

SB

89

<TARGET><BILL>SB 89</BILL><SUBJECT>SB
89</SUBJECT><COMM>HHSS29</COMM></TARGET>

ALASKA STATE LEGISLATURE

600 East Railroad Ave., Ste 1

Wasilla, Alaska 99654

(907) 376-3370



State Capitol

Juneau, Alaska 99801

(907) 465-6600

Mike Dunleavy

Senator

Senate Bill 89 Sponsor Statement

The purpose of SB 89 Parental Rights in Education, is to codify in state statute the inherent rights of parents to direct the upbringing and education of their children. As parents are the ultimate authority regarding their children, this bill requires local school boards to adopt policies which promote the involvement of parents.

These policies must accommodate the following:

- Parents will be given the chance to review content of any activity, class, performance standard, program, or standards-based assessment or test required by the department
- Parents can object to and withdraw children from any standards-based assessment or test required by the department, and the absence cannot be counted as unlawful
- If parents have a concern about any activity, class, performance standard, or program they can object and keep their child out of that particular activity, and the absence cannot be counted as unlawful
- Parents will be allowed to withdraw children for religious holidays, and the absence cannot be counted as unlawful
- Parents must provide written permission before children may attend each human reproduction or sex education instruction or presentation

In addition, this legislation would:

- Would prevent abortion service providers from contracting with school districts and educational service organizations
- Would prohibit abortion service providers from supplying materials to school districts on human sexuality and sexually transmitted diseases
- Restrict abortion services providers providing instruction on sexually transmitted diseases and sexuality to school districts

As the stewards of their children, parents must be guaranteed the right to make the decisions they feel are best for their children's education. I request your support for Senate Bill 89.

ALASKA STATE LEGISLATURE

600 East Railroad Ave., Ste 1

Wasilla, Alaska 99654

(907) 376-3370



State Capitol

Juneau, Alaska 99891

(907) 465-6600

Mike Dunleavy

Senator

Sectional Analysis for Senate Bill 89 (Version L)

Section 1. Requires local school boards to adopt policies allowing parents to withdraw their children from any activity, class, program, or standards-based assessment required by the state to which the parent objects. Requires written permission from parents before activities, classes, or programs on human reproduction or sexual matters are provided to a child.

Section 2. Clarifies that "human reproduction or sexual matters" does not include curricula or materials for sexual abuse and sexual assault awareness training required under AS 14.30.355 or dating violence and abuse awareness and prevention training as required under AS 14.30.356.

Section 3. Prohibits a school district from contracting with an abortion services provider.

Section 4. Prohibits school districts from paying the costs of physical examinations for teachers.

Section 5. Prohibits school districts from permitting abortion services provider or an employee or volunteer who is acting on behalf of an abortion services provider to offer, sponsor, or furnish course materials or instruction related to human sexuality or sexually transmitted diseases.

Section 6. Provides an effective date of June 30, 2017.

Fiscal Note

State of Alaska
2016 Legislative Session

Bill Version:	CSSB 89(RLS)
Fiscal Note Number:	2
(S) Publish Date:	2/24/2016

Identifier: SB089CS(RLS)-EED-SSA-2-22-16
 Title: PARENT RIGHTS: EDUCATION; SCHOOL ABSENCE
 Sponsor: DUNLEAVY
 Requester: Senate Rules Committee

Department: Department of Education and Early Development
 Appropriation: Teaching and Learning Support
 Allocation: Student and School Achievement
 OMB Component Number: 2796

Expenditures/Revenues

Note: Amounts do not include inflation unless otherwise noted below. (Thousands of Dollars)

	FY2017 Appropriation Requested	Included in Governor's FY2017 Request	Out-Year Cost Estimates					
			FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022
OPERATING EXPENDITURES								
Personal Services								
Travel								
Services								
Commodities								
Capital Outlay								
Grants & Benefits								
Miscellaneous								
Total Operating	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Fund Source (Operating Only)

None								
Total	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

Positions

Full-time								
Part-time								
Temporary								

Change in Revenues

--	--	--	--	--	--	--	--	--

Estimated SUPPLEMENTAL (FY2016) cost: 0.0 *(separate supplemental appropriation required)*
(discuss reasons and fund source(s) in analysis section)

Estimated CAPITAL (FY2017) cost: 0.0 *(separate capital appropriation required)*
(discuss reasons and fund source(s) in analysis section)

ASSOCIATED REGULATIONS

Does the bill direct, or will the bill result in, regulation changes adopted by your agency? **Yes**
 If yes, by what date are the regulations to be adopted, amended or repealed? **12/31/16**

Why this fiscal note differs from previous version:

The CS removes all of the language related to expanding the requirement for written parental permission for all questionnaires administered in schools. This language was removed because the additional parental permission requirement was passed in HB 44. Sec 4 AS 14.03.110 (a) in 2015. Additionally the CS removes all language related to the national criminal history record check requirements for employees of child care facilities and residential child care facilities, also passed under HB 44. Sec 4 AS 14.03.110 (a) in 2015. Also removed are the portions related to students that was passed under HB 44 in 2015.

Prepared By:	Paul R. Prussing, Deputy Director	Phone:	(907)465-8721
Division:	Teaching and Learning Support	Date:	02/16/2016 04:50 PM
Approved By:	Mike Hanley, Commissioner	Date:	02/22/16
Agency:	Department of Education & Early Development		

FISCAL NOTE ANALYSIS

STATE OF ALASKA
2016 LEGISLATIVE SESSION

Analysis

Section 1(a) amends AS 14.03, Public School Generally, by adding a new section, AS 14.03.016, A parent's right to direct the education of the parent's child. This section recognizes the authority of a parent. Additionally, this section requires districts to adopt policies and procedures that allow parents to object to and withdraw the child from a standards-based assessment or test required by the state, or from an activity, class, or program because of concerns regarding human reproduction or sexual matters or inquiries into private family affairs. In addition, districts must provide for parent notification of two- to-six weeks prior to an activity, class, or program that includes content involving human reproduction or sexual matters, and must receive written permission from a parent before a child may participate. Parents must be provided the opportunity to review the content of an activity, class, performance standard or program. If a child is withdrawn from activities, classes, or programs, the absence will not be considered an unlawful absence. Fiscal impact: Unknown because states and districts are required to test 95% of all students under the Elementary and Secondary Education Act (ESEA). There is potential fiscal impact to the department which may result if assessment participation rates fall below 95%.

Section 1(b) does not allow a parent to categorically object or withdraw a child from activities, classes, programs, or standards-based assessments or tests required by the state; policies must require a parent to object each time, and must require district permission to be requested for each activity that includes content involving human reproduction or sexual matters.

Section 2 amends 14.03.083 by adding a new section: "A school district and an educational services organization that has a contract with a school district may not contract with an abortion services provider." There is no fiscal impact from this section to the department.

Section 3 amends AS 14.30 by adding a new section, AS 14.30.075 Physical examinations for teachers, permitting school districts to require physical examinations of teachers as a condition of employment, but restricting a district from paying the cost of such physical examinations for teachers. There is no fiscal impact from this section to the department.

Section 4 amends AS 14.30.360 by adding a new subsection (c) that restricts a school district from permitting an abortion services provider or an employee or volunteer of an abortion services provider from providing course materials or instruction relating to human sexuality or sexually transmitted diseases.

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

February 16, 2016

SUBJECT: Constitutional issues
(CSSB 89(RLS); Work Order No. 29-LS0735\F)

TO: Senator Charlie Huggins
Attn: Jody Simpson

FROM: Kate S. Glover *Ka*
Legislative Counsel

Attached is the draft CS for SB 89 that you requested. I am providing you with this memorandum to advise you that secs. 2 and 4 of the CS, which restrict school districts from contracting with abortion services providers, raise issues under: 1) the First Amendment of the United States Constitution and art. I, secs. 5 and 6 of the Constitution of the State of Alaska, which protect freedom of speech and association; 2) art. I, sec. 10 of the United States Constitution and art. 1, sec. 15 of the Constitution of the State of Alaska, which prohibit the enactment of bills of attainder; and 3) the Fourteenth Amendment to the United States Constitution and art. I, sec. 1 of the Constitution of the State of Alaska, which relate to equal protection. Federal and state courts have come to different conclusions on each of these issues when reviewing similar restrictions, and there are no cases from the Alaska Supreme Court that are directly on point. It is likely that, if enacted, secs. 2 and 4 of the bill will be challenged in court, but it is difficult to predict the outcome.

First amendment. The amendment singles out a group – abortion services providers – and bars members of the group from contracting with public agencies. This restriction could violate the rights of expression or association, guaranteed by art. I, sec. 5 of the Constitution of the State of Alaska and the First Amendment to the United State Constitution.¹

¹ Art. I, sec. 5 provides:

Section 5. Freedom of Speech. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

The First Amendment provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech,

In determining whether a law burdens freedom of expression, a court will examine the reason for the law, and whether it is neutral and of general application.² As the United States Supreme Court observed, "To determine the object of a law, we must begin with its text, for the minimum requirement of neutrality is that a law not discriminate on its face." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533 (1993). In this case, the law discriminates on its face in that it directly identifies certain people to bar from contracting.

Affiliation or expression discrimination can be a violation of the First Amendment. In *Board of County Commissioners of Waubesa Co. v. Umbehr*, 518 U.S. 668, 686 (1996), the United States Supreme Court found that a contractor had the right not to have a contract terminated for exercise of his First Amendment rights.³ However, being an abortion provider or associated with a provider may not qualify as expressive conduct for the purpose of determining whether the law burdens First Amendment rights. In *Planned Parenthood of Kan. & Mid-Mo. v. Moser*, 747 F.3d 814, 838 - 40 (10th Cir. 2014), the 10th Circuit Court of Appeals rejected a claim that state denial of funding to an organization because the organization provided abortions constituted unconstitutional punishment for exercise of free speech and associational rights:

Under the "modern unconstitutional conditions doctrine . . . the government may not deny a benefit to a person on a basis that infringes his constitutionally protected freedom of speech even if he has no entitlement to that benefit." *Bd. of Cnty. Comm'rs v. Umbehr*, [*supra* at] 674 . . . [T]he doctrine has been applied when the condition acts prospectively in statutes or regulations that limit a government-provided benefit—typically a subsidy or tax break—to those who refrain from or engage in certain expression or association. *See, e.g., FCC v. League of Women Voters*, 468 U.S. 364, 366 (1984) (federal statute that forbids recipients of public-broadcasting subsidy from "engag[ing] in editorializing" *Speiser v. Randall*, 357 U.S. 513, 515 (1958) (state constitutional provision and

or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

² *Swanner v. Anchorage Equal Rights Com'n*, 874 P. 2d 274, 279 (Alaska 1994); *cert. denied* 513 U.S. 979 (1994).

³ The case involved a trash hauling contractor whose contract was terminated in retaliation for the contractor's public complaints about the county commission and the costs of various government services. *Id. Compare State v. ACLU*, 978 P.2d 597, 619 (Alaska 1999) (a measure that limits persons in a profession from participating in campaigns -- in this case lobbying -- must be narrowly tailored to avoid an undue burden on expressive activity).

effectuating statute that grant tax exemption only to veterans who pledge not to advocate overthrowing the government). These cases recognize that the government ordinarily can impose conditions on the receipt of government funding, but that conditioning a benefit on someone's speech or association achieves an effect similar to direct regulation of the speech or association. See *Rumsfeld v. Forum for Academic & Institutional Rights*, 547 U.S. 47, 59 (2006). These cases have addressed only conditions *explicitly* imposed by the law.

[T]he unconstitutional-conditions doctrine has been applied when the condition acts retrospectively in a *discretionary* executive action that terminates a government-provided benefit—typically public employment, a government contract, or eligibility for either—in retaliation for prior protected speech or association. See, e.g., *Umbehr*, 518 U.S. at 671, 116 S.Ct. 2342 (termination of independent contractor by county officials in retaliation for contractor's criticism of county board); *Perry*, 408 U.S. at 597, 92 S.Ct. 2694 (nonrenewal of professor's contract with state university by board of regents in retaliation for his criticizing the board). In these cases, the government official's action has not been compelled by a statute or regulation; rather, the challenged action is one that would be within the official's discretion if it were not taken in retaliation for the exercise of a constitutional right. Thus, these cases necessarily examine the official's motive for taking the action; the challenge will be rejected unless retaliation against the protected conduct was "a substantial or motivating factor" for taking the action and the official would not "have taken the same action . . . in the absence of the protected conduct." *Umbehr*, 518 U.S. at 675.⁴

In *Planned Parenthood of Kansas & Mid-Missouri*, the plaintiff could have altered its activities to qualify for the grant for providing women's health services, and the law did not itself limit expressive conduct. The 10th Circuit further noted that the legislative motive for the exclusion was not a proper subject of inquiry.⁵

It is not clear whether the Alaska Supreme Court would rule similarly. It is also not clear whether the application of the law to participation of individuals with respect to providing instruction and literature sweeps too broadly.⁶

⁴ *Planned Parenthood of Kansas & Mid-Missouri v. Moser*, 747 F.3d 814, 838 - 39 (10th Cir. 2014) (some quotations, citations, parallel citations omitted; emphasis in original).

⁵ *Id.* at 842 - 43.

⁶ Compare *Alaskans for a Common Language vs. Kritz*, 170 P.3d 183, 200 (Alaska 2007) (provision of "English only" law that affected not only official government speech, which

Bill of attainder. In at least one case, Planned Parenthood has successfully challenged legislation prohibiting abortion services providers from receiving any state funding as a bill of attainder. Art. 1, sec. 10 of the United States Constitution and art. 1 sec. 15 of the Constitution of the State of Alaska prohibit the enactment of bills of attainder. "To constitute a bill of attainder, the statute must (1) specify affected persons, (2) impose punishment, and (3) fail to provide for a judicial trial."⁷ The primary question in this case would likely be whether the bill "imposes punishment." "To rise to the level of 'punishment' under the Bill of Attainder Clause, harm must fall within the traditional meaning of legislative punishment, fail to further a nonpunitive purpose, or be based on a [legislative] intent to punish."⁸ For that reason, it is important to specify a nonpunitive purpose for the bill.

Equal protection. The draft bill also implicates the equal protection clauses of the United States Constitution and the Constitution of the State of Alaska because it singles out employees and representatives of abortion services providers for differential treatment.

The Alaska Supreme Court applies a sliding scale test to reviewing challenges under the equal protection clause. The Court must: (1) determine the weight of the individual interest impaired by the classification; (2) examine the importance of the purposes underlying the government's action; and (3) evaluate the means employed to further those goals to determine the closeness of the means-to-end fit.⁹ The greater the weight of the

can be regulated, but that of private citizens and government employees swept too broadly to survive scrutiny).

⁷ *Planned Parenthood of Central N. Carol. v. Conslor*, 804 F. Supp. 2d 482, 495 (M.D. N.C. 2011) (quoting *Planned Parenthood of Mid-Mo. and E. Kansas v. Dempsey*, 167 F.3d 458, 465 (8th Cir. 1999)). The statute at issue in *Conslor* specifically targets Planned Parenthood and its affiliates. The draft bill does not name Planned Parenthood, but by singling out "abortion services providers," it targets "a narrow class of persons. . . ." *Id.*

⁸ *Dempsey*, 167 F.3d at 465 (citing *Selective Serv. Sys. v. Minn. Pub. Int. Research Group*, 468 U.S. 841, 852 (1984)).

⁹ *Malabed v. N. Slope Borough*; 70 P.3d 416, 421 (Alaska 2003). The legitimate interest standard applies to economic interests, but, to the extent the draft bill burdens interests in employment, it may merit a stricter degree of scrutiny. In *Malabed*, the Court considered an individual's right to seek and obtain employment to be an "important interest," which required not just a legitimate interest, but an important one "and that the nexus between the enactment and the important interest it serves be close." *Id.* at 421 (quoting *State, Dep'ts of Transp. & Labor v. Enserch Alaska Constr., Inc.*, 787 P.2d 624, 633 (Alaska 1989)).

Senator Charlie Huggins
February 16, 2016
Page 5

individual interest, the greater the burden on the state to demonstrate that the classification achieves a legitimate governmental objective. At a minimum, you will need to provide a "legitimate reason" for the disparate treatment and demonstrate that the classification "bears a fair and substantial relationship to that reason."¹⁰ If, however, the interest burdened is a fundamental right (i.e. free speech), then the state must demonstrate a compelling interest and show that no narrower means could be used to meet that interest.¹¹

If I may be of further assistance, please advise.

KSG:lem
16-144.lem

Attachment

¹⁰ *Griswold v. City of Homer*, 252 P.2d 1020 (Alaska 2011) (internal citations and quotation marks omitted).

¹¹ *See Treacy v. Municipality of Anchorage*, 91 P.3d 252, 265 – 66 (Alaska 2004).

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 14, 2016

SUBJECT: Constitutional issues
(CSSB 89(RLS) am(efd add); Work Order No. 29-LS0735\F.A)

TO: Representative Paul Seaton
Attn: Jenny Martin

FROM: Kate S. Glover *KG*
Legislative Counsel

You have asked for a legal opinion regarding CSSB 89(RLS), and freedom of speech and association, bills of attainder, and equal protection. The restrictions in sections 3 and 5 of CSSB 89(RLS) raise issues under: 1) the First Amendment of the United States Constitution and art. I, secs. 5 and 6 of the Constitution of the State of Alaska, which protect freedom of speech and association; 2) art. I, sec. 10 of the United States Constitution and art. I, sec. 15 of the Constitution of the State of Alaska, which prohibit the enactment of bills of attainder; and 3) the Fourteenth Amendment to the United States Constitution and art. I, sec. 1 of the Constitution of the State of Alaska, which relate to equal protection. Federal and state courts have come to different conclusions on each of these issues when reviewing similar restrictions, and there are no cases from the Alaska Supreme Court that are directly on point. It is likely that, if enacted, secs. 3 and 5 of the bill will be challenged in court, but it is difficult to predict the outcome.

First amendment. The bill singles out a group – abortion services providers – and bars members of the group from contracting with public agencies. This restriction could violate the rights of expression or association, guaranteed by art. I, sec. 5 of the Constitution of the State of Alaska and the First Amendment to the United State Constitution.¹

¹ Art. I, sec. 5 provides:

Section 5. Freedom of Speech. Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.

The First Amendment provides:

Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech,

Representative Paul Seaton
March 14, 2016
Page 2

In determining whether a law burdens freedom of expression, a court will examine the reason for the law, and whether it is neutral and of general application.² As the United States Supreme Court observed, "To determine the object of a law, we must begin with its text, for the minimum requirement of neutrality is that a law not discriminate on its face." *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, 508 U.S. 520, 533 (1993). **In this case, the law discriminates on its face in that it directly identifies certain people to bar from contracting.**

Affiliation or expression discrimination can be a violation of the First Amendment. In *Board of County Commissioners of Waubesa Co. v. Umbehr*, 518 U.S. 668, 686 (1996), the United States Supreme Court found that a contractor had the right not to have a contract terminated for exercise of his First Amendment rights.³ However, being an abortion provider or associated with a provider may not qualify as expressive conduct for the purpose of determining whether the law burdens First Amendment rights. In *Planned Parenthood of Kan. & Mid-Mo. v. Moser*, 747 F.3d 814, 838 - 40 (10th Cir. 2014), the 10th Circuit Court of Appeals rejected a claim that state denial of funding to an organization because the organization provided abortions constituted unconstitutional punishment for exercise of free speech and associational rights:

Under the "modern unconstitutional conditions doctrine . . . the government may not deny a benefit to a person on a basis that infringes his constitutionally protected freedom of speech even if he has no entitlement to that benefit." *Bd. of Cnty. Comm'rs v. Umbehr*, [*supra* at] 674 . . . [T]he doctrine has been applied when the condition acts prospectively in statutes or regulations that limit a government-provided benefit—typically a subsidy or tax break—to those who refrain from or engage in certain expression or association. See, e.g., *FCC v. League of Women Voters*, 468 U.S. 364, 366 (1984) (federal statute that forbids recipients of public-broadcasting subsidy from "engag[ing] in editorializing" *Speiser v. Randall*, 357 U.S. 513, 515 (1958) (state constitutional provision and

or of the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

² *Swanner v. Anchorage Equal Rights Com'n*, 874 P. 2d 274, 279 (Alaska 1994); *cert. denied* 513 U.S. 979 (1994).

³ The case involved a trash hauling contractor whose contract was terminated in retaliation for the contractor's public complaints about the county commission and the costs of various government services. *Id. Compare State v. ACLU*, 978 P.2d 597, 619 (Alaska 1999) (a measure that limits persons in a profession from participating in campaigns -- in this case lobbying -- must be narrowly tailored to avoid an undue burden on expressive activity).

Representative Paul Seaton
March 14, 2016
Page 3

effectuating statute that grant tax exemption only to veterans who pledge not to advocate overthrowing the government). These cases recognize that the government ordinarily can impose conditions on the receipt of government funding, but that conditioning a benefit on someone's speech or association achieves an effect similar to direct regulation of the speech or association. See *Rumsfeld v. Forum for Academic & Institutional Rights*, 547 U.S. 47, 59 (2006). These cases have addressed only conditions explicitly imposed by the law.

[T]he unconstitutional-conditions doctrine has been applied when the condition acts retrospectively in a discretionary executive action that terminates a government-provided benefit—typically public employment, a government contract, or eligibility for either—in retaliation for prior protected speech or association. See, e.g., *Umbehr*, 518 U.S. at 671, 116 S.Ct. 2342 (termination of independent contractor by county officials in retaliation for contractor's criticism of county board); *Perry*, 408 U.S. at 597, 92 S.Ct. 2694 (nonrenewal of professor's contract with state university by board of regents in retaliation for his criticizing the board). In these cases, the government official's action has not been compelled by a statute or regulation; rather, the challenged action is one that would be within the official's discretion if it were not taken in retaliation for the exercise of a constitutional right. Thus, these cases necessarily examine the official's motive for taking the action; the challenge will be rejected unless retaliation against the protected conduct was "a substantial or motivating factor" for taking the action and the official would not "have taken the same action . . . in the absence of the protected conduct." *Umbehr*, 518 U.S. at 675.⁴

In *Planned Parenthood of Kansas & Mid-Missouri*, the plaintiff could have altered its activities to qualify for the grant for providing women's health services, and the law did not itself limit expressive conduct. The 10th Circuit further noted that the legislative motive for the exclusion was not a proper subject of inquiry.⁵ Other courts, however, have found that disqualifying abortion advocacy groups from public funding violates first amendment rights.⁶

⁴ *Planned Parenthood of Kansas & Mid-Missouri v. Moser*, 747 F.3d 814, 838 - 39 (10th Cir. 2014) (some quotations, citations, parallel citations omitted; emphasis in original).

⁵ *Id.* at 842 - 43.

⁶ See *Planned Parenthood of Greater Memphis Region v. Dreyzehner*, 853 F. Supp. 2d 724, 734 - 35 (M.D. Tenn. 2012) ("Circuit and district courts have held in the ????? of abortion advocacy groups that the First Amendment rights of expression, association and advocacy are violated where states target abortion groups for disqualification from public funding.").

It is not clear whether the Alaska Supreme Court would rule similarly. It is also not clear whether the application of the law to participation of individuals with respect to providing instruction and literature sweeps too broadly.⁷

Bill of attainder. In at least one case, Planned Parenthood has successfully challenged legislation prohibiting abortion services providers from receiving any state funding as a bill of attainder. Art. 1, sec. 10 of the United States Constitution and art. 1 sec. 15 of the Constitution of the State of Alaska prohibit the enactment of bills of attainder. "To constitute a bill of attainder, the statute must (1) specify affected persons, (2) impose punishment, and (3) fail to provide for a judicial trial."⁸ The primary question in this case would likely be whether the bill "imposes punishment." "To rise to the level of 'punishment' under the Bill of Attainder Clause, harm must fall within the traditional meaning of legislative punishment, fail to further a nonpunitive purpose, or be based on a [legislative] intent to punish."⁹ Whether the bill is construed to further a nonpunitive purpose will depend on what the legislature says about the purpose for the bill in sponsor statements, committee hearings, and floor debates.

Equal protection. The draft bill also implicates the equal protection clauses of the United States Constitution and the Constitution of the State of Alaska because it singles out employees and representatives of abortion services providers for differential treatment.

The Alaska Supreme Court applies a sliding scale test to reviewing challenges under the equal protection clause. The Court must: (1) determine the weight of the individual interest impaired by the classification; (2) examine the importance of the purposes underlying the government's action; and (3) evaluate the means employed to further those

⁷ *Compare Alaskans for a Common Language vs. Kritz*, 170 P.3d 183, 200 (Alaska 2007) (provision of "English only" law that affected not only official government speech, which can be regulated, but that of private citizens and government employees swept too broadly to survive scrutiny).

⁸ *Planned Parenthood of Central N. Carol. v. Cansler*, 804 F. Supp. 2d 482, 495 (M.D. N.C. 2011) (quoting *Planned Parenthood of Mid-Mo. and E. Kansas v. Dempsey*, 167 F.3d 458, 465 (8th Cir. 1999)). The statute at issue in *Cansler* specifically targets Planned Parenthood and its affiliates. The draft bill does not name Planned Parenthood, but by singling out "abortion services providers," it targets "a narrow class of persons. . . ." *Id.*

⁹ *Dempsey*, 167 F.3d at 465 (citing *Selective Serv. Sys. v. Minn. Pub. Int. Research Group*, 468 U.S. 841, 852 (1984)).

Representative Paul Seaton
March 14, 2016
Page 5

goals to determine the closeness of the means-to-end fit.¹⁰ The greater the weight of the individual interest, the greater the burden on the state to demonstrate that the classification achieves a legitimate governmental objective. At a minimum, the legislature must provide a "legitimate reason" for the disparate treatment and demonstrate that the classification "bears a fair and substantial relationship to that reason."¹¹ If, however, the interest burdened is a fundamental right (i.e. free speech), then the state must demonstrate a compelling interest and show that no narrower means could be used to meet that interest.¹²

If I may be of further assistance, please advise.

KSG:lem:dla
16-279.dla

¹⁰ *Malabed v. N. Slope Borough*, 70 P.3d 416, 421 (Alaska 2003). The legitimate interest standard applies to economic interests, but, to the extent the draft bill burdens interests in employment, it may merit a stricter degree of scrutiny. In *Malabed*, the Court considered an individual's right to seek and obtain employment to be an "important interest," which required not just a legitimate interest, but an important one "and that the nexus between the enactment and the important interest it serves be close." *Id.* at 421 (quoting *State, Dep'ts of Transp. & Labor v. Enserch Alaska Constr., Inc.*, 787 P.2d 624, 633 (Alaska 1989)).

¹¹ *Griswold v. City of Homer*, 252 P.2d 1020 (Alaska 2011) (internal citations and quotation marks omitted).

¹² See *Treacy v. Municipality of Anchorage*, 91 P.3d 252, 265 – 66 (Alaska 2004).

**Alaska Division of Public Health
SECTION OF PUBLIC HEALTH NURSING**

	2013 Final	2013 Actuals	2014 Final	2014 Actuals	2015 Final	2015 Actuals	2016 Authorized	2016 Actuals
Personal	21,992,000	20,361,000	20,609,700	20,609,600	20,489,800	20,339,300	22,398,200	
Travel	859,300	829,900	949,300	944,600	974,500	963,000	879,500	
Services	3,806,300	3,836,300	4,132,900	3,978,200	3,929,400	3,919,000	2,809,500	
Commodities	1,057,100	1,053,300	1,462,100	1,251,200	1,007,100	997,100	1,027,100	
Capital Outlay	0	0	0	0	125,000	124,800	0	
Grants	5,576,000	5,229,000	5,132,000	5,131,900	5,376,000	5,342,100	4,689,500	
	33,290,700	31,309,500	32,286,000	31,915,500	31,901,800	31,685,300	31,803,800	-
Fed Rcpts	4,938,500	4,426,500	4,638,500	4,476,500	4,309,500	4,298,100	4,838,500	
Gen Fund	24,332,400	24,171,100	24,791,400	24,791,300	24,744,800	24,744,200	23,844,400	
I/A Rcpts	896,500	275,700	324,100	264,200	279,800	270,600	535,200	
Rcpt Svcs	714,700	255,100	323,400	204,900	359,100	193,100	377,100	
Stat Desig	30,000	2,500	30,000	-	30,000	700	30,000	
Invst Loss	0		0					
GF/MH	98,200	98,200	98,200	98,200	98,200	98,200	98,200	
Other	200,000							
GF/Match	2,080,400	2,080,400	2,080,400	2,080,400	2,080,400	2,080,400	2,080,400	
	33,290,700	31,309,500	32,286,000	31,915,500	31,901,800	31,685,300	31,803,800	-
POSITIONS								
Full Time	190	190	192	192	192	192	184	
Part Time	9	9	7	7	7	7	6	
NP	0	0	0	0	0	0	0	0
Total		199		199		199	190	0

Source: Alaska Budget System

Prepared April 5, 2016



March 14, 2016

The Honorable Wes Kelly, Chair
The Honorable Liz Vazquez, Vice Chair
House Education Committee
Alaska House of Representatives
State Capitol
Juneau, AK 99801

by email: Representative.Wes.Keller@akleg.gov
Representative.Liz.Vazquez@akleg.gov

**Re: SB 89: Limiting Students' Education about Sexual Health and Sexually Transmitted Diseases
ACLU Analysis of Constitutional and Financial Issues**

Dear Chair Kelly and Vice Chair Vazquez:

Thank you for the opportunity to provide testimony about Senate Bill 89, which interferes with the freedom and livelihood of Alaskan students and teachers. SB 89 singles out and discriminates against Alaskans engaged in legal, socially vital, and constitutionally protected conduct, at the expense of their rights under the Alaska and United States Constitutions. We urge the committee to not pass SB 89.

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 Alaska and United States Constitutions. We engage in public advocacy and education to further those rights, and—when necessary—we litigate to protect them when they are attacked. In this context, we write to advise you that this bill unconstitutionally restricts people's freedoms. In addition to these constitutional harms, if this bill is enacted, Alaska will likely pay hundreds of thousands of dollars in attorney's fees and costs arising out of the seemingly inevitable constitutional challenges that will follow.

1. Section 5 of Senate Bill 89 discriminates against a group of people, violating their right to be treated equally.

Section 5 of Senate Bill 89 endangers the job of any public school teacher who provides instruction on human sexuality or sexually transmitted diseases if that teacher also works or volunteers for an abortion services provider. This interferes with Alaskans' right to be free of unequal treatment in the pursuit of their livelihood.

Section 5 identifies one group of people—employees and volunteers of abortion services providers—and prohibits them from providing instruction on two specific topics: human

sexuality and sexually transmitted diseases. It disqualifies one group of people from a form of public employment available to everyone else, based solely on unrelated behavior conducted entirely outside the schoolhouse gates.

This implicates the Equal Protection Clause of the Alaska Constitution.¹ The right to engage in economic endeavor is an important constitutional right; accordingly, laws that interfere with that right—by treating some groups differently than others—are closely scrutinized by Alaska courts.²

But under the provisions of SB 89, any certified teacher of human sexual health would be forbidden from, for example, also teaching a class or even giving a single talk at any women's health clinic or hospital where abortions are performed—whether as an employee or as a volunteer. Any tangential connection with a women's health clinic or hospital where abortions are performed—even just stuffing envelopes—will automatically prevent Alaskans from teaching sexual health. This flat ban is triggered even if the teacher does not know that abortions are performed there: this will chill constitutionally protected behavior, as teachers of human sexual health become wary of accepting part-time work or even volunteer opportunities at women's health clinics or hospitals.

By singling out people affiliated with abortion services providers and interfering with their livelihood, Alaska can expect SB 89 to be struck down.

2. SB 89's chilling effect unconstitutionally restricts the right of free speech.

The corollary of how SB 89 discriminates against some teachers—those who also work or volunteer at abortion services providers—is how it will muzzle their constitutional right to free speech.

The right to speak free from government interference is enshrined in Article I of the Alaska Constitution³ and in the First Amendment of the United States Constitution.⁴ Both constitutions protect that right robustly; the Alaska Constitution is “at least as protective of expression as the First Amendment to the United States Constitution.”⁵

SB 89 undermines this fundamental right by jeopardizing a human sexual health teacher's employment should that teacher volunteer to speak—outside of school and in a context

¹ ALASKA CONST. art. I, § 1. (“This constitution is dedicated to the principle[] . . . that all persons are equal and entitled to equal rights, opportunities, and protection under the law.”).

² See, e.g., *State, By and Through Departments of Transp. and Lab. v. Enserch Alaska Const., Inc.*, 787 P.2d 624, 632 (Alaska 1989) (“the right to engage in an economic endeavor within a particular industry is an important right for state equal protection purposes.”) (internal quotations omitted).

³ ALASKA CONST. art. I, § 5. (“Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of this right.”).

⁴ U.S. CONST. amend. I. (“Congress shall make no law . . . abridging the freedom of speech.”).

⁵ *Mickens v. City of Kodiak*, 640 P.2d 818, 820 (Alaska 1982).

wholly unrelated to that teacher's work—on behalf of an abortion services provider. This could take the form of educating women about their health, collecting signatures for a petition, or speaking at a rally. While the state may have a legitimate interest in what messages its employee teachers deliver at work, it may not legitimately censor what they say in their free time.

As the U.S. Supreme Court observed in *Pickering v. Board of Education*, “[A] teacher’s exercise of his right to speak on issues of public importance may not furnish the basis for his dismissal from public employment.”⁶ In *State v. Haley*, the Alaska Supreme Court similarly held that Alaska could not terminate a state employee for engaging in “speech focused entirely on public issues.”⁷ In contrast, SB 89 would make that speech a reason to fire teachers, based solely on the point of view it represents.

3. The amount of taxpayer money Alaska has already spent defending unconstitutional laws like this possibly exceeds \$1 million.

For the reasons described above, SB 89 is plainly unconstitutional. Passage of the bill would entangle Alaska in lengthy and complex—and avoidable—litigation. As Members of this Committee are aware, this would not be the first time, or even the second or third, that unconstitutional laws relating to abortion were struck down following prolonged and expensive litigation.

Alaska was recently embroiled in costly litigation over its attempt to impermissibly restrict the ability of low-income women to have abortions—the court struck down this restriction just over six months ago.⁸ Such litigation has been costly for Alaska. When Alaska’s endeavor to eliminate Medicaid funding for medically-necessary abortions was struck down in *State, Department of Health & Social Services v. Planned Parenthood of Alaska, Inc.*,⁹ Alaska wound up paying the plaintiffs \$236,026.16 plus interest (or \$321,141.37 plus interest in 2016 dollars).¹⁰ Similarly, the unconstitutional Parental Consent Act spawned a lawsuit, *State v. Planned Parenthood of Alaska*, and multiple appeals, lasting over ten years.¹¹ Alaska paid the successful plaintiffs \$278,127.42 (or \$354,277.61 in 2016 dollars).¹²

⁶ *Pickering v. Bd. of Ed. of Tp. High Sch. Dist. 205, Will County, Illinois*, 391 U.S. 563, 574 (1968).

⁷ *State v. Haley*, 687 P.2d 305, 314 (Alaska 1984).

⁸ *Planned Parenthood of the Great Northwest v. Streur*, No. 3AN-14-04711CI (Anchorage Super. Ct. Aug. 27, 2015), appeal filed, No. S-16123.

⁹ 28 P.3d 904 (Alaska 2001).

¹⁰ We have used the U.S. Bureau of Labor Statistics inflation calculator, available online at http://www.bls.gov/data/inflation_calculator.htm, to derive the inflation-adjusted 2016-dollar amounts. For the original raw dollar amounts from the litigation addressed in this footnote and the next, please see the attached orders from the Anchorage Superior Court and the Alaska Supreme Court.

¹¹ *State v. Planned Parenthood of Alaska*, 171 P.3d 577 (Alaska 2007).

¹² *Id.*

And, any fair accounting of the total cost must include what Alaska had to pay its own attorneys and the other internal costs of defending those suits.

Such unnecessary drain of taxpayer resources would have been avoided had those respective Legislatures simply refrained from passing statutes, like SB 89, that are constitutionally infirm. Alaska has better uses to which it can direct the people's time and money than defending the constitutionality of squarely unconstitutional laws.

Conclusion

We appreciate the opportunity to share our concerns about SB 89 with the House Education Committee. We hope our testimony proves valuable to Members contemplating the bill's constitutional infirmities. Because of these deficiencies, we oppose this bill and urge the Committee to vote Do Not Pass.

We further hope that this Committee will refrain from approving legislation that squarely violates the Alaska and United States Constitutions and would entangle Alaska in expensive, time-consuming, and needless litigation.

Thank you for considering our testimony. Please let us know if we may answer any questions.

Sincerely,



Joshua A. Decker
Executive Director

cc: Representative Jim Colver, Representative.Jim.Colver@akleg.gov
Representative Paul Seaton, Representative.Paul.Seaton@akleg.gov
Representative David Talerico, Representative.Dave.Talerico@akleg.gov
Representative Harriet Drummond, Representative.Harriet.Drummond@akleg.gov
Representative Ivy Spohnholz, Representative.Ivy.Spohnholz@akleg.gov
Senator Mike Dunleavy, Sponsor, Senator.Mike.Dunleavy@akleg.gov

#

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

STATE OF ALASKA
STATE OF ALASKA

PLANNED PARENTHOOD OF ALASKA,)
INC., et al.)

Plaintiffs.)

v.)

KAREN PERDUE, Commissioner, Department)
of Health and Social Services, et al.)

Defendants.)

MAR - 02001

CLERK

By _____ Deputy

5-9109

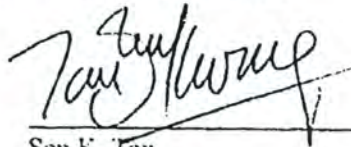
FILED 2-1-2001

Case No. 3AN-98-07004

PROPOSED AMENDED JUDGMENT

The Plaintiffs having moved the Court and having been granted by the Court awards of attorneys' fees and costs in the sum of \$109,928.41 on October 19, 1999, and in the sum of \$58,082.35 on January 25, 2001, it is hereby ordered that the Final Judgment be amended to include the prior orders for attorneys' fees and costs totaling \$168,010.76. Post-judgment interest at the statutory rate of 7.5 percent per year shall accrue on the October 19, 1999, award from that date until paid. Post-judgment interest at the statutory rate of 8 percent per year shall accrue on the January 25, 2001, award from that date until paid.

ENTERED this 14 day of March, 2001, at Anchorage, Alaska.



Sen K. Tan
Superior Court Judge

I certify that on 3-15-01
a copy of the above was mailed to each
of the following at their addresses of
record.

Schleuss
Rivard (AAG)

E. Kuller
Secretary/Deputy Clerk

SUDDOCK & SCHLEUSS, P.C.
ATTORNEYS AT LAW
500 L STREET, SUITE 300
ANCHORAGE, ALASKA
99501-5910
TEL: (907) 258-7807
FAX: (907) 276-1158

In the Supreme Court of the State of Alaska

State of Alaska, DHSS, et al.,)
) Supreme Court No. S-09109
 Appellants,)
 v.) **Order**
) Awarding Costs and Attorney's Fees
 Planned Parenthood of Alaska, et al.,)
)
 Appellees.) Date of Order: 9/20/01
)
 Trial Court Case # 3AN-98-07004CI

On consideration of the cost bill, filed on 8/30/01, and no opposition having been filed by any party,

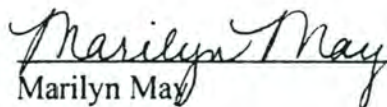
IT IS ORDERED:

1. Appellant shall pay appellee the following allowable costs:

Copies of appellee's brief	\$572.60
Copies of supplemental brief	\$ 48.30
<u>Copies of appellee's excerpt</u>	<u>\$244.50</u>
Total	\$865.40
2. The following costs are disallowed:

Copies of appellee's memorandum in opposition to motion for stay of injunction	\$264.00
Appendix of cases in support of appellee's opposition to stay	\$343.20
3. At the direction of an individual justice, attorney's fees in the amount of \$67,150.00 are awarded to the appellee.

Clerk of the Appellate Courts


Marilyn May

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

PLANNED PARENTHOOD OF ALASKA,
JAN WHITEFIELD, M.D., ROBERT
KLEM, M.D., JANE DOES I-X,

Plaintiffs,

and

STATE OF ALASKA,

Defendant.

CONCERNED ALASKA PARENTS, INC.

Amicus Curie.

CASE NO. 3AN-97-6014 CI

FILED in the Third Judicial District
State of Alaska

OCT 05 1998

Clerk of the Trial Courts

Deputy

ORDER AND DECISION

This matter is before the court on plaintiffs' Motion for Attorney Fees. Defendant does not oppose an award of reasonable attorney fees, but disputes the reasonableness of the fees sought. Plaintiffs seek \$148,692.70 in fees.

ANALYSIS

A prevailing public interest litigant is normally entitled to full reasonable attorney's fees. Dansereau v. Ulmer, Slip Op. No. 4962 at p. 2 (Alaska April 3, 1998). Here, it is undisputed that the plaintiffs are prevailing public interest litigants. The amount and reasonableness of the fee award is to be determined on the facts of the case, and should be evaluated according to the twelve factors set forth in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1974). Hickel v. Southeast Conference, 868 P.2d 919, 924 (Alaska 1994).

The defendant, without citing the Johnson factors, asserts several reasons why the requested fees are unreasonable. This opinion first addresses defendant's arguments and then addresses the Johnson factors.

A. DEFENDANT'S ARGUMENTS

Complexity

The State notes that this court must consider the complexity of the case in determining reasonable fees and asserts that this case was not complex. This court respectfully disagrees with defendant's characterization of the case.

This case was not like most other civil cases. First, the lawsuit raised a constitutional question of first impression for Alaska. Due to its nature, this case required substantial work to assimilate the arguments and evidence necessary to support the requests for injunctive relief and for summary judgment, and to oppose the two motions to dismiss.¹ Although the arguments and the facts supporting them may have been similar, each application for relief required a different analysis. Second, this case involved Concerned Alaska Parents ("CAP") as amicus curiae.² CAP presented numerous complex issues of its own to which plaintiffs had to respond. This court concludes that this was a complex case.

¹ Since this case was brought prior to the Alaska Supreme Court decision in Valley Hospital Association v. Mat-Su Coalition, 948 P.2d 963 (Alaska 1997), it was necessary that the plaintiffs draw substantially on federal law as well as analogous state law.

² Although CAP was not allowed to intervene as a party, CAP did much more than file a brief as amicus curiae.

Inadequate Support for Request

Defendants challenge that part of plaintiffs' fees request related to work done by attorneys Ms. Schleuss and Ms. Strout on the ground that plaintiffs failed to sufficiently support that part of the request. Since plaintiffs have now provided an affidavit by Ms. Schleuss in support of her fees, I find this argument is now moot as to her fees. As to Ms. Strout's total fees of \$700, I find that Ms. Bamberger's affidavit satisfactorily supports this part of plaintiffs' request.

Unrelated Work

Defendants challenge some of the fees on the ground that they represent work unrelated to this action.

Defendants describe Ms. Bamberger's communications with counsel in 97-6019, the concurrent challenge to the partial birth abortion statute, as coordination by the attorneys of their cases which should be uncompensated in this matter. I find that proper representation in a lawsuit includes consulting with counsel in 97-6019, as well as obtaining a copy of the transcript of the TRO ruling in that matter. Further, I find that three telephone conversations to accomplish this purpose was reasonable.

CAP

Defendant argues that it should not be required to pay the fees associated with opposing motions or other arguments asserted by CAP. This argument also fails. First, I find that to rule as defendant requests would result in apportionment by issue, which is prohibited. Dansereau at 5. Further, this court concludes that

the State benefited from CAP's participation as one would benefit from having co-counsel. In this case, CAP was not a neutral "friend of the court." Rather, CAP's position was very much aligned with the State's in arguing that the statute was constitutional. CAP, in this case, supplemented the State's briefing and presented contentions and arguments strengthening the State's case. Accordingly, I find that the State is liable for fees incurred in responding to CAP's briefs.

Duplicative or Unnecessary Work

Defendant asserts that the plaintiffs' attorneys necessarily duplicated each others efforts or engaged in unnecessary work. In support of its argument, defendant relies heavily upon the number of hours each attorney worked on any given product, not on the specifics of what each attorney was doing. For instance, where three, or even four attorneys coordinated briefing or other efforts, defendant concludes that there was necessarily a waste of resources. I disagree.

First, I find that the more pertinent question is, what was the total number of hours spent litigating this case. Here, as defendant points out, plaintiffs' counsel spent a total of 954.28 hours in this lawsuit while defendant spent a total of 579.2 hours, or 375.08 hours less than plaintiff. However, the number of hours spent by the defendant did not include the hours spent by CAP. I suspect that if the hours spent by CAP were included, the total number of hours spent by the State and CAP would be close to what plaintiff's counsel expended in this case. In light of this

understatement, I find the difference in total hours not unreasonable.

Further, I find that the amount of time invested in the preparation of this case is reflected in the high quality of work presented to the court. Plaintiffs' counsels' arguments were extremely precise, well-written, and well-supported by facts and law. Plaintiffs' counsel presented very high quality briefing to the court.³

Next, after reviewing both parties' arguments, I reject defendant's objections to plaintiffs' use of out-of-state or other attorneys for depositions. For instance, I find that plaintiffs' counsel acted reasonably when they hired Fairbanks counsel to conduct the deposition of Ms. Scully, since the cost to plaintiffs was not significantly different than if their own counsel had conducted the deposition and because Ms. Bamberger, the "local" co-counsel, was thoroughly engaged with other "ninth-hour" depositions.

The State also objects to the cost of other counsel who defended a deposition in Vermont. Defendant suggests that plaintiffs' counsel should have appeared telephonically, as did defendant's counsel. Although defending a deposition telephonically may be a reasonable option, it is not the only

³ In making this finding, this court does not say that defendant's counsel's briefing was not of the same caliber. Indeed, the quality of the briefing in this lawsuit by all involved was of the highest degree.

reasonable option. Having counsel present at a deposition to consult with the deponent cannot be deemed an unreasonable expense.

Plaintiff's counsel should have been able to work faster

Defendant asserts that, because of the extensive and collective litigation and civil rights experience of plaintiffs' attorneys, the attorneys should not have required over 900 hours to prepare their case. This court rejects this final argument on the premise that the case presented a case of first impression for the State. Therefore, experience in federal law or the law of other jurisdictions did not have a direct bearing on Alaska's state law.

In conclusion, this court is not persuaded by defendant's objections to the reasonableness of plaintiffs' fees.

B. THE JOHNSON FACTORS

Johnson, supra, directs courts to consider twelve factors when determining the reasonableness of fees. Below, several of these factors are analyzed as they bear directly on the issue of reasonable fees in this case. Other factors are not relevant and were not addressed by the parties, and hence, I reach no conclusions as to them.⁴

1. The time and labor required

As stated above, this court finds that there was substantial

⁴ Those factors are: the preclusion of other employment opportunities for counsel; whether the fee is fixed or contingent; time limitations that prioritize this work so that other work is delayed; the "undesirability" of the case; and the nature and the length of the professional relationship between the attorney and client.

time and labor required to properly prepare this complex case.

2. The novelty and difficulty of the questions

As already stated, this case presented a question of first impression in Alaska, and did not enjoy the benefit of Alaska cases substantially analogous to the issue presented.

3. The skill requisite to perform the legal service properly

As to this factor, the court is instructed to observe the attorney's work product, preparation and general ability before the court. As already noted, this court found plaintiffs' counsels' work to be of the highest quality, reflective of the time invested in the work. Further, this court found counsels' oral presentations to be of the same quality.

4. The customary fee

I find the attorneys' hourly rates, which range from \$110 to \$180 to be reasonable and customary.

5. The amount involved and the results obtained

Johnson directs that, "[i]f the decision corrects across-the-board discrimination affecting a large class" of claimants or plaintiffs, the attorney's fee award should reflect the relief granted. Johnson at 718. Although no exact figures are ascertainable, I find that a necessarily significant number of women have, or will be affected by this lawsuit.

6. The experience, reputation and ability of the attorneys

I have already dismissed defendant's assertions that, because of the counsels' significant experience their costs should be lower. But, this factor relates more to the hourly rate charged

by the attorney. As already noted, I find the plaintiffs' attorneys' hourly rates reasonable here, particularly since it is recognized that experienced attorneys who specialize in civil rights cases may enjoy a higher rate of compensation than others. Johnson at 718.

7. Awards in similar cases

No argument was presented by the parties to the court related to this factor. However, this court notes that, in Valley Hospital, supra, a 1992 case, the court awarded approximately \$110,000 in attorney's fees. The issue presented in that case was analogous to the one here. And, the award of injunctive relief and disposition by summary judgment in that case is also analogous. I find that, considering inflation, an award of \$150,000 in 1998 approximates an award of \$110,000 in 1992.

Conclusion

Application of the relevant Johnson factors leads to the conclusion that plaintiffs' attorneys' fees are reasonable. Indeed, none of the factors support a contrary conclusion.

CONCLUSION

After consideration of the parties' arguments and application of the factors set forth in Johnson, IT IS HEREBY ORDERED AND ADJUDGED THAT,

1. Plaintiffs are prevailing party, public interest litigants;
2. Plaintiffs' Motion for Attorney Fees is GRANTED; and

3. The State of Alaska shall pay plaintiffs the sum of \$148,692.70 as full reasonable attorneys' fees and costs as approved by the Clerk of the Court, and an amended final judgment shall be entered in accordance herewith.⁵

Dated at Anchorage, Alaska this 2 day of October, 1998.



SEN K. TAN
Superior Court Judge

1. by clerk of court 10-5-98
a copy of the above was mailed to each
of the following at their addresses of
record:
E. Mueller Bamberger
Secretary/Deputy Clerk Deputy
Clerk Cripps

⁵ This court notes that, at the time of entry of original judgment in this case, the question of attorney's fees had not been presented to the court.

In the Supreme Court of the State of Alaska

State of Alaska,

Appellant/Cross-Appellee,

v.

Planned Parenthood of Alaska &
Jan Whitefield, M.D,

Appellees/Cross-Appellants.

Supreme Court No. S-11365/S-11386

Order

Awarding Costs

Date of Order: 1/14/08

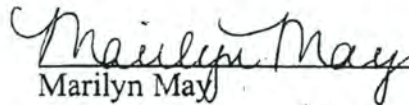
Trial Court Case # 3AN-97-06014CI

On consideration of the Appellee/Cross-Appellant's 11/13/07 cost bill, and the 12/6/07 non-opposition, **IT IS ORDERED:**

1. Appellant/Cross-Appellee shall pay Appellee/Cross-Appellant \$ 8,537.22 for the following costs:

Filing Fee	\$	150.00
Transcript preparation	\$	7,657.37
Postage	\$	41.99
Copies and printing of brief	\$	<u>687.86</u>
Total	\$	8,537.22

Clerk of the Appellate Courts


Marilyn May

In the Supreme Court of the State of Alaska

State of Alaska,)

Appellant/Cross-Appellant,)

v.)

**Planned Parenthood of Alaska &
Jan Whitefield, M.D,**)

Appellees/Cross-Appellants.)

) Supreme Court No. S-11365/S-11386

Order

Date of Order: 1/25/08

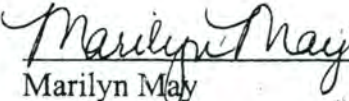
Trial Court Case # 3AN-97-06014CI

On consideration of Planned Parenthood of Alaska & Jan Whitefield, M.D.'s 11/13/07 affidavit of services rendered on appeal; the State of Alaska's 12/6/07 non-opposition to the affidavit of services rendered on appeal; Planned Parenthood of Alaska & Jan Whitefield, M.D.'s 12/21/07 motion for leave to file supplemental affidavit of services rendered on appeal, covering attorney's fees expended in responding to the petition for rehearing; and no opposition to the supplemental affidavit having been received, **IT IS HEREBY ORDERED** that, no opposition to appellees/cross-appellants Planned Parenthood of Alaska and Jan Whitefield, M.D.'s attorney's fees request having been filed by appellant/cross-appellee State of Alaska:

Appellant/cross-appellee State of Alaska shall pay to the appellees/cross-appellants **\$120,897.50** in attorney's fees.

Entered by direction of an individual justice.

Clerk of the Appellate Courts


Marilyn May

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 6, 2016

SUBJECT: Constitutional issues (HCS CSSB 89(EDC);
Work Order No. 29-LS0735\L)

TO: Senator Mike Dunleavy
Attn: Christa McDonald

FROM: Kate S. Glover *KS*
Legislative Counsel

Ms. McDonald asked me to provide a more detailed memorandum analyzing the effect of the amendment made to HCS CSSB 89(EDC) with respect to the constitutional issues identified in previous memoranda to your office and in a memorandum to Representative Seaton dated March 14, 2016 (posted on BASIS). The amendment narrows the scope of sec. 5 by changing the language to read "A school district may not permit an abortion services provider or an employee or volunteer of an abortion services provider *who is acting on behalf of the abortion services provider* to offer, sponsor, furnish course materials, or provide instruction relating to human sexuality or sexually transmitted diseases."¹ No changes were made to sec. 3, which prohibits school districts and educational services organizations that have contracts with school districts from contracting with abortion services providers. The amended language in sec. 5 reduces the risk that the bill, if enacted and challenged, would be found to violate the First Amendment, but does not entirely eliminate the risk. It does not affect the analysis of the bills of attainder and equal protection issues raised by the bill. Whether secs. 3 and 5 of the bill would be found unconstitutional depends, in part, on the state interest the legislature describes to support the provisions.

First Amendment

As explained in previous memoranda to your office, restricting abortion services providers and their employees from presenting instruction and materials in schools implicates the amendment in at least two ways.² First, it directly restricts certain

¹ The language from the amendment appears in italics.

² For reference, the issues described in this memorandum are discussed in more detail in the following memoranda provided to your office: Work Order No. 29-LS0735\S (Feb. 4, 2016); Work Order No. 29-LS0488\A.1 (April 1, 2015); Work Order No. 29-LS0735\F (Mar. 21, 2016); Work Order No. 29-LS0735\F.A (Mar. 1, 2016). Closely related issues

individuals from speaking on a particular topic in schools. Second, it restricts abortion services providers from contracting with school districts, which implicates the unconstitutional conditions doctrine under the First Amendment.

Restrictions on speech in schools. With respect to the direct restrictions on speech, the amended language provides that an employee or volunteer of an abortion services provider is prohibited from providing instruction relating to human sexuality only if the person is acting on behalf of the abortion services provider. This means the restriction applies primarily to classroom instruction. This is an area where the state has greater authority to regulate content, and as long as the legislature provides a legitimate pedagogical interest -- in other words, an interest related to the purpose of education -- to support the legislation, it is likely constitutional. That interest must be supported with factual information in the legislative record demonstrating the interest the bill serves.³

Unconstitutional conditions. With respect to the unconstitutional conditions doctrine, the bill restricts abortion services providers from contracting with school districts. The unconstitutional conditions doctrine applies when public benefits (i.e. government contracts) are conditioned on the relinquishment of a constitutional right.⁴ In this case, it could be argued that the bill unconstitutionally conditions contracts on relinquishing the

are also discussed in the following memoranda: Work Order No. 29-LS1269\A (Jan. 6, 2016), 29-LS1553\A (Mar. 9, 2016); Work Order No. 29-LS1269\A.1 (Mar. 14, 2016).

³ Although it does not establish binding precedent in Alaska, the following decision by a federal district court in Arizona provides a helpful summary of the standards that federal courts apply in reviewing challenges to restrictions on speech in schools: *Seidman v. Paradise Valley Unified Schl. Dist. No. 69*, 327 F. Supp. 2d 1098, 1104 – 07 (D. Ariz. 2004). For more information regarding the First Amendment and curriculum regulations, you may want to review Ronna Greff Schneider, *Freedom of Expression Issues and Public Education*, Education Law: First Amendment, Due Process and Discrimination Litigation § 2:8 (March 2016 update). For a discussion of constitutional issues related to health and sex education, you may want to review Ronna Greff Schneider, *Religion Issues and Public Education*, Education Law: First Amendment, Due Process and Discrimination Litigation § 1:12 (March 2016 update).

⁴ See, e.g., *Planned Parenthood of Kansas & Mid-Missouri v. Moser*, 747 F.3d 814, 838 – 39 (10th Cir. 2014) ("First, the doctrine has been applied when the condition acts prospectively in statutes or regulations that limit a government-provided benefit—typically a subsidy or tax break—to those who refrain from or engage in certain expression or association. . . . Second, the unconstitutional-conditions doctrine has been applied when the condition acts retrospectively in a discretionary executive action that terminates a government-provided benefit—typically public employment, a government contract, or eligibility for either—in retaliation for prior protected speech or association.").

right to associate with entities that provide abortions, or to advocate for the right to a lawful abortion. For purposes of the unconstitutional conditions analysis, it does not matter that the regulation is related to education in public schools. The protected activity is not free speech in public schools, but free association with abortion services providers. The amendments to sec. 5 does not cure this issue, because abortion services providers are prohibited from contracting with a public school under sec. 3.

As discussed in previous memoranda to your office, I am not sure how a court would decide this issue. It is not clear whether a court would consider affiliation with providers of abortions services to be protected activity under the First Amendment. It is also unclear whether an abortion services provider is required to relinquish that right under the bill in order to receive contracts, or whether a contract would be considered a benefit if the contract contains no fee for the provider. Under HCS CSSB 89(EDC), it may be possible for an abortion services provider to set up an affiliate that does not provide abortion services. The affiliate may then qualify for contracts and be able to provide instruction related to human sexuality. In similar situations, courts have found it persuasive that it is possible for an entity to qualify for funding or contracts through an affiliate.⁵ By contrast, where a condition restricts activities beyond the scope of the government program and it is not possible for an entity to qualify for the program without restricting its protected activities, courts will find the condition unconstitutional.⁶

Bills of attainder

The amendment to sec. 5 of the bill does not change the bill of attainder analysis described in previous memoranda to your office. For purposes of the constitutional prohibition against bills of attainder, there are likely two questions: 1) whether the class of persons specified is sufficiently narrow, and 2) whether the bill imposes punishment. HCS CSSB 89(EDC) appears to specify a narrow class (abortion services providers). Whether the bill imposes punishment depends, in part, on whether the legislature asserts a nonpunitive purpose for the bill.

Equal protection

The amendment to sec. 5 of the bill does not affect the analysis under the equal protection clause, because the bill still singles out abortion services providers for differential treatment. If the bill is enacted and challenged under the equal protection clause, the legislature must, at a minimum, provide a legitimate reason for the differential treatment and demonstrate that the classification "bears a fair and substantial relationship to that reason."⁷ However, a court could conclude that sec. 5 of HCS CSSB 89(EDC) burdens a

⁵ See *Rust v. Sullivan*, 500 U.S. 173, 196 – 200 (1991). However, if a provider is an individual, affiliating with another person for the sake of being awarded a contract may not work.

⁶ *Id.*

⁷ *Griswold v. City of Homer*, 252 P.2d 1020 (Alaska 2011).

Senator Mike Dunleavy
April 6, 2016
Page 4

fundamental right (freedom of speech and association). In that case, the legislature would need to provide a compelling interest and show that no narrower means could be used to meet that interest.⁸

If I may be of further assistance, please advise.

KSG:dla
16-421.dla

⁸ *Treacy v. Municipality of Anchorage*, 91 P.3d 252, 265 – 66 (Alaska 2004).

LEGISLATIVE RESEARCH SERVICES

29th Alaska Legislature
LRS Report 16.213
April 7, 2016



(907) 465-3991 phone
(907) 465-3908 fax
research@akleg.gov

Chlamydia and Gonorrhea Rates in Alaska

Tim Spengler, Legislative Analyst

You asked for the chlamydia and gonorrhea rates in Alaska from 1999 until the most recent year available.

In Tables 1 and 2 below we provide the rates of chlamydia and gonorrhea infection per 100,000 population, respectively, from 1999 through 2014.¹ As you will see, Alaska's rates for both of these sexually transmitted diseases have increased significantly in this time period and are considerably higher than the national average.

As Table 1 shows, chlamydia rates increased by 157 percent in this time period, from 303 cases per 100,000 in 1999, to 778 per 100,000 in 2014. Nationally, chlamydia rates were 456 per 100,000 in 2014.²

Table 1: Chlamydia Rates in Alaska per 100,000 Population, 1999-2014

1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	% change
303	409	434	593	602	609	656	675	725	715	759	849	803	750	787	778	+ 157

Source: State of Alaska, Division of Public Health, Epidemiology Section at <http://dhss.alaska.gov/dph/Epi/Pages/default.aspx>.

In Table 2 you will see that from 1999 through 2014, gonorrhea cases per 100,000 rose from 49 to 180, or an increase of 267 percent. Nationally, gonorrhea rates were 111 per 100,000 in 2014.³

Table 2: Gonorrhea Rates in Alaska per 100,000 Population, 1999-2014

1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	% change
49	58	72	100	88	88	91	94	86	85	144	180	129	100	154	180	+ 267

Source: State of Alaska, Division of Public Health, Epidemiology Section at <http://dhss.alaska.gov/dph/Epi/Pages/default.aspx>.

We hope this is helpful. If you have questions or need additional information, please let us know.

¹Alaska Department of Public Health, Epidemiology Section's website at <http://dhss.alaska.gov/dph/Epi/Pages/default.aspx>.

²Centers for Disease Control, <http://www.cdc.gov/std/stats14/chlamydia.htm>.

³Centers for Disease Control, <http://www.cdc.gov/std/stats14/gonorrhea.htm>.

Background Information for SB 89 Hearing

Alaska STI and Pregnancy Rates

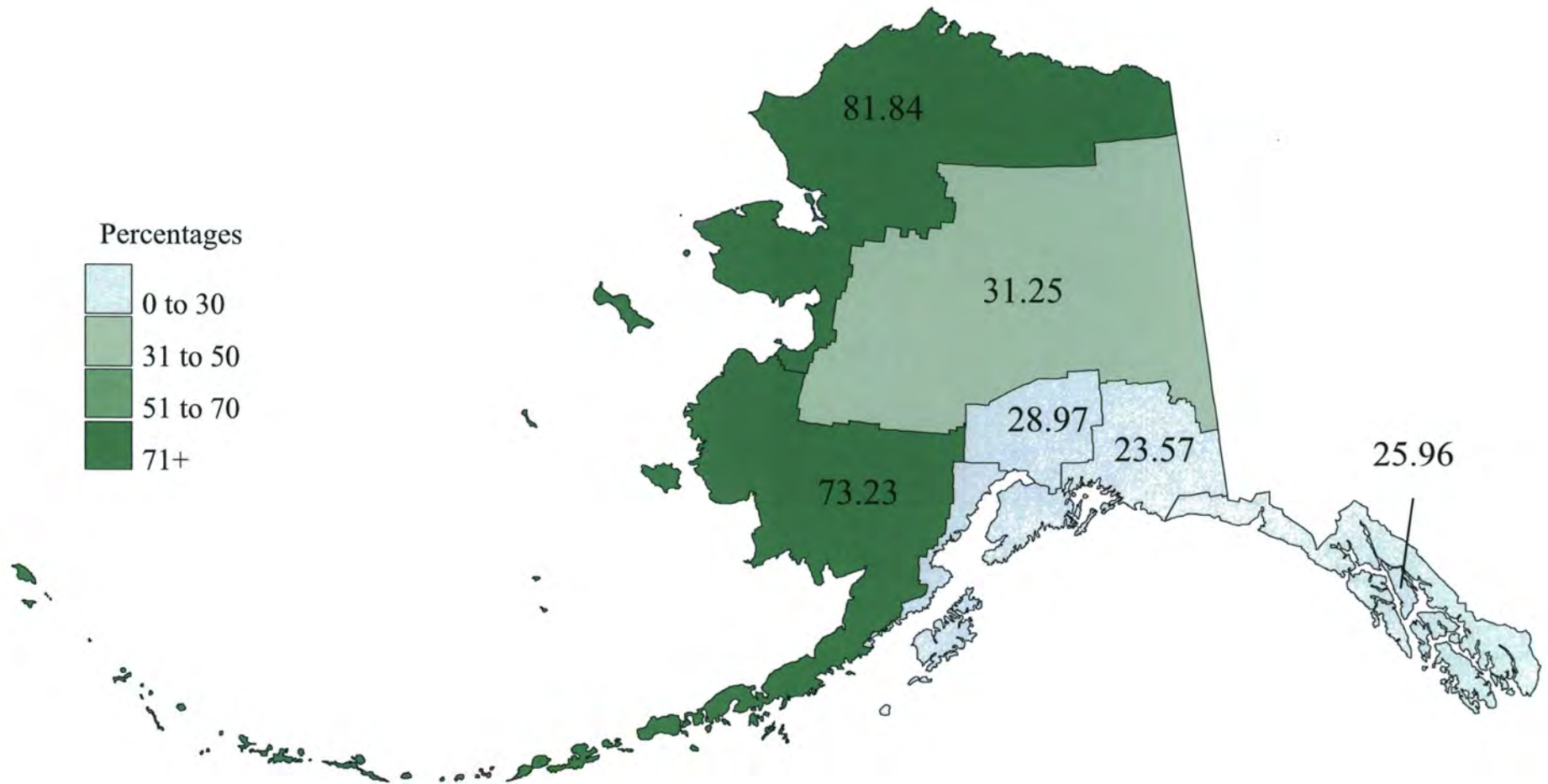
Section of Epidemiology

Division of Public Health

April 7th, 2016

Requested for the House Health and Social Services Committee

Teen Birth Rate by Region of Residence, 2010 - 2014



Source: Alaska Bureau of Vital Statistics. Last updated on 03/25/2016.

Table 1. Reported Chlamydia Cases, by Age, Race and Sex -- Alaska, Jan-Dec 2014

CT Cases = 5,728

AgeGroup	AI/AN			Black			Asian/PI			White		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Ages 00-04	0	0	0	0	0	0	0	0	0	1	0	1
Ages 05-09	0	0	0	0	0	0	0	0	0	0	0	0
Ages 10-14	5	23	28	1	3	4	0	3	3	2	5	7
Ages 15-19	89	476	565	31	63	94	8	53	61	113	415	528
Ages 20-24	197	705	902	89	70	159	43	105	148	312	508	820
Ages 25-29	141	406	547	52	29	81	19	61	80	208	213	421
Ages 30-34	86	188	274	31	19	50	3	32	35	78	87	165
Ages 35-39	55	92	147	15	7	22	3	10	13	33	33	66
Ages 40-44	25	41	66	7	4	11	4	6	10	23	7	30
Ages 45-49	9	28	37	10	0	10	0	2	2	10	6	16
Ages 50-54	7	20	27	3	0	3	2	2	4	13	4	17
Ages 55-59	6	10	16	3	1	4	0	0	0	5	1	6
Ages 60-64	1	6	7	0	0	0	0	0	0	5	0	5
Ages 65+	2	0	2	0	0	0	1	0	1	1	0	1
Unknown	0	0	0	0	0	0	0	0	0	0	0	0
Total	623	1995	2618	242	196	438	83	274	357	804	1279	2083
% Sex, by Race*	23.80%	76.20%	100.00%	55.25%	44.75%	100.00%	23.25%	76.75%	100.00%	38.60%	61.40%	100.00%
% Race, by Sex**	34.12%	51.13%	45.71%	13.25%	5.02%	7.65%	4.55%	7.02%	6.23%	44.03%	32.78%	36.37%

* % Sex, by Race refers to the percentage of chlamydia cases, by sex, within each race category.

** % Race, by Sex refers to the percentage of chlamydia cases, by race, within each sex category.

Rates by Race are calculated with Alaska 2014 Population Estimates.

Table 1. Reported Chlamydia Cases, by Age, Race and Sex -- Alaska, Jan-Dec 2013

CT Cases = 5,728

	Other			Unknown			All Races				
AgeGroup	Male	Female	Total	Male	Female	Total	Male	Female	Total	AgeGroup	AgeGrp%
Ages 00-04	0	0	0	0	0	0	1	0	1	Ages 00-04	0.02%
Ages 05-09	0	0	0	0	0	0	0	0	0	Ages 05-09	0.00%
Ages 10-14	0	0	0	0	3	3	8	37	45	Ages 10-14	0.79%
Ages 15-19	0	2	2	8	46	54	249	1055	1304	Ages 15-19	22.77%
Ages 20-24	0	0	0	32	73	105	673	1461	2134	Ages 20-24	37.26%
Ages 25-29	0	0	0	15	19	34	435	728	1163	Ages 25-29	20.30%
Ages 30-34	0	0	0	9	9	18	207	335	542	Ages 30-34	9.46%
Ages 35-39	0	0	0	7	5	12	113	147	260	Ages 35-39	4.54%
Ages 40-44	0	0	0	2	1	3	61	59	120	Ages 40-44	2.09%
Ages 45-49	0	0	0	0	0	0	29	36	65	Ages 45-49	1.13%
Ages 50-54	0	0	0	1	0	1	26	26	52	Ages 50-54	0.91%
Ages 55-59	0	0	0	0	0	0	14	12	26	Ages 55-59	0.45%
Ages 60-64	0	0	0	0	0	0	6	6	12	Ages 60-64	0.21%
Ages 65+	0	0	0	0	0	0	4	0	4	Ages 65+	0.07%
Unknown	0	0	0	0	0	0	0	0	0	Unknown	0.00%
Total	0	2	2	74	156	230	1826	3902	5728	Total	100.00%
	0.00%	100.00%	100.00%	32.17%	67.83%	100.00%	31.88%	68.12%	100.00%		
	0.00%	0.05%	0.03%	4.05%	4.00%	4.02%	100.00%	100.00%	100.00%		

* % Sex, by Race refers to the percentage of chlamydia cases, by sex, within each race category.

** % Race, by Sex refers to the percentage of chlamydia cases, by race, within each sex category.

Rates by Race are calculated with Alaska 2014 Population Estimates.

Table 1. Reported Chlamydia Cases, by Age, Race and Sex by EpiRegion -- Alaska, Jan-Dec 2013

CT Cases = 5,728

	Aleutian & Pribilofs		Anchorage/Mat-Su		Arctic Slope		Bristol Bay	
	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%
TOTAL	32	0.56%	2907	50.75%	56	0.98%	97	1.69%
GENDER	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Male	7	21.88%	979	33.68%	12	21.43%	27	27.84%
Female	25	78.13%	1928	66.32%	44	78.57%	70	72.16%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%
AGE GROUP	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Ages 00-04	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 05-09	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 10-14	0	0.00%	15	0.52%	0	0.00%	3	3.09%
Ages 15-19	6	18.75%	667	22.94%	8	14.29%	34	35.05%
Ages 20-24	10	31.25%	1083	37.25%	26	46.43%	33	34.02%
Ages 25-29	8	25.00%	590	20.30%	15	26.79%	11	11.34%
Ages 30-34	4	12.50%	280	9.63%	4	7.14%	7	7.22%
Ages 35-39	3	9.38%	133	4.58%	1	1.79%	3	3.09%
Ages 40-44	1	3.13%	63	2.17%	0	0.00%	1	1.03%
Ages 45-49	0	0.00%	33	1.14%	1	1.79%	3	3.09%
Ages 50-54	0	0.00%	27	0.93%	0	0.00%	0	0.00%
Ages 55-59	0	0.00%	11	0.38%	0	0.00%	2	2.06%
Ages 60-64	0	0.00%	3	0.10%	0	0.00%	0	0.00%
Ages 65+	0	0.00%	2	0.07%	1	1.79%	0	0.00%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%
RACE	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
White	9	28.13%	1247	42.90%	2	3.57%	8	8.25%
Black	0	0.00%	342	11.76%	0	0.00%	0	0.00%
AI/AN	17	53.13%	890	30.62%	51	91.07%	87	89.69%
Asian/PI	3	9.38%	269	9.25%	2	3.57%	0	0.00%
Other	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Unknown	3	9.38%	159	5.47%	1	1.79%	2	2.06%

Table 1. Reported Chlamydia Cases, by Age, Race and Sex by EpiRegion -- Alaska, Jan-Dec 2013

CT Cases = 5,728

	Copper River/Prince William Sound		Interior		Kenai Peninsula		Kodiak Area		Northwest Arctic	
	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%
TOTAL	33	0.58%	843	14.72%	215	3.75%	49	0.86%	212	3.70%
GENDER	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Male	8	24.24%	300	35.59%	71	33.02%	14	28.57%	56	26.42%
Female	25	75.76%	543	64.41%	144	66.98%	35	71.43%	156	73.58%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
AGE GROUP	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Ages 00-04	0	0.00%	1	0.12%	0	0.00%	0	0.00%	0	0.00%
Ages 05-09	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 10-14	1	3.03%	7	0.83%	0	0.00%	0	0.00%	7	3.30%
Ages 15-19	8	24.24%	170	20.17%	72	33.49%	10	20.41%	59	27.83%
Ages 20-24	13	39.39%	345	40.93%	83	38.60%	21	42.86%	59	27.83%
Ages 25-29	8	24.24%	171	20.28%	30	13.95%	7	14.29%	46	21.70%
Ages 30-34	3	9.09%	83	9.85%	18	8.37%	5	10.20%	21	9.91%
Ages 35-39	0	0.00%	31	3.68%	6	2.79%	4	8.16%	10	4.72%
Ages 40-44	0	0.00%	18	2.14%	0	0.00%	2	4.08%	6	2.83%
Ages 45-49	0	0.00%	5	0.59%	2	0.93%	0	0.00%	4	1.89%
Ages 50-54	0	0.00%	7	0.83%	2	0.93%	0	0.00%	0	0.00%
Ages 55-59	0	0.00%	3	0.36%	2	0.93%	0	0.00%	0	0.00%
Ages 60-64	0	0.00%	2	0.24%	0	0.00%	0	0.00%	0	0.00%
Ages 65+	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
RACE	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
White	16	48.48%	420	49.82%	165	76.74%	16	32.65%	5	2.36%
Black	0	0.00%	89	10.56%	1	0.47%	1	2.04%	0	0.00%
AI/AN	13	39.39%	272	32.27%	42	19.53%	12	24.49%	200	94.34%
Asian/PI	2	6.06%	31	3.68%	1	0.47%	19	38.78%	3	1.42%
Other	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Unknown	2	6.06%	31	3.68%	6	2.79%	1	2.04%	4	1.89%

Table 1. Reported Chlamydia Cases, by Age, Race and Sex by EpiRegion -- Alaska, Jan-Dec 2013

CT Cases = 5,728

	Norton Sound		Southeast		Yukon-Kuskokwim		Unknown		Statewide Totals		
	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Rates
TOTAL	262	4.57%	374	6.53%	642	11.21%	6	0.10%	5728	100.00%	777.8
GENDER	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Statewide%	Rates
Male	78	29.77%	115	30.75%	157	24.45%	2	33.33%	1826	31.88%	479.6
Female	184	70.23%	259	69.25%	485	75.55%	4	66.67%	3902	68.12%	1097.1
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
AGE GROUP	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Statewide%	Rates
Ages 00-04	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	0.02%	1.8
Ages 05-09	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Ages 10-14	3	1.15%	1	0.27%	7	1.09%	1	16.67%	45	0.79%	86.8
Ages 15-19	49	18.70%	84	22.46%	137	21.34%	0	0.00%	1304	22.77%	2659.1
Ages 20-24	98	37.40%	140	37.43%	221	34.42%	2	33.33%	2134	37.26%	3885.4
Ages 25-29	56	21.37%	74	19.79%	146	22.74%	1	16.67%	1163	20.30%	2034.4
Ages 30-34	25	9.54%	38	10.16%	53	8.26%	1	16.67%	542	9.46%	998.6
Ages 35-39	16	6.11%	20	5.35%	33	5.14%	0	0.00%	260	4.54%	567.2
Ages 40-44	4	1.53%	8	2.14%	17	2.65%	0	0.00%	120	2.09%	258.1
Ages 45-49	2	0.76%	2	0.53%	13	2.02%	0	0.00%	65	1.13%	135.7
Ages 50-54	5	1.91%	2	0.53%	8	1.25%	1	16.67%	52	0.91%	92.9
Ages 55-59	3	1.15%	1	0.27%	4	0.62%	0	0.00%	26	0.45%	48.1
Ages 60-64	1	0.38%	3	0.80%	3	0.47%	0	0.00%	12	0.21%	27.9
Ages 65+	0	0.00%	1	0.27%	0	0.00%	0	0.00%	4	0.07%	5.9
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
RACE	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Statewide%	Rates
White	6	2.29%	174	46.52%	12	1.87%	3	50.00%	2083	36.37%	399.1
Black	0	0.00%	4	1.07%	1	0.16%	0	0.00%	438	7.65%	354.3
AI/AN	254	96.95%	156	41.71%	622	96.88%	2	33.33%	2618	45.71%	7444.9
Asian/PI	0	0.00%	24	6.42%	3	0.47%	0	0.00%	357	6.23%	640.8
Other	0	0.00%	2	0.53%	0	0.00%	0	0.00%	2	0.03%	
Unknown	2	0.76%	14	3.74%	4	0.62%	1	16.67%	230	4.02%	

Table 1. Reported Gonorrhea Cases, by Age, Race and Sex -- Alaska, Jan-Dec 2014

GC Cases = 1,323

AgeGroup	AI/AN			Black			Asian/PI			White		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
Ages 00-04	0	1	1	0	0	0	0	0	0	0	0	0
Ages 05-09	0	0	0	0	0	0	0	0	0	0	0	0
Ages 10-14	0	2	2	0	0	0	0	0	0	0	0	0
Ages 15-19	19	50	69	5	12	17	2	5	7	12	16	28
Ages 20-24	68	130	198	31	14	45	12	8	20	42	35	77
Ages 25-29	65	111	176	32	12	44	9	10	19	40	30	70
Ages 30-34	41	62	103	23	2	25	2	3	5	30	12	42
Ages 35-39	33	29	62	5	1	6	0	4	4	16	11	27
Ages 40-44	21	31	52	12	1	13	4	0	4	13	6	19
Ages 45-49	19	18	37	10	0	10	1	1	2	12	1	13
Ages 50-54	10	13	23	8	0	8	0	0	0	10	3	13
Ages 55-59	10	4	14	3	0	3	0	0	0	8	2	10
Ages 60-64	3	0	3	4	0	4	0	0	0	2	0	2
Ages 65+	1	0	1	3	0	3	0	0	0	2	0	2
Unknown	0	0	0	0	0	0	0	0	0	0	0	0
Total	290	451	741	136	42	178	30	31	61	187	116	303
% Sex, by Race*	39.14%	60.86%	100.00%	76.40%	23.60%	100.00%	49.18%	50.82%	100.00%	61.72%	38.28%	100.00%
% Race, by Sex**	43.61%	68.54%	56.01%	20.45%	6.38%	13.45%	4.51%	4.71%	4.61%	28.12%	17.63%	22.90%

* % Sex, by Race refers to the percentage of Gonorrhea cases, by sex, within each race category.

** % Race, by Sex refers to the percentage of Gonorrhea cases, by race, within each sex category.

Rates by Race are calculated with Alaska 2014 Population Estimates.

Table 1. Reported Gonorrhea Cases, by Age, Race and Sex -- Alaska, Jan-Dec 2013

GC Cases = 1,323

	Other			Unknown			All Races				
AgeGroup	Male	Female	Total	Male	Female	Total	Male	Female	Total	AgeGroup	AgeGrp%
Ages 00-04	0	0	0	0	0	0	0	1	1	Ages 00-04	0.08%
Ages 05-09	0	0	0	0	0	0	0	0	0	Ages 05-09	0.00%
Ages 10-14	0	0	0	0	0	0	0	2	2	Ages 10-14	0.15%
Ages 15-19	0	0	0	1	4	5	39	87	126	Ages 15-19	9.52%
Ages 20-24	0	0	0	5	7	12	158	194	352	Ages 20-24	26.61%
Ages 25-29	0	0	0	5	3	8	151	166	317	Ages 25-29	23.96%
Ages 30-34	0	0	0	3	0	3	99	79	178	Ages 30-34	13.45%
Ages 35-39	0	0	0	6	2	8	60	47	107	Ages 35-39	8.09%
Ages 40-44	0	0	0	1	2	3	51	40	91	Ages 40-44	6.88%
Ages 45-49	0	0	0	0	0	0	42	20	62	Ages 45-49	4.69%
Ages 50-54	0	0	0	0	0	0	28	16	44	Ages 50-54	3.33%
Ages 55-59	0	0	0	0	0	0	21	6	27	Ages 55-59	2.04%
Ages 60-64	0	0	0	1	0	1	10	0	10	Ages 60-64	0.76%
Ages 65+	0	0	0	0	0	0	6	0	6	Ages 65+	0.45%
Unknown	0	0	0	0	0	0	0	0	0	Unknown	0.00%
Total	0	0	0	22	18	40	665	658	1323	Total	100.00%
	0.00%	0.00%	0.00%	55.00%	45.00%	100.00%	50.26%	49.74%	100.00%		
	0.00%	0.00%	0.00%	3.31%	2.74%	3.02%	100.00%	100.00%	100.00%		

* % Sex, by Race refers to the percentage of Gonorrhea cases, by sex, within each race category.

** % Race, by Sex refers to the percentage of Gonorrhea cases, by race, within each sex category.

Rates by Race are calculated with Alaska 2014 Population Estimates.

Table 1. Reported Gonorrhea Cases, by Age, Race and Sex by EpiRegion -- Alaska, Jan-Dec 2013

GC Cases = 1,323

	Aleutian & Pribilofs		Anchorage/Mat-Su		Arctic Slope		Bristol Bay	
	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%
TOTAL	5	0.38%	820	61.98%	21	1.59%	30	2.27%
GENDER	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Male	1	20.00%	430	52.44%	10	47.62%	16	53.33%
Female	4	80.00%	390	47.56%	11	52.38%	14	46.67%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%
AGE GROUP	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Ages 00-04	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 05-09	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 10-14	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 15-19	1	20.00%	71	8.66%	2	9.52%	0	0.00%
Ages 20-24	1	20.00%	197	24.02%	5	23.81%	6	20.00%
Ages 25-29	1	20.00%	204	24.88%	8	38.10%	8	26.67%
Ages 30-34	1	20.00%	108	13.17%	4	19.05%	3	10.00%
Ages 35-39	1	20.00%	68	8.29%	0	0.00%	2	6.67%
Ages 40-44	0	0.00%	66	8.05%	2	9.52%	4	13.33%
Ages 45-49	0	0.00%	42	5.12%	0	0.00%	3	10.00%
Ages 50-54	0	0.00%	32	3.90%	0	0.00%	1	3.33%
Ages 55-59	0	0.00%	19	2.32%	0	0.00%	2	6.67%
Ages 60-64	0	0.00%	9	1.10%	0	0.00%	0	0.00%
Ages 65+	0	0.00%	4	0.49%	0	0.00%	1	3.33%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%
RACE	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
White	1	20.00%	231	28.17%	2	9.52%	2	6.67%
Black	0	0.00%	160	19.51%	0	0.00%	0	0.00%
AI/AN	4	80.00%	345	42.07%	17	80.95%	27	90.00%
Asian/PI	0	0.00%	54	6.59%	2	9.52%	0	0.00%
Other	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Unknown	0	0.00%	30	3.66%	0	0.00%	1	3.33%

Table 1. Reported Gonorrhea Cases, by Age, Race and Sex by EpiRegion -- Alaska, Jan-Dec 2013

GC Cases = 1,323

	Copper River/Prince William Sound		Interior		Kenai Peninsula		Kodiak Area		Northwest Arctic	
	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%
TOTAL	0	0.00%	106	8.01%	22	1.66%	2	0.15%	33	2.49%
GENDER	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Male	0	0.00%	56	52.83%	13	59.09%	1	50.00%	19	57.58%
Female	0	0.00%	50	47.17%	9	40.91%	1	50.00%	14	42.42%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
AGE GROUP	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
Ages 00-04	0	0.00%	1	0.94%	0	0.00%	0	0.00%	0	0.00%
Ages 05-09	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 10-14	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 15-19	0	0.00%	10	9.43%	4	18.18%	0	0.00%	3	9.09%
Ages 20-24	0	0.00%	48	45.28%	1	4.55%	0	0.00%	5	15.15%
Ages 25-29	0	0.00%	18	16.98%	6	27.27%	0	0.00%	4	12.12%
Ages 30-34	0	0.00%	10	9.43%	4	18.18%	1	50.00%	6	18.18%
Ages 35-39	0	0.00%	7	6.60%	4	18.18%	0	0.00%	7	21.21%
Ages 40-44	0	0.00%	4	3.77%	1	4.55%	1	50.00%	5	15.15%
Ages 45-49	0	0.00%	4	3.77%	2	9.09%	0	0.00%	2	6.06%
Ages 50-54	0	0.00%	3	2.83%	0	0.00%	0	0.00%	1	3.03%
Ages 55-59	0	0.00%	1	0.94%	0	0.00%	0	0.00%	0	0.00%
Ages 60-64	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Ages 65+	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
RACE	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%
White	0	0.00%	36	33.96%	15	68.18%	1	50.00%	0	0.00%
Black	0	0.00%	18	16.98%	0	0.00%	0	0.00%	0	0.00%
AI/AN	0	0.00%	45	42.45%	6	27.27%	1	50.00%	33	100.00%
Asian/PI	0	0.00%	3	2.83%	0	0.00%	0	0.00%	0	0.00%
Other	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%
Unknown	0	0.00%	4	3.77%	1	4.55%	0	0.00%	0	0.00%

Table 1. Reported Gonorrhea Cases, by Age, Race and Sex by EpiRegion -- Alaska, Jan-Dec 2013

GC Cases = 1,323

	Norton Sound		Southeast		Yukon-Kuskokwim		Unknown		Statewide Totals		
	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Cases	Statewide%	Rates
TOTAL	117	8.84%	18	1.36%	149	11.26%	0	0.00%	1323	100.00%	179.7
GENDER	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Statewide%	Rates
Male	52	44.44%	11	61.11%	56	37.58%	0	0.00%	665	50.26%	174.7
Female	65	55.56%	7	38.89%	93	62.42%	0	0.00%	658	49.74%	185
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
AGE GROUP	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Statewide%	Rates
Ages 00-04	0	0.00%	0	0.00%	0	0.00%	0	0.00%	1	0.08%	1.8
Ages 05-09	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0
Ages 10-14	2	1.71%	0	0.00%	0	0.00%	0	0.00%	2	0.15%	3.9
Ages 15-19	8	6.84%	2	11.11%	25	16.78%	0	0.00%	126	9.52%	256.9
Ages 20-24	38	32.48%	5	27.78%	46	30.87%	0	0.00%	352	26.61%	640.9
Ages 25-29	27	23.08%	1	5.56%	40	26.85%	0	0.00%	317	23.96%	554.5
Ages 30-34	17	14.53%	3	16.67%	21	14.09%	0	0.00%	178	13.45%	328
Ages 35-39	10	8.55%	3	16.67%	5	3.36%	0	0.00%	107	8.09%	233.4
Ages 40-44	3	2.56%	1	5.56%	4	2.68%	0	0.00%	91	6.88%	195.7
Ages 45-49	3	2.56%	1	5.56%	5	3.36%	0	0.00%	62	4.69%	129.4
Ages 50-54	5	4.27%	0	0.00%	2	1.34%	0	0.00%	44	3.33%	78.6
Ages 55-59	4	3.42%	1	5.56%	0	0.00%	0	0.00%	27	2.04%	49.9
Ages 60-64	0	0.00%	0	0.00%	1	0.67%	0	0.00%	10	0.76%	23.2
Ages 65+	0	0.00%	1	5.56%	0	0.00%	0	0.00%	6	0.45%	8.9
Unknown	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
RACE	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Local%	Cases	Statewide%	Rates
White	7	5.98%	8	44.44%	0	0.00%	0	0.00%	303	22.90%	58.1
Black	0	0.00%	0	0.00%	0	0.00%	0	0.00%	178	13.45%	144
AI/AN	109	93.16%	6	33.33%	148	99.33%	0	0.00%	741	56.01%	2107.2
Asian/PI	0	0.00%	2	11.11%	0	0.00%	0	0.00%	61	4.61%	109.5
Other	0	0.00%	0	0.00%	0	0.00%	0	0.00%	0	0.00%	
Unknown	1	0.85%	2	11.11%	1	0.67%	0	0.00%	40	3.02%	

**Figure. Chlamydial Infection Rates by Economic Region – Alaska, 2015
(n=5,680)**

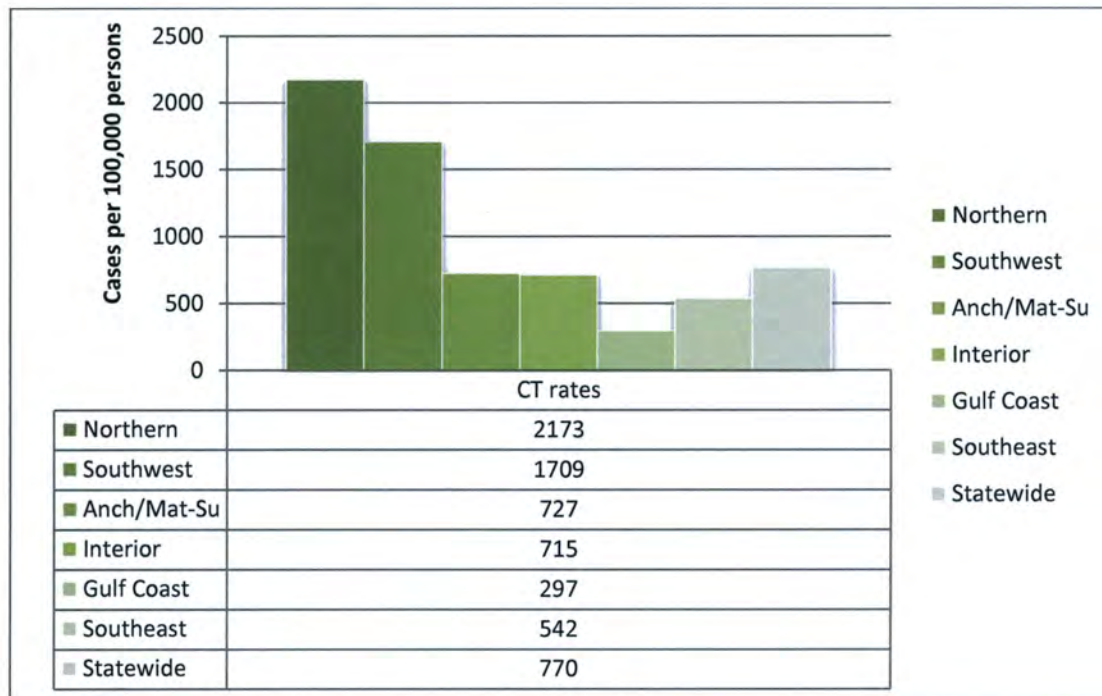
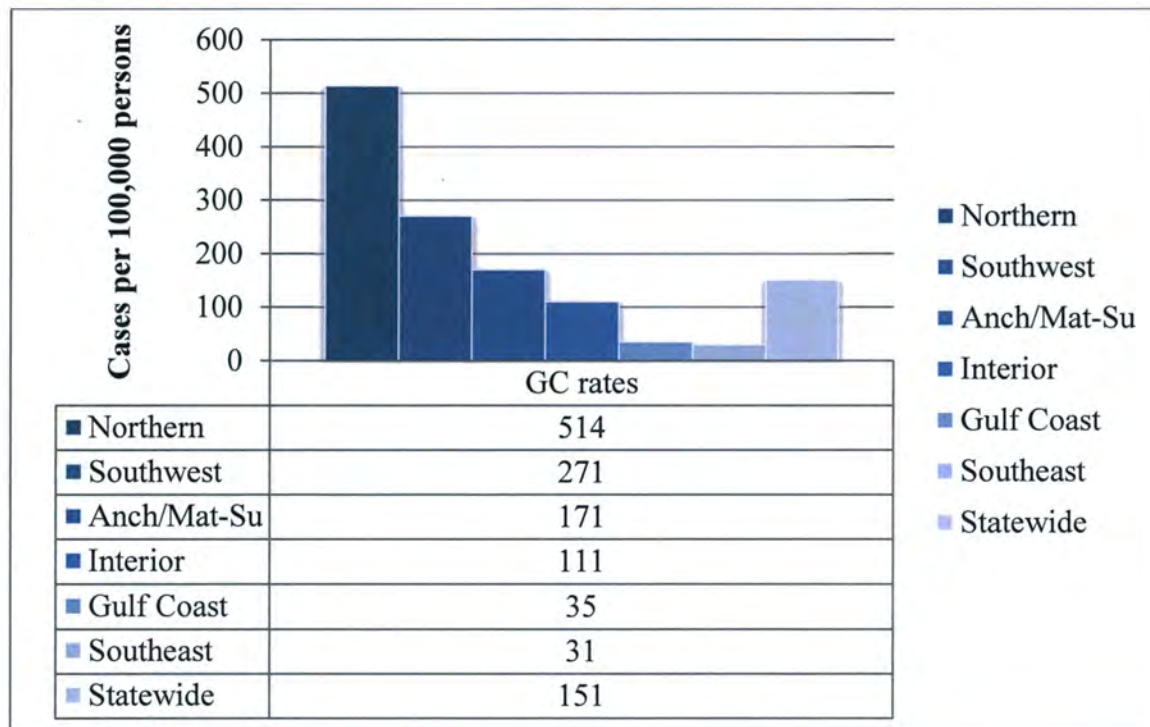


Figure. Gonococcal Infection Rates by Economic Region – Alaska, 2015 (n=1,115)



HIV Surveillance Report — Alaska, 1982–2015

From January 1, 1982 through December 31, 2015, 1,680 cases of human immunodeficiency virus (HIV) infection were reported to the Alaska Section of Epidemiology (SOE), including cases with an initial diagnosis in Alaska and those previously diagnosed out-of-state who are living in Alaska (Table). During 2015, 64 cases of HIV infection were reported to SOE; 22 (34%) of which were initially diagnosed in Alaska, yielding a 2015 statewide incidence rate of 3 cases per 100,000 persons. This HIV Surveillance Report contains summary data and highlights for cumulative cases reported from 1982 through 2015 (n=1,680), incident cases diagnosed in Alaska in 2015 (n=22), and Persons Living with HIV in Alaska as of December 31, 2015 (n=671).

Table. Summary of Reported Cases of HIV by Select Characteristics — Alaska, 1982–2015

	1982–2015				2015			
	All Reported Cases n=1,680		Reported Cases First Diagnosed in Alaska n=1,156		All Reported Cases n=64		Reported Cases First Diagnosed in Alaska n=22	
	Male	Female	Male	Female	Male	Female	Male	Female
HIV (non–AIDS)	422	130	268	96	23	11	12	4
HIV with AIDS	931	197	642	150	26	4	5	1
TOTAL #	1,353	327	910	246	49	15	17	5
Age at Diagnosis in Years, #								
<14	11	11	8	5	0	4	0	0
15–24	191	64	108	42	7	2	4	0
25–34	522	116	328	87	20	3	3	1
35–44	413	75	286	60	9	2	2	2
45–54	160	48	130	40	8	3	4	1
55–64	43	11	38	10	5	1	4	1
≥65	13	2	12	2	0	0	0	0
Race/Ethnicity, #								
American Indian/ Alaska Native (AI/AN)	225	111	194	105	6	4	5	4
Asian	18	16	10	11	1	1	0	1
Black	167	53	100	29	11	6	4	0
Hispanic	125	23	74	17	8	1	1	0
Native Hawaiian/ Pacific Islander (NH/PI)	8	2	7	1	0	0	0	0
White	784	117	515	80	22	3	7	0
Multi–race (Multi)	26	5	10	3	1	0	0	0
Transmission Category, #								
Male–to–Male Sex	840	0	568	0	28	0	10	0
Injection Drug Use (IDU)	133	62	90	41	2	1	0	0
Male–to–Male Sex and IDU	135	0	64	0	7	0	1	0
Heterosexual Contact	92	226	71	176	7	10	4	5
Perinatal	6	11	4	5	0	4	0	0
Other/Not Specified	147	28	113	24	5	0	2	0
Residence at Time of Diagnosis, #								
Anchorage/Mat–Su	650	157	650	157	10	2	10	2
Gulf Coast	57	12	57	12	2	0	2	0
Interior	93	31	93	31	2	1	2	1
Northern	14	8	14	8	2	0	2	0
Southeast	56	23	56	23	1	2	1	2
Southwest	40	15	40	15	0	0	0	0
Out of State/Country	443	81	0	0	32	10	0	0



Cumulative Reported Cases of HIV, 1982–2015

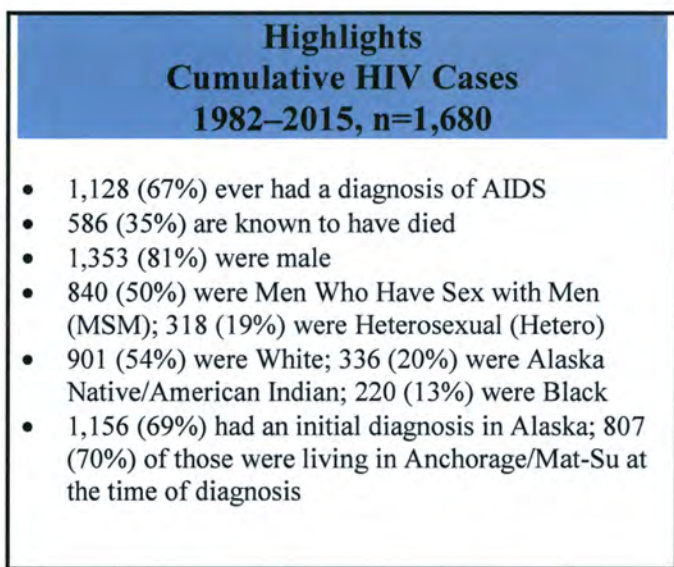


Figure 1. Cumulative Reported Cases of HIV and Known Deaths by Year of Diagnosis, Alaska — 1982–2015

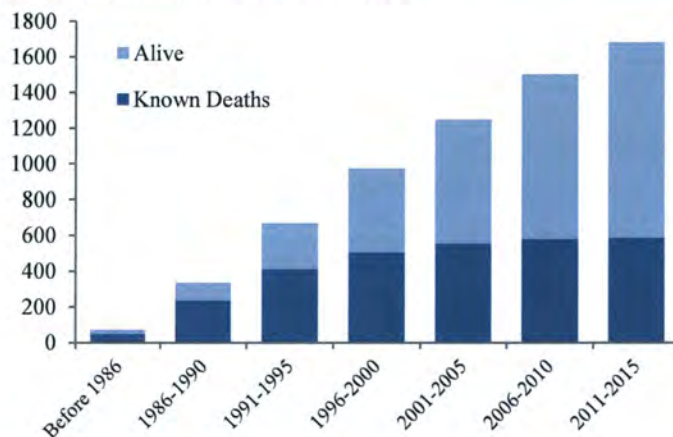


Figure 2. Cumulative Reported Cases of HIV by Age at Diagnosis and Gender, Alaska — 1982–2015

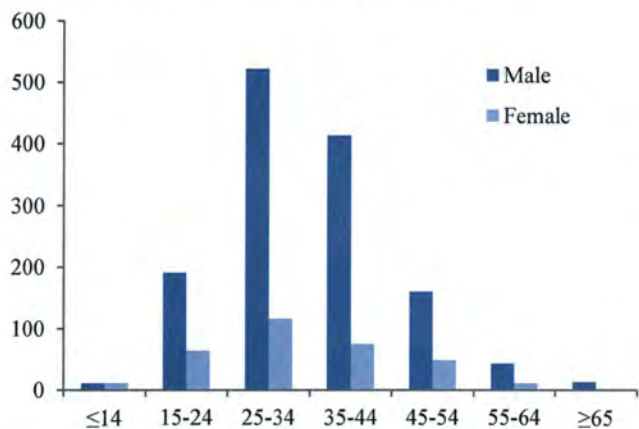


Figure 3. Cumulative Reported Cases of HIV by Race/Ethnicity and Gender, Alaska — 1982–2015

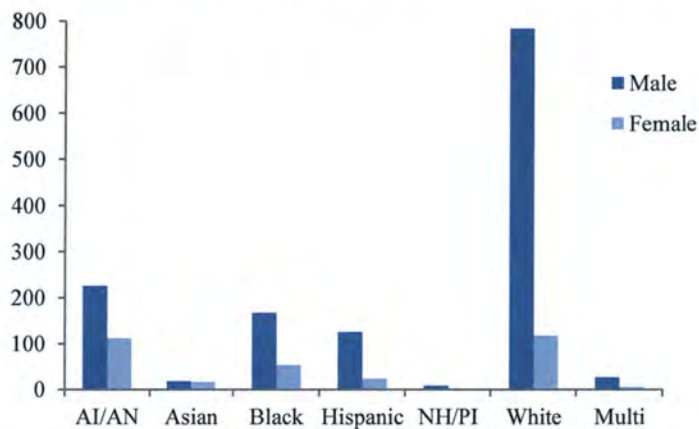


Figure 4. Cumulative Reported Cases of HIV by Transmission Category, Alaska — 1982–2015

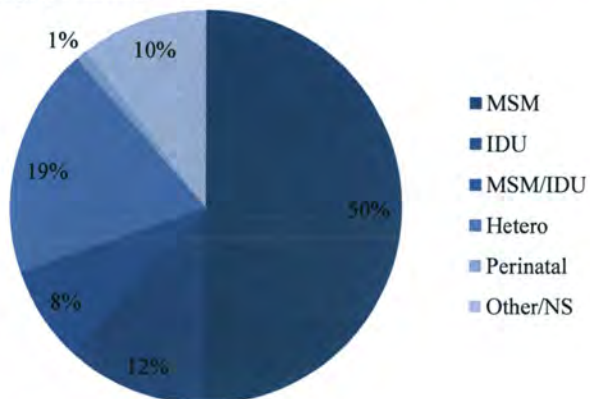
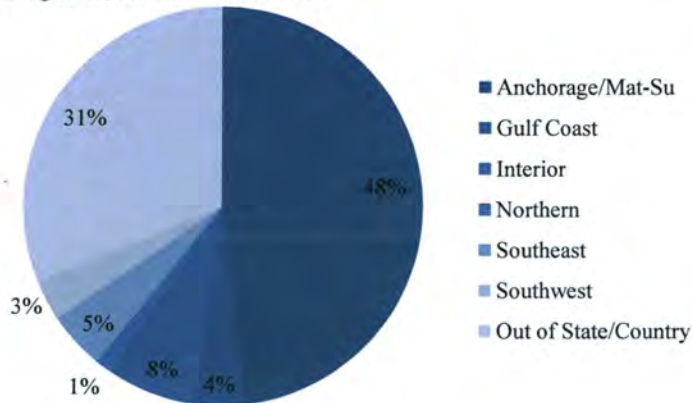


Figure 5. Cumulative Reported Cases of HIV by Residence at Diagnosis, Alaska — 1982–2015



Reported Cases of HIV Newly Diagnosed in Alaska, 2015

Highlights Newly Diagnosed HIV Cases 2015, n=22

- 6 (27%) were also diagnosed with AIDS
- None are known to have died
- 17 (77%) were male
- 10 (45%) were Men Who Have Sex with Men (MSM); 9 (41%) were Heterosexual
- 7 (32%) were White; 9 (41%) were Alaska Native/American Indian; 4 (18%) were Black
- 12 (55%) were living in Anchorage/Mat-Su at the time of diagnosis

Figure 6. Reported Cases of HIV Newly Diagnosed in Alaska by Year — 2006–2015

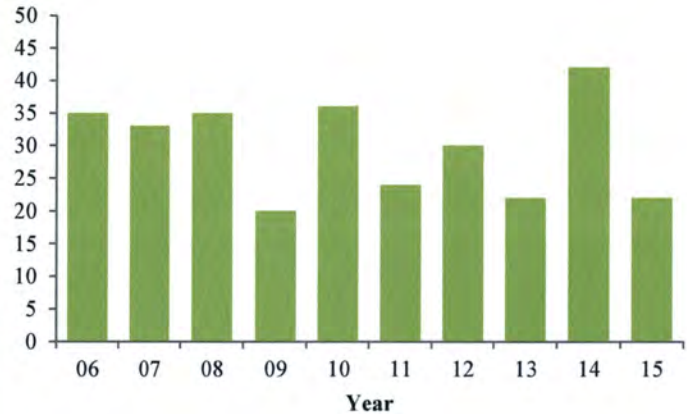


Figure 7. Reported Cases of HIV Newly Diagnosed in Alaska by Age at Diagnosis and Gender — 2015

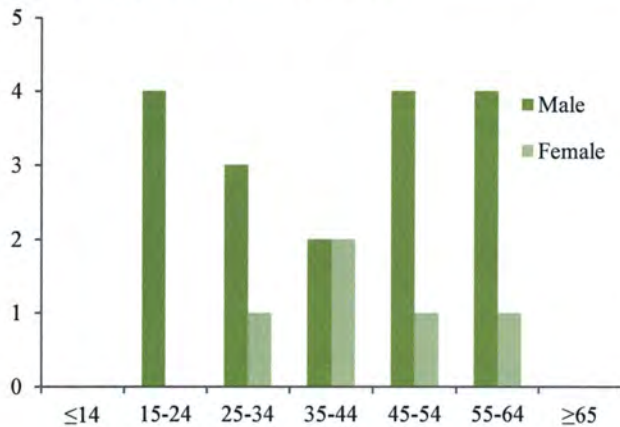


Figure 8. Reported Cases of HIV Newly Diagnosed in Alaska by Race/Ethnicity and Gender — 2015

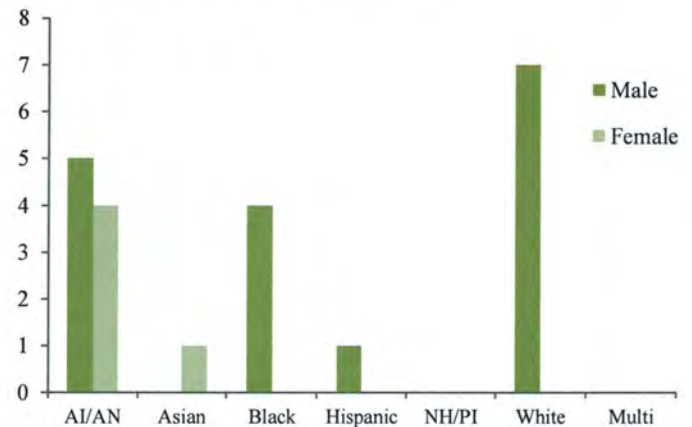


Figure 9. Reported Cases of HIV Newly Diagnosed in Alaska by Transmission Category — 2015

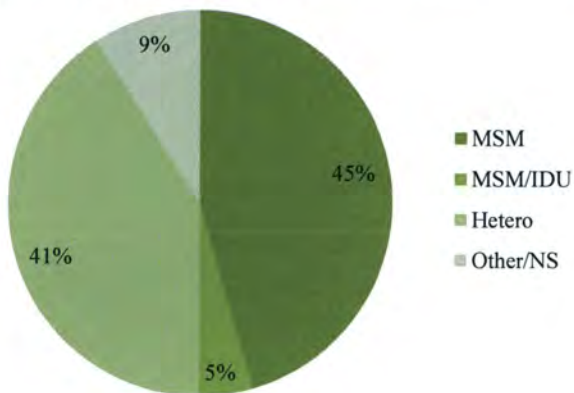
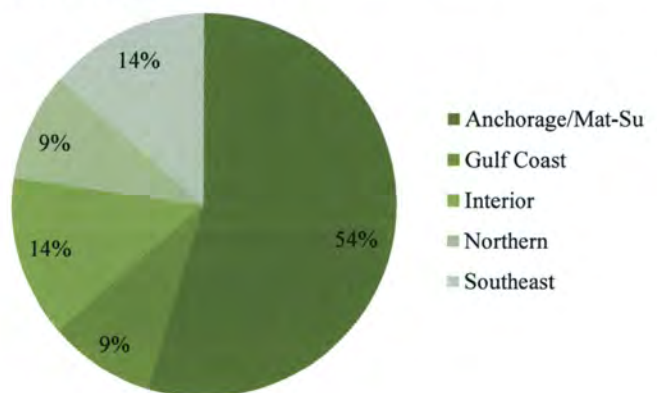


Figure 10. Reported Cases of HIV Newly Diagnosed in Alaska by Residence at Diagnosis — 2015



Persons Living with HIV/AIDS in Alaska as of December 31, 2015

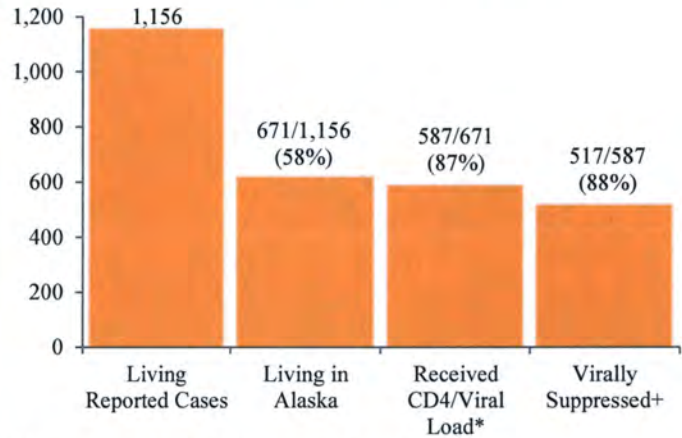
Highlights

Persons Living with HIV in Alaska

As of December 31, 2015, n=671

- 374 (56%) ever had a diagnosis of AIDS
- 506 (75%) were male
- 305 (45%) were Men Who Have Sex with Men (MSM); 178 (27%) were Heterosexual
- 301 (45%) were White; 168 (25%) were Alaska Native/American Indian; 92 (14%) were Black
- 448 (67%) had an initial diagnosis in Alaska; 306 (68%) of those were living in Anchorage/Mat-Su at the time of diagnosis
- 587 (87%) received at least one CD4 or viral load, and of those 517 (88%) are virally suppressed

Figure 11. HIV Care Continuum, Alaska — As of December 31, 2015



* In preceding 12 months, between Jan. 1, 2015 and Dec. 31, 2015
 + Viral Load ≤ 200 copies/mL

Figure 12. Persons Living with HIV/AIDS in Alaska by Age at Diagnosis and Gender — As of December 31, 2015

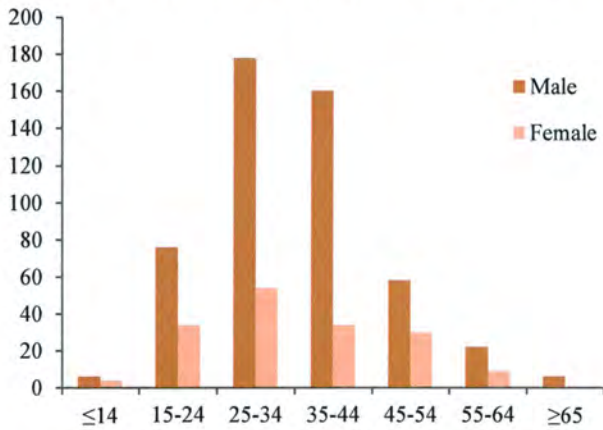


Figure 13. Persons Living with HIV/AIDS in Alaska by Race/Ethnicity and Gender — As of December 31, 2015

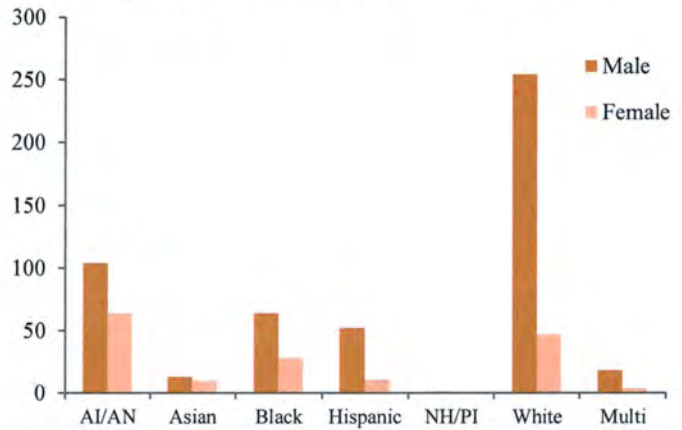


Figure 14. Persons Living with HIV/AIDS in Alaska by Transmission Category — As of December 31, 2015

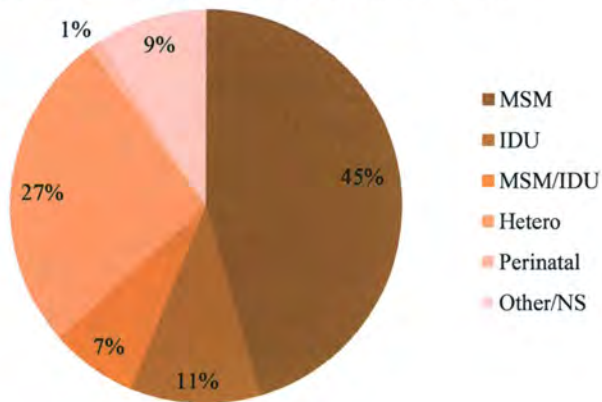
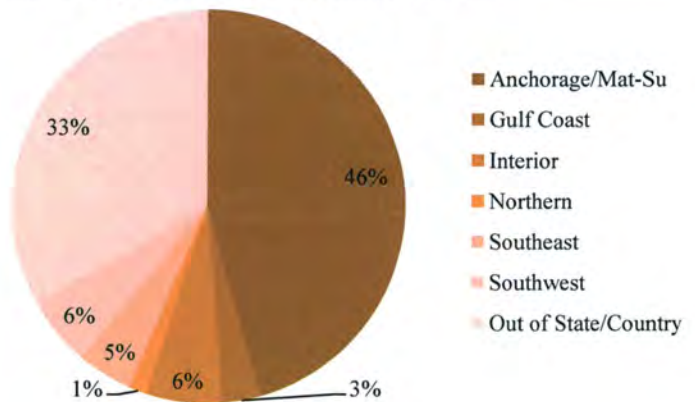


Figure 15. Persons Living with HIV/AIDS in Alaska by Residence at Time of Diagnosis — As of December 31, 2015





CHAIRMAN & PRESIDENT

April 8, 2016

The Honorable Paul Seaton
Alaska State Capitol Building
State Capitol Room 102
Juneau, AK 99801

Re: SB 89 Hearing in House Health & Social Services Committee Thursday 4/7/2016

Dear Representative Seaton,

I am writing in response to your request for information on sexually transmitted diseases (STDs), teen pregnancy rates and sex education in Alaska. For the first time since 2006, rates for syphilis, gonorrhea, and chlamydia all increased nationwide in 2014. Having other STDs also increases the likelihood of contracting and transmitting HIV, which is a significant concern here in Alaska where STD prevalence is high; Alaska has repeatedly ranked 1st or 2nd in Chlamydia infection rates in the nation since the early 2000s. In 2014, the Chlamydial infection rate continued to exceed the US rate by 73% - 778 cases per 100,000 compared to 450 cases per 100,000 nationally. The Alaska gonorrhea infection rate had increased to outbreak levels between 2009 and 2010 and in 2014 Alaska still struggled with a rate above the national rate of infection - 180 cases per 100,000 versus 111 cases per 100,000 nationally. These statistics most significantly impact women, young people ages 15-24 years of age and minority populations, especially those living in the rural areas of the state.

The Alaska Native Tribal Health Consortium (ANTHC) recognizes the impact of STDs on the health and well-being of Alaskans and supports school- and community –based education on healthy relationships and safe sexual behaviors. Research shows that comprehensive education about sexuality is effective and has a positive impact on delaying sexual activity and increasing safe sexual behaviors among youth. The ANTHC HIV/STD Prevention Program currently addresses Alaska's high STD rates through www.iknowmine.org (IKM), a well-established statewide multi-media prevention education and outreach website with free condom distribution and at-home STD testing open to all Alaskans.

With community support and engagement, the program has also developed healthy life skills and healthy relationship curricula for Alaska Native middle school and high school aged youth geared towards helping youth make responsible decisions about sexual behaviors and sexual health. Our own evaluation efforts have demonstrated that youth who went through the Native It's Your Game middle school curriculum had more reasons not to have sex, gained knowledge about STDs and condoms and felt more confident about getting and using condoms if they choose to have sex.

Our Vision:

Alaska Native people are the healthiest people in the world

ALASKA NATIVE TRIBAL HEALTH CONSORTIUM

4000 Ambassador Drive | Anchorage, Alaska 99508

907.942.1063

Page 2 of 2
Representative Seaton
April 8, 2016

Providing barrier-free access to age-appropriate education on reproductive health and sexual matters that meets national standards for sex education is crucial to addressing Alaska's high rates of STDs and sexual violence and to raising healthy, confident and successful youth.

For more information, please contact the ANTHC HIV/STD Prevention Program Manager, Connie Jessen, at cmjessen@anthc.org.

Respectfully,

A handwritten signature in black ink, appearing to read 'Andy Teuber', with a large, sweeping flourish at the end.

Andy Teuber
Chairman and President

Taneeka Hansen

From: Newman, Anthony (HSS) <anthony.newman@alaska.gov>
Sent: Wednesday, April 13, 2016 4:19 PM
To: Taneeka Hansen; Gina Ritacco
Cc: Davidson, Valerie J (HSS); Butler, Jay C (HSS); Lewis, Jill (HSS); Woods, Sarah B (HSS); Peterson, Darwin R (GOV); Wilcox, Lacy J (GOV); McClanahan, Natasha S (GOV)
Subject: question from Tuesday in House HSS re SB 89

Follow Up Flag: Follow up
Flag Status: Flagged

Categories: committee

Taneeka and Gina:

Tuesday in the House Health and Social Services Committee hearing, during testimony on SB 89, Rep. Seaton requested some information on teen pregnancy. My thanks to the Division of Public Health for providing the following links:

Here is a list of federally reviewed evidence-based teen pregnancy health education programs:

- HHS Office of Adolescent Evidence-Based Programs Database
http://www.hhs.gov/ash/oah/oah-initiatives/teen_pregnancy/db/index.html

or a quicker view can be found here:

- HHS Office of Adolescent Health Evidence-Based Programs At-A-Glance
http://www.hhs.gov/ash/oah/oah-initiatives/teen_pregnancy/training/Assests/ebp-table.pdf.

As well, the Centers for Disease Control and Prevention also provides a list of effective behavioral interventions that work for HIV prevention and may also have evidence of effectiveness for STD or teen pregnancy:

<https://effectiveinterventions.cdc.gov/en/HighImpactPrevention/Interventions.aspx>.

Finally, here is an article, "Abstinence-only and Comprehensive Sex Education and Initiation of Sexual Activity and Teen Pregnancy", from the Journal of Adolescent Health: [http://www.jahonline.org/article/S1054-139X\(07\)00426-0/pdf](http://www.jahonline.org/article/S1054-139X(07)00426-0/pdf).

Thank you,

Tony

Tony Newman | Legislative Liaison
Office of the Commissioner | Alaska Department of Health and Social Services

350 Main Street, Room 404 | Juneau AK 99811
(desk) [907.465.1611](tel:907.465.1611) | (cell) [907.321.3989](tel:907.321.3989)
anthony.newman@alaska.gov

TPP Resource Center

1. [OAH Initiatives](#)
2. [TPP Resource Center](#)
3. Evidence-Based Programs Database

Office of Adolescent Health

TPP Resource Center: Evidence-Based Programs

Resources to Help

- [Searchable database of evidence-based program models](#)
- [Choosing an evidence-based program or curriculum](#)
- [HHS Teen Pregnancy Prevention Evidence Review](#)

One approach communities use to help reduce teen pregnancies is implementing evidence-based programs in schools, clinics and other community settings. The Department of Health and Human Services (HHS) conducts a Teen Pregnancy Prevention Evidence Review which uses a systematic process for reviewing evaluation studies against a rigorous standard in order to identify programs shown effective at preventing teen pregnancies, sexually transmitted infections, or sexual risk behaviors.

The evidence review, first conducted in 2009 and updated periodically, is led by the HHS Office of the Assistant Secretary for Planning and Evaluation. The most recent update was released in August 2014. Read [more about the evidence review process, procedures, and findings](#).

Since 2010, the Office of Adolescent Health (OAH) has funded the [Teen Pregnancy Prevention Program](#) to support replication of evidence-based programs that were included on the [HHS Teen Pregnancy Prevention Evidence Review](#) at the time the grant was funded. Organizations requesting grant funding selected the programs most appropriate for use in their community.

Read more about each of the evidence-based programs, its content, and implementation requirements below or visit the [searchable database of evidence-based program models](#). You can use this database to find programs that were developed and shown effective for certain target populations, settings, ages, and more.

EVIDENCE-BASED PROGRAMS MODELS

Click program title for more information

Program Name	Evaluation Setting
Aban Aya Youth Project	Middle school
Adult Identity Mentoring (Project AIM)	Middle school
All4You!	High school, Specialized setting
Assisting in Rehabilitating Kids (ARK)	Specialized setting
Be Proud! Be Responsible!	After school program or community-based organization

Be Proud! Be Responsible! Be Protective!	Middle school, High school
Becoming a Responsible Teen (BART)	After school program or community-based organization
Children's Aid Society (CAS) -- Carrera Programs	After school program or community-based organization
¡Cuidate!	After school program or community-based organization
Draw the Line/Respect the Line	Middle school
Families Talking Together (FTT)	Clinic-based
FOCUS	Specialized setting
Health Improvement Projects for Teens (HIP Teens)	After school program or community-based organization
Heritage Keepers Abstinence Education	Middle school, High school
HORIZONS	Health clinic
It's Your Game: Keep it Real (IYG)	Middle school
Making a Difference!	After school program or community-based organization
Making Proud Choices!	After school program or community-based organization
Project IMAGE	Health Clinic
Project TALC	After school program or community-based organization
Promoting Health Among Teens! Abstinence-Only Intervention	After school program or community-based organization
Promoting Health Among Teens! Comprehensive Abstinence and Safer Sex Intervention	After school program or community-based organization
Raising Healthy Children (formerly known as the Seattle Social Development Project)	Elementary school
Reducing the Risk	High school
Respeto/Proteger	After school program or community-based organization
Rikers Health Advocacy Program (RHAP)	Specialized setting
Safer Choices	High school
Safer Sex	Health clinic
SiHLE	Health clinic
Sexual Health and Adolescent Risk Prevention (SHARP) (formerly known as HIV Risk Reduction Among Detained Adolescents)	Specialized setting
Sisters Saving Sisters	Health clinic
STRIVE	After school program or community-based organization
Teen Health Project	After school program or

	community-based organization
Teen Outreach Program (TOP)	High school
Seventeen Days	Health clinic

¹ Martin, J. A., Hamilton, B. E., Osterman, M. J. K., Curtin, S. C., & Mathews, T. J. (2013). Births: Final data for 2012 Hyattsville, MD: National Center for Health Statistics Retrieved January 8, 2014, from http://www.cdc.gov/nchs/data/nvsr/nvsr62/nvsr62_09.pdf

² Hoffman, S. D., & Maynard, R. A. (Eds.). (2008). Kids having kids: economic costs and social consequences of teen pregnancy (2nd ed.). Washington, DC: Urban Institute Press.

³ United Nations Statistics Division. (2011). Demographic Yearbook 2009-2010: Live births by age of mother. New York, NY: United Nations. Retrieved May 12, 2014, from <http://unstats.un.org/unsd/demographic/products/dyb/dyb2009-2010.htm>

Last updated: February 16, 2016

In TPP Resource Center

- [Training Topics](#)
- [Resources](#)

Training Topics

- [Building Collaborations](#)
- [Choosing an Evidence-Based Program and Curriculum](#)
- [Cultural Competence](#)
- [Engaging Select Populations](#)
- [Implementation](#)
- [Performance Management](#)
- [Recruitment, Retention & Engagement](#)
- [Strategic Communications & Dissemination](#)
- [Sustainability](#)

Talking with Teens

[Visit our site for parents](#)

Evidence Based Programs

[Explore the database](#)

Enter E-mail Address

Submit

Health Insurance Marketplace

Office of Adolescent Health

1101 Wootton Parkway, Suite 700
Rockville, MD 20852

oah.gov@hhs.gov

Contact Us

- [HHS Home](#)
- [Questions?](#)
- [Contacting HHS](#)
- [Accessibility](#)
- [Privacy Policy](#)
- [FOIA](#)
- [Disclaimers](#)
- [Inspector General](#)
- [No FEAR Act/Whistleblower](#)

- [The White House](#)
- [USA.gov](#)
- [PaymentAccuracy.gov](#)
- [HHS Archive](#)
- [Flu.gov](#)
- [Viewers & Players](#)
- [Plain Language](#)

U.S. Department of Health & Human Services

<http://www.hhs.gov>

Office of Adolescent Health

1. Search

2.



- [Home](#)
- [About Us](#)
 - [Vision](#)
 - [Leadership](#)
 - [Employment](#)
 - [Contact Us](#)
 - [Visitor Information](#)
- [OAH Initiatives](#)
 - [Adolescent Health: Think, Act, Grow](#)
 - [Evaluation and Performance Measurement](#)
 - [Pregnancy Assistance Fund Program](#)
 - [Resource Centers](#)
 - [Teen Pregnancy Prevention Program](#)
- [Adolescent Health Topics](#)
 - [America's Adolescents](#)
 - [Healthy Relationships](#)
 - [Mental Health](#)
 - [Physical Health and Nutrition](#)
 - [Reproductive Health](#)
 - [Substance Abuse](#)
- [News](#)
 - [E-Updates](#)
 - [Events](#)
 - [News Releases](#)
 - [Twitter Chats](#)
 - [Webinars](#)
- [Resources & Publications](#)
 - [Adolescent Health Social Media](#)
 - [E-Updates](#)
 - [Multimedia](#)
 - [Webinars](#)
 - [National and State Facts](#)
 - [Online Learning](#)
 - [Adolescent Health Library](#)
 - [HHS Resources](#)
- [Grants](#)
 - [Open Grants](#)
 - [Closed Grants](#)
 - [Current Grantees](#)

Original article

Abstinence-Only and Comprehensive Sex Education and the Initiation of Sexual Activity and Teen Pregnancy

Pamela K. Kohler, R.N., M.P.H.^{a,c}, Lisa E. Manhart, Ph.D.^{b,c}, and William E. Lafferty, M.D.^{a,*}

^aDepartments of Health Services and

^bEpidemiology, and the

^cCenter for AIDS and STD, University of Washington, Seattle Washington

Manuscript received April 17, 2007; manuscript accepted August 29, 2007

See Editorial p. 324

Abstract

Purpose: The role that sex education plays in the initiation of sexual activity and risk of teen pregnancy and sexually transmitted disease (STD) is controversial in the United States. Despite several systematic reviews, few epidemiologic evaluations of the effectiveness of these programs on a population level have been conducted.

Methods: Among never-married heterosexual adolescents, aged 15–19 years, who participated in Cycle 6 (2002) of the National Survey of Family Growth and reported on formal sex education received before their first sexual intercourse ($n = 1719$), we compared the sexual health risks of adolescents who received abstinence-only and comprehensive sex education to those of adolescents who received no formal sex education. Weighted multivariate logistic regression generated population-based estimates.

Results: Adolescents who received comprehensive sex education were significantly less likely to report teen pregnancy ($OR_{adj} = .4$, 95% CI = .22–.69, $p = .001$) than those who received no formal sex education, whereas there was no significant effect of abstinence-only education ($OR_{adj} = .7$, 95% CI = .38–1.45, $p = .38$). Abstinence-only education did not reduce the likelihood of engaging in vaginal intercourse ($OR_{adj} = .8$, 95% CI = .51–1.31, $p = .40$), but comprehensive sex education was marginally associated with a lower likelihood of reporting having engaged in vaginal intercourse ($OR_{adj} = .7$, 95% CI = .49–1.02, $p = .06$). Neither abstinence-only nor comprehensive sex education significantly reduced the likelihood of reported STD diagnoses ($OR_{adj} = 1.7$, 95% CI = .57–34.76, $p = .36$ and $OR_{adj} = 1.8$, 95% CI = .67–5.00, $p = .24$ respectively).

Conclusions: Teaching about contraception was not associated with increased risk of adolescent sexual activity or STD. Adolescents who received comprehensive sex education had a lower risk of pregnancy than adolescents who received abstinence-only or no sex education. © 2008 Society for Adolescent Medicine. All rights reserved.

Keywords: Sexually transmitted disease; Teen pregnancy; Sex education; Abstinence

Rates of sexually transmitted disease (STD), teen pregnancy, and teen births are higher in the United States than in most other industrialized countries [1,2]. In a 2000 study of STD incidence among 16 developed countries, the rates of syphilis, gonorrhea and chlamydia in the United States (U.S.)

were exceeded only by those in Romania and the Russian Federation [2]. Although there are minimal differences in levels of sexual activity across developed countries (Sweden, France, Canada, Great Britain, and the U.S.) [3], teen pregnancy, birth rates and abortion rates are higher in the U.S. than in other developed countries [1]. In 1995 adolescent pregnancy rates were 83.6 per 1000 in the U.S. compared with 47.0 in England and Wales, 45.4 in Canada, 20.2 in France, and 24.9 in Sweden.

In the U.S., although 15–24-year-olds represent only

*Address correspondence to: William E. Lafferty, M.D., Associate Professor/Director, Department of Health Services, Health & Policy Research Track, Health Sciences Center, Box 357660, Seattle, WA 98195-7660.

E-mail address: billlaf@u.washington.edu

25% of the sexually active population, they account for nearly one-half of all new sexually transmitted infections [4], and rates are highest among young women and minorities [5]. Compared with male adolescents of the same age, rates of gonorrhea among 15–19-year-old women are more than twice as high (624.7 vs. 261.2 per 100,000), and rates of chlamydia are more than five times higher (2796.6 vs. 505.2 per 100,000). Among African-American adolescents aged 15–19 years, the 2005 rate of gonorrhea was 14 times greater than the rate among white female adolescents of similar age (2814 vs. 204.7 per 100,000).

Formal school-based or church-based sex education programs aimed at reducing risks of teenage pregnancy and STD acquisition generally promote one of two types of messages regarding sexual activity: (1) abstinence-only messages, or (2) comprehensive sex education messages. Abstinence-only messages teach that sex should be delayed until marriage, and discussion of birth control methods is typically limited to statements about ineffectiveness [6]. Comprehensive programs include abstinence messages, but also provide information on birth control methods to prevent pregnancy and condoms to prevent STDs.

Although several avenues of federal funding for formal sex education programs are available, all require adherence to abstinence-only messages. In 1996 Congress introduced Section 510(b) of Title V of the Social Security Act, allocating federal dollars for state initiatives promoting abstinence-only programming and establishing criteria for defining abstinence education. To receive federal Title V funding, a sex education program must have as its exclusive purpose “teaching the social, psychological, and health gains to be realized by abstaining from sexual activity” [7]. These programs must teach that abstinence from sexual activity outside marriage is the expected standard for all school-age children and the only certain way to avoid out-of-wedlock pregnancy and STDs.

Over the past 5 years, U.S. fiscal policy has allocated increasing amounts of funding to abstinence-only prevention programs. In 2001 abstinence-only education programs received \$80 million in federal funding [6], and by 2005 federal funding had more than doubled to \$167 million [8]. The 2008 fiscal year budget proposes \$204 million for abstinence education [9]. Consistent with this increase in funding, analyses of Cycle 5 (1995) and Cycle 6 (2002) of the National Survey of Family Growth (NSFG) revealed that whereas only 9.3% of adolescents aged 15–19 received abstinence-only education in 1995, nearly a quarter (23.8%) did so in 2002 [10].

Systematic reviews suggest that the effects of abstinence-only programs on sexual risk behavior have been minimal, and that initiation of sexual activity is not hastened by receiving instruction about measures for safer sex [11–15]. However the majority of reviewed trials have been conducted in specific subgroups of the population, and there have been no population-level evaluations of the effectiveness of these programs. In addition the question of whether

comprehensive or abstinence-only sex education is most effective at reducing risk for teen pregnancy and STD has stimulated a heated and politicized debate. To address this gap in the evidence, we used data from Cycle 6 of the NSFG to determine whether STD and pregnancy risk is significantly different based on the type of formal sex education adolescents receive and whether teaching about contraception increases risk for sexual activity before marriage.

Methods

The NSFG is a nationwide survey conducted by the National Center for Health Statistics. Data were collected in collaboration with the University of Michigan’s Institute for Social Research by trained personnel, from January 2002 to March 2003, through an in-home interview process that included Audio Computer-Assisted Self-Interviewing (ACASI). Overall information collected included basic demographics; knowledge, attitudes, and beliefs regarding family planning issues; and self-reported sexual behavior and previous diagnoses of STDs.

Sample

The NSFG is based on an area probability sample designed to represent the national noninstitutionalized population 15–44 years of age. It includes responses from 12,571 male and female individuals from across the United States. The adolescent subset of this cohort (aged 15–19 years) was asked additional questions related to sex education, sexual behavior, pregnancy and STDs. A total of 1150 adolescent girls and 1121 adolescent boys responded to the NSFG general questionnaire and special adolescent interview.

To assess the effect of formal sex education programs on pregnancy and STD risk, the sample was restricted to never-married heterosexual teens aged 15–19 years who reported no formal sex education, formal sex education on “how to say no to sex” only (abstinence-only), or formal sex education covering both “saying no to sex” and teaching about birth control (comprehensive).

We excluded respondents who were married ($n = 36$), in whom formal sex education programs would not be expected to delay sexual debut or reduce risk for pregnancy. Individuals reporting sexual orientation other than heterosexual were also excluded ($n = 318$), as programs do not address same-sex behaviors. We further excluded respondents who reported exposure to sex education that taught only birth control without mentioning abstinence, as such programs were not consistent with our definitions of either abstinence-only or comprehensive programs ($n = 111$), as well as respondents who did not answer sex education questions ($n = 1$) or who reported an age of first intercourse <10 years ($n = 8$). To ensure temporal sequence in our assessment of whether formal sex education delayed sexual initiation or reduced teen pregnancy, we excluded those who reported first vaginal intercourse before formal sex education. We computed this by adding 5 years to

Table 1

Characteristics of heterosexual adolescents aged 15–19 years reporting on sex education (none, abstinence only or comprehensive) in the 2002 Cycle 6 of the National Survey of Family Growth (NSFG) (population and sample, $n = 1719$)

Characteristic	Total	No sex education:	Abstinence-only education:	Comprehensive sex education:
		Weighted % (95%CI) n = 168	Weighted % (95% CI) n = 390	Weighted % (95% CI) n = 1161
Overall		9.4	23.8	66.8
Age ^a	Mean = 17.0 (\pm .04)	Mean = 17.2 (\pm .12)	Mean = 16.8 (\pm .10)	Mean = 17.1 (\pm .05)
Gender				
Female	47.4	42.0 (34.5–50.0)	45.4 (39.1–51.9)	48.8 (44.7–52.9)
Male	52.6	58.0 (50.0–65.5)	54.6 (48.1–60.9)	51.2 (47.1–55.3)
Race/ethnicity				
White	76.7	69.4 (60.2–77.2)	75.1 (69.3–80.2)	78.2 (74.4–81.6)
Black	14.0	19.2 (12.8–27.8)	16.4 (12.0–21.9)	12.5 (10.2–15.2)
Other	9.3	11.4 (6.8–18.6)	8.5 (5.5–13.0)	9.3 (7.1–12.0)
Household income quartile (per year) ^a				
<\$20,000	23.7	36.9 (28.4–46.3)	24.9 (20.5–29.9)	21.4 (18.6–24.6)
\$20,000–39,999	27.0	23.0 (17.1–32.5)	32.6 (27.0–38.8)	25.6 (22.4–29.1)
\$40,000–74,999	27.3	18.2 (12.4–25.9)	24.3 (20.0–29.2)	29.7 (26.7–32.8)
>\$75,000	21.9	21.9 (13.7–33.1)	18.2 (13.8–23.6)	23.3 (19.8–27.1)
Residence ^a				
Metropolitan, central city	53.3	39.0 (27.4–52.1)	53.4 (44.9–61.6)	55.3 (48.7–61.7)
Metropolitan, not central city	27.0	26.8 (17.6–38.5)	24.7 (19.2–31.2)	27.9 (22.9–33.5)
Not metropolitan	19.7	34.2 (21.2–50.1)	22.0 (14.6–31.7)	16.8 (11.2–24.5)
Nonintact family unit ^{ab}	41.3	53.8 (43.5–63.8)	36.9 (31.1–43.1)	41.2 (37.7–44.8)

^a Design-based Pearson χ^2 test for difference between categories significant at $p < .05$.

^b Intact family unit defined as adolescent residing with the same two biological or adoptive parents from birth until age 18 years or living on own.

the grade at sex education and subtracting age at first sex education from age at first sex ($n = 60$). Another 18 adolescents who reported teen pregnancy or using birth control at last sex but reported no vaginal sex were also excluded ($n = 18$).

Type of formal sex education

Exposure to specific types of sex education was measured based on two separate questions. The first asked whether respondents, before the age of 18 years, ever received “any formal instruction at school, church, a community center, or some other place about how to say no to sex.” A follow-up question asked the same about receiving instruction about methods of birth control. Individuals who reported birth control education in addition to education emphasizing saying no to sex were classified as having participated in comprehensive sex education. Respondents who reported only receiving sex education about how to say no to sex were classified as participants in abstinence-only programs.

Measures of adolescent sexual risk

We examined three dichotomous measures of adolescent sexual risk: ever having engaged in vaginal intercourse; pregnancy; and STD. Self-report of ever having had vaginal sex was coded as ever/never, and teen pregnancy was assessed by computing the total number of pregnancies reported by males and females by ACASI. Prior STD diagnosis was assessed by self-report of chlamydia, gonorrhea in the last year, or ever having been diagnosed with herpes, genital warts, or syphilis.

Characteristics previously associated with adolescent

sexual risk behaviors were assessed as potential confounding factors and included: respondent age (integer years 15–19), household income quartiles (<\$20,000; \$20,000–39,999; \$40,000–74,999; >\$75,000), race/ethnicity (black, white, other), residence (rural, suburban, central city) and intactness of the family unit (residing with the same two biological/adoptive parents since birth).

Analysis

We conducted a stratified weighted analysis to account for the complex survey design of the NSFG using STATA 9 (Stata Corp., College Station, TX). A design based Pearson's χ^2 test was used to compare proportions, and weighted multivariate logistic regression was used to determine the association of type of formal sex education with measures of sexual risk (engaging in vaginal sex, pregnancy and STD). Covariates were retained in the model if they were significantly associated with the outcome and/or if their inclusion substantially changed the estimates for type of sex education by $\geq 10\%$. Although we performed analyses stratified by gender, there were no substantive differences in results; thus we present combined analyses.

Results

Population, sample, and sex education

Of the 1719 never-married heterosexual adolescents included in these analyses, 47.4% were female (Table 1). The

Table 2

Characteristics associated with report of ever engaging in vaginal intercourse among heterosexual adolescents aged 15–19 years reporting on sex education (none, abstinence-only, or comprehensive) in the 2002 Cycle 6 of the National Survey of Family Growth (NSFG)

Characteristic	Ever had vaginal intercourse:	Never had vaginal intercourse:	<i>p</i> **	Univariate OR (95% CI)	Multivariate†† OR (95% CI)
	Weighted % (95%CI)	Weighted % (95%CI)			
Sex education					
No sex education	11.5 (8.9–14.7)	7.6 (5.5–10.4)	.06	(Ref)	(Ref)
Abstinence-only sex education	22.6 (19.1–26.5)	25.0 (21.6–28.7)		.60 (.39–.92)*	.82 (.51–1.31)
Comprehensive sex education	66.0 (61.6–70.2)	67.4 (62.9–71.5)		.65 (.45–.95)*	.70 (.49–1.02)
Age (mean ± SE)	17.6 (±.06)	16.6 (±.06)	<.001§§	1.79 (1.58–2.02)‡§	1.91 (1.67–2.18)‡
Gender					
Female	47.1 (42.4–51.8)	47.7 (43.9–51.6)	.83	(Ref)	(Ref)
Male	52.9 (48.2–57.6)	52.3 (48.4–56.1)		1.02 (.81–1.29)	1.07 (.81–1.40)
Race/ethnicity					
White	73.2 (68.6–77.4)	79.6 (75.5–83.2)	<.001	(Ref)	(Ref)
Black	18.5 (14.6–23.0)	10.3 (8.2–12.8)		1.95 (1.46–2.61)‡	1.86 (1.35–2.58)‡
Other	8.3 (6.1–11.4)	10.1 (7.5–13.5)		.90 (.59–1.37)	.85 (.53–1.37)
Household income quartile (per year)					
<\$20,000	27.6 (24.2–31.2)	20.5 (17.6–23.7)	.02	(Ref)	
\$20,000–39,999	25.2 (21.6–29.1)	28.4 (24.8–32.3)		.89 (.81–.98)*¶	
\$40,000–74,999	26.7 (23.2–30.6)	27.9 (24.7–31.4)			
>\$75,000	20.6 (17.1–24.5)	23.2 (19.7–27.1)			
Residence					
Metropolitan: Central City	48.1 (41.7–54.6)	57.6 (50.4–64.5)	.002	(Ref)	
Metropolitan: Not Central City	31.8 (26.5–37.7)	23.0 (18.2–28.5)		1.66 (1.28–2.16)‡	
Not metropolitan	20.0 (13.5–28.7)	19.4 (13.1–27.8)		1.24 (.89–1.72)	
Nonintact family unit‡‡	49.3 (44.9–53.6)	34.5 (30.4–38.8)	<.001	1.85 (1.42–2.40)‡	2.29 (1.67–3.13)‡

CI = confidence interval; OR = odds ratio.

OR is significant at

* $p < .05$, † $p < .01$, ‡ $p < .001$.

§ OR represents increase in risk for each additional year.

¶ OR represents increase in risk for each additional income quartile.

** Design-based Pearson's χ^2 test for difference between categories unless otherwise specified.

†† ORs adjusted for all variables in the column. Further adjustment for income and residence did not appreciably change the estimates for type of sexual education and thus were not included.

‡‡ Intact family unit was defined as residing with the same two biological or adoptive parents from birth until age 18 years or living on own.

§§ p Value obtained by design-based t test

median age was 17 years; 76.7% were of white ethnicity and 14.0% black. Household incomes less than \$40,000 per year were reported by half (50.7%) of the participants. The majority of respondents resided in a central city (53.3%), and 41.3% of respondents reported a nonintact family unit.

Overall 9.4% of participants reported that they had not received any sex education, whereas 23.8% reported abstinence-only education and 66.8% comprehensive sex education. Univariate analysis of sociodemographic characteristics revealed significant differences between type of education received with respect to age, income, residence, and family unit intactness. Generally individuals receiving no sex education tended to be from low-income nonintact families, black, and from rural areas. Participants reporting abstinence-only education were typically younger and from low-to-moderate-income intact families, whereas adolescents reporting comprehensive sex education were somewhat older, white, and from higher-income families and more urban areas.

Initiation of sexual activity

Almost half of respondents (46.3% of males and 45.7% of females) reported having engaged in vaginal intercourse by the time of the survey. In univariate analyses (Table 2), respondents who were older, black, from a lower-income household, resided in a noncentral city metropolitan area, and came from a nonintact family unit were significantly more likely to report ever having engaged in vaginal intercourse, whereas those who had received any type of formal sex education were less likely to report this ($p < .05$ for all). After adjustment for other significant predictors of engaging in vaginal intercourse (age, race, gender, and family intactness), abstinence-only education was not significantly associated with an adolescent ever engaging vaginal intercourse ($OR_{adj} = .8$, 95% CI = .51–1.31, $p = .40$), whereas comprehensive sex education was marginally associated with reduced reports of engaging in vaginal intercourse ($OR_{adj} = .7$, 95% CI = .49–1.02, $p = .06$).

Table 3

Characteristics associated with report of teen pregnancy among heterosexual adolescents ages 15–19 years reporting on sex education (none, abstinence-only, or comprehensive) in the 2002 Cycle 6 of the National Survey of Family Growth (NSFG)

Characteristic	Ever had teen pregnancy: Weighted % (95% CI)	No teen pregnancy: Weighted % (95% CI)	<i>p</i> **	Univariate OR (95% CI)	Multivariate†† OR (95% CI)
Sex education			.003		
No sex education	19.4 (13.2–27.4)	8.6 (6.6–11.0)		(Ref)	(Ref)
Abstinence-only sex education	27.1 (17.7–39.1)	23.6 (21.1–26.4)		.51 (.27–.98)*	.74 (.38–1.45)
Comprehensive sex education	53.5 (42.3–64.5)	67.8 (64.3–71.1)		.35 (.21–.60)‡	.39 (.22–.69)‡
Age (mean ± SE)	17.9 (±.11)	17.0 (±.04)	<.001§§	1.72 (1.46–2.02)‡§	1.87 (1.57–2.24)‡§
Gender			<.001		
Female	66.5 (54.6–76.5)	45.9 (42.7–49.1)		(Ref)	(Ref)
Male	33.5 (23.5–45.4)	54.1 (50.9–57.3)		.43 (.26–.70)‡	.44 (.26–.74)†
Race/ethnicity			.002		
White	66.7 (56.7–75.4)	77.4 (73.9–80.6)		(Ref)	(Ref)
Black	26.4 (18.6–36.0)	13.1 (10.7–16.0)		2.34 (1.49–3.67)‡	1.28 (.81–2.03)
Other	6.9 (3.0–15.3)	9.5 (7.4–12.0)		.85 (.35–2.07)	.72 (.28–1.85)
Household income quartile (per year)			<.001		
<\$20,000	46.6 (37.6–55.9)	21.9 (19.4–24.7)		(Ref)	(Ref)
\$20,000–39,999	25.7 (19.1–33.7)	27.2 (24.2–30.3)		.59 (.46–.74)‡¶	.69 (.53–.89)‡¶
\$40,000–74,999	15.4 (9.4–24.1)	28.3 (25.9–30.8)			
>\$75,000	12.3 (6.9–20.9)	22.6 (19.7–25.9)			
Residence			<.001		
Metropolitan, central city	38.5 (28.7–49.4)	54.4 (48.0–60.7)		(Ref)	(Ref)
Metropolitan, not central city	43.6 (33.8–53.9)	25.7 (21.3–30.8)		2.39 (1.51–3.79)‡	1.83 (1.15–2.91)*
Not metropolitan	17.9 (10.3–29.4)	19.8 (13.7–27.9)		1.27 (.71–2.28)	.88 (.47–1.67)
Nonintact family unit‡‡	64.5 (53.9–73.8)	39.5 (36.4–42.8)	<.001	2.78 (1.75–4.41)‡	2.51 (1.54–4.08)‡
Birth control method at last intercourse	71.3 (61.2–79.6)	92.5 (88.8–95.0)	<.001	.20 (.11–.36)‡	.25 (.14–.48)‡¶¶

OR is significant at

* $p < .05$, † $p < .01$, ‡ $p < .001$.

§ OR represents increase in risk for each additional year.

¶ OR represents increase in risk for each additional income quartile.

** Design-based Pearson's χ^2 test for difference between categories unless otherwise specified.

†† ORs adjusted for all variables in the column except birth control at last intercourse.

‡‡ Intact family unit was defined as residing with the same two biological or adoptive parents from birth until age 18 years or living on own.

§§ p Value obtained by design-based t test.

¶¶ Adjusted for age, gender, race, income, residence, and family intactness.

Pregnancy

Among all respondents, 7.3% reported a pregnancy, although this was more common among females (10.2%) than males (4.7%) ($p < .001$). In univariate analyses, increased odds for teen pregnancy were significantly associated with older age, black race, lower household income, noncentral city metropolitan residence, and nonintact family unit status ($p < .05$) (Table 3).

In multivariate analyses adjusting for age, gender, race, income, residence, and family intactness, abstinence-only sex education was not significantly associated with reported teen pregnancy when compared with no sex education ($OR_{adj} = .7$, 95% CI = .38–1.45, $p = .38$). However adolescents who reported having received comprehensive sex education were significantly less likely to report a teen pregnancy compared with those who received no sex education at all ($OR_{adj} = .4$, 95% CI = .22–.69, $p = .001$). The causal pathway intermediary of birth control use at last sexual intercourse was also associated with a decreased likelihood for reported pregnancy ($OR_{adj} = .3$, 95% CI =

.13–.48, $p < .001$), adjusted for the same characteristics as teen pregnancy. Finally, when comparing adolescents who reported receiving a comprehensive sex education with those who received an abstinence-only education, comprehensive sex education was associated with a 50% lower risk of teen pregnancy ($OR_{adj} = .5$, 95% CI = .28–.96, $p = .04$).

Previous STD diagnosis

Few adolescents (3.4%) reported any prior STD diagnoses, and previous STD diagnoses were twice as common among females (4.8%) as among males (2.1%). In univariate analyses, increased likelihood of STD diagnosis was also significantly associated with older age, black race, and coming from a nonintact family unit (Table 4). However in multivariate analyses adjusted for age, gender, race, and family intactness, neither abstinence-only nor comprehensive sex education were significantly associated with risk for STD when compared with no sex education ($OR_{adj} = 1.7$, 95% CI = .57–4.76, $p = .36$; and $OR_{adj} = 1.8$, 95% CI =

Table 4

Characteristics associated with report of previous STD diagnoses among heterosexual adolescents aged 15–19 years reporting on sex education (none, abstinence only or comprehensive) in the 2002 Cycle 6 of the National Survey of Family Growth (NSFG)

Characteristic	Reported STD diagnosis:		<i>p</i> **	Univariate OR (95% CI)	Multivariate†† OR (95% CI)
	Weighted % (95% CI)	No reported STD diagnosis: Weighted % (95% CI)			
Sex education			.55		
No sex education	6.9 (3.0–15.4)	9.5 (7.4–11.9)		(Ref)	(Ref)
Abstinence-only sex education	19.7 (11.1–32.6)	24.0 (21.4–26.8)		1.12 (.39–3.22)	1.65 (.57–4.76)
Comprehensive sex education	73.4 (59.5–83.8)	66.6 (63.0–69.9)		1.50 (.56–4.00)	1.82 (.67–5.00)
Age (mean ± SE)	17.6 (±.15)	17.0 (±.04)	<.001§§	1.37 (1.14–1.65)‡§	1.45 (1.21–1.75)‡§
Gender			.03		
Female	66.9 (48.7–81.1)	46.7 (43.4–49.9)		(Ref)	(Ref)
Male	33.1 (18.9–51.3)	53.3 (50.1–56.6)		.43 (.20–.93)*	.47 (.21–1.06)
Race/ethnicity			.05		
White	64.1 (49.5–76.5)	77.1 (73.6–80.3)		(Ref)	(Ref)
Black	25.0 (15.4–38.1)	13.7 (11.1–16.7)		2.20 (1.14–4.25)*	1.67 (.85–3.27)
Other	10.9 (4.9–22.5)	9.2 (7.2–11.8)		1.42 (.56–3.55)	1.49 (.58–3.85)
Household income quartile (per year)			.33		
<\$20,000	31.6 (20.0–46.0)	23.4 (20.9–26.2)		(Ref)	
\$20,000–39,999	25.4 (15.8–38.1)	27.1 (24.2–30.2)		.80 (.61–1.06)¶¶	
\$40,000–74,999	31.3 (17.1–50.1)	27.2 (24.8–29.7)			
>\$75,000	11.8 (5.0–25.1)	22.3 (19.4–25.5)			
Residence			.50		
Metropolitan, central city	46.7 (31.3–62.7)	53.5 (47.3–59.7)		(Ref)	
Metropolitan, not central city	34.1 (21.6–49.2)	26.8 (22.3–31.8)		1.46 (.74–2.90)	
Not metropolitan	19.2 (10.0–33.6)	19.7 (13.6–27.8)		1.12 (.52–2.42)	
Nonintact family unit‡‡	72.2 (58.0–83.0)	40.2 (37.1–43.4)	<.001	3.85 (2.00–7.42)‡	3.93 (2.00–7.74)‡
Condom use at last vaginal intercourse	47.3 (31.8–63.3)	65.1 (61.0–68.9)	.03	.48 (.25–.94)*	.55 (.25–1.21)¶¶

CI = confidence interval; OR = odds ratio.

OR significant at

* $p < .05$, † $p < .01$, ‡ $p < .001$.

§ OR represents increase in risk for each additional year.

¶ OR represents increase in risk for each additional income quartile.

** Design-based Pearson's χ^2 test for difference between categories unless otherwise specified. Further adjustment for income and residence did not appreciably change the estimates for type of sexual education and were not included. Condom use at last intercourse was not considered in the model.

‡‡ Intact family unit was defined as residing with the same two biological or adoptive parents from birth until age 18 years or living on own.

§§ p Value obtained by design-based t-test.

¶¶ Adjusted for age, gender, race, and family intactness.

.67–5.00, $p = .24$, respectively). The strongest predictor for STD was nonintact family unit status; such adolescents were four times more likely to report a previous diagnosis of STD ($OR_{adj} = 3.9$, 95% CI = 2.00–7.74, $p < .001$). Although condom use at last vaginal sex was significantly associated with a 50% decrease in odds of reported STD diagnoses in univariate analyses ($p = .03$), after adjusting for age, gender, race, and family intactness, this was no longer statistically significant, despite a similar odds ratio ($OR_{adj} = .55$, 95% CI = .24–1.20, $p = .13$).

Discussion

This assessment of the impact of formal sex education programs on teen sexual health using nationally representative data found that abstinence-only programs had no significant effect in delaying the initiation of sexual activity or in reducing the risk for teen pregnancy and STD. In contrast comprehensive sex education programs were sig-

nificantly associated with reduced risk of teen pregnancy, whether compared with no sex education or with abstinence-only sex education, and were marginally associated with decreased likelihood of a teen becoming sexually active compared with no sex education.

As has been previously reported [10], receipt of formal sex education was associated with important sociodemographic characteristics including age, income, and residence. In addition, we also found a strong relationship between family intactness and receiving sex education. Teens from intact families were more likely to receive formal sex education than teens from nonintact families. Furthermore approximately 10% of teens ages 15–19 years participating in the NSFG had received no formal sex education at the time of the survey; these adolescents were most often nonwhite and from low-income families. Like many other health indicators, the opportunity for formal sex education appears to vary by social strata, with disadvantaged youth being the least likely to benefit from formal programs.

However a recent review suggests that abstinence-only programs, whether conducted in low- or middle-income settings, had similarly modest effects on risk behavior [14].

Our study is not the only recent work to suggest that abstinence-only education may not reduce sexual risk behaviors among teens. A randomized controlled trial of four federally funded abstinence programs found no significant decrease in number of partners or risk for STD and pregnancy, and no delay in sexual debut [13]. Similarly a systematic review of 13 trials found that abstinence-only programs were not associated with reductions in sexual risk behavior or in diagnosis of STDs [14]. Another review showed that all but one of 11 programs that taught about contraception resulted in no increase in sexual activity [12]. Other studies have shown that sexual activity is not increased with teaching about condoms [15] and HIV/AIDS [16].

Although one study found later sexual debut was associated with abstinence-only virginity pledging, the majority of adolescents who made virginity pledges ultimately broke their “promise” and engaged in sexual intercourse before marriage [17]. In addition the risk for STD was not significantly different between pledgers and nonpledgers, and sexually active pledgers were significantly less likely to use condoms at first sex than were nonpledgers. Similarly our data comparing abstinence-only and comprehensive education revealed no significant difference in initiation of sexual intercourse, while detecting a decreased likelihood of teen pregnancy among those who received comprehensive education. This suggests that preteens and teens who receive abstinence-only education may engage in higher risk behaviors once they initiate sexual activity.

The decreased risk of teen pregnancy we observed among adolescents receiving comprehensive sex education was likely mediated by use of birth control and condoms. Considerable evidence suggests that barrier contraceptives are effective in preventing teen pregnancy and infection with sexually transmitted pathogens. Vital statistics reports from the Department of Health and Human Services show a consistent decrease in teen pregnancies as use of condoms and contraceptive methods increases [18].

Although we observed a nonsignificant reduction in STD risk associated with condom use at last vaginal intercourse, the NSFG was not designed to evaluate the effectiveness of condoms in preventing STDs, making it difficult to draw firm conclusions about condom efficacy. Furthermore adolescents who have previously received an STD diagnosis may be more likely to use condoms, but we were unable to determine whether STD diagnosis or teen pregnancy preceded use of condoms or (other) contraception. Stronger epidemiologic evidence summarized in a review of prospective studies indicates that condom use is significantly protective against several bacterial STDs including chlamydia, gonorrhea, and syphilis [19]. More recent data indicate that condoms are more efficacious than previously thought

against viral STDs such as herpes simplex virus [20] and human papillomavirus [21].

Despite the protective effects of birth control and condom use, results of numerous studies assessing the association of sexual debut, frequency of intercourse, numbers of partners, or contraceptive use associated with any type of sex education have been inconsistent [11,12]. Furthermore a population-based analysis using Wave I data from the National Longitudinal Study of Adolescent Health (Add Health) concluded that offering sex education to teens had no measurable health benefits; but there were no data on whether the teens subsequently received the education [22]. In contrast we demonstrated a significantly reduced risk for teen pregnancy and a marginally reduced risk of initiating sexual activity, but also showed no impact on likelihood for STD associated with either abstinence-only or comprehensive sex education.

This modest effect on STD outcomes may have several explanations. First, as suggested by the strong effect of family intactness on all three outcomes examined, sexual risk behavior is likely driven strongly by parental influence [23] in addition to, or possibly more than, curriculum content. Other potential unevaluated factors include risk perception, community resources, peer influence, and media messages. A second possibility is the limitation inherent in using reported STD diagnosis as a measured outcome. Reported STD diagnoses reflect access to care and symptomatic infection, and most STDs among U.S. teens are asymptomatic [24]. The absence of a measure of laboratory diagnosed STD in the NSFG suggests our estimates of the effect of formal sex education on STD are conservative and may even be biased, although it is impossible to determine in which direction. Third, even in a large, nationally representative sample, small numbers of reported STD cases can result in low statistical power to detect associations.

Other limitations make the overall interpretation of these data challenging. Although use of a nationally representative survey such as the NSFG allowed us to evaluate the effects of formal sex education in the U.S. population, and although we restricted our study population to adolescents who received formal sex education before engaging in sexual activity, the cross-sectional nature of this survey precludes any firm conclusions regarding cause and effect. Also the small number of individuals who received no sex education may have limited our power to detect smaller reductions in odds associated with abstinence-only education. Furthermore the NSFG was not initially designed to evaluate abstinence-only programs. The survey merely asked whether an individual ever participated in a formal program—a question that provides no information as to the quality, content, context, or duration of the program. The measures we created to indicate the type of sex education received can only be considered proxy measures. In addition recall or selection bias among adolescents who become

pregnant may have resulted in inaccurate reporting of type of sex education received.

Evaluations of abstinence-only programs may also be limited by social desirability bias, as participants in these programs may be less likely to report sexual activity before marriage. A recent study found that virginity pledgers were four times more likely than nonpledgers to initially admit to sexual activity and then later to deny it [25]. Given this social desirability bias, the true difference between these programs may be greater than what we observed. Similarly recipients of abstinence-only education may be less likely to seek testing for STDs, and thus be less likely to report diagnoses than recipients of a comprehensive education.

The lack of geographical measures in these data is also a limitation. A national survey of teachers providing sex education in grades 7–12 found significant differences in the content or approach of the education by geographic region [26]. Landry et al reported that teachers in the South, Midwest, and West were more likely than those in the Northeast to emphasize the ineffectiveness of birth control measures or not to cover them at all. Teachers in the South and Midwest were more likely than those in the Northeast to teach abstinence-only education. Regrettably the public-use version of the NSFG does not provide data on region of the U.S..

Although future prospective studies expressly designed to evaluate the effects of formal sex education programs are required, these data suggest that formal comprehensive sex education programs reduce the risk for teen pregnancy without increasing the likelihood that adolescents will engage in sexual activity, and confirm results from randomized controlled trials that abstinence-only programs have a minimal effect on sexual risk behavior. To ensure better data to evaluate the effect of sex education programs in the future, national surveys should more specifically assess types of formal sex education in an effort to more clearly understand its role and effectiveness, and, to the extent possible, seek biologic specimens to ascertain current infection with sexually transmitted pathogens.

References

- [1] Singh S, Darroch JE. Adolescent pregnancy and childbearing: Levels and trends in developed countries. *Fam Plann Perspect* 2000;32:14–23.
- [2] Panchaud C, Singh S, Feivelson D, Darroch J. Sexually transmitted diseases among adolescents in developed countries. *Fam Plann Perspect* 2000;32:24–32, 45.
- [3] Alan Guttmacher Institute. Teenagers' Sexual and Reproductive Health: Developed Countries [Online]. Available at: http://www.guttmacher.org/pubs/fb_teen.pdf. Accessed April 5, 2007.
- [4] Weinstock H, Berman S, Cates W Jr. Sexually transmitted diseases among American youth: Incidence and prevalence estimates, 2000. *Perspect Sex Reprod Health* 2004;36:6–10.
- [5] Centers for Disease Control and Prevention. STD Surveillance 2005: Adolescents and Youth [Online]. Available at: <http://www.cdc.gov/std/stats05/adol.htm>. Accessed May 18, 2006.
- [6] US House of Representatives Committee on Government Reform—Minority Staff Special Investigations Division. The Content of Federally Funded Abstinence-Only Education Programs [Online]. Available at: <http://www.democrats.reform.house.gov/Documents/20041201102153-50247.pdf>. Accessed July 15, 2005.
- [7] Social Security Act, Section 510 [42 U.S.C. 710] [Online]. Available at: http://www.ssa.gov/OP_Home/ssact/title05/0510.htm#fn019. Accessed April 9, 2007.
- [8] Office of Management and Budget, Budget of the United States Government, Fiscal Year 2005; Department of Health and Human Service [Online]. Available at: www.whitehouse.gov/omb/budget/fy2005/pdf/budget/hhs.pdf. Accessed November 23, 2005.
- [9] Office of Management and Budget, Budget of the United States Government, Fiscal Year 2008; Department of Health and Human Services [Online]. Available at: <http://www.gpoaccess.gov/usbudget/fy08/pdf/budget/hhs.pdf>. Accessed April 4, 2007.
- [10] Lindberg LD, Santelli JS, Singh S. Changes in formal sex education: 1995–2002. *Perspect Sex Reprod Health* 2006;38:182–9.
- [11] Kirby D. Emerging Answers: Research Findings on Programs to Reduce Teen Pregnancy (Summary). Washington, DC: National Campaign to Prevent Teen Pregnancy, 2001 [Online]. Available at: <http://www.teenpregnancy.org/resources/data/pdr/emerganswsum.pdf>. Accessed April 4, 2007.
- [12] Bennett SE, Assefi NP. School-based teen pregnancy prevention programs: A systematic review of randomized controlled trials. *J Adolesc Health* 2005;36:72–81.
- [13] Trenholm C, Devaney B, Fortson K, et al. Impacts of Four Title V Section 510 Abstinence Education Programs [Online]. Available at: <http://www.mathematica-mpr.com/publications/pdfs/impactabstinence.pdf>. Accessed August 4, 2007.
- [14] Underhill K, Montgomery P, Operario D. Sexual abstinence only programmes to prevent HIV infection in high income countries: Systematic review. *Br Med J* 2007;335:248 [epub].
- [15] Smoak ND, Scott-Sheldon L, Johnson BT, Carey MP. Sexual risk reduction interventions do not inadvertently increase the overall frequency of sexual behavior: A meta-analysis of 174 studies with 116,735 participants. *J Acquir Immune Defic Syndr* 2006;41:374–84.
- [16] Tremblay CH, Ling DC. AIDS education, condom demand, and the sexual activity of American youth. *Health Econ* 2005;14:851–67.
- [17] Bruckner H, Bearman PS. After the Promise: The STD consequences of adolescent virginity pledges. *J Adolesc Health* 2005;36:271–8.
- [18] U.S. Department of Health and Human Services, National Center for Health Statistics. Teenagers in the United States: Sexual Activity, Contraceptive Use and Childbearing, 2002. Available at: <http://www.cdc.gov/nchs/nsfg.htm>. Accessed May 30, 2006.
- [19] Holmes KK, Levine R, Weaver M. Effectiveness of condoms in preventing sexually transmitted infections. *Bull WHO* 2004;82:454–61.
- [20] Wald A, Langenberg AG, Krantz E, et al. The relationship between condom use and herpes simplex virus acquisition. *Ann Intern Med* 2005;143:707–13.
- [21] Winer RL, Hughes JP, Feng Q, et al. Condom use and the risk of genital human papillomavirus infection in young women. *N Engl J Med* 2006;354:2645–54.
- [22] Sabia J. Does sex education affect adolescent sexual behaviors and health? *J Policy Anal Manag* 2006;25:783–802.
- [23] DiLorio C, Dudley WN, Soet JE, McCarty F. Sexual possibility situations and sexual behaviors among young adolescents: The moderating role of protective factors. *J Adolesc Health* 2004;35:528.e11–20.
- [24] Miller WC, Ford CA, Morris M, et al. Prevalence of chlamydial and gonococcal infections among young adults in the United States. *JAMA* 2004;291:2229–36.
- [25] Rosenbaum JE. Reborn a virgin: Adolescents' retracting of virginity pledges and sexual histories. *Am J Public Health* 2006;96:1098–1103.
- [26] Landry DL, Darroch JE, Singh S, Higgins J. Factors associated with the content of sex education in US public secondary schools. *Perspect Sex Reprod Health* 2003;35:261–9.

Evidence- Based Teen Pregnancy Prevention Programs at a Glance



*This table was developed by Child Trends under contract number GS-10F-0030R for the Office of Adolescent Health; U.S. Department of Health and Human Services as a technical assistance product for use with OAH grant programs.

This table provides a brief overview of the program models on the *HHS Teen Pregnancy Prevention Evidence Review* website that are implementation ready and is intended to be used in conjunction with other resources when selecting a program model for implementation. For additional information, please visit <http://www.hhs.gov/ash/oah/resources-and-publications/db/>.

Note: Grantees may propose to implement an evidence-based TPP program with a population or in a setting other than those identified in the program's original evaluation; however, as a reminder, proposed adaptations must be shared with OAH and may require approval.

Program Name	Program Type	Outcomes						Duration of Outcomes	Activities				Train-the-trainer	Train-the-facilitator	# of Sessions	Session Length	Program Duration	Setting	Target Population	Age	Languages
		Recent Sexual Activity	# Sexual Partners	Frequency of Sexual Activity	Contraceptive Use and/or/Consistency	Sexual Initiation & Abstinence	Pregnancy or Birth		STDs (including HIV)	Technology (audio-visual/Internet)	Parent Engagement	Service Learning Project									
Aban Aya Youth Project	SE	●						post-inter-vention	✓	✓					16-21	45 min	4 years	S*, Cm	♀/♂*, AA*	10-14*	En
Adult Identity Mentoring (Project AIM)	YD	●						3 mos					✓		12	50 min	6 weeks	S*, Cm	♀/♂*, All (AA)*, Lw	11-14 (12-14)*	En, Sp
All4You!	YA			●	●			6 mos	✓		✓	✓	✓	✓	14	70-140 min	7 weeks	Sp*	♀/♂*, All*	14-18 (14-17)*	En
Be Proud! Be Responsible!	SE	●	●	●	●			3-12 mos	✓			✓	✓	✓	6	60 min	6 days	C, S, As*, Cm*	♀/♂*, All (AA)*	11-18 (11-13)*	En
Be Proud! Be Responsible! Be Protective!	Pp*		●					12 mos	✓			✓	✓	✓	8	60 min	8 days	S, Sp*, As, Cm	♀, All (H, AA)*	12-18 (14-20)*	En
Becoming a Responsible Teen (BART)	SE	●						12 mos	✓			✓	✓	✓	8	90-120 min	8 weeks	C*, As	♀/♂*, All (AA)*	14-18*	En
Children's Aid Society (CAS) Carrera Program	YD	●					●	3 yrs after program start for girls	✓	✓	✓				Daily	2-3 hours	7 years	S, As*, Cm	♀/♂*, All (H, AA)*	10-12 at program entry	En, Sp
iCuidate!	SE	●	●		●			3-12 mos	✓			✓	✓	✓	6	60 min	2 days +	S, As*, Cm*	♀/♂*, H*	13-18*	En, Sp
Draw the Line/Respect the Line	SE	●					●	12 mos post-inter-vention; boys only	✓	✓		✓	✓	✓	19	45 min	3 years	S*	♀/♂*, All*	11-14*	En, Sp
Families Talking Together (FTT)	F			●		●		9-mos		✓				✓	11 modules	Varies	Varies	C*, As*, Cm*	♀/♂*, H*, AA*	10-14 (11-14)*	En, Sp
FOCUS	SE		●					11-mos	✓			✓			4	120 min	8 hours	S, Sp*, Cm	♀, All*	16+ (17+)*	En
Get Real	SE						●	post-inter-vention	✓		✓	✓	✓		27	45 min	3 years	S*	♀/♂*, All*	11-14*	En

Program Type

SE - Sexual health education
 AE - Abstinence education
 YD - Youth development
 CB - Clinic based
 F - Program for families
 YA - Youth in alternative schools
 HIV - Parent with history of HIV
 STD - History of STD
 SD - Substance dependent

RA - Runaway youth
 IY - Incarcerated youth
 Pp - Pregnant/parenting
 P - Parenting

Outcomes

● Evidence of effect

Settings

S - School
 C - Clinic
 As - After school program
 Cm - Community based

Sp - Specialized setting
 * - Evaluated setting

Target Population

♀/♂ - Female/Male
 AA - African American
 H - Hispanic
 AI/AN - American Indian/Alaskan Native
 W - White

AS - Asian
 All - All races/ethnicities
 LW - Low income
 * - Evaluated population

Available Languages

En - English
 Sp - Spanish
 O - Other

Evidence- Based Teen Pregnancy Prevention Programs at a Glance



Program Name	Program Type	Outcomes						Duration of Outcomes	Activities				Train-the-Trainer	Train-the-facilitator	# of Sessions	Session Length	Program Duration	Setting	Target Population	Age	Languages
		Recent Sexual Activity	# Sexual Partners	Frequency of Sexual Activity	Contraceptive Use and or/Consistency	Sexual Initiation & Abstinence	Pregnancy or Birth		STDs (Including HIV)	Technology (audio-visual/internet)	Parent Engagement	Service Learning Project									
Health Improvement Project for Teens (HIP Teens)	SE	●	●	●	●			6-mos	✓			✓			4	120 min	8 hours	C*, As*, Cm*	♀, All	15-19*	En
Heritage Keepers Abstinence Education	AE					●		12 mos	✓	✓			✓		5 or 10	45 or 90 min	5-10 days	S*	(♀/♂)*, All*	11-18 (12-15)*	En, Sp
HORIZONS	SE			●			●	12 mos				✓			2	4 hours	8 hours	C*, Cm	♀, AA*	15-21*	En
It's Your Game: Keep it Real (IYG)	SE		●	●	●			12 mos	✓			✓	✓	✓	24	50 min	2 years	S*, As	(♀/♂)*, All*	12-14 (12-13)*	En
Making a Difference!	AE	●						3 mos	✓			✓	✓		8	60 min	8 hours	S, As*, Cm*	(♀/♂)*, All (AA)*	11-18 (11-13)*	En
Making Proud Choices!	SE			●				12 mos	✓			✓	✓	✓	8	60 min	8 hours	S, As*, Cm*	(♀/♂)*, All (AA)*	11-18 (11-13)*	En
Prime Time	YD	●						12 mos		✓	✓				Varies	Varies	18 mos	C*	♀, All*	13-17*	En
Project IMAGE	STD*						●	12 mos				✓			7-9	1-4 hours	2-5 weeks	C*	♀, AA*, H*	14-18*	En
Project TALC	F, HIV*					●		4 yrs after program start		✓		✓			24	2-3 hours	12 weeks to 4-6 years	Cm*	(♀/♂)*, All (H, AA)*	11-18*	En, O
Promoting Health Among Teens! Abstinence-Only Intervention	AE	●			●			3-24 mos	✓	✓			✓	✓	8	60 min	8 hours	S, As*, Cm*	(♀/♂)*, All (AA)*	11-18 (11-13)*	En
Promoting Health Among Teens! Comprehensive Abstinence and Safer Sex Intervention	SE		●					3-24 mos	✓			✓	✓	✓	12	45-60 min	8-12 hours	S, As*, Cm*	(♀/♂)*, All (AA)*, Lw	11-18 (11-13)*	En
Raising Healthy Children (formerly known as the Seattle Social Development Project)	YD		●			●	●	Ranges from when participants were 18 yrs - 27 yrs old		✓			✓	✓	Varies	Varies	7 years	S*	(♀/♂)*, All*	5-12 (6-12)*	En

Program Type

SE - Sexual health education
 AE - Abstinence education
 YD - Youth development
 CB - Clinic based
 F - Program for families
 YA - Youth in alternative schools
 IY - Incarcerated youth
 HIV - Parent with history of HIV
 STD - History of STD
 SD - Substance dependent

RA - Runaway youth
 IY - Incarcerated youth
 Pp - Pregnant/parenting
 P - Parenting

Outcomes

● Evidence of effect

Settings

S - School
 C - Clinic
 As - After school program
 Cm - Community based

Sp - Specialized setting
 * - Evaluated setting

Target Population

♀/♂ - Female/Male
 AA - African American
 H - Hispanic
 AI/AN - American Indian/Alaskan Native
 W - White

AS - Asian
 All - All races/ethnicities
 LW - Low income
 * - Evaluated population

Available Languages

En - English
 Sp - Spanish
 O - Other

Evidence- Based Teen Pregnancy Prevention Programs at a Glance



Program Name	Program Type	Outcomes						Duration of Outcomes	Activities				Train-the-trainer	Train-the-facilitator	# of Sessions	Session Length	Program Duration	Setting	Target Population	Age	Languages
		Recent Sexual Activity	# Sexual Partners	Frequency of Sexual Activity	Contraceptive Use and/or/Consistency	Sexual Initiation & Abstinence	Pregnancy or Birth		STDs (including HIV)	Technology (audio-visual/Internet)	Parent Engagement	Service Learning Project									
Reducing the Risk	SE			●				18 mos			✓	✓	✓	16	45 min	5-8 weeks	S*	♀/♂*, All*	13-18 (14-18)*	En, Sp	
Respeto/Proteger	P*			●				3-6 mos	✓		✓		✓	6	120 min	12 hours	C*, Cm*	♀/♂*, H*	14-24*	En, Sp	
Rikers Health Advocacy Program (RHAP)	IY			●				10 mos after program start					✓	4	60 min	2 weeks	S, Sp*, Cm	♂*, All*	16-19*	En	
Safer Choices	SE			●				2 yrs after program start		✓	✓	✓	✓	21	45 min	2 years	S*	♀/♂*, All*	14-16 (14-15)*	En	
Safer Sex Intervention	CB, STD*	●						6 mos	✓		✓			4	10-50 min	6 mos	C*, Cm	♀*, All*	13-23 (<24)*	En	
Seventeen Days	CB	●					●	6 mos	✓		✓		✓	1+	45 min+	45 min+	C*, Cm	♀*, All (AA, W)*	14-18*	En	
Sexual Health and Adolescent Prevention (SHARP)	IY			●				12 mos	✓		✓			1	3.5-4 hours	1 day	Sp*	♀/♂*, All*	15-19*	En	
SIHLE	SE			●		●		12 mos			✓			4	4 hours	16 hours	C*, Cm	♀*, AA*	14-18*	En	
Sisters Saving Sisters	SE	●		●			●	12 mos	✓		✓	✓	✓	1	4.5 hours	4.5 hours	C*, Cm	♀*, AA*, H*	11-18 (12-19)*	En, Sp	
STRIVE	RA*	●						12 mos		✓				5	90-120 min	5 weeks	Cm*	♀/♂*, All (H, AA)*	12-17*	En	
Teen Health Project	SE					●		12 mos	✓	✓	✓	✓		5	90-180 min	6 mos	Cm*	♀/♂*, All*, Lw*	12-17*	En	
Teen Outreach Program (TOP)	YD						●	immediate post-intervention			✓		✓	✓	25	Varies	9 mos	S*, Sp, As, Cm	♀/♂*, All*	12-19 (14-18)*	En, Sp, O

Program Type

SE - Sexual health education
 AE - Abstinence education
 YD - Youth development
 CB - Clinic based
 F - Program for families
 YA - Youth in alternative schools
 HIV - Parent with history of HIV
 STD - History of STD
 SD - Substance dependent
 RA - Runaway youth
 IY - Incarcerated youth
 PP - Pregnant/parenting
 P - Parenting

Outcomes

● Evidence of effect

Settings

S - School
 C - Clinic
 As - After school program
 Cm - Community based

Sp - Specialized setting
 * - Evaluated setting

Target Population

♀/♂ - Female/Male
 AA - African American
 H - Hispanic
 AI/AN - American Indian/Alaskan Native
 W - White

AS - Asian
 All - All races/ethnicities
 LW - Low income
 * - Evaluated population

Available Languages

En - English
 Sp - Spanish
 O - Other

Effective Interventions

HIV PREVENTION THAT WORKS



High Impact HIV/AIDS Prevention Project (HIP) is CDC's approach to reducing HIV infections in the United States.

To advance the prevention goals of the National HIV/AIDS Strategy and maximize effectiveness of current HIV prevention methods, CDC outlined the HIP approach in 2011. HIP uses combinations of scientifically proven cost-effective, targeted and scalable interventions for maximum impact on the HIV epidemic. The strategies have been proven effective through research studies that showed positive behavioral (e.g., use of condoms; reduction in number of partners) and/or health outcomes (e.g., reduction in the number of new STD infections). Studies employed rigorous research designs, with both intervention and control groups, so that the positive outcomes could be attributed to the interventions. With input from the researchers, the materials necessary to implement the interventions have been packaged into user-friendly kits. With the appropriate training and intervention package, service providers can increase their opportunities to conduct effective HIV/STD/Viral Hepatitis prevention programs in their communities.

The HIP project, formerly known as, DEBI began in 1999 when the [Centers for Disease Control and Prevention](#) (CDC) published a Compendium of HIV Prevention Interventions with Evidence of Effectiveness to respond to prevention service providers who requested evidence-based interventions that work. HIV prevention technology transfer is a process by which these interventions are disseminated for implementation through provision of training and technical assistance. CDC's [Prevention Research Synthesis \(PRS\) Project](#) routinely updates an online [Compendium of Evidence-Based Interventions and Best Practices for HIV Prevention](#) by adding newly identified evidence-based behavioral interventions (EBI) and best practices that have been scientifically proven to significantly reduce HIV risk or promote HIV care. CDC's [Compendium](#) now includes 84 HIV risk reduction ([RR](#)) evidence-based behavioral

interventions, 10 HIV medication adherence ([MA](#)) evidence-based behavioral interventions, and 9 Best Practices for promoting linkage to and retention in HIV care ([LRC](#)). These interventions are classified as either evidence-based interventions or best practices and have gone through rigorous evaluation with results demonstrating that interventions work.

The dissemination of evidence-based interventions and best practices related to effective HIV prevention is a critical part of building capacity among organizations that implement prevention programs for populations at risk for HIV. The CDC's Division of HIV/AIDS Prevention (DHAP), Capacity Building Branch is committed to enhancing the capacity of individuals, organizations, and communities to conduct more effective and efficient HIV prevention services.

Partnering with CDC, [Danya](#) coordinates training and technical assistance for the HIP project. Danya works in collaboration with CDC/DHAP Capacity Building Branch staff, the National Network of STD/HIV Prevention Training Centers (PTCs), state and city health departments, Capacity Building Assistance providers (CBAs), and the Behavioral and Social Scientist Volunteers program (BSSV) to offer training and technical assistance on high impact HIV/AIDS prevention interventions and strategies.

The materials on this site are designed for HIV/AIDS prevention with persons at risk for acquiring or transmitting HIV. They are meant to be resources used by HIV prevention providers such as health departments and community-based organizations so as to provide the best evidence-based HIV prevention services. These materials are not meant for the general public. They are not meant for children. They are not school-based HIV prevention strategies.

- Phone: 1-(866) 532-9565 or (240) 645-1756
- E-mail: interventions@danya.com
- © Copyright 2015 Effective Interventions
- [View Our Privacy Policy](#)

<https://effectiveinterventions.cdc.gov/en/HighImpactPrevention/Interventions.aspx>



April 6, 2016

The Honorable Paul Seaton, Chair
The Honorable Liz Vazquez, Vice Chair
House Health and Social Services Committee
Alaska House of Representatives
State Capitol
Juneau, AK 99801

by email: Representative.Paul.Seaton@akleg.gov
Representative.Liz.Vazquez@akleg.gov

**Re: SB 89 Version F: Limiting Students' Education about Sexual Health and Sexually Transmitted Diseases
ACLU Analysis of Constitutional and Financial Issues**

Dear Chair Seaton and Vice Chair Vazquez:

Thank you for the opportunity to testify about Version F of Senate Bill 89, elements of which unconstitutionally interfere with the freedom of Alaskan parents, students, and educators. Version F of SB 89 singles out and discriminates against Alaskans engaged in legal, socially vital, and constitutionally protected conduct, at the expense of their rights and the rights of others under the Alaska and United States Constitutions. For five reasons, we urge the committee to not pass Version F of SB 89:

1. Bills of attainder;
2. Substantive due process;
3. Freedom of speech and freedom of association;
4. Equal protection; and
5. Unnecessary, avoidable, and expensive litigation.

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 Alaska and United States Constitutions. We engage in public advocacy and education to further those rights, and—when necessary—we litigate to protect them when they are attacked. In this context, we write to advise you that this bill unconstitutionally restricts people's freedoms. In addition to these constitutional harms, if this bill is enacted, Alaska will likely pay hundreds of thousands of dollars in attorney's fees and costs arising out of the seemingly inevitable constitutional challenges that will follow.

1. Sections 3 and 5 of Version F of Senate Bill 89 have characteristics of unconstitutional bills of attainder.

Sections 3 and 5 of Version F of Senate Bill 89 single out a class of persons—abortion services providers, their employees, and volunteers—and prohibits them from contracting with school districts or from providing instruction or course materials relating to human sexual health or sexually transmitted diseases within a school district. This appears intended to reflect legislators' opprobrium towards this class of persons, regardless of the fact that their presence in Alaska schools has nothing to do with providing abortion services and has everything to do with providing age-appropriate, medically accurate, evidence-based instruction on human sexual health to Alaska students who would benefit from receiving such instruction. These elements of the bill appear to express a desire to punish abortion services providers for what they do outside of schools, not to weigh in on what they do inside schools. This legislative intent to punish has characteristics of an unconstitutional bill of attainder.

The Alaska and United States Constitutions prohibit bills of attainder.¹ As the U.S. Supreme Court has observed, “[L]egislative acts, no matter what their form, that apply either to named individuals or to easily ascertainable members of a group in such a way as to inflict punishment on them without a judicial trial are bills of attainder prohibited by the Constitution.”²

Although the Alaska Supreme Court has never decided a case involving the state constitution's ban on bills of attainder, it has discussed “punishment” for purposes of the ban on *ex post facto* laws, which are prohibited in the same sentence in the Alaska Constitution as the prohibition on bills of attainder.³ In *Doe v. State*, the Alaska Supreme Court interpreted “punishment” for purposes of the state's ban on *ex post facto* laws more broadly than the U.S. Supreme Court had interpreted it under the federal constitution.⁴ It is reasonable to assume that the Alaska Supreme Court would likewise take a broad view of “punishment” when applying the Alaska constitution's ban on bills of attainder, increasing the likelihood that it would find the treatment of abortion services providers—an easily ascertainable group—under Version F of SB 89 to be unconstitutionally impermissible punishment.

Memoranda from the Legislature's own attorneys have consistently pointed out in reviews of versions of SB 89 that the bill is constitutionally questionable as a possible bill of attainder.

¹ Alaska Const. art. I, § 15 (“No bill of attainder or ex post facto law shall be passed.”); U.S. Const. art. I, § 9 (“No Bill of Attainder or ex post facto Law shall be passed.”).

² *U.S. v. Lovett*, 328 U.S. 303, 315 (1946).

³ *Supra*, note 1.

⁴ 189 P.3d 999 (Alaska 2008). Compare *Smith v. Otte*, 538 U.S. 34 (2003) (holding Alaska's sex offender registration law was not punitive).

2. Sections 3 and 5 of Version F of Senate Bill 89 appear to serve no legitimate purpose, in violation Alaskans' rights to due process.

It is well established that constitutional guarantees of due process include the requirement that laws reflect substantive due process, i.e., that laws serve a legitimate purpose. The U.S. Supreme Court observed in *Nebbia v. People of New York* that “the guaranty of due process, as has often been held, demands . . . that the law shall not be unreasonable, arbitrary, or capricious.”⁵ The Alaska Supreme Court has expressed this guaranty similarly:

Substantive due process is denied when a legislative enactment has no reasonable relationship to a legitimate governmental purpose. . . . The constitutional guarantee of substantive due process assures . . . that a legislative body’s decision is not arbitrary but instead based upon some rational policy.⁶

Sections 3 and 5 of Version F of SB 89 seriously implicate this constitutional protection. Stated simply, there is no conceivable rational policy reason to prohibit delivery of instruction on matters of sexual health by some of the most well-educated and well-informed people on matters of sexual health—as is the case with the most prominent abortion services provider organization in Alaska, Planned Parenthood of the Great Northwest and Hawaii, an organization we know is the focus of ire for many opponents of abortion rights.

Furthermore, it is worth noting that the bill’s sponsor, Senator Mike Dunleavy, has issued sponsor statements concerning SB 89 that fail to explain any purpose for Sections 3 and 5.⁷ Rather, the sponsor statements champion parents’ rights to direct the education of their children and to promote parents’ involvement with local school boards—principles the abortion services provider bans directly undermine. If a parent wanted her school-age children to receive age-appropriate, medically accurate, evidence-based instruction on human sexuality and sexually transmitted diseases, and if age-appropriate, medically accurate, evidence-based instruction on those topics is best made available through Planned Parenthood’s sexual education offerings, this bill would prohibit that parent from realizing her wishes for the direction of her children’s education. Instead, the State of Alaska would be standing directly in her way and would be interfering with the independence of her local school board.

⁵ 291 U.S. 502, 525 (1934).

⁶ *Concerned Citizens of S. Kenai Peninsula v. Kenai Peninsula Borough*, 527 P.2d 447, 452 (Alaska 1974) (citing *Mobil Oil Corp. v. Loc. Boundary Commn.*, 518 P.2d 92, 101 (Alaska 1974) (“We agree that the test of substantive due process is whether the action of the legislature must be said to be arbitrary.”)).

⁷ Mike Dunleavy, *Senate Bill 89 Sponsor Statement*, http://www.akleg.gov/basis/get_documents.asp?session=29&docid=52369; Mike Dunleavy, *Sponsor Statement for Committee Substitute for Senate Bill 89*, https://www.alaskasenate.org/2016/files/7414/2869/8836/SB89_Sponsor_Statement.pdf.

3. Section 5 of Version F of SB 89 may unconstitutionally restrict the right of free speech and the right of freedom of association.

The right to free speech is enshrined in Article I of the Alaska Constitution⁸ and in the First Amendment of the United States Constitution.⁹ Both constitutions protect that right robustly; the Alaska Constitution is “at least as protective of expression as the First Amendment to the United States Constitution.”¹⁰ That right encompasses the right to associate freely with others to advance one’s views.¹¹

Here, for example, Version F of SB 89 would implicate the speech rights of students participating in Teen Council, a peer-led sexual education program for teenagers sponsored by Planned Parenthood. With parental approval, participating teens meet outside school with educators from Planned Parenthood, learn about human sexual health, and prepare presentations on human sexuality to be delivered in school classrooms. Section 5 of Version F of SB 89 would effectively ban such presentations.

If this bill is enacted and invoked to shut Teen Council out of Alaska’s schools, it would unconstitutionally interfere with students’ rights to free speech and association.

4. Sections 3 and 5 of Version F of Senate Bill 89 discriminate against a group of people, violating their right to be treated equally.

As discussed above, Sections 3 and 5 of SB 89 identify one group of people— abortion services providers, their employees and volunteers—and prohibit them from providing instruction on two specific topics in schools—human sexuality and sexually transmitted diseases—on behalf of the abortion services provider. This implicates the Equal Protection Clause of the Alaska Constitution.¹²

If Version F of SB 89 were enacted and challenged in court, and were it to survive the substantive due process challenge outlined above, it would likely fail an equal protection challenge.

As noted above, Alaska has little conceivable interest in classifying abortion services providers for disparate treatment in how they, and only they, are to be treated by schools. It

⁸ Alaska Const. art. I, § 5. (“Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of this right.”).

⁹ U.S. Const. amend. I (“Congress shall make no law . . . abridging the freedom of speech.”).

¹⁰ *Mickens v. City of Kodiak*, 640 P.2d 818, 820 (Alaska 1982).

¹¹ See, e.g., *New York State Club Ass’n, Inc. v. City of New York*, 487 U.S. 1, 13 (1988) (“The ability and the opportunity to combine with others to advance one’s views is a powerful practical means of ensuring the perpetuation of the freedoms the First Amendment has guaranteed to individuals as against the government.”).

¹² Alaska Const. art. I, § 1 (“This constitution is dedicated to the principle[] . . . that all persons are equal and entitled to equal rights, opportunities, and protection under the law.”).

is worth noting that animus towards an unpopular group has never been considered a legitimate interest for the purposes of equal protection analysis. As the U.S. Supreme Court put it in *U.S. Dept. of Agriculture v. Moreno*, “[I]f the constitutional conception of ‘equal protection of the laws’ means anything, it must at the very least mean that a bare congressional desire to harm a politically unpopular group cannot constitute a legitimate governmental interest.”¹³ Justice O’Connor expounded further in her concurrence in the case *Lawrence v. Texas*:

[W]e have never held that moral disapproval, without any other asserted state interest, is a sufficient rationale under the Equal Protection Clause to justify a law that discriminates among groups of persons. Moral disapproval of a group cannot be a legitimate governmental interest under the Equal Protection Clause because legal classifications must not be drawn for the purpose of disadvantaging the group burdened by the law.¹⁴

But a legitimate governmental interest is essential to a law’s surviving equal protection analysis, as is the fit of that interest with the classification system a law imposes. As the Alaska Supreme Court has held, “Alaska’s Equal Protection Clause requires more than just a rational connection between a classification and a governmental interest; even at the lowest level of scrutiny, the connection must be *substantial*.”¹⁵

Next, should this law survive the threshold questions of legitimate interest and substantial fit, a court would evaluate those against the impairment imposed on affected people’s interests. As the Alaska Supreme Court noted, “To determine whether a statute violates the Equal Protection Clause of the Alaska Constitution, we apply a sliding scale approach which places a greater or lesser burden on the state to justify a classification depending on the importance of the individual right involved.”¹⁶

Here that includes the free speech rights of Teen Council. It also includes the right of abortion services providers such as Planned Parenthood to be free from the stigma of legislative disdain and to be free to pursue their legitimate, government-sanctioned not-for-profit mission to promote sexual health—without arbitrary restrictions imposed on them by the government in furtherance of no reasonable purpose.

Given the poor fit of any conceivable legislative purpose to the impairment of the free speech rights of students and to the impairment of abortion services providers’ rights to be free from state stigma, it seems likely that Version F of SB 89 would be found to violate Alaska’s equal protection guarantees.

¹³ *U.S. Dept. of Agriculture v. Moreno*, 413 U.S. 528, 534 (1973).

¹⁴ *Lawrence v. Texas*, 539 U.S. 558, 582-83 (2003) (O’Connor, J., concurring) (citations and internal quotations omitted).

¹⁵ *Alaska Civ. Liberties Union v. State*, 122 P.3d 781, 791 (Alaska 2005).

¹⁶ *Schiel v. Union Oil Co. of California*, 219 P.3d 1025, 1030 (Alaska 2009) (internal quotations omitted).

5. Alaska has probably spent more than \$1 million defending unconstitutional laws like Version F of SB 89.

For the reasons described above, Version F of SB 89 is plainly unconstitutional. Passage of the bill would entangle Alaska in lengthy and complex—and avoidable—litigation. As members of this Committee are aware, this would not be the first time, or even the second or third, that unconstitutional laws relating to abortion were struck down following prolonged and expensive litigation.

Alaska was recently embroiled in costly litigation over its attempt to impermissibly restrict the ability of low-income women to have abortions—the court struck down this restriction just over six months ago.¹⁷ Such litigation has been costly for Alaska. When Alaska’s endeavor to eliminate Medicaid funding for medically-necessary abortions was struck down in *State, Department of Health & Social Services v. Planned Parenthood of Alaska, Inc.*,¹⁸ Alaska wound up paying the plaintiffs \$236,026.16 plus interest (or \$321,141.37 plus interest in 2016 dollars).¹⁹ Similarly, the unconstitutional Parental Consent Act spawned a lawsuit, *State v. Planned Parenthood of Alaska*, and multiple appeals, lasting over ten years.²⁰ Alaska paid the successful plaintiffs \$278,127.42 (or \$354,277.61 in 2016 dollars).²¹ And, any fair accounting of the total cost must include what Alaska had to pay its own attorneys and the other internal costs of defending those suits.

Such unnecessary drain of taxpayer resources would have been avoided had those respective Legislatures simply refrained from passing statutes, like Version F of SB 89, that are constitutionally infirm. Alaska has better uses to which it can direct the people’s time and money than defending the constitutionality of squarely unconstitutional laws.

Conclusion

We appreciate the opportunity to share our concerns about Version F of SB 89 with the House Health and Social Services Committee. We hope our testimony proves valuable to members contemplating the bill’s constitutional infirmities. Because of these deficiencies, we oppose this bill and urge the Committee to vote Do Not Pass.

¹⁷ *Planned Parenthood of the Great Northwest v. Streur*, No. 3AN-14-04711CI (Anchorage Super. Ct. Aug. 27, 2015), *appeal filed*, No. S-16123.

¹⁸ 28 P.3d 904 (Alaska 2001).

¹⁹ We have used the U.S. Bureau of Labor Statistics inflation calculator, available online at http://www.bls.gov/data/inflation_calculator.htm, to derive the inflation-adjusted 2016-dollar amounts. For the original raw dollar amounts from the litigation addressed in this footnote and the next, please see the attached orders from the Anchorage Superior Court and the Alaska Supreme Court.

²⁰ *State v. Planned Parenthood of Alaska*, 171 P.3d 577 (Alaska 2007).

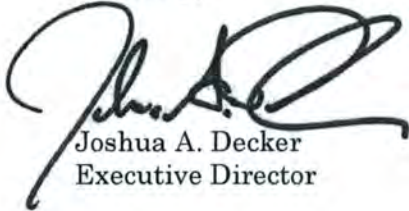
²¹ *Id.*

House Health and Social Services Committee
ACLU Analysis of Version F of SB 89
April 6, 2016
Page 7 of 7

We further hope that this Committee will refrain from approving legislation that squarely violates the Alaska and United States Constitutions and would entangle Alaska in expensive, time-consuming, and needless litigation.

Thank you for considering our testimony. Please let us know if we may answer any questions.

Sincerely,



Joshua A. Decker
Executive Director

cc: Representative Neal Foster, Representative.Neal.Foster@akleg.gov
Representative Louise Stutes, Representative.Louise.Stutes@akleg.gov
Representative David Talerico, Representative.Dave.Talerico@akleg.gov
Representative Geran Tarr, Representative.Geran.Tarr@akleg.gov
Representative Adam Wool, Representative.Adam.Wool@akleg.gov
Senator Mike Dunleavy, Sponsor, Senator.Mike.Dunleavy@akleg.gov

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

APPELLATE COURTS
STATE OF ALASKA

PLANNED PARENTHOOD OF ALASKA,)
INC., et al.,)

Plaintiffs,)

v.)

KAREN PERDUE, Commissioner, Department)
of Health and Social Services, et al.,)

Defendants.)

MAR - 02001

CLERK

By _____ Deputy

S-9109

FEB 21 2001

Case No. 3AN-98-07004

PROPOSED AMENDED JUDGMENT

The Plaintiffs having moved the Court and having been granted by the Court awards of attorneys' fees and costs in the sum of \$109,928.41 on October 19, 1999, and in the sum of \$58,082.35 on January 25, 2001, it is hereby ordered that the Final Judgment be amended to include the prior orders for attorneys' fees and costs totaling \$168,010.76. Post-judgment interest at the statutory rate of 7.5 percent per year shall accrue on the October 19, 1999, award from that date until paid. Post-judgment interest at the statutory rate of 8 percent per year shall accrue on the January 25, 2001, award from that date until paid.

ENTERED this 14 day of March, 2001, at Anchorage, Alaska.

Sen K. Tan

Sen K. Tan
Superior Court Judge

I certify that on 3-15-01
a copy of the above was mailed to each
of the following at their addresses of
record.

Schleuss
Rusch (AAG)

E. Madder
Secretary/Deputy Clerk

SUDDOCK & SCHLEUSS, P.C.
ATTORNEYS AT LAW
800 L STREET, SUITE 300
ANCHORAGE, ALASKA
99501-5910
TEL: (907) 258-7807
FAX: (907) 276-1158

In the Supreme Court of the State of Alaska

State of Alaska, DHSS, et al.,)
) Supreme Court No. S-09109
 Appellants,)
 v.) **Order**
) Awarding Costs and Attorney's Fees
 Planned Parenthood of Alaska, et al.,)
)
 Appellees.) Date of Order: 9/20/01
)
 Trial Court Case # 3AN-98-07004CI

On consideration of the cost bill, filed on 8/30/01, and no opposition having been filed by any party,

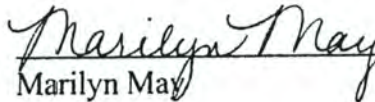
IT IS ORDERED:

1. Appellant shall pay appellee the following allowable costs:

Copies of appellee's brief	\$572.60
Copies of supplemental brief	\$ 48.30
<u>Copies of appellee's excerpt</u>	<u>\$244.50</u>
Total	\$865.40
2. The following costs are disallowed:

Copies of appellee's memorandum in opposition to motion for stay of injunction	\$264.00
Appendix of cases in support of appellee's opposition to stay	\$343.20
3. At the direction of an individual justice, attorney's fees in the amount of \$67,150.00 are awarded to the appellee.

Clerk of the Appellate Courts


Marilyn May

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA
THIRD JUDICIAL DISTRICT AT ANCHORAGE

PLANNED PARENTHOOD OF ALASKA,
JAN WHITEFIELD, M.D., ROBERT
KLEM, M.D., JANE DOES I-X,

Plaintiffs,

and

STATE OF ALASKA,

Defendant.

CONCERNED ALASKA PARENTS, INC.

Amicus Curie.

FILED in the Third Judicial District
State of Alaska

OCT 05 1998

Clerk of the Trial Courts

Deputy

CASE NO. 3AN-97-6014 CI

ORDER AND DECISION

This matter is before the court on plaintiffs' Motion for Attorney Fees. Defendant does not oppose an award of reasonable attorney fees, but disputes the reasonableness of the fees sought. Plaintiffs seek \$148,692.70 in fees.

ANALYSIS

A prevailing public interest litigant is normally entitled to full reasonable attorney's fees. Dansereau v. Ulmer, Slip Op. No. 4962 at p. 2 (Alaska April 3, 1998). Here, it is undisputed that the plaintiffs are prevailing public interest litigants. The amount and reasonableness of the fee award is to be determined on the facts of the case, and should be evaluated according to the twelve factors set forth in Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-19 (5th Cir. 1974). Hickel v. Southeast Conference, 868 P.2d 919, 924 (Alaska 1994).

The defendant, without citing the Johnson factors, asserts several reasons why the requested fees are unreasonable. This opinion first addresses defendant's arguments and then addresses the Johnson factors.

A. DEFENDANT'S ARGUMENTS

Complexity

The State notes that this court must consider the complexity of the case in determining reasonable fees and asserts that this case was not complex. This court respectfully disagrees with defendant's characterization of the case.

This case was not like most other civil cases. First, the lawsuit raised a constitutional question of first impression for Alaska. Due to its nature, this case required substantial work to assimilate the arguments and evidence necessary to support the requests for injunctive relief and for summary judgment, and to oppose the two motions to dismiss.¹ Although the arguments and the facts supporting them may have been similar, each application for relief required a different analysis. Second, this case involved Concerned Alaska Parents ("CAP") as amicus curiae.² CAP presented numerous complex issues of its own to which plaintiffs had to respond. This court concludes that this was a complex case.

¹ Since this case was brought prior to the Alaska Supreme Court decision in Valley Hospital Association v. Mat-Su Coalition, 948 P.2d 963 (Alaska 1997), it was necessary that the plaintiffs draw substantially on federal law as well as analogous state law.

² Although CAP was not allowed to intervene as a party, CAP did much more than file a brief as amicus curiae.

Inadequate Support for Request

Defendants challenge that part of plaintiffs' fees request related to work done by attorneys Ms. Schleuss and Ms. Strout on the ground that plaintiffs failed to sufficiently support that part of the request. Since plaintiffs have now provided an affidavit by Ms. Schleuss in support of her fees, I find this argument is now moot as to her fees. As to Ms. Strout's total fees of \$700, I find that Ms. Bamberger's affidavit satisfactorily supports this part of plaintiffs' request.

Unrelated Work

Defendants challenge some of the fees on the ground that they represent work unrelated to this action.

Defendants describe Ms. Bamberger's communications with counsel in 97-6019, the concurrent challenge to the partial birth abortion statute, as coordination by the attorneys of their cases which should be uncompensated in this matter. I find that proper representation in a lawsuit includes consulting with counsel in 97-6019, as well as obtaining a copy of the transcript of the TRO ruling in that matter. Further, I find that three telephone conversations to accomplish this purpose was reasonable.

CAP

Defendant argues that it should not be required to pay the fees associated with opposing motions or other arguments asserted by CAP. This argument also fails. First, I find that to rule as defendant requests would result in apportionment by issue, which is prohibited. Dansereau at 5. Further, this court concludes that

the State benefited from CAP's participation as one would benefit from having co-counsel. In this case, CAP was not a neutral "friend of the court." Rather, CAP's position was very much aligned with the State's in arguing that the statute was constitutional. CAP, in this case, supplemented the State's briefing and presented contentions and arguments strengthening the State's case. Accordingly, I find that the State is liable for fees incurred in responding to CAP's briefs.

Duplicative or Unnecessary Work

Defendant asserts that the plaintiffs' attorneys necessarily duplicated each others efforts or engaged in unnecessary work. In support of its argument, defendant relies heavily upon the number of hours each attorney worked on any given product, not on the specifics of what each attorney was doing. For instance, where three, or even four attorneys coordinated briefing or other efforts, defendant concludes that there was necessarily a waste of resources. I disagree.

First, I find that the more pertinent question is, what was the total number of hours spent litigating this case. Here, as defendant points out, plaintiffs' counsel spent a total of 954.28 hours in this lawsuit while defendant spent a total of 579.2 hours, or 375.08 hours less than plaintiff. However, the number of hours spent by the defendant did not include the hours spent by CAP. I suspect that if the hours spent by CAP were included, the total number of hours spent by the State and CAP would be close to what plaintiff's counsel expended in this case. In light of this

understatement, I find the difference in total hours not unreasonable.

Further, I find that the amount of time invested in the preparation of this case is reflected in the high quality of work presented to the court. Plaintiffs' counsels' arguments were extremely precise, well-written, and well-supported by facts and law. Plaintiffs' counsel presented very high qualityf briefing to the court.³

Next, after reviewing both parties' arguments, I reject defendant's objections to plaintiffs' use of out-of-state or other attorneys for depositions. For instance, I find that plaintiffs' counsel acted reasonably when they hired Fairbanks counsel to conduct the deposition of Ms. Scully, since the cost to plaintiffs was not significantly different than if their own counsel had conducted the deposition and because Ms. Bamberger, the "local" co-counsel, was thoroughly engaged with other "ninth-hour" depositions.

The State also objects to the cost of other counsel who defended a deposition in Vermont. Defendant suggests that plaintiffs' counsel should have appeared telephonically, as did defendant's counsel. Although defending a deposition telephonically may be a reasonable option, it is not the only

³ In making this finding, this court does not say that defendant's counsel's briefing was not of the same caliber. Indeed, the quality of the briefing in this lawsuit by all involved was of the highest degree.

reasonable option. Having counsel present at a deposition to consult with the deponent cannot be deemed an unreasonable expense.

Plaintiff's counsel should have been able to work faster

Defendant asserts that, because of the extensive and collective litigation and civil rights experience of plaintiffs' attorneys, the attorneys should not have required over 900 hours to prepare their case. This court rejects this final argument on the premise that the case presented a case of first impression for the State. Therefore, experience in federal law or the law of other jurisdictions did not have a direct bearing on Alaska's state law.

In conclusion, this court is not persuaded by defendant's objections to the reasonableness of plaintiffs' fees.

B. THE JOHNSON FACTORS

Johnson, supra, directs courts to consider twelve factors when determining the reasonableness of fees. Below, several of these factors are analyzed as they bear directly on the issue of reasonable fees in this case. Other factors are not relevant and were not addressed by the parties, and hence, I reach no conclusions as to them.⁴

1. The time and labor required

As stated above, this court finds that there was substantial

⁴ Those factors are: the preclusion of other employment opportunities for counsel; whether the fee is fixed or contingent; time limitations that prioritize this work so that other work is delayed; the "undesirability" of the case; and the nature and the length of the professional relationship between the attorney and client.

time and labor required to properly prepare this complex case.

2. The novelty and difficulty of the questions

As already stated, this case presented a question of first impression in Alaska, and did not enjoy the benefit of Alaska cases substantially analogous to the issue presented.

3. The skill requisite to perform the legal service properly

As to this factor, the court is instructed to observe the attorney's work product, preparation and general ability before the court. As already noted, this court found plaintiffs' counsels' work to be of the highest quality, reflective of the time invested in the work. Further, this court found counsels' oral presentations to be of the same quality.

4. The customary fee

I find the attorneys' hourly rates, which range from \$110 to \$180 to be reasonable and customary.

5. The amount involved and the results obtained

Johnson directs that, "[i]f the decision corrects across-the-board discrimination affecting a large class" of claimants or plaintiffs, the attorney's fee award should reflect the relief granted. Johnson at 718. Although no exact figures are ascertainable, I find that a necessarily significant number of women have, or will be affected by this lawsuit.

6. The experience, reputation and ability of the attorneys

I have already dismissed defendant's assertions that, because of the counsels' significant experience their costs should be lower. But, this factor relates more to the hourly rate charged

by the attorney. As already noted, I find the plaintiffs' attorneys' hourly rates reasonable here, particularly since it is recognized that experienced attorneys who specialize in civil rights cases may enjoy a higher rate of compensation than others. Johnson at 718.

7. Awards in similar cases

No argument was presented by the parties to the court related to this factor. However, this court notes that, in Valley Hospital, supra, a 1992 case, the court awarded approximately \$110,000 in attorney's fees. The issue presented in that case was analogous to the one here. And, the award of injunctive relief and disposition by summary judgment in that case is also analogous. I find that, considering inflation, an award of \$150,000 in 1998 approximates an award of \$110,000 in 1992.

Conclusion

Application of the relevant Johnson factors leads to the conclusion that plaintiffs' attorneys' fees are reasonable. Indeed, none of the factors support a contrary conclusion.

CONCLUSION

After consideration of the parties' arguments and application of the factors set forth in Johnson, IT IS HEREBY ORDERED AND ADJUDGED THAT,

1. Plaintiffs are prevailing party, public interest litigants;
2. Plaintiffs' Motion for Attorney Fees is GRANTED; and

3. The State of Alaska shall pay plaintiffs the sum of \$148,692.70 as full reasonable attorneys' fees and costs as approved by the Clerk of the Court, and an amended final judgment shall be entered in accordance herewith.⁵

Dated at Anchorage, Alaska this 2 day of October, 1998.



SEN K. TAN
Superior Court Judge

by clerk on 10-5-98
a copy of the above was mailed to each
of the following at their addresses of
record:
E Mulder Bamberger
Secretary/Deputy Clerk Crepps

⁵ This court notes that, at the time of entry of original judgment in this case, the question of attorney's fees had not been presented to the court.

In the Supreme Court of the State of Alaska

State of Alaska,

)

Appellant/Cross-Appellant,

)

v.

)

**Planned Parenthood of Alaska &
Jan Whitefield, M.D,**

)

)

)

Appellees/Cross-Appellants.

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

Supreme Court No. S-11365/S-11386

Order

Date of Order: 1/25/08

Trial Court Case # 3AN-97-06014CI

On consideration of Planned Parenthood of Alaska & Jan Whitefield, M.D.'s 11/13/07 affidavit of services rendered on appeal; the State of Alaska's 12/6/07 non-opposition to the affidavit of services rendered on appeal; Planned Parenthood of Alaska & Jan Whitefield, M.D.'s 12/21/07 motion for leave to file supplemental affidavit of services rendered on appeal, covering attorney's fees expended in responding to the petition for rehearing; and no opposition to the supplemental affidavit having been received, **IT IS HEREBY ORDERED** that, no opposition to appellees/cross-appellants Planned Parenthood of Alaska and Jan Whitefield, M.D.'s attorney's fees request having been filed by appellant/cross-appellee State of Alaska:

Appellant/cross-appellee State of Alaska shall pay to the appellees/cross-appellants **\$120,897.50** in attorney's fees.

Entered by direction of an individual justice.

Clerk of the Appellate Courts

Marilyn May
Marilyn May

THOMAS N. SCHEFFEL & ASSOCIATES, P. C.

ATTORNEYS AND COUNSELORS AT LAW
BELCARO PLACE
3801 EAST FLORIDA AVENUE, SUITE 600
DENVER, COLORADO 80210-2544
(303) 759-5937
FAX (303) 759-9726
<http://www.tnslaw.com>

OF COUNSEL:
CHARLES E. KING
ROBERT A. LEES
BRADLEY S. ABRAMSON
L. FRANK BERGNER, JR.
JEFFERY L. WEEDEN
****MICHAEL J. NORTON

* THOMAS N. SCHEFFEL
** JOSEPH WEBER
PETER B. CASSEL
*** WILLIAM G. DORNAN
KYLE M. WINTERS
KATELYN B. RIDENOUR
JASON A. FREEMAN
ARIELLE J. DENIS

* Also Admitted In Wisconsin
** Also Admitted In California
*** Also Admitted In Ohio
**** Also Admitted In Virginia

April 5, 2016

Via Email (House.Health.And.Social.Services@akleg.gov)

The Honorable Paul Seaton, Chair
The Honorable Liz Vazquez, Vice Chair
Health and Human Services Committee
Alaska State House of Representatives
State Capitol
Juneau, AK 99801

Re: Senate Bill 89 concerning the prohibition of a school district from allowing an abortion services provider to furnish course materials or provide instruction concerning sexuality or sexually transmitted diseases

Dear Chair Seaton and Vice Chair Vazquez:

Thank you for this opportunity to provide this written testimony in support of those provisions of Senate Bill 89 which would, among other things, prohibit a school district from allowing an abortion services provider to furnish course materials or provide instruction concerning sexuality or sexually transmitted diseases.

By way of background, I am a member of the Denver law firm of Thomas N. Scheffel & Associates, P.C. I also serve as president and general counsel of the Colorado Freedom Institute, a nonprofit legal organization dedicated to protecting and promoting, among other things, the sanctity of human life. Until January 31, 2016, I also served for five years as Senior Counsel to Alliance Defending Freedom, a First Amendment-Religious Liberty legal organization.

In these capacities, I have had substantial experience in crafting and providing support for legislation similar to that proposed by Senate Bill 89, including offering to defend such measures when enacted by state and local governments and later challenged by organizations such as the American Civil Liberties Union.

We have been asked us to specifically focus on two sections of Senate Bill 89, to wit:

- Section 3 of Senate Bill 89 which would amend AS 14.03.083 to add a new subsection (e) that would provide that:

A school district and an educational services organization that has a contract with a school district may not contract with an abortion services provider.

- Section 5 of Senate Bill 89 which would amend AS 14.30.360 to add a new subsection (c) to provide that:

A school district may not permit an abortion services provider or an employee or volunteer of an abortion services provider who is acting on behalf of the abortion services provider to offer, sponsor, furnish course materials, or provide instruction relating to human sexuality or sexually transmitted diseases.

We note that Legal Services, Division of Legal and Research Services, Legislative Affairs Agency, State of Alaska, has, in a March 14, 2016 memorandum to Chair Seaton,¹ noted that “[t]he restrictions in sections 3 and 5 of [Senate Bill 89] raise issues under 1) the First Amendment of the United States Constitution and art. I, secs. 5 and 6 of the Constitution of the State of Alaska . . . [relating to speech and association rights]; 2) art. I, sec. 10 of the United States Constitution and art. I, sec. 15 of the Constitution of the State of Alaska [relating to bills of attainder]; and 3) the Fourteenth Amendment to the United States Constitution and art. I, sec. 1 of the Constitution of the State of Alaska [relating to equal protection]. The Legal Services memorandum concludes that “[f]ederal and state courts have come to different conclusions on each of these issues when reviewing similar restrictions, and there are no cases from the Alaska Supreme Court that are directly on point.” *See* Legal Services Memorandum, page 1.

We understand that the goal of these two sections of Senate Bill 89 is, as expressed in its title, to prohibit a school district from allowing an abortion services provider to furnish course materials or provide instruction concerning sexuality or sexually transmitted diseases. We think that goal would be achieved by the enactment of Section 5 of Senate Bill 89. Unless Section 3 of Senate Bill 89 has some different purpose, we believe its inclusion is unnecessary to achieve this result. While we agree with Legal Services that the outcome of any litigation would be “difficult to predict,” elimination of Section 3 of Senate Bill 89, which, as written, could be applied in a far broader context, should substantially reduce or eliminate risks identified by Legal Services.

We believe therefore that the State of Alaska has the authority, free of constitutional constraints, to prohibit abortion services providers from gaining access to Alaska’s young men and women in public school settings. In our opinion, Section 5 of Senate Bill 89, if enacted, would not impermissibly abridge the free speech and associational rights of abortion services

¹ We note that the Legal Services’ Memorandum contains general principles of constitutional law. For the most part, however, the cases cited in the Legal Services’ Memorandum do not apply to our analysis of the constitutionality of Section 5 of Senate Bill 89.

providers or their representatives. Rather, Section 5 of Senate Bill 89, if enacted, would simply preclude a representative of an abortion services provider presenting or delivering any instruction or program to students at a public school. Section 5 of Senate Bill 89 would not otherwise restrict or direct public school employees or personnel with respect to curriculum or with respect to the teaching of health-related matters to students.

That is because, for First Amendment analysis purposes, a public school is simply not a public forum. We are not aware of any legal authority from any court in any jurisdiction in the Nation that supports the novel idea that persons or entities who are not employees of a public school can claim that a public school classroom is a First Amendment “forum” to which they are entitled access. *See, e.g., Searcy v. Crim*, 815 F.2d 1389, 1392-94 (11th Cir. 1987) (assuming that bulletin boards within a public school were nonpublic forums); *Child Evangelism Fellowship of N.J., Inc. v. Stafford Twp. Sch. Dist.*, 386 F.3d 514, 526 (3d Cir. 2004) (finding that flyer posting, flyer distribution, and tabling forums in public schools are limited public forums). “[T]he First Amendment does not guarantee the right to communicate one’s views at all times and places or any manner that may be desired.” *Heffron v. Int’l Soc’y for Krishna Consciousness*, 452 U.S. 640, 647 (1981).

When a public employer conveys its message through its employee, the employee’s speech is not covered by the First Amendment. *Rust v. Sullivan*, 500 U.S. 173 (1991); *Rosenberger v. Rector & Visitors of Univ. of Va.*, 515 U.S. 819 (1995). Where a public school employee speaks pursuant to his or her work responsibilities, the employee’s free speech interests are not implicated. *Garcetti v. Ceballos*, 547 U.S. 410 (2006). *See also Pickering v. Board of Education*, 391 U.S. 563 (1968). The notion that employees or representatives of abortion services providers can claim some First Amendment right to access to Alaska public school rooms, including the right to display or distribute promotional materials that advocate their abortion services, or speak on any topic they may desire, including abortion or other sexual activities, is seriously misguided.

Indeed, it is the responsibility of the State of Alaska to determine the means for educating Alaska public school students to become productive members of their community and of society as a whole and to behave responsibly. It is well-settled law that public school districts have broad authority to determine their curriculum. *Edwards v. Aguillard*, 482 U.S. 578, 583 (1987) (“States and local school boards are generally afforded considerable discretion in operating public schools”); *Brown v. Li*, 308 F.3d 939, 951 (9th Cir. 2002) (“[T]he curriculum of a public educational institution is one means by which the institution itself expresses its policy, a policy with which others do not have a constitutional right to interfere”).

It is equally well-settled that a public school district’s decisions over what materials are made available to students within their schools and libraries are curricular decisions to which the courts owe substantial deference. *Board of Education, Island Trees Union Free Sch. Dist. No. 26 v. Pico*, 457 U.S. 853, 863 (1982) (applying the principle that “local school boards have broad discretion in the management of school affairs” in the library context); *President’s Council, Dist. 25 v. Community School Bd. No. 25*, 457 F.2d 289 (2d Cir. 1972) (same).

Just as the First Amendment right of free speech in open public forums does not apply within the context of public schools, neither is there any constitutional infirmity with Section 5 of Senate Bill 89, if enacted, as related to the associational rights of teachers or others. Importantly, it seems highly unlikely that a public school teacher would concurrently be “an employee or volunteer of an abortion services provider who [would] act[] on behalf of the abortion services provider” in a classroom. In any event, “the government as employer . . . has far broader power than does the government as sovereign.” *Waters v. Churchill*, 511 U.S. 661, 671 (1994) (plurality opinion). Government employers, like private employers, need a significant degree of control over their employees’ words and actions; without it, there would be little chance for the efficient provision of public services. *Connick v. Myers*, 461 U.S. 138, 143 (1983).

Indeed, “it is the educational institution that has a right to academic freedom, not the individual teacher; where a teacher speaks pursuant to official job duties, the teacher is not entitled to the protections of the First Amendment.” *Evans-Marshall v. Bd. of Educ. Of Tipp Exempted Vill. Sch. Dist.*, 624 F.3d 332, 344 (6th Cir. 2010). See also *Regents of Univ. of Cal. v. Bakke*, 438 U.S. 265, 312 (1978) (The “four essential freedoms” that constitute academic freedom have been described as the school’s freedom to choose “who may teach, what may be taught, how it shall be taught, and who may be admitted to study.”); *Meyer v. Monroe Cnty. Cmty. Sch. Corp.*, 474 F.3d 477 (7th Cir. 2007) (if employed to teach elementary school, for example, the teacher must teach the prescribed material and not discuss matters the teacher is told to avoid).

Though the employee or volunteer of an abortion services provider would not likely simultaneously be a public employee, if a public employee’s speech is considered to involve a matter of public concern, the court would weigh whether the employee’s interest in expression outweighs the employer’s interest in workplace efficiency and avoiding disruption. *Connick v. Myers*, 461 U.S. 138; *Garcetti*, 547 U.S. 410 (ruling that public employee speaking pursuant to official duties is not speaking as private citizen, and First Amendment does not bar employer regulation of speech); *Nicholson v. Bd. of Educ., Torrance Unified Sch. Dist.*, 682 F.2d 858 (9th Cir. 1982) (ruling teacher’s speech rights not infringed where interfered with smooth school operations). See also *Sweezy v. New Hampshire*, 354 U.S. 234, 263 (1957) (Frankfurter, J., concurring).

Thus, it is our opinion that Section 5 of Senate Bill 89, if enacted, would not restrict the associational rights of public school teachers and others who happen to teach health-related topics or subjects within the public school curriculum. Teachers who would be teaching health-related subjects that meet the approved curriculum of Alaska public schools would be acting on behalf of the public schools and not on behalf of an abortion services provider. We do not believe that, if enacted, this subsection of Senate Bill 89 would affect what a teacher or other public school employee might choose to do in their personal life, outside of their public school employment.

Finally, the Legal Services’ Memorandum suggests that Section 5 of Senate Bill 89, if enacted, may constitute a bill of attainder. Legal Services cites no authority for this proposition and correctly notes that the “primary question . . . would likely be whether [Section 5 of Senate Bill 89, if enacted] would ‘impose punishment.’” Given the valid purposes of Section 5 of Senate

April 5, 2016

Page 2

Bill 89, purposes which are articulated in this opinion as well as by the sponsors of this measure, we are confident that Section 5 of Senate Bill 89, if enacted, would not be held to constitute a bill of attainder.

As we understand it, Alaska law mandates that "[i]t is the policy of [Alaska] that the purpose of education is to help ensure that all students will succeed in their education and work, shape worthwhile and satisfying lives for themselves, exemplify the best values of society, and be effective in improving the character and quality of the world about them." AS § 14.03.015. Enactment of this subsection of Senate Bill 89 would undoubtedly advance this State of Alaska policy.

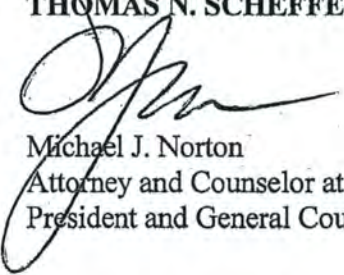
It is our opinion therefore that Section 5 of Senate Bill 89 would serve the purpose of educating Alaska public school students to become productive members of their community and society as a whole and to behave responsibly. It is our further opinion that it is appropriate for the State of Alaska to establish a policy that promotes self-discipline, sense of responsibility, self-control, and ethical considerations such as respect for self and others and respect for the dignity and worth of the human person.

In summary, we believe it is not only appropriate, but prudent, for the State of Alaska to enact a policy that restricts access of representatives and volunteers of abortion services providers to children in Alaska's public schools. Enactment of Section 5 of Senate Bill 89 would do just that.

Please do not hesitate to contact me if you have questions or require additional information.

Very truly yours,

THOMAS N. SCHEFFEL & ASSOCIATES, P.C.



Michael J. Norton
Attorney and Counselor at Law
President and General Counsel, Colorado Freedom Institute

cc: Rep. Neal Foster
Rep. Louise Stutes
Rep. David Talerico
Rep. Geran Tarr
Rep. Adam Wool

Taneeka Hansen

From: Megan Litster <mlitster@pcsd.us>
Sent: Friday, April 08, 2016 3:11 PM
To: Rep. Paul Seaton; Rep. Liz Vazquez; Rep. Neal Foster; Rep. Louise Stutes; Rep. David Talerico; Rep. Geran Tarr; Rep. Adam Wool
Subject: SB 89 - opposition
Categories: Taneeka

Dear Members of the Health and Social Services Committee,

As a member of a school board I think its imperative that SB 89 be blocked. Schools, communities and students should have access to important information to protect the health of students. Just because the information may be presented by a provider who also sometimes performs abortions does NOT mean that in any way shape or form an abortion agenda is being pushed on students. This bill is off base and supported by a Senator who only has his religious interest in mind.

In a State with astronomically high rates of sexual assault as well as high teen pregnancy rates, passing a bill like this would neglect the needs of our students.

Thank you,

Megan Litster
Petersburg School District

SB 89

Letters from School Board Members &
School Districts

Taneeka Hansen

From: Benjamin White <whiteb@sitkaschools.org>
Sent: Tuesday, April 12, 2016 6:47 AM
To: Rep. Paul Seaton; Rep. Liz Vazquez; Rep. Adam Wool; Rep. Geran Tarr; Rep. David Talerico; Rep. Louise Stutes; Rep. Neal Foster
Cc: Rep. Jonathan Kreiss-Tomkins; Sen. Bert Stedman
Subject: RE: SB 89

Hello,

My name is Ben White and I am the Principal of Blatchley Middle School in Sitka, Alaska. I want to start by thanking you for your time and service to our great state. I also want to express my strong concern over SB 89.

Health education is **DIRELY** needed at the middle school level today. As I am sure you are aware, health is not mandated, required or supported by the state at the middle school level. Each year, we struggle to get health education to our students and we rely heavily on outside agencies to accomplish this. SB 89, if passed, would severely hinder our ability to relay this critical information to our youth.

While I appreciate the concern surrounding the issue of abortion, I feel like the voices of a small minority may potentially prevent the majority of our youth from receiving critical information. (Just as an "FYI," at BMS abortion is not presented as part of the health curriculum *and* families have the right / option to opt their student out of any given lesson). Please consider the needs of **ALL** our students when voting on SB 89. Thank you very much for your time.

Taneeka Hansen

From: Jennifer McNichol <mcnicholj@sitkaschools.org>
Sent: Monday, April 11, 2016 2:26 PM
To: Rep. Paul Seaton; Rep. Liz Vazquez; Rep. Adam Wool; Rep. Geran Tarr; Rep. David Talerico; Rep. Louise Stutes; Rep. Neal Foster
Cc: Rep. Jonathan Kreiss-Tomkins; Sen. Bert Stedman
Subject: SB 89

Greetings, and thank you for your service in our legislature and on the House Health and Human Services Committee.

I am a mother, pediatrician, and Sitka School Board member. I am not necessarily representing the Sitka School Board (which has not recently discussed this issue) or my employer's positions in expressing my wish that you do NOT support SB 89 which will prohibit individuals affiliated with entities which, amongst their many services, may provide abortion services.

Our schools have had a difficult time providing adequate health education to our children at an appropriate age for several years now. In my work I see the consequences of this: young teens with sexually-transmitted infections (many of which can have life-long complications), unhealthy and abusive relationships, and unexpected pregnancies. These situations result directly from a lack of education and insight and we need to do all we can to rectify this. Qualified instructors are few and far between in our small communities, and the best-trained instructors are often those affiliated with health care agencies such as Planned Parenthood. The curriculum is vetted and controlled by the school and does not include the promotion of abortion. Middle school teachers seem to prefer having an outside well-trained individual provide this instruction, and, frankly, given the numerous demands of current curricula, they don't really have time to receive this training. Parents always have the ability to "opt out" and no one would suggest that that option be rescinded.

I strongly object to the idea that a vocal minority (and I have no doubt that they are a minority) should mandate who is most appropriate to provide crucial, and potentially life-saving, information to my children and to my patients. I know what my rights are, as a parent, and I don't appreciate others claiming to act in my interest.

Please consider the rights of all Alaskan parents and children in your deliberations. SB 89 should NOT be supported. Thank you again for your service.

Sincerely,

Jennifer McNichol, M.D.

Sitka, Alaska

Taneeka Hansen

From: Rep. Paul Seaton
Sent: Tuesday, April 12, 2016 6:36 AM
To: Taneeka Hansen
Subject: FW: SB 89

-
Sincerely,
Jenny

Jenny Martin
Legislative Aide
Office of Rep. Paul Seaton
120 4th St. #102 State Capitol
Juneau, AK 99801
907-465-2689 1-800-665-2689 Fax: 907-465-3472
HouseMajority.org/Seaton

From: Jenna Hamm [mailto:jennamariehamm@gmail.com]
Sent: Monday, April 11, 2016 9:40 PM
To: Rep. Geran Tarr <Rep.Geran.Tarr@akleg.gov>; Rep. Adam Wool <Rep.Adam.Wool@akleg.gov>; Rep. David Talerico <Rep.David.Talerico@akleg.gov>; Rep. Liz Vazquez <Rep.Liz.Vazquez@akleg.gov>; Rep. Neal Foster <Rep.Neal.Foster@akleg.gov>; Rep. Paul Seaton <Rep.Paul.Seaton@akleg.gov>; Rep. Louise Stutes <Rep.Louise.Stutes@akleg.gov>
Subject: SB 89

Dear Legislators,

Thank you for your efforts on behalf of Alaska's public school students. I would like to speak up as a school board member of the Denali Borough School District about SB 89, Parental Rights.

I feel there should be no limitations placed on abortion service providers from delivering sexual education in public schools. Abortion is legal in the United States, and women have the right to choose pregnancy. Please do not allow politics to influence sound educational opportunities in our public schools.

Thank you for your consideration.

Jenna Hamm
School Board Member
Denali Borough School District

907-505-0534 mobile
907-683-2290 work

Taneeka Hansen

From: Vernon Carlson <vcarlson@dbsd.org>
Sent: Sunday, April 10, 2016 12:34 PM
To: Rep. Paul Seaton
Subject: SB 89

Good morning Representative Seaton: I am writing to ask that SB 89 be allowed to fail or removed. Denali Borough School District does not support SB 89 and also we feel that it violates our duties for choosing and approving curriculum while still holding us accountable for student success. In 11 years as a school board member I have never had a parent complain about "Planned Parenthood ". The real question that should be asked " Is this good for student Achievement" . That should always be first for education and decisions that affect such. Thank you. Vernon Carlson. Board President Denali Borough School District Cantwell.

Sent from my iPad

P.O. Box 1330
675 Second Street
Cordova, AK 99574



(T) 907-424-3265
(F) 907-424-3271
www.cordovasd.org

April 8, 2016

House HSS Committee
State Senate
Alaska State Capitol
Juneau, AK 99801-1182

Honorable House Health & Social Services Committee Members,

Public School Boards have historically been delegated the authority for the education of its children, including, within the framework of defined state statues and regulations, both the content and methodology of the delivery of curriculum.

Senate Bill 89 specifically imposes its will on the ability of locally elected school boards to govern based on local interests. The Cordova School District (CSD) opposes SB 89 and encourages you to also oppose legislation that directly negatively impacts the governance role of local school boards.

Below is an excerpt from CSD's Family Life/Sex Education Board Policy (6142.1):

The School Board believes that a wholesome, well-planned sequence of instruction about family life and human sexuality is essential to the general education of all students. Lack of information or pervasive misinformation can cause low self-esteem, increased risk for sexually transmitted disease, unintended pregnancy or sterility, and school dropout. The district curriculum shall help students understand the biological, psychological, social, moral, and ethical aspects of human sexuality....

Parents/guardians shall be notified in writing before students are offered any instruction in which human reproductive organs and their functions, processes, or diseases are described, illustrated, or discussed. This notification shall inform parents/guardians that they may review instructional materials to be used in family life, sex education instruction and that they may request in writing that their child not attend the class. At the parent/guardian's request, any student may be excused from any part of family life/sex education instruction.

This policy, developed and approved by the Cordova School Board, allows for parent review of material to be used as well as an implied practice of communicating how the material is to be delivered and by whom. As noted, parents may choose to have their child excused from participating in said instruction.

Your support in opposing this and any similar legislation is important and appreciated in helping to maintain a school board's governance rights and responsibilities in educating our children.

Thank you for your continued service and support of Alaska's children and communities.

Sincerely,

Alex Russin, Superintendent

MT. ECCLES ELEMENTARY SCHOOL
(T) 907-424-3236
(F) 907-424-3117

EXCELLENCE FOR ALL

CORDOVA JR.-SR. HIGH SCHOOL
(T) 907-424-3266
(F) 907-424-5215

Taneeka Hansen

From: Mackey, Emil <emil.mackey@juneauschools.org>
Sent: Friday, April 08, 2016 11:48 AM
To: Rep. Paul Seaton; Rep. Liz Vazquez; Rep. Neal Foster; Rep. Louise Stutes; Rep. David Talerico; Rep. Geran Tarr; Rep. Adam Wool
Cc: Rep. Cathy Munoz; Sen. Dennis Egan; Rep. Sam Kito
Subject: SB 89 - Juneau School Board Member Emil Mackey Feedback

Good Morning,

I was told that members of the House Health & Social Services committee desired feedback regarding SB 89 - Parental Rights. As an elected member of the Juneau School Board, I am writing in response to this request and to inform you of my opposition to SB 89. In respect of your time, I will use bullet points to expedite your review and reference, if needed. Please let me know if you would like clarification regarding any of these points and I will be happy to be more in-depth in a follow-up. Likewise, I have CC'd the Juneau legislative delegation so they are aware of my opinion regarding SB-89. This feedback is my own and is not necessarily representative of other members nor the Juneau Board of Education collectively.

1. **School board control how they spend student allocations, but have no control over revenue.** This is important because SB 89 would limit possible volunteer organizations with whom our district relies to provide free educational services to our students and staff. Disallowing school districts from utilizing the free educational resources of "Planned Parenthood" and other similar organizations deemed to be connected to be "abortion providers" means that our district will need to buy curriculum and staff to teach appropriate and necessary sex education to our students. This means that SB 89 will lead to higher district costs to the district. These costs will either lead to higher costs to the state in the form of a higher necessary Basic Student Allocation (BSA) or an erosion of existing resources; thus weakening education.
2. **If passed, there is not enough time between now and the next school year to identify substitute materials, train staff, and implement a new sex-education curriculum.** This means that many students will not have sex education for at least a year. The CDC has found that effective sex education courses lead to lower rates of STD and HIV. Furthermore, effective sex education programs like those offered for free through our partnership with Planned Parenthood, also leads to delaying first sexual intercourse, reducing the number of sex partners, and decreasing the number of times students have unprotected sex. Please see http://www.cdc.gov/healthyouth/sexualbehaviors/pdf/effective_hiv.pdf for more information and references by the CDC concerning these facts. Once again, this means that the State of Alaska will see increased long-term costs for a generation associated with the students that will contract STD's, HIV, and produce unwanted pregnancies and the associated increases in social program support for these mothers and children. I would urge the committee to get an estimate of these associated legacy costs for each year sex education is not offered in the state.
3. **The bill is unnecessary because nothing prevents the parents from opting-out of the current curriculum.** Of all of the provisions, opting-in versus opting out of sex education is the only component of the bill that has actual parental-rights merit. The remainder of the bill seems to be more focused on quashing the participation of Planned-Parenthood and other similar organizations outside the domain of parental rights.
4. **I have received no complaints from Juneau parents regarding neither the current Juneau Sex Education program nor their children being taught using the Planned-Parenthood material in the**

current program. There is no problem concerning the current sexual education curriculum in Juneau. Likewise, I have heard of no significant complaints outside Juneau.

5. **The bill increases legal liability exposure of the state and individual districts.** In a time of fiscal crisis, do you want districts to lose funding because a child forges an opt-in statement? Under SB 89, Juneau would lose funding if a student forged an opt-in statement. Do you want the state to get sued for violating Section 1.5 of the Alaska Constitution ("Every person may freely speak, write, and publish on all subjects, being responsible for the abuse of that right.")? If such a suit goes federal as similar cases have done, does the legislature want to pay for the years of litigation costs as individuals and organizations argue that their Federal first and fourteenth amendment rights are violated by this law? I realize that efforts have been made to make it more "constitutional," however, I still have my doubts and any estimation either way is speculative. For the sake of argument, let's assume SB 89 is constitutional, is it worth the costs to the state and districts for the years or decades it will take to defend the suits?
6. **Public testimony to the legislature has been overwhelmingly opposed to this bill.** Regardless of attempts by both sides to muster support and opposition, the testimony has been overwhelmingly against passage. This appears to be more of a solution looking for a problem than well-considered and needed policy. I urge you to consider public testimony and weigh it heavily in your decision.
7. **SB 89 creates ambiguity, conflict, and legal liability for districts trying to reconcile the conflicts between Bree's Law and SB 89.** Bree's law changed statute so that 14.30.355 was mandated to "adopt and implement a policy, establish a training program for employees and students, and provide parent notices relating to sexual abuse and sexual assault awareness and prevention for students, enrolled in grades kindergarten through [grade]12. Under the current SB 89 proposal, "A school district and an educational services organization that has a contract with a school district may not contract with an abortion services provider. If we can't use the free services of Planned Parenthood to help with this training, who would the legislature suggest as a substitute? How much is the legislature prepared to pay for this service if it is not offered free as is our current service with Planned Parenthood? How do you suggest we enforce Bree's Law mandates until a provider is identified and contracted? Will districts be "held harmless" during the transition to locate, contract, and utilize a new provider? If we are, what does that say about Alaska's commitment to sexual violence prevention? How will this law be implemented in rural and remote school districts where resources are even more strapped than in Juneau?
8. **Are School Districts at liable if Charter Schools choose to contract with Planned Parenthood?** As I understand it, AS 14.03.250 allows districts to establish a Charter School, but the local school board has no real control over the curriculum once the charter is approved. This is important because Juneau and many districts have Charter Schools. As such, charter schools are basically free to choose whatever curriculum they desire and school district has no control over that decision until the charter or contract are up for renewal with the district. If a Charter School chooses to contract with Planned Parenthood, will the district be held liable when we have no control over the Charter School until their contract and/or charter is open for renewal? What guidance does the legislature have regarding the rights of districts versus the rights of charter schools in regards to this law and the potential consequences if violated by a charter school?

While there are other points I could make, I believe these represent the most important concerns I have with SB 89. Policy-wise, I see considerable liabilities to the state and my district caused by SB 89. If SB 89 is concerned about "parental rights," then the bill needs to be more focused on the opt-in versus opt-out debate. In contrast, banning districts, district personnel, and others from contracting with Planned Parenthood or similar organizations has no relation to "parental rights." The only reason for this provision is to prohibit a free organization from participating in the public educational process. As a consequence, this inhibits the ability of districts to comply with the mandates of Bree's Law, efficiently and effectively conduct sexual education in Alaska, and increases an unnecessary financial burden on the district and community. For these reasons, I urge you to give a critical eye to SB 89 and do not pass. Juneau and Alaska school districts need the support of the legislature, not unnecessary unfunded mandates that only hurts the ability of Alaska school districts to deliver effective, efficient, and locally-controlled curriculum.

Sincerely and Respectfully,

Emil Robert Mackey, PhD, MPA, MEd, BSE

Juneau School Board Member

Taneeka Hansen

From: Barbara Parker <barb.parker1955@gmail.com>
Sent: Friday, April 08, 2016 5:17 PM
To: Rep. Paul Seaton; Rep. Liz Vazquez; Rep. Neal Foster; Rep. Louise Stutes; Rep. David Talerico; Rep. Geran Tarr; Rep. Adam Wool; Norm Wooten
Subject: SB 89 Opinion

To: The House Health and Social Services Committee members

RE: SB 89

I am currently serving as a board member on the Delta/Greely School Board. Mr. Norm Wooten (AASB) indicated that the HSS committee would like to hear from board members on their position on the prohibition of abortion providers from delivering sex education in public schools. Our school district does not have a policy concerning this and our district has not obtained services from Planned Parenthood as we are located 100 miles south of Fairbanks. **My opinion does not necessarily represent our board, but only represents myself as a friend of education.**

I am opposed to having an Alaska school district contract with an abortion service provider in order to furnish course materials or provide instruction concerning sexuality or sexually transmitted diseases. Our school districts in Alaska reflect a population that is deeply divided in regards to the morality of abortion. As so many parents feel deeply that the taking of a life in the womb contradicts the teaching of many values in the school, they feel the delivery of sex education should come from teachers or entities not involved in events they deem to be a crime against humanity. The fact that Alaska does not prohibit some abortions after a certain point in pregnancy makes it even more paramount that abortion providers do not have a presence in our schools, as late term abortions are extremely violent and painful to the smallest in our society. It is interesting to read studies on how care to children in the womb extend from good eating habits to singing. Perhaps educating our children does start in the womb. I think it is important to impart to our school children the value of life – as Doctor Seuss says “A person’s a person, no matter how small.”

Thank you for your service,

Barbara Parker
Board Member
Delta/Greely School District
barb.parker1955@gmail.com
907-322-4448

This is the testimony that I hoped to give last Thursday, the 7th of April, regarding Senate bill 89. I will not be able to attend on Tuesday, so please accept this written testimony.

My name is Kathleen Todd. Although I am a long time member of the Valdez School Board including its curriculum and policy committees, I am speaking for myself, a physician in Valdez and parent of two grown daughters, educated here.

I am speaking in opposition to SB 89. I agree with much of the previous testimony about how essential good sex ed is and how it is often better received when delivered by visiting experts. As a parent I find sex ed much more important and foundational than some other controversial topics discussed in school, so singling it out to require opt-in instead of opt-out is not warranted nor optimum. The child who is too embarrassed, too neglected, too confident in their own "knowledge", or just too disorganized to get their permission slip back is exactly the kid who probably needs the class the most. Concerned parents can already opt out of instruction they don't agree with (or work with the school to change the curriculum for everyone). These points have been covered extensively.

So I'd like to focus on local control. To get warmed up with the issue of paying for teacher physicals. Different districts have different needs. My district needed to get more substitutes, so we offered to pay back their costs for the physical if they completed a certain number of hours of subbing. These are not people on our insurance plan, which is grandfathered in to not pay for physicals anyway. I can imagine that a district that sends teachers to extremely remote locations might require physicals for everyone before they take off. To require these teachers to pay extra for the "privilege" of the remote assignment is unfair and could be a deal breaker. The industry standard around here is that if the employer requires a physical, the employer pays for the physical, thereby avoiding arguments about what is really needed any why. School districts may need to meet the local industry standard.

Why this rule about paying for physicals is included in this bill is unclear, but let's not forget about it if by some stretch of the imagination you decide to pass this bill. Please remove it.

On to sex ed: This bill is being touted as anti-Planned Parenthood, but in our locale it has different consequences. I do abortions –way less than one percent of my practice, but I do abortions. Some of my fellow physicians also do abortions, some do not. Some of the staff help out, some do not, according to their own consciences. My male medical partner and I have been guest speakers in the 5th grade "now your body's changing" classes for years, as well as in junior high and high school health classes. Multiple teachers and parents have thanked us for being the voice of expertise, the male voice in the female teacher's classroom or visa versa, and often the unembarrassed adult to answer questions. Under this bill, no local physician would be able to be the presenter in the future. Nor could we provide pamphlets or handouts. Our community does not have any other physicians or public health nurses to call upon. No one from our one medical office could volunteer, no matter what they personally do or believe.

The teachers are present and in control of what we talk about. The one time I have discussed abortion in a classroom was at the high school 30 years ago. The teacher asked me to describe the procedures used for abortions and list some reasons why people get abortions. The students had asked to discuss this topic. She consulted with the principal for approval. Notification was sent home per protocol, with an invitation for parents to discuss this with the teacher or to be present for the lectures. A speaker from the local pro-life group spoke the day after I did; the students discussed the issue the day after

that. There were two parents present in the classroom for those 3 days. There was one parent that opted their child out when the note came home. What a great way to model information gathering, discussion of controversial topics, and decision making! One of the parents who was present and two who weren't made a point of thanking me for my presentation. No complaints were lodged. I think our school district has this issue figured out. If it needs to be changed, we can best address it at the local level.

It is also necessary to consider the consequences of this bill in different places. It says no contracts with abortion providers. The school district currently contracts with our clinic to give hepatitis immunizations for new custodians. There is no other clinic to do this, so perhaps they'd have to bring someone in or send people to Glennallen or Anchorage. The proposed law could be interpreted to say that my medical partner's wife can no longer coach the ski team nor my employee cater the school district Christmas party.

Senate Bill 191/House Bill 352 are much crazier in their consequences in small towns where everyone wears many hats, but rewriting all three of these bills to more carefully pick on one organization alone is not the solution. Don't pass any of them. Work on your local school district to deal with controversial issues in a healthy way. Give our students the information they will need in adult life. Let the schools choose the materials and presenters that work the best in their circumstances and complain locally if, when you have the facts, you don't think things are being done right. Please oppose SB 89. Thank you.

April 12, 2016

Good afternoon, Chairman Seaton and H&SS Committee,

My name is Cathy Girard, I represent myself, I live in House District 27, and I am here today to urge you to vote against SB 89, "Parental Rights in Education."

In the 1970's, I had health class, but it wasn't until I was 12 years old (that was the 7th grade for me) that I realized how babies were made...and I didn't find out in health class. I didn't get any sex ed from my mother until I got my period at age 12, which was far too late since my girlfriends and I were already comparing our 9-year old bodies to the Playboy magazines that we pilfered from our fathers' and brothers' private stashes. I grew up in an upper middle class family with two parents, which is atypical for today. Even coming from the "best of families" doesn't guarantee medically-accurate or age-appropriate sexual education. By luck, I was able to make it through high school and college without getting pregnant and because I got my college education, I have always been able to financially support myself.

To me, SB 89 is a classic, unconstitutional example of a conflict between church and state. If Crisis Pregnancy Centers or Alaska Right-to-Life were the organizations teaching sexual education in Alaska's public schools, SB 89 and all of the ongoing anti-Planned Parenthood bills wouldn't be in front of you.

This is my third testimony against this bill, and I am dumbfounded that our state is taking so much time to dicker over a bill that will basically strip sexual education at a time when our state's budget is in crisis. Please remember that the education services Planned Parenthood provides to the schools ARE FREE – not funded at taxpayer expense -- and that the cost of unplanned pregnancies, unwanted children, domestic violence, date rape, breast cancer, reproductive system cancers, and sexually-transmitted infections, don't only come with a personal cost but a SOCIETAL COST. Just ask the 6000 parents of the 3000 children who are currently in foster care in this state.

I am extremely disheartened by the routine, biased, and low-value attacks on Planned Parenthood. Thank you for considering my thoughts today.

Cathy Girard
3841 Chiniak Bay Drive
Anchorage, AK 99515
(907) 243-3077
cgirard@gci.net

SB 89

Written Testimony
4.8.2016 HSS meeting

Hello my name is Robert Hockema and I'm a freshman at UAA, majoring in Political Science. I'm also the Communications Chair for Generation Action: Students for Reproductive Justice and UAA.

I'd like to take the time to point out a recent report from the New York Times from March 7th of this year. The Times reported that the unplanned pregnancy rate in the US have declined to their lowest levels in last three decades. I think that everyone here, regardless of how they feel about this bill, can agree that that's excellent news. Because we all have a shared interest in reducing the number of unplanned pregnancies, along with things like the rate of sexually transmitted infections and other health risks -- and it's because of the fact that we share those goals that I'm here expressing my deep concern for SB 89, which seems to contradict the methods that lead to great reports like this in the first place.

The problem with SB 89 is that ^{it} reduces accessibility to sex education. As it currently exists, there is an opt-out system where parents who feel that sex education would be for some reason damaging to their kid. They can exercise their parental rights and opt their kid out. But for some reason, we're trying to make it difficult to get kids into sex ed classes by creating an opt-in system. I think that anyone here who is a parent -- or someone with years of experience in education like Sen. Dunleavy -- understands that opt-in systems are the **worst** way to encourage participation in a program or class. It's very easy for kids to either accidentally neglect to give the opt-in form to their parents (or deliberately hide the form from them), or for parents to forget to sign the form because they're busy working 50 hours a week.. The form might not reach the front desk simply because there are parents who aren't involved enough in their kids' education and aren't even going to look at the form in the first place.

That right there discourages participation in sex education classes. That means less kids getting education that is vital to the protection of public health, like learning the risks and prevention methods associated with sexually transmitted infections, or unplanned pregnancies. That means less students becoming educated on what a healthy relationship means, and how they can identify the warning signs of an abusive partnership. It means that the evidence-based curriculum that sex ed provides becomes less accessible to students because of the inherent nature of the opt-in system this bill creates. I don't think this bill has a single thing to do with parental rights in education; those rights already exist under the opt-out system. And if you want to make parents more aware of that, why don't we suggest to schools that we mail or email a pamphlet about the opt-out system so that they know that's there for them? We can get the same results Dunleavy says he wants while also not reducing the amount of participants in sexual education classes.

Remember the New York Times report I mentioned at the top of my testimony. Remember that the reduction of unplanned pregnancy rates happens through education, sex education. I urge you to defeat this bill right here in this committee because we want to be seeing *more* reports like the one in the Times, not less.

Taneeka Hansen

From: DavidCindy Audet <3audets@gmail.com>
Sent: Friday, April 08, 2016 8:20 AM
To: Rep. Paul Seaton; Rep. Liz Vazquez; Rep. Neal Foster; Rep. Louise Stutes; Rep. David Talerico; Rep. Geran Tarr; Rep. Adam Wool
Cc: Rep. Sam Kito; Sen. Dennis Egan; Rep. Cathy Munoz
Subject: Fwd: SB 89

Dear Members of Health & Social Services Committee and Juneau Delegation,

I attended the HSS Committee hearing, yesterday. When I arrived at 330p, I signed up to testify, but the meeting adjourned (at 5p), having run out of time for all testimony to be heard. I am not sure if I will make it to the continuation hearing next Tuesday at 3p, so have decided to submit additional written comments.

I am opposed to SB 89.

In my opinion, Planned Parenthood is a very professional organization, and they are good at what they do. Our school system is lucky to have them as a resource for encouraging safe and responsible choices by teens.

In addition, the present situation (because it includes Planned Parenthood's educational approach) provides a way for peers to support one another and share perspectives within a supportive structure, outside of school, through Teen Council participation.

The existing opt out process should be more than adequate to address parental direction or views that deviate from current practice of providing accurate and thorough information to students.

I urge you to vote against SB 89.

Thank you,

Cindy Audet
Juneau, AK

----- Forwarded message -----

From: DavidCindy Audet <3audets@gmail.com>

Date: Wed, Apr 6, 2016 at 7:47 AM

Subject: SB 89

To: Rep.Paul.Seaton@akleg.gov, "Rep. Sam Kito" <Rep.Sam.Kito.III@akleg.gov>, Rep.cathy.munoz@akleg.gov, senator.dennis.egan@akleg.gov

Hello ~

I am writing in opposition to SB 89, prohibiting education by Planned Parenthood in public schools.

The education services of this organization has, in my opinion, never harmed anyone (or led to abortions), and it has helped many.

Thank you,

WRITTEN TESTIMONY

Name: Dave Hoester
Representing: Wachemak Boy Family Planning
Bill No./Subject: Senate Bill 89
Committee: HESS
Date of Hearing: 4/7/16

Chair Representative Sator, and members of the committee. I am writing to say I oppose Senate Bill 89. I work in the schools teaching sexual wellness (sex ed) with peer educators. We teach 7th, 8th, 9th grades. We continually hear from teachers and school administrators how important it is that people come in from ~~the~~ 'outside', the regular school setting to teach this subject. The youth would rather not discuss this sensitive topic with their regular teachers. I am sure you are aware that STD and unplanned pregnancies rates are very, very high in Alaska. The need for these classes are extraordinary.

By keeping other teachers from any agency out of the school rather than teaching the students will or undoubtedly cause more STD's and unplanned pregnancies to occur. The teachers (sex ed) from planned parenthood are some of the most effective we have in the State. Just ask the students and teachers/school admin.

me

Thank you,

[Signature]



Alaska NOW
P.O. Box 871525
Wasilla, AK 99687
alaskanow@gmail.com
907-373-6977

April 12, 2016

Re: SB89, SB191 and HB352

To the House Health and Social Services Committee:

Alaskans expect their lawmakers to perform their due diligence on research when seeking to enact a restrictive law of the land. We also expect that the laws are vetted and tested against legal standards, such as having at least a "rational reason" for discrepancies, and hopefully not automatically result in lawsuits. SB89, HB191, and HB352 sponsors have not adequately researched and vetted their bills and fail on these expectations.

I believe it is correct to say that SB89 is not seeking to purge abortion providers. But rather, SB89 addresses the issue: Which entities qualify for the right to compete for sex ed contracts with school districts? Following much testimony, SB89's sponsor has failed to prove that Planned Parenthood of the Northwest and Hawaii (PPGNH) is not qualified to compete for these contracts. Deficiencies in the bills' supporting evidence are:

1. SB89's sponsor testified many times that the purpose of his bill was to enhance "parental choice" and codify opt outs for testing and sex ed providers. However, lawmakers and others have pointed out that parents already possess all the power they need to do this. It is not necessary to codify the right to opt out of programs in SB89, a bill that includes highly controversial and restrictive elements.

The fact that the sponsor, some committee members, and testifiers in support of SB89 consistently veer away from discussing sex ed and then engage in vehement complaints about safe, legal abortion services suggests subterfuge regarding the bills' purpose and that opposition to the broader issue of abortion rights is actually the bills' primary driver.

2. PPGNH has testified that they do not discuss abortion and they provide all their services with the classroom teacher present. Yet the sponsor emotionally testified on the Senate floor that PPGNH "indoctrinates" the Alaskan students they contact. However, to this date, he fails to provide any evidence supporting his statement.

SB89's sponsor admitted, "I have not directly contacted school boards or school superintendents" about how PPGNH services are integrated, vetted, delivered, etc. in the schools. That he has not consulted with any school districts regarding PPGNH's services, their curriculum, the school district's assessment of the quality of the program, or how this entire bill may negatively impact their funding, their employment practices, or their budget is unacceptable negligence in collecting evidence in support of the bill.

3. In the 4/9/16 Alaska Dispatch News, an anti-abortion group, Alaska Family Council, disclosed that Care-net crisis pregnancy centers (CPC), a non-medical, non-profit, anti-

abortion organization, is competing for Alaska school district sex ed contracts. The CPCs and PPGNH politically oppose each other on abortion rights and have done so for decades. Both organizations are currently providing sex ed in Alaska school districts. Yet the sponsor is apparently convinced that, between the two non-profits, only PPGNH deliberately or inadvertently indoctrinates students on their "world view" through their sex ed services and must be restricted via SB89. The sponsor has presented no evidence of political indoctrination by either side.

Why is one group restricted while the other is not? Despite attorney Allissa Graves' testimony, she provided no evidence that SB89 passes the "rational reason" standard for this discrepancy.

Alaskans expect lawmakers to employ thorough, professional practices when preparing to establish restrictive laws. The SB89, SB191, and HB352 sponsors have clearly neglected to fully vet and present evidence to support their claims and justification in excluding one non-profit group from contract rights while providing others a free pass.

Thank you for your time.

Sincerely,

Barbara McDaniel, President

Submitted in Committee
During Testimony
By Christopher Kurka
Alaska Right to Life

PP ↑
website

Talk to Me First: Everything You Need to Know to Become Your Kids' "Go-To" Person about Sex by Deborah Roffman

For Goodness Sex: Changing the Way We Talk to Teens About Sexuality, Values, and Health by Al Vernacchio

Books for Children

There are books written about sexuality for children of different ages. Reading books about sexuality with your children is a great way for you to break the ice and start an ongoing discussion. And children will benefit from having books like these in your home to look at when they have questions about sexuality.

It's Not the Stork!: A Book About Girls, Boys, Babies, Bodies, Families and Friends by Robie Harris (for ages 4 and up)

No Es La Ciguena Un Libro Que Habla Sobre Ninas, Ninos, Bebes, Cuerpos, Familias Y Amigos by Robie Harris (for ages 4 and up)

It's Perfectly Normal: Changing Bodies, Growing up, Sex, and Sexual Health by Robie Harris (for ages 10 and up)



—OVER ONE MILLION COPIES IN PRINT!—

FOR AGE 10 AND UP

It's Perfectly Normal

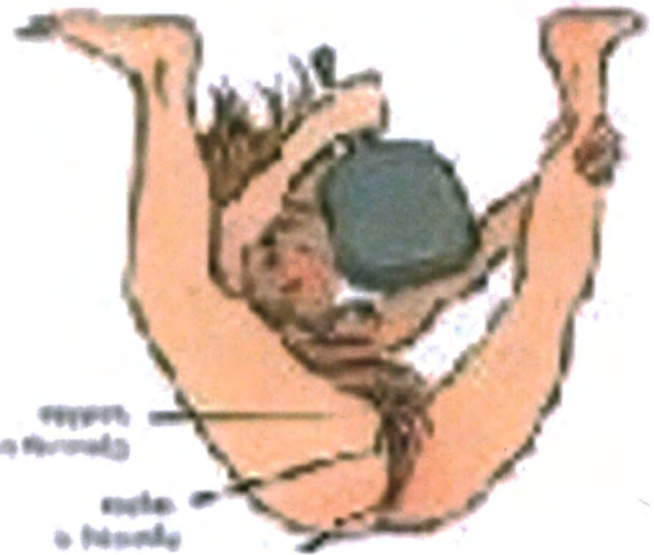
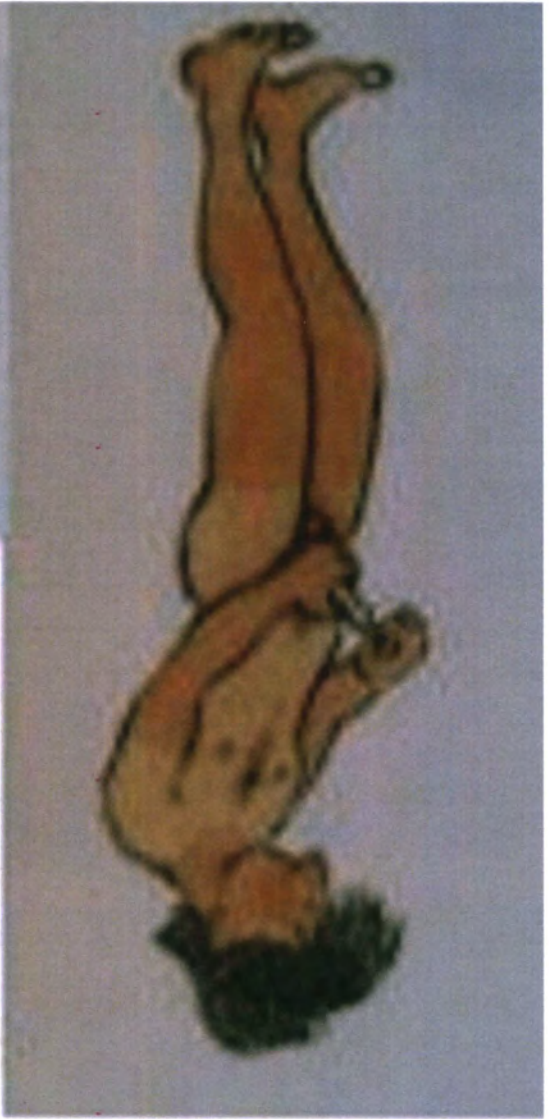
CHANGING BODIES, GROWING UP,
SEX, AND SEXUAL HEALTH



ROBIE H. HARRIS • MICHAEL EMBERLEY







From PP publication: "Happy, Healthy and Hot"

SEXUAL PLEASURE AND WELL-BEING

You know best if and when it is safe for you to disclose your status.

There are many reasons that people do not share their HIV status. They may not want people to know they are living with HIV because of stigma and discrimination within their community. They may worry that people will find out something else they have kept secret, like they are using injecting drugs, having sex outside of a marriage or having sex with people of the same gender. People in long-term relationships who find out they are living with HIV sometimes fear that their partner will react violently or end the relationship.



Young people living with HIV have the right to decide if, when, and how to disclose their HIV status

Sharing your HIV status is called **disclosure**. Your decision about whether to disclose may change with different people and situations. You have the right to decide if, when, and how to disclose your HIV status.

Safer sex is a shared responsibility. When you share your HIV status, you and your partner(s) can work together to make your sex life pleasurable and safe! Many young people who are living with HIV or have a partner who is living with HIV find that they get the most sexual pleasure when they know that they are having sex as safely as possible.



April 12, 2016

Representative Paul Seaton, Chair
Health and Social Services Committee
State Capitol, Room 102
Juneau, Alaska 99801

Dear Representative Seaton:

We, the Catholic Bishops of Alaska, are writing today to ask for your consideration in moving SB 89 from your committee to allow for a full vote of the House prior to legislative adjournment. We support several points within the legislation.

First and foremost, the Catholic Church believes that parents are the first and primary teachers of their children. In a recently released teaching on the family titled "The Joy of Love" Pope Francis succinctly lays out this role for all to consider:

"At the same time I feel it important to reiterate that the overall education of children is a "most serious duty" and at the same time a "primary right" of parents. This is not just a task or a burden, but an essential and inalienable right that parents are called to defend and of which no one may claim to deprive them. The State offers educational programs in a subsidiary way, supporting the parents in their indeclinable role; parents themselves enjoy the right to choose freely the kind of education – accessible and of good quality – which they wish to give their children in accordance with their convictions. Schools do not replace parents, but complement them. This is a basic principle: "all other participants in the process of education are only able to carry out their responsibilities in the name of the parents, with their consent and, to a certain degree, with their authorization".

Senate Bill 89 clearly outlines this responsibility in providing parents the right to discern what they believe best for their children, from testing to curriculum.

A second consideration for the committee is while much of the headlines have focused on the "who" that would be teaching a curriculum on the human body, we offer that human sexuality is sacred. Many religions, including the Catholic Church, teach that life is sacred from conception to natural death. Further, in Pope Francis's teaching on the Family he notes "Where sex education is concerned, much is at stake." We have attached the paragraphs from the document that discuss the need for sex education which outlines a prudent approach.

Archdiocese of Anchorage * Diocese of Fairbanks * Diocese of Juneau
225 Cordova Street * Anchorage, AK * 99501
907-297-7744 phone * 907-279-3885 fax

283. Frequently, sex education deals primarily with “protection” through the practice of “safe sex”. Such expressions convey a negative attitude towards the natural procreative finality of sexuality, as if an eventual child were an enemy to be protected against. This way of thinking promotes narcissism and aggressivity in place of acceptance. It is always irresponsible to invite adolescents to toy with their bodies and their desires, as if they possessed the maturity, values, mutual commitment and goals proper to marriage. They end up being blithely encouraged to use other persons as a means of fulfilling their needs or limitations. The important thing is to teach them sensitivity to different expressions of love, mutual concern and care, loving respect and deeply meaningful communication. All of these prepare them for an integral and generous gift of self that will be expressed, following a public commitment, in the gift of their bodies. Sexual union in marriage will thus appear as a sign of an all-inclusive commitment, enriched by everything that has preceded it.

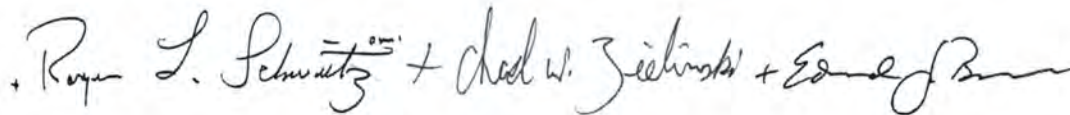
284. Young people should not be deceived into confusing two levels of reality: “sexual attraction creates, for the moment, the illusion of union, yet, without love, this ‘union’ leaves strangers as far apart as they were before”. The language of the body calls for a patient apprenticeship in learning to interpret and channel desires in view of authentic self-giving. When we presume to give everything all at once, it may well be that we give nothing. It is one thing to understand how fragile and bewildered young people can be, but another thing entirely to encourage them to pro-long their immaturity in the way they show love. But who speaks of these things today? Who is capable of taking young people seriously? Who helps them to prepare seriously for a great and generous love? Where sex education is concerned, much is at stake.

285. Sex education should also include respect and appreciation for differences, as a way of helping the young to overcome their self-absorption and to be open and accepting of others. Beyond the understandable difficulties which individuals may experience, the young need to be helped to accept their own body as it was created, for “thinking that we enjoy absolute power over our own bodies turns, often subtly, into thinking that we enjoy absolute power over creation. An appreciation of our body as male or female is also necessary for our own self-awareness in an encounter with others different from ourselves. In this way we can joyfully accept the specific gifts of another man or woman, the work of God the Creator, and find mutual enrichment”. Only by losing the fear of being different, can we be freed of self-centredness and self-absorption. Sex education should help young people to accept their own bodies and to avoid the pretension “to cancel out sexual difference because one no longer knows how to deal with it”.

While we recognize that others may not hold this same viewpoint, we agree with the proposed legislation, which asserts that medical providers who support access to and provide for abortions are not the same ones who should be teaching children whose families may have dissimilar values. We believe there are alternatives in all our communities statewide that do not have a health teacher or curriculum in their districts. These could include public health nurses.

Due to our own schedules, we are all unavailable to testify in person or at an LIO today. We did want to voice our support for this legislation, which we believe ensures that parents maintain their rights of being the first educators of their children and that school districts statewide will be prohibited from offering a health curriculum provided by those who provide abortions.

Sincerely yours,



+Roger L. Schwietz, OMI
Archdiocese of Anchorage

+Chad W. Zielinski
Diocese of Fairbanks

+Edward J. Burns
Diocese of Juneau

Attachment

CC: Members of the HES Committee
Rep. Mike Chenault, Speaker of the House
Rep. Charisse Millett, Majority Leader
Rep. Craig Johnson, Rules Chair

POST-SYNODAL APOSTOLIC EXHORTATION
AMORIS LÆTITIA
OF THE HOLY FATHER FRANCIS
TO BISHOPS, PRIESTS AND DEACONS
CONSECRATED PERSONS CHRISTIAN MARRIED COUPLES
AND ALL THE LAY FAITHFUL
ON LOVE IN THE FAMILY

*From Chapter 7
The need for sex education*

280. The Second Vatican Council spoke of the need for “a positive and prudent sex education” to be imparted to children and adolescents “as they grow older”, with “due weight being given to the advances in the psychological, pedagogical and didactic sciences”. We may well ask our-selves if our educational institutions have taken up this challenge. It is not easy to approach the issue of sex education in an age when sexuality tends to be trivialized and impoverished. It can only be seen within the broader framework of an education for love, for mutual self-giving. In such a way, the language of sexuality would not be sadly impoverished but illuminated and enriched. The sexual urge can be directed through a process of growth in self-knowledge and self-control capable of nurturing valuable capacities for joy and for loving encounter.

281. Sex education should provide information while keeping in mind that children and young people have not yet attained full maturity. The information has to come at a proper time and in a way suited to their age. It is not helpful to overwhelm them with data without also helping them to develop a critical sense in dealing with the onslaught of new ideas and suggestions, the flood of pornography and the overload of stimuli that can deform sexuality. Young people need to realize that they are bombarded by messages that are not beneficial for their growth towards maturity. They should be helped to recognize and to seek out positive influences, while shunning the things that cripple their capacity for love. We also have to realize that “a new and more appropriate language” is needed “in introducing children and adolescents to the topic of sexuality”.

282. A sexual education that fosters a healthy sense of modesty has immense value, however much some people nowadays consider modesty a relic of a bygone era. Modesty is a natural means whereby we defend our personal privacy and prevent ourselves from being turned into objects to be used. Without a sense of modesty, affection and sexuality can be reduced to an obsession with genitality and unhealthy behaviours that distort our capacity for love, and with forms of sexual violence that lead to inhuman treatment or cause hurt to others.

Archdiocese of Anchorage * Diocese of Fairbanks * Diocese of Juneau
225 Cordova Street * Anchorage, AK * 99501
907-297-7744 phone * 907-279-3885 fax

Taneeka Hansen

From: Judy Andree <jagster42@gmail.com>
Sent: Monday, April 04, 2016 8:07 AM
To: Rep. Paul Seaton
Cc: Rep. Liz Vazquez; Rep. Neal Foster; Rep. Louise Stutes; Rep. Adam Wool; Rep. David Talerico; Rep. Geran Tarr
Subject: SB 89: Opposition from the League of Women Voters of Alaska



The League of Women Voters

A Voice For Citizens, A Force For Change

C/o P.O. Box 90079, Anchorage, AK 99509-0079

April 7, 2016

Dear Representative Paul Seaton, Chair of the House Health & Social Services Committee,

The League of Women Voters of Alaska (LWVAK) strongly opposes both SB 89 and SB 191 (HB 352) based on the long-established (1983) League of Women Voters of the United States (LWVUS) Position on Reproductive Choices which states the following: The LWVUS “believes that public policy in a pluralistic society must affirm the constitutional right to privacy of the individual to make reproductive choices.”

In addition, the LWVUS Position on Health Care supports “a basic level of care that includes . . . prenatal and reproductive health.” This basic care for reproductive health can have far-reaching positive effects including healthier babies and stronger and more financially stable families. Prenatal and reproductive care can also save public monies. The Guttmacher Institute reports that in 2010, Title-X supported reproductive health services resulted in a net savings in Alaska of \$17.9 million due to the prevention of unintended or closely spaced pregnancies, low birth weight babies, STD transmission, and cervical cancer cases.

This type of success is possible only when sexually active men and women have access to sound medical information and medical care. To ban the use of a Title-X funded reproductive health facility from teaching young men and women simply because in some cases they also provide, with private funding, abortion services is unwise. Such facilities have as one of their main purposes the prevention of unintended pregnancies.

And who might know better the difficulty in having to end a pregnancy than those who work with families facing that most difficult of decisions. It is a decision best left to a woman and her health care provider; it is a very private and personal and painful decision. Preventing the need to make such a decision is the goal of all women’s health clinics.

Those who oppose the teaching provided by Title-X funded reproductive health workers should experience the classes taught by them. Those parents who are uncomfortable with a science-based approach to sex education can always opt-out. But to most parents, education is not an activity to be avoided, especially when it comes to the important area of reproductive health.

LWVAK strongly urges the members of the Alaska Legislature to reject both of these bills.

Thank you for your consideration.

Sincerely,

Hetty Barthel, Secretary

League of Women Voters of Alaska

The League of Women Voters is a nonpartisan political organization that encourages the informed and active participation of citizens in government and influences public policy through education and advocacy.

--emailed by
Judy Andree, Chair
LWVAK Legislative Action
5985 Lund Street
Juneau, Alaska 99801
907-780-6767 (home)
907-321-1559 (cell)

Janet Ogan

From: Judy Andree <jagster42@gmail.com>
Sent: Friday, March 18, 2016 2:21 PM
To: Rep. Wes Keller
Cc: Rep. Liz Vazquez; Rep. Paul Seaton; Rep. David Talerico; Rep. Jim Colver; Rep. Harriet Drummond; Rep. Ivy Spohnholz
Subject: Opposition to SB 89 & SB 191



The League of Women Voters

A Voice For Citizens. A Force For Change

March 18, 2016

Dear Representative Wes Keller, Chair of the House Education Committee,

The League of Women Voters of Alaska (LWVAK) strongly opposes both SB 89 and SB 191 based on the long-established (1983) League of Women Voters of the United States (LWVUS) Position on Reproductive Choices which states the following: The LWVUS “believes that public policy in a pluralistic society must affirm the constitutional right to privacy of the individual to make reproductive choices.”

In addition, the LWVUS Position on Health Care supports “a basic level of care that includes . . . prenatal and reproductive health.” This basic care for reproductive health can have far-reaching positive effects including healthier babies and stronger and more financially stable families. Prenatal and reproductive care can also save public monies. The Guttmacher Institute reports that in 2010, Title-X supported reproductive health services resulted in a net savings in Alaska of \$17.9 million due to the prevention of unintended or closely spaced pregnancies, low birth weight babies, STD transmission, and cervical cancer cases.

This type of success is possible only when sexually active men and women have access to sound medical information and medical care. To ban the use of a Title-X funded reproductive health facility from teaching young men and women simply because in some cases they also provide, with private funding, abortion services is unwise. Such facilities have as one of their main purposes the prevention of unintended pregnancies.

And who might know better the difficulty in having to end a pregnancy than those who work with families facing that most difficult of decisions. It is a decision best left to a woman and her health care provider; it is a very private and personal and painful decision. Preventing the need to make such a decision is the goal of all women’s health clinics.

Those who oppose the teaching provided by Title-X funded reproductive health workers should experience the classes taught by them. Those parents who are uncomfortable with a science-based approach to sex education can always opt-out. But to most parents, education is not an activity to be avoided, especially when it comes to the important area of reproductive health.

LWVAK strongly urges the members of the Alaska Legislature to reject both of these bills.

Thank you for your consideration.

Sincerely,

Hetty Barthel, Secretary

League of Women Voters of Alaska

The League of Women Voters is a nonpartisan political organization that encourages the informed and active participation of citizens in government and influences public policy through education and advocacy.



March 18, 2016

To Whom It May Concern:

On behalf of NEA-Alaska's 13,000 members, I am writing to express my concerns about Section 4 of the current CS of Senate Bill 89, which would create a new statute shifting the costs of mandatory physical examinations on to teachers.

Under current state law, teachers are required to complete a physical examination when they are first hired by a district, with a reexamination every three years. State regulation 4 AAC 06.050. then states that additionally: "A district may require a physical or other examination at any time or at more frequent intervals at its expense." There is nothing in current state statute or regulation otherwise requiring school districts to pay for the costs of physical examinations.

We believe the current law is working – school districts across the state approach this issue differently, with locally tailored approaches that best suit their needs. In some cases, teachers' health insurance will cover the cost of a physical examination. Some school districts do not reimburse for the costs of state-required physical examinations. Others offer partial reimbursements – the Sitka School District, for example, reimburses teachers up to \$150 for physical examinations except for the examination required for initial employment. Some rural districts, where access to physicians can be limited, cover the full cost of obtaining physical examinations.

Physical examination reimbursement policies in place at the local level have been set up by those school districts, in consultation with local school boards, teachers, and school district employees. If districts wish to change their reimbursement policies, those changes can also be decided at the local level, with no new state statutes. Overall, Section 4 of Senate Bill 89 as written is overly restrictive, and binds the hands of school districts that may want to continue to offer reimbursements for teacher physical examinations – particularly those rural districts where access to physicians is limited.

Alaska's teachers pay for many things out of their own pockets for their classrooms and their students – we believe that a state mandate to require teachers to pay for their own physical examinations is not needed at this time.

Thank you for taking the time to review my concerns.

Sincerely,

A handwritten signature in cursive script that reads "Ron Fuhrer".

Ron Fuhrer

NEA-Alaska President



STATE of ALASKA

Bethel Legislative Information Office

PO Box 886
Bethel, Alaska 99559
(907) 543-3541
Fax- 543-3542

Written Testimony
for the
Record:

Pages: 5 w/cover

TCN: 465-3818

Committee: House Education

Date: 3/14/2016

Bill Number(s): SB 89

Subject(s): Parents Rights ; About, Promises Limited School

Please enter my testimony into the record.

Mary Norwick
Testifier's name (s):

Self
Representing (opt.)

PO Box 1275 Bethel, AK 99559
Address

545-5250
Phone

POB 1275

Bethel, AL 32559

March 14, 2016

House Education Committee

SB89: Parent Rights Public Testimony

I, as a concerned citizen, and a former advanced nurse practitioner in women's health care specialties, I would like to provide this written testimony for consideration by the House/Landis Committee, regarding health care providers, social services, educators (pre-early to post-college grad-uate), public/private schools, medical/nursing schools, medical/nursing laboratories, etc, etc.)

The sexual education is an important part of health care education for numerous reasons. Without it, it is not a complete part of patient education.

There are numerous health conditions that can be acquired from lack of sexual education: a) STDs b) Unwanted pregnancies & disruptions of education c) exposure of neglected/abused children & post-traumatic injuries to person & family/child/school psychological, etc. maladjustment/suicide/suicide. A

colluding i) Kenya i) Misuse of money, & intentional
unintentional passing on of severely transmitted dis-
eases, & b) ETC

IV. He stated, & foremost purposes of the 2016 Legis-
lative Session is to stop printing, and reduce the al-
ready shrinking money mass. Everyone should re-
alize that the price of a barrel of oil will not
be what it's used to be. The means of the print-
ing money means will NEVER reduce the ever-
growing debt's either. However, Bill Walker, Vice
Governor, Byron Mallot, and Commissioner Legin-
later should NOT be blamed for the budget
shortfall. The inherited, the passed-up
budgetary problems from their predecessors.
They are doing very well in seeking solutions
and rather than criticized, they should be ap-
plauded.

V. Suggestion: Please work together like adults
who care in resolution of the African prob-
lems that are discussed year after year. &
listen to speakers. Legislators who have been
paid, just please speak up - do if there is
honesty, and human understanding and compassion
you'd never go wrong.

VI. Representatives Don Saldor, and Rep. Hottel, have

nothing to complain about - I feel they moved to Alaska, and sought public positions for the benefit that living in Alaska offers, and the benefit that the elected positions offer. It is at the expense of clients who are in more they need for reasons that they can't see or even begin to imagine that we are the ones suffering for the need of a leading D/SIS, poor health of all sorts, a frustration, expense - we travel/comm and load, a fallen through cracks that emerging from them often seems impossible. Mr. Gatter, those of us who have physical disabilities/serious stigmas have where are - how are you sure that we more to the lower forty-eight states. If I suggest that you have hands to the state where you come from (or your mother), how would you feel? Mr. Gatter, don't you dare say again how we shall spend our money to law - we do very well in deciding how best to spend that, and make hard decisions every day, what we can do without.

Supreme Cabral, Cir-guy court Capital train -
My on riding sem ightki cutcipit, Goneycapit,
tempit, para to kus to it. ~~Adopt~~ ~~PARLIM~~

(A)

pat, i kayurungitit tung ecduki - akinaang
rephiripig nala! Nau-ff a Baenteei?

Sincerely,
Ms. Mary C. Nasawot
(Ms. Mary C. Nasawot)
Cell ph. # 907.545.5250
Message ph.: 907.545.4421