

HB

520

FISCAL NOTE

STATE OF ALASKA

BILL NO. CSHB 520 (FIN)

1996 LEGISLATIVE SESSION

Revision Date: 03/12/96

Dept. Affected: Alaska Court System

Title: Inquests, Coroners, Post Mortems, etc.

BRU: Trial Courts

Component: _____

Sponsor: House Finance

Requester: House Finance

COMPONENT SERIAL NO. 758

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES:	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	287.511	287.511	287.511	287.511	287.511	287.511
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	287.511	287.511	287.511	287.511	287.511	287.511
CAPITAL EXPENDITURES						
CHANGE IN REVENUES						

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	287.511	287.511	287.511	287.511	287.511	287.511
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
TOTAL	287.511	287.511	287.511	287.511	287.511	287.511

Estimate of any current year (FY 96) cost: None

Positions

Full-time	4.751	4.751	4.751	4.751	4.751	4.751
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation will transfer coroner duties to the Department of Health & Social Services.

Prepared by: C. S. Christensen III, Staff Counsel

Agency: Alaska Court System

Phone: 254-2228

Date: 03/12/96

Approved by: Arthur H. Snowden, II, Administrative Director

Agency: Alaska Court System

Date: 03/12/96

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FISCAL NOTE

ANALYSIS (cont.):

Line 200 - \$15.0 is allotted in travel for death scene investigations, and for recruiting and training local and regional Medical Examiners and lay investigators.

Line 300 - \$18.0 will be need in the contractual for the lease of three vehicles for use on the road system @ \$6.0/year/vehicle.

Line 400 - \$4.3 in general office supplies.

Line 500 - \$30.0 will be needed for 5 computers, software and a LAN system, and office furniture.

Position Title Investigator II		No. of Positions 1	Range/Step 16A	Organizing Unit GGD	Fund No. CSHD 520
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District	
TYPE of EXPENDITURE		AMOUNT			
Salary		93.3			
Benefits		16.7			
Premium Pay					
Other					
Total Personal Services		60.0			
Travel					
Contractual		27.2			
Commodities		1.0			
Equipment		15.0			
Other					
Total Cost		93.2			
FUNDING SOURCE for TOTAL COST					
1002	Federal Receipts				
1003	GP Match				
1004	General Fund	93.2			
1005	GP/Program Receipts				
1007	I/A Receipts				
1037	GP/MII				
1061	CIP Receipts				
Other ()					
Justification This position will serve as the lead death scene investigator. It will also be responsible for the training of lay investigators in the local communities.					

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: State Health Services
 COMPONENT: State Medical Examiner

FY97

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 Revised Date

Position Title Administrative Clerk II		No. of Positions 1	Range/Step BA	Bargaining Unit GGU	Bill No CSHB 520
Time Status PFT	Staff Months 12.0	Location Anchorage		Election District	
TYPE of EXPENDITURE		AMOUNT			
Salary		23 0			
Benefits		11 5			
Premium Pay					
Other					
Total Personal Services		34 5			
Travel					
Contractual					
Commodities		1 0			
Equipment		5 0			
Other					
Total Cost		40 5			
FUNDING SOURCE for TOTAL COST					
1002	Federal Receipts				
1003	GP Match				
1004	General Fund	40 5			
1005	GP/Program Receipts				
1007	VA Receipts				
1037	GP/MI				
1061	CIP Receipts				
Other ()					
Justification This position will give clerical support to the four professional positions. It will arrange travel, type forms, do transcription of the death scene investigation reports, perform filing and general clerical functions.					

**REQUEST for
NEW POSITION**

AGENCY: Health and Social Services
 BRU: State Health Services
 COMPONENT: State Medical Examiner

FY97

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Revised Date

CS FOR HOUSE BILL NO. 520(FIN)
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE FINANCE COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE FINANCE COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to death investigations and inquests, coroners, public
2 administrators, and medical examiners, including the state medical examiner;
3 relating to the jurisdiction of district court judges and magistrates in certain cases
4 involving death."

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

6 • Section 1. AS 09.55 is amended by adding new sections to read:

7 ARTICLE 2A. INQUESTS.

8 Sec. 09.55.062. DEATH INQUESTS. Upon petition by the state medical
9 examiner or a state prosecutor, a judicial officer shall conduct proceedings under
10 AS 09.55.062 - 09.55.069 to determine the cause and manner of a person's death. The
11 prosecutor shall present the evidence in the death inquest and assist the court in
12 instructing the jury and conducting the inquest only when the inquest is based on a
13 petition filed by the prosecutor or when the prosecutor requests to participate in the
14 proceedings.

1 Sec. 09.55.064. JURORS FOR INQUEST. (a) When a death inquest is to be
2 held under AS 09.55.062 - 09.55.069, the judicial officer shall promptly summon six
3 persons qualified by law to serve as jurors to appear before the court.

4 (b) When six jurors attend as required under (a) of this section, they shall be
5 sworn by the court to

6 (1) inquire into the identity of the deceased, and when, where, and by
7 what means the person died;

8 (2) inquire into the circumstances attending the death; and

9 (3) give a true verdict according to the evidence.

10 Sec. 09.55.066. SUBPOENA AND EXAMINATION OF WITNESSES. The
11 judicial officer or a prosecuting attorney may, when necessary to determine the material
12 facts relating to the death, subpoena and examine witnesses for a proceeding under
13 AS 09.55.062 - 09.55.069.

14 Sec. 09.55.068. VERDICT OF INQUEST JURY. After hearing the testimony,
15 the jury or two thirds of its number shall give its written verdict, signed and setting out

16 (1) the name of the deceased and when, where, and by what means the
17 deceased died; and

18 (2) whether the deceased was killed or the death was occasioned by the
19 act of another by criminal means.

20 Sec. 09.55.069. COMPENSATION AND EXPENSES ALLOWED. The
21 members of the jury and witnesses in an inquest under AS 09.55.062 - 09.55.069 are
22 entitled to the same compensation as in civil actions in a district court, and the
23 compensation and other incidental expenses shall be audited and allowed as in the case
24 of other similar expenses. When the judicial officer has submitted the petition to a jury
25 in compliance with AS 09.55.062 and there is no interested party or an estate from which
26 the costs of the proceedings can be audited and allowed, then the costs shall be paid
27 from the "relief fund" created by the laws dealing with lost persons, upon vouchers made
28 out, signed, and sworn to by the judicial officer.

29 • Sec. 2. AS 12.65 is amended by adding a new section to read:

30 Sec. 12.65.005. DUTY TO NOTIFY STATE MEDICAL EXAMINER. (a)

31 Unless the person has reasonable grounds to believe that notice has already been given,
32 a person who attends a death or has knowledge of a death, in addition to notifying a

1 peace officer, shall immediately notify the state medical examiner when the death
2 appears to have

3 (1) been caused by unknown or criminal means, during the commission
4 of a crime, or by suicide, accident, or poisoning;

5 (2) occurred under suspicious or unusual circumstances or occurred
6 suddenly when the decedent was in apparent good health;

7 (3) been unattended by a practicing physician or occurred less than 24
8 hours after the deceased was admitted to a medical facility;

9 (4) been associated with a diagnostic or therapeutic procedure;

10 (5) resulted from a disease that constitutes a threat to public health;

11 (6) been caused by a disease, injury, or toxic agent resulting from
12 employment;

13 (7) occurred in a jail or corrections facility owned or operated by the
14 state or a political subdivision of the state or in a facility for the placement of persons
15 in the custody or under the supervision of the state;

16 (8) occurred in a foster home;

17 (9) occurred in a mental institution or mental health treatment facility; or

18 (10) occurred while the deceased was in the custody of, or was being
19 taken into the custody of, the state or a political subdivision of the state or a public
20 officer or agent of the state or a political subdivision of the state.

21 (b) A person who attends a death or has knowledge of a death occurring in
22 circumstances other than those enumerated in (a) of this section may notify the state
23 medical examiners of the death if, in the person's opinion, a death investigation under
24 AS 12.65.020 - 12.65.025 may be appropriate.

25 (c) The body of a person whose death has been or should be reported to the state
26 medical examiner under this section may not be moved or otherwise disturbed without
27 the permission of the state medical examiner.

28 • Sec. 3. AS 12.65.015(a) is amended to read:

29 (a) The [IN ADDITION TO APPOINTING MEDICAL EXAMINERS UNDER
30 AS 12.65.010, THE] commissioner of health and social services shall appoint a
31 [ESTABLISH IN THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES THE
32 POSITION OF] state medical examiner to perform the duties set out in AS 12.65.015.

1 12.65.025. The commissioner may also appoint a deputy medical examiner and
2 assistant medical examiners to perform or assist the state medical examiner in
3 performing these duties. To be eligible for the position of medical examiner, deputy
4 medical examiner, or assistant medical examiner, a person must be a physician
5 licensed to practice in this state or, if the physician is licensed in another
6 jurisdiction, the physician must be employed by the state or by an agency of the
7 United States government within the state. The state medical examiner, deputy
8 medical examiner, and assistant medical examiners are [IS] in the exempt service
9 under AS 39.25.110.

10 • Sec. 4. AS 12.65.015 is amended by adding a new subsection to read:

11 (d) The state medical examiner may, through contracts for services, appoint
12 local, regional, and district medical examiners throughout the state to perform or assist
13 in performing the duties assigned to the state medical examiner. To be eligible for
14 appointment as a local, regional, or district medical examiner, a person must be a
15 physician licensed to practice in this state or, if the physician is licensed in another
16 jurisdiction, the physician must be employed by the state or by an agency of the United
17 States government within the state. An appointment under this subsection may be for
18 a term of up to two years.

19 • Sec. 5. AS 12.65.020 is repealed and reenacted to read:

20 Sec. 12.65.020. MEDICAL DEATH INVESTIGATIONS. (a) When a death
21 is reported to the state medical examiner under AS 12.65.005, or when a person dies
22 under circumstances that, in the opinion of the state medical examiner, warrant an
23 investigation, the state medical examiner may perform a medical death investigation. In
24 performing the investigation, the state medical examiner may

25 (1) order that the body of the person who has died not be moved or
26 otherwise disturbed without the permission of the medical examiner;

27 (2) request a peace officer to secure the scene and perform an on-scene
28 investigation;

29 (3) view the remains of the deceased person;

30 (4) order the remains of the deceased to be transported to another
31 location;

32 (5) perform a post mortem examination;

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- (6) perform an autopsy;
- (7) take possession of property considered necessary for the investigation;
- (8) subpoena and examine a person or record necessary in the opinion of the medical examiner to determine the material facts relating to the death; and
- (9) take other actions appropriate under the circumstances to determine the cause and manner of death.

(b) When the state medical examiner has completed an investigation or made the inquiry considered appropriate by the examiner, the examiner shall prepare a report of the examiner's findings and conclusions. If the findings and conclusions indicate that the death may have been caused by criminal means, the state medical examiner shall submit a copy of the report to the district attorney responsible for prosecutions in the location where the death occurred. The state medical examiner's investigative report is a privileged and confidential document, not subject to public disclosure under AS 09.25. It may be disclosed to public officers and employees for a public purpose and, when doing so will not interfere with an ongoing investigation or prosecution, to a person who is related to the deceased or who has a financial or personal interest in the estate of the deceased person.

(c) The state medical examiner or a prosecuting attorney may petition the court to hold a death inquest under AS 09.55.062 if the findings and conclusions of the state medical examiner, in the opinion of the state medical examiner or prosecuting attorney, warrant the inquest. Otherwise, the state medical examiner shall cause a certificate of death for the deceased person to be completed and filed as prescribed by law.

(d) The state medical examiner may direct the state registrar of vital statistics to amend a death certificate when, in the opinion of the state medical examiner, the death certificate is incomplete or inaccurate.

(e) The state medical examiner may enter into agreements for services to be performed by persons in the course of medical investigations and may call upon public employees, including a peace officer or a village public safety officer, to perform or assist in performing the duties specified in this section.

(f) The state medical examiner and individuals who perform or assist the state medical examiner in performing the duties of the state medical examiner under this section are immune from civil liability based on determining the cause and manner of

1 a person's death.

2 (g) The Department of Health and Social Services shall adopt regulations to
3 implement this section.

4 * Sec. 6. AS 12.65.025(a) is amended to read:

5 (a) The state medical examiner [COMMISSIONER OF HEALTH AND
6 SOCIAL SERVICES] shall designate the facilities at which post mortem examinations
7 and autopsies ordered under this chapter may be performed. The Department of Health
8 and Social Services shall pay the costs of

9 (1) post mortem examinations and autopsies ordered under this chapter;

10 (2) related transportation to the location where the post mortem
11 examination is conducted and then to the community closest to where the death
12 occurred, except that transportation costs to another requested location may be paid
13 to the extent that the costs do not exceed the costs of returning the body to the
14 community closest to where the death occurred;

15 (3) embalming required by law; and

16 (4) cosmetology necessary to make the head, face, neck, and hands of
17 the deceased presentable if those parts of the body are disfigured by the post mortem
18 examination [AUTOPSY].

19 * Sec. 7. AS 12.65.100 is amended to read:

20 Sec. 12.65.100. UNCLAIMED BODIES. When a person dies and no person
21 appears to claim the body for burial, and no provision is made for the body under
22 AS 13.50, the [CORONER SHALL NOTIFY THE] Department of Health and Social
23 Services, upon notification, [WHICH] shall request a court order authorizing
24 [CAUSE] the body to be plainly and decently buried or cremated and the remains
25 decently interred. A judicial officer shall issue the requested order upon the sworn
26 testimony or statement of a representative of the Department of Health and Social
27 Services that a person has not appeared to claim the body for burial and provision
28 is not made for the body under AS 13.50.

29 * Sec. 8. AS 12.65 is amended by adding a new section to read:

30 Sec. 12.65.105. RELEASE OF PROPERTY TO TEMPORARY CUSTODIAN.

31 A person having possession of tangible personal property of a decedent may release the
32 property to a temporary custodian willing to take custody of and preserve the property

1 pending the appointment of a personal representative or other transfer under AS 13.16.
2 Upon execution of an affidavit that meets the requirements of court rules adopted to
3 implement this section, the person delivering possession of the property is discharged
4 from further obligation as though the person had dealt with the personal representative
5 of the estate, and the temporary custodian is answerable and accountable for the property
6 to any personal representative of the estate or to another person having a superior right.

7 * Sec. 9. AS 12.65.110 is amended to read:

8 Sec. 12.65.110. INVENTORY AND DISPOSITION OF PROPERTY. If a body
9 is unclaimed as described in AS 12.65.100 and money or other property belonging to the
10 deceased is found, the public administrator [CORONER] shall inventory it [FOR THE
11 CORONER'S RECORDS] and take it into possession [. THE CORONER SHALL,
12 WITHIN 30 DAYS AFTER INTERMENT, TRANSMIT A CERTIFIED COPY OF THE
13 INVENTORY AND THE MONEY OR PROPERTY TO THE PUBLIC
14 ADMINISTRATOR OF THAT JUDICIAL DISTRICT] for disposition under AS 13.16
15 [AS 22.15.320].

16 * Sec. 10. AS 18.50.230(d) is amended to read:

17 (d) When a death occurs without medical attendance, or when official inquiry
18 is required, the department shall provide by regulation, in accordance with law, the
19 responsibility for completing and signing the medical certification. This subsection is
20 intended to include, among others, cases involving a medical examiner [OR A
21 CORONER.] and cases involving presumption of death.

22 * Sec. 11. AS 22.15.030(a) is amended to read:

23 (a) The district court has jurisdiction of civil cases, including foreign judgments
24 filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170, as follows:

25 (1) for the recovery of money or damages when the amount claimed
26 exclusive of costs, interest, and attorney fees does not exceed \$50,000;

27 (2) for the recovery of specific personal property, when the value of the
28 property claimed and the damages for the detention do not exceed \$50,000;

29 (3) for the recovery of a penalty or forfeiture, whether given by statute
30 or arising out of contract, not exceeding \$50,000;

31 (4) to give judgment without action upon the confession of the defendant
32 for any of the cases specified in this section, except for a penalty or forfeiture imposed

1 by statute:

2 (5) for establishing the fact of death or cause and manner of death of
3 any person in the manner prescribed in AS 09.55.020 - 09.55.069 [AS 09.55.020 -
4 09.55.060];

5 (6) for the recovery of the possession of premises in the manner provided
6 under AS 09.45.070 - 09.45.160 when the value of the arrears and damage to the
7 property does not exceed \$50,000;

8 (7) for the foreclosure of a lien when the amount in controversy does not
9 exceed \$50,000;

10 (8) for the recovery of money or damages in motor vehicle tort cases
11 when the amount claimed exclusive of costs, interest, and attorney fees does not exceed
12 \$50,000;

13 (9) over civil actions for taking utility service and for damages to or
14 interference with a utility line filed under AS 42.20.030;

15 (10) over cases involving injunctive relief for domestic violence under
16 AS 25.35.010 and 25.35.020.

17 * Sec. 12. AS 22.15.100 is amended to read:

18 Sec. 22.15.100. FUNCTIONS AND POWERS OF DISTRICT JUDGE AND
19 MAGISTRATE. Each district judge and magistrate has the power

20 (1) to issue writs of habeas corpus for the purpose of inquiring into the
21 cause of restraint of liberty, returnable before a judge of the superior court, and the same
22 proceedings shall be had on the writ as if it had been granted by the superior court judge
23 under the laws of the state in such cases;

24 (2) of a notary public;

25 (3) to issue marriage licenses and to solemnize marriages;

26 (4) to issue warrants of arrest, summons, and search warrants according
27 to manner and procedure prescribed by law and the supreme court;

28 (5) to act as an examining judge or magistrate in preliminary
29 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
30 release of defendants under bail;

31 (6) to act as a referee in matters and actions referred to the judge or
32 magistrate by the superior court, with all powers conferred upon referees by laws;

1 (7) of the superior court in all respects including but not limited to
2 contempts, attendance of witnesses, and bench warrants;

3 (8) to order the temporary detention of a minor, or take other action
4 authorized by law or rules of procedure, in cases arising under AS 47.10, when the
5 minor is in a condition or surrounding dangerous or injurious to the welfare of the minor
6 or others that requires immediate action; the action may be continued in effect until
7 reviewed by the superior court in accordance with rules of procedure governing these
8 cases;

9 (9) to issue a temporary order for injunctive relief in cases involving
10 domestic violence as provided in AS 25.35.010 and 25.35.020;

11 (10) to review an administrative revocation of a person's driver's license
12 or nonresident privilege to drive, and an administrative refusal to issue an original
13 license, when designated as a hearing officer by the commissioner of public safety and
14 with the consent of the administrative director of the state court system;

15 (11) to establish the fact of death or inquire into the death of a
16 person in the manner prescribed under AS 09.55.020 - 09.55.069.

17 • Sec. 13. AS 22.15.110(a) is amended to read:

18 (a) Each district judge and magistrate shall

19 (1) ~~PERFORM THE DUTIES AND EXERCISE THE AUTHORITY~~
20 ~~OF CORONER AS PRESCRIBED BY LAW;~~

21 (2) record birth, death, and marriage certificates presented to them for
22 record in the manner prescribed by law;

23 (2) authorize the burial or disposition of bodies under AS 12.65.100;
24 and

25 (3) upon application by an appropriate person, appoint the person
26 to assume temporary custody [TAKE CUSTODY AND CONTROL] of and preserve
27 the property and estate of deceased persons until disposition of the property is made
28 under AS 13.16 or further order is made by the court [A LEGAL CUSTODIAN IS
29 APPOINTED;

30 (4) REPEALED).

31 • Sec. 14. AS 22.15.310 is amended to read:

32 Sec. 22.15.310. APPOINTMENT. When authorized by the supreme court, the

1 presiding judge in each judicial district shall appoint a person to act as public
2 administrator of the estates of deceased persons [AND AS CORONER].

3 * Sec. 15. AS 22.15.320 is amended to read:

4 Sec. 22.15.320. ADMINISTRATION OF DECEDENTS' ESTATES. When
5 letters of administration are issued to a public administrator by the superior court in the
6 district, the public administrator is the legal custodian of and shall administer the estates
7 of deceased persons who leave property within the district. Letters of administration
8 shall be issued to the public administrator when (1) administration of a decedent's estate
9 is required by law, and (2) a period of 30 days has elapsed from the date of death with
10 no letters testamentary or letters of administration having been applied for and issued to
11 any other person entitled by law to administer the estate of the deceased person. Except
12 as otherwise provided in AS 22.15.310 - 22.15.340 [AS 22.15.310 - 22.15.350], a public
13 administrator shall administer estates as other administrators, and has all the rights and
14 authority, and is subject to all the duties and liabilities of other administrators.

15 * Sec. 16. AS 36.30.850(b) is amended to read:

16 (b) This chapter applies to every expenditure of state money by the state, acting
17 through an agency, under a contract, except that this chapter does not apply to

18 (1) grants;

19 (2) contracts for professional witnesses to provide for professional
20 services or testimony relating to existing or probable lawsuits in which the state is or
21 may become a party;

22 (3) contracts of the University of Alaska where the work is to be
23 performed substantially by students enrolled in the university;

24 (4) contracts for medical doctors and dentists;

25 (5) acquisitions or disposals of real property or interest in real property,
26 except as provided in AS 36.30.080 and 36.30.085;

27 (6) disposals under AS 38.05;

28 (7) contracts for the preparation of ballots under AS 15.15.030;

29 (8) acquisitions or disposals of property and other contracts relating to
30 airports under AS 02.15.070, 02.15.090, 02.15.091, and AS 44.88;

31 (9) disposals of obsolete property under AS 19.05.060;

32 (10) disposals of obsolete material or equipment under AS 35.20.060;

1 (11) agreements with providers of services under AS 44.47.250;
2 AS 47.07; AS 47.08; AS 47.10; AS 47.17; AS 47.24; AS 47.25.195, and 47.25.310;

3 (12) contracts of the Department of Fish and Game for flights that
4 involve specialized flying and piloting skills and are not point-to-point;

5 (13) purchases of income-producing assets for the state treasury or a
6 public corporation of the state;

7 (14) operation of the state boarding school established under AS 14.16
8 [.] if the State Board of Education or the commissioner of education adopts regulations
9 for use by the state boarding school in procurement and contracting;

10 (15) a contract that is a delegation, in whole or in part, of investment
11 powers held by the commissioner of revenue under AS 14.40.400, AS 14.42.200,
12 14.42.210, AS 18.56.095, AS 37.10.070, 37.10.071, or AS 37.14;

13 (16) a contract that is a delegation, in whole or in part, of investment
14 powers or fiduciary duties of

15 (A) the Board of Trustees of the Alaska Permanent Fund
16 Corporation under AS 37.13;

17 (B) the Alaska Mental Health Trust Authority under
18 AS 37.14.001 - 37.14.099;

19 (17) the purchase of books, book binding services, newspapers,
20 periodicals, audio-visual materials, network information services access, approval plans,
21 professional memberships, archival materials, objects of art, and items for museum or
22 archival acquisition having cultural, historical, or archaeological significance; in this
23 paragraph,

24 (A) "approval plans" means book selection services in which
25 current book titles meeting an agency's customized specifications are provided
26 to the agency subject to the right of the agency to return those books that do not
27 meet with the agency's approval;

28 (B) "archival materials" means the noncurrent records of an
29 agency that are preserved after appraisal because of their value;

30 (C) "audio-visual materials" means nonbook prerecorded
31 materials, including records, tapes, slides, transparencies, films, filmstrips,
32 cassettes, videos, compact discs, laser discs, and items that require the use of

1 equipment to render them usable;

2 (D) "network information services" means a group of resources
3 from which cataloging information, holdings records, inter-library loans,
4 acquisitions information, and other reference resources can be obtained;

5 (18) contracts for the purchase of standardized examinations for licensure
6 under AS 08;

7 (19) contracts for home health care provided under regulations adopted
8 by the Department of Health and Social Services and for adult residential care services
9 provided under regulations adopted by the Department of Health and Social Services or
10 by the Department of Administration;

11 (20) contracts for supplies or services for research projects funded by
12 money received from the federal government or private grants;

13 (21) guest speakers or performers for an educational or cultural activity;

14 (22) contracts of the Alaska Industrial Development and Export Authority
15 for a clean coal technology demonstration project that

16 (A) is attempting to develop a coal-fired electric generation
17 project;

18 (B) uses technology that is capable of commercialization during
19 the 1990's; and

20 (C) qualifies for federal financial participation under P.L. 99 -190,
21 as amended;

22 (23) disposals of supplies acquired through foreclosure of loans issued
23 under AS 03.10;

24 (24) purchases of curatorial and conservation services to maintain,
25 preserve, and interpret

26 (A) objects of art; and

27 (B) items having cultural, historical, or archaeological significance
28 to the state;

29 (25) acquisition of confidential seismic survey data necessary for pre-sale
30 oil and gas lease analyses under AS 38.05.180;

31 (26) contracts for village public safety officers;

32 (27) purchases of supplies and services to support the operations of the

1 Alaska state troopers or the division of fish and wildlife protection if the procurement
2 officer for the Department of Public Safety makes a written determination that publicity
3 of the purchases would jeopardize the safety of personnel or the success of a covert
4 operation;

5 (28) expenditures when rates are set by law or ordinance;

6 (29) construction of new vessels by the Department of Transportation and
7 Public Facilities for the Alaska marine highway system;

8 (30) contracts entered into with a regional development organization: in
9 this paragraph, "regional development organization" has the meaning given in
10 AS 44.33.026;

11 (31) contracts that are to be performed in an area outside of the country
12 and that require a knowledge of the customs, procedures, rules, or laws of the area: or

13 (32) contracts that are between the Department of Law and attorneys who
14 are not employed by the state and that are for the review or prosecution of possible
15 violations of the criminal law of the state in situations where the attorney general
16 concludes that an actual or potential conflict of interest makes it inappropriate for the
17 Department of Law to review or prosecute the possible violations;

18 (33) contracts between the Department of Natural Resources and
19 contractors qualified to evaluate hydrocarbon development, production, transportation,
20 and economics, to assist the commissioner of natural resources in evaluating applications
21 for oil and gas royalty increases or decreases or other oil and gas royalty adjustments,
22 and evaluating the related financial and technical data, entered into under
23 AS 38.05.180(j);

24 (34) contracts between the state medical examiner and a provider of
25 medical services to perform or assist in performing the duties assigned to the state
26 medical examiner in AS 12.65.020.

27 • Sec. 17. AS 39.25.110(13) is amended to read:

28 (13) the state medical examiner, deputy medical examiner, and
29 assistant medical examiners appointed under AS 12.65.015 and physicians licensed to
30 practice in this state and employed by the division of mental health and developmental
31 disabilities in the Department of Health and Social Services or by the Department of
32 Corrections;

- 1 • Sec. 18. AS 12.65.010, 12.65.030, 12.65.040, 12.65.050, 12.65.060, 12.65.070, 12.65.080,
- 2 12.65.090; AS 22.15.120(a)(10), and 22.15.350 are repealed.

Life Alaska, Inc.

Tissue Procurement Service
P. O. Box 230785
Anchorage, AK 99523
1-907-562-5433 - 1-800-719-5433
Fax 1-907-562-5333



Senate Judiciary Committee
Room 30, Capital
Juneau, AK 99801

March 29, 1996

Dear Senator Taylor:

I am writing to request your support of CSH 520, "an act relating to death investigations and inquests, coroners, public administrators, and medical examiners ..." As a non-profit tissue donation and family support agency serving Alaska, Life Alaska interacts with both the Alaska coroners and the state medical examiner for most of our tissue donations. Shifting the responsibility of receiving all death referrals to the medical examiners's office would simplify and speed up the investigation process. This change would help to ensure that more families could be given the option of tissue or organ donation. It would also mean that decedents would sometimes be released to their loved ones a full day earlier. I believe that HB 520 will benefit the Alaska community in several ways with no negative effects.

During 1995, Life Alaska was involved with 131 tissue donations in Alaska. Over half of these deaths were under the jurisdiction of the coroner and medical examiner. While over 400 people in Alaska were able to receive tissue transplants (cornea, bone, tendon, or skin transplants) in 1995, Life Alaska was not able to meet all the transplant needs. Permission for donation must be obtained from the medical examiner for any death falling under the medical examiner/coroner's jurisdiction. The medical examiner must have all the relevant circumstances of a case before he or she can grant permission for donation. Routing of information through the coroner adds time before the medical examiner can make a decision regarding donation or the need for an autopsy. This can delay a release for donation beyond medically acceptable time limits in spite of a family's wish for donation.

The above mentioned delay has also occasionally resulted in a body being held through the entire two or three day weekend because of a few hours' delay in communication between the police, coroner, and medical examiner when the death occurred Thursday night or Friday mourning. This type of hardship to the family could be greatly reduced by direct communication between the medical examiner and law enforcement personnel at the scene.

Finally, there will be a potential cost savings to both the state and to families by Life Alaska's involvement. When a family requests or consents to an anatomical gift, and the medical examiner permits the donation, Life Alaska can facilitate both the donation and the autopsy by paying body transportation costs to Anchorage and assisting with related facility costs.

Thank you for your consideration of this important legislation. Please feel free to contact me for any further information in Anchorage at 800-719-5433.

Sincerely,

Jens Saakvitne
Director

(11)

HOUSE COMMITTEE REPORT

Date Referred to Committee: March 6, 1996

FURTHER REFERRALS:

Date of Committee Action: 3/3/96

The FINANCE Committee considered:

HB 520

HOUSE BILL NO. 520

INQUESTS, CORONERS, POST MORTEMS, ETC.

"An Act relating to death investigations and inquests, coroners, public administrators, and medical examiners, including the state medical examiner; relating to the jurisdiction of district court judges and magistrates in certain cases involving death."

recommends it be replaced with the following committee substitute

19 HB 520 (FIN)

[X] the same title [] a new title

[] additional referral to _____ Committee [] attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept.)

APPROVES PREVIOUS: (Dept./Date)

2 [X] fiscal note(s) 20 2001-02

[] fiscal note(s)

[] zero fiscal note(s)

[] zero fiscal note(s)

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
	Foster	X			
	Hanky	X			
	Mulder	X			
	Kibben	X			
	Grossman	X			
	Brown	X			
	Therman	X			
COMMITTEE REPORT					

CHAIR'S SIGNATURE

MEMORANDUM

TO: The Honorable Robin Taylor
FROM: WWG/Naknek
DATE: 04/03/96
RE: State Medical Examiner Bill

The bottom line is that this is a good piece of legislation.

At the present time, too many offices are involved resulting in confusion, delay and additional expense. There is too much confusion as to just who is responsible for doing what and who is to pay for it. Furthermore, the present system has a potential for compromising the neutrality of the coroner/magistrates.

Having created the office of the state medical examiner, that office should have all those duties and responsibilities associated with conducting efficient and cost effective death investigations. This bill appears to do just that while properly reserving for the court system the related judicial functions, i.e., inquests, etc.

Not too brilliant an analysis; it is, however, short. And, anyway, what can you expect from the hush!

SPONSOR STATEMENT HB 520

House Bill 520 will create a unified death investigation system under the authority of the State Medical Examiner in the Department of Health and Social Services. The bill will position the State to enter the 21st century with a professional medical examiner system better able to both support the criminal justice system and to investigate deaths of concern to public health officers.

The bill has a net zero cost with funds transferred from the Court System to the Department of Health and Social Services to reflect the transfer of death investigation responsibilities.

Specifically, the bill

- Establishes a unified system within the executive branch for determining the cause and manner of death in suspicious or unusual circumstances;
- Better supports law enforcement and public health efforts;
- Eliminates duplication and inefficiency in death investigations by abolishing the position of coroner in the judicial branch and transferring the coroner's investigative functions to the state medical examiner in the executive branch of government;
- Retains inquests and other judicial processes within the judicial branch of government; and
- Places responsibility and management of medical death investigations in a single agency to better control costs.

Sectional Analysis for draft CS for HB 520(FIN) version 9-LS1678\C

This bill establishes a unified state medical examiner system in Alaska and abolishes the position of coroners. Alaska is one of only 18 states that still utilizes both medical examiners (in the executive branch) and coroners (in the judiciary) for death investigations. A hybrid system such as this can result in a duplication of efforts and expense and, in Alaska, has generated some confusion as to the responsibilities and authority of each.

Section 1 of the bill is essentially a housekeeping measure, renaming "coroners' inquests" as "death inquests" and moving the authorizing statutes from AS 12.55 to AS 09.55, where the presumptive death statutes are already located. A death inquest can be initiated at the request of the medical examiner or a district attorney.

Section 2 sets out the circumstances in which the state medical investigator must be notified of a death. These are essentially unanticipated deaths caused by other than natural means. If the state medical examiner concludes that it is appropriate to do so, the examiner will perform a medical death investigation under AS 12.65.020.

The Committee Substitute contains an amendment that requires the state medical examiner to be notified when a person dies while in the custody of a municipality or a municipal employee, as well as when the person dies in the custody of the state or an agent of the state. There is no reason to limit the duty of notification to instances when a death occurs in state custody and not require notification when a death occurs while a person is in the custody of a municipality.

SECTIONAL ANALYSIS

Section 3 amends the state medical examiner statute to authorize the commissioner of Health & Social Services to appoint local, regional, or district medical examiners to assist in performing the duties of the medical examiner. The deputy and assistant state medical examiners are in the exempt service. This is also set out in section 17 of the bill.

Section 4 gives the state medical examiner authority to contract with physicians around the state for assistance in performing the duties of his office.

Section 5, amending AS 12.65.020, represents the core of this bill. It transfers jurisdiction over the bodies of those who die unattended by a physician from coroners to the state medical examiner. The state medical examiner is authorized to view the remains of the deceased person, perform a post mortem examination, and take any other action necessary to make a proper determination of the cause of death, including taking possession of any property deemed necessary to the investigation. The state medical examiner is authorized to call upon public employees, including peace officers and village public safety officers, to provide assistance necessary to complete the medical death investigation. If the examiner concludes that death may have been caused by criminal means, a copy of the report of the medical examiner's findings and conclusions is to be submitted to the district attorney, who is authorized to initiate criminal proceedings.

An amendment to the bill extends the medical examiner's immunity to those who assist him in performing the duties of office.

Section 6 clarifies that the state will pay the costs of transporting a body to the location where a post mortem examination is to be conducted, and then the costs of returning the body to the community where the death occurred or to such other location as relatives may request to the extent that the costs of such transportation do not exceed the costs of returning the body to the place of death.

Section 7 authorizes the Department of Health and Social Services to provide burial or cremation services for unclaimed bodies.

Sections 9 and 13 relate to the tangible property of a decedent. This bill originally transferred the functions of public administrators from the judiciary to the Department of Health & Social Services. It has been determined, however, that the transfer of these functions presents complications that will require additional time to resolve. Accordingly, under this Committee Substitute, the judiciary will continue to provide the functions of the public administrator.

4-

Section 8 codifies the existing practices of persons who act as temporary custodians of property before a personal representative is appointed. At the same time, it clarifies the legal obligations of the respective parties to minimize issues of liability in these situations. The court system anticipates adopting and making available forms for temporary property custodians to use.

Section 9 changes a reference from the coroner to the public administrator.

Section 13 addresses liability concerns raised by law enforcement officials regarding their release of property following a person's death. This section authorizes district court judges and magistrates to appoint a person to take temporary custody of some or all of a deceased person's property. A person who is seeking the release of property from a law enforcement agency can be required by the agency to obtain this court order/appointment; law enforcement agencies will then be immune for actions taken in response to the court order. The judiciary expects to adopt forms that will make this process easy and quick to use.

Section 16 of the bill exempts from the procurement code contracts entered into by the medical examiner with health care providers to assist in medical examiner functions -- such as a contract with a physician or a hospital in an area outside of Anchorage to determine the cause of death in certain cases -- public administrator with law firms to handle the probate proceedings. This replaces a provision in the original bill that related to public administrators' contracts for legal services, which is no longer needed in view of the judiciary retaining the public administrator functions.

The remaining sections of the bill -- 9, 10, 11, 12, 14, 15, and 18 -- amend statutes in the criminal and judicial codes to delete references to coroners that are no longer necessary.

AME WILLIS IVANOV
ATTORNEY AT LAW

4325 LAUREL STREET
ANCHORAGE, ALASKA 99508
(907) 562-2215

April 2, 1996

RECEIVED

APR 8 1996

Ans'd.....

Senator Robin L. Taylor
State Capitol
Juneau, AK 99801

Re: House Bill 520 relating to death investigations and other matters

Dear Senator Taylor:

I will not be able to attend the legislative teleconference scheduled on this bill April 2, 1996 and am therefore submitting these written comments.

I am extremely concerned about the features of this bill that eliminate some important functions of the existing Coroner's office without transferring those functions to another office.

In particular, there is no one responsible for locating and notifying next of kin or securing property until the heirs can take possession. The proposed statute has retained a public administrator. However, the public administrator has no authority to act sooner than thirty days and then only in the case of an unclaimed body. With no one responsible for locating and notifying family, no responsible person may learn of the death soon enough to prevent loss of property. Furthermore, there may be more unclaimed bodies than at present because of lack of notice.

The Coroner's office has been very successful in locating hard to find family members. Will this now become a de facto duty of the police, the medical examiner or the funeral home? Can a landlord go through the deceased's things to try to contact someone to take responsibility for the property or the rent?

The Coroner has also had the authority to place a seal on the house or apartment. This action often gives enough protection. The Coroner has also taken custody of valuable property for safekeeping.

Some attempt to deal with the property issue has been made in the proposed statute by authorizing the court to appoint a temporary custodian. However, the statute does not address who

is an "appropriate person" to be appointed nor does it say what the rights and duties of that person are. A judge or magistrate is not in a position to either investigate "appropriateness" of the applicant or give notice to the heirs. The court will only have before it the application of the person seeking control of the property. The affidavit procedure, which requires the drafting of future court rules, is even more flawed. The statute gives no guidance to permit adoption of rules. I have served for several years on the Probate Rules Committee. The consensus of that group has been to adopt rules conforming to statute, not to write rules in place of a statute.

This bill has never been presented to the Probate Rules Committee for comment or, so far as I know, to any other bar committee. It has been drafted without adequate review by the people who deal with these problems on a regular basis.

The loss of the notification and property preservation functions of the Coroner's office will cause problems for rich and poor alike. The estates of single people of every walk in life will be affected. The Senate should defer action on this bill until the problems have been properly addressed.

Sincerely,



Ame Willis Ivanov

cc.Senator Dave Donley

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC HEALTH

TONY KNOWLES, GOVERNOR

P.O. BOX 110610
JUNEAU, ALASKA 99811-0610
PHONE: (907) 465-3090
FAX: (907) 586-1877

MEMORANDUM

DATE: March 16, 1996

TO: Susan Taylor
Budget Analyst
Legislative Finance

FROM: Sharon K. Lowe
Administrative Officer
Division of Public Health



SUBJECT: Number of Autopsies Performed by the State Medical Examiner

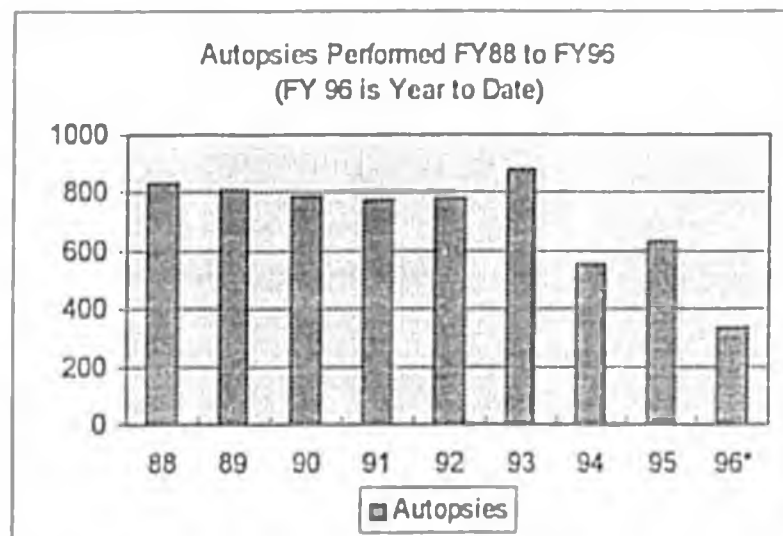
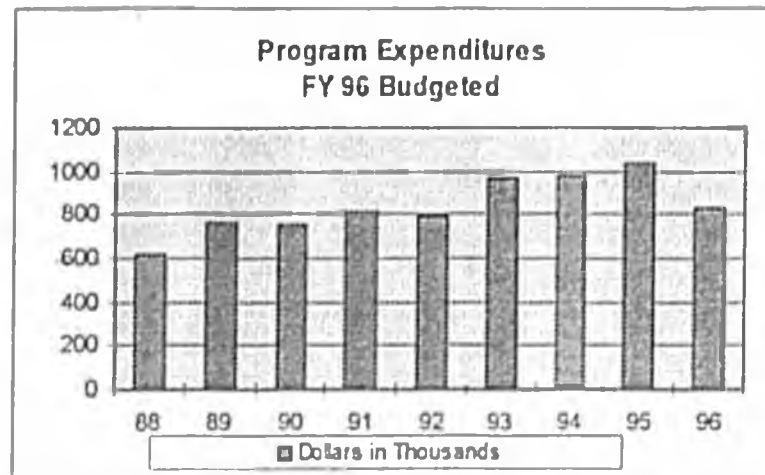
You requested the number of autopsies performed by the State Medical Examiner and the Deputy Medical Examiner since their date of hire.

The State Medical Examiner was hired on March 16, 1994, and the deputy on December 5, 1994. During FY95 the office kept track of the number of autopsies as a collective number and did not distinguish as to who performed the operation. Attached are graphs showing the number of autopsies versus inspections versus consultations for the periods of July through December, 1994 and January through June, 1995. There were a total of 839 cases in FY 95 with 368 autopsies, 268 inspections and 203 consultations.

The breakout for workload among the physicians is as follows:

	Autopsies	Inspections	Consults	Total
Michael Propst, MD	77	125	125	327
Norman Thompson, MD	81	36	100	217
Michael Stewart, MD	<u>17</u>	<u>3</u>	<u>-0-</u>	<u>20</u>
Total	175	164	225	564

Dr. Stewart is a contract pathologist located in Ketchikan. He performs those autopsies for deaths which occurs in Sitka or south and are of a more general nature. Dr. Thompson are assigned the more difficult cases, freeing the State Medical Examiner for the necessary administrative tasks that he must perform.



Autopsies are defined as opening any or all portions of the body; inspections are external examinations only; and consultations are cases where the medical examiner(s) consults with the coroner to determine if there is enough cause to do an external examination or autopsy. The State Medical Examiner (SME) is responsible for determining whether an autopsy or other less intrusive post-mortem examination is required to establish cause and manner of death in cases referred to the Medical Examiner by coroners. The decision of the SME concerning the need for an autopsy is made on the basis of facts surrounding the death and the medical examiner's professional medical judgment. If, based on the facts established in the death investigation, cause and manner of death can be conclusively established without an autopsy, no autopsy will be performed.

Close cooperation between coroners, law enforcement personnel and the Medical Examiner is obviously critical to an effective death investigation system. The Departments of Health & Social Services and Public Safety and the Alaska Court System have worked

closely together to implement the new Medical Examiner system. Coroners are encouraged to refer cases to the SME for consultation, and general guidelines have developed along national models and practice to aid the coroners in working effectively with the Medical Examiner. These guidelines do not limit the types of cases which can be referred to the Medical Examiner or limit the coroner's consultation with the Medical Examiner.

The largest controllable expenses in the SME program are the transportation of human remains for examination and the mandated embalming and restoration costs associated with autopsies. The guidelines provide a means of ensuring that autopsies are performed only when necessary to satisfy public interests. They are not rigid criteria and are used along with facts gained in the death investigation and consultation with coroners and law enforcement personnel to determine the need for an autopsy, but do provide screening criteria to control program quality and costs.

The decision as to where post-mortem examinations will be conducted is made, for the most part, on an economic basis. Most autopsies are performed in Anchorage by the State Medical Examiner staff. For the first time in the history of the Post Mortem Examination/State Medical Examiner budget, we are projecting that it will not be necessary to request a supplemental or RP in order for the component to complete the year. This is due to Dr. Propst's tightening of the requirements which lead to transportation of human remains and autopsy.

Gaining control over the costs associated with post-mortem examinations was among the primary reasons for establishing the State Medical Examiner. Prior to September 1, 1993 when the Legislature amended AS 12.65 to establish the SME, the decision as to whether a post-mortem examination was required was made by the coroners. The guidelines used by the coroners for determining when an autopsy was required directed them to obtain an autopsy in most cases. Coroners had no mechanism to obtain medical consultation to help them establish cause of death short of obtaining an autopsy. The coroners had no fiscal responsibility and no incentive to limit the number of autopsies performed. Their responsibilities tend to guide them to order autopsies as a precaution.

Private pathologists who performed post-mortem examinations had no established mechanism to provide consultation to coroners outside the autopsy process. There were no standards for the autopsies performed by the private pathologists and no financial or legal incentives for them to limit the number of autopsies or to perform less intrusive and less costly examinations.

The Department of Health & Social Services had sole responsibility for paying the costs of post-mortem examinations as well as associated transportation, embalming and restoration costs. But DHSS had no decision-making authority; the department simply paid the vendors with little oversight.

Susan Taylor
March 16, 1996
Page 4

Since his appointment as State Medical Examiner, Dr. Michael Propst has implemented a wide range of administrative measures to establish fiscal and program accountability. This has allowed the program to operate in FY 96 within the appropriation for the first time. As the SME program evolves, it is expected that local and regional physician Medical Examiners and lay Medical Examiner investigators will be recruited and trained (in a curriculum similar to the program which has been developed in New Mexico). This development will be aided by the passage of HB 520 which would clearly establish the authority for the SME to appoint regional medical examiners and further define Alaska's death investigation system. This bill would establish a unified death investigation system with the executive branch and eliminate the confusion and inefficiencies in our current system resulting from overlap in roles and responsibilities and duplication of effort by the coroners and the State Medical Examiner.

We believe this bill would establish a medical death investigation system that will better support both criminal justice and public health efforts. By placing investigative responsibility and authority in the SME where the forensic expertise exists to establish the cause and manner of death, the bill would reduce the possibility of errors and oversights in death investigations which might otherwise jeopardize a criminal prosecution or fail to identify a public health threat. These changes would also further enhance our ability to control program costs.

It is interesting to note that FY 95 was the first year in which the costs from the Departments of Public Safety and Health & Social Services were combined. Prior to that time, the costs are only those associated with the DHSS portion of the program. The bill currently before the Legislature will combine the costs from the Court System to give us a more efficient system.

cc: Dr. Peter M. Nakamura, Director
Janet Clarke, Director
Dr. Michael T. Propst, State Medical Examiner

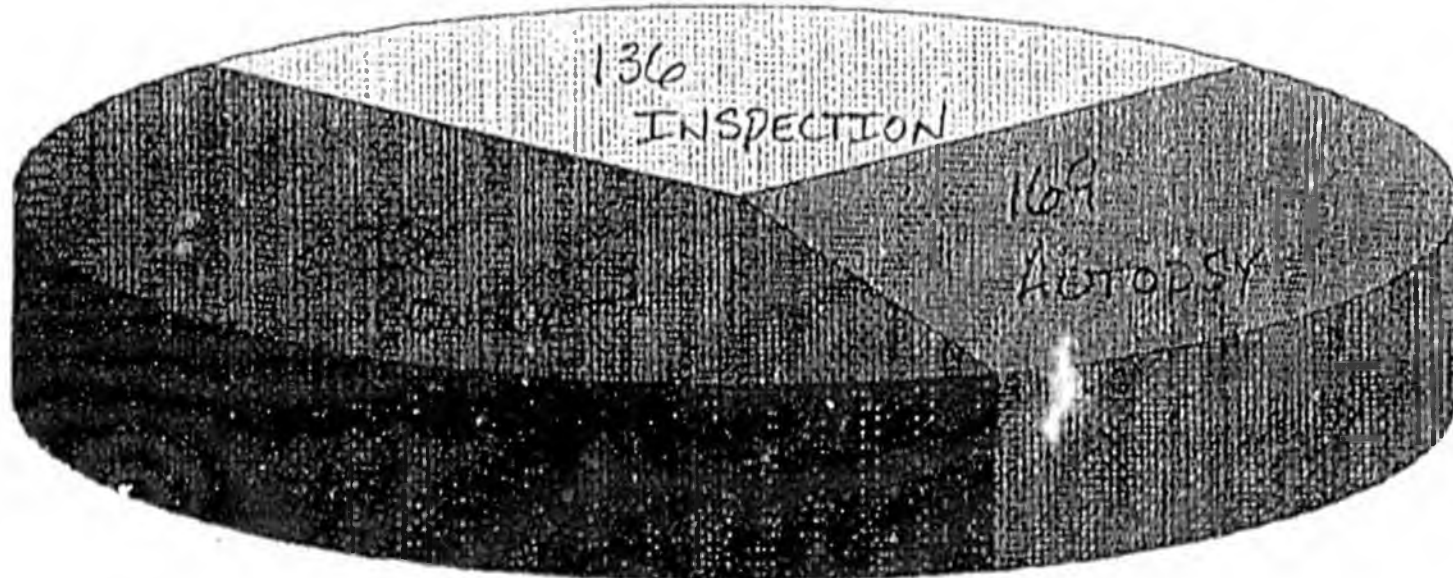
FY 1996

P.03

FAX NO. 9072695069

Alaska Med Exam'r

MAR-15-96 FRI 13:06



Autopsy Consult Inspection

TOTAL CASE
533

as of 2/21/96
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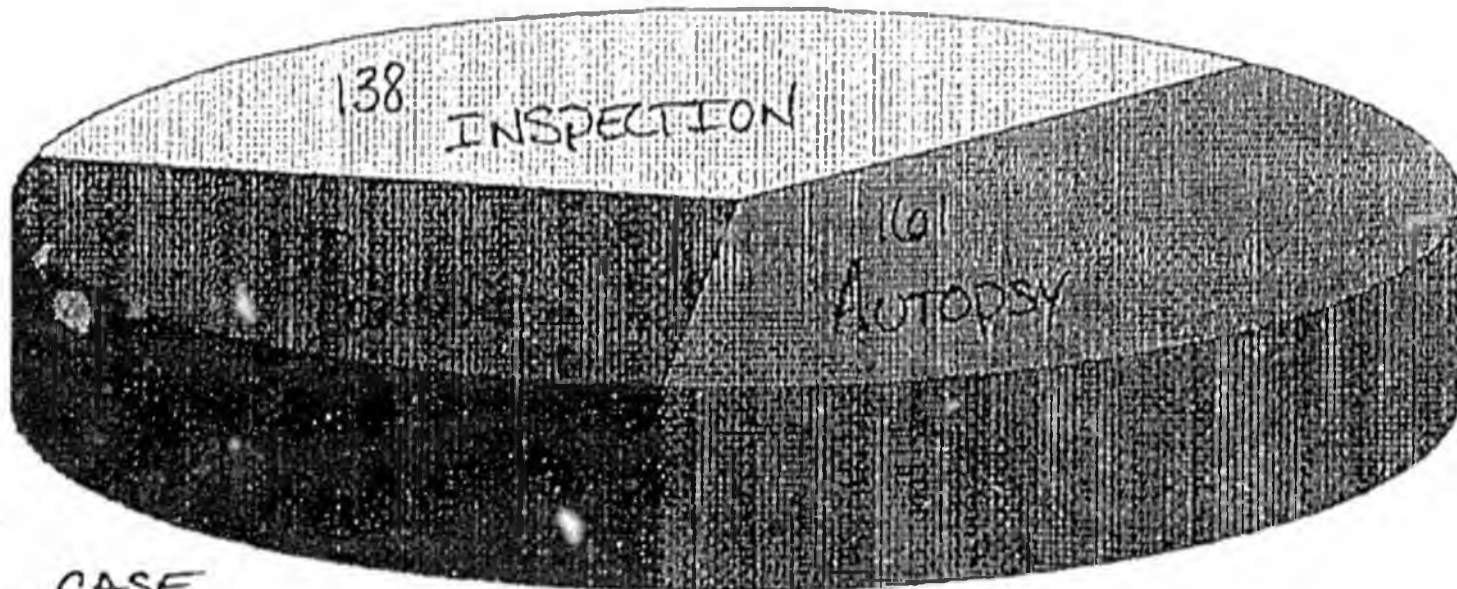
FY 1995

CASE # 95-001 - 95-411

P. 04

JAN. - JUN.

FAX NO. 9072695069



Alaska Med Exam'r

TOTAL CASE
FY 95'

- 839 CASES
- 368 AUTOPSY
- 268 INSPECTION
- 203 CONSULT

Autopsy Consult Inspection

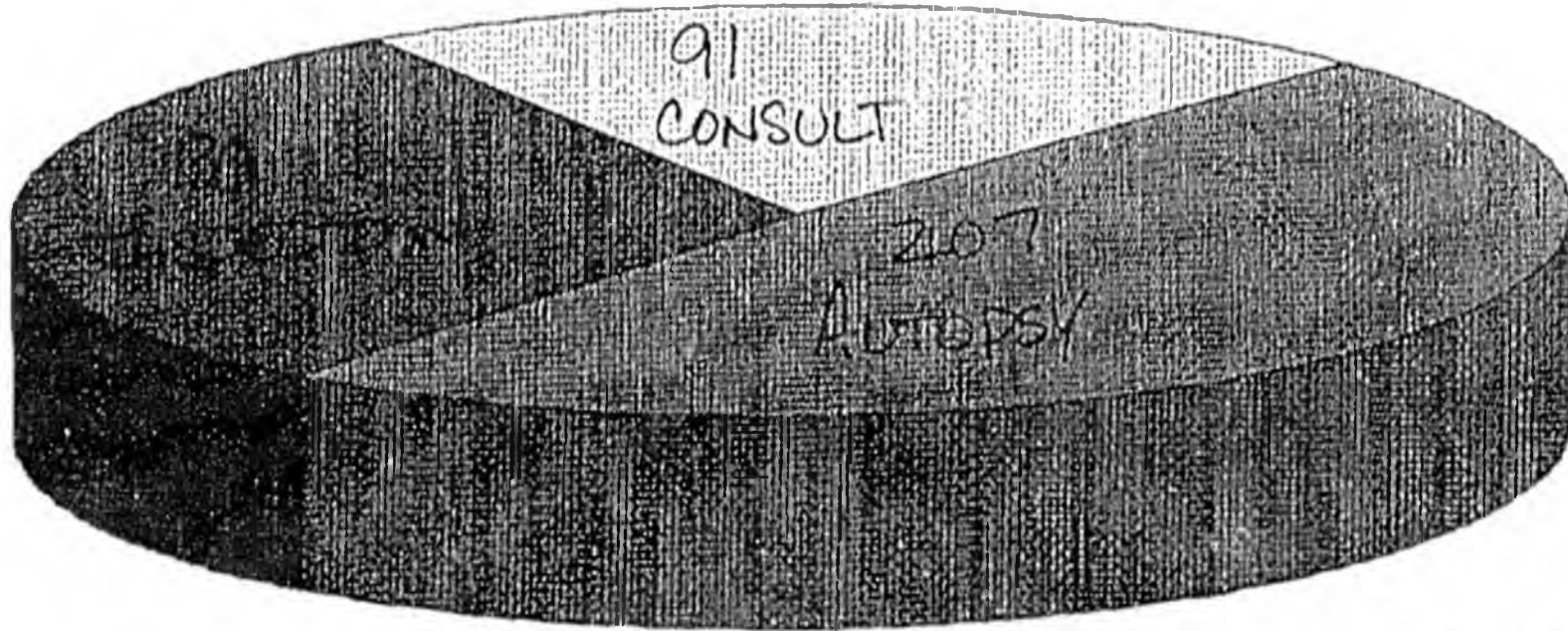
TOTAL CASE
411

MAR-15-96 FRI 13:07

FY 1995

CASE # 94-380 TO 94-808

JUL. - DEC.



010203

TOTAL CASE

428