

HB

363

<TARGET><BILL>HB 363</BILL><SUBJECT>HB
363</SUBJECT><COMM>HHSS27</COMM></TARGET>

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
Phone (907) 373-1842
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Session:

State Capitol Building
Juneau, Alaska 99801-1182
Phone: (907) 465-2186
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**REPRESENTATIVE WES KELLER
DISTRICT 14
SPONSOR STATEMENT
HB 363**

“An Act prohibiting the use of public funds for abortions.”

Many Alaskans feel that the taking of any life is wrong. At the same time, however, we in fact use tax dollars to pay for the termination of life for an unborn child with no legal consequences. Abortion is far more than a form of birth control. In some limited cases it is a necessary procedure to save the adult. House Bill 363 ends the state’s use of public money for abortions unless there is a medical emergency, rape, incest or other illegal incident.

For years the Alaska legislature has inserted appropriation language in the operating budget bill that forbids the expenditure of state funds for abortions. The Department ignores this intent language citing that the services must be provided. When we cut the funding from the budget, they cut funding somewhere else and transfer it to the division. This has to stop.

HB 363 will generate a negative fiscal note because it cuts approximately \$ 750,000 from the budget. Funding will remain for those procedures necessary to save the mother and for other very extenuating circumstances.

Your support of HB363 says the time has come for the legislature to make a stand. HB 363 does not outlaw abortions, it simply stops state funding for much of it.

E-Mail: [Representative Wes Keller@legis.state.ak.us](mailto:Representative_Wes_Keller@legis.state.ak.us)
Call Juneau Toll free: (800) 468-2186
Website: www.akrepublicans.org/keller/

HOUSE BILL NO. 363

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Introduced: 3/12/12

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act prohibiting the use of public funds for abortion."**

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

3 * **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
4 to read:

5 SHORT TITLE. This Act may be known as the Abortion Subsidy Prohibition Act.

6 * **Sec. 2.** AS 18.16 is amended by adding a new section to read:

7 **Article 2. Prohibition on Using Public Funds or Facilities for Abortions.**

8 **Sec. 18.16.200. Comprehensive prohibition on the use of public funds and**

9 **public facilities for abortion.** (a) Notwithstanding another provision of law, public
10 funds made available to an institution, board, commission, department, agency,
11 official, or employee of the state or a local political subdivision of the state, whether
12 the funds are made available by the United States government, the state, or a political
13 subdivision of the state, or from another public entity, including money paid by a
14 university student as part of the tuition or fees paid to the University of Alaska, may
15 not be used to assist in or provide facilities for an abortion or for training to perform

1 an abortion.

2 (b) A person employed by the state or an agency or political subdivision of the
3 state may not, within the scope of the person's state employment, perform or assist in
4 an abortion.

5 (c) A fund or committee authorized by law for the special protection of
6 women or children may not use or distribute public funds for the payment for
7 abortions, abortion referrals, abortion counseling, or another abortion-related service.

8 (d) An organization that receives funds authorized or appropriated by the state
9 may not use those funds to perform or promote abortions, provide counseling in favor
10 of abortion, or to make referrals for abortions.

11 (e) A public institution, public facility, public equipment, or other physical
12 asset owned, leased, or controlled by the state or any agency or political subdivision of
13 the state may not be used for the purpose of performing or assisting an abortion.

14 (f) The state may not lease, sell, or allow to be sublet to a physician or health
15 facility a public institution, facility, or other property for use in the provision,
16 inducement, or performance of abortions.

17 (g) The limitations in (a) - (f) of this section do not apply to an abortion
18 performed when

19 (1) the life of the mother is endangered by a physical disorder, physical
20 illness, or physical injury;

21 (2) the life of the mother is endangered by a physical condition caused
22 by or arising from the pregnancy itself; or

23 (3) the pregnancy is the result of an act of rape or incest.

24 (h) Nothing in this section shall be construed as creating or recognizing a right
25 to abortion or a right to federal or state funds for family planning services.

26 (i) In this section, "public facility" means a capital improvement owned,
27 operated, or occupied by the state, a public corporation of the state, the University of
28 Alaska, a political subdivision of the state, or a regional educational attendance area.

29 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application

1 of it to any person or circumstance, is held invalid, the remainder of this Act and the
2 application to other persons or circumstances are not affected.

3 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
4 read:

5 REVISOR'S INSTRUCTION. The revisor of statutes is requested to renumber
6 AS 18.16.090 as AS 18.16.500.

27-LS1441\M
Mischel
3/12/12

CS FOR HOUSE BILL NO. 363()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SEVENTH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

A BILL

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7 **Article 2. Prohibition on Using Public Funds or Facilities for Abortions.**

8 **Sec. 18.16.200. Comprehensive prohibition on the use of public funds and**
9 **public facilities for abortion.** (a) Notwithstanding another provision of law and
10 except as provided in (g) of this section, public funds made available to an institution,
11 board, commission, department, agency, official, or employee of the state or a political
12 subdivision of the state, whether the funds are made available by the United States
13 government, the state, or a political subdivision of the state, or from another public
14 entity, including money paid by a university student as part of the tuition or fees paid
15 to the University of Alaska, may not be used to assist in or provide facilities for an

1 abortion or for training to perform an abortion.

2 (b) A person employed by the state or an agency or political subdivision of the
3 state may not, within the scope of the person's state employment, perform or assist in
4 performing an elective abortion.

5 (c) A fund or committee authorized by law for the special protection of
6 women or children may not use or distribute public funds for the payment of elective
7 abortions, abortion referrals, abortion counseling, or another abortion-related service.

8 (d) An organization that receives funds authorized or appropriated by the state
9 may not use those funds to perform or promote elective abortions, to provide
10 counseling in favor of abortion, or to make referrals for abortions.

11 (e) A public institution, public facility, public equipment, or other physical
12 asset owned, leased, or controlled by the state or any agency or political subdivision of
13 the state may not be used for the purpose of performing or assisting in performing an
14 elective abortion.

15 (f) The state may not lease, sell, or allow to be sublet to a physician or health
16 facility a public institution, facility, or other property for use in the provision,
17 inducement, or performance of elective abortions.

18 (g) The limitations in (a) - (f) of this section do not apply to an abortion
19 performed

20 (1) when the abortion is medically necessary, as determined by a
21 licensed physician in the state; or

22 (2) when the pregnancy is the result of an act of rape or incest.

23 (h) Nothing in this section shall be construed as creating or recognizing a right
24 to abortion or a right to federal or state funds for family planning services.

25 (i) In this section,

26 (1) "elective abortion" means an abortion that is not medically
27 necessary or that is performed or requested for the sole purpose of accommodating a
28 pregnant woman's mental or psychological health, financial status, or current or future
29 education or employment opportunities;

30 (2) "medically necessary" means that a physician has formed an
31 objective and reasonable clinical judgment that an abortion is required to avoid a

1 threat of serious risk to the life or of a substantial and irreversible impairment of a
2 major bodily function caused by the continuation of a pregnancy; in this paragraph,
3 "impairment of a major bodily function" means a physiologic condition that is
4 aggravated by pregnancy and includes diabetes, kidney failure, blindness,
5 preeclampsia, eclampsia, convulsions, renal disease, sickle cell anemia, pneumonia,
6 congestive heart failure, embolism, epilepsy, bipolar disorder that requires medication,
7 and other similar conditions;

8 (3) "public facility" means a capital improvement owned, operated, or
9 occupied by the state, a public corporation of the state, the University of Alaska, a
10 political subdivision of the state, or a regional educational attendance area.

11 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 SEVERABILITY. Under AS 01.10.030, if any provision of this Act, or the application
14 of it to any person or circumstance, is held invalid, the remainder of this Act and the
15 application to other persons or circumstances are not affected.

16 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
17 read:

18 REVISOR'S INSTRUCTION. The revisor of statutes is requested to renumber
19 AS 18.16.090 as AS 18.16.500.

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

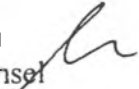
State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

March 15, 2012

SUBJECT: Sectional summary (CSHB 363())
(Work Order No. 27-LS1441\M)

TO: Representative Wes Keller
Chair of the House Health and Social Services Committee
Attn: Jim Pound

FROM: Jean M. Mischel 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides a short title for the bill.

Section 2. Adds a new article to title 18 that establishes a "comprehensive prohibition" on the use of public funds and facilities for some abortions as described in the section. Includes definitions of "elective abortion," "medically necessary," and "public facility" for purposes of the section.

Section 3. Provides for severability of any provision of the Act if held invalid.

Section 4. Instructs the Revisor of Statutes to renumber AS 18.16.090 to accommodate the article added by sec. 2 of the bill.

JMM:plm
12-166.plm

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

March 9, 2012

SUBJECT: Prohibition on the use of public funds for abortion
(Work Order No. 27-LS1441\A)

TO: Representative Wes Keller
Chair of the House Health and Social Services Committee
Attn: Ernest Prax

FROM: Lisa Moritz Kirsch *Pam Jolly for LMK*
Legislative Counsel

In Jean Mischel's absence, I have drafted the abortion bill you requested. It prohibits the use of any public funds for abortion except in the very limited circumstances required by federal law.¹ The issue of state funding for abortion has been litigated in Alaska, and the Alaska Supreme Court held that under the Alaska Constitution it was a violation of equal protection to fund pregnancy services for women who carried to term through the Medicaid program while refusing to provide funding for medically necessary abortion.² "Medically necessary" services under Alaska's Medicaid program include those necessary to protect the health of the woman, not only those necessary to save her life.³

The model law you sent to us had a provision that would give legislators the right to intervene in a lawsuit that challenges the Act. I did not include this provision. First, it provided a right to intervene for the sponsor or co-sponsor while in this case the sponsor is a committee. Second, a provision like this that allows an individual legislator to intervene as a matter of right appears to conflict with the court rule controlling intervention. The court rule that controls intervention, Civil Rule 24, would not prevent a legislator who had standing from intervening, but if the legislature wants to allow

¹ These are pregnancy resulting from rape or incest or pregnancy that threatens the life of the pregnant woman. This is known as the "Hyde amendment," Pub.L. No. 106-554, §§ 508-509, 114 Stat. 2763 (2000).

² *Planned Parenthood v. Perdue*, 28 P.3d 904 (Alaska 2001).

³ This term is not expressly defined in law. Within certain guidelines, a doctor ordinarily makes the determination of what is medically necessary for a particular Medicaid patient.

Representative Wes Keller

March 9, 2012

Page 2

intervention as a matter of right it would have to amend the court rule. As you know, court rule changes require a two-thirds vote.⁴

I did include the section titled "construction," although I have doubts about its effect and enforceability. If this provision is intended to control a court's interpretation of the statute or the constitution, it may run afoul of the separation of powers doctrine. The courts have independent authority to determine the meaning of law and the constitution.

Finally, I used the definition for "abortion" already existing in statute. However, it is slightly different; for example, it does not exclude abortion to terminate an ectopic pregnancy. I modified the definition of public facility to match our statutory language and to eliminate references to private facilities according to your request. You may want to review the definitions to ensure they are consistent with your intent.

Due to the short time for drafting and the fact that I am drafting outside my usual drafting subjects, I apologize in advance for the fact that this draft may be a bit rough.

LMK:ljw
12-192.ljw

Enclosure

⁴ Constitution of the State of Alaska, art. IV, sec. 15.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

*OFFICE OF THE COMMISSIONER
FINANCE AND MANAGEMENT SERVICES*

SEAN PARNELL, GOVERNOR

P O Box 110601
Juneau, AK 99811-0601
Phone: (907) 465-1630
Fax: (907) 465-2499

February 29, 2012

The Honorable Wes Keller
State Capitol, Room 432
Juneau, AK 99801-1182

Dear Representative Keller:

On February 20, 2012, the Department of Health and Social received the following questions from you, shown in bold italicized font, regarding Senate Bill 144. The Department's responses follow the questions below.

- ***How many abortions were paid for by the State of Alaska with federal or state dollars? What was the total amount? How many abortions were paid for with general funds because the procedures did not qualify under the Hyde Amendment for payment with federal dollars? What was the total dollar amount?***

The State paid \$546.0 general fund, for abortions or abortion-related Medicaid services incurred in calendar year 2011; this involved 901 individuals. This does not indicate that 901 abortions were performed involving this funding, but rather denotes the number of individuals receiving abortions or other abortion related services.

- ***How many prescriptions for the morning after pill were paid for by federal dollars and how many prescriptions were paid for with general funds? What were the total amounts?***

During calendar year 2011 there were 495 claims for a total of \$21.2 for emergency contraception. All of the claims are processed with all other Medicaid claims. We would estimate at a minimum that these claims would be paid at the 50% FMAP rate, \$10.6 general fund and \$10.6 federal.

- ***Are any miscarriages paid for under the category of spontaneous abortions, and if so, how many and what funds were used for payment?***

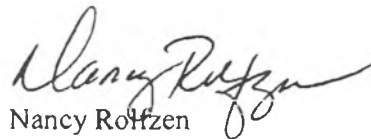
In calendar year 2011 there were 512 recipients that received services under the diagnosis codes categorized as miscarriages/spontaneous abortion at a total cost of \$697.9 (\$253.8 GF; \$441.1 federal).

- *Also, in 2002 the legislature enacted reporting requirements on the department for abortions in CSHB 160(JUD). Finding the statistics collected from this reporting requirement is near to impossible and I would like to see information more accessible on the Health and Social Services website.*

The Bureau of Vital Statistics reports that a total of 1,627 induced terminations were reported in Alaska in calendar year 2011, with Alaska residents accounting for 97.9 percent of the induced terminations that occurred in Alaska. This is a decrease of 5.1 percent from the 1,715 induced terminations reported in calendar year 2010. The Department will look into making these statistics more accessible on the Health and Social Services website.

If you have additional questions regarding this issue, please contact me at 465-1630.

Sincerely,



Nancy Rolfzen
Assistant Commissioner

cc: Amanda Ryder, Fiscal Analyst, Legislative Finance
Sarah Brinkley, Budget Analyst, Office of Management and Budget
William J. Streur, Commissioner
Ree Sailors, Deputy Commissioner
Kimberli Poppe-Smart, Deputy Commissioner
Ward Hurlburt, MD, Director and Chief Medical Officer, Division of Public Health
Laura Baker, Deputy Commissioner, Finance and Management Services
Wilda Laughlin, Legislative Liaison
Dirk Anderson, Budget Manager

AMENDMENT

OFFERED IN THE HOUSE

TO: HB 284

1 Page 15, line 21:

2 Delete "108,069,200"

3 Insert "107,421,380"

4 Delete "61,821,200"

5 Insert "61,173,380"

6

7 Page 15, line 25:

8 Delete "10,701,500"

9 Insert "10,053,680"

10

11 Page 15, following line 25:

12 Insert new material to read:

13 "No money appropriated for public health and allocated to women, children, and
14 family health may be expended for an abortion that is not a mandatory service required under
15 AS 47.07.030(a). The money appropriated for Health and Social Services may be expended
16 only for mandatory services required under Title XIX of the Social Security Act and for
17 optional services offered by the state under the state plan for medical assistance that has been
18 approved by the United States Department of Health and Human Services."

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11 Page 15, following line 25:

12 Insert new material to read:

13 "No money appropriated for public health and allocated to women, children, and
14 family health may be expended for an abortion that is not a mandatory service required under
15 AS 47.07.030(a). The money appropriated for Health and Social Services may be expended
16 only for mandatory services required under Title XIX of the Social Security Act and for
17 optional services offered by the state under the state plan for medical assistance that has been
18 approved by the United States Department of Health and Human Services. This statement is a
19 statement of the purpose of the appropriation and is neither merely descriptive language nor a
20 statement of legislative intent."

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version HB363
Fiscal Note Number _____
() Publish Date _____

Identifier (file name) HB363-DHSS-WCFH-3-22-12 Dept. Affected Health and Social Services
Title No Public Funds / Facilities for Abortion Appropriation Public Health
Allocation Women, Children and Family Health
Sponsor Health & Social Services
Requester House Health & Social Services Committee OMB Component Number 2788

Expenditures/Revenues (Thousands of Dollars)

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

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
OPERATING EXPENDITURES								
Personal Services	(153.7)		(153.7)	(153.7)	(153.7)	(153.7)	(153.7)	(153.7)
Travel	(12.0)		(12.0)	(12.0)	(12.0)	(12.0)	(12.0)	(12.0)
Services	(205.4)		(205.4)	(205.4)	(205.4)	(205.4)	(205.4)	(205.4)
Commodities	(5.0)		(5.0)	(5.0)	(5.0)	(5.0)	(5.0)	(5.0)
Capital Outlay								
Grants, Benefits	(184.7)		(184.7)	(184.7)	(184.7)	(184.7)	(184.7)	(184.7)
Miscellaneous								
TOTAL OPERATING	(560.8)	0.0	(560.8)	(560.8)	(560.8)	(560.8)	(560.8)	(560.8)

FUND SOURCE		(Thousands of Dollars)						
1002	Federal Receipts	(560.8)		(560.8)	(560.8)	(560.8)	(560.8)	(560.8)
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
TOTAL		(560.8)	0.0	(560.8)	(560.8)	(560.8)	(560.8)	(560.8)

POSITIONS							
Full-time							
Part-time							
Temporary							

CHANGE IN REVENUES							

Estimated SUPPLEMENTAL (FY12) operating costs _____ (separate supplemental appropriation required;
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY13) costs _____ (separate capital appropriation required;
(discuss reasons and fund source(s) in analysis section)

Why this fiscal note differs from previous version (if initial version, please note as such)

Initial version. Not applicable.

Prepared by Ward B. Hurlburt, M.D., MPH / Chief Medical Officer-Director
Division Public Health
Approved by Nancy Rolfzen, Assistant Commissioner
DHSS Finance & Management Services

Phone 269-6680
Date/Time 3/22/12 8:00 AM
Date 3/22/2012

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. HB363

Analysis

This bill creates a comprehensive prohibition on the use of public funds and public facilities for abortions. Public funds made available to an institution, board, commission, department, agency, official, or employee of the state or local political subdivision, including federal funds and student tuition at University of Alaska, cannot be used to assist, provide facilities for, or train to perform an abortion.

If the language of the bill was interpreted broadly, it could prevent the Department (Division of Public Health) from accepting federal Title X Family Planning funds. Although the federal Title X program strictly prohibits the use of these funds for abortion services, federal statute requires that health care providers employed in Title X funded agencies "offer pregnant women the opportunity to be provided information and counseling regarding each of the following options: (A) Prenatal care and delivery; (B) Infant care, foster care, or adoption; and (C) Pregnancy termination. If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling." (42 CFR 59.5, Section 5).

The current Title X grant award is \$560,770. Three sites receive funds through the Department: Mat-Su Public Health Center (in the Division of Public Health), Katchemak Bay Family Planning Clinic, and Interior Community Health Center. In 2011, these three agencies combined provided Title X services to a total of 3,500 women and men.

State of Alaska

Induced Termination
of Pregnancy Statistics
2011

Alaska Department of Health
and Social Services
Bureau of Vital Statistics

February 2012





Alaska Induced Termination of Pregnancy Statistics 2011

**Sean Parnell
Governor
State of Alaska**

**William J. Streur
Commissioner
Department of Health and Social Services**

**Ward Hurlburt, M.D., MPH
Chief Medical Officer, Director
Division of Public Health**

**Phillip Mitchell, MS
Section Chief
Bureau of Vital Statistics**

Prepared by the Research Unit of the Bureau of Vital Statistics



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Introduction

Alaska Induced Termination of Pregnancy Statistics, 2011, published by the Bureau of Vital Statistics of the Alaska Department of Health and Social Services, contains information about induced terminations that occurred in Alaska during calendar year 2011.

Why is induced termination reporting important? Induced termination data can be used to:

- Monitor trends in the number, rate, and ratio of induced terminations.
- Assess changes in the types of procedures used to end a pregnancy and the gestational age (in weeks) when induced terminations are performed.
- Calculate pregnancy rates.
- Identify the characteristics of women who may be at risk for unintended pregnancy.
- Evaluate the effectiveness of family planning programs and programs to prevent unintended pregnancy.

Unintended pregnancy refers to pregnancies that are unwanted or when the mother wanted to be pregnant at a later date. In Alaska, 40.6 percent of all pregnancies that resulted in a live birth were unintended during 2010¹. In the U.S., it is estimated that 49 percent of pregnancies are unintended with about half of these pregnancies ended by an induced termination². Thus reducing the number of unintended pregnancies would likely reduce the number of induced terminations.

Alaska has followed the recent national trend in birth rates. From 2001 to 2010, the fertility rate in Alaska has increased 12.7 percent, while the teen birth rate declined 8.9 percent. However, birth rates are based only on the number of live births and may change as a result of the rate at which women become pregnant, the rate at which pregnancies are ended in an induced termination, or a combination of both. Induced termination reporting can provide a better understanding of which factors are driving the birth rate in Alaska.

¹ Alaska Pregnancy Risk Assessment Monitoring System (PRAMS), Department of Health and Social Services, Division of Public Health, 2010 data.

² Henshaw SK, Unintended Pregnancy in the United States, *Family Planning Perspectives*, 1998, 30(1):24–29 & 46.

Reporting Issues

The information in this report is based on induced termination of pregnancy reports received by the Bureau of Vital Statistics as of February 1, 2012. A copy of the form used to report induced termination of pregnancies is located in Appendix B. Definitions of the terms used in this report are located in Appendix A. In this report, the term induced termination of pregnancy is used synonymously with induced termination.

In Alaska, reports of induced terminations of pregnancy are mandated by AS 18.50.245. Hospitals, clinics, or other institutions where an induced termination is performed are required to submit a report to the Bureau. The report cannot contain the name of the patient, but must contain information similar to the United States Standard Report of Induced Termination of Pregnancy, as published by the National Center for Health Statistics. Reports of induced terminations are strictly confidential and must be destroyed after preparing the annual report.

Alaska Statutes also require that any reports produced from induced termination of pregnancy forms may only be presented in aggregate form so that specific individuals may not be identified. Furthermore, the report may not identify or provide information that can be used to identify the name of the physician who performed the induced termination, the name of the facility where the induced termination occurred, or the name of the municipality or community in which the induced termination occurred. Because of the reporting guidelines outlined in state statutes, induced termination statistics by borough or census area are not available for publication.

This report contains information on induced terminations that occurred in Alaska. In the past several years over 200 Alaska women on average obtained induced terminations out of state. For example, 186 Alaska women obtained induced terminations in Washington State during 2009³. It is unknown how many Alaska women obtained induced terminations in states other than Washington. Since the out of state occurrence data is incomplete, it is not included in this report.

Pregnancy rates are based on the total number of live births, induced terminations, and fetal deaths per 1,000 women of childbearing age. Currently, population estimates for 2011 are unavailable, so pregnancy rates cannot be calculated. Additionally, as birth data for 2011 is preliminary, pregnancy rates cannot be calculated. The induced termination information for 2011, however, is final. Information on pregnancy rates, induced termination rates, and induced termination ratios is posted on the Bureau's web site; www.vitalrecords.alaska.gov.

In 2005, Alaska law and regulations were amended to change the reporting requirements for induced terminations of pregnancy and to add a section relating to informed consent when conducting induced terminations. The changes to state law requires the Department of Health and Social Services (DHSS) to maintain a web site containing information on fetal development, induced termination, pregnancy, and family planning. The web site also has resources associated with pregnancy-related social and health services in Alaska. The informed consent web site is located at www.hss.state.ak.us/dph/wcfh/informedconsent/default.htm. Second, the Bureau of Vital Statistics is required to monitor whether the unidentified patient requested and received a written copy of the information required to be maintained on the Internet. The regulations took effect midnight August 21, 2005.

³ Center for Health Statistics, Washington State Department of Health. Washington State Pregnancy and Induced Abortion Statistics.

Executive Summary

- A total of 1,627 induced terminations were reported in Alaska in 2011, with Alaska residents accounting for 97.9 percent of the induced terminations that occurred in Alaska. This is a decrease of 5.1 percent from the 1,715 induced terminations reported in 2010.
- In Alaska, 60.6 percent of women who obtained an induced termination in 2011 reported they had no previous induced terminations. 12.7 percent of women reported that they had two or more previous induced terminations.
- Most (52.2 percent) of the women who obtained induced terminations in 2011 were less than 25 years of age. In the most recent year for which national data are available (2008), 49.5 percent of women who obtained an induced termination were less than 25 years of age⁴.
- Young teens (age 15 to 17 years) accounted for 4.9 percent of all induced terminations in Alaska during 2011, an decrease of 24 percent from 2010.
- Teens (age 15 to 19 years) received 16.7 percent of the induced terminations in 2011. In 2008, 16.7 percent of women in the U.S. who obtained an induced termination were 19 or under.
- In Alaska, 77.3 percent (excluding unknown responses) of women who obtained an induced termination in 2011 were unmarried. In the U.S., the most recent information shows 84.3 percent of women who obtained an induced termination were unmarried.
- In 2011, 53.2 percent of women who obtained an induced termination in Alaska reported they had one or more previous live births. Nationally, 59.4 percent of U.S. women who received an induced termination in 2008 reported they had one or more previous live births.
- More than nine of every 10 (92.6 percent) induced terminations in Alaska were performed at 12 weeks or less gestational age. In 2008, 91.4 percent of induced terminations performed in the U.S. involved pregnancies of 13 weeks or less gestational age.
- Suction curettage was the most commonly performed procedure in Alaska at 74.6 percent and Mifepristone (RU-486) was second at 20.2 percent. Curettage (suction curettage, sharp curettage, and dilation and evacuation) procedures were used in 84.6 percent of induced terminations performed in the U.S. during 2008.
- Unmarried, white women age 20 to 29 accounted for about one-fourth (25.5 percent) of all induced terminations performed in Alaska during 2011.
- 15.3 percent of all women who obtained induced terminations in Alaska during 2011 reported that they used their own financial resources as the source of payment; 38.3 percent reported that Medicaid was the source of payment.
- In 2011, nine induced termination reports in Alaska indicated that the pregnancy was terminated due to the detection of a congenital anomaly.
- Most women (78 percent; 82.9 percent excluding unknowns) who undergo an induced termination did not request a copy of the information contained in the informed consent website. However, 18.6 percent (19.8 percent excluding unknowns) did report receiving a copy of the information contained in the informed consent website.

⁴Centers for Disease Control and Prevention. Surveillance Summaries, November 25, 2011. MMWR 2011:60 (No. SS-15).

Table 1a: Numbers of Induced Terminations by Residency of Woman, 2007-2011

Residence State	2011	2010	2009	2008	2007
Alaska	1,593	1,654	1,878	1,739	1,673
Other State	11	11	26	7	0
Not Stated	23	50	34	13	28
Total	1,627	1,715	1,938	1,759	1,701

Table 1b: Percentages of Induced Terminations by Residency of Woman, 2007-2011

Residence State	2011	2010	2009	2008	2007
Alaska	97.9	96.4	96.9	98.9	98.4
Other State	0.7	0.6	1.3	0.4	0.0
Not Stated	1.4	2.9	1.8	0.7	1.6
Total	100	100	100	100	100

Table 2a: Numbers of Induced Terminations by Race of Woman, 2007-2011

Race	2011	2010	2009	2008	2007
Asian/PI	133	140	158	135	143
Black	101	135	128	135	120
Alaska Native	337	382	451	406	423
White	939	946	1,076	995	936
Other/Not Stated	117	112	125	88	79
Total	1,627	1,715	1,938	1,759	1,701

Table 2b: Percentages of Induced Terminations by Race of Woman, 2007-2011

Race	2011	2010	2009	2008	2007
Asian/PI	8.2	8.2	8.2	7.7	8.4
Black	6.2	7.9	6.6	7.7	7.1
Alaska Native	20.7	22.3	23.3	23.1	24.9
White	57.7	55.2	55.5	56.6	55.0
Other/Not Stated	7.2	6.5	6.4	5.0	4.6
Total	100	100	100	100	100

Table 3a: Numbers of Induced Terminations by Age Group of Woman, 2007-2011

Age Group	2011	2010	2009	2008	2007
Under 15	7	2	7	12	7
15-19	272	339	340	340	316
15-17	80	111	118	128	127
18-19	192	228	222	212	189
20-24	561	585	637	583	552
25-29	398	395	486	417	391
30-34	205	221	233	205	218
35-39	132	122	173	140	150
40-44	40	44	49	51	53
45 and over	2	0	3	4	4
Not Stated	10	7	10	7	10
Total	1,627	1,715	1,938	1,759	1,701

Table 3b: Percentages of Induced Terminations by Age Group of Woman, 2007-2011

Age Group	2011	2010	2009	2008	2007
Under 15	0.4	0.1	0.4	0.7	0.4
15-19	16.7	19.8	17.5	19.3	18.6
15-17	4.9	6.5	6.1	7.3	7.5
18-19	11.8	13.3	11.5	12.1	11.1
20-24	34.5	34.1	32.9	33.1	32.5
25-29	24.5	23.0	25.1	23.7	23.0
30-34	12.6	12.9	12.0	11.7	12.8
35-39	8.1	7.1	8.9	8.0	8.8
40-44	2.5	2.6	2.5	2.9	3.1
45 and over	0.1	0	0.2	0.2	0.2
Not Stated	0.6	0.4	0.5	0.4	0.6
Total	100	100	100	100	100

Table 4a: Numbers of Induced Terminations by Education of Woman, 2007-2011

Education	2011	2010	2009	2008	2007
Less than 12 years	258	303	316	322	266
12 years	641	669	793	685	772
13 or more years	647	696	755	660	572
Unknown	81	47	74	92	91
Total	1,627	1,715	1,938	1,759	1,701

Table 4b: Percentages of Induced Terminations by Education of Woman, 2007-2011

Education	2011	2010	2009	2008	2007
Less than 12 years	15.9	17.7	16.3	18.3	15.6
12 years	39.4	39.0	40.9	38.9	45.4
13 or more years	39.8	40.6	39.0	37.5	33.6
Unknown	5.0	2.7	3.8	5.2	5.3
Total	100	100	100	100	100

Table 5a: Numbers of Induced Terminations By Previous Live Birth, 2007-2011

Previous Live Birth	2011	2010	2009	2008	2007
0	738	777	823	806	740
1	402	388	478	416	405
2	243	296	335	297	327
3	122	144	184	143	136
4	48	55	55	47	40
5 or more	51	48	54	41	46
Not Stated	23	7	9	9	7
Total	1,627	1,715	1,938	1,759	1,701

Table 5b: Percentages of Induced Terminations by Previous Live Birth, 2007-2011

Previous Live Birth	2011	2010	2009	2008	2007
0	45.4	45.3	42.5	45.8	43.5
1	24.7	22.6	24.7	23.6	23.8
2	14.9	17.3	17.3	16.9	19.2
3	7.5	8.4	9.5	8.1	8.0
4	3.0	3.2	2.8	2.7	2.4
5 or more	3.1	2.8	2.8	2.3	2.7
Not Stated	1.4	0.4	0.5	0.5	0.4
Total	100	100	100	100	100

Table 6a: Number of Induced Terminations By Previous Induced Terminations, 2007-2011

Previous Induced Termination	2011	2010	2009	2008	2007
0	986	1,094	1,173	1,078	1,003
1	390	367	435	425	402
2	153	143	214	146	183
3	36	52	49	41	56
4	9	29	16	21	18
5 or more	9	12	16	17	14
Not Stated	44	18	35	31	25
Total	1,627	1,715	1,938	1,759	1,701

Table 6b: Percentages of Induced Terminations by Previous Induced Terminations, 07-11

Previous Induced Termination	2011	2010	2009	2008	2007
0	60.6	63.8	60.5	61.3	59.0
1	24.0	21.4	22.4	24.2	23.6
2	9.4	8.3	11.0	8.3	10.8
3	2.2	3.0	2.5	2.3	3.3
4	0.6	1.7	0.8	1.2	1.1
5 or more	0.6	0.7	0.8	1.0	0.8
Not Stated	2.7	1.0	1.8	1.8	1.5
Total	100	100	100	100	100

Table 7a: Number of Induced Terminations By Marital Status of Woman, 2007-2011

Marital Status	2011	2010	2009	2008	2007
Married	320	289	366	319	314
Unmarried	1,257	1,397	1,543	1,408	1,344
Unknown/Not Stated	50	29	29	32	43
Total	1,627	1,715	1,938	1,759	1,701

Table 7b: Percentages of Induced Terminations by Marital Status of Woman, 2007-2011

Marital Status	2011	2010	2009	2008	2007
Married	19.7	16.9	18.9	18.1	18.5
Unmarried	77.3	81.5	79.6	80.0	79.0
Unknown/Not Stated	3.1	1.7	1.5	1.8	2.5
Total	100	100	100	100	100

**Table 8a: Numbers of Induced Terminations
by Weeks of Estimated Gestation, 2007-2011**

Estimated Gestation	2011	2010	2009	2008	2007
1-4	15	22	30	39	26
5-8	976	1,001	1,154	954	912
9-12	515	570	622	623	643
13-16	79	95	112	120	108
17-20	3	0	3	0	1
21-24	1	0	0	0	0
Not Stated	38	27	17	23	11
Total	1,627	1,715	1,938	1,759	1,701

**Table 8b: Percentages of Induced Terminations
by Weeks of Estimated Gestation, 2007-2011**

Estimated Gestation	2011	2010	2009	2008	2007
1-4	0.9	1.3	1.5	2.2	1.5
5-8	60.0	58.4	59.5	54.2	53.6
9-12	31.7	33.2	32.1	35.4	37.8
13-16	4.9	5.5	5.8	6.8	6.3
17-20	0.2	0.0	0.2	0.0	0.1
21-24	0.1	0.0	0.0	0.0	0.0
Not Stated	2.3	1.6	0.9	1.3	0.6
Total	100	100	100	100	100

Table 15: Number of Induced Terminations by Type of Procedure and Weeks of Gestation: Alaska Occurrence, 2011

Type of Procedure	Total	1-4	5-8	9-12	13-16	17-20	21-24	Not Stated
Dilation and Evacuation (D&E)	43	1	15	16	8	2	1	0
Methotrexate	1	0	1	0	0	0	0	0
Mifepristone (RU-486)	328	12	300	11	0	0	0	5
Sharp Curettage	1	0	0	0	1	0	0	0
Suction Curettage	1,214	2	644	484	69	1	0	14
Other	40	0	16	4	1	0	0	19
Total	1,627	15	976	515	79	3	1	38

Table 16: Induced Terminations by Type of Procedure and Percentage by Weeks of Gestation: Alaska Occurrence, 2011

Type of Procedure	Total	1-4	5-8	9-12	13-16	17-20	21-24	Not Stated
Dilation and Evacuation (D&E)	2.6	6.7	1.5	3.1	10.1	66.7	100.0	0.0
Methotrexate	0.1	0.0	0.1	0.0	0.0	0.0	0.0	0.0
Mifepristone (RU-486)	20.2	80.0	30.7	2.1	0.0	0.0	0.0	13.2
Sharp Curettage	0.1	0.0	0.0	0.0	1.3	0.0	0.0	0.0
Suction Curettage	74.6	13.3	66.0	94.0	87.3	33.3	0.0	36.8
Other	2.5	0.0	1.6	0.8	1.3	0.0	0.0	50.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

Table 17: Induced Terminations by Weeks of Gestation and Percentage by Type of Procedure: Alaska Occurrence, 2011

Type of Procedure	Total	1-4	5-8	9-12	13-16	17-20	21-24	Not Stated
Dilation and Evacuation (D&E)	100.0	2.3	34.9	37.2	18.6	4.7	2.3	0.0
Methotrexate	100.0	0.0	100.0	0.0	0.0	0.0	0.0	0.0
Mifepristone (RU-486)	100.0	3.7	91.5	3.4	0.0	0.0	0.0	1.5
Sharp Curettage	100.0	0.0	0.0	0.0	100.0	0.0	0.0	0.0
Suction Curettage	100.0	0.2	53.0	39.9	5.7	0.1	0.0	1.2
Other	100.0	0.0	40.0	10.0	2.5	0.0	0.0	47.5
Total	100.0	0.9	60.0	31.7	4.9	0.2	0.1	2.3

**Table 18: Number of Induced Terminations by Method of Payment and Age:
Alaska Occurrence, 2011**

Payment Type	Total	<15	15-17	18-19	20-24	25-29	30-34	35-39	40-44	45+	Not Stated
Cash	249	0	10	29	87	53	40	18	10	0	2
Insurance	107	0	5	9	31	24	21	9	7	0	1
Medicaid	623	6	44	79	223	163	66	32	8	0	2
Multiple Payment Sources	21	0	0	4	6	2	5	4	0	0	0
Other/Not Stated	627	1	21	71	214	156	73	69	15	2	5
Total	1,627	7	80	192	561	398	205	132	40	2	10

**Table 19: Induced Terminations by Method of Payment and Percentage by Age:
Alaska Occurrence, 2011**

Payment Type	Total	<15	15-17	18-19	20-24	25-29	30-34	35-39	40-44	45+	Not Stated
Cash	15.3	0.0	12.5	15.1	15.5	13.3	19.5	13.6	25.0	0.0	20.0
Insurance	6.6	0.0	6.3	4.7	5.5	6.0	10.2	6.8	17.5	0.0	10.0
Medicaid	38.3	85.7	55.0	41.1	39.8	41.0	32.2	24.2	20.0	0.0	20.0
Multiple Payment Sources	1.3	0.0	0.0	2.1	1.1	0.5	2.4	3.0	0.0	0.0	0.0
Other/Not Stated	38.5	14.3	26.3	37.0	38.1	39.2	35.6	52.3	37.5	100.0	50.0
Total	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

**Table 20: Induced Terminations by Age and Percentage by Method of Payment:
Alaska Occurrence, 2011**

Payment Type	Total	<15	15-17	18-19	20-24	25-29	30-34	35-39	40-44	45+	Not Stated
Cash	100.0	0.0	4.0	11.6	34.9	21.3	16.1	7.2	4.0	0.0	0.8
Insurance	100.0	0.0	4.7	8.4	29.0	22.4	19.6	8.4	6.5	0.0	0.9
Medicaid	100.0	1.0	7.1	12.7	35.8	26.2	10.6	5.1	1.3	0.0	0.3
Multiple Payment Sources	100.0	0.0	0.0	19.0	28.6	9.5	23.8	19.0	0.0	0.0	0.0
Other/Not Stated	100.0	0.2	3.3	11.3	34.1	24.9	11.6	11.0	2.4	0.3	0.8
Total	100.0	0.4	4.9	11.8	34.5	24.5	12.6	8.1	2.5	0.1	0.6

Table 21: Number of Induced Terminations by Method of Payment and Race: Alaska Occurrence, 2011

Payment Type	Total	Alaska Native	Asian/PI	Black	White	Other/Not Stated
Cash	249	17	20	24	177	11
Insurance	107	14	9	3	74	7
Medicaid	623	214	43	46	275	45
Multiple Payment Sources	21	3	1	0	15	2
Other/Not Stated	627	89	60	28	398	52
Total	1,627	337	133	101	939	117

Table 22: Induced Terminations by Method of Payment and Percentage by Race: Alaska Occurrence, 2011

Payment Type	Total	Alaska Native	Asian/PI	Black	White	Other/Not Stated
Cash	15.3	5.0	15.0	23.8	18.8	9.4
Insurance	6.6	4.2	6.8	3.0	7.9	6.0
Medicaid	38.3	63.5	32.3	45.5	29.3	38.5
Multiple Payment Sources	1.3	0.9	0.8	0.0	1.6	1.7
Other/Not Stated	38.5	26.4	45.1	27.7	42.4	44.4
Total	100.0	100.0	100.0	100.0	100.0	100.0

Table 23: Induced Terminations by Race and Percentage by Method of Payment: Alaska Occurrence, 2011

Payment Type	Total	Alaska Native	Asian/PI	Black	White	Other/Not Stated
Cash	100.0	6.8	8.0	9.6	71.1	4.4
Insurance	100.0	13.1	8.4	2.8	69.2	6.5
Medicaid	100.0	34.3	6.9	7.4	44.1	7.2
Multiple Payment Sources	100.0	14.3	4.8	0.0	71.4	9.5
Other/Not Stated	100.0	14.2	9.6	4.5	63.5	8.3
Total	100.0	20.7	8.2	6.2	57.7	7.2

Table 24: Number of Induced Terminations by Method of Payment and Marital Status: Alaska Occurrence, 2011

Payment Type	Total	Married	Unmarried	Unknown/Not Stated
Cash	249	65	180	4
Insurance	107	23	78	6
Medicaid	623	81	522	20
Multiple Payment Sources	21	6	15	0
Other/Not Stated	627	145	462	20
Total	1,627	320	1,257	50

Table 25: Induced Terminations by Method of Payment and Percentage by Marital Status: Alaska Occurrence, 2011

Payment Type	Total	Married	Unmarried	Unknown/Not Stated
Cash	15.3	20.3	14.3	8.0
Insurance	6.6	7.2	6.2	12.0
Medicaid	38.3	25.3	41.5	40.0
Multiple Payment Sources	1.3	1.9	1.2	0.0
Other/Not Stated	38.5	45.3	36.8	40.0
Total	100.0	100.0	100.0	100.0

Table 26: Induced Terminations by Marital Status and Percentage by Method of Payment: Alaska Occurrence, 2011

Payment Type	Total	Married	Unmarried	Unknown/Not Stated
Cash	100.0	26.1	72.3	1.6
Insurance	100.0	21.5	72.9	5.6
Medicaid	100.0	13.0	83.8	3.2
Multiple Payment Sources	100.0	28.6	71.4	0.0
Other/Not Stated	100.0	23.1	73.7	3.2
Total	100.0	19.7	77.3	3.1

Appendix A: Definitions

Gestational Age - The number of weeks between the first day of the last menstrual period and the date of delivery or the end of the pregnancy. This report uses the physician's estimate of gestational age.

Induced Termination of Pregnancy - The purposeful interruption of pregnancy with the intention other than to produce a live-born infant or to remove a dead fetus, and which does not result in a live birth.

Induced Termination Procedures:

Dilation and Evacuation (D&E) - a procedure that is generally used after 12 weeks of gestation and is usually done on an outpatient basis. Dilation and Evacuation may involve a combination of vacuum aspiration, dilation and curettage (D&C), and the use of surgical instruments (such as forceps).

Hysterectomy - a surgical procedure in which the uterus is removed either with the fetus inside or after the fetus has been removed. It is rarely performed in association with an induced termination, and then only when a pathological condition of the uterus (such as fibroid tumors) or an emergency warrants its removal.

Hysterotomy - a surgical procedure that involves surgical entry into the uterus (as in a cesarean section) and the removal of a fetus that is too small to survive, even with extraordinary life support measures. Hysterotomy is rarely performed and then only if other induced termination procedures fail.

Mifepristone (also known as RU-486) - usually used along with a prostaglandin for ending pregnancies of up to 49 days gestation. The administration of mifepristone causes the placenta to detach from the uterine wall. A second drug (misoprostol) is given two days later to induce uterine contractions, expelling the products of conception.

Methotrexate - interferes with the vitamin folic acid and kills rapidly growing cells. It is also used for the nonsurgical treatment of ectopic pregnancies (when fertilized eggs grow outside the uterus). Methotrexate is administered by injection and is followed 5 to 7 days later with misoprostol to stimulate uterine contractions.

Saline/Prostaglandin (Intrauterine Instillation) - rarely used procedures that involve either withdrawing a portion of amniotic fluid from the uterine cavity by a needle inserted through the abdominal wall and replacing this fluid with a concentrated salt solution (known as saline instillation) or injecting a prostaglandin (a substance with hormone-like activity) into the amniotic sac (known as intra-uterine prostaglandin instillation). Both processes induce labor, resulting in the expulsion of the fetus.

Sharp Curettage (Dilation and Curettage, D&C) - requires the dilation (temporary widening) of the cervix (the uterine opening). The fetal and placental tissues are then scraped out with a curette, which resembles a small spoon.

Suction Curettage (Vacuum Aspiration) - a frequently performed procedure that is generally used in the first 12 weeks of gestation (the first trimester). This procedure is done on an outpatient basis and may be done in a physician's office or a clinic.

After the cervix is dilated, a flexible cannula (a small, hollow tube) is inserted into the uterus through the cervix. The tube is attached to a pump, which is used to evacuate the uterine contents through the cannula.

Spontaneous Abortion - The loss of a fetus during pregnancy due to natural causes.

Appendix B: Sample of Induced Termination of Pregnancy Report Form

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
REPORT OF INDUCED TERMINATION OF PREGNANCY

PLEASE TYPE OR PRINT

1) PATIENT'S AGE	2) DATE OF PREGNANCY TERMINATION (MM/DD/YY)		3) CITY WHERE TERMINATION OF PREGNANCY OCCURRED	
4) PATIENT'S ETHNICITY		5) PATIENT'S RACE		6) CITY AND STATE WHERE PATIENT RESIDES
<input type="checkbox"/> NON-HISPANIC <input type="checkbox"/> MEXICAN <input type="checkbox"/> PUERTO RICAN <input type="checkbox"/> CUBAN <input type="checkbox"/> CENTRAL OR SOUTH AMERICAN <input type="checkbox"/> OTHER OR UNKNOWN HISPANIC		<input type="checkbox"/> WHITE <input type="checkbox"/> AFRICAN AMERICAN (BLACK) <input type="checkbox"/> NATIVE ALASKAN OR AMERICAN INDIAN <input type="checkbox"/> ASIAN <input type="checkbox"/> NATIVE HAWAIIAN OR OTHER PACIFIC ISLANDER <input type="checkbox"/> OTHER (SPECIFY) _____		7) MARRIED <input type="checkbox"/> YES <input type="checkbox"/> NO
				8) EDUCATION (SPECIFY THE HIGHEST GRADE COMPLETED)
				ELEMENTARY/SECONDARY (0-12) COLLEGE (1-4 OR 5+)
PREVIOUS PREGNANCIES (COMPLETE EACH SECTION. DO NOT LEAVE BLANK.)				
9) NUMBER OF PREVIOUS LIVE BIRTHS		10) NUMBER OF PREVIOUS SPONTANEOUS ABORTIONS		
9A) NOW LIVING	9B) NOW DEAD	NUMBER _____ <input type="checkbox"/> NONE		
NUMBER _____	NUMBER _____			
<input type="checkbox"/> NONE	<input type="checkbox"/> NONE	11) NUMBER OF PREVIOUS INDUCED TERMINATIONS OF PREGNANCIES (DO NOT INCLUDE THIS TERMINATION)		
		NUMBER _____ <input type="checkbox"/> NONE		
12) PHYSICIAN'S ESTIMATE OF GESTATION		13) DATE LAST NORMAL MENSES BEGAN (MM/DD/YY)	14) METHOD OF PAYMENT	
COMPLETED WEEKS _____		_____ / _____ / _____	<input type="checkbox"/> MEDICAID <input type="checkbox"/> INSURANCE <input type="checkbox"/> OTHER (SPECIFY) _____	
15) PRIMARY PROCEDURE USED TO TERMINATE PREGNANCY (CHECK ONE ONLY)		16) WAS THIS TERMINATION ELECTED DUE TO THE DETECTION OF A CONGENITAL ANOMALY?		
15A) <input type="checkbox"/> SUCTION CURETTAGE 15B) <input type="checkbox"/> DILATION AND EVACUATION 15C) <input type="checkbox"/> SHARP CURETTAGE 15D) <input type="checkbox"/> SALINE 15E) <input type="checkbox"/> PROSTAGLANDIN 15F) <input type="checkbox"/> HYSTERECTOMY 15G) <input type="checkbox"/> HYSTEROTOMY 15H) <input type="checkbox"/> MIFEPRISTONE 15I) <input type="checkbox"/> METHOTREXATE 15J) <input type="checkbox"/> OTHER (SPECIFY) _____		YES <input type="checkbox"/> NO <input type="checkbox"/>		
		16B) TYPE OF CONGENITAL ANOMALY		
		CHROMOSOMAL ANOMALY YES <input type="checkbox"/> NO <input type="checkbox"/> NEURAL TUBE DEFECT YES <input type="checkbox"/> NO <input type="checkbox"/> HEART ANOMALY YES <input type="checkbox"/> NO <input type="checkbox"/> VENTRAL WALL DEFECT YES <input type="checkbox"/> NO <input type="checkbox"/> OTHER YES <input type="checkbox"/> NO <input type="checkbox"/> (SPECIFY) _____		
<input type="checkbox"/> YES <input type="checkbox"/> NO	PATIENT REQUESTED A COPY OF THE INFORMATION REQUIRED TO BE MAINTAINED ON THE INTERNET UNDER AS 18.05.032			
<input type="checkbox"/> YES <input type="checkbox"/> NO	PATIENT RECEIVED A WRITTEN COPY OF THE INFORMATION REQUIRED TO BE MAINTAINED ON THE INTERNET UNDER AS 18.05.032			



March 21, 2012

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The Honorable Alan Dick, Vice-Chair
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Re: HB 363: Reproductive Health Funding
ACLU Review of Constitutional Issues

Dear Chair Keller and Vice-Chair Dick:

Thank you for the opportunity to provide written testimony with respect to House Bill 363, which seeks to strip public funds from an important aspect of women's healthcare.

The American Civil Liberties Union of Alaska represents thousands of members and activists throughout Alaska who seek to preserve and expand the individual freedoms and civil liberties guaranteed by the United States and Alaska Constitutions. In that context, **we write to advise you that this bill is both unconstitutional and bad policy.**

HB 363 Is Unconstitutional

A woman's ability to make medical decisions, including reproductive ones, is a fundamental right guaranteed by the Alaska Constitution. *State v. Planned Parenthood of Alaska*, 171 P.3d 577, 581 (Alaska 2007). "Reproductive rights are fundamental . . . [and] include the right to an abortion." *State, Department of Health & Social Services v. Planned Parenthood of Alaska, Inc.*, 28 P.3d 904, 906 (Alaska 2001) (quoting *Valley*

Hospital Association, Inc. v. Mat-Su Coalition for Choice, 948 P.2d 963, 969 (Alaska 1997) (omission and alteration in original).

The express purpose of this bill, as reflected in its text and sponsor statement, is to stop public funding, both direct and indirect, of abortion. This legislative retrenchment violates the Alaska Constitution and will likely be struck down by the courts.

The Alaska Legislature declared “as a matter of public concern that the needy persons of this state . . . should seek only uniform and high quality care . . . and receive that care, regardless of race, age, national origin, or economic standing.” Alaska Stat. § 47.07.010. Having made this policy choice, the State “may not selectively exclude from that program women who medically require abortions.” *State, Department of Health & Social Services*, 28 P.3d at 906. This bill selectively excludes that fundamental right.

HB 363 unconstitutionally denies public funding from medically necessary abortions. The exceptions of Section 2(g) are unconstitutionally narrow because the bill “denies [public funding] for medically necessary abortions unless a pregnant woman is at risk of dying or her pregnancy resulted from rape or incest.” *Id.* at 907.¹

Alaska may not exercise its “wide latitude to decide the manner in which it will allocate benefits” by choosing “criteria which discriminatorily burden the exercise of a fundamental right.” *Id.* at 909 (internal quotation omitted). The State’s interest in enacting HB 363 is “unrelated to the purposes of the public health care program,” and it would “discriminatorily burden[] the exercise of a constitutional right.” *Id.* at 915.

Were HB 363 to be enacted, Alaska courts would declare it unconstitutional.

HB 363 Endangers Women

This bill, apart from its fatal constitutional defect, threatens the health and lives of women. Pregnancy is a serious medical condition that is often fraught with health-threatening perils.

¹ Compare HB 363, § 2(g) (“The limitations in (a)–(f) of this section do not apply to an abortion performed when (1) the life of the mother is endangered by a physical disorder, physical illness, or physical injury; (2) the life of the mother is endangered by a physical condition caused by or arising from the pregnancy itself; or (3) the pregnancy is the result of an act of rape or incest.”) with 7 Alaska Admin. Code § 43.140(a), the regulation at issue in *State, Department of Health & Social Services* (“Payment for an abortion will, in the department’s discretion, be covered under Medicaid if the physician services invoice is accompanied by certification that the (1) life of the mother would be endangered if the pregnancy were carried to term; or (2) pregnancy is the result of an act of rape or incest.”), 28 P.3d at 907 n.9.

Pregnancy may complicate a woman's diabetes, causing them to "risk kidney failure, blindness, and preeclampsia or eclampsia — conditions characterized by simultaneous convulsions and comas," and pregnant women "with renal disease may lose a kidney and face a lifetime of dialysis if they cannot obtain an abortion." *Id.* at 907. Women with sickle cell anemia may find that their pregnancies "accelerate the disease, leading to pneumonia, kidney infections, congestive heart failure, and pulmonary conditions such as embolus." *Id.* The medications to treat individuals with epilepsy or bipolar disorder "can be highly dangerous to a developing fetus." *Id.*

HB 363 threatens women in at least two ways. First, for women who need an abortion, it creates a cruel dilemma: "choose either to seriously endanger their own health by forgoing medication, or to ensure their own safety but endanger the developing fetus by continuing medication." *Id.* Second, it will force women to "reach an advanced stage of pregnancy before they can gather enough money for an abortion [thus] resulting in late-term abortions [that] pose far greater health risks than earlier procedures." *Id.*

Conclusion

We appreciate the opportunity to share our concerns about House Bill 363.

We hope that the Health and Social Services Committee will refrain from approving a bill that would squarely violate the Alaska Constitution, endanger the health and well-being of Alaska women, and entangle the State in expensive, needless litigation.

Please feel free to contact the undersigned should you have any questions or seek additional information.

Sincerely,



Jeffrey Mittman
Executive Director
ACLU of Alaska

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