

SB

156

02/21/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

09:26:26 PARTICIPANT LIST (ALL PARTICIPANTS) BY:ANC

TCN:60390 SCHEDULED FOR:02/21/96 09:15 TO 11:00 FOR:ANC

PUBLIC HEARING SENATE HEALTH, EDUCATION & SOCIAL SERVIC

LOCATION:ANCHORAGE

SB 156 } ✓ MARY ANNE DEARBORN DEARBORN FAM MEDTESTIFY ✓

SB 156 } SB156 ✓ WILLIAM COTTON AR JUD COUN TESTIFY ✓

SB 156 } ✓ DIANA BUFFINGTON CHILD RIGHTS TESTIFY

02/21/96 LEGISLATIVE TELECONFERENCE NETWORK SYSTEM LTN1150

09:42:51 PARTICIPANT LIST (ALL PARTICIPANTS) BY:MAT

TCN:60390 SCHEDULED FOR 12/21/96 09:15 TO 11:00 FOR:MAT

PUBLIC HEARING SENATE HEALTH, EDUCATION & SOCIAL SERVIC

LOCATION:MATSU

SB 156 ✓ MS CAROL PALMER *Victims of Custody* TESTIFY ✓

SB 156 ✓ MS DIANE LO RUSSO TESTIFY *domestic violence*

SB 156 ✓ MR ROBERT SHUMAKER TESTIFY ✓

"Mediation It's up to You"

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 12, 1995

SUBJECT: Mediation of Child Custody Disputes (SB 156)

TO: Senator Lyda Green
Attn: Peter

FROM: Terri Lauterbach
Legislative Counsel 

You have asked for a sectional analysis of SB 156, a bill relating to mediation of child custody disputes.

Section 1.

Amends the current mediation statute in the following ways:

(1) requires a court to order mediation of child custody disputes with an exception for extraordinary circumstances to cover situations where mediation might not be appropriate.

(2) expands the mediation requirement to include modification actions.

(3) allows the parties to choose the mediators, if there is no agreement, then the court may appoint up to three mediators from specified fields of expertise.

(4) extends the time period for mediation to 90 days.

(5) requires an award of custody to the cooperative party if there's a noncooperative party unless the court finds this would not be in the best interests of the child(ren).

(6) requires an award of custody as agreed by the parties unless the court finds this would not be in the best interest of the child(ren).

(7) allows the court to assess the costs of mediation according to the financial resources of the parties and whether they participated in mediation with good faith.

Senator Lyda Green
April 12, 1995
Page 2

Section 2.

Amends the current statute on custody modification actions in the following ways:

(1) requires a court to accept mediated modifications of custody or visitation without the need to show a change in circumstances unless the court finds that the modification would not be in the best interests of the child(ren),

(2) provides that relocation of a child constitutes a change of circumstances for purposes of modification of a child custody award that involves shared physical custody; the extent of modification would still have to be mediated;

(3) provides that denial of visitation constitutes a change of circumstances for purposes of modification of a child custody award that involves visitation rights; the extent of modification would still have to be mediated.

Section 3.

Clarifies that the changes in this bill apply to petitions for child custody or for modification of child custody awards that are filed on or after the effective date of the bill.

Sections 4 - 5.

These sections note that the current court rule on mediation is amended by the bill with the proper 2/3 vote.

Section 6.

Gives the bill an immediate effective date.

TML klb
95-262 klb

ALASKA STATE LEGISLATURE

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165 East Park Highway, Suite 106
Wasilla, Alaska 99654-7035
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Session
State Capitol
Juneau, Alaska 99801-1192
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SENATOR LYDA GREEN
SENATE DISTRICT N

SB 156 **"Mandatory Mediation"**

Sponsor Statement

SB 156 was introduced to help families involved in child custody disputes resolve their differences regarding child custody through mediation, a more relaxed and less costly process.

The legislation proposes to change current mediation law in the following ways:

- Requires a court to order mediation of child custody disputes with an exception for extraordinary circumstances to cover situations where mediation might not be appropriate;
- Expands the mediation requirement to include modification actions;
- Allows the parties to choose the mediators; if there is no agreement, then the court may appoint up to three mediators from specified fields of expertise;
- Extends the time period for mediation from 30 days to 90 days;
- Requires an award of custody to the cooperative party if there is a noncooperative party, unless the court finds that this would not be in the best interest of the child(ren);
- Requires an award of custody as agreed by the parties unless the court finds that this would not be in the best interest of the child(ren);
- Allows the court to assess the costs of mediation according to the financial resources of the parties and whether they participated in mediation with good faith.

SB 156 Sponsor Statement
Page 2

SB 156 also amends the current statute on custody modification actions in the following ways:

- Requires a court to accept mediated modifications of custody or visitation without the need to show a change in circumstances unless the court finds that the modification would not be in the best interest of the child(ren);
- Provides that relocation of a child constitutes a change of circumstances for purposes of modification of a child custody award that involves shared physical custody; the extent of modification would still have to be mediated;
- Provides that denial of visitation constitutes a change of circumstances for purposes of modification of a child custody award that involves visitation rights; the extent of modification would still have to be mediated.

In addition, the legislation clarifies that the changes in this bill apply to petitions for child custody or for modification of child custody awards that are filed on or after the effective date of the legislation.

SB 156 will help families with child custody disputes by providing a mandatory mediation process, instead of a costly and often confrontational custody hearing in court. Mediation offers families a helping hand through the process and often saves all parties time, money and unnecessary stress and anxiety.

9-LS0754\K
Lauterbach
1/29/96

CS FOR SENATE BILL NO. 156(HES)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR GREEN

A BILL
FOR AN ACT ENTITLED

1 "An Act requiring a court to order parties involved in child custody or visitation
2 matters to attend an educational presentation about mediation."

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

4 * Section 1. AS 25.20 is amended by adding a new section to read:

5 Sec. 25.20.075. MANDATORY ATTENDANCE AT EDUCATION COURSE
6 RELATING TO MEDIATION. (a) After a petition for child custody is filed under
7 AS 25.20.060, a petition to modify an award of custody or visitation is filed under
8 AS 25.20.110, or an action for damages for failure to permit visitation is filed under
9 AS 25.20.140, the court shall order the parties to attend an educational presentation
10 approved by the court that explains the concept of mediation.

11 (b) When implementing (a) of this section, the court may not require that the
12 parties attend the educational presentation at the same time.

13 (c) An educational presentation approved by the court under this section must
14 be a video cassette, audio cassette, or vocal presentation, that includes an explanation that

or where necessary, written materials

1 (1) mediation is a conflict resolution process, usually engaged in
2 voluntarily, in which a trained impartial third party assists the parties to negotiate a
3 consensual and informed settlement;

4 (2) mediation is based on principles of problem solving that focus on the
5 needs and interests of the participants, fairness, safety, confidentiality, self-determination,
6 and the best interests of all parties and other persons who the parties agree are affected;
7 and

8 (3) the role of a mediator is not to make decisions for the parties or to
9 report to a court about the mediation process but does include reducing the obstacles to
10 communication, maximizing the exploration of alternatives, and addressing the needs of
11 the persons who the parties agree are affected.

Dearborn Family Mediation

20 October 1995

Senator Lyda Green -- FAXed to 258-1261 (8 pages)
HESS Committee
716 W. 4th, Suite 350
Anchorage, Alaska 99501

RE: SB 156 - Mandatory Mediation in appropriate Child Custody and Visitation Disputes.

PRESENTED FOR THE OCTOBER 20TH MEETING: 9:00 AM

Greetings:

Please accept my comments regarding SB 156 and my appreciation for your interest in making mandatory exposure to the mediation process available in appropriate cases to all Alaskans who are involved in child custody disputes.

I offer these personal comments as a family mediator with my own private practice, Dearborn Family Mediation. I hold practitioner status among the international membership of the Academy of Family Mediators, 4 Militia Drive, Lexington, MA 02173. I teach family and divorce mediation for the University of Alaska Anchorage (Mat-Su College and Anchorage). I am current president of the only state wide professional association for mediators, arbitrators, and facilitators: The Alaska Dispute Settlement Association. I act as community advisor, mediator, and mentor for the Community Dispute Resolution Center, providing Victim Offender Mediation to the Anchorage community. I am "Family Mediator Advisor" to the Alaska Parenting Magazine, an Alaska educational newspaper. Prior to my mediation training and professional mediation practice, I worked as a civil procedure specialist in the field of family law, first for law firms in Anchorage focused on litigation and appeals (6 years) and later for the Alaska Court system (11 years).

My comments are governed by professional ethics, represented by the standards of the Academy of Family Mediators, attached to this letter.

1. I support mandatory exposure to the mediation process in all appropriate cases involving child custody or visitation. Mediation is a voluntary, confidential process, based on self-determination. Mandatory exposure to the process (known as an orientation) frequently influences individuals to proceed and willingly participate in mediation.



CORRESPONDENCE

20 October 1995
Lyda Green; SB-156
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2. I support equal access to a mandatory exposure to the mediation process in all appropriate cases involving child custody or visitation. Equal access should be provided to all who fall within the population of any legislation which is mandatory; Mediation fees should be covered by the state in all cases in which the parties are determined to be indigent, such as is done in court cases when the court filing fees are waived. Legislators have a duty to provide companion legislation to cover the costs of those indigents who fall within the category of litigants engaged in child custody or visitation cases in which mediation would be mandated.

3. I support NONexclusive language for those who would serve as mediators under SB-156. Family mediators who have met the professional standards, such as those set by the Academy of Family Mediators (see attached), and have had appropriate training -- including specific training in family and domestic violence mediation -- should be included, regardless of professional background. The Alaska Legislature should not be setting standards different from those of professional organizations or for that matter standards represented as being required by our own court system (SEE Court Directory of Mediators). Holding a degree in any profession does not qualify any individual to be a family mediator or to be considered knowledgeable in areas of family and domestic violence dynamics, or family mediation.

4. It is particularly important that mediators be educated on and trained in family mediation with the domestic violence component. To perform effectively as a mediator, individuals must be trained in and/or have proved proficiency in performing as a mediator. Training in family mediation, including violence issues, should be mandatory in the areas identified by your legislation: child and visitation disputes. Child custody and visitation disputes frequently have elevated emotional factors and present questions of safety for all concerned. This is true even in cases where there has been no violence in the past. Participants may not report violence which has occurred or been threatened. In those cases, mediators must be aware of and trained in how to recognize and deal with domestic violence issues.

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Lyda Green; SB-156
Page three

5. I support nonpunitive actions by mediators. Mediators are to be impartial, neutral third parties who do not create bias within a relationship; A mediator's report which has the effect of creating a bias (punitive result) is unethical. The mediation process is not a weapon. SB-156 and its requirement for a report which effectively would remove custody from one party and award it to the other is a violation of the profession of mediation and any mediator who would adopt that behavior is, in my opinion, in the position of exercising a serious breach of professional ethics.

Thank you for your consideration. I welcome further discussion on any of the foregoing.

Best wishes on your efforts to bring mandatory exposure to the mediation process to all Alaskans.

Cordially,

DEARBORN FAMILY MEDIATION



Mary Ann Dearborn, Mediator

Enclosures:

Academy of Family Mediator Practitioner Training and Educational Standards

Academy of Family Mediator's Professional Standards (4 pages)

Senators Green, Leman, Miller, Ellis and Salo...My name is Diana Buffington, Vice-President of The Children's Rights Council of Alaska. CRC has 39 chapters in 30 states and three national affiliate organizations: Mothers without Custody, Parents without Partners, and the Stepfamily Association of America.

As a local chapter of the national organization we are committed to strengthening families through public education and advocacy.. Family formation and preservation is ultimately favored. However, in the event of a break up or a family is never formed, we support the **child's right** to frequent, continued and meaningful contact with **both parents** and their extended families.

We work to demilitarize divorce between parents who are involved in marital disputes, substituting conciliation and mediation for the adversarial process, and providing for comprehensive child support.

Mandatory mediation should not replace our courts. Mediation should be a tool of the court; be an objective investigative arm of the court. We support mandatory mediation, if it ensures issues regarding the balance of power among parties are resolved. We support mandatory mediation, if it removes the present absurdities and the inequalities in the divorce process. We support mandatory mediation if it doesn't drive or force away the non-residential parent.

We must develop a **win/win** situation in the divorce process. In the current Alaska divorce, custody/visitation, and child support process we have developed a very adversarial climate, that perpetuates conflict between the parents. The system pits one parent against the other. The fact that two people can't get along, for what ever reasons, and are divorcing should not result in children losing a parent. Ultimately, this is a detriment to the best interest of the child. Where ever possible, a child who has two parents before the divorce, should have two parents after the divorce. **We need to move past the idea that one parent gets the kids and the other parent becomes only a visitor who sends a check.**

Sanford Braver, Ph.D., a \$1 million federally funded researcher through the National Institute of Child Health and Human Development and psychology professor at Arizona State University, Tempe, Arizona says his research found that most non-residential parents (mostly fathers) do not withdraw their emotional or financial support. For those who had seemingly "withdrawn," Braver noted that "their experience was not one of 'withdrawing' at all. Rather, they felt expelled, kicked out, thrust out of their children's lives. They felt that the system, their ex-spouses, and society's attitude in combination seemed to combine in such a way as to just get them out of their kid's lives, so non-residential parents felt the kids really weren't their kids anymore. This unfair treatment has to stop for the sake of our children, the next generation of parents.

SB156 as it is currently written, also perpetuates this "withdrawal" process. Sole custody or mandatory mediation that results in sole custody is inherently unfair to the children. The proper way to fix the problem is not through more draconian enforcement procedures as set forth in SB156. The mediation part of the proposal is not the problem with SB156.

Braver's research shows that "if we adopt a policy of a presumption for joint legal custody, we will have better child support payments, children will have more contact with fathers, we will not have more conflict...we have more communication, we will not have worse parenting on the part of parents. Most important of all, we will have better adjusted children." When you add mediation to presumptive shared parenting, you have designed a far reaching positive influence on the current system.

We are here to develop statewide awareness of alternative legislation and language which fosters the goal of presumptive shared parenting. The "**Best Parent is Both Parents**". Shared parenting, is generally defined as when "both parents retain the rights to make decisions about their children's lives that they enjoyed prior to the divorce.

We need a law that tells mediators and judges to make a rebuttable presumption that shared parenting is in the best interest of the child. Our present law allows judges to award shared parenting (shared custody), but does not presume that such an arrangement is a positive improvement for the child.

The current draconian enforcement procedures are the evidence that (the enforcement bureaucracy), about a \$2 billion enterprise has had fantastically little success...it laces the system with inherent abusive powers...it only slows or stops any positive moves between parents and children. Returns expected from these punitive measures are mostly sparse or moderate at best. However, things that would work are really quite inexpensive in comparison, almost free. Most importantly, establishing a presumption for shared parenting as the rebuttable judicial presumption in divorce cases or modification of custody/visitation should go a long way toward solving most of these problems.

The Children's Rights Council of Alaska requests a hold on all family law legislation..including divorce, custody/visitation, child support laws, changes in administrative codes, and agency policies and procedures, affecting Alaska Superior Courts and CSED. In the next few weeks we will offer each member of this committee a copy of "Child Support Guidelines: The Next Generation. This publication was made possible through a contract between the American Bar Association Fund for Justice and Education and the Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services. The Child Support Guidelines: The Next Generation is a blueprint for which to formulate new Alaska statutes and replacement of many of our current passé' and unfavorable laws.

Many states have or are in the process of passing CRC guidelines. Texas passed this new law June 16, 1995, and took effect September 1, 1995. Many of the amendments that are sorely needed and encouraged for SB156, were included in the Texas law.

However if you feel you must make a decision concerning this legislation, we suggest the following amendments to SB156.

1. All mediation procedures should presume shared parenting.
2. Require each parent to inform the other parent of "significant information concerning the health, education and welfare of the child".
3. Develop a "good faith" definition clause with well defined guidelines for the mediators.
4. Change the wording "in the best interest of the child" to "a positive improvement for the child".
5. A mediator or court should honor the parents' wishes in custody/visitation. Parents know their children best.
6. Require parents make an attempt to solve custody/visitation disputes through mediation. Allow parents to agree to binding arbitration. In the event a mediation solution is not reached, the case goes to court, without reprisals or disfavorable reports by the mediators.
7. Do not take the custody or the rights of a parent away because he/she is not acting in a broadly or well defined term as "good faith". As currently written, even a well defined "good faith" is still a term that will be open to broad interpretation, even by objective mediators. You cannot allow custody/visitation to become a punishment nor a prize to be won in custody/visitation mediation. Remember, almost all families experience conflict at the time of divorce.
8. Allow separate mediation for parents/families who have suffered domestic violence. We cannot deny civil/legal due process of parents suffering domestic violence. Mediation of custody/visitation is probably more important in this scenario. Amend the bill to read "...domestic violence against either parent or a child shall be a factor in any custody or visitation determination. If conflict were used as a criterion for shared parenting or mediation, we would be in a position of reenforcing and promoting conflict on the part of those who want to defeat shared parenting and mediation and to secure only sole custody decisions.

9. Allow custodial and non-custodial parents as mediators, or included in the mediation process. These are parents who have personal experience with the current system, and can assist or better resolve issues that come up in mediation. A second chance if you will.
10. Make it easier to shift sole custody of a child of any age to the other parent by showing the change would be "a positive improvement for the child", thus eliminating the need to show "injury" to the child in the previous household.
11. Give non-residential parents more rights, including make-up of visitation. Set statutes with mandatory enforcement and adherence, including penalties for residential parents that willfully deny visitation or custodial periods to non-residential parents.
12. Allow children age 12 and up a part of the mediation process. Mediators will make the children's position known through their report to the court.
13. A mediator can only invite a guardian ad laudum, if the mediation process begins to fail, to assist the mediator in his report to the court for the positive improvement for the child.
14. Strengthen the law that discourages false abuse allegations.

It has been my experience, that if a bill doesn't feel right...it's probably morally wrong. SB 156 just doesn't feel right. although mediation is a good idea, this bill has too many flaws in it to make a just law and a positive improvement for the children of Alaska.



alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1981 (907) 279-2526 FAX (907) 276-5046

EXECUTIVE DIRECTOR
William T. Coston

March 13, 1995

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Supreme Court

Senator Lyda Green
State Capitol, Room 423
Juneau, AK 99801-1182

Dear Senator Green:

Thank you for sending me the draft copy of your mediation legislation. I applaud its emphasis on mediation rather than court mandates for resolving child custody disputes. Our research (which I sent you last week) showed the benefit of this approach. More specifically, the extension to 90 days for the time to mediate is a needed change to make the mediation time period realistic. Also, requiring people to try mediation, with appropriate exceptions (for example, cases involving a history of domestic violence), is, I believe, appropriate.

I am a bit leery of requiring the parents to continue mediation after the initial session and of having the mediator testify at a later court hearing about the parties' good faith efforts. Successful mediation requires the cooperation of both parties, and a neutral mediator whom the parties can count on not to take sides. My recommendation would be to make only the introductory session mandatory and not to have the mediator testify. Jurisdictions that mandate attendance at an introductory session find that parents often want to continue with the mediation process once they understand what it is.

On a more technical level, I always prefer statutes changing court rules to set out the new text of the rule rather than just saying the rule is changed by the statute. Specifying the new language makes using the amended rule much easier. Legislative drafting could probably come up with appropriate language.

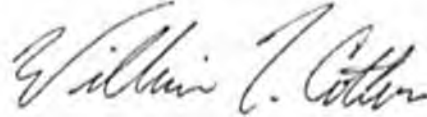
Finally, the draft states that the state will pay for mediation if both parties are indigent. It would be helpful to specify a few more details of how this would work.

MAR 16 1995

Senator Lyda Green
March 13, 1995
Page 2

Again thanks for sending me a copy of the draft. The one thing that was abundantly clear in our research, was that while courts must be open to resolve custody disputes, they are not the best place to resolve custody.

Very truly yours,



William T. Cotton
Executive Director

WTC:sl

MAR 16 1995

Kelli Ray
P.O. Box 871722
Wasilla, Alaska 99687
(907) 376-6535

H.E.S.S. Committee
State Capitol
Juneau, Alaska 99801-1182
Interdepartmental Mail Stop 3762

April 19, 1995

To Whom it May concern:

I am the treasurer of the newly formed group, "Victims of Custody" and I am very pleased with the progress that we as a group have accomplished.

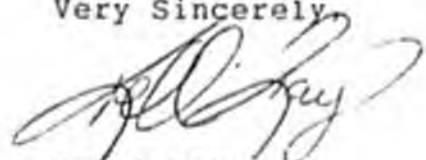
I understand that Senate Bill 156 is now before you for consideration. I would hope that you would strongly support our Mandatory Mediation bill. I believe that it is a very fair and appropriate measure needed in this state.

I am sure that you are very much aware of some of the horror stories that many Alaskans have about divorce and custody of their beloved children. I believe that with the passing of this bill and the serious acknowledgement taken due to the passing of Senate Bill 156, these incredible horror stories will begin to diminish and allow the parting parents and children both to feel better about the already very dramatic changes in their lives that are caused by divorce and custody matters.

Please support our Mandatory Mediation bill, Senate Bill 156 and let's together begin to lessen the pain that is felt by all involved when such a thing arises in the lives of our fellow Alaskans.

Thank you for your time and consideration in this matter.

Very Sincerely,



Kelli Ray
Treasurer

MAY 30 1995

September, 22, 1995
HESS committee
Senator Lyda Green, chairperson
600 E. Railroad Avenue
Wasilla, AK 99654

I wish to submit written testimony for inclusion in the printed record of the hearing. In Montana, I lost custody of my two boys during their visit Christmas 1994; to a physician father who is now living in Talkeetna, AK. This man admitted 1) *child abuse*: 1981 to 1987; 1981 marriage counselling due to domestic violence, 1987 counseling due to charges by DSS and 2) *multiple psych. interventions* over a 12 year period: med. school '80-81; needing a lawyer to graduate; internship '81; psych. hosp. '89, outpt. several years following. *Mandatory evaluations for drug abuse* include '87, '89, and '91. Presently he notes relying on his wife (they met while patients in an alcohol/drug facility '91) to monitor emotional balance related to *PTSD and Depression* as a Korean war orphan and later an abused child in his adopted family. *Despite Jim's court order for my 5 day inpatient evaluation 7/94; I came up healthy and have no such history.* The treatment staff kept asking how could this man pull off such an evaluation with no evidence?

I had custody of the boys during the 3 1/2 year court battle following Jim's exit April 1991 from us with his fiance. The Montana trial was held August 1994 decision made on December 23, 1995. On December 21, 1994, while awaiting the judge's decision, the boys were flown to Alaska for a court ordered visit; December 23, 1994 I learned the boys would not return and a child support check was due in two weeks; \$450+ monthly. Any further visits dependant on prompt payments.

By now, ~~May~~ ^{Sept.} 1995, the hospital board of Seward Alaska unanimously voted to *terminate Jim's contract* 5 months early (again consistent of employment history). He's filed *bankruptcy*. The family moved to further isolation in Talkeetna. Their second child of present marriage *died* age 6 months of "rare SIDS". I have been denied details of any events. *The boys are now advocates* for their dad and I do not hear from them... except stilted conversations which Jim has threatened to terminate. I continue writing to my boys biweekly. I wrote to the Judicial Standards Committee in MT they reviewed the case; nothing. Court appeals are costly and time consuming and the court reflects bias toward the father.

The entire court proceedings *did not consider* the boys' emotional well being. The *Judge arranged* their first summer stay with Dad prior to the trial. *He condoned* a secrete evaluation of the boys Jim's, by the court appointed psychologist (Dr. Harper) for the father. I learned of this evaluation August 15 despite paying for half of the evaluation. This parent brought the boys to trial following 2 months of "assurance" they had never really been abused, in-home church services led by Dad, (the preacher) and assurance of their return to Alaska after the trial. His present psychiatrists stated parenting skills were "not impaired" at this time with significant medication and therapy. *The judge failed* to look at research concerning child adjustment living under discipline of an abusive parent; their intense desire to believe the abuser, and believe the abuse never really happened. *The judge failed* to look at community support systems and resources where this father would be living. Where would these children turn should Daddy relapse? *The judge refused* to allow N.C. jurisdiction despite the children living there 3 1/2 years prior to the

trial where their adjustment could have been evaluated. The judge failed to respect the boys' need to say good bye to friends and connections they had developed the those years. The judge denied the value of this mother's relationship with her sons in good-byes or communication.

My biggest anguish is I cannot protect my children as their father moves into more isolation, geographically, spiritually, and socially. He encourages feelings of hate and fear toward others. The judge's court decision and method of notification of the decision has taught the boys they had best believe their father.

I encourage hearings to review such atrocities as parents with history of abuse and significant emotional instability gaining primary custody with no conditions. Surely public officials putting their heads together in a bipartisan effort can figure out a humane way to validate both parents' role in the children.

Senate Bill No. 156

Sincerely

Marilyn Meade, C.C.S.W.

122 Lilly Ave.

Salisbury, N.C 28144

9/26/95

Lyda Green
Senator
600 E. Railroad Avenue
Wasilla, Alaska 99654

SEP 27 1995

Dear Senator Green:

I am a custodial parent and I'm writing to you about Bill # 156. Mandatory Mediation.

Several years ago I went through a divorce. From the time I entered *my first attorneys* office until the divorce was finally over took almost *one year*. **Three attorneys and over 22 thousand dollars** later, there is still unresolved issues with my case.

There was a point in the proceedings that I could see that my divorce was going to get ugly. I wanted the **tug-of-war** over the kids to **stop**. I had heard about mediation and asked my ex-husband if he would consider settling our differences through mediation. He was not willing and there was no way of forcing him to enter into this process.

Mediation should be required for parents seeking divorce. It will give any cooperating party the needed tool to settle their differences in a dignified, productive and positive way.

I feel very strongly that Mediation will **improve** the well being of our communities. It will free up our court system and save families thousands of dollars. **The persons who will ultimately benefit the most will be the kids! ...Our Future.**

Thank you for your time!

Sincerely,



Georgia (DePree) Goodrich
P.O.Box 1253
Palmer, Alaska 99645
(907) 745-6641

SUPPORT SENATE BILL 156 MANDATORY MEDIATION

Dear Senator Leman,

Please support Senate Bill 156, as this would be a much better solution compared to the current unlawful court child custody battle. I'm living proof that the court system tears families apart 100% after divorce.

My former spouse and I got along fine for 2 yrs. after our separation. We didn't always agree, but managed to hash it out. When we entered the court system with our hired Attorneys, everything fell apart. Before we knew it, we became each others worst enemies. Our Attorneys had us at each others throats while they collected what "borrowed" funds we had left. His Attorney advised him to quit his job and apply for welfare/AFDC while the children were visiting him.

He was awarded primary custody, because I worked and he is on Welfare and not working allowing him to spend more time with the children. I was left with paying \$744.00 a month in child support to be paid even when the children live with me, paying \$4000.00 of his Attorney fees, \$4000.00 to his parents they claim I borrowed during our marriage (an obvious scam to get me to pay the full amount of his Attorney fees of \$8000.00). I was also ordered to cover their medical insurance and pay for all their sports programs.

He continued to collect Welfare/AFDC in the amount \$1120 cash and \$400.00 in food stamps per month. He bought all kinds of neat toys for himself; a 6 disc CD stereo system, TV, entertainment center, leather coat, \$2000.00 refrigerator, not to mention the diamond ring he just bought his new fiance'.

My child support payments go directly to AFDC to pay back payments sent to him, so my children never see a penny of it. I was forced into a small 2 bedroom home due to my child support chopping my income almost in half. I now have a order to get a bigger home before my children can spend one extra day with me. Why should any parent or child have to go through this?

I am far from being an exempt case. Many parents share my same agony. The courts strip away what dignity we have left, lowering our self esteem, and strip our pocket books.

It's abvious that our whole court system needs to be over hauled, but Mandatory Mediation would be a positive start. Mediation keeps parents on the real issues, and leaves no room for blaming and accusing. The kids can also take part and their feeling are taken seriously, giving them self worth and a feeling of involvment and accomplishment.

After 3 yrs. of fighting I finely convinced my former spouse to enter into Mediation and we have been getting along better ever since. The stress in my life has cut in half and the children are much happier since mom and dad aren't fighting.

Please support Bill 156, Mandatory Mediation for the sake of our children.

I would be interested in your comments.

Sincerely,

Sandy K. Hornal

Sandy K. Hornal

1564 Pioneer Peak Dr. Wasilla

373-2721 Mes.

The Arbitration & Mediation Group

MEDIATORS, ARBITRATORS, FACILITATORS & TRAINERS

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October 20, 1995

House/Senate HESS Committee
Attn: Ms. Lyda Green
Legislative Affairs Office
Fourth Avenue
Anchorage, AK 99501SB 156
WRITTEN TESTIMONY
BY FAXRe: Written testimony:
SB No. 156 - An Act requiring mandatory mediation of child custody disputes...

Gentlemen and women:

We write to offer our testimony concerning SB 156. We are unable to appear in person.

The Arbitration & Mediation Group is a private business, wholly owned by Alaskans, and has been offering dispute resolutions services since 1986. In the past year, TAMG has provided training, facilitation, mediation or arbitration services to nearly 1,000 Alaskans involved in family or employment disputes, from Anchorage to Fairbanks and Seward to Big Lake.

Our two practitioners have a total of nearly 40 years experience in conflict resolution. Kathleen G. Anderson is principally a mediator, holds practitioner status with the Academy of Family Mediators, is a full member of the Society of Professionals in Dispute Resolution, and has more than 200 hours training in mediation, facilitation, and arbitration. James R. Carr is a mediator and arbitrator, impaneled with the American Arbitration Association, the Federal Mediation and Conciliation Service, and is a full member of the Society of Professionals in Dispute Resolution. Both are active in local Alaska groups, including the Alaska Dispute Settlement Association and the Alternative Dispute Resolution Section of the Alaska Bar Association. Both serve on the American Arbitration Association's Advisory Board for Alaska. Kathy sits on the Alaska Supreme Court's Task Force on Mediation.

TAMG commends Senator Green's efforts to engage divorcing parents in mediation, particularly in resolving issues concerning the parenting of their children. Mediation has been shown to be successful in such cases, for a number of reasons. Those reasons are principally the voluntary nature of the process, the confidentiality of the process (which works to allow parents to explore their true interests and needs), and the neutrality of the mediator (which works to insure that the parties engage in a process designed to empower them both).

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Senator Green
Legislative Affairs Office
SB 156
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However, many of Senate Bill 156's provisions run contrary to the fundamental principles of the mediation process, particularly in the following:

1) Subsections (a) and (c). A court's mandatory order to mediation, in combination with requiring that the mediator report to the court the identity of a party who "refuses to attend mediation sessions or refuses to negotiate in good faith" voids the empowerment aspect of the mediation process. It breaches confidentiality. No other jurisdiction has enacted court annexed mediation as is proposed here. The language is contrary to multiple national standards of practice, standards of conduct, and codes of ethics.

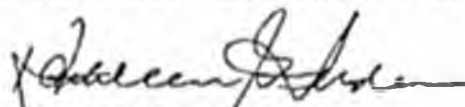
2) Subsection (b). Removing discretionary authority from the court, who may be apprised of more information than is a mediator, is a denial of due process. Mediation is only one of many forums in which conflict may be resolved. It should not be used as the only one

3) Subsection (c). The provision which requires a court to award custody based on a party's "refusal" to mediate or negotiate is punitive and again, contrary to the basic principles of the mediation process. The use of a clear and convincing evidence standard will only pit parents against one another even more deeply, rather than to bring them to points of collaboration.

TAMG has extensive resources which may be of assistance to the Senator, including a recently published compilation of current court-annexed mediation programs from all 50 states. This resource includes program components, structure, statistics, etc. Other resources contain specific statutory language. TAMG would welcome the opportunity to work with the Senator on this important legislation. Please do not hesitate to call.

Best regards,

THE ARBITRATION & MEDIATION GROUP

By: 
Kathleen G. Anderson


James R. Carr