

SB

138

1 Sec. 18.15.120. TUBERCULOSIS CONTROL PROGRAM AUTHORIZED.

2 The department may establish a comprehensive program for the control of tuberculosis
3 in the state, and may

4 (1) arrange means by which persons in the state may be X-rayed to
5 determine the presence of tuberculosis;

6 (2) establish necessary out-patient clinics for the care of tuberculosis;

7 (3) encourage and promote the establishment of adequate health care
8 [SANATORIUM] facilities within the state to care for persons suffering from
9 tuberculosis and allied conditions;

10 (4) under the provisions of AS 36.30 (State Procurement Code), obtain,
11 by purchase or donation from surplus federal property or otherwise, medical supplies
12 and equipment useful in carrying out this program and to allot or resell these supplies
13 and equipment to private institutions engaged by the department to carry out this
14 program;

15 (5) under the provisions of AS 36.30, contract with hospitals,
16 associations, or other health care facilities [SANATORIUM] qualified and equipped
17 to give adequate care inside or outside the state;

18 (6) employ necessary and trained personnel to carry out the purposes of
19 AS 18.15.120 - 18.15.149 [AS 18.15.120 - 18.15.140];

20 (7) pay the costs of care and incidental expenses for residents of the
21 state, in whole or in part, depending on the ability of each patient to pay, and the
22 temporary costs of care and transportation for nonresidents on the same basis until they
23 can be transferred to their residence;

24 (8) enlist the cooperation of state, [AND] federal, and local agencies
25 operating in the state for the furtherance of this program;

26 (9) establish standards in accordance with department procedure for the
27 care of persons with tuberculosis [TUBERCULARS] receiving treatment under
28 AS 18.15.120 - 18.15.149 [AS 18.15.120 - 18.15.140];

29 (10) adopt regulations to implement and interpret AS 18.15.120 -
30 18.15.149.

1 * Sec. 3. AS 18.15.130 is amended to read:

2 Sec. 18.15.130. DEPARTMENT TO COOPERATE WITH OTHER
3 AGENCIES. The department, in establishing [CONDUCTING] a comprehensive
4 program for [STUDY AND CASE FINDING SURVEY OF] the control of
5 tuberculosis in the state [PROBLEM], shall cooperate with state, [AND] federal, and
6 local agencies operating in the state, and obtain as much information and data as
7 possible from them.

8 * Sec. 4. AS 18.15 is amended by adding new sections to read:

9 Sec. 18.15.131. REPORTS TO STATE MEDICAL OFFICERS;
10 DOCUMENTATION OF TREATMENT. (a) A health care provider and a laboratory
11 administrator shall report, within five working days, to a state medical officer when that
12 provider or administrator diagnoses a case of tuberculosis or has reasonable grounds to
13 believe that a patient has tuberculosis, or when a patient ceases treatment for
14 tuberculosis. A health care provider and a laboratory administrator may presume that
15 a patient has ceased treatment if the patient fails to keep an appointment or relocates
16 without transferring medical treatment to another health care provider. A health care
17 provider who treats a patient with tuberculosis, and a person in charge of a health care
18 facility that provides treatment for tuberculosis to a patient, shall maintain written
19 documentation of the patient's adherence to the patient's treatment plan.

20 (b) A person required to report under (a) of this section shall permit a state
21 medical officer to examine patient records, reports, and other data related to the
22 required report.

23 Sec. 18.15.133. EXAMINATION OF PERSONS EXPOSED TO
24 TUBERCULOSIS. (a) A health care provider who treats a patient for tuberculosis
25 shall

26 (1) examine all other persons in the household who have had contact
27 with the patient;

28 (2) refer those persons to another health care provider for examination
29 and notify the other health care provider and a state medical officer of the referral; or

30 (3) refer those persons to a state medical officer for examination and

1 promptly notify the state medical officer of the referral.

2 (b) A health care provider who examines other persons in a household under
3 (a)(1) or (2) of this section shall report to a state medical officer, within 10 days after
4 the examination, the results of the examination.

5 (c) Under AS 18.15.135, a state medical officer may order an examination of
6 a person to detect tuberculosis, for the purpose of directing preventive measures for the
7 person, if the state medical officer has reasonable grounds to believe that the person is
8 at heightened risk of exposure to tuberculosis.

9 * Sec. 5. AS 18.15.135 is amended to read:

10 Sec. 18.15.135. TUBERCULOSIS EXAMINATIONS: EXAMINATION
11 ORDERS. (a) A person shall submit to an examination to detect tuberculosis [AN
12 ACTIVE CASE OF PULMONARY TUBERCULOSIS] whenever, in the opinion of
13 a state medical officer [OF THE DIVISION OF PUBLIC HEALTH], an examination
14 is necessary to preserve and protect public health.

15 (b) An examination under this section shall be by written order issued by a
16 state medical officer that must specify the name of the person to be examined and the
17 time and place of the examination. The person to be examined shall be personally
18 served with a copy of the order within a reasonable period of time before the
19 examination is to take place.

20 (c) An examination under this section shall be performed by a physician who
21 may lawfully practice [LICENSED] in the state. The person to be examined may,
22 under conditions specified by the state medical officer, choose the physician who will
23 perform the examination.

24 * Sec. 6. AS 18.15.136 is repealed and reenacted to read:

25 Sec. 18.15.136. ADDITIONAL ORDERS TO PROTECT THE PUBLIC
26 HEALTH. (a) In addition to orders issued under AS 18.15.135, if a state medical
27 officer determines that the public health in general, or the health of a particular person,
28 is endangered by exposure to a person who is known to have tuberculosis, or by
29 exposure to a person for whom there are reasonable grounds to believe has tuberculosis,
30 a state medical officer may issue the orders that the medical officer finds necessary to

1 protect the public from a threat to the public health. An examination ordered under this
2 section shall be performed by a physician who may lawfully practice in the state.
3 Under conditions specified by the state medical officer who issued the order, the person
4 to be examined may choose the physician who will perform the examination. A state
5 medical officer may not under this section order the forcible or involuntary
6 administration of medicine. The state medical officer, through the Department of Law,
7 may make application to a court for enforcement of an order issued under this section.

8 (b) An order issued under (a) of this section may include

9 (1) an authorization for the removal to or admission into, a health care
10 facility for appropriate examination for infectious tuberculosis of a person who is
11 known to have tuberculosis, or of a person for whom there are reasonable grounds to
12 believe that the person has tuberculosis and who is unable or unwilling to submit to an
13 examination ordered under AS 18.15.135;

14 (2) a requirement that a person who has tuberculosis complete an
15 appropriate treatment plan for tuberculosis and, if necessary, follow required infection
16 control precautions for tuberculosis;

17 (3) a requirement that a person be removed to, admitted into, and
18 subsequently detained in, a health facility, if

19 (A) the person has infectious tuberculosis, or presents a
20 substantial likelihood of having infectious tuberculosis, based upon
21 epidemiologic information, clinical findings, X-ray readings, or tuberculosis
22 laboratory test results; and

23 (B) the state medical officer finds that a substantial likelihood
24 exists that the person may transmit tuberculosis to others because of the person's
25 inadequate separation from others;

26 (4) a requirement that a person be removed to, admitted into, and
27 subsequently detained in, a health care facility for treatment if

28 (A) the person has infectious tuberculosis, or has been reported
29 to a state medical officer as having infectious tuberculosis, and the state medical
30 officer has no knowledge that the person has completed an appropriate treatment

1 plan for tuberculosis; and

2 (B) substantial likelihood exists, based on the person's past or
3 present behavior, that the person cannot be relied upon to participate in or
4 complete an appropriate treatment plan for tuberculosis or, if necessary, follow
5 required infection control precautions for tuberculosis; the state medical officer
6 may consider as indicators of unreliability the person's refusal or failure to take
7 medication for tuberculosis, refusal or failure to keep appointments for
8 treatment for tuberculosis, refusal or failure to complete a treatment plan for
9 tuberculosis, or disregard for infection control precautions prescribed by a
10 health care provider or a state medical officer;

11 (5) an authorization for isolation of a person with infectious tuberculosis
12 through detention at the person's place of residence until the state medical officer has
13 determined that the person no longer has infectious tuberculosis.

14 (c) A state medical officer shall issue an order under this section in writing, and
15 in the order shall set out the following:

16 (1) the name of the person required to comply with the order, the period
17 of time during which the order is in effect, and other terms and conditions as the state
18 medical officer determines to be necessary to protect the public health;

19 (2) the legal authority under which the order is issued;

20 (3) an assessment of the person's circumstances or behavior constituting
21 the basis for the issuance of the order; and

22 (4) any less restrictive treatment alternatives that were attempted and
23 were unsuccessful, or less restrictive treatment alternatives that were considered and
24 rejected, and the reasons for the rejection of those alternatives.

25 (d) In addition to the requirements of (c) of this section, an order for the
26 detention of a person must include

27 (1) the purpose of the detention;

28 (2) advice to the person being detained that the person has the right to
29 request release from detention by contacting the state medical officer at the telephone
30 number stated on the order and that, under AS 18.15.139, in the absence of a court

1 order authorizing the detention, the detention may not continue for more than five
2 business days after the request for release:

3 (3) advice to the person being detained that, under AS 18.15.139, the
4 state medical officer is required to obtain, within 60 days following the commencement
5 of detention, a court order authorizing the detention and after that must seek further
6 court review of the detention within 90 days after the court order and within 90 days
7 after each subsequent court review; ~~and~~

8 (4) advice to the person being detained that the person has the right to
9 arrange to be represented by counsel or, under AS 18.85.100, to have court-appointed
10 counsel provided; *and*

11 (e) A state medical officer is not required to obtain a court order before issuing
12 an order under this section for detention of a person.

13 * Sec. 7. AS 18.15.137 is repealed and reenacted to read:

14 Sec. 18.15.137. EMERGENCY DETENTION ORDERS. A state medical
15 officer, through the Department of Law, may request the court to issue an order for the
16 emergency detention of a person when the state medical officer finds that a substantial
17 likelihood exists that the person has infectious tuberculosis in order to prevent the
18 person from posing a threat to the public health. Upon issuance of an ex parte court
19 order, a peace officer or a state medical officer shall take the person into custody and
20 deliver the person to the nearest available health care facility or another location that
21 will provide for the protection of the public health. The state medical officer, through
22 the Department of Law, shall make application for a court order authorizing continued
23 detention of the person within 72 hours after the issuance of an ex parte order or, if the
24 72-hour period ends on a Saturday, Sunday, or legal holiday, by the end of the first
25 state working day following the Saturday, Sunday, or legal holiday. The court shall
26 schedule a hearing within five state working days after receipt of an application for
27 authorization of continued detention.

28 * Sec. 8. AS 18.15 is amended by adding a new section to read:

29 Sec. 18.15.139. COURT AUTHORIZATION OF DETENTION. (a) If a
30 person detained under an order issued under AS 18.15.136 requests release from

1 detention, the state medical officer shall make an application for a court order
2 authorizing continued detention within 72 hours after the request or, if the 72-hour
3 period ends on a Saturday, Sunday, or legal holiday, by the end of the first state
4 working day following the Saturday, Sunday, or legal holiday. The court shall
5 schedule a hearing within five state working days after receipt of the state medical
6 officer's application. After a detained person requests release, detention of that person
7 may not continue for more than five business days in the absence of a court order
8 authorizing continued detention. However, no person may be detained under an order
9 issued under AS 18.15.136 for more than 60 days without a court order authorizing the
10 detention. A state medical officer, through the Department of Law, shall seek further
11 court review of a detention within 90 days following the initial court order authorizing
12 the detention and within 90 days after each subsequent court order authorizing
13 detention.

14 (b) In a court proceeding to authorize or enforce a state medical officer's order
15 under AS 18.15.136 for the detention of a person, the state medical officer must prove
16 the circumstances constituting the necessity for the detention by clear and convincing
17 evidence.

18 (c) A person who is subject to a detention order under AS 18.15.136 has the
19 right to be represented by counsel or to have, under AS 18.85.100, court-appointed
20 counsel provided.

21 • Sec. 9. AS 18.15 is amended by adding a new section to read:

22 Sec. 18.15.143. RELIGIOUS TREATMENT FOR TUBERCULOSIS. If a
23 person with infectious tuberculosis establishes that that person is being provided
24 treatment for tuberculosis by spiritual means or establishes that the person's sincerely
25 held religious beliefs prohibit medical treatment, a state medical officer or the court,
26 in issuing an order under AS 18.15.136, 18.15.137, or 18.15.139, may consider the
27 spiritual treatment or religious beliefs as well as the health of the person and may order
28 that the person only be isolated at the person's home, or other suitable place of the
29 person's choice, in a manner that will protect the public health.

30 (b) A person with infectious tuberculosis who is or might become subject to an

1 order issued under AS 18.15.136, 18.15.137, or 18.15.139, at any time may request
2 recognition and consideration of spiritual treatment or religious beliefs as described in
3 (a) of this section.

4 (c) In this section, "spiritual means" means prayer, or a substantially similar
5 activity, by an established practitioner of a recognized church or religious
6 denomination, in accordance with the tenets and practices of that church or religious
7 denomination.

8 • Sec. 10. AS 18.15.145(a) is amended to read:

9 (a) An employee of a public or private elementary or secondary school in the
10 state shall be tested annually to detect infectious [ACTIVE CASES OF
11 PULMONARY] tuberculosis. An employee who has never had a positive test result
12 from a tuberculin skin test shall obtain a tuberculin skin test. An employee whose skin
13 test result is positive or who has ever had a positive skin test result shall have an
14 appropriate health screening examination that may include obtaining [OBTAIN]
15 a chest X-ray.

16 • Sec. 11. AS 18.15 is amended by adding new sections to read:

17 Sec. 18.15.147. LIMITED IMMUNITY. A person may not bring an action
18 for damages based on the decision under AS 18.15.120 - 18.15.149 to detain or not to
19 detain a person, unless the action is for damages caused by gross negligence or
20 intentional misconduct.

21 Sec. 18.15.148. PENALTY. A person who violates the terms of an order
22 issued under AS 18.15.135 - 18.15.136 is guilty of a class A misdemeanor.

23 Sec. 18.15.149. DEFINITIONS. In AS 18.15.120 - 18.15.149,

24 (1) "department" means the Department of Health and Social Services;

25 (2) "division of public health" means the division of public health in the
26 department;

27 (3) "health care provider" means an acupuncturist, nurse, nurse
28 practitioner, pharmacist, physician, or physician's assistant, hospital, or health clinic
29 who may lawfully practice in this state;

30 (4) "health care facility" means a hospital, specialty hospital, long-term

1 care facility, medical clinic, or similar facility for which a license has been issued by
2 this state and in which inpatient or outpatient medical services for tuberculosis are
3 provided;

4 (5) "state medical officer" means a physician employed by the division
5 of public health;

6 (6) "tuberculosis" means a disease caused by mycobacterium
7 tuberculosis, mycobacterium bovis, or mycobacterium africanum.

8 • Sec. 12. AS 18.85.100(a) is amended to read:

9 (a) An indigent person who is being detained by a law enforcement officer in
10 connection with a serious crime, or is under formal charge of having committed, or is
11 being detained under a conviction of a serious crime, or is on probation or parole, or
12 is entitled to representation under the Supreme Court Delinquency or Child in Need of
13 Aid Rules, or is detained under an order issued under AS 18.15.120 - 18.15.149 or
14 against whom commitment proceedings for mental illness have been initiated, is entitled

15 (1) to be represented by an attorney to the same extent as a person
16 retaining an attorney is entitled; and

17 (2) to be provided with the necessary services and facilities of this
18 representation, including investigation and other preparation.

19 • Sec. 13. AS 18.15.138 is repealed.

20 • Sec. 14. The Department of Health and Social Services may immediately proceed to
21 adopt regulations to implement the changes made by this Act. The regulations take effect
22 under AS 44.62 (Administrative Procedure Act), but not before July 1, 1995.

23 • Sec. 15. Section 14 of this Act takes effect immediately under AS 01.10.070(c).

24 • Sec. 16. Except as provided in sec. 15 of this Act, this Act takes effect July 1, 1995.

SB 138

Amendment #1

1 Page 1, lines 1 - 2:

2 Delete ", including provisions for certain penalties"

3 Page 7, line ~~4~~ 7:

4 Delete "and"

10

5 Page 7, line ~~4~~, after "provided":

6 Insert "; and

7 (5) advice to the person being detained that the person has the right
8 to elect whether a proceeding providing court review is open or closed to the public"

9 Page 8, after line ~~19~~ 20:

10 Insert a new subsection to read:

11 "(d) A person who is the subject of a court proceeding initiated under
12 AS 18.15.136 or 18.15.137 may elect to have the hearing open or closed to the
13 public."

14 Page 9, lines ~~20-21~~ 21-22:

15 Delete all material.

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

P.O. BOX 110601
JUNEAU ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

March 23, 1995

Honorable Lyda Green
Chair
Senate Health, Education and
Social Services Committee
Room 423 State Capitol
Juneau, AK 99801-1182

Dear Senator Green,

Senate Bill 138 "An Act relating to the state's tuberculosis control program, including provisions for certain penalties, and providing for an effective date" has been referred to the Senate Health, Education and Social Services Committee for consideration. The bill was introduced by the Senate Rules Committee at the request of the Governor.

The Department of Health and Social Services respectfully requests the Senate Health, Education and Social Services Committee to hold a hearing on Senate Bill 138.

The impetus for the bill was a recent case in this state in which a patient, due to a chronic alcohol problem, was unable or unwilling to follow through on a treatment plan and to follow recommended safeguards to protect the public. The state had to seek court orders to enforce a treatment plan. The Department of Law has advised the Department of Health and Social Services that laws on this subject need to be updated to explicitly recognize due process requirements of the United States and Alaska constitutions.

While the Department of Health and Social Services anticipates that the involuntary detention and commitment provisions in the bill will be used only rarely because most people will voluntarily take treatment and use safeguards when advised by a medical professional, the bill is necessary to allow a system to be in place to respond quickly in a crisis situation.

Your favorable consideration of this request will be appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

TONY KNOWLES
GOVERNOR



130
P O Box 110001
Juneau Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

March 21, 1995

The Honorable Drue Pearce
President of the Senate
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to update the state's tuberculosis control program to ensure that our statutes expressly recognize constitutional requirements when the state must order a person involuntarily detained or confined for essential medical testing or treatment or to protect the public health. The bill also makes miscellaneous amendments to recognize new developments in the field and to improve the reporting requirements for a case involving a person with tuberculosis.

Tuberculosis is still a serious public health problem in Alaska. Tuberculosis is a disease that can be spread through fairly routine contact such as coughing in a confined, crowded area. In 1994, tuberculosis was diagnosed in several outbreaks in rural villages in Alaska. Tuberculosis can be successfully treated, but the treatment requires a patient to take medication for six months to 24 months. Since some patients face lifestyle problems that make it difficult for that patient to voluntarily successfully complete the entire course of treatment or to isolate themselves from the public to protect the public health, it is sometimes necessary for orders to be issued and enforced to ensure that the patient is following the treatment plan or is isolated from the public. If treatment is prematurely abandoned, a patient's tuberculosis can become more resistant to treatment and place the public at risk of catching an even more difficult form of this disease in the future.

The state's tuberculosis control program and involuntary detention laws should be revised to explicitly recognize constitutional safeguards required in order to quickly respond to tuberculosis incidents and to detain or confine a person if that person is unable or unwilling to undergo treatment and is a threat to the public health. While the Department

The Honorable Drue Pearce

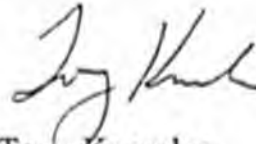
March 21, 1995

Page 2

of Health and Social Services anticipates that the involuntary detention and commitment provisions in the bill will be used only rarely because most people will voluntarily take treatment and use safeguards when advised by a medical professional, the bill is necessary to allow a system to be in place to respond quickly in a crisis situation.

I urge your support of this bill in response to an important public health issue.

Sincerely,

A handwritten signature in cursive script, appearing to read "Tony Knowles".

Tony Knowles
Governor

FISCAL NOTE

No. 3

Bill Version: SB138

(S) Publish Date: 3/22/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to the state's tuberculosis control program"
 Sponsor: Rules Committee
 Requestor: Governor

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency
 COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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	00	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The Public Defender (PD) has no information regarding the extent to which tuberculosis is a problem in this state, or the frequency with which this bill would be used in a way which would trigger PD representation. Assuming that involuntary detention for tuberculosis diagnosis/treatment will be infrequent, the PD anticipates no fiscal impact.

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: (907) 264-4412
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/16/95

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FISCAL NOTE

No. 2

Bill Version: SB 138

(S) Publish Date: 3/22/95

STATE OF ALASKA
1995 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to the state's general tuberculosis control program..."
Sponsor: Rules
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						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	00	00	00	00	00	00

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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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						
TOTAL	00	00	00	00	00	00

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Office of Public Advocacy.

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

Phone: 274-1694

Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 3/16/95

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FISCAL NOTE

No. 1

Bill Version: SB 138

(S) Publish Date: 3/22/95

**STATE OF ALASKA
1995 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to the state's tuberculosis control
program including provisions for certain penalties..." BRU: Legal Services
 Sponsor: Rules by Request of the Governor Component: Operations
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill would update the state's general tuberculosis control program and the involuntary detention laws for those persons who have infectious tuberculosis but are unable or unwilling to seek treatment or take safeguards to protect the public against infections. The bill seeks to correct deficiencies in the existing law in respect to recognizing due process requirements of the United States and Alaska constitutions. The bill will allow the court to address the merits of the decision of confinement in these cases rather than focus its review on arguments regarding alleged constitutional deficiencies in the process to support a detention decision. This is corrective legislation that does not have an effect on the existing caseload, and there will not be a fiscal impact.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 3/15/95
 Date: 3/15/95

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Att. Thru Clerk

TONY KNOWLES, GOVERNOR

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DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 10, 1995

RECEIVED APR 12 1995

(FAX) 465-2539

Honorable Mike Miller
Alaska State Senate
Room 125, State Capitol
Juneau, AK 99801-1182

Re: Proposed amendments to SB 138:
Tuberculosis Control

Dear Senator Miller:

Your staff has requested a brief explanation of the amendments that have been proposed for SB 138 regarding tuberculosis control. The amendments change the original bill in two ways:

- 1) eliminating the criminal penalty for failure to comply with a tuberculosis control order; and
- 2) providing for the subject of a tuberculosis control order to choose whether a court proceeding is to be open or closed to the public.

These are important improvements to the bill because of the sensitivity of court proceedings related to state action in response to individuals who are ill. In order to assure that the public will appropriately continue to seek testing and health care, state public health officials believe it is necessary to assure individuals that their reasonable expectation of privacy of their medical records will be respected. Open criminal proceedings against people who are sick with tuberculosis work against the public perception that state medical officials are acting on a patient's behalf when they undertake to protect the public health by means of an examination or treatment order.

The criminal provision was retained in the original version of SB 138 only because it is currently in the tuberculosis control statute. Under the current law, the filing of a criminal proceeding is the only method available to public health officials to enforce a tuberculosis control order from the state medical officer. This method is ineffective, in part, because the court system generally does not look upon sick people as appropriate subjects of criminal penalties. Under the proposed SB 138, the

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Alaska State Senate
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state medical officer will have a number of options for the enforcement of an order that will include full review by a court, and in circumstances of the most resistance from an individual who requires treatment and quarantine, a civil contempt action based on a court order will make it possible to achieve the desired result. Therefore, a criminal penalty provision is not necessary for the success of a tuberculosis control program and may pose the danger of deterring people from seeking necessary treatment.

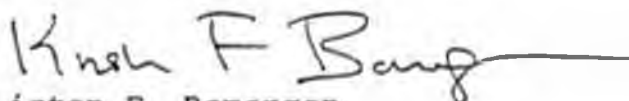
A provision to allow the subject of a proceeding to decide whether the proceeding is open to the public did not appear in the original version of the bill because of a drafting oversight. To allow an option for a closed proceeding is consistent with the general expectation that health matters are entitled to privacy and is consistent with the proceedings concerning court review of other health matters by the court, i.e., civil mental commitments. The problems of open tuberculosis control proceedings became apparent late last year when it was necessary for the state to prosecute a person in Kotzebue under the criminal provisions of the current TB law. The open proceeding received a great deal of exposure from the local press, and it was necessary for the state medical officer to seek to close subsequent civil proceedings to protect the subject of the proceeding from further press attention. It is believed that exposing a person's medical history to public scrutiny in the press may undermine the essentially benign nature of the actions taken by the state medical officer to protect the public health through tuberculosis control measures.

Please feel free to contact me if you have any further questions about the bill or the proposed amendments.

Very truly yours,

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Bulletin No. 8 March 9, 1995

Village Tuberculosis Outbreaks -- Update

There were 93 tuberculosis (TB) cases among Alaska residents during 1994. This is the largest number of cases since 1985 (when 110 cases were reported) and a 50% increase over the average of 62 cases annually between 1986 and 1993. Forty-six (49.5%) of the 93 cases during 1994 were outbreak-associated; that is, they were part of three or more epidemiologically linked cases. Outbreak-associated cases occurred on St. Lawrence Island (Gambell and Savoonga), in the Yukon-Kuskokwim Delta (Hooper Bay, Scammon Bay, Mountain Village, Chevak, and Lower Kalskag), and in St. Paul.

There has been an intensive public health response to the outbreaks. Community health aides, public health nurses, physician assistants, x-ray technologists, and physicians from Regional Health Corporations, the Indian Health Service, and the private sector have teamed up with Division of Public Health staff from the Sections of Laboratories, Nursing, and Epidemiology to conduct comprehensive field investigations in each affected community. As of March 3, 3,020 persons have had tuberculin skin tests, 810 persons have had chest x-rays, and 1,369 sputum specimens have been collected (Table 1). In addition to the TB cases mentioned above, testing has led to identification of 84 tuberculin skin test converters and 99 skin test reactors. More than 200 persons have been started on antibiotics to treat or prevent tuberculosis.

Update of outbreaks:

● **Savoonga:** A public health team made a follow-up visit between February 2 and 10. PPD skin tests were placed on 247 of 265 previously negative residents. Testing identified 20 converters (in addition to 18 converters already identified). A total of 76 sputum specimens from 27 persons were collected for acid-fast bacilli (AFB) smear and *Mycobacteria* culture. Fifty-seven persons had a chest x-ray during the visit. Arrangements for directly observed therapy (DOT) were carefully reviewed or established to ensure that all 38 converters and 8 cases were receiving appropriate medication(s).

● **Gambell:** This community was revisited during February 6-11. Eight skin-test converters and two reactors were

identified as a result of placing 377 tuberculin skin tests. Twenty-three sputum samples were collected from 12 persons. Chest x-rays were obtained on 64 residents. Again, DOT arrangements were reviewed or established to ensure that all persons for whom medication(s) were prescribed were taking the medication(s).

● **St. Paul:** Follow-up visits were conducted during the weeks of January 16 and February 13. Tuberculin skin tests were placed on five persons previously identified as close contacts of active cases; all were negative. Treatment regimens for all six TB cases were reviewed; five were modified to isoniazid (INH) and rifampin since each had already completed more than 2 months of four drugs (INH, rifampin, ethambutol, and pyrazinamide) and had fully sensitive *Mycobacterium tuberculosis* isolates.

● **Yukon-Kuskokwim Delta:** Public health teams visited the villages of Chevak, Hooper Bay, Mountain Village, and Scammon Bay during January 9-23. The numbers of previously negative residents skin tested were, by village, Chevak, 458; Hooper Bay, 545; Mountain Village, 581; and Scammon Bay, 303. No new PPD positive persons were found in Hooper Bay, but 10 new positives were found in Scammon Bay, and 2 each were found in Mountain Village and Chevak. Overall, 537 sputum specimens were collected from 209 persons. Based on symptom reviews or PPD skin test results, the teams identified 240 persons who needed to have a chest x-ray. Because of difficulties with the x-ray equipment, x-rays could not be obtained during the January field investigation. A team revisited the four villages and obtained 189 x-rays during the week of February 28.

During February through June 1994, public health nurses from the Bethel Health Center made several visits to Lower Kalskag and Russian Mission to investigate TB cases and their contacts. A record review showed that, in addition to 9 TB cases, there were 122 other persons investigated. Among these, 72 had a PPD, 29 had a chest x-ray, and 101 sputum specimens were collected. As a result of this follow-up, 29 persons were placed on INH.

Table 1. Selected characteristics of tuberculosis outbreaks, 1994-1995*

Village	Population	PPD Status [†]			CXRs	Sputum Specimens	Cases
		Converter	Reactor	Negative			
Chevak	822	2	1	455	34	75	1
Gambell	643	29	35	377	206	239	13
Hooper Bay	1,257	0	1	544	31	85	2
Lower Kalskag [‡]	291	9	16 [§]	47	29	101	9
Mountain Village	952	0	5	573	79	221	2
Savoonga	618	38	26	274	316	355	8
Scammon Bay	477	5	5	306	45	149	8
St. Paul	665	1	10	261	70	144	6
Total	5,725	84	99	2,837	810	1,369	49

* Through 1/1/95

[†] Results shown include persons skin-tested as part of the TB outbreak investigation. Persons known to be PPD positive from previous testing were not included in this part of the table.

[‡] The PPDs, CXRs, and Sputum Specimens reported for Lower Kalskag include contacts evaluated in Russian Mission.

[§] As many as 10 of the 16 persons classified as reactors may have been converters. Available information was incomplete.

