

**HB**

**253**

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

ADVISORY BOARD ON ALCOHOLISM AND DRUG ABUSE  
February 2, 2000

P.O. BOX 110608  
JUNEAU, ALASKA 99811-0608  
PHONE: (907) 465-8920  
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Representative Pete Kott, Chairman  
House Judiciary Committee  
Alaska State Capitol  
Juneau, Alaska 99811

Dear Representative Kott:

The Advisory Board on Alcoholism and Drug Abuse (ABADA) is interested in CS for HB 253, relating to school disciplinary and safety programs. Although the ABADA is supportive of concerns for school safety and disciplinary programs, we believe that the omission of any provisions for screening and referral for substance abuse problems and mental illness of students in violation of school policies is counterproductive to achieving the goals of school safety programs.

Clear links have been identified between school vandalism, truancy, and violence and alcohol or drug use. Research done by the Johnson Institute in 1993 compared two groups of students; students reporting no use of drugs vs. students who report experiencing problems as a result of alcohol and other drug use. The survey revealed that those "problem" users are:

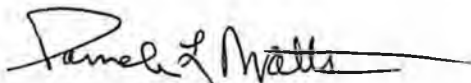
- More than twice as likely to get into physical fights—50% of those users admitted initiating violence, compared to 21% of non-users.
- Three times more likely to be truant from school—33% of those users say they've been truant, compared to 11 % of non-users. In the "dependence risk" category, 52% of the students reported being truant.
- Twice as likely to have trouble concentrating in class—44% of those users confessed to problems concentrating, compared to 22% of non-users.
- Four times more likely to commit vandalism—fully 54% of "users with problems" said they destroy things for fun, compared to just 14 % of non-users. Among male students in the "dependence risk" category, an astonishing 83% admitted to vandalism in the past year.

These figures point to the fact that in terms of violence prevention, a school disciplinary and safety program that does not address the role that alcohol and other drugs plays in negative student behaviors is likely to be less effective than a program that includes screening, assessment, and referral of students with substance abuse problems. In the long run, identifying and addressing these problems is likely to increase school safety and reduce violence.

On behalf of the ABADA, I request that CS for HB 253 be amended to include provision for such screening, assessment, and referral for substance abuse problems. I would also encourage you to consider strategies that identify and assist students with serious emotional disorders or developmental problems that may be contributing factors to violations of school policy.

Thank you for the opportunity to provide testimony on this very important issue.

Sincerely,



Pamela Watts  
Executive Director

## Alaska Civil Liberties Union

*An Affiliate of the American Civil Liberties Union*

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

February 7, 2000

### ALASKA CIVIL LIBERTIES UNION STATEMENT IN OPPOSITION TO HOUSE BILL NO. 253

The Alaska Civil Liberties Union strongly opposes House Bill 253 because it raises serious constitutional concerns regarding due process and free speech, it creates unnecessary bureaucracy, and it is bad public policy. We can appreciate the sponsors' intentions to provide for quality learning environments and to protect teachers who implement school district policies. Nevertheless, we must bring to your attention numerous problems with the bill and urge you to oppose its passage. Thank you for your consideration.

**ISSUE:**

HB 253 states that a "teacher, a teacher's assistant, a principal, or another person responsible for students is not liable for civil damage resulting from an act or omission arising out of enforcement of an approved school disciplinary and safety program..."

***Analysis:*** HB253 creates redundancy with existing law. Under laws already on the books an employee could not be held liable for civil damages for implementing a policy at the direction of his or her employer. Further, the bill creates a dangerous confusion concerning liability for injuries which a teacher or administrator might inflict on a student through the application of excessive force during corporal punishment. The bill appears to condone corporal punishment by teachers provided an approved plan allows for it. The unintended consequence of this language would be that a teacher or administrator who seriously injured a child could claim to be "just following orders" as a means to avoid liability. We do not believe it should be state policy to give teachers and administrators a free pass if they injure students through negligent or intentional application of excessive force. The bill also conflicts with existing criminal laws, which would hold a teacher liable for assault or similar crimes in such a situation. The current law should prevail on these issues.

**ISSUE:**

HB 253 suffers from vagueness when it requires school districts to "implement and maintain community-based standards of school behavior that are understood, accepted, and upheld by students, parents, teachers, school administrators, and the community."

Page 2 of 4

*Analysis:* HB 253 does not give the public ample description of its intent. It could be argued that *no* set of standards would be understood, accepted, and upheld by *all* of the above entities. A group holding a dissenting opinion regarding a given district's policy will be able to argue (by virtue of their dissent) that the given policy is unacceptable to all elements of the community. School districts will be faced with the cumbersome and bureaucratic task of holding public meetings to craft policies that will be exceptionally vulnerable to challenge under this bill's language.

**ISSUE:**

HB 253 is contrary to the free expression and due process clauses of the US Bill of Rights and the Alaska Constitution. Under HB 253, programs must include "standards for student behavior and safety that reflect community standards and, at a minimum, basic requirements for respect and honesty."

*Analysis:* School districts cannot restrict students' rights to free thought and speech without showing a compelling governmental interest at stake and demonstrating that the restrictions at issue are narrowly tailored to serve that interest. Some 30 years ago, it was considered disrespectful for male students to wear their hair long in school in Alaska. A boy was disciplined in Fairbanks for having long hair, and he fought the school all the way to the Alaska Supreme Court. The Court ruled in the boy's favor, finding that students have a First Amendment right to express their individuality, even if this violates community standards of decency or respect. *Breese v. Smith*, 501 P.2d 159 (Alaska 1972).

Respect cannot be effectively or legally demanded; it must be earned, and it goes both ways. Students earn it from their teachers, and teachers earn it from their students. Time and time again, when students are asked why their favorite teachers *are* their favorite teachers, their answer is that their teacher respects them. A teacher has the right -- indeed, the duty -- to maintain order in the classroom and ensure that all students have an opportunity to receive an education. However, HB 253 appears to confuse blind obedience with respect.

In September of this past year, the AkCLU held a public forum in Fairbanks. The forum was open to all in the community, and the topic was "Civil Liberties in the Classroom." Over a dozen high school students attended this forum, along with parents, teachers, and other concerned citizens. Every single student articulated their sense that well-intentioned adults are over-reacting to the tragedy at Columbine by turning their schools into virtual prisons. Rather than address the underlying root causes of alienation and intolerance in the schools, which contributed to the violence at Columbine and a few other schools, school administrators have actually reinforced intolerance and alienation among students by cracking down on students' constitutional rights. Examples of this include violations of free expression such as arcane dress codes, banning black clothing, profiling students who express beliefs outside the mainstream or listen to Goth music, and banning any expression/speech protesting the school's policies. The AkCLU heard from a student in Alaska (who wishes to remain anonymous, for fear of further alienation) who was labeled a devil-worshiper by the faculty at her school because she

Page 3 of 4

merely questioned Christianity in the classroom, and this was confirmed by the student's mother who encountered these faculty members in a local grocery store.

Furthermore, more and more Alaskan schools are eliminating any semblance of due process for students and adopting a "one-strike-and-you're-out" policy for even minor infractions. Approximately 20 parents filled the AkCLU office in November 1999, complaining of over-reactions by school administrators in Anchorage, violation of the school's own policies regarding due process, and violation of their children's legal rights. The incident underlying this wave of suspensions involved only minor horseplay on a football team, and the parents of the alleged victim were at the meeting in the AkCLU office, complaining that their son was *forced* to claim that he was a "victim" and swear out a statement against his teammates, despite his repeated protestations that it was all in good fun, he wasn't hurt, and he thought it was just a big joke.

By imposing vague standards of behavior and not allowing due process for students deemed to be violating these standards, HB 253 exacerbates the growing sense among students – the future leaders of our country – that they are prisoners in their own schools.

**ISSUE:**

HB 253 would require that all teachers in the State of Alaska be trained in criminal law. A teacher who "observes a student committing a crime shall report the crime to the local law enforcement agency; in this paragraph, "crime" has the meaning given in AS 11.81.900." School districts would be required to implement "policies authorizing a teacher, teacher's assistant, or other person responsible for students to use reasonable and appropriate force to maintain classroom safety and discipline as described under AS 11.81.430(a)(2)."

*Analysis:* Teachers are not trained in the recognition of criminal acts, nor are they considered law enforcement agents. This bill would require that teachers obtain further training at either their own or their school district's expense. This would effectively reduce funds available for actual education purposes, reduce time spent in the classroom, and/or cause the teaching profession to become less attractive.

Teachers traditionally maintain a bond of trust with students to cultivate a healthful learning environment. Forcing teachers to assume law enforcement duties, including reporting, would weaken the trust, and damage the educational system. These duties are best left to appropriate law enforcement agents, and school district administrative personnel.

**ISSUE:**

A zero fiscal note is attached to HB 253. This narrative is intended to respectfully challenge the assertion that implementation of HB 253 would incur no costs to the State of Alaska.

*Analysis:* If implemented, the Department of Education and Early Development will have to review each school district's disciplinary and safety program for compliance

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with law. Upon completion of review, DOE&E will then be forced to use the threat of withholding State of Alaska funding to force non-compliant districts into meeting the law. Under this proposed law, DOE&E would be tasked with ensuring **“that all schools and school districts receiving state funds, that may not have already done so, implement and maintain an effective school disciplinary and safety program.”**

Since the bill fails to define acceptable standards for behavior and honesty (or respect and honesty), DOE&E will be placed in the untenable position of having to subjectively accept and reject the disciplinary and safety programs. DOE&E could face substantial legal challenges for withholding funding.

The State of Alaska currently has more than fifty school districts. Review of each community's plan could take one staff day per plan (based upon a careful review of the Anchorage School District's Statement of Rights and Responsibilities), for a total of more than fifty staff days.

# STATE OF ALASKA

Department of Education & Early Development

*Office of the Commissioner*

**TONY KNOWLES, GOVERNOR**

*Goldbell Place  
801 West 10<sup>th</sup> Street, Suite 200  
Juneau, Alaska 99801-1894  
(907) 465-2800  
(907) 465-4156 Fax*

January 12, 2000

The Honorable Fred Dyson  
Alaska State Legislature  
State Capitol, Room 104  
Juneau, AK 99801-1182

Dear Representative Dyson:

The Alaska Department of Education & Early Development has had an opportunity to review the recent draft of HB 253, "An Act establishing a school disciplinary and safety program; and providing for an effective date."

We would like to thank you for continuing to champion the issue of school safety and violence prevention efforts within the State of Alaska. We agree that the issue of safe and respectful school environments should continue to be a primary focus.

With increased attention to this issue given, we believe, the end result will be higher academic success for all students and an improved working environment for all school staff.

Given the enormity of this issue, we realize the efforts to change the current conditions in our nation's school systems will take many years and require several steps to success. The added protection for teachers and other school staff that this bill will ensure is another move in that direction. Of course, within the research-based model of prevention, this step will be one of many in order to ensure safer environments. As our staff highlighted for you in October, strong leadership, comprehensive programs, consistent enforcement and research-based curricula are also essential components to the success of school safety efforts.

It is certainly the hope of the Alaska Department of Education & Early Development, that continued discussions will take place at the state level to determine other resources and collaborative working partnerships necessary to advocate for coordinated school health programs, that encompass school safety and behavior management issues, as well as addressing the barriers to learning. In an effort to this end, the health program staff within our department is in the process of developing a competitive request for

The Honorable Fred Dyson

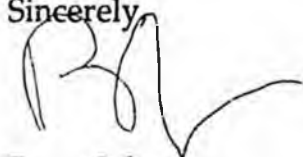
January 12, 2000

Page 2 of 2

application that will provide Title IV federal funds to districts who can demonstrate readiness to address some of the school safety issues within this broader prevention focus. We feel strongly that this effort is in line with current research and presents the best opportunity for schools to develop quality programs.

We will continue to keep your office informed of our progress and new research in this area of interest. If there is any further assistance our offices can provide you and your staff, please do not hesitate to contact me directly.

Sincerely,

A handwritten signature in black ink, appearing to read 'BJ', with a long horizontal flourish extending to the right.

Bruce Johnson  
Deputy Commissioner

cc: Richard S. Cross, Commissioner

**ANCHORAGE  
SCHOOL  
DISTRICT****Anchorage School Board**

P.O. Box 196614, Anchorage, Alaska 99519-6614 • (907) 333-9561

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Kathi Gillespie  
2741 Seafarer Loop, Anchorage, Alaska 99516  
(907) 345-5335; Fax (907) 345-9891  
E-mail: Gillespie\_Kathi@msmail.asd.k12.ak.us

**DATE: FEBRUARY 2, 2000**  
**TO: HOUSE JUDICIARY COMMITTEE**  
**FROM: KATHI GILLESPIE, LEGISLATIVE CO-CHAIR,**  
**ANCHORAGE SCHOOL BOARD**

**RE: TESTIMONY ON CSHB253**

Chairman Kott and Members of the Committee:

While the purpose of this bill is admirable, the Anchorage School District has serious legal and procedural questions and cannot support this bill as it is currently written. We all agree that schools have a pronounced interest in developing and enforcing school disciplinary policies. Courts and education experts have repeatedly recognized that a strong instructional program is dependent upon effective student discipline.

However, courts have also recognized that an indispensable element of effective student discipline is allowing school officials discretion in matters of student discipline. Frankly, the fertile adolescent mind makes it impossible for school officials to anticipate every possible action that disrupts the educational environment. Consequently, student conduct codes cannot be effective when they are forced to comport with specific legislative mandates.

An example of this is the use of the term "understood" in HB 253, in the context of schools must adopt community-based standards which are "understood by students, parents, teachers, school administrators, and the community." At present, students are only required to be on "notice" of school disciplinary regulations - the regulations are available to students and if they choose to ignore them, they cannot argue that they were unaware that the conduct in question was prohibited. HB 253 changed that. The bill provides

that schools must draft community-based standards which are "understood" by "students, parents, teachers, school administrators, and the community." The term "understood" carries a specific meaning that implies comprehension, discernment, and mutual agreement. The Alaska Supreme Court has determined that words in statute will be interpreted in that form in which they occur in most common usage. In its common usage, the term "understood" implies comprehension, discernment, and mutual agreement (*Webster's New Twentieth Century Dictionary, unabridged, Second Edition 1994*). Requiring student "understanding" is far beyond simply placing a student on "notice" of school rules - the student must comprehend and accept the school rule. Consequently, this will result in every student who faces discipline having a new first bite at overturning discipline by arguing that they did not "understand" the rule in question.

Further, districts will be unable to discipline students for actions that are not specifically prohibited under the school disciplinary code, as one can scarcely "understand" a rule that is not specifically stated. While this may not sound unreasonable to grown adults accustomed to thinking of prohibited conduct in terms of criminal statutes, it takes on a completely different meaning in schools. As I mentioned earlier, courts have recognized that schools cannot anticipate every action students will take which is disruptive or dangerous. The requirement that students "understand" all school rules would result in the very real consequence that students would escape punishment due to the fact that there was not a preexisting rule on the books.

The use of "understood" is just one example. A similar case could be made for the terms "reasonable and appropriate force" and "maintaining school discipline." Advocates for students facing discipline will make much out of these legally ambiguous terms.

Another problem with this bill is the mandatory criminal sanctions for school board members who allow a teacher to be disciplined for actions taken under this bill. As a general matter, the people of the State of Alaska expect "efficient, unflinching leadership" from their governmental officials, including school board members. As long as officials are acting in good faith, the public has a right to expect decisive leadership. This bill would stifle that leadership.

An analogy can be drawn to the qualified tort immunity for public officials acting in their official capacity. The Alaska Supreme Court has declared that the only way the public can expect its officials to fulfill the requirements of their offices is if they have tort immunity for official actions as long as they are

acting in good faith and in a nonmalicious manner. Otherwise, officials will be reasonably afraid to act due to the specter of tort liability for their actions.

HB 253 would take it even a step further. Under this bill, it does not matter whether school officials act in good faith - they will be guilty of criminal misconduct if they allow a teacher to receive adverse personnel action for disciplining a student under this bill. This becomes even more unfortunate given the language interpretations and "judgement calls" required by this bill. Under the bill, teachers may use "reasonable and appropriate force" to maintain "classroom discipline." Should a teacher use force on a student in the name of preserving classroom discipline, and the board later sanction the teacher for this action, the board has exposed itself to criminal liability. If a court later determines that the teacher's action could have been defensible under the bill, the board is guilty - not charged with, but guilty - of committing a crime. This bill could easily result in boards "rubberstamping" teachers' disciplinary decisions, regardless of the egregiousness of the teacher's action.

In conclusion, schools do need support from parents and community members in ensuring effective discipline. However, this bill is not the way to ensure that support.

Cc: House Judiciary Committee  
Representative Fred Dyson  
Anchorage School Board  
Bob Christal, Superintendent, Anchorage School District  
Association of Alaska School Boards

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CS HB 253(HES)

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Education & Early Dev.  
 Title School Disciplinary and Safety Program BRU Teaching & Learning Support  
 Component Special & Supplemental Services  
 Sponsor House HESS Committee  
 Requester House HESS Committee Component No. 166

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

**ANALYSIS:** (Attach a separate page if necessary)

School disciplinary and safety programs are essential for school learning environments conducive to academic success. These programs are currently being implemented to some degree in all of Alaska's schools and school districts. This bill can be implemented within current school and district budgets, therefore the Department does not anticipate increased costs as a result of this bill.

Prepared by: Barbara Thompson, Deputy Director Phone 465-8727  
 Division Teaching and Learning Support Date/Time \_\_\_\_\_  
 Approved by Commissioner Date 1.20.2000  
 Agency \_\_\_\_\_

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**CS FOR HOUSE JOINT RESOLUTION NO. 53(JUD)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES MASEK, Dyson, Harris**

**A RESOLUTION**

1 **Proposing amendments to the Constitution of the State of Alaska relating to use**  
2 **of fish and wildlife and to enhancement of replenishable resources.**

3 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 \* **Section 1.** Article VIII, sec. 4, Constitution of the State of Alaska, is amended to read:  
5 **Section 4. Sustained Yield.** (a) Fish, forests, wildlife, grasslands, and all  
6 other replenishable resources belonging to the State shall be utilized, developed,  
7 **enhanced**, and maintained on the sustained yield principle, subject to preferences  
8 among beneficial uses.

9 \* **Sec. 2.** Article VIII, sec. 4, Constitution of the State of Alaska, is amended by adding  
10 a new subsection to read:

11 (b) Consistent with the sustained yield principle, the harvest of fish and  
12 wildlife may not be diminished solely to provide for nonconsumptive use of fish or  
13 wildlife.

14 \* **Sec. 3.** The amendments proposed by this resolution shall be placed before the voters of  
15 the state at the next general election in conformity with art. XIII, sec. 1, Constitution of the  
16 State of Alaska, and the election laws of the state.



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P.O. Box 22151, Juneau AK 99802 / Ph. 907-463-3366 / Fax 907-463-3312 / [unite@akvoice.org](mailto:unite@akvoice.org)

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## HJR 53 ~ Constitutional Amendment: Wild Food Resources

TO: House Judiciary Committee Members  
FROM: Susan Schrader, Conservation Advocate  
DATE: March 20, 2000

Alaska Conservation Alliance and Alaska Conservation Voters are sister nonprofit organizations dedicated to protecting Alaska's environment through public education and advocacy. Our 40 Alaskan organizations and business members represent over 22,000 registered Alaskan voters. Our members can be found in all user groups of Alaska's fish and wildlife, including subsistence users, recreational hunters, commercial and sport fishermen, wildlife viewers, and photographers. We respect and appreciate the long, rich tradition held by Alaskans, Native and non-Native alike, that surrounds our state's wildlife resources. We also acknowledge that opportunities to use and appreciate our wildlife belong to all Americans and to visitors to our state from other countries.

Alaska Conservation Voters supports fish and wildlife management actions that are based on unbiased scientific studies and that reflect the values of most Alaskans. We are greatly concerned by the continued positions taken by the State Legislature that fail to recognize the legislators' responsibilities under the Alaska constitution and the public trust doctrine to care for our fish and wildlife for the benefit of *all* Alaskans.

We are opposed to HJR 53 for the following reasons:

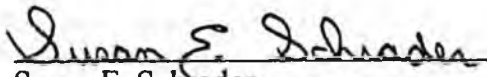
- In Section 1 of the CS of the resolution, the addition of the term "enhanced" appears to be an effort to enshrine the near-sighted principles of intensive game management into the Alaska constitution. Whereas the development of replenishable resources embodies a range of policies that address the long-term benefits of these resources for all user groups, the enhancement of them clearly mandates policies aimed, single-mindedly, at increasing the resources without consideration of other biologic principles. ACV questions whether including both directives, develop and enhance, does not create conflicting mandates.
- Section 2 creates a preferred use for fish and wildlife, and in turn, a preferred user group. Instead of facilitating a constructive public policy debate on the balanced use of our fish and wildlife resources, this language will only result in tremendous problems in its application in management decisions. The potential could exist that, as a result of this language, other groups would be essentially excluded from use of the resource, a situation that may run afoul of the "common use" safeguards of the constitution.

OVER

Conserve Alaska. It's Only Natural.

- If the Alaska Constitution is amended in the manner proposed by HJR 53, the definition of "human consumption" will await the adoption of enabling statutes. How will the definition be framed in respect to subsistence, commercial fishing or urban vs. rural issues? Should Alaskan Natives be concerned with more competition with urban, non-Native hunters for game? Should Alaskan commercial fishermen be concerned that their use of our fish resources "will take a back seat" to human consumption, an opinion expressed by Ted Popely to the House Resources Committee on February 28, 2000?

Clearly recognizing the volatile and divisive nature of issues surrounding fish and wildlife management, the members of Alaska Conservation Voters join with other Alaskans who are calling for balanced, fair and far-sighted policy decisions based upon the best, unbiased scientific data available and reflecting the values and interests of most Alaskans. The amendments to our constitution proposed in HJR 53 will do little to help resolve this difficult public policy debate.

  
Susan E. Schrader

MAR 20 2000

# FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. CSHJR 53(RES)

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Office of the Governor  
 Title Constitutional Amendment: wild food BRU Elective Operations  
resources Component Elections  
 Sponsor Representative Masek  
 Requester House Judiciary Committee Component No. 21

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual	1.5					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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## FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1.5					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>1.5</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2000) cost: 0.0

## POSITIONS

Full-time						
Part-time						
Temporary						

## ANALYSIS: (Attach a separate page if necessary)

This figure includes the cost of providing information about this issue in the Official Election Pamphlet, as required by AS 15.58. However, only six measures can be printed on an 8-1/2 by 14 inch ballot. If this measure requires printing an 8-1/2 by 18 inch ballot, the cost will increase by \$22.0.

Prepared by: Gail Fenuial *Gail Fenuial* Phone 465-3935  
 Division Division of Elections Date/Time 3/17/00 2:02 PM  
 Approved by Lt. Governor Fran Ulmer *Fran Ulmer* Date 03/17/2000  
 Agency Office of the Lieutenant Governor

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Ford

2/7/00

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE KERTTULA

TO: CSHB 253(HES)

- 1 Page 3, line 4, following "AS 14.33.120":
- 2       Insert ", unless the governing body of the school district finds by clear and convincing
- 3 evidence that the enforcement violated the approved school disciplinary and safety program"
  
- 4 Page 3, lines 13 - 16:
- 5       Delete all material.

Janice Adair - most people don't comment  
But for those who do,  
we send out packets

◦ current law bars us from talking  
to people after pub. comment period  
is done. Only way is to open  
period back up. Her concern  
is that adding "non-value" activity  
isn't productive

◦ she sees Lemano amendments  
as contrary to extended pub policy  
period provisions

- not clear who we're required to notice
- cost/benefit analysis - feels this would  
be difficult for Dept.
- tough to know what intent there is when  
things go through conference comm.
- POL reviews all regs - all go through Dept  
Back

---

Kennedy. 1

Kertula → concern that you'd have to reintroduce,  
re-notice etc. even though one change is

made.

→ Forest Practices Act Chris says diff b/c commission  
is told not to adopt w/o pub  
benefit

but standard is the same.

253 ① concern that authority is being transferred from principals to teachers

② How far does this extend? Subs? Volunteers

③ This is responsibility of Good School boards, superintendents, principals

Drug / Alcohol provisions — in the followup portion of discipline — teacher would be able to act & act quickly

86 schools in Anch. Carl

- Policy should come from administration
- problem is what is the appeals process
- when a decision is made
- problem w/ criminalization of school board members
- wants policies adopted in each school district

Repkoff → what are qualifications for school Bd. members.

steps

- investigate
- validate
- take appropriate action

• Rural AK →



Alaska State Legislature

- Interim (May-Dec.) -  
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## REPRESENTATIVE FRED DYSON

### HB 253 Sponsor Statement

**"An Act establishing a school disciplinary and safety program"**

School Teachers must be able to control their classrooms and enforce appropriate student behavior to keep classrooms civil and safe.

HB 253 Requires Schools to:

- Install community agreed-upon student behavior standards,
- Establish disciplinary procedures for students who are unwilling or unable to abide by school behavior standards, and
- Protect teachers against retribution when the teachers use the established disciplinary procedures to enforce the community agreed-upon behavior standards.

Many schools and school districts in Alaska are doing a good job of following the letter and intent of this legislation. However, there are also schools in our state where the school board and/or administration do not enforce behavior and safety standards and do not back up teachers who try. This legislation does not set behavior and safety standards. It merely requires that local standards be identified and established and that teachers be protected for adhering to and enforcing these standards.

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# Statutes referenced in CSHB 253 (HES)

1-LS0599\I

A. Referenced page 2, line 15:

Sec. 14.30.045. Grounds for suspension or denial of admission.

A school age child may be suspended from or denied admission to the public school that the child is otherwise entitled to attend only for the following causes:

(1) continued wilful disobedience or open and persistent defiance of reasonable school authority;

(2) behavior that is inimicable to the welfare, safety, or morals of other pupils or a person employed or volunteering at the school;

(3) a physical or mental condition that in the opinion of a competent medical authority will render the child unable to reasonably benefit from the programs available;

(4) a physical or mental condition that in the opinion of a competent medical authority will cause the attendance of the child to be inimicable to the welfare of other pupils;

(5) conviction of a felony that the governing body of the district determines will cause the attendance of the child to be inimicable to the welfare or education of other pupils.

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B. Referenced page 2, line 17:

Sec. 47.12.310. Agency records.

(a) Except as specified in ..., and (b) - (g) of this section, all information and social records pertaining to a minor... are privileged and may not be disclosed directly or indirectly to anyone without a court order.

(b) A state or municipal agency or employee

(1) shall disclose information regarding a case to a federal, state, or municipal law enforcement agency for a specific investigation being conducted by that agency; and

(2) shall disclose appropriate information regarding a case to

(A) ...

(C) school officials as may be necessary to protect the safety of the minor who is the subject of the case and the safety of school students and staff or to enable the school to provide appropriate counseling and supportive services to meet the needs of a minor about whom information is disclosed;

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C. Referenced page 2, line 20:

Sec. 11.81.430. Justification: Use of force, special relationships.

(a) The use of force upon another person that would otherwise constitute an offense is justified under any of the following circumstances:

(1) When and to the extent reasonably necessary and appropriate to promote the welfare of the child or incompetent person, a parent, guardian, or other person entrusted with the care and supervision of a child under 18 years of age or an incompetent person may use reasonable and appropriate nondeadly force upon that child or incompetent person.

**(2) When and to the extent reasonably necessary and appropriate to maintain order and when the use of force is consistent with the welfare of the students, a teacher may, if authorized by school regulations and the principal of the school, use reasonable and appropriate nondeadly force upon a student. If authorized by school regulations and the principal of the school, a teacher may use nondeadly force under this paragraph in any situation in which the teacher is responsible for the supervision of students. A teacher employed by a school board, including a regional educational attendance area school board, may use nondeadly force under this paragraph only if the school regulations authorizing the use of force have been adopted by the school board.**

## **HB 253: Sectional Analysis**

### **Section 1:**

New Section 14.33.110 describes, in broad terms, the goals and purposes of HB 253.

New Section 14.33.120 requires each school to produce a written school disciplinary and safety program. Schools should have most of the elements of this mandate in place so compliance will simply be a matter of documenting what exists and ensuring that the program reflects community values. Elements of the program are to include:

- 1) Behavior standards representative of the values of the community in which the school resides.
- 2) Policies and procedures for a teacher to follow to remove students who are a threat to safety from the classroom.
- 3) Procedures for notifying teachers of students who may be a threat to safety.
- 4) Policies authorizing a teacher to use appropriate force to maintain classroom discipline.

New Section 14.33.130 makes it a class A misdemeanor to terminate or discipline a teacher who is enforcing an established school disciplinary and safety program. It also requires a teacher, teacher's assistant, principal, or other school official who receives certain information about a student to report it to the student's teacher and to report student criminal activity to the local law enforcement agency.

### **Section 2:**

Gives a deadline for school compliance

### **Section 3:**

Sets an effective date.