

ALASKA LEGISLATURE

991

HOUSE and SENATE FINANCE COMMITTEE FILES, 1993-1994

law firm of

**TOW & SHARROCK**  
NAL CORPORATION

announce that

*zbaugher, Esq.*

holder of the firm,  
at

*adall, Esq.*

n, White & McAuliffe,  
holder of the firm.

ITE 500  
KA 99501

278-8533  
78-8536

... (when the loan is paid back).  
This theory was used in many of our eastern states.

b. *Lien Theory*: Under the "lien" theory, the owner/mortgagor keeps both legal title and possession, and only gives the mortgagee a lien on the land which can be foreclosed upon in the event of a default under the loan. The lien theory is used in most western states, and is used today in Alaska.

the mortgagor may have built up a substantial investment in the pay-off of the loan. The law changed in order to protect those who had paid a sizeable amount of the installment debt before the default occurred, usually by giving the mortgagor either a "right to cure" the default, or a "right to redeem" the property.

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## Youth Court effective deterrent for first-time offenders

Continued from Page 1B  
judged as unique in that it is the only one which gives teens "such a tremendous responsibility."

"It's also the most complete program — we even have a Youth Court Bar Association," Leon said.

Leon directs the program and is aided by a volunteer administrative board composed of attorneys, judges, police officers, businessmen, mediators and juvenile intake officers.

Peer advising and sentencing techniques seem to be working, Leon said. Out of a total of 69 cases involving first-time offenders, only four were arrested for a second time.

"Juvenile intake officers are pretty happy about that because the recidivism rate is usually 50 percent. All

the offenders are ordered to write an essay as part of their sentence reflecting on what they had done," Leon said.

"All of them said they never want to see the inside of a courthouse again."

Some of them do, however. But the

**"All of them said they never want to see the inside of a courthouse again."**

next time they appear in court it is as youth court judges, lawyers, prosecutors or jurors as other offenders are brought into Youth Court.

On Jan. 25, 1993, another 119 young people were inducted into Anchorage Youth Court, joining the 188 already on the roster.

THE ALASKA JOURNAL OF COMMERCE

# We Mean Business

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ANCHORAGE YOUTH COURT:  
TRIAL BY PEERS

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I. PROJECT DESCRIPTION

The Anchorage Youth Court ("AYC") is a court in which the roles of attorneys, judges, bailiffs, clerks and jurors are filled by young people between the ages of twelve and eighteen. Defendant youths are afforded a chance via trial by their peers to resolve legal problems without receiving a criminal record. Simultaneously, the community benefits by receiving valuable work service as partial redress for the wrongs committed. Attorneys also have the opportunity to provide a service to their community. Most importantly, however, young people and adults work together through youth court to resolve conflict.

II. PLANNING

A. Needs Assessment

Often the juvenile justice system does not work for first time offenders. Two problems arise. First, due to the lack of resources, first time offenders are rarely punished. Juveniles become aware that the justice system will not follow through if an offense is committed. The result is a high recidivism rate. By the time the justice system takes action, many youthful offenders have established a lawbreaking behavior pattern.

Second, many juvenile defendants who maintain they are innocent cannot afford to hire legal counsel. They thus feel compelled to admit guilt to crimes they have not committed. They pay restitution as a cheaper alternative to hiring a lawyer.

A youth court can provide a solution to both problems. Attorneys, parents, school officials and students can join together to implement a court that will promptly respond to juvenile legal problems.

B. Determining Specific Objectives and Program Design

1. Decisions to be Made
  - a. Options - Objectives

The objectives of a youth court are four fold. First, a youth court provides a municipal wide alternative court where teenagers can be represented, prosecuted, and tried by a jury of their peers without incurring a record. Second, youth gain an awareness and respect for their legal responsibilities to society and are afforded the opportunity to play a positive role in the administration of justice. Third, a youth court reduces the volume of cases burdening a judicial system. Finally, attorneys are able to provide a service to the public by instructing youth about substantive and procedural criminal law.

- b. Options - Program Design

The AYC allows young people complete judicial authority. Young people are attorneys, judges, bailiffs, clerks, and jurors. Trials take place in the state courthouse. Defendants are referred by a referring authority, which for AYC is Alaska's Juvenile Intake Office. Once a defendant is referred to AYC, the defendant is arraigned. If he pleads guilty, he is tried by a jury or panel of judges. AYC confirms with the community service placement office that each defendant who is sentenced serves his sentence. If the defendant refuses to comply with the AYC process, AYC can return the case to Juvenile Intake for disposition. At completion of the case, the AYC closes the file and returns it to the referring authority. A criminal record is not accrued upon a finding of guilt.

2. Decision Making Process

AYC began with an ad hoc group of concerned attorneys, students, teachers, juvenile authorities and

parents who believe in and are committed to establishing a youth court. This group contacted the Anchorage Bar Association, Young Lawyers Section for help with funding and for access to its resources in the community. They Young Lawyers have been involved ever since.

A group should use the following analysis to determine whether a youth court is appropriate for its community:

a. Make a rough needs assessment. Determine how many offenders enter the juvenile justice system each year and how each is handled. Determine whether diversion programs are currently in operation. If so, determine what kind of diversion programs exist. If not, determine whether the court system needs a youth court diversion as an alternative.

b. Identify one or more persons who are interested in helping start a youth court. There may be people involved in the local bar association, local law related education projects, the school system, or the juvenile justice system. Encourage such people to enlist support for the program and to attend initial meetings. Often judges, attorneys, local bar association members, probation personnel, police officers, teachers, students, and parents are interested in supporting a youth court.

c. Identify the target group of defendants based on the needs of the juvenile system, i.e. age, type of offense and usual disposition of case.

d. Learn the procedures that are followed with a juvenile from arrest until final disposition of the case. Is there a diversion mechanism already in place? What happens to first offenders? This information is necessary in order to formulate workable procedures for selecting appropriate cases for the youth court.

e. Meet with the chief judge of the trial court, the proposed referring authorities, the director of social services and community work service, and prosecuting and public defense attorneys. Such meetings should be designed to foster support for the program and to compile suggestions for implementation.

### 3. Considerations in Project Planning

#### a. Personnel Available

Four types of personnel are required for a youth court: (1) volunteer students willing to become bar association members and attorneys; (2) volunteer attorneys willing to be instructors and advisors; (3) community members willing to support the youth court including judges, police officers, school officials, and juvenile officers; and (4) advisory staff.

The ABA affiliate group should provide access to potential volunteer attorneys. The AYC contacted schools and other community leaders directly to solicit student involvement, community support, and staff help.

The advisory staff of the AYC consists of a Coordinator and Legal Advisor. Both jobs are time consuming. The Coordinator's position is a paid one and is currently part time, but could become full time.

The Coordinator is responsible for review and approval of referrals to the AYC. S/he also establishes, oversees, and directs the procedures and duties required to ensure the smooth and proper operation of the youth court. Further, the Coordinator must maintain accurate youth court records of costs and expenses and act as a liaison between the AYC Bar Association, Administrative Board, and Alaska Court system at large.

The Legal Advisor should be an attorney volunteer. His duties and responsibilities are to review and approve, together with, advise and direct AYC staff and members as requested, required or needed.

AYC has considered employing a law student intern to assist both the Coordinator and legal advisor. Because no law schools are located in Alaska, such a program is difficult in Alaska. Nonetheless, a law student intern could assist the Coordinator and legal advisor in his or her activities.

## B. Revenue Availability

The first source for information about funding should be the local bar association. There are several funds set up for the specific purpose of starting and operating law related education programs.

The second source of information is the local library. Most libraries have a resource section which provides information about private foundations that donate money to legal programs. Some cities also have foundation centers. These centers are clearing houses for information about corporate and private foundations.

Another form of funding is self-generating. Fund raisers, seminars, and requests for donations can generate funds. An especially good private source of funds is private law firms. It is possible to run a youth court entirely on donations. The only items needed for a youth court are time, office space and operating expenses. These can all be donated. Private law firms in Anchorage have donated hundreds of hours of time to AYC. They have also donated office space and copying. Further, The Alaska State Court System has donated the use of their courtrooms for AYC hearings and trials. Similarly, the local library has donated the use of its theater for meetings.

Even though personnel and funding are the usual stumbling blocks associated with establishing and operating a youth court, the essential element is dedicated individuals who are committed to a youth court. Although a great deal of funding is not necessary for starting a program, individuals who are dedicated to starting a youth court are essential.

## C. Evaluation Design

It is important to evaluate the youth court periodically. Regular evaluations allow for the youth court to be revised as needed. A timetable should be set up for evaluation. Items to be evaluated include: the status of pending cases, available personnel and available resources.

Statistics should also be kept throughout the tenure of the court. Some statistics that should be kept are: number of inquiries about the youth court, number of students who register to take the youth court training course, number of students who pass the youth court bar examination, number of cases referred to the youth court, the number of cases returned to the referring authority, the number of cases in which defendants have been found not guilty or guilty, and the sentences served by defendants found guilty.

Finally, the year's goals should be reviewed and compared with the status of the program. If any disparity exists, the youth court goals and methods should be re-examined for possible change.

## III. IMPLEMENTATION

### A. Timetable

To establish a youth court, a timetable of at least six months is advisable before trials commence. Six months allows sufficient time to organize volunteers and arrange for courtrooms, community support, community work service, and cooperation of schools, court system, attorneys, and police officers. The following provides a loose outline of the chronology of events:

1. Formalize the proposed youth court by preparing a youth court constitution. This constitution should outline the responsibilities of each organization and the procedure and roles of student members. The constitution should be reviewed and adopted by students.
2. Formalize the proposed youth court by preparing a youth court constitution. This constitution should outline the responsibilities of each organization and the procedure and roles of student members. The constitution should be reviewed and adopted by students.
3. Establish a curriculum and bar exam for new members of the youth court bar association.
4. Begin to enroll students in the bar review course.
5. When at least ten to twenty students have enrolled, set the date classes are to begin.

6. Start the eight to ten week bar review course.
7. Set the bar examination and swear in all students passing the bar as members of the youth court bar association.
8. Begin the youth court bar association monthly business meetings and continuing legal education program.
9. Ask the referring authority to refer its first case to youth court.

B. Fund Raising

Look for all avenues of funding. Funding can come from grants, donations, and fundraisers. Even though grants are the best kind of funding available, it must be noted that grant applications take a great deal of time to prepare. Secondly, foundations that award grants may make disbursements only once or twice a year.

AYC approached the Young Lawyers division of the American Bar Association for an initial grant. AYC was awarded \$1,700.00 to begin its project.

Subsequently, AYC approached the Anchorage Bar Association. It funded the first year of AYC by providing a grant of \$11,000.00. Private individuals, law firms and corporations have donated office space, equipment and time. In-kind donations have been essential to AYC's first year.

C. Recruitment and Training

AYC's organization consists of cooperation between local high schools, juvenile intake, the court system, and volunteer attorneys and paralegals. The AYC has three arms. The first arm is the AYC non-profit corporation. It is directed by an Administrative Board. The second arm is the AYC Bar Association which is directed by student bar members. The third arm is the AYC court system which is directed by the AYC Coordinator. Volunteers are needed to staff all three arms.

The AYC Constitution establishes that the Administrative Board consists of residents of the Municipality of Anchorage. An equal number of members represents the youth community and the adult community. Each member serves for a term of one year. Student representatives are selected from each school which has a student participating in AYC. Adult nominees are selected from and represent the following: the judiciary, juvenile probation, law enforcement, education, the Anchorage Bar Association, the adult community at large and parents of youths over whom the AYC has jurisdiction.

The duties of the Administrative Board include, but are not limited to, fiscal matters, appointing staff members, maintaining liaison between the AYC and law enforcement agencies of the State of Alaska, the Municipality of Anchorage, as well as general supervision of AYC. Members of the Administrative Board receive no training, but usually come to the Board with an expertise or interest which is important to the functioning of AYC.

The AYC Bar Association consists of members of the AYC who are enrolled in grades seven through twelve and in a public or private school in the Municipality of Anchorage. The students must successfully complete an eight to ten week training course and pass an AYC bar examination. In order to hold any elected or appointed position, a member must have active standing. In order to qualify as an active member must have attended a majority of AYC Bar Association meetings held within the last three months and attend continuing legal education classes.

The AYC Bar Association has a president, vice president, secretary, judges, and clerk, all of whom are elected. Further, bailiffs, attorneys and jurors are appointed on a case by case basis.

A significant amount of time must be spent by volunteer attorneys to educate students about substantive and criminal procedures, evidence, constitutional law and trial advocacy. Much of the training is done during the eight to ten week training course.

D. Publicity

The AYC uses two types of publicity; one is intended to gain the participation of AYC students and the other is intended to gain community support for AYC. AYC has waged a successful public relations campaign on both fronts. Stories have appeared in the "Anchorage Daily News", the "Anchorage Times", Alaska Bar Association publications, and the "ABA/YLD Affiliate". The AYC Coordinator has appeared before numerous public and private organizations, corporations and schools. The Anchorage community is extremely supportive and interested in the program. Speaking opportunities are easily available. A youth court should ensure that its coordinator is willing to submit press releases and speak publicly as opportunities arise.

The student members should also participate in the campaign. Each fall AYC students ensure that other students in the Anchorage community are aware of the AYC program by writing newspaper articles notifying students of the AYC bar review registration. Students deliver similar notices to local radio stations, T.V. stations and schools.

#### E. Day to Day Operations

The AYC organization operates as follows: After a preliminary investigation, a referring authority, usually juvenile intake, refers the case to AYC. The referring authority meets with the defendant and his or her custodial parent or guardian to explain the purposes of AYC, and its procedures including sentencing. After the opportunity to confer with counsel, the defendant is given the choice of proceeding to AYC or being handled through regular juvenile intake channels which may include a formal court hearing and a criminal record. If the defendant and his or her parent or guardian agrees to proceed with AYC, they will sign a voluntary agreement with the understanding that their case will be held open for 90 days to complete the youth court process. This voluntary agreement states that failure to comply with AYC and other established conditions, once agreed to, may result in having the case handled in a formal court proceeding.

The AYC Coordinator receives a copy of the defendant's signed voluntary agreement to participate in AYC, available arrest reports and other related documents. If the case is not accepted by AYC, the case is returned to the referring authority together with all documents relating to the case. If the case is accepted, proceedings in AYC are conducted in substantial conformity with the rules and statutes governing normal adult criminal proceedings. The rules and statutes are applied and modified as necessary to promote the prompt and just resolution of cases and legal education. At all times, AYC proceedings are conducted to ensure confidentiality.

The chief judge or his appointee presides over all courtroom proceedings of the AYC with the assistance of two associate judges. If the defendant pleads guilty or is found guilty at trial, the judges determine an appropriate sentence at a sentencing hearing to be held within five days of the verdict or plea. Sentencing is in accordance with the informal sentencing guidelines established by the referring authority.

If the defendant chooses to exercise his right to appeal, he must submit a written statement including reasons for appeal to the chief judge within three days following the sentencing hearing. If the defendant does not submit a written appeal within this time frame, his right to appeal is waived. Upon receipt of the appeal, the chief judge appoints a three member appeals panel. If the appeals panel finds for the defendant on any point of appeal, the case is remanded accordingly. The Coordinator oversees the defendant's compliance with AYC sentencing orders and provides status reports to the referring authority as required.

Once a year, the AYC recruits new members. In order to become a member of AYC, young people complete a legal training course whereby they learn basic legal principals and practices. The course covers such topics as constitutional law, criminal law, criminal procedure, evidence, trial advocacy, and ethics. After having completed the course, students take a bar examination. Once students pass the bar examination, they become AYC Bar Association members. They are then qualified to serve on the court as bailiffs, clerks, attorneys, and judges. They will also be able to participate in AYC Bar Association meetings through which they continue their legal education. At the meetings members participate in activities designed to give broader perspective of the justice system, such as workshops, mock trials, speakers, and movies about the judicial system. The initial and ongoing training require regular attention by the Coordinator.

#### IV. EVALUATION

As a result of AYC, Anchorage youth have gained an awareness and respect for their legal responsibilities to society. They are afforded the opportunity to play a positive role in administration of justice. The volume of cases

burdening the judicial system has been lightened and Anchorage lawyers have been able to provide a service to the public by educating students about substantive and procedural criminal law. Meanwhile, the community has received valuable service and redress for the wrongs committed.

AYC students, however, provide probably the best evaluation of AYC. A question on their first bar examination was, "What is Anchorage Youth Court?" Their responses were as follows:

**A Tenth Grader's response:**

The Anchorage Youth Court provides the benefits of citizenship to the youth of Anchorage by providing an alternative system of judgement and sentencing. It will allow those who commit misdemeanors, early in life, a chance to pay for their damage without incurring a criminal record. It shall also attempt to be fair in the proceedings by providing these defendants with a jury, judge, and lawyers composed of their peers. By modeling itself after the real court system, Anchorage Youth Court will attempt to foster a spirit of respect for the law.

**A Twelfth Grader's response:**

The Anchorage Youth Court is an opportunity for youth to constructively exercise their responsibility to themselves and society in securing and promoting a just legal system. It provides youth offenders with an alternate method to pay for the consequences of their actions -- by having a trial by their peers, but not incurring any criminal record, and by paying back their community with restitution and community service hours. Anchorage Youth Court also provides active members with hands-on experience in the legal field and participation that could not be gained by any other source. The community as a whole benefits by the service Anchorage Youth Court provides.

**An Eleventh Grader's response:**

Anchorage Youth Court is essentially an opportunity. It is an opportunity for students of all kinds to come together in a healthy environment to learn about the laws that govern them. It is an opportunity for youth of Anchorage to help better their community. But mostly, it is an opportunity for kids who have made mistakes to have another shot, not so much to go unpunished, but to have another chance to reconsider the consequences of their actions without having a criminal record follow them through life.

AYC is essentially an opportunity, an opportunity for young people and adults to work together to resolve problems in their community.

**Contact Persons:**

Sharon Leon, Exec. Director  
Anchorage Youth Court  
P.O. Box 102735  
Anchorage, Alaska 99510  
(907) 274-5986  
FAX (907) 272-0491

Blythe Marston, President  
Anchorage Youth Court, Inc.  
2441 Turnagin Parkway  
Anchorage, Alaska 99515  
(907) 248-7739

Jonathan Ea'y  
Anchorage Bar Association  
550 W. 7th Ave., Suite 1900  
Anchorage, Alaska 99501  
(907) 277-1900



Anchorage Youth Court  
P.O. Box 102735  
Anchorage, Alaska 99510  
Phone: (907) 274-5986 • Fax: (907) 272-0491

**REGISTRATION MATERIALS PAID FOR THROUGH A GRANT FROM  
J.C. PENNEY CO. INC**

**AYC CLASS SCHEDULE  
FALL 1992**

Sat. 9/12 2 - 4 P.M.	Open House, registration	AYC Office
Thu. 9/17 7 - 8:30	Class registration	West High Cafeteria
Mon 9/14 5 - 7:00	Vol. teacher preparation meeting	Hughes Thorsness

**CLASSES:**

(Classes will meet once a week on the same day, in the same location for two hours)

09/21 - 09/26	Wk 1	Courts and Jurisdiction
09/28 - 10/02	Wk 2	Substantive Criminal Law
10/05 - 10/10	Wk 3	Criminal Procedure and Constitutional law
10/12 - 10/17	Wk 4	Evidence
10/19 - 10/23	Wk 5	Real and Demonstrative Evidence
10/26 - 10/30	Wk 6	Trial Advocacy (Mock Trial Preparation)
11/02 - 11/07	Wk 7	Trial Advocacy (Mock Trial Preparation)
11/09 - 11/14	Wk 8	Mock Trial
11/16 - 11/21	Wk 9	Bar Review
11/23 - 11/27	Wk 10	No Class -- Thanksgiving week

**AYC Bar Exam:**

A.M. 12/05	Bar Exam	West High Cafeteria
P.M. 12/06	Make-up Bar Exam -- By arrangement only	
12/07 - 12/12	Review corrected exam in regular classroom with students	
12/14	Exams returned to AYC office	
A.M. 01/09	Review/exam retake -- By arrangement only	
P.M. 01/24	Swearing in/reception -- attendance mandatory to become an AYC attorney	



**Anchorage Youth Court**

P.O. Box 102735

Anchorage, Alaska 99510

Phone: (907) 274-5986 • Fax: (907) 272-0491

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**AYC LAW CLASS  
STUDENT REGISTRATION FORM**

- \* Please complete this form, then present it to the AYC student registrar.
- \* Wait until the registrar has transferred this information to the master sheet.
- \* The registrar will give you the Class Information Letter and Assent Form.
- \* If your parent/guardian is here, have her/him sign the Assent Form and present it to the registrar.
- \* If your parent/guardian is not here, be sure to bring the signed Assent Form to your **FIRST CLASS.**

STUDENT NAME: \_\_\_\_\_

BIRTH DATE (MONTH/DAY/YEAR): \_\_\_\_\_

ADDRESS: \_\_\_\_\_ (ZIP) \_\_\_\_\_

MAILING ADDRESS, IF DIFFERENT: \_\_\_\_\_ (ZIP) \_\_\_\_\_

PHONE: \_\_\_\_\_

SCHOOL: \_\_\_\_\_ GRADE: \_\_\_\_\_

PARENT/GUARDIAN NAME: \_\_\_\_\_

PLACE OF EMPLOYMENT: \_\_\_\_\_

WORK TELEPHONE: \_\_\_\_\_

PARENT/GUARDIAN NAME: \_\_\_\_\_

PLACE OF EMPLOYMENT: \_\_\_\_\_

WORK TELEPHONE: \_\_\_\_\_

PLACE AN "X" IN THE SPACE OF YOUR CHOICE BELOW:

Please do ( ) do not ( ) include my name, address and phone number on the AYC membership list that is available to all members.



**Anchorage Youth Court**

P.O. Box 102735

Anchorage, Alaska 99510

Phone: (907) 274-5986 • Fax: (907) 272-0491

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**ASSENT AND WAIVER**

**(Please use ink.)**

I, \_\_\_\_\_, as the parent/guardian of  
(printed name of parent/guardian)

\_\_\_\_\_, hereby agree to allow him/her to participate in  
(printed name of registering student)

the Anchorage Youth Court Program. I acknowledge that he/she is a volunteer of the program, and agree to the fullest extent allowable under the laws of Alaska that I absolve of all liability and waive all claims against Anchorage Youth Court, Inc. or any of its directors, officers, executive director, or volunteers for any reason that may arise in any way from his/her participation in the Anchorage Youth Court events or meetings.

Dated this \_\_\_\_\_ day of 199\_\_

(Parent or Guardian Signature): \_\_\_\_\_

(Print Name): \_\_\_\_\_

(Daytime Telephone Number): \_\_\_\_\_

Please list two emergency contacts below:

\_\_\_\_\_  
(Name) (address) (phone)

\_\_\_\_\_  
(Name) (address) (phone)



Anchorage Youth Court  
P.O. Box 102735  
Anchorage, Alaska 99510  
Phone: (907) 274-986 • Fax: (907) 272-0491

September 12, 1992

Dear \_\_\_\_\_:

Congratulations and welcome to Anchorage Youth Court. Your class will begin \_\_\_\_\_  
\_\_\_\_\_. It will meet at \_\_\_\_\_ in room \_\_\_\_\_  
from \_\_\_\_\_ to \_\_\_\_\_. Your teacher(s) will be \_\_\_\_\_  
\_\_\_\_\_.

YOUR ASSENT FORM MUST BE SIGNED IN INK BY YOUR PARENT OR GUARDIAN BEFORE YOU MAY  
ATTEND CLASS. YOU MAY BRING IT WITH YOU TO THE FIRST CLASS.

Your class materials will be supplied by Anchorage Youth Court. Take good care of them,  
because only the first set is free. It will be your responsibility to bring your materials,  
homework and a pen or pencil with you to each class.

We look forward to working with you this year.

Sincerely

ANCHORAGE YOUTH COURT  
BAR ASSOCIATION MEMBERS

## GENERAL STUDENT INSTRUCTIONS

### CLASS REQUIREMENTS:

1. Each week every student is expected to bring to class the student packet. Please bring a paper and a writing instrument to take notes with. Additionally, students should have a 3 ring binder or peechee type note book to keep notes, handouts and the student packet in.
2. Students are expected to read and familiarize themselves with the Anchorage Youth Court Constitution prior to coming to the first class.
3. Turn in your completed "Assent and Waiver" form at your first class.
4. To take the AYC bar exam you must first:
  - A. Have a signed "Assent and Waiver" form on file in the AYC office.
  - B. Attend at least 7 classes before November 22. Attendance will be taken weekly.
  - C. Do the assigned homework.
  - D. Actively participate in the class mock trial.

### AYC MEMBERSHIP REQUIREMENTS

1. Pass the AYC bar exam.
2. Be sworn into Anchorage Youth Court.
3. Once sworn in, members are required to attend two of every three AYC Bar Association Meetings. These are held at the Loussac Library the fourth Wednesday of each month from 6:30 to 8:00 or 8:30 P.M.

1993 Village Participation Conference

Resolution # 93-13

ENTITLED: URGE THE ALASKA LEGISLATORS TO SUPPORT THE FUNDS FOR YOUTH PROGRAMS AND TEEN CENTERS.

WHEREAS, the Alaska Villages lack funds for youth programs and teen centers; and

WHEREAS, the youth get into alcohol and drug abuse and have no place to hang out; and

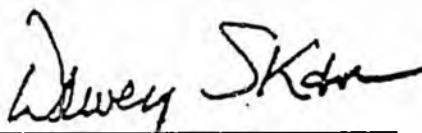
WHEREAS, alcohol and drug abuse prevention has been introduced in schools, but is not effective enough; and

WHEREAS, the youth are depressed and committing suicide.

Now, therefore, be it

RESOLVED: that the 1993 Village Participation Conference hereby urges the Alaska Legislators to support the funds for youth programs and teen centers in every Alaska Village.

ADOPTED this 26th day of February, 1993 by the Village Participation Conference in Juneau, Alaska.



Dewey Skan, Chairman  
1993 Village Participation Conference

# Alaska State Legislature

While in Fairbanks  
119 N. Cushman St.  
Suite 203  
Fairbanks, AK 99701  
907-456-8161



While in Juneau  
State Capitol  
Juneau, AK 99801-1182  
907-465-2327  
907-465-4713

Representative Joe Sitton

## MEMORANDUM

TO: Representative Ron Larson  
Co-Chair, House Finance Committee

FROM: Representative Joe Sitton JS

SUBJECT: HOUSE BILL 195 - Youth Court Legislation

DATE: January 12, 1994

I would like to request that you schedule House Bill 195, relating to youth courts, for a hearing in the House Health, Education and Social Services Committee.

House Bill 195 establishes a juvenile diversion program for youths who are under the age of 18. It provides a mechanism for offenders to go through a youth court proceeding instead of through the regular court system, provided they have the approval of the juvenile intake authorities and the consent of their parents.

At a time when the state is seeking solutions to the increase in crime, a diversion program that works and has a record of success provides an "exciting" breath of fresh air.

This legislation has support from state agencies and diverse groups and individuals throughout Alaska.

Thank you for your attention to this request.

JS:pt  
enclosures



# Alaska State Legislature

Official Business

State Capitol  
Juneau, AK 99801-1182

## QUESTIONS THAT ARE COMMONLY ASKED ABOUT YOUTH COURT LEGISLATION

**QUESTION:** What is the difference between a youth court program and other diversion programs?:

Juvenile intake refers youths to diversion programs and the youth court program is simply one other diversion program, similar to a "shoplifting class," for example. However, one unique characteristic which sets the youth court program apart from other diversion programs is that when a youth participates in a youth court proceeding, he/she is getting a taste of what adult court would be like; it is truly a mirror image of the adult court, except for the fact that the participants are peers.

**QUESTION:** Who decides whether or not a youth is referred to the youth court?

Under the Anchorage Youth Court Program, the youth and the parents must both agree to a youth court referral. In addition, the juvenile intake officer must also decide that this is an appropriate action.

**QUESTION:** What offenses are eligible for youth court proceedings?

Under current law, the juvenile intake officer, within the Department of Health and Social Services, Division of Family and Youth Services, is the sole referring agency. The juvenile intake officer decides on the disposition of all cases. When the Anchorage Youth Court Program was first established, only first-time misdemeanors were referred to the youth court; now, however, because the program has been so effective, the youth court does hear certain felonies - such as concealed weapons.

**QUESTION:** Could a youth court program hear a murder case?

Under the current provisions of law, it is technically possible but realistically, the juvenile intake officer would not refer such a case to the youth court, even if the youth and the parents requested this.

**QUESTION:** What is the role of the Court System in a youth court program?

In Anchorage, the Court System provides the space for the youth court to hold its proceedings. Otherwise, the Court system is not

directly involved in juvenile offenses; it is totally within the purview of the Division of Family and Youth Services

QUESTION: What groups need to be involved in order to truly effect community support?

The Department of Health and Social Services, the Alaska Court System, the Alaska Bar Association, the local bar association (if there is one), law enforcement agencies, the school district, parent organizations.

QUESTION: How old are the youths that are referred to a youth court program and how old are the youth court attorneys, jurors, judges, etc.?

Any youth under the age of 18 is eligible for referral to the program and youths under the age of 18 may volunteer to sit on the youth court. In this way, it is really peer adjudication.

QUESTION: Don't the youth courts tend to "go easy" on offenders because they are peers?

While that might seem to be a reasonable assumption, in reality, the youth court generally tends to be extremely "tough on crime" and has a reputation for being extremely strict in its sentencing.

QUESTION: What is the youth court recidivism rate and how does this compare to other proceedings?:

Out of a total of 69 cases before the Anchorage youth court, only four juveniles were arrested for a second offense. This compares with an approximately 50% recidivism rate for minor offenders.

QUESTION: Why does the legislation only specify "nonprofit corporations" as recipients of the \$5,000 grant?

House Bill 195 was modelled after the Anchorage Youth Court Program which was administered as a non-profit corporation. This was done to ensure the protection of the corporate veil, among other things. There is no reason that the legislation could not be expanded to include other entities.

QUESTION: Would House Bill 195 conflict or undermine legislation which requires minors to be treated as adults for certain offenses?

No, the youth court program only applies to minors in juvenile court and if legislation is enacted requiring a minor to be tried in adult court, he/she would no longer be within the purview of juvenile intake.

QUESTION: How will youth court programs work for the rural areas or small Alaskan communities?

House Bill 195 has been developed specifically in an attempt to make it possible for rural communities to establish youth court programs. Of course, each program may well be different. Under this legislation, it would be possible for one small community to have its own youth court program or for several villages to "link together" and form a youth court program to serve several communities.

QUESTIONS: Under the grant program established under the Department of Community and Regional Affairs, how will one community be selected over another, assuming there is a limited amount of money?

First of all, under House Bill 195, an applicant will only be able to receive a one-time only grant for setting up a youth court program. The Department will establish criteria by regulation. One of the criteria will have to be for the applicant to show a 50% in-kind or monetary match.

**HB**

**195**

**SFIN**

**FILE**

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_ Dept. Affected CR&A  
 Title: An Act Authorizing Youth Courts  
 Sponsor: Sitton, Ulmer BRU: Administration & Support  
 Requestor: House Finance Committee Components: Administrative Services  
 #684

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY 95	FY 96	FY 97	FY 98	FY 99	FY 00
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants, Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUNDING: (THOUSANDS OF DOLLARS)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

ESTIMATE OF ANY CURRENT YEAR (FY 94) COST:

none

POSITIONS:

Full-Time	0	0	0	0	0	0
Part-Time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

*Rep. Ron Larson*  
Rep. Ron Larson, Co-Chair

465-3878

Prepared By: Rep. Eileen MacLean, Co-Chair

Phone: 465-4833

Division: House Finance Committee

Date: 4/25/93

Approved By: \_\_\_\_\_

Agency: \_\_\_\_\_

Date: \_\_\_\_\_

SCS CSHB 195 (SUB)  
have no fiscal impact. This  
fiscal note is appropriate.

5/3/94  
date

Comptroller (initials)

**COPY**

PAGE

1

OF

1

FISCAL NOTE

STATE OF ALASKA  
1994 LEGISLATIVE SESSION

BII No. 3  
Bill Version: CSHB 195 (FIN)  
(H) Publish Date: 1/21/94

Revision Date: 01/14/94 Dept. Affected: Health and Social Services  
Title: An Act authorizing youth courts for peer adjudication of minors... BRU: Family & Youth Services  
Sponsor: Representatives Sitton, Ulmer Component: Southeastern, Southcentral, & Northern Regions  
Requestor: House Judiciary Committee COMPONENT SERIAL NO. 0258,0254,0255

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES						
---------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact 0.0

ANALYSIS: (Attach a separate page if necessary)

There would be no fiscal impact to the department if this bill were to become law.

Changes in SCS 195 (J4) have no fiscal impact. This fiscal note is appropriate.

5/4/94 /date ML /Comte Aide(initial)

Prepared by: Deborah R. Wing, Director  
Division: Division of Family & Youth Services  
Approved by Commissioner: Margaret R. Lowe  
Agency: Department of Health & Social Services

Phone: 465-3191  
Date: 01/14/94  
Date: 01/14/94

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Alaska State Legislature  
Senate

Office of the Secretary

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JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: 5-7-95

TO SENATE COMMITTEE: Finance

FROM: Office of the Senate Secretary Jmb

The Chairman of the above-referenced Committee has waived the Committee referral on the following bill(s):

HB 195  
adjudication of minors

Please give the bill file(s) to the page delivering this message for forwarding to the next Committee of referral.

Thank you for your prompt attention to this request.

JR/s

# DIVISION OF LEGAL SERVICES

## LEGISLATIVE AFFAIRS AGENCY STATE OF ALASKA

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

130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

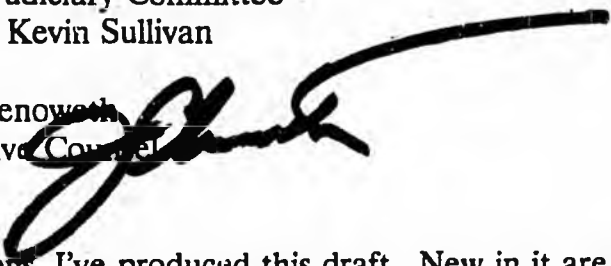
### MEMORANDUM

May 3, 1994

**SUBJECT:** Draft SCS CSHB 195 (Judiciary) (Work Order No. 8-LS0599M)

**TO:** Senator Robin Taylor, Chair  
Senate Judiciary Committee  
ATTN: Kevin Sullivan

**FROM:** Jack Chenoweth  
Legislative Counsel



From our several conversations, I've produced this draft. New in it are bill section 4 and the effective date provision.

Bill section 4 ties to the "access to agency records" provision of the Conference Committee Substitute for Senate Bill 54 (juvenile justice and waiver of juvenile jurisdiction), about to be transmitted to the governor. Youth court proceedings are, as we discussed, a form of diversion program under the department's informal resolution authority (that is itself more fully spelled out in CCS SB 54). If the information is accessible by the public under AS 47.10.093, added by CCS SB 54, then, under this proposed change, it becomes a record that is accessible though developed in the context of youth court proceedings in this bill. Among things that may be accessible is "information regarding a case . . . as may be necessary to inform [a] victim about the disposition or resolution of a case involving a minor." See proposed AS 47.10.093(b)(6).

The proper way to handle this is to leave in place in AS 18.55.100(f) the reference to AS 47.10.090 (in the event CCS SB 54 does not become law, since current AS 47.10.090 covers both court and agency records) but to substitute--as this does--the reference to AS 47.10.093 (if CCS SB 54 becomes law) with its focus on agency records. As noted above, despite the name, the youth court mechanism is a form of diversion or informal resolution that only tangentially involves the Alaska Court System.

Sections 10 and 11 of the bill are also new, and are included to make sure that the parts of the two relevant measures fit together properly. Section 11 is an effective

Senator Robin Taylor

May 3, 1994

Page 2

date provision; its inclusion amounts to a technical change for which waiver of the Uniform Rules applicable to bill title changes in the second house is not needed. See Uniform Rule 35 (2d sentence).

- JBC:gc

94-309.glc

Enclosure

# Alaska State Legislature

HB 195

MAY - 3 1994  
While in Juneau  
State Capitol  
Juneau, AK 99801-1182  
907-465-2327  
907-465-4713

While in Fairbanks  
119 N. Cushman St.  
Suite 203  
Fairbanks, AK 99701  
907-456-8161



Representative Joe Sitton

## MEMORANDUM

TO: Senator Drue Pearce  
Senator Steve Frank  
Co-Chairs, Senate Finance Committee

FROM: Representative Joe Sitton JS

SUBJECT: House Bill 195

DATE: May 4, 1994

I would respectfully request that you waive House Bill 195, relating to youth courts, from the Senate Finance Committee. This legislation has a zero fiscal note.

House Bill 195 establishes a juvenile diversion program for youths who are under the age of 18. It is modeled after the very successful Anchorage Youth Court program which has had tremendous community support.

It provides a mechanism for first-time offenders to go through a youth court proceeding instead of through the regular court system, provided they have the approval of the juvenile intake authorities and the consent of their parents.

At a time when the state is seeking solutions to the increase in crime, a diversion program that works and has a record of success provides an "exciting" breath of fresh air.

House Bill 195 has support from state agencies and diverse groups and has had bipartisan support during its progress through the legislature. The bill was amended in Senate Judiciary to be in compliance with Senate Bill 54, the juvenile waiver bill, and thus, must go back to the House for concurrence.

I would very much appreciate your support of this request.

JS:pt

# Alaska State Legislature

While in Fairbanks  
119 N. Cushman St.  
Suite 203  
Fairbanks, AK 99701  
907-456-8161



While in Juneau  
State Capitol  
Juneau, AK 99801-1182  
907-465-2327  
907-465-4713

Representative Joe Sitton

## Sponsor Statement

House Bill 195 - relating to the establishment of youth courts  
by

Representative Joe Sitton

House Bill 195 establishes the authority for the establishment of a youth program as a juvenile diversion program under the Department of Health and Social Services. Under the provisions of this legislation, youths under the age of 18 who have allegedly committed an offense may choose to go through a youth court proceeding instead of through the regular court system, provided they have the approval of the juvenile intake authorities and the consent of their parents.

While other states have youth (or teen) courts, in Alaska, only Anchorage has developed such a program; it has been in existence since 1989. It has enjoyed a tremendous success and is highly supported by the community. Out of a total of 69 cases, only four juveniles were arrested for a second offense.

Perhaps one of the greatest reasons for its success is the close working relationship between the different agencies involved: the Department of Health and Social Services, the Alaska Court System, the Alaska Bar Association, the Anchorage Bar Association, the school district, and law enforcement agencies.

In the Anchorage program, cases are referred by juvenile probation officers. Referrals may also be made by other entities, such as a store alleging shoplifting.

Defendants and their parents must agree to allow the Youth Court to hear the case and the Youth Court must accept jurisdiction. Court proceedings insure them the right to be represented by a lawyer, the right to trial by jury, the right to cross-examine witnesses, the right against self-incrimination, and the right to appeal.

The court is composed of students under 18 years of age who volunteer as judges, jurors, bailiffs, clerks, prosecutors and defense attorneys. To be

eligible to sit on the court, students must attend an 8-10 week class and pass a youth court bar examination. Legal advisors are available to assist student prosecutors and defense lawyers in preparing their cases for trial.

House Bill 195 would provide a similar mechanism for other communities in Alaska, both rural and urban. Each community would be able to tailor the youth court system to its own unique needs and resources. A great deal of effort has gone into crafting legislation which would provide a structure for a youth court program while at the same time providing maximum flexibility for communities to create a program which would work best for them.

This legislation provides for the establishment of a youth court program under the aegis of the Department of Health and Social Services; it is this department's juvenile intake officers who have jurisdiction over juvenile offenders.

In addition, the legislation amends AS 44.47.200, the community legal assistance grant fund to provide for "juvenile justice" grants to communities and to non-profit corporations to establish and organize a youth court program in a community. The grant amount may not exceed \$5,000 and the grant must be matched by cash or in-kind contributions. The burden of success thus lies with a community's commitment.

# Alaska State Legislature

While in Fairbanks  
119 N. Cushman St.  
Suite 203  
Fairbanks, AK 99701  
907-456-8161



While in Juneau  
State Capitol  
Juneau, AK 99801-1182  
907-465-2327  
907-465-4713

Representative Joe Sitton

## SECTIONAL ANALYSIS CS HOUSE BILL 195 (Fin) - Youth Courts

This analysis outlines the principal features of CS House Bill 195 (Fin), a measure authorizing youth courts in order to provide for peer adjudication of minors charged with violations of state laws or municipal ordinances. The bill also proposes to broaden (and rename) the use of the community legal assistance grant fund as a source of financial support for new youth courts.

The major difference between the House Finance CS and the original bill consists in the elimination of references to the court system. It is the juvenile intake unit of the Department of Health and Social Services, rather than the court system, which provides for waivers to diversion programs and it was at the request of the court system that the references to the court system have essentially been deleted.

Section 1 and 2. Sets out the purpose and background of this legislation.

Section 3. This bill section, the measure's principal operative provision, adds a new section to codified law. AS 18.05.100 is added as a part of the title concerned generally with health and safety matters. The section authorizes establishment of youth courts. Specifies that only one youth court may be established within the boundaries of a municipality. Subsection (c) establishes nonprofit corporations as entities which may serve as youth courts.

Bill Sections 4-8 rename and revise the objectives of the existing Community Legal Assistant Grant Fund.

Section 4. AS 44.47.200 [COMMUNITY] LEGAL ASSISTANCE AND JUVENILE JUSTICE GRANT FUND.

The amendments proposed to AS 44.47.200 by this bill section change the name of the fund and authorize use of money in the fund to help nonprofit corporations start operations as youth courts.

Section 6. The addition of AS 44.47.210(b) proposed by this bill section permits nonprofit corporations planning to operate youth courts to apply for a grant

from the fund, direct that the grant be matched, but permit waiver of the match requirement under the circumstances noted.

Section 8. The addition of AS 44.47.220 (b) proposed by this bill section sets limits on the amount that may be awarded as a grant from the fund to a nonprofit corporation planning to operate a youth court, and limits on the proper use by the grantee of the money received by the grant.

Sections 5 and 7. The changes made by these two bill sections are technical changes to existing law made in light of the proposed additions set out in bill sections 4, 6, and 8

Back-up



# Alaska State Legislature

Official Business

State Capitol  
Juneau, AK 99801-1182

## QUESTIONS THAT ARE COMMONLY ASKED ABOUT YOUTH COURT LEGISLATION

**QUESTION:** What is the difference between a youth court program and other diversion programs?:

Juvenile intake refers youths to diversion programs and the youth court program is simply one other diversion program, similar to a "shoplifting class," for example. However, one unique characteristic which sets the youth court program apart from other diversion programs is that when a youth participates in a youth court proceeding, he/she is getting a taste of what adult court would be like; it is truly a mirror image of the adult court, except for the fact that the participants are peers.

**QUESTION:** Who decides whether or not a youth is referred to the youth court?

Under the Anchorage Youth Court Program, the youth and the parents must both agree to a youth court referral. In addition, the juvenile intake officer must also decide that this is an appropriate action.

**QUESTION:** What offenses are eligible for youth court proceedings?

Under current law, the juvenile intake officer, within the Department of Health and Social Services, Division of Family and Youth Services, is the sole referring agency. The juvenile intake officer decides on the disposition of all cases. When the Anchorage Youth Court Program was first established, only first-time misdemeanors were referred to the youth court; now, however, because the program has been so effective, the youth court does hear certain felonies - such as concealed weapons.

**QUESTION:** Could a youth court program hear a murder case?

Under the current provisions of law, it is technically possible but realistically, the juvenile intake officer would not refer such a case to the youth court, even if the youth and the parents requested this.

**QUESTION:** What is the role of the Court System in a youth court program?

In Anchorage, the Court System provides the space for the youth court to hold its proceedings. Otherwise, the Court system is not

**COMMONLY ASKED  
QUESTIONS**

directly involved in juvenile offenses; it is totally within the purview of the Division of Family and Youth Services

QUESTION: What groups need to be involved in order to truly effect community support?

The Department of Health and Social Services, the Alaska Court System, the Alaska Bar Association, the local bar association (if there is one), law enforcement agencies, the school district, parent organizations.

QUESTION: How old are the youths that are referred to a youth court program and how old are the youth court attorneys, jurors, judges, etc.?

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While that might seem to be a reasonable assumption, in reality, the youth court generally tends to be extremely "tough on crime" and has a reputation for being extremely strict in its sentencing.

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ANCHORAGE YOUTH COURT:  
TRIAL BY PEERS

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I. PROJECT DESCRIPTION

The Anchorage Youth Court ("AYC") is a court in which the roles of attorneys, judges, bailiffs, clerks and jurors are filled by young people between the ages of twelve and eighteen. Defendant youths are afforded a chance via trial by their peers to resolve legal problems without receiving a criminal record. Simultaneously, the community benefits by receiving valuable work service as partial redress for the wrongs committed. Attorneys also have the opportunity to provide a service to their community. Most importantly, however, young people and adults work together through youth court to resolve conflict.

II. PLANNING

A. Needs Assessment

Often the juvenile justice system does not work for first time offenders. Two problems arise. First, due to the lack of resources, first time offenders are rarely punished. Juveniles become aware that the justice system will not follow through if an offense is committed. The result is a high recidivism rate. By the time the justice system takes action, many youthful offenders have established a lawbreaking behavior pattern.

Second, many juvenile defendants who maintain they are innocent cannot afford to hire legal counsel. They thus feel compelled to admit guilt to crimes they have not committed. They pay restitution as a cheaper alternative to hiring a lawyer.

A youth court can provide a solution to both problems. Attorneys, parents, school officials and students can join together to implement a court that will promptly respond to juvenile legal problems.

B. Determining Specific Objectives and Program Design

1. Decisions to be Made
  - a. Options - Objectives

The objectives of a youth court are four fold. First, a youth court provides a municipal wide alternative court where teenagers can be represented, prosecuted, and tried by a jury of their peers without incurring a record. Second, youth gain an awareness and respect for their legal responsibilities to society and are afforded the opportunity to play a positive role in the administration of justice. Third, a youth court reduces the volume of cases burdening a judicial system. Finally, attorneys are able to provide a service to the public by instructing youth about substantive and procedural criminal law.

- b. Options - Program Design

The AYC allows young people complete judicial authority. Young people are attorneys, judges, bailiffs, clerks, and jurors. Trials take place in the state courthouse. Defendants are referred by a referring authority, which for AYC is Alaska's Juvenile Intake Office. Once a defendant is referred to AYC, the defendant is arraigned. If he pleads guilty, he is tried by a jury or panel of judges. AYC confirms with the community service placement office that each defendant who is sentenced serves his sentence. If the defendant refuses to comply with the AYC process, AYC can return the case to Juvenile Intake for disposition. At completion of the case, the AYC closes the file and returns it to the referring authority. A criminal record is not accrued upon a finding of guilt.

2. Decision Making Process

AYC began with an ad hoc group of concerned attorneys, students, teachers, juvenile authorities and

**ANCHORAGE  
YOUTH COURT  
OVERVIEW**

## B. Revenue Availability

The first source for information about funding should be the local bar association. There are several funds set up for the specific purpose of starting and operating law related education programs.

The second source of information is the local library. Most libraries have a resource section which provides information about private foundations that donate money to legal programs. Some cities also have foundation centers. These centers are clearing houses for information about corporate and private foundations.

Another form of funding is self-generating. Fund raisers, seminars, and requests for donations can generate funds. An especially good private source of funds is private law firms. It is possible to run a youth court entirely on donations. The only items needed for a youth court are time, office space and operating expenses. These can all be donated. Private law firms in Anchorage have donated hundreds of hours of time to AYC. They have also donated office space and copying. Further, The Alaska State Court System has donated the use of their courtrooms for AYC hearings and trials. Similarly, the local library has donated the use of its theater for meetings.

Even though personnel and funding are the usual stumbling blocks associated with establishing and operating a youth court, the essential element is dedicated individuals who are committed to a youth court. Although a great deal of funding is not necessary for starting a program, individuals who are dedicated to starting a youth court are essential.

## C. Evaluation Design

It is important to evaluate the youth court periodically. Regular evaluations allow for the youth court to be revised as needed. A timetable should be set up for evaluation. Items to be evaluated include: the status of pending cases, available personnel and available resources.

Statistics should also be kept throughout the tenure of the court. Some statistics that should be kept are: number of inquiries about the youth court, number of students who register to take the youth court training course, number of students who pass the youth court bar examination, number of cases referred to the youth court, the number of cases returned to the referring authority, the number of cases in which defendants have been found not guilty or guilty, and the sentences served by defendants found guilty.

Finally, the year's goals should be reviewed and compared with the status of the program. If any disparity exists, the youth court goals and methods should be re-examined for possible change.

## III. IMPLEMENTATION

### A. Timetable

To establish a youth court, a timetable of at least six months is advisable before trials commence. Six months allows sufficient time to organize volunteers and arrange for courtrooms, community support, community work service, and cooperation of schools, court system, attorneys, and police officers. The following provides a loose outline of the chronology of events:

1. Formalize the proposed youth court by preparing a youth court constitution. This constitution should outline the responsibilities of each organization and the procedure and roles of student members. The constitution should be reviewed and adopted by students.
2. Formalize the proposed youth court by preparing a youth court constitution. This constitution should outline the responsibilities of each organization and the procedure and roles of student members. The constitution should be reviewed and adopted by students.
3. Establish a curriculum and bar exam for new members of the youth court bar association.
4. Begin to enroll students in the bar review course.
5. When at least ten to twenty students have enrolled, set the date classes are to begin.

The AYC uses two types of publicity; one is intended to gain the participation of AYC students and the other is intended to gain community support for AYC. AYC has waged a successful public relations campaign on both fronts. Stories have appeared in the "Anchorage Daily News", the "Anchorage Times", Alaska Bar Association publications, and the "ABAYLD Affiliate". The AYC Coordinator has appeared before numerous public and private organizations, corporations and schools. The Anchorage community is extremely supportive and interested in the program. Speaking opportunities are easily available. A youth court should ensure that its coordinator is willing to submit press releases and speak publicly as opportunities arise.

The student members should also participate in the campaign. Each fall AYC students ensure that other students in the Anchorage community are aware of the AYC program by writing newspaper articles notifying students of the AYC bar review registration. Students deliver similar notices to local radio stations, T.V. stations and schools.

#### E. Day to Day Operations

The AYC organization operates as follows: After a preliminary investigation, a referring authority, usually juvenile intake, refers the case to AYC. The referring authority meets with the defendant and his or her custodial parent or guardian to explain the purposes of AYC, and its procedures including sentencing. After the opportunity to confer with counsel, the defendant is given the choice of proceeding to AYC or being handled through regular juvenile intake channels which may include a formal court hearing and a criminal record. If the defendant and his or her parent or guardian agrees to proceed with AYC, they will sign a voluntary agreement with the understanding that their case will be held open for 90 days to complete the youth court process. This voluntary agreement states that failure to comply with AYC and other established conditions, once agreed to, may result in having the case handled in a formal court proceeding.

The AYC Coordinator receives a copy of the defendant's signed voluntary agreement to participate in AYC, available arrest reports and other related documents. If the case is not accepted by AYC, the case is returned to the referring authority together with all documents relating to the case. If the case is accepted, proceedings in AYC are conducted in substantial conformity with the rules and statutes governing normal adult criminal proceedings. The rules and statutes are applied and modified as necessary to promote the prompt and just resolution of cases and legal education. At all times, AYC proceedings are conducted to ensure confidentiality.

The chief judge or his appointee presides over all courtroom proceedings of the AYC with the assistance of two associate judges. If the defendant pleads guilty or is found guilty at trial, the judges determine an appropriate sentence at a sentencing hearing to be held within five days of the verdict or plea. Sentencing is in accordance with the informal sentencing guidelines established by the referring authority.

If the defendant chooses to exercise his right to appeal, he must submit a written statement including reasons for appeal to the chief judge within three days following the sentencing hearing. If the defendant does not submit a written appeal within this time frame, his right to appeal is waived. Upon receipt of the appeal, the chief judge appoints a three member appeals panel. If the appeals panel finds for the defendant on any point of appeal, the case is remanded accordingly. The Coordinator oversees the defendant's compliance with AYC sentencing orders and provides status reports to the referring authority as required.

Once a year, the AYC recruits new members. In order to become a member of AYC, young people complete a legal training course whereby they learn basic legal principals and practices. The course covers such topics as constitutional law, criminal law, criminal procedure, evidence, trial advocacy, and ethics. After having completed the course, students take a bar examination. Once students pass the bar examination, they become AYC Bar Association members. They are then qualified to serve on the court as bailiffs, clerks, attorneys, and judges. They will also be able to participate in AYC Bar Association meetings through which they continue their legal education. At the meetings members participate in activities designed to give broader perspective of the justice system, such as workshops, mock trials, speakers, and movies about the judicial system. The initial and ongoing training require regular attention by the Coordinator.

#### IV. EVALUATION

As a result of AYC, Anchorage youth have gained an awareness and respect for their legal responsibilities to society. They are afforded the opportunity to play a positive role in administration of justice. The volume of cases



Anchorage Youth Court  
 P.O. Box 102735  
 Anchorage, Alaska 99510  
 Phone: (907) 274-5986 • Fax: (907) 272-0491

**REGISTRATION MATERIALS PAID FOR THROUGH A GRANT FROM  
 J.C. PENNEY CO. INC**

**AYC CLASS SCHEDULE  
 FALL 1992**

Sat. 9/12 2 - 4 P.M.	Open House, registration	AYC Office
Thu. 9/17 7 - 8:30	Class registration	West High Cafeteria
Mon 9/14 5 - 7:00	Vol. teacher preparation meeting	Hughes Thorsness

**CLASSES:**

(Classes will meet once a week on the same day, in the same location for two hours)

09/21 - 09/26	Wk 1	Courts and Jurisdiction
09/28 - 10/02	Wk 2	Substantive Criminal Law
10/05 - 10/10	Wk 3	Criminal Procedure and Constitutional law
10/12 - 10/17	Wk 4	Evidence
10/19 - 10/23	Wk 5	Real and Demonstrative Evidence
10/26 - 10/30	Wk 6	Trial Advocacy (Mock Trial Preparation)
11/02 - 11/07	Wk 7	Trial Advocacy (Mock Trial Preparation)
11/09 - 11/14	Wk 8	Mock Trial
11/16 - 11/21	Wk 9	Bar Review
11/23 - 11/27	Wk 10	No Class -- Thanksgiving week

**AYC Bar Exam:**

A.M. 12/05	Bar Exam	West High Cafeteria
P.M. 12/06	Make-up Bar Exam -- By arrangement only	
12/07 - 12/12	Review corrected exam in regular classroom with students	
12/14	Exams returned to AYC office	
A.M. 01/09	Review/exam retake -- By arrangement only	
P.M. 01/24	Swearing in/reception -- attendance mandatory to become an AYC attorney	



Anchorage Youth Court

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Anchorage, Alaska 99510

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**AYC LAW CLASS  
STUDENT REGISTRATION FORM**

- Please complete this form, then present it to the AYC student registrar.
- Wait until the registrar has transferred this information to the master sheet.
- The registrar will give you the Class Information Letter and Assent Form.
- If your parent/guardian is here, have her/him sign the Assent Form and present it to the registrar.
- If your parent/guardian is not here, be sure to bring the signed Assent Form to your **FIRST CLASS.**

STUDENT NAME: \_\_\_\_\_

BIRTH DATE (MONTH/DAY/YEAR): \_\_\_\_\_

ADDRESS: \_\_\_\_\_ (ZIP) \_\_\_\_\_

MAILING ADDRESS, IF DIFFERENT: \_\_\_\_\_ (ZIP) \_\_\_\_\_

PHONE: \_\_\_\_\_

SCHOOL: \_\_\_\_\_ GRADE: \_\_\_\_\_

PARENT/GUARDIAN NAME: \_\_\_\_\_

PLACE OF EMPLOYMENT: \_\_\_\_\_

WORK TELEPHONE: \_\_\_\_\_

PARENT/GUARDIAN NAME: \_\_\_\_\_

PLACE OF EMPLOYMENT: \_\_\_\_\_

WORK TELEPHONE: \_\_\_\_\_

PLACE AN "X" IN THE SPACE OF YOUR CHOICE BELOW:

Please do ( ) do not ( ) include my name, address and phone number on the AYC membership list that is available to all members.



Anchorage Youth Court

P.O. Box 102735

Anchorage, Alaska 99510

Phone: (907) 274-5986 • Fax: (907) 272-0491

**ASSENT AND WAIVER**

(Please use ink.)

I, \_\_\_\_\_, as the parent/guardian of  
(printed name of parent/guardian)

\_\_\_\_\_, hereby agree to allow him/her to participate in  
(printed name of registering student)

the Anchorage Youth Court Program. I acknowledge that he/she is a volunteer of the program, and agree to the fullest extent allowable under the laws of Alaska that I absolve of all liability and waive all claims against Anchorage Youth Court, Inc. or any of its directors, officers, executive director, or volunteers for any reason that may arise in any way from his/her participation in the Anchorage Youth Court events or meetings.

Dated this \_\_\_\_\_ day of 199\_\_

(Parent or Guardian Signature): \_\_\_\_\_

(Print Name): \_\_\_\_\_

(Daytime Telephone Number): \_\_\_\_\_

Please list two emergency contacts below:

\_\_\_\_\_  
(Name) (address) (phone)

\_\_\_\_\_  
(Name) (address) (phone)



Anchorage Youth Court  
P.O. Box 102735  
Anchorage, Alaska 99510  
Phone: (907) 274-5986 • Fax: (907) 272-0491

September 12, 1992

Dear \_\_\_\_\_:

Congratulations and welcome to Anchorage Youth Court. Your class will begin \_\_\_\_\_  
\_\_\_\_\_. It will meet at \_\_\_\_\_ in room \_\_\_\_\_  
from \_\_\_\_\_ to \_\_\_\_\_. Your teacher(s) will be \_\_\_\_\_  
\_\_\_\_\_.

YOUR ASSENT FORM MUST BE SIGNED IN INK BY YOUR PARENT OR GUARDIAN BEFORE YOU MAY  
ATTEND CLASS. YOU MAY BRING IT WITH YOU TO THE FIRST CLASS.

Your class materials will be supplied by Anchorage Youth Court. Take good care of them,  
because only the first set is free. It will be your responsibility to bring your materials,  
homework and a pen or pencil with you to each class.

We look forward to working with you this year.

Sincerely

ANCHORAGE YOUTH COURT  
BAR ASSOCIATION MEMBERS

## GENERAL STUDENT INSTRUCTIONS

### CLASS REQUIREMENTS:

1. Each week every student is expected to bring to class the student packet. Please bring a paper and a writing instrument to take notes with. Additionally, students should have a 3 ring binder or peechee type note book to keep notes, handouts and the student packet in.
2. Students are expected to read and familiarize themselves with the Anchorage Youth Court Constitution prior to coming to the first class.
3. Turn in your completed "Assent and Waiver" form at your first class.
4. To take the AYC bar exam you must first:
  - A. Have a signed "Assent and Waiver" form on file in the AYC office.
  - B. Attend at least 7 classes before November 22. Attendance will be taken weekly.
  - C. Do the assigned homework.
  - D. Actively participate in the class mock trial.

### AYC MEMBERSHIP REQUIREMENTS:

1. Pass the AYC bar exam.
2. Be sworn into Anchorage Youth Court.
3. Once sworn in, members are required to attend two of every three AYC Bar Association Meetings. These are held at the Loussac Library the fourth Wednesday of each month from 6:30 to 8:00 or 8:30 P.M.

# ANCHORAGE YOUTH COURT CONSTITUTION

\* (As Revised Spring, 1.91)

## Preamble

Municipality of Anchorage youths, recognizing the importance of respect for the law, and firmly believing that acceptance of responsibility is essential toward being conscientious citizens, hereby establish the Anchorage Youth Court as a practical application of their responsibility to themselves and their community.

## Statement of Purpose

Anchorage Youth Court is intended to provide benefits of citizenship to the youth of the Municipality of Anchorage. It shall do so by providing an alternate adjudication and sentencing procedure for young offenders. It shall offer an opportunity for those who make mistakes early in their lives to constructively pay their debt to society without incurring a criminal record. It shall foster an atmosphere of respect for the law through the principle of judgement by peers and restitution for wrongs committed.

The Anchorage Youth Court will emulate adult proceedings so as to provide an opportunity for youths to learn about criminal justice. Unless an action or procedure is specifically addressed by this constitution, the general principles of court proceedings shall apply as far as practicable.

## Article I: Organization

Section 1. The Anchorage Youth Court is not recognized as a court of original or appellate jurisdiction by the laws of the State of Alaska. All cases tried must be referred to the Anchorage Youth Court by a Referring Authority as defined in Section 2, below, (hereinafter "Referring Authority"), and all referrals will be made solely at the discretion of the appropriate Referring Authority. The Anchorage Youth Court's findings and recommendations in a case shall be returned to the Referring Authority before final disposition.

Section 2. For purposes of the Anchorage Youth Court, a Referring Authority shall include but is not limited to the Department of Health and Social Services and all recognized courts within the State of Alaska.

Section 3. The Anchorage Youth Court shall have only such power to enforce a sentence as is delegated by the Referring Authority. A person tried by the Anchorage Youth Court is not discharged from the jurisdiction of the Referring Authority until a recommendation of discharge of the case has been made by the Anchorage Youth Court to the Referring Authority, and the individual is discharged. Failure to comply with the sentence imposed by the Anchorage Youth Court will result in an automatic return of the case to the Referring Authority.

Section 4. The Anchorage Youth Court shall have jurisdiction over only those individuals who are charged with delinquent conduct occurring in the Municipality of Anchorage and are enrolled in grades 7 through 12 and/or are 12 to 18 years of age. Younger

defendants may be considered upon special agreement and with the understanding that the defendant will be adjudicated by 7 - 12 graders.

Section 5. Anchorage Youth Court shall consist of one or more organized courts.

## Article II: Administrative Board

Section 1. Composition. The Administrative Board shall consist of residents of the Municipality of Anchorage. An equal number of members shall represent the youth community and the adult community, each to serve for a term of one year. Nomination of Board members shall be made by a nominating committee comprised of the existing Administrative Board (except that the first nominating committee shall be the establishing constitutional committee). Any member of the Anchorage Youth Court Bar Association may nominate a member for a position on the Administrative Board, and that nomination must be given to the nomination committee within ten (10) days of the due date of nominations. The nominating committee shall be formed no less than 30 days prior to the due date of the list of nominees.

Youth nominees shall be selected from and represent one from each school which has students participating in Anchorage Youth Court. Youth nominees must maintain active status and attend Executive Board Meetings. Adult nominees may be selected from and represent the following:

- 1) the judiciary;
- 2) juvenile probation;
- 3) the field of law enforcement;
- 4) the field of education;
- 5) the Anchorage Bar Association
- 6) the adult community at large; or
- 7) parents of youths over whom the Anchorage Youth Court has jurisdiction.

The list of nominees shall be given to the Anchorage Youth Court Coordinator who shall provide a written notice of the appointees within 15 days of receiving the list of nominees.

Section 2. Duties. The Administrative Board shall promote the purpose of this constitution. The duties of the board shall include, but are not limited to fiscal matters, appointing staff members, maintaining liaisons between the Anchorage Youth Court and law enforcement agencies of the State of Alaska and the Municipality of Anchorage, as well as general supervision of the Anchorage Youth Court. The Administrative Board may adopt any lawful resolution necessary to further the purposes of the Anchorage Youth Court not in conflict with the Anchorage Youth Court Constitution.

Section 3. Meetings. The Administrative Board shall meet at least once each semester with advance notice.

## Article III: Advisory Staff

Section 1. The advisory staff of the Anchorage Youth Court shall be appointed by the Administrative Board and shall consist of a Coordinator and a Legal Advisor, and such other staff deemed necessary. The advisory staff shall report to the Administrative Board. The term of service for an advisory staff member shall be one year.

Section 2. In selecting a Coordinator, special consideration shall be given to applicants with some interest, experience, or education in law. It shall be the responsibility of the Coordinator to review and approve, together with the Legal Advisor, referrals to the Anchorage Youth Court, to establish, oversee, and direct such procedures and perform such duties as are required to ensure the smooth and proper operation of the Anchorage Youth Court network; to maintain accurate, current records of costs and expenses of the Anchorage Youth Court; and to act as liaison between the Anchorage Youth Court Bar Association and membership, and the Administrative Board and the Anchorage court system at large. In so far as elected positions are concerned, the Coordinator shall be responsible for receiving nominations, preparing and distributing ballots, and publishing election results.

Section 3. Legal Advisor. The Legal Advisor preferably should be an attorney. The duties and responsibilities of the Legal Advisor shall be to review and approve, together with the Coordinator, referrals to the Anchorage Youth Court; and to generally confer with, advise, and direct Anchorage Youth Court staff and members as requested, required, or needed.

#### Article IV: Membership and Positions

Section 1. Membership. To qualify as a member of the Anchorage Youth Court, a person must be enrolled in a grade between 7 and 12 in a public or private school in the Municipality of Anchorage, and must successfully complete a training course and pass an Anchorage Youth Court Bar examination. In order to qualify as an active member, a member must have attended a majority of Anchorage Youth Court Bar Association meetings held within the last three months. A member may avoid inactive status, when necessary, by making prior arrangement with the coordinator for pending absence. Upon return, the member may re-establish his or her standing by participating in a Youth Court function. All members are subject to the rules and guidelines established by the ethics committee.

Section 2. Nomination. The Administrative Board shall be responsible for appointing nominating committees from time to time. A nominating committee shall be responsible for compiling a list of nominees for positions of the administrative board and for obtaining written confirmation from those nominees of their willingness to serve. Except as provided in Article II, Section 1, and Section 5, below (Special Elections), a nominating committee shall be formed in a reasonable time prior to the due date of a final list of nominees. The final list of nominees shall be due no later than three weeks prior to the election and shall be given to the Coordinator. Nomination for candidacy for elected office shall be made verbally at the Bar Association meeting prior to the meeting at which elections are held. In order to become a candidate for office, one must be an active Bar Association member and within two (2) weeks of nomination submit a written letter of intent outlining expected duties, responsibilities, and level of commitment if elected.

Section 3. Election. Members of the Anchorage Youth Court shall elect from among members nominated pursuant to Article IV, Section 2, one Chief Judge, one Assistant Chief Judge, a pool of at least six Associate Judges, one Clerk, one Anchorage Youth Court Bar Association President, one Vice President, one Treasurer, and one Secretary. The term of each of these offices shall be one year. Elections shall be held annually in February at a meeting announced two weeks in advance in writing to all Anchorage Youth Court Bar Association members. A simple majority of those present and

voting shall be required for election to any office. Officers will assume positions the first of April, following election.

No one shall hold more than one elected position at any time. A vacancy of an elected position may be filled by the appointment of any active bar member, including members holding elected positions at the time. To assume the appointed position on a permanent and elected basis as outlined in Section 5 below, the said officer must resign his first position. If any member elected to a position is unable to fill that position, a new vote must be taken as soon as practicable.

Voting shall be by secret, written ballot. Each voter may cast one vote for each position to be elected. All ballots shall be placed by the voter in a sealed ballot box. At the conclusion of voting, the ballot boxes shall be delivered to the graduating seniors, who shall count and tally all ballots under the supervision of the Coordinator and report the results to the membership.

Section 4. Removal. Any person elected may be removed from office by a two-thirds majority of the votes cast by the members of Anchorage Youth Court, but only after the grounds therefor have been presented to the person in writing and the person has had an opportunity for a hearing before the Anchorage Youth Court Bar Association membership at a meeting set for that purpose.

Section 5. Vacancies. In the event of a vacancy in an elected position, the officers of the Anchorage Youth Court Bar Association (i.e., Bar Association President, Bar Association Vice President, Bar Association Secretary) shall have the authority to appoint a temporary replacement, if necessary, until an election can be held to fill the position. But no appointment shall be for more than 45 days, and an appointment shall end immediately upon election of a person to fill the position. Elections shall be held in the same manner as provided in Sections 2 and 3, above.

Section 6. Anchorage Youth Court Bar Association President. Any attorney who is at least 16 years old or at least a junior in high school is eligible to hold the office of Bar President. The Anchorage Youth Court Bar Association President shall chair all meetings of the Anchorage Youth Court Bar Association, assign attorneys to Youth Court cases, supervise all other business of the Bar Association with the assistance of the Coordinator, and serve as the student representative of the Anchorage Youth Court to the community. The Anchorage Youth Court President is authorized to create and fill any position he or she deems necessary. The Anchorage Youth Court Bar Association may remove appointees by 2/3 vote of the members present. The President shall preside over the executive board, which will consist of officers or their representatives, appointees and representatives from each active committee. This board will meet with the coordinator at a regularly scheduled time.

Section 7. Anchorage Youth Court Bar Association Vice President. Any attorney who is at least 16 years old or is a junior in high school is eligible to hold the office of Bar Association Vice President. The Anchorage Youth Court Bar Association Vice President shall serve in the absence of or at the request of the Anchorage Youth Court President, and in that event shall serve in place of and with the same power and authority of the Anchorage Youth Court Bar Association President.

Section 8. Secretary. Any member who is at least 16 years old or is at least a junior in high school is eligible to hold the office of Secretary. The Secretary shall take minutes and keep recordings of all Anchorage Youth Court Bar Meetings, maintain all

current membership records and attendance records, and assist the Anchorage Youth Court Bar Association President. The Secretary shall publish the minutes of all Anchorage Youth Court Bar Association Meetings and keep Anchorage Youth Court Bar Association members informed of the time and date of upcoming meetings.

Section 9. Treasurer. Any member who is at least 16 years old or is at least a junior in high school is eligible to hold the position of Treasurer. Duties of the Treasurer are, but not limited to; control of student funds, maintain and keep current records, provide treasurer's reports at all Anchorage Youth Court Bar Association meetings.

Section 10. Judges. All judges must be enrolled in grades 10, 11, or 12, and must have served at least two times as prosecuting attorney and at least two times as defense attorney, unless candidates with these qualifications are not available. In case the above qualifications cannot be met, the nominees must have been involved in at least one case. Three Associate Judge positions must be filled by students with fall enrollment in grades 10 or 11.

To qualify for the position of Chief Judge or Assistant Chief Judge, a person must have been an Associate Judge at least once.

The Assistant Chief Judge shall serve in the absence of or at the request of the Chief Judge, and in that event shall serve in place of and with the same power and authority as the Chief Judge.

Section 11. Clerk. Any member in grade 7-12 may be elected to the position of Clerk. Under the supervision of the coordinator, the Clerk shall set the Anchorage Youth Court calendar, and send out timely court notices to the Referring Authority and defendants as required. The Clerk of the Anchorage Youth Court shall be responsible for tape-recording all court proceedings, maintaining the tape library of the Anchorage Youth Court, keeping the records of all the Anchorage Youth Court proceedings, maintaining defendant files, and generally assisting the Chief Judge. The Clerk may appoint such assistants, not to exceed three (3), as the Clerk deems necessary.

Section 12. Bailiff. Any member in grade 7-12 may be appointed to the position of Bailiff. Bailiff shall be appointed by the Bar President on a case-by-case basis. The Bailiff shall swear-in witnesses, assist in setting up the courtroom, and assist the Chief Judge in maintaining order and decorum in the courtroom.

Section 13. Attorneys. Any member in grade 9-12 may be appointed as an Attorney. Under special circumstances and/or exceptional evaluations, and after consultation with the Chief Judge, the Coordinator may approve the appointment of an Attorney who is in grade 7 or 8.

The selection of attorneys to serve on cases that are referred to the Anchorage Youth Court shall be made by the Bar Association President on a rotating, case-by-case basis. Attorneys shall zealously represent their client to the best of their ability in accordance with the Alaska State Court and American Bar Association rules.

Section 14. Jurors. All youth in grades 7 through 12 and enrolled in a public or private school in the Municipality of Anchorage are eligible to serve as jurors, including any Anchorage Youth Court member.

The method for selecting jurors shall be established by the Administrative Board. The Coordinator shall be responsible for maintaining a list of available jurors.

Jurors are bound to maintain the confidentiality of the defendant and all court proceedings.

#### Article V: Referral Procedure

Section 1. After a preliminary investigation, the Referring Authority may refer a case to the Anchorage Youth Court. The Referring Authority will meet with the defendant and his/her custodial parent or guardian and explain the purpose of Anchorage Youth Court and its procedures, including sentencing. After an opportunity to confer with counsel, the defendant will be given the choice of proceeding to Anchorage Youth Court or being handled through regular channels, which may include a formal court hearing and a record.

Section 2. If the defendant and his/her custodial parent or guardian agrees to proceed with Anchorage Youth Court, they will sign a voluntary agreement, with the understanding their case will be held open for one hundred twenty (120) days to complete the process. This voluntary agreement will also state that failure to comply with Anchorage Youth Court and other established conditions, once agreed to, may result in having their case handled in formal court proceedings.

Section 3. Anchorage Youth Court proceedings will begin with the referral from the Referring Authority. The Coordinator will receive a copy of the signed voluntary agreement to participate in Anchorage Youth Court, available arrest reports and other related documents. If the case is not accepted by Anchorage Youth Court, the case will be returned to the Referring Authority, together with all documents relating to the case.

#### Article VI: Anchorage Youth Court Procedure

Section 1. Proceedings in Anchorage Youth Court shall be conducted as far as practicable in substantial conformity with rules and statutes governing adult proceedings in the Alaska court system. The rules and statutes shall be applied and modified as necessary to promote the prompt and just resolution of cases and legal education.

Section 2. At all times, Anchorage Youth Court proceedings will be conducted to ensure that the defendants' rights guaranteed by the Alaska and United States constitutions are protected, including but not limited to the following:

1. the right to be represented by an Anchorage Youth Court attorney;
2. the right to trial by jury;
3. the right to call and cross-examine witnesses;
4. the right against self-incrimination; and
5. the right to appeal.

At all times, Anchorage Youth Court proceedings will be conducted to ensure confidentiality.

Section 3. The Chief Judge or his appointee shall preside over all courtroom proceedings of the Anchorage Youth Court, with the assistance of two associate judges.

Section 4. If after an Anchorage Youth Court court proceeding, the defendant pleads guilty or is found guilty at trial, the judges will determine an appropriate sentence at a sentencing hearing to be held within five (5) days of the verdict or plea. Sentencing shall be in accordance with the informal sentencing guidelines established by the Referring Authority and the Anchorage Youth Court Judges.

Section 5. The Chief Judge shall submit to the Coordinator the findings, recommendations, and sentence of the Anchorage Youth Court. The Coordinator shall submit the findings, recommendations, and sentence to the Referring Authority before final disposition of the case.

Section 6. If the defendant chooses to exercise his right to appeal either a verdict or a sentence, he shall submit a written statement, including reasons for appeal, to the Chief Judge within three (3) days of the sentence. The Chief Judge shall appoint a three-member appeals panel.

There are seven grounds for appeal:

1. verdict not in conformity with Alaska Constitution, statutes or rules;
2. verdict not supported by the evidence;
3. sentence not supported by the evidence;
4. improper legal procedure;
5. inadequate legal representation;
6. new evidence discovered which substantially affects the case; and
7. plea not voluntarily given.

If the appeals panel finds for the defendant, the case shall be remanded for a new trial.

Section 7. The Coordinator shall oversee the defendant's compliance with the Anchorage Youth Court sentencing order (s) and provide status reports to the Referring Authority as required.

#### Article VII: Voting and Adoption of Rules

Section 1. All members of the Anchorage Youth Court may vote concerning Anchorage Youth Court matters.

Section 2. All matters put to a vote shall be decided by a simple majority of those present unless otherwise specified in this constitution.

Section 3. The Anchorage Youth Court Bar Association may pass rules deemed necessary to its proper functioning, as long as such rules do not conflict with this constitution or the bylaws.

## Article VII: Amendments and Ratification

Section 1. In order to ratify and amend this constitution, a constitution committee shall publicize the proposed constitution or the proposed revisions or amendments and provide notice of the voting date and place in a reasonable manner best calculated to reach the largest number of qualified voters as defined below.

Section 2. A qualified voter, for the purpose of ratification and amendment of this constitution, shall be any active member of Anchorage Youth Court Bar Association.

Section 3. The constitutional committee shall have the responsibility of preparing and distributing ballots for voting. Each qualified voter may cast one secret, written ballot for each proposal. The constitution committee will be responsible for counting and tallying of all ballots.

Section 4. A majority of all persons in grades 7 through 12 voting on the proposal (s) shall be required for ratification and amendment.

Section 5. The constitution committee shall promptly announce the outcome of the vote.

\* Amendments passed March and April, 1991 in bold type.

**HB**

**1977**

**HFIN**

**FILE**



# HOUSE COMMITTEE REPORT

(11)

Date Referred: March 31, 1993

FURTHER REFERRALS:

Date of Committee Action: 4/02/93

The FINANCE Committee considered:

HB 197

HOUSE BILL NO. 197

APPROP: ALYESKA SETTLEMENT

"An Act making an appropriation to the Alyeska Settlement Fund and making appropriations from the Alyeska Settlement Fund; and providing for an effective date."

- RECOMMENDATIONS: [ ] the same title  
 be replaced with \_\_\_\_\_ [ ] a new title
- [ ] have attached amendments(s)
- [ ] do pass
- [ ] do not pass
- [ ] no recommendations
- [] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[] fiscal impact DOT

[ ] fiscal note(s) \_\_\_\_\_

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Ronald J. Larson</i>	(oo)				
<i>Ben Grossendorfer</i>	X	<i>Mark Hanley</i>		X	
<i>Richard Foster</i>	vo	<i>Terry Martin</i>		✓	
<i>Eileen P. Meland</i>	✓	<i>Sean Parnell</i>		✓	
<i>Mike Yavane</i>	✓	<i>Lynn Hoffman</i>		✓	
		<i>Gene Theriault</i>		X	

  
 CHAIRMAN'S SIGNATURE

**FISCAL NOTE**

Revision Date:  
Title: Approp: Alyeska Settlement

Department Affected: DOT&PF  
BRU:

Sponsor: Olberg  
Requestor:

Component:  
Component Serial Number:

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
<b>TOTAL OPERATING:</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	20,500.0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

1002 FEDERAL RECEIPTS	0	0	0	0	0	0
1003 GF MATCH	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/PROGRAM RECEIPTS	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	20,500.0	0	0	0	0	0
<b>TOTAL FUNDING:</b>	<b>20,500.0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**POSITIONS**

FULL-TIME	1	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of current year (FY93) impact: \$0

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

Prepared by: Norm Piispanen

Phone: 451-2385

Division: Northern Region Planning

Date: March 15, 1993

Approved by Commissioner: Frank G. Tyrpin  
Frank G. Tyrpin

Phone: 465-3901

Agency: Department of Transportation and Public Facilities

Date: March 15, 1993

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**SPONSOR STATEMENT**  
**HB 197**  
**By Representative Olberg**

"An Act making an appropriation to the Alyeska Settlement Fund and making appropriations from the Alyeska Settlement Fund; and providing for an effective date."

House Bill 197 appropriates \$28,200,00 from the Alyeska Settlement Fund as stipulated under the Agreement and Consent Decree dated November 25, 1992.

\*\* \$14.5 million of the \$28.2 million is for docks and construction of response storage facilities at Tatitlek and Chenega;

\*\* \$6 million is for the construction of a road from Cordova to Shepard Point;

\*\* \$7.5 million is for the acquisition of land for the Kachemak Bay State Park and;

\*\* \$200,000 is for communications equipment to be purchased by the US Coast Guard and the State.

It should be noted that the original agreement totaled \$31.7 million.

Of that amount, HB 197 appropriates \$28.2 million. Upon the Funding Date, Alyeska paid the federal government \$2 million for expenses incurred and paid the State \$1.5 million for 1989 tax revenues under AS 43.75 (Fisheries Business Tax), which would be refunded to local governments under AS 43.75.130. (SLA 92, Ch. 111).

The blackmail clauses on page 11 and page 12 necessitates that action be taken this session.

This is a very simple bill that merely appropriates, as defined, the funds.



*Department of Transportation  
and Public Facilities*

# POSITION PAPER

BILL NO: HB 197

APPROVED:

A handwritten signature in cursive, likely of a department official, written over a horizontal line.

TITLE: Approp: Alyeska Settlement

DATE: March 15, 1993

DOT&PF supports appropriation for construction of a road from Cordova to Shepard Point. The proposed road to Shepard Point would serve the additional purposes of access to community expansion land and access to a future port. The port, when developed, would enhance marine access to Cordova, as well as to eastern Prince William Sound. Ultimately the road and port would serve the tourist industry, the fishing industry, the timber industry, and the general Cordova Community. DOT&PF is neutral on the construction of storage facilities, acquisition of equipment, and the purchase of inholdings.

*For Further Information contact Katy McHugh at 465-3904.*

Back-up



UNITED STATES OF AMERICA,

Plaintiff,

v.

EXXON CORPORATION, EXXON SHIPPING  
COMPANY, EXXON PIPELINE COMPANY,  
ALYESKA PIPELINE SERVICE  
COMPANY, AMERADA HESS PIPELINE  
CORPORATION, ARCO PIPE LINE COMPANY,  
MOBIL ALASKA PIPELINE COMPANY,  
PHILLIPS ALASKA PIPELINE CORPORATION,  
BP ALASKA PIPELINES, INC., and  
UNOCAL ALASKA PIPELINE  
COMPANY, in personam, and the  
T/V EXXON VALDEZ, in rem,

Defendants.

Case No. A91-082 CIV

AGREEMENT AND  
CONSENT DECREE

AGREEMENT AND CONSENT DECREE

This Agreement and Consent Decree (this "Agreement") is made and entered into by the State of Alaska (the "State") and the United States of America (the "United States") (collectively referred to as the "Governments"), on the one hand, and Alyeska Pipeline Service Company ("Alyeska"), Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., formerly known as ARCO Pipe Line Company, BP Pipelines (Alaska), Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company (collectively, except for Alyeska, referred to as the "Alyeska Owner Companies"), on the other hand.

Introduction

Late in the evening of March 23 or early in the morning of March 24, 1989, the T/V EXXON VALDEZ, owned by Exxon Shipping

2Company, went aground on Blich Reef in Prince William Sound, Alaska. As a result of the grounding, several of the vessel's cargo tanks ruptured and approximately 11 million gallons of crude oil owned by Exxon Corporation spilled into Prince William Sound (hereinafter as further defined in Paragraph 6(g), the "Oil Spill").

Alyeska responded to the Oil Spill pursuant to its 1987 Contingency Plan. Prior to the Oil Spill, Alyeska's 1987 Contingency Plan had been submitted to and approved by the State as being in compliance at the time of approval with all applicable statutes and regulations, including without limitation AS 46.04, and the Right-Of-Way Lease for Trans-Alaska Pipeline with the State, including all Stipulations thereto. In addition, prior to the Oil Spill, Alyeska's 1987 Contingency Plan had been submitted to and approved by the United States as being in compliance at the time of approval with all applicable federal statutes and regulations, including without limitation 43 U.S.C. §§ 1651 et seq., and the Grant and Agreement of Right-of-Way for Trans-Alaska Pipeline with the United States, including the Stipulations thereto.

In August 1989, the State filed an action in the Superior Court for the State of Alaska, Third Judicial District, identified as State of Alaska v. Exxon Corporation, et al., Civil No. 3AN-89-6852, against, inter alia, Alyeska and the Alyeska Owner Companies, asserting claims arising from the Oil Spill. Alyeska and the Alyeska Owner Companies asserted counterclaims

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against the State in that action. Exxon Pipeline Company subsequently stipulated to the dismissal with prejudice of its counterclaim. In February 1992, that action was removed to the United States District Court for the District of Alaska, and in August 1992, the State's motion to remand was denied except with regard to the remaining counterclaim filed against the State, which was remanded to the Superior Court. Thus, with the exception of the counterclaim filed against the State (hereinafter the "Alyeska Counterclaim"), the action now is pending in the United States District Court for the District of Alaska, where it has been assigned Case No. A92-175 CIV (hereinafter the "State Action").

On March 13, 1991, the United States filed a complaint in the United States District Court for the District of Alaska against, inter alia, Alyeska and the Alyeska Owner Companies, asserting civil claims relating to or arising from the Oil Spill (hereinafter the "U.S. Action"). Exxon Pipeline Company asserted counterclaims against the United States in its response to the United States' complaint in the U.S. Action. The counterclaim of Exxon Pipeline Company was dismissed with prejudice on January 15, 1992. The U.S. Action remains pending against Alyeska and the Alyeska Owner Companies.

The parties to this Agreement recognize and acknowledge (1) that the payments called for in this Agreement are compensatory and remedial in nature and do not include any payment for or in consideration of claims for punitive damages, the Governments

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having concluded, based on consideration of their claims, that an award to the Governments of punitive damages would not be sought, (2) that the payments are made to the Governments in response to their pending civil claims for compensatory damages and other civil relief against Alyeska and the Alyeska Owner Companies arising from the Oil Spill, (3) that the monies paid by Alyeska pursuant to this Agreement are to compensate the State for damages suffered as the result of the Oil Spill, and (4) that the projects to be funded with these monies are not undertaken to fulfill requirements of state law.

NOW, THEREFORE, the parties hereto agree and stipulate, and it is hereby ORDERED, ADJUDGED, AND DECREED, as follows:

#### Jurisdiction

1. The Court has jurisdiction over the subject matter of the claims set forth in the State Action and the U.S. Action and over the parties to this Agreement pursuant to, among other authorities, 28 U.S.C. §§ 1331, 1333 and 1345. This Court has personal jurisdiction over the State of Alaska, which solely for the purposes of this Agreement, waives all objections and defenses that it may have to the jurisdiction of this Court, including all objections and defenses to the jurisdiction of this Court it may have asserted previously.

#### Parties

2. "United States" means the United States of America, in all its capacities, including as public trustee and parens patriae, and including all departments, divisions, independent

boards, administrations, natural resource trustees, and agencies of the federal government.

3. "State" means the State of Alaska, in all its capacities, including as public trustee and parens patriae, and including all departments, divisions, independent boards, administrations, natural resource trustees, and agencies of the state government.

4. "Alyeska" means Alyeska Pipeline Service Company.

5. "Alyeska Owner Companies" means Amerada Hess Pipeline Corporation, ARCO Transportation Alaska, Inc., formerly known as ARCO Pipe Line Company, BP Pipelines (Alaska), Inc., Exxon Pipeline Company, Mobil Alaska Pipeline Company, Phillips Alaska Pipeline Corporation, and Unocal Pipeline Company.

#### Definitions

6. Whenever the following capitalized terms are used in this Agreement, they shall have the following meanings:

(a) "TAPL Fund" means the Trans-Alaska Pipeline Liability Fund, a federally chartered corporation, organized and existing under the laws of the State of Alaska.

(b) "Joint Trust Fund" means the trust fund established by the Memorandum of Agreement and Consent Decree between the State and the United States entered in August 1991 in United States of America v. State of Alaska, Civil Action No. A91-081 CIV.

(c) "Natural Resources" means land, fish, wildlife, biota, air, water, ground water, drinking water supplies, and

other such resources belonging to, managed by, held in trust by, appertaining to, or otherwise controlled by the United States (including the resources of the fishery conservation zone established by the Magnuson Fishery Conservation and Management Act of 1976, 16 U.S.C. §§ 1801 et seq.), the State, or both the United States and the State.

(d) "Natural Resource Damages" means compensatory and remedial relief recoverable by the Governments in their capacity as trustees of Natural Resources on behalf of the public for injury to, destruction of, or loss of any and all Natural Resources resulting from the Oil Spill, whether under the Clean Water Act, 33 U.S.C. §§ 1251, et seq., the Trans-Alaska Pipeline Authorization Act, 43 U.S.C. §§ 1651, et seq., or any federal or state statute or maritime or common law relating to the environment, including (1) costs of damage assessment, (2) compensation for loss, injury, impairment, damage or destruction of Natural Resources, whether temporary or permanent, or for loss of use value, non-use value, option value, amenity value, bequest value, existence value, consumer surplus, economic rent, or any similar value of Natural Resources, and (3) costs of restoration, rehabilitation or replacement of injured Natural Resources or the acquisition of equivalent resources.

(e) "Party" or "Parties" means Alyeska, the Alyeska Owner Companies and each of them, the United States, and the State, or any of them.

(f) "Exxon Consent Decree" means the Agreement and Consent Decree entered in State of Alaska v. Exxon Corporation. et al., Case No. A91-083 CIV, and in United States of America v. Exxon Corporation. et al., Case No. A91-082 CIV, and approved by this Court on October 8, 1991.

(g) "Oil Spill" means the occurrence described in the first paragraph of the Introduction above, and all consequences caused by or arising from that occurrence, including, without limitation, response, cleanup, damage assessment and restoration activities.

(h) "Effective Date" shall mean the earliest date on which all Parties have signed this Agreement.

(i). "Final Approval" shall mean the earliest date on which all of the following have occurred: (1) the Court has approved and entered this Agreement as a judgment, without modification materially adverse to any Party prior to or at the time of approval; and (2) the time for appeal from that judgment has expired without the filing of an appeal, or the judgment has been upheld on appeal and either the time for further appeal has expired without the filing of a further appeal or no further appeal is allowed.

(j) "Funding Date" means the later of (1) 10 days after Final Approval, or (2) 10 days after the receipt by Alyeska of both (i) written instructions as to payment consistent with Paragraphs 11 - 14 of this Agreement signed jointly by the Attorney General of the State of Alaska and the Assistant

Attorney General, Civil Division, of the United States Department of Justice, and (ii) written certification by the Attorney General of the State of Alaska of the establishment of a separate expendable trust fund within the State's Treasury ("Alyeska Settlement Fund") to receive and hold those settlement proceeds designated by Paragraphs 11 and 12 of this Agreement to be paid into this separate fund pending disbursement pursuant to the terms of this Agreement.

Effect of Entry of Decree

7. Upon approval and entry of this Agreement by this Court, this Agreement and Consent Decree constitutes a final judgment between the Governments, on the one hand, and Alyeska and the Alyeska Owner Companies, on the other hand, in accordance with its terms.

Description of Projects and Establishment of Separate Fund

8. The State shall establish the Alyeska Settlement Fund for the purpose of receiving, holding and disbursing certain of the settlement proceeds to be paid hereunder. The monies shall be deposited into the Alyeska Settlement Fund pursuant to the terms of this Agreement and shall be disbursed solely for the following purposes and subject to the following allocations:

(a) \$14,500,000 for the construction of response storage facilities and docks at Tatitlek and Chenega; and the pre-positioning of oil spill response equipment at both locations, as described in more detail in Appendix A hereto;

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(b) \$6,000,000 for the construction of a road from Cordova to Shepard Point and, when appropriate, for work related to the construction of a response storage facility and the pre-positioning of oil spill response equipment at that location, as described in more detail in Appendix B hereto;

(c) \$7,500,000 for the acquisition of land to be included in and made a part of the Kachemak Bay State Park, as described in more detail in Appendix C hereto; and

(d) \$200,000 for the acquisition and installation by the State of communications equipment to be owned by the State, and to be used by the United States Coast Guard and the State and to be installed at the Valdez Emergency Operations Center ("VEOC") when it is constructed, with \$120,000 of the \$200,000 allocated for equipment to be selected and used by the United States Coast Guard and \$80,000 of the \$200,000 allocated for equipment to be selected and used by the State, as described in more detail in Appendix D hereto.

9. (a) The projects described in subparagraphs (a) and (b) of the preceding paragraph ("response projects") are intended to enhance the capability to respond in the event of future oil spills or other catastrophic events in Prince William Sound, as is the project described in subparagraph (d) of the preceding paragraph.

*Change* *slc* → (b) The allocations of settlement proceeds to the response projects as described in the preceding paragraph are based on good faith estimates and are preliminary only. If the

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actual costs of a specific response project are less than the allocated sum, together with interest, if any, earned on the allocated sum after monies are received by the State, the excess funds may be used to pay for any of the other response projects whose actual cost may exceed the initial estimate. If the actual costs of the response projects are less than the combined allocation of \$20,500,000, then the excess funds will be paid into the Joint Trust Fund.

(c) The response projects will require further detailed planning and are subject to various land acquisition issues and state and federal permitting requirements that have yet to be resolved. Subject to an appropriation by the Alaska State Legislature, the State will make a good faith effort to design, construct and complete the response projects. If the Attorney General of the State of Alaska determines that either of the response projects is impossible or impracticable for any reason, including the fact that the revised estimated cost would exceed the allocation (and other identified sources of funding, if any) or that the State is unable to obtain appropriate permits or acquire appropriate sites, the funds allocated for that particular response project will be treated as excess funds under subparagraph (b) above. If either of the response projects is rendered impossible because appropriations from the Alyeska Settlement Fund for the purposes specified are not enacted on or before September 15, 1993, then the monies not appropriated will be treated as excess funds under subparagraph (b) above.

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(d) If the acquisition of land described in subparagraph (c) of the preceding paragraph is rendered impossible either because of the inability of the interested parties to finalize a purchase and sale, the lack of sufficient additional sources of funding, or otherwise, the funds allocated for this project will be paid into the Joint Trust Fund. If the acquisition is rendered impossible because these funds have not been appropriated for the purpose specified by December 31, 1993, the funds allocated for this project will be paid into the Joint Trust Fund.

(e) If the acquisition and installation of communications equipment described in subparagraph (d) of the preceding paragraph costs less than the money allocated for that project, the balance remaining shall be paid into the Joint Trust Fund. If the acquisition and installation is rendered impossible because these funds have not been appropriated for the purpose specified by December 31, 1995, the funds allocated for this project will be paid into the Joint Trust Fund.

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(f) The State will have final authority and responsibility for the design, specification and implementation of the response projects. The State will have final authority to utilize the funds allocated to the acquisition project described in subparagraph (c) of the preceding paragraph. The United States will have final authority to select communications equipment for use by the United States Coast Guard, as described in subparagraph (d) of the preceding paragraph, up to \$120,000;

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and the State will have final authority to select communications equipment for use by the State, as described in subparagraph (d) of the preceding paragraph, up to \$80,000.

Payment Terms

10. The payments to be made by Alyeska pursuant to the terms of this Agreement total \$31,700,000. The payments shall be made in accordance with the provisions and schedules set forth below.

11. Payments with respect to the projects described in Paragraphs 8(a), 8(b) and 8(c) above shall be made in accordance with the following provisions:

(a) Alyeska shall pay \$28,000,000 into the Alyeska Settlement Fund in accordance with the following schedule:

- (1) \$4,500,000 shall be paid on the Funding Date; 2/93
- (2) \$10,500,000 shall be paid on the first anniversary of the Funding Date; and 2/94
- (3) \$13,000,000 shall be paid on the second anniversary of the Funding Date. 2/95

(b) If, at any time prior to the second anniversary of the Funding Date, there should be insufficient funds in the Alyeska Settlement Fund to enable payments to be made which are necessary in order for these projects to proceed, the State may give written notice to Alyeska of the amount of the shortfall and Alyeska shall, within 30 days of its receipt of that notice, deposit in the Alyeska Settlement Fund the amount of that

*Allyeska Settlement Fund*

shortfall; provided, however, that in no event shall Alyeska be required to contribute more than \$28,000,000 to the Alyeska Settlement Fund with respect to these particular projects. In the event any accelerated payments are requested and made pursuant to the provisions of this subparagraph, Alyeska shall be entitled to deduct the amount of each accelerated payment from the next payment due under the payment schedule set forth in subparagraph (a) above.

12. Upon the Funding Date, Alyeska shall pay into the Alyeska Settlement Fund the sum of \$200,000 to be used as described in Paragraph 8(d) above.

13. Upon the Funding Date, Alyeska shall pay to the State the sum of \$1,500,000 for 1989 tax revenues under AS 43.75 (Fisheries Business Tax), which would be refunded to local governments under AS 43.75.130. This sum shall be in addition to any amount which has been or will be allowed to any party by the TAPL Fund and shall not be used by the TAPL Fund as an offset against claims by any party for such tax revenues.

14. Upon the Funding Date, Alyeska shall pay to the United States, or to such other person or persons as the United States may direct, the sum of \$2,000,000 for expenses incurred by the United States in response to the Oil Spill which would have been subject to reimbursement from the Joint Trust Fund.

Other Consideration

15. Alyeska and the Alyeska Owner Companies previously have committed to build the VEOC either within the City of Valdez at

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the Valdez Port or at the Alyeska Terminal. Alyeska and the Alyeska Owner Companies hereby reaffirm that commitment. In addition to that undertaking, Alyeska and the Alyeska Owner Companies commit as follows:

(a) Subject to Alyeska obtaining the necessary permits, approvals and leases, and subject to Alyeska being able to obtain a suitable parcel of real property, the VEOC will be constructed in the City of Valdez, at a presently estimated approximate cost of \$14,000,000, and not at the Alyeska Terminal;

(b) The VEOC will include a reasonable amount of space for the United States Coast Guard and State of Alaska communications center in which the equipment to be purchased by the Governments as contemplated by Paragraph 8(d) will be located;

(c) The VEOC will be designed to support the Ship Escort Response Vessel System ("SERVS"), which will remain based in Valdez;

(d) The VEOC will be designed so that it can be used to provide oil spill response training; and

(e) Subject to Alyeska obtaining the necessary permits, approvals and leases, and subject to Alyeska being able to obtain a suitable parcel of real property, the construction of the VEOC will begin no later than June 1, 1994.

Releases and Covenants Not to Sue by the Governments

16. Effective upon Final Approval, the Governments, in addition to the releases contained in Paragraphs 15 and 23 of the

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Exxon Consent Decree, release and covenant not to sue or to file any administrative claim against Alyeska, the Alyeska Owner Companies, or their parents or affiliates with respect to any and all civil claims relating to or arising from the Oil Spill, including claims for any civil relief of a compensatory and remedial nature which have been or may be asserted by the Governments, or either of them, including without limitation any and all civil claims under all federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on, or could in the future arise from, relate to, or be based on: (1) any of the civil claims asserted in the State Action, including a claim for tax revenues which would have been or would be collected under existing AS 43.75 but for the Oil Spill, (2) any of the civil claims asserted in the U.S. Action, or (3) any other civil claims that could be asserted by either or both of the Governments against Alyeska, the Alyeska Owner Companies, or their parents or affiliates relating to or arising from the Oil Spill; provided, however, that nothing in this Agreement shall affect or impair the following:

(a) claims by either Government to enforce this Agreement;

(b) claims by the State against the TAPL Fund for tax revenues which would have been or would be collected under existing AS 43.75 (Fisheries Business Tax) but for the Oil Spill;

(c) exclusively private claims, if any, by Alaska Native Villages and individual Alaska Natives, other than claims for Natural Resource Damages, seeking damages for private harms to Native subsistence well being, community, culture, tradition and way of life resulting from the Oil Spill, including private claims for private harms to Alaska Native Villages and individual Alaska Natives resulting from the impairment, destruction, injury or loss of Natural Resources caused by the Oil Spill and any other exclusively private claims that are available to Alaska Native Villages and individual Alaska Natives; and

(d) exclusively private claims, if any, by Alaska Native Corporations, other than claims for Natural Resource Damages, seeking damages for private harms resulting from injuries caused by the Oil Spill to lands in which a Native Corporation holds any present right, title, or interest, including private claims for lost or diminished land values, for preservation, protection and restoration of archaeological or cultural resources and archaeological sites found on the lands described in this subparagraph, for private harms resulting from injuries to Natural Resources found on lands described in this subparagraph, for impairment of riparian or littoral rights, if any, and any other claims that are available to Alaska Native Corporations as private landowners; provided, however, that such claims shall not include any claims based upon injuries to tidelands or submerged lands.

17. The State acknowledges that certain entities in addition to the State have asserted a right to recover tax revenues which would have been or would be collected under existing AS 43.75. However, it is the State's legal position that it is the only entity which possesses any claim under existing AS 43.75 and that it is the only entity which is authorized or entitled to pursue a claim under existing AS 43.75.

18. Effective upon Final Approval, each of the Governments covenants not to sue any present or former director, officer, or employee of Alyeska or the Alyeska Owner Companies with respect to any and all civil claims or other civil remedies of a compensatory or remedial nature which have been or may be asserted by the Governments, including without limitation any and all civil claims under all federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on, or could in the future arise from, relate to, or be based on the Oil Spill, including, without limitation, claims arising from any of the subject matter underlying the civil claims asserted in the State Action or the U.S. Action; provided, however, that if any such present or former director, officer, or employee brings any action against the Governments, or either of them, for any claim whatsoever arising from or relating to the Oil Spill (or if an action against the Governments is pending at the time of Final Approval, and the director, officer, or employee fails to dismiss the action within 15 days of Final Approval), this covenant not to

sue shall be null and void with respect to the director, officer, or employee bringing such action. In the event either Government obtains a judgment against any present or former director, officer, or employee of Alyeska or the Alyeska Owner Companies for liability relating to or arising from the Oil Spill, the Governments shall enforce the judgment only to the extent that the individual or individuals against whom the judgment was obtained are able to satisfy the judgment, without indemnification by Alyeska or the Alyeska Owner Companies, personally or through insurance policies purchased by the individual or individuals.

Releases and Covenants Not To Sue

by Alyeska and Alyeska Owner Companies

19. Effective upon Final Approval, Alyeska and the Alyeska Owner Companies release and covenant not to sue or to file any administrative claim against each of the Governments and their current or former employees with respect to any and all claims relating to or arising from the Oil Spill, including without limitation, claims for Natural Resource Damages and cleanup costs, under federal or state statutes and implementing regulations, common law or maritime law, that arise from, relate to, or are based on: (a) the Alyeska Counterclaim; or (b) any other civil claims that have been or could be asserted by Alyeska or the Alyeska Owner Companies against either of the Governments relating to or arising from the Oil Spill, except that nothing in

this Agreement shall affect or impair the rights of Alyeska or the Alyeska Owner Companies to enforce this Agreement.

Dismissal of Actions and Claims

20. Not later than 15 days after Final Approval, each of the claims relating to or arising from the Oil Spill and asserted by the State and/or the United States against Alyeska, the Alyeska Owner Companies, Exxon Corporation or Exxon Shipping Company, including the claims asserted in the State Action, the U.S. Action and as third-party claims in various other lawsuits, and all claims relating to or arising from the Oil Spill and asserted by Alyeska and the Alyeska Owner Companies against the State, including the Alyeska Counterclaim, shall be dismissed with prejudice and without an award of costs or attorneys fees to any Party. Alyeska, the Alyeska Owner Companies, the United States, and the State shall enter into and execute all Stipulations of Dismissal, with prejudice, necessary to implement the provisions of this paragraph.

Trans-Alaska Pipeline Liability Fund

21. The release in Paragraph 19 shall not be construed to bar any claim by Alyeska or the Alyeska Owner Companies against the TAPL Fund relating to or arising from the Oil Spill. If the TAPL Fund asserts any claims against the Governments that are based upon subrogation rights arising from any monies paid to Alyeska or the Alyeska Owner Companies by the TAPL Fund, Alyeska and the Alyeska Owner Companies agree to indemnify and hold the Governments harmless from any liability that they have to the

TAPL Fund based on such claims. However, the foregoing indemnity (a) shall not be enforceable with respect to any amount in excess of value actually received by Alyeska or the Alyeska Owner Companies from the TAPL Fund, and (b) shall be enforceable only if the Governments assert in good faith all defenses they may have to such claims.

#### Third Party Litigation

22. (a) Except as provided in subparagraph (b) of this paragraph, if any person or entity not a party to this Agreement ("Third Party") asserts a claim relating to or arising from the Oil Spill in any present or future litigation against Alyeska or the Alyeska Owner Companies and the Governments, or against Alyeska or the Alyeska Owner Companies and either the United States or the State, each of these sued Parties ("Sued Parties") shall be responsible for and will pay its share of liability, if any, as determined by the proportional allocation of liability contained in any final judgment in favor of such Third Party, and no Sued Party shall assert a right of contribution or indemnity against any other Sued Party. However, notwithstanding any other provision of this Agreement, the Sued Parties may assert any claim or defense against each other necessary as a matter of law to obtain an allocation of liability among the Sued Parties in a case under this paragraph. Any such actions between or among the Sued Parties shall be solely for the purpose of allocating liability, if any. The Sued Parties shall not enforce any judgment against each other in such cases. Further,

notwithstanding any other provision of this Agreement, the Sued Parties may seek indemnification or contribution from any other party to the action or from any third party (including Exxon Corporation and Exxon Shipping Company), other than one of the Sued Parties, and the rights of the Alyeska Owner Companies to reallocate costs among themselves or to seek indemnification or contribution from each other shall not be affected in any way by this Agreement.

(b) If any person or entity, other than the TAPL Fund, asserts claims against the Governments, or either of them, that are based upon contribution or indemnity or any other theory of recovery over against the Governments arising from any liability of or payment by said person or entity to Alyeska or the Alyeska Owner Companies relating to or arising from the Oil Spill, or based upon subrogation rights arising from any monies paid to Alyeska or the Alyeska Owner Companies, Alyeska shall indemnify and hold the Governments harmless from any liability that the Governments have to such person or entity based on such claims. The foregoing indemnity (i) shall not be enforceable with respect to any amount in excess of value actually received by Alyeska or the Alyeska Owner Companies, and (ii) shall be enforceable only if the Governments assert in good faith all defenses they may have to such claims.

23. Neither Alyeska nor the Alyeska Owner Companies shall assert any right of contribution or indemnity against either Government in any action relating to or arising from the Oil

Spill where that respective Government is not a party. Neither Government shall assert any right of contribution or indemnity against Alyeska or the Alyeska Owner Companies in any action relating to or arising from the Oil Spill where Alyeska or the Alyeska Owner Companies are not parties, except that either Government may assert against Alyeska and the Alyeska Owner Companies the rights to indemnification as expressly provided in Paragraph 21.

24. Any liability which Alyeska or the Alyeska Owner Companies incur as a result of a suit by a Third Party, as described in Paragraphs 22 or 23, shall not be attributable to or serve to reduce the payments required to be paid by Alyeska pursuant to Paragraphs 11 - 14.

25. The Parties agree that they will not tender each other to any Third Party as direct defendants in any action relating to or arising from the Oil Spill pursuant to Rule 14(c) of the Federal Rules of Civil Procedure.

26. If a Third Party, which previously has reached or hereafter reaches a settlement with Alyeska or the Alyeska Owner Companies, brings an action against the Governments, or either of them, the sued Government(s) shall undertake to apportion liability, if any, according to principles of comparative fault without the joinder of Alyeska or the Alyeska Owner Companies, and shall assert that joinder of Alyeska or the Alyeska Owner Companies is unnecessary to obtain the benefits of allocation of fault. Notwithstanding any other provision of this Agreement, if

the court rejects the sued Government(s)' efforts to obtain a proportional allocation of fault without Alyeska or the Alyeska Owner Companies' joinder, the sued Government(s) may institute third-party actions against Alyeska or the Alyeska Owner Companies solely for the purpose of obtaining allocation of fault. The Governments in such third-party actions shall not enforce any judgment against Alyeska or the Alyeska Defendants.

27. If a Third Party, which previously has reached or hereafter reaches a settlement with the Governments, or either of them, brings or pursues an action against Alyeska or the Alyeska Owner Companies, or any of them (collectively, the "Alyeska Defendants"), the Alyeska Defendants shall undertake to apportion liability, if any, according to principles of comparative fault without the joinder of either of the Governments, and shall assert that joinder of the Governments, or either of them, is unnecessary to obtain the benefits of allocation of fault. Notwithstanding any other provision of this Agreement, if the court rejects the Alyeska Defendants' efforts to obtain a proportional allocation of fault without joinder of the Governments, or either of them, the Alyeska Defendants may institute third-party actions against the Governments, or either of them, solely for the purpose of obtaining allocation of fault. The Alyeska Defendants in such third-party actions shall not enforce any judgment against the Governments.

Effect on TAPS Tariff

28. Solely for the purpose of resolving the issues in dispute in this litigation over the Oil Spill and without in any way conceding that the monies paid pursuant to this Agreement are not properly included in the tariff rates charged for the use of the Trans-Alaska Pipeline System, the Alyeska Owner Companies agree that the payments made under the terms of this Agreement shall not be included, directly or indirectly, in the tariff rates charged by the Alyeska Owner Companies for the use of the Trans-Alaska Pipeline System. Notwithstanding the foregoing, the Alyeska Owner Companies reaffirm that it is their belief that such amounts would properly be included in the tariff rates charged and that they are agreeing not to include such amounts only as part of the compromise and settlement reflected in this Agreement. The State acknowledges that the compromise and agreement set forth in this paragraph will not be used in any other action or proceeding or otherwise urged as precedent that monies paid in settlement of litigation are not properly included in the tariff rates charged for the use of the Trans-Alaska Pipeline System.

Interest for Late Payments

29. If the payments required by Paragraphs 11 - 14 of this Agreement are not made by the dates specified, Alyeska shall be liable to the Governments for interest on the overdue amount, from the time payment was due until full payment is made, at the rate established by the Department of the Treasury under 31

U.S.C. § 3717(a)(1) and (2). Interest on an overdue payment shall be paid in the same manner as the payment on which it accrued.

Reservations of Rights

30. This Agreement is the result of a compromise and does not constitute an admission of liability by any Party to this Agreement. Except as expressly stated in this Agreement, each Party reserves against all persons or entities all rights, claims or defenses available to it relating to or arising from the Oil Spill. Except as expressly stated in this Agreement, nothing in this Agreement is intended to affect legally the claims, if any, of any person or entity not a Party to this Agreement.

31. Nothing in this Agreement creates, nor shall it be construed as creating, any claim in favor of any person not a Party to this Agreement.

32. Except as explicitly stated herein, nothing in this Agreement alters, amends, modifies, or, in any way, affects the legal rights and duties of the Governments, on the one hand, and Alyeska or the Alyeska Owner Companies, on the other hand, under the Exxon Consent Decree.

33. Nothing in this Agreement alters, amends, modifies, or, in any way, affects the legal rights and duties under the following judgments or agreements:

(a) the Memorandum of Agreement and Consent Decree entered into between the United States and the State in United