

HB

14

SENATE COMMITTEE REPORT

DATE: 4/2/03

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 5/7/03

State Affairs Committee considered HOUSE BILL NO. 14 am

HB 14 PERMANENT FUND ALLOWABLE ABSENCES

"An Act relating to an absence from the state while providing care for a terminally ill family member for purposes of determining eligibility for a permanent fund dividend; and providing for an effective date."

and recommends:

- be replaced with Senate CS 4HB14 (STA)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
 new title

House Bill:

- same title
 technical title
 new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOR	7/16/03		✓	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

23-LS0056D

Cook

5/3/03

SENATE CS FOR HOUSE BILL NO. 14()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES FATE, Gara, Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an absence from the state while providing care for a terminally ill
2 family member for purposes of determining eligibility for a permanent fund dividend;
3 and providing for an effective date."

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

5 * Section 1. AS 43.23.008(a) is amended to read:

6 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
7 is absent from the state during the qualifying year remains eligible for a current year
8 permanent fund dividend if the individual was absent

9 (1) receiving secondary or postsecondary education on a full-time
10 basis;

11 (2) receiving vocational, professional, or other specific education on a
12 full-time basis for which, as determined by the Alaska Commission on Postsecondary
13 Education, a comparable program is not reasonably available in the state;

14 (3) serving on active duty as a member of the armed forces of the

1 United States;

2 (4) serving under foreign or coastal articles of employment aboard an
3 oceangoing vessel of the United States merchant marine;

4 (5) receiving continuous medical treatment recommended by a
5 licensed physician or convalescing as recommended by the physician that treated the
6 illness if the treatment or convalescence is not based on a need for climatic change;

7 (6) providing care for a parent, spouse, sibling, child, or stepchild with
8 a critical life-threatening illness whose treatment plan, as recommended by the
9 attending physician, requires travel outside the state for treatment at a medical
10 specialty complex;

11 (7) providing care for the individual's terminally ill family member
12 [PARENT, SPOUSE, SIBLING, CHILD, OR STEPCHILD];

13 (8) settling the estate of the individual's deceased parent, spouse,
14 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

15 (9) serving as a member of the United States Congress;

16 (10) serving on the staff of a member from this state of the United
17 States Congress;

18 (11) serving as an employee of the state in a field office or other
19 location;

20 (12) accompanying a minor who is absent under (5) of this subsection;

21 (13) accompanying another eligible resident who is absent for a reason
22 permitted under (1) - (3), (5) - (12), or (14) of this subsection as the spouse, minor
23 dependent, or disabled dependent of the eligible resident;

24 (14) for any reason consistent with the individual's intent to remain a
25 state resident, provided the absence or cumulative absences do not exceed

26 (A) 180 days if the individual is not claiming an absence under
27 (1) - (13) of this subsection;

28 (B) 120 days in addition to any absence or cumulative absences
29 claimed under (1) or (2) of this subsection if the individual is not claiming an
30 absence under (3) - (13) of this subsection; or

31 (C) 45 days in addition to any absence or cumulative absences

1 claimed under (1) - (13) of this subsection.

2 * Sec. 2. AS 43.23.008 is amended by adding a new subsection to read:

3 (d) For purposes of (a)(7) of this section, "family member" means a person
4 who is

5 (1) legally related to the individual through marriage or guardianship;

6 or

7 (2) the individual's sibling, parent, grandparent, son, daughter,
8 grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin.

9 * Sec. 3. This Act takes effect January 1, 2004.

Representative
HUGH "BUD" FATE
Chair-Resources Committee
Energy Council
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Alaska State Legislature



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House District 7

House of Representatives Memorandum

To: Senate State Affairs Committee
Fm: Representative Hugh "Bud" Fate
With Attachment
Date: April 30, 2003
Re: Responses to questions posed by the Committee

A handwritten signature in cursive script that reads "Hugh Fate".

Members of the Committee asked several questions regarding HB 14am during Tuesday's committee meeting:

In reference to the definition of Canon Law, *Blacks Law Dictionary, 6th Edition (1990)* defines accordingly:

Canon- A law, rule, or ordinance in general and of the church in particular. An ecclesiastical law of statute. A rule of doctrine or discipline. A criterion or standard of judgement. A body of principals, standards, rules, or norms.

A body of Roman ecclesiastical jurisprudence compiles in the twelfth, thirteenth and fourteenth centuries from the opinions of the ancient Latin fathers, the decrees of General Councils, and the decretal epistles and bulls of the Holy See. The canon law is contained in two principal parts,--- the decrees or ecclesiastical constitutions made by the popes and cardinals; and the decretals or canonical epistles written by the pope, or by the pope and cardinals, at the suit of one or more persons. As the decrees set out the origin of the canon law, and the rights, dignities and decrees of ecclesiastical persons, with their manner of election, ordination, etc., so the decretals contain the law to be used in the ecclesiastical courts.

Ecclesiastical- Pertaining to anything belonging to or set apart for the church, as distinguished from "civil" or "secular", with regard to the world.

It was the intent of the amendment author to use the canon law reference to assure, that family member could not be loosely interpreted by the judiciary as it has in some cases.¹

¹ *Collins v. Northwest Casualty co.*, 180 Wash. 347, 39 P.2d 986, 989 & *Logan v. St. Louis Police Relief Ass'n*, Mo.App., 133 S.W.2d 1048, 1049, 1050

For the purposes of other definitions also using Black's:

Family: *Wills:* As respect to construction of will, the word "family" denotes a group of persons related to each other by marriage or blood living together under a single roof and comprising a household whose head is usually the father or husband, but the word is not one of inflexible meaning and its significance to a large extent depends upon the context and the purpose for which it is employed. For example, the word "family" has been held to include those who have left father's home and have married and established their own homes when context and purpose indicate such significance should be attributed to the word.

Magill v. Magill, 317 Mass. 89, 56 N.E.2d 892, 894, 896

Kindred defers to **Next of Kin:** The term "next of kin" is used with two meanings; (1) nearest blood relations according to law of consanguinity and (2) those entitled to take under statutory distribution of intestate's estates, and term is not necessarily confined to relatives by blood, but may include a relationship existing by reason of marriage, and may well embrace persons, who in the natural sense of word, and in contemplation of Roman law, bear no relation of kinship at all.

Re: Kyle's Autopsy, Okl., 309 p.2d 1070, 1073

Adoption: Legal process pursuant to state statute in which a child's legal rights and duties toward his natural parents are terminated and similar rights and duties toward his adoptive parents are substituted.

Guardianship: A legal arrangement under which one person (a guardian) has the legal right and duty to care for another (the ward) and his or her property. A guardianship is established because of the ward's inability to legally act on his or her own behalf.

As to the question of individual:

The language in existing statute cited on Page 1, Line 6 is clear regarding the term.

(a) Subject to (b) and (c) of this section, an otherwise **eligible individual** who is absent.... (emphasis added)

After a closer review of the two other sections starting on Page 2, Line 7 and Line 13 about a possible change to language:

The original intent of the language was to only deal with terminally ill family members. Therefore, life-threatening illness and settling of the estate was not to be addressed as is indicated in the title.

I spoke with Paul Dick, Chief of PFD Operations regarding the number of people effected by:

1. Existing Language: 140 people filed and received the benefit for the 2002 dividend. Had the language not been in place checks would have increased approximately \$.75.
2. It is somewhat difficult to determine exactly how many people will be added to that number with the passage of HB 14. The best estimate is an additional 300 to the 2002 figure.

Regarding the amendment already submitted to the Committee, the attached memo from Tam Cook of Legislative Legal should resolve those concerns.

Thank you for the opportunity to work with the Committee members regarding HB 14, which will make it easier for Alaskans to take care of a terminally ill family member without being penalized for being responsible to the most important unit in Alaska, the family.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

April 30, 2003

SUBJECT: Eligibility for permanent fund dividend (HB 14am)

TO: Representative Hugh Fate
Attn: Jim Pound

FROM: Tamara Brandt Cook
Director *TBC*

The House adopted an amendment to HB 14 permitting a person to be absent from the state to care for a terminally ill family member and defining "family member" in part as follows: "a person legally related to the individual through blood to the second degree of kindred computed under the rules of canon law..." You ask about the meaning of this part of the definition.

There are two methods of determining the degrees of consanguinity, the common law method and the canon law method. Under the canon law method of determining kinship, aunts and uncles, nieces and nephews, and first cousins are considered to be more closely related to an individual than under the common law method. Under the canon law method, the following individuals are within the second degree of kinship: brother and sister, father and mother, grandfather and grandmother, son and daughter, grandson and granddaughter, uncle and aunt, niece and nephew, first cousin. Under the common law method the following relatives would be excluded: uncle and aunt, niece and nephew, and first cousin.

I have attached a chart showing degrees of consanguinity for your reference.

I was present for part of the meeting that Mr. Pound referred to in his memorandum to me and recall that a question came up as to whether paragraphs (6) and (8) of AS 43.23.008(a) should also be amended as is done to paragraph (7) in HB 14am. Be aware that including amendments to paragraphs (6) and (8) would require that the title of the bill as it passed the House be changed in the Senate, thereby triggering the requirement that Uniform Rules prohibiting the second house from changing a title be suspended. (See Uniform Rule 54)

TBC:mdr
03-095.mdr

Enclosure:

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES



Representative Beth Kerttula

Alaska State Legislature, District 3
State Capitol • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax (907) 465-4748
E-mail: Representative_Beth_Kerttula@legis.state.ak.us • <http://www.kerttula.net>

INTEROFFICE MEMORANDUM

TO: Lisa Weissler
FROM: Juli Lucky
SUBJECT: Floor Amendment to HB 14
DATE: April 4, 2003

Lisa,

The amendment your boss offered, my boss explained and the body adopted reads:

(d) For purposes of (a)(7) of this section, "family member" means a person legally related to the individual through blood to the second degree of kindred computed under the rules of canon law, marriage, adoption, or guardianship."

The underlined part is what we put in during discussions in Beth's office. The problem is that this bill would restrict blood relatives to the 2nd degree of kindred and place no restrictions on relatives acquired through marriage, adoption or guardianship. I don't think that was our intent. Tam also thinks that you shouldn't open it up to a guardian's relatives, so she proposed the attached amendment.

The amendment language would read:

(d) For purposes of (a)(7) of this section, "family member" means a person legally related to the individual through guardianship or to the second degree of kindred computed under the rules of canon law through blood, marriage, or adoption."

Do you want to run this by Fat's office?

AMENDMENT

OFFERED IN THE SENATE

TO: HB 14 am

1 Page 3, line 4:

2 Delete "blood"

3 Insert "guardianship or,"

4

5 Page 3, line 5:

6 Delete "marriage, adoption, or guardianship"

7 Insert "through blood, marriage, or adoption"

AMENDMENT #2

OFFERED IN THE SENATE

TO: HB 14 am

*talk to
James
Crespo*

- 1 Page 3, line 4:
- 2 Delete "blood"
- 3 Insert "guardianship or,"
- 4
- 5 Page 3, line 5:
- 6 Delete "marriage, adoption, or guardianship"
- 7 Insert "through blood, marriage, or adoption"

ALASKA STATE LEGISLATURE

House of Representatives

Representative Hugh (Bud) Fate

State Capitol, Room 128
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Co-Chair Resources
Member:
Military & Veterans Affairs
Oil & Gas
Transportation

Sponsor Statement

House Bill 14

“An Act relating to an absence from the state while providing care for a terminally ill grandparent for purposes of determining eligibility for a permanent fund dividend; and providing for an effective date.”

House Bill 14 makes changes to existing statute and defines the legal definition of family. Once passed into law, the Permanent Fund Division of the Department of Revenue will be able to clearly consider the family through first cousins for the purpose of granting this exemption.

By changing the language, a family member will be able to provide care for a terminally ill family member in their final days without being penalized by the state. This expansion of existing language defines a legal family member as related through blood to the second degree, under the rules of canon law, marriage, adoption, or guardianship.

This addition to existing language will show Alaskans that we do believe the family is more than one or two generations. The family is still the strongest single unit that makes this state great, and we as legislators need to acknowledge that by passing House Bill 14.

HOUSE BILL NO. 14 am
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES FATE, Gara, Lynn

Amended: 3/31/03
Introduced: 1/21/03

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to an absence from the state while providing care for a terminally ill
2 family member for purposes of determining eligibility for a permanent fund dividend;
3 and providing for an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 43.23.008(a) is amended to read:

6 (a) Subject to (b) and (c) of this section, an otherwise eligible individual who
7 is absent from the state during the qualifying year remains eligible for a current year
8 permanent fund dividend if the individual was absent

9 (1) receiving secondary or postsecondary education on a full-time
10 basis;

11 (2) receiving vocational, professional, or other specific education on a
12 full-time basis for which, as determined by the Alaska Commission on Postsecondary
13 Education, a comparable program is not reasonably available in the state;

14 (3) serving on active duty as a member of the armed forces of the

1 United States;

2 (4) serving under foreign or coastal articles of employment aboard an
3 oceangoing vessel of the United States merchant marine;

4 (5) receiving continuous medical treatment recommended by a
5 licensed physician or convalescing as recommended by the physician that treated the
6 illness if the treatment or convalescence is not based on a need for climatic change;

7 (6) providing care for a parent, spouse, sibling, child, or stepchild with
8 a critical life-threatening illness whose treatment plan, as recommended by the
9 attending physician, requires travel outside the state for treatment at a medical
10 specialty complex;

11 (7) providing care for the individual's terminally ill family member
12 [PARENT, SPOUSE, SIBLING, CHILD, OR STEPCHILD];

13 (8) settling the estate of the individual's deceased parent, spouse,
14 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;

15 (9) serving as a member of the United States Congress;

16 (10) serving on the staff of a member from this state of the United
17 States Congress;

18 (11) serving as an employee of the state in a field office or other
19 location;

20 (12) accompanying a minor who is absent under (5) of this subsection;

21 (13) accompanying another eligible resident who is absent for a reason
22 permitted under (1) - (3), (5) - (12), or (14) of this subsection as the spouse, minor
23 dependent, or disabled dependent of the eligible resident;

24 (14) for any reason consistent with the individual's intent to remain a
25 state resident, provided the absence or cumulative absences do not exceed

26 (A) 180 days if the individual is not claiming an absence under
27 (1) - (13) of this subsection;

28 (B) 120 days in addition to any absence or cumulative absences
29 claimed under (1) or (2) of this subsection if the individual is not claiming an
30 absence under (3) - (13) of this subsection; or

31 (C) 45 days in addition to any absence or cumulative absences

1 claimed under (1) - (13) of this subsection.

2 * **Sec. 2.** AS 43.23.008 is amended by adding a new subsection to read:

3 (d) For purposes of (a)(7) of this section, "family member" means a person
4 legally related to the individual through blood to the second degree of kindred
5 computed under the rules of canon law, marriage, adoption, or guardianship.

6 * **Sec. 3.** This Act takes effect January 1, 2004.

HOUSE BILL NO. 14

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES FATE, Gara

Introduced: 1/21/03

Referred: State Affairs, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an absence from the state while providing care for a terminally ill
2 grandparent for purposes of determining eligibility for a permanent fund dividend; and
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10 basis;

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12 full-time basis for which, as determined by the Alaska Commission on Postsecondary
13 Education, a comparable program is not reasonably available in the state;

14 (3) serving on active duty as a member of the armed forces of the

- 1 United States;
- 2 (4) serving under foreign or coastal articles of employment aboard an
3 oceangoing vessel of the United States merchant marine;
- 4 (5) receiving continuous medical treatment recommended by a
5 licensed physician or convalescing as recommended by the physician that treated the
6 illness if the treatment or convalescence is not based on a need for climatic change;
- 7 (6) providing care for a parent, spouse, sibling, child, or stepchild with
8 a critical life-threatening illness whose treatment plan, as recommended by the
9 attending physician, requires travel outside the state for treatment at a medical
10 specialty complex;
- 11 (7) providing care for the individual's terminally ill parent, spouse,
12 sibling, child, [OR] stepchild, or grandparent;
- 13 (8) settling the estate of the individual's deceased parent, spouse,
14 sibling, child, or stepchild, provided the absence does not exceed 220 cumulative days;
- 15 (9) serving as a member of the United States Congress;
- 16 (10) serving on the staff of a member from this state of the United
17 States Congress;
- 18 (11) serving as an employee of the state in a field office or other
19 location;
- 20 (12) accompanying a minor who is absent under (5) of this subsection;
- 21 (13) accompanying another eligible resident who is absent for a reason
22 permitted under (1) - (3), (5) - (12), or (14) of this subsection as the spouse, minor
23 dependent, or disabled dependent of the eligible resident;
- 24 (14) for any reason consistent with the individual's intent to remain a
25 state resident, provided the absence or cumulative absences do not exceed
- 26 (A) 180 days if the individual is not claiming an absence under
27 (1) - (13) of this subsection;
- 28 (B) 120 days in addition to any absence or cumulative absences
29 claimed under (1) or (2) of this subsection if the individual is not claiming an
30 absence under (3) - (13) of this subsection; or
- 31 (C) 45 days in addition to any absence or cumulative absences

1 claimed under (1) - (13) of this subsection.

2 * Sec. 2. This Act takes effect January 1, 2004.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: HB 14
 (H) Publish Date: 2/19/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Revenue
 Title Permanent Fund Allowable Absences BRU Revenue Operations
 Component Permanent Fund Dividend
 Sponsor Representative Fate
 Requester House State Affairs Committee Component No. 981

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This legislation would amend AS 43.23.008(a)(7) to add "providing care for the individual's terminally ill ... grandparent" to the list of allowable absences from the state while retaining eligibility for the annual Alaska Permanent Fund dividend. The statute currently lists care for a terminally ill parent, spouse, sibling, child or stepchild as an allowable absence.

The Permanent Fund Dividend Division generally accepts a doctor's statement in determining if the relative is terminally ill and does not substitute its judgment for that of a health care professional.

The addition of one more allowable absence to the dividend program will not impact the budget of the division, nor is it expected to have a measurable effect on the amount of the annual dividend.

Prepared by: Larry Persily, Deputy Commissioner Phone 465-5469
 Division Department of Revenue Date/Time 2/16/03 12:37 PM
 Approved by: Larry Persily, Deputy Commissioner Date 2/16/2003
 Agency Department of Revenue

MAY 09 2003



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the SSA
 Committee on HB 14 - Permanent Fund ADSD Dated May 6, 2003
 Bill / Subject

After hearing repeated "horor" stories about "Alaskan residents" bragging about how they are beating the permanent fund residency system, I am convinced that allowing ^{annual} six months absences from Alaska is way too long!

Maybe allowing an occasional absence would be reasonable, but the persons would have to return and Reside in Alaska before they get any more checks ^(or unio benefits) only to be mailed to Alaskan addresses.

I/we feel this restriction should positively include transferred military people. Anyone can express the "intention" to return and never actually do so, but continue to reside outside full time by figuring out the loop holes in your program.

Too many recipients live (in nice homes elsewhere) outside of Alaska more than the six months of many years.

SIGNED: Lanette & Glen Hummer
 Testifier
ourselves
 Representing
3740 Davis Road Fairbanks, AK
 Address / Phone Number