of the American Council on Life - How We Fight for Our Rights - July/August 1991

Q: Why are parental involvement laws important?

These laws make sense for several reasons:

- ▼ Because nearly 30 percent of abortions on teenagers occur in outpatient clinics, a girl is unlikely to have the benefit of conferring with a trusted family physician about her decision. Parental involvement laws ensure that she talks with those who know her best—her parents—about the pros and cons of her decision, the risks of abortion, and alternatives available to her.
- ▼ Parents have traditionally been recognized as having rights when it comes to directing the rearing of their children. Their consent is required before all other non-emergent surgical procedures besides abortion. Surely parents have a right to know of a medical decision that could affect their daughter physically and emotionally for the rest of her life.

- ▼ When parental involvement laws are in effect, teens become more sexually responsible. During the nearly five years the Minnesota law was operative, abortion rates dropped 27.4 percent, birth rates fell 12.5 percent, and pregnancies decreased by 29.5 percent in minors aged 19-17 (see p. 4).

Q: What is the difference between notification and consent laws?

Parental notification laws require that a minor's parents be *informed* of her decision to take an abortion before the procedure is performed. The parents are not allowed to make the decision, but they do have the benefit of helping their daughter make an informed choice.

Parental consent laws require *permission* from the parents before a physician proceeds with an abortion in their daughter. These laws parallel others which require parental permission before a minor undergoes elective surgery and medical treatment.

Q: What did the Supreme Court justices decide in the 1990 parental notice cases?

The Supreme Court upheld both laws in *Shibamoto v. State of Tennessee*. *Heard*, the Court agreed that the state could require:

- ▼ notification of one parent prior to a minor's abortion with a judicial bypass option (see below)
- ▼ personal notice by the physician, rather than an employee
- ▼ a 24-hour waiting period between notification and an abortion
- ▼ a "judicial bypass" mechanism which allows a judge to determine whether there is "clear and convincing evidence" that the teen is mature enough to have an abortion without the parent's knowledge or that it is not in her best interest to notify her parent

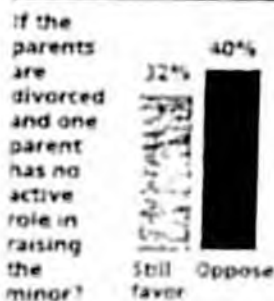
In *Holzman v. Minnesota*, the Court upheld

The Public: Parents Need to Know

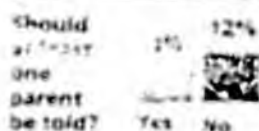
Percentage who favor/oppose notification of both parents prior to those under 18 obtaining an abortion:



Of the 76% who favor notifying both parents:



Of the 21% who oppose notifying both parents:



Those who expressed no opinion are not illustrated.

How Many Teenagers are Having Abortions?

AGE	Number of Abortions	Abortion Rate per 100 Women	Percentage of All Abortions	Comments
Under 15	16,370	3.1	1.7%	<ul style="list-style-type: none"> • Women younger than 15 account for 1.7 percent of all abortions. • In 1993, 10 percent of young women who have had an abortion regretted their decision. In 1992, 18 percent regretted their decision. • About 42 percent of doctors require parental notification.
15-17	165,530	10.7	12.4%	
18-19	1,033,370	63.3	41.9%	
Compare to all women 15-44	1,828,550	29.3	100%	

Source: U.S. Department of Health and Human Services, *Abortion in America*, 1993, pp. 114-115.

- notification of both parents prior to a minor's abortion, only if a teenager has the burden of proving a bypass of this requirement from a judge
- a 48-hour waiting period between notification and an abortion

waiting period after parental notification, direct physician notification to parents, more thorough judicial bypass requirements and notification of *both* parents if a judicial bypass is in place.

Q: Is this the first time the Supreme Court has heard parental involvement cases?

Q: Why is the doctor required to notify a girl's parents? Couldn't a clinic employee do that just as well?

The justices have decided a number of similar cases in the past 14 years—five to be exact.

Direct contact with the physician gives the parents a chance to provide better advice to their daughter and to inform the doctor about her pertinent medical history.

- *Planned Parenthood Association of Kansas City, Mo. v. Ashcroft*, 1983, upholding a one-parent consent law
- *City of Akron v. Akron Center for Reproductive Health*, 1983, striking down regulations which required physicians to obtain one parent's consent before performing an abortion on anyone under 16, because a judicial bypass provision was not provided
- *H. L. v. Matheson*, 1981, upholding a two-parent notice statute for immature, dependent minors
- *Bethel v. Baird*, 1979, establishing the required components of a judicial bypass for a parental consent statute
- *Planned Parenthood of Central Missouri v. Danforth*, 1976, striking down a parental consent statute which did not contain a judicial bypass provision

According to the *Acron* opinion, "The parent who must respond to an event with complex philosophical and emotional dimensions is given some access to an experienced and, in an ideal case, detached physician who can assist the parent in approaching the problem in a mature and balanced way." The Court concluded that this type of benefit may not be possible if a less qualified person notifies the parent.

Q: Isn't it difficult and time-consuming for a physician to locate both parents, especially if there has not been any contact between them and their daughter?

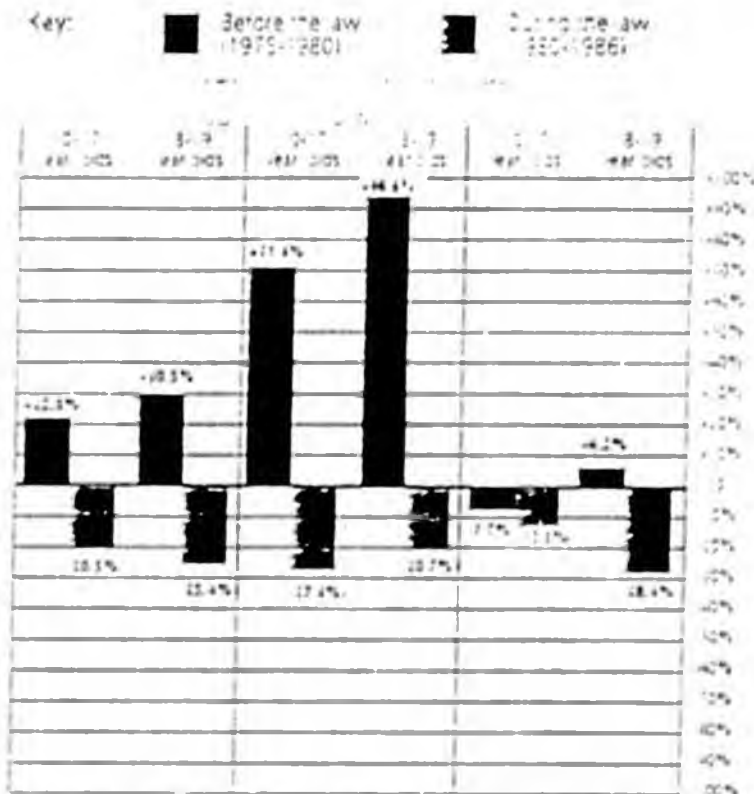
Yes, in some cases it is difficult or impossible to track down a parent who has not had contact with his or her daughter. For this reason, neither the Ohio or Minnesota laws require a manhunt for a teenager's parents.

The Ohio law specifies that a doctor attempt to notify a parent with "reasonable effort" in person or by phone. If unsuccessful, the doctor can notify the parent by mail and proceed with the abortion after waiting 48 hours.

The two cases last term expanded and clarified previous decisions. But they also examined several new issues. For the first time, the Supreme Court upheld a 48-hour

Minnesota's Success Story

During the nearly 3 years Minnesota's parental notice law was in effect, the teenage pregnancy, abortion and birth rate declined substantially. The law encourages responsible teen behavior.



Source: Data on the implementation of parental notification law, compiled by the Center for Communications Programs, University of Minnesota. The data may be obtained from the author upon request.

Minnesota law stipulates that the physician use "reasonable diligent effort" to notify both parents. This means that if the second parent cannot be located, notice to one parent is sufficient.

Q: What is the purpose of the waiting period after the physician notifies the parent?

A waiting period provides parents and their daughter time to discuss the implications of her decision to have an abortion and consider alternatives available to her. The Court found a 24- or 48-hour waiting period constitutional.

Q: What are the reasons for the judicial bypass procedure?

The judicial bypass procedure is a safeguard for minors who want to undergo an abortion without their parents' knowledge. While the best option is for a caring parent to be informed, a few girls legitimately fear parental reprisal or abuse. The teenager may be the victim of incest. In this situation, the solution is not for the girl to suffer alone in an abusive situation, but for authorities to intervene.

The bypass also allows a teenager to know that she is mature enough to make the decision without informing her parents.

Q: What must a judicial bypass provision contain?

In its prior decisions, the Supreme Court established four criteria:

- ▼ The law must allow a teen to show that she is sufficiently informed about her decision and mature enough to make the decision without parental involvement.
- ▼ If she is not known to be mature, the bypass must permit the minor to show that an abortion would be in her best interests.
- ▼ The teen's identity must be protected during the bypass procedure.
- ▼ The judicial bypass must be prompt.

Q: The judicial bypass seems like an intimidating process. Is anything done to help the teenager through it?

Recognizing that teens seeking this option might seem overwhelmed, the process in Ohio was simplified. An attorney is provided at no cost to the teenager to help her fill out the correct form and assist her through what the Supreme Court described as a "simple and straightforward procedure." In most states with parental involvement laws, a guardian, court-appointed lawyer or friend can help the teenager file a petition and help her through the bypass process.

Q: Court proceedings can take a long time. Does a judicial bypass unduly delay an abortion?

A: Under the Ohio law, the juvenile court is required to hold a hearing at the earliest opportunity, and no later than five business days after a minor files her petition for a judicial bypass.

The court must make its decision promptly at the end of the hearing. If the court fails to rule in the specified time period, a "constructive authorization" results and the teen may obtain an abortion without parental notification.

Q: Now that the Supreme Court has decided these cases, what will state legislatures be able to do?

The two parental notice decisions provide additional guidance for legislators who want to introduce this type of law. States can be confident that they may enact legislation which requires any of the following:

- ▼ Two-parent notice with a properly crafted judicial bypass provision
- ▼ One-parent notice with a judicial bypass
- ▼ Assessment by a judge that the teen is mature or that an abortion is in her best interests
- ▼ Personal notification of the parents by the physician
- ▼ Parental notice at least 24 or 48 hours before the abortion

Q: Did the opinions in these cases give any indication of the justices' leanings on the abortion issue?

Yes, almost predictably. Chief Justice Rehnquist and Associate Justices Scalia, White and Kennedy adhered to a more lenient standard of review, asking opponents to demonstrate why the parental notice laws are unconstitutional, rather than requesting the state to show that the law is constitutional. They have used this standard of review in past cases. Justice Scalia explicitly expressed opposition to the

Where Teenagers Are Protected

The Status of Parental Involvement Laws

State	Type of Law	Status at Present
Alabama	Consent	enforced
Alaska	Consent	not enforced
Arizona	Consent	being challenged in court; moderate
Arkansas	Notice	enforced
California	Consent	being challenged in court; moderate
Colorado	Consent	moderate
Connecticut	None	
Delaware	Consent	not enforced
D.C.	None	
Florida	Consent	moderate
Georgia	Notice	being challenged in court; moderate
Hawaii	None	
Idaho	Notice	not enforced
Illinois	Notice	being challenged in court; moderate
Indiana	Consent	enforced
Iowa	None	
Kansas	None	
Kentucky	Consent	being challenged in court; moderate
Louisiana	Consent	enforced
Maine	Notice	moderate
Maryland	Notice	not enforced
Massachusetts	Consent	enforced
Michigan	Consent	effective until 1/1/91
Minnesota	Notice	joined by U.S. Supreme Court; enforced
Mississippi	Consent	being challenged in court; moderate
Missouri	Consent	joined by U.S. Supreme Court; enforced
Montana	Notice	not enforced
Nebraska	Notice	moderate
Nevada	Notice	being challenged in court; moderate
New Hampshire	None	
New Jersey	None	
New Mexico	None	
New York	None	
North Carolina	None	
North Dakota	Consent	not enforced
Ohio	Notice	joined by U.S. Supreme Court; enforced
Oklahoma	None	
Oregon	None	
Rhode Island	Consent	being challenged in court; moderate
South Dakota	Consent	not enforced
South Carolina	Consent	enforced
South Dakota	Consent	not enforced
Tennessee	Consent	being challenged in court; moderate
Texas	None	
Texas	Notice	joined by U.S. Supreme Court; enforced
Vermont	None	
Virginia	None	
Washington	Consent	moderate
West Virginia	Notice	enforced
Wisconsin	None	
Wyoming	Consent/Notice	enforced

* States that may be required to put in place prior consent laws are those listed in the "moderate" category.

Roe v. Wade decision, which legalized abortion on demand in 1973.

Justices Blackmun, Brennan and Marshall held firm to their position that abortion is a fundamental right which must not be regulated even minimally by the state. Justice Stevens, while maintaining that abortion is a fundamental right, was more flexible in agreeing to uphold some degree of abortion regulation.

Justice O'Connor voted to uphold the parental notice laws. There is no basis to conclude that she has retreated from her prior statements about the state's "compelling" interest in "the potentiality of human life... which exists throughout pregnancy." At most, Justice O'Connor's writing indicates that she will not cut back on *Roe* any more than is absolutely necessary, adhering

to her statement in *Webster v. Reproductive Health Services* that the time to decide *Roe's* fate is when a case squarely confronts it.

Q: Do these decisions threaten *Roe v. Wade*?

The parental notice decisions do not directly threaten *Roe*. Neither state attorney general asked for *Roe* to be overturned or raised issues which would challenge abortion on demand. The 1990 parental notice decisions simply confirm the U.S. Supreme Court's unmistakable trend of promoting parental rights and protecting minors' health. ■

For an in-depth legal analysis of the 1990 Supreme Court decisions, see the book *Shining Swords* by [unclear] available from the NIA Publications Department.

What Killed Becky Bell?

In the dispute over who will exercise the ultimate authority and responsibility for the hearts, minds and bodies of our children, there are some new combatants. Planned Parenthood, the Fund for a Feminist Majority and several other "pro-choice" groups are using the case of an Indiana teenager who died of pneumonia, allegedly caused by an illegal abortion, in an attempt to strike down laws requiring parental consent before a minor can obtain an abortion.

Becky Bell was a 17-year-old girl who died September 16, 1988, under circumstances the pro-choice groups say was the result of her trying to circumvent Indiana's parental consent law by seeking an illegal abortion. Bell's parents have announced plans to use their daughter's death as a rallying cry against such laws. They also have participated in the creation of a video they want to show in public schools and universities that they hope will lead to the repeal of parental consent legislation. The Supreme Court recently upheld parental consent laws when they include a judicial bypass provision.

Though the Marion County (Indiana) coroner's report lists the cause of Becky's death as "septic abortion with pneumonia," the manner of death was said to be "undetermined," and the circumstances leading up to her death are anything but clear.

According to Dr. John Curry, former head

of the Tissue Bank at Bethesda Naval Hospital, "Septic abortion usually means that as a result of destructive actions within the uterus, an infection has started which subsequently spreads to the rest of the body. In this case, the pathology report is notable in that while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside of or within the uterus." Curry says the germ that killed her "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected within the first six days and which is unlikely to originate from a contaminated abortion procedure."

The coroner's report notes that "Rebecca Bell" reportedly has a history of substance abuse for which she was hospitalized from mid-February through April, 1988. Investigation disclosed that (she) became pregnant in

nd-May, 1988, according to Planned Parenthood referral records.

Becky's mother believes her daughter was something to induce an abortion. But in an interview conducted by Rocheille Sharpe of Gannett News Service with Becky's best friend, Heather Clark, Heather said she believes Becky had a spontaneous abortion (miscarriage).

The coroner's report says that Becky reportedly was at a party where various drugs were being used (cocaine, speed and LSD) on the weekend of September 11, and later claimed that someone had put "speed" in her drink.

The case raises several important questions.

First, why would Becky undergo an illegal abortion when she had scheduled a legal procedure in neighboring Kentucky the day after she died?

Second, was Becky undecided about whether to seek an abortion or place her baby for adoption? She had papers lying around clinics and adoption agencies in her purse when she died.

Third, did her father contribute to his daughter's frustration? According to Heather, Becky's father said that if she messed up one more time, she'd be thrown out of the house.

Fourth, why does no one mention the crisis pregnancy centers or other pro-life counseling agencies that not only provide free counseling but often serve as bridges between parents and children and, if necessary,

can offer free housing for girls in crisis situations? The Beils and the pro-choice groups make it appear as if there was no other alternative for Becky than an illegal abortion.

Supporting Heather Clark's account that no abortion had been performed was a doctor who provided emergency treatment when Becky finally went to the hospital. The doctor was quoted by Rocheille Sharpe in her story: "I don't know whether we're going to be able to save the baby."

If Becky's parents had known about her pregnancy, they most likely would have made sure she received medical attention when health complications arose—attention that could have saved her life. The real lesson to be learned from Becky Beil's death is not that parental involvement laws are bad. It is just the opposite—most young girls (and especially Becky, who reportedly had a history of drug abuse that may have contributed to her inability to reason in her own best interests) need the advice and involvement of their parents.

The medical cause of Becky Beil's death may have been pneumonia, but the underlying cause remains unclear. One thing is clear: her death was not due to Indiana's parental consent law. ■

by Cal Thomas

3-190 An American Times Magazine Feature by permission

A Mother Fights for Her Rights

Becky Beil's parents aren't the only ones who hold a strong opinion about laws that involve parents in a teenager's abortion decision (see p. 6). While Karen and William Beil traverse the country testifying against parental consent legislation, a California mother wishes the law had safeguarded her rights and those of her teenage daughter.

At a small junior high school in rural California, Virginia Preston met with her daughter's principal early in 1985. She

asked him to inform her of anything that related to 14-year-old Enn, who had a learning disability. He agreed, and they instituted a program of written daily reports from Enn's teachers.

After a sex education class in March, Enn told her homeroom teacher that she thought she might be pregnant. The teacher and a colleague explained to Enn that she must act quickly to get an abortion and that she didn't have to tell her parents

of the suspected pregnancy. The teacher sent a note to Mrs. Preston saying that Enn needed to stay after school, but instead drove the girl to a health center for a pregnancy test. The results were positive.

The teacher and her colleague then met to discuss how they would procure an abortion for Enn. Both the principal and school superintendent allegedly were aware of Enn's pregnancy and her teacher's involvement, and neither notified the girl's parents.

Enn was taken to the welfare department where the teacher helped her apply for Medi-Cal benefits to pay for the abortion. That day she forged Enn's daily reports so that Mrs. Preston would think her daughter had attended regular classes.

On March 22, during school hours, a nurse crisis counselor took Enn to an abortion clinic for pre-abortion testing. Staff members didn't attempt to determine her level of maturity or understanding, but told her abortion was quick and easy and that her parents need never know.

On Friday, Enn's teacher sent a note home with her, asking if the teenager could babysit the next day. She explained that she would be out late and requested that Enn stay overnight at her home. But Enn didn't babysit. Instead, she was taken to Chico Feminist Women's Health Center for an abortion.

Enn kept quiet about the abortion. But four days later, Mrs. Preston received a telephone call from the school nurse, who told her for the first time about Enn's abortion and its resulting complications. Enn was rushed to a hospital for emergency surgery.

The Prestons were angry and rightly so. They had asked to be kept informed of their daughter's progress and concerns, but had been intentionally deceived. Enn and her mother filed suit against school and clinic officials. They charged that Mrs. Preston's constitutional right to rear her teenage daughter and Enn's right to parental guidance had been violated. They also charged that Enn's constitutional "right to choose" had been disregarded since those advising her had denied her any real choices.

Most of the school and clinic staff settled the case out of court. But the superintendent

pressed for a decision, and a court ruled in his favor before the case went to trial.

On August 7, 1990, the California Court of Appeals upheld the lower court's ruling, saying that "as a matter of law the various conduct alleged is not 'extreme and outrageous' solely because California law permits minors to obtain abortions without the knowledge or consent of their parents. The California Supreme Court refused to hear the Prestons' appeal.

AUL attorney Ann-Louise Linn, co-counsel in the case, remarked, "Here, an elaborate web of deception was spun by public officials, carried out in a clandestine manner and perpetrated on an unknowing mother who was deceived and lied to in the name of assistance. Such outrageous and deceptive conduct should not, as a matter of law, be tolerated."

Yet this conduct is tolerated. Before Enn's abortion, her teacher took 10 other girls to have pregnancy tests without their parents' knowledge or consent. And she accompanied at least one other teenager to a clinic for an abortion, again without informing the parents. School officials allegedly knew of this practice and permitted it to continue.

It doesn't just happen in California. The tragedy that Enn and her mother experienced could be repeated in every one of the 38 states which do not have enforced parental involvement laws. Until these safeguards are in place, no parent is guaranteed the right to assist a pregnant teenage daughter in making an informed decision about her options. ■

by Melodie Schlenker Gage



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AUL Impact is published periodically by Americans United for Life to provide readers with a factual review of pro-life issues.

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FISCAL NOTES

SB 105 : PARENTAL CONSENT BEFORE MINOR'S ABORTION

<u>NO.</u>	<u>DEPT.</u>	<u>DATE</u>	<u>AMOUNT</u>
1.	DH&SS (Medicaid Non-Facility)	3/17/95	-0-
2.	DH&SS (Medicaid Facilities)	3/17/95	-0-
3.**	DOA (Public Advocacy)	3/17/95	\$112.0
4.*	COURTS	4/7/95	\$177.6
5.*	COURTS	4/10/95	\$ 9.6
NEW**	DOA (Public Advocacy)	4/17/95	\$280.0

* #5 REPLACES #4
** NEW REPLACES #3

FISCAL NOTE

H-6

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 105 (FIN)

REPORT TO THE
SFC - 4-29-95

Revision Date: _____
Title: "An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion..."
Sponsor: Senator Loman
Requestor: _____

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	168.0	168.0	168.0	168.0	168.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	168.0	168.0	168.0	168.0	168.0	168.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	168.0	168.0	168.0	168.0	168.0	168.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	168.0	168.0	168.0	168.0	168.0	168.0

Estimate of any current year (FY 95) cost: \$ 0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. The bill requires OPA to provide attorneys for the minors. The fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12 percent of abortions per year (288) are performed on women aged 17 or younger; (3) 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide attorney representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$168.0 for each year.

Prepared by: Brant McGee, Director
Division: Office of Public Advocacy

Phone: 274-1684
Date: 4/20/95

Approved by Commissioner: Mark Boye
Agency: Department of Administration

Date: 4/20/95

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FISCAL NOTE

3121195
(S) HES
JUD

#3

BILL NO. SB 105

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion.
Sponsor: Sen. Leman
Requestor: Senate HES

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	112.0	112.0	112.0	112.0	112.0	112.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	112.0	112.0	112.0	112.0	112.0	112.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.0	112.0	112.0	112.0	112.0	112.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	112.0	112.0	112.0	112.0	112.0	112.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The judicial bypass positions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. Section 3 of the bill mandates the appointment of a guardian ad litem to "protect the interest of the complainant at the hearing that is held under this section."

The section continues to require the appointment of an attorney and further that if the guardian ad litem is an attorney, "the court may also appoint the guardian ad litem to serve as the complainant's attorney."

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Administration

Date: 3-17-95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 105

ANALYSIS: (continued)

While no provision of the bill identifies a particular source for guardians ad litem or attorneys, it is presumed that the Office of Public Advocacy (OPA) would be required to provide guardians ad litem in this, as it is in all other proceedings. Guardians ad litem cannot serve as attorneys for the same person in the same case. Nearly all OPA guardians ad litem are non-attorneys.

The fiscal note is based on the following assumptions:

1. 2,400 abortions per year are performed in Alaska;
2. 12 percent of abortions per year (288) are performed on women aged 17 or younger; and
3. 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide guardian ad litem representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The guardian ad litem representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,000.00 per case for a total of \$112.0 for each year.

FISCAL NOTE

N 4
Bill Version: SB 105

(S) Publish Date: 4-13-95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date:	Dept. Affected: <u>Alaska Court System</u>
Title: <u>Parental consent before minor's abortion</u>	BRU: <u>Trial Courts</u>
Sponsor: <u>Sens. Leman, Miller, Halford, Taylor...</u>	Components: _____
Requestor: _____	COMPONENT SERIAL NO. <u>768</u>

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	9.6	9.6	9.6	9.6	9.6	9.6
TRAVEL						
CONTRACTUAL	168.0	168.0	168.0	168.0	168.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	177.6	177.6	177.6	177.6	177.6	177.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	177.6	177.6	177.6	177.6	177.6	177.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	177.6	177.6	177.6	177.6	177.6	177.6

POSITIONS

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: <u>C. S. Christensen III, Staff Counsel</u>	Phone: <u>264-8228</u>
Agency: <u>Alaska Court System</u>	Date: <u>04/07/95</u>

Approved by: <u>Arthur H. Snowden, II, Administrative Director</u>	Date: <u>04/07/95</u>
Agency: <u>Alaska Court System</u>	

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
SB 105

SB 105 provides that a person may not knowingly perform or induce an abortion upon a woman who is known to the person to be pregnant, unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have a guardian ad litem and an attorney. If she cannot afford an attorney, one must be appointed by the court. Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state.

The Office of Public Advocacy (OPA) has estimated that 112 minor females will seek judicial approval for an abortion each year. OPA will provide the guardian ad litem for these proceedings. However, as the bill is now drafted, the court system will be required to provide court-appointed counsel. This note reflects costs for 112 court-appointed attorneys. Unlike OPA, the court system does not have staff attorneys or private attorneys on contract at low rates; the court system must pay market rates for appointed counsel.

SB 105 requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings, court appointment of both an attorney and a guardian ad litem, and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for appeals in cases where a court denies permission for an abortion.

Alaska Court System

Fiscal Analysis

SB 105

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro tem superior court judge, fully vested, Anchorage, PPT, 224 hours	\$2,818	\$1,487	\$4,304
Clerical overtime for 224 hours for range 10A position (see note below)	4,202	1,082	<u>5,284</u>
Total Personal Services Costs			9,588

This bill will require clerical (range 8) and legal technician (range 12) services. The average range of the two levels is range 10, which was used for estimating the clerical overtime costs of this bill.

Contractual Services

Court appointed attorney fees at \$1,500 per case for 112 cases	<u>168,000</u>
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Estimated Total Cost \$177,588

FISCAL NOTE

No. 3

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Bill Version: SB105

(S) Publish Date: 3-22-95

Revision Date: _____
Title: An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion.
Sponsor: Sen. Leman
Requestor: Senate HES

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	112.0	112.0	112.0	112.0	112.0	112.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	112.0	112.0	112.0	112.0	112.0	112.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.0	112.0	112.0	112.0	112.0	112.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	112.0	112.0	112.0	112.0	112.0	112.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The judicial bypass positions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. Section 3 of the bill mandates the appointment of a guardian ad litem to "protect the interest of the complainant at the hearing that is held under this section."

The section continues to require the appointment of an attorney and further that if the guardian ad litem is an attorney, "the court may also appoint the guardian ad litem to serve as the complainant's attorney."

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Administration

Date: 3-17-95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 105

ANALYSIS. (continued)

While no provision of the bill identifies a particular source for guardians ad litem or attorneys, it is presumed that the Office of Public Advocacy (OPA) would be required to provide guardians ad litem in this, as it is in all other proceedings. Guardians ad litem cannot serve as attorneys for the same person in the same case. Nearly all OPA guardians ad litem are non-attorneys.

The fiscal note is based on the following assumptions:

1. 2,400 abortions per year are performed in Alaska;
2. 12 percent of abortions per year (288) are performed on women aged 17 or younger; and
3. 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide guardian ad litem representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The guardian ad litem representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,000.00 per case for a total of \$112.0 for each year.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 105 (JUD)

Revision Date: _____
 Title: An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion.
 Sponsor: Senator Leman
 Requestor: _____

Department Affected: Administration
 BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL	<u>178.0</u>					
CONTRACTUAL	280.0	280.0	280.0	280.0	280.0	280.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	<u>6168.0</u>					
TOTAL OPERATING	280.0	280.0	280.0	280.0	280.0	280.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE:

(Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF	280.0	280.0	280.0	280.0	280.0	280.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	280.0	280.0	280.0	280.0	280.0	280.0

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. Section 5 of the bill requires OPA to provide both guardian ad litem and attorneys for the minors. Section 3 of the bill mandates the appointment of a guardian ad litem to "protect the interest of the complainant at the hearing that is held under this section." The section also requires the appointment of an attorney and further that if the guardian ad litem is an attorney, "the court may also appoint the guardian ad litem to serve as the complainant's attorney."

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy
 Approved by Commissioner: Mark Royer
 Agency: Administration

Phone: 274-1684
 Date: 4/17/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. CSSB 105 (IUD)

ANALYSIS: (continued)

Guardians ad litem cannot serve as attorneys for the same person in the same case. Nearly all OPA guardians ad litem are non-attorneys.

The fiscal note is based on the following assumptions:

1. 2,400 abortions per year are performed in Alaska;
2. 12 percent of abortions per year (288) are performed on women aged 17 or younger;
3. 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide guardian ad litem representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The guardian ad litem representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,000.00 per case for a total of \$112.0 for each year.

Attorney costs for each case are estimated at \$1,500.00 per case because of the extensive and rapid preparation necessary for each hearing.

OPA would recommend deletion of the guardian ad litem appointment requirement because it represents an unnecessary and costly duplication of service. The bill creates a statutory right which can only be protected by a lawyer representing the wishes of the client.

SENATE COMMITTEE REPORT

DATE: 3/22/95

FURTHER:

DATE TURNED INTO OFFICE: 4-13-95

Judiciary Committee considered SENATE BILL NO. 105

Requirement that a parent, guardian, or custodian consent before a minor receives an abortion; establishing a judicial bypass procedure for an abortion without consent of a parent, guardian, or custodian; amending Alaska Rules of Civil Procedure; Rules of Appellate Procedure; and Alaska Administrative Rule 9.

FN's & ΦFN's

and recommends:

- be replaced with _____ CS SB 105 (JUD)
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:
- same title
 - new title
- House Bill:
- same title
 - technical change
 - new: SCR# _____

SIGNING OFFICER	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓				
<i>[Signature]</i>	✓				
CHAIR: <i>[Signature]</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>SB</i>	Courts	4/7/95		177.6
<i>CS</i>	Courts	4/10		9.6

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

HSS (Medical)	3/17/95		✓
HSS (Medical Facilities)	3/17/95		✓
Admin (OPA)	3/17/95		✓

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 3/1/95

FURTHER: Judiciary

Date of 5-Day Notice: 3/15/95
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-22-95

HESS Committee considered SB 105

Require parent consent before a minor receives an abortion; amending Court rules.

and recommends:

- be replaced with _____ CS _____
- adopt previous _____ CS _____
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

Senate Bill:
 same title
 new title
 House Bill:
 technical change
 new: SCR* _____

SIGNING/DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	✓				
<i>John A. Johnson</i>	✓	<i>Ad. by E. Sale</i> <i>By Ellis</i>		✓	
				✓	
CHAIR: <i>Linda P. Brown</i>	✓				

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>DOA / OPA</i>	<i>3/17/95</i>		<i>112.0</i>
<i>DASS</i>	<i>3/17/95</i>	✓	

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. SB 105

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Parental consent before minor's BRU: Trial Courts
 abortion Components: _____
 Sponsor: Sons. Loman, Miller, Halford, Taylor...
 Requestor: _____ COMPONENT SERIAL NO. 769

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	9.6	9.6	9.6	9.6	9.6	9.6
TRAVEL						
CONTRACTUAL	168.0	168.0	168.0	168.0	168.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	177.6	177.6	177.6	177.6	177.6	177.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	177.6	177.6	177.6	177.6	177.6	177.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	177.6	177.6	177.6	177.6	177.6	177.6

POSITIONS

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christenson III, Staff Counsel Phone: 264-8228
 Agency: Alaska Court System Date: 04/07/95

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/07/95
 Agency: Alaska Court System

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
SB 105

SB 105 provides that a person may not knowingly perform or induce an abortion upon a woman who is known to the person to be pregnant, unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have a guardian ad litem and an attorney. If she cannot afford an attorney, one must be appointed by the court. Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state.

The Office of Public Advocacy (OPA) has estimated that 112 minor females will seek judicial approval for an abortion each year. OPA will provide the guardian ad litem for these proceedings. However, as the bill is now drafted, the court system will be required to provide court-appointed counsel. This note reflects costs for 112 court-appointed attorneys. Unlike OPA, the court system does not have staff attorneys or private attorneys on contract at low rates; the court system must pay market rates for appointed counsel.

SB 105 requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings, court appointment of both an attorney and a guardian ad litem, and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for appeals in cases where a court denies permission for an abortion.

Alaska Court System
Fiscal Analysis
SB 105

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro tem superior court judge, fully vested, Anchorage, PPT, 224 hours	\$2,818	\$1,487	\$4,304
Clerical overtime for 224 hours for range 10A position (see note below)	4,202	1,082	<u>5,284</u>
Total Personal Services Costs			9,588

This bill will require clerical (range 8) and legal technician (range 12) services. The average range of the two levels is range 10, which was used for estimating the clerical overtime costs of this bill.

Contractual Services

Court appointed attorney fees at \$1,500 per case for 112 cases	<u>168,000</u>
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Estimated Total Cost \$177,588