

ALABAMA LEGISLATURE

1276

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996

**HB**

**2**

SFIN

FILE



Alaska State Legislature  
Senate

Office of the Secretary

OFFICIAL BUSINESS

PO. BOX V  
CAPITOL BUILDING  
JUNEAU, ALASKA 99811

FOR YOUR IMMEDIATE ATTENTION

DATE: 5/5/94

TO SENATE COMMITTEE: Finance

FROM: Office of the Senate Secretary

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

HB 405 - Bd of Optometrists  
HB 2 - Boot Camps

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

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SCS CSHB 2 (JUD)

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to the creation of a boot camp BRU: ALL  
within the Department of Corrections..... Component: \_\_\_\_\_  
 Sponsor: Representative Willis  
 Requester: Senate Finance COMPONENT SERIAL NO. # 0694

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	1.0					
<b>TOTAL OPERATING</b>	1.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	2,000.0					
<b>CHANGE IN REVENUES ( )</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	2,000.0					
1003 GF Match						
1004 GF	1.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	2,001.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

The Department received a planning grant from the U.S. Office of Justice Programs to study the prison population with regard to appropriate offenders, to study appropriate sites and develop construction or renovation plans and to design suitable programming for the boot camp program and specific probation and parole services (aftercare).

Note: Because renovation could not be finished until federal funds are received, site planning is complete, rfp's are bid, a contractor is selected, and the renovation work is actually completed, it is estimated that the date provisions in section 1, 1c, and 1i are such that the program will only be able to operate for three months.

(Continued on Page 2)

Prepared by: Bob Cole Phone: 465-4652  
 Division: Office of the Commissioner Date: 5/4/96  
 Approved by Commissioner: Margaret Pugh Date: 5/4/96  
 Agency: Department of Corrections

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**SCS CSHB2(JUD)**

**Fiscal Note**

**Page 2**

Further, this fiscal note allows for the receipt of federal funds but the actual costs of matching those funds has not yet been determined. Finally, while no operating costs are displayed in this fiscal note, there will be operating costs which will have to be recognized and appropriated for this program to be implemented.

The department would renovate two existing, unused buildings on the grounds of the Wildwood Correctional Center. The cost of renovations is estimated to be \$2000.0. Federal grant funds up to that amount were made available in FFY 96. It is anticipated an equal or greater amount will be available when the FFY97 appropriation for the Department of Justice is settled. The amount and form of the required state match is also unsettled. If this bill becomes law, the DOC expects it would establish a boot camp program only if construction and operation funding was approved by the Legislature. It is further assumed that the project will not go forward without major capital funding in the form of Federal grant funding.

Therefore the department expects to apply for grant funds for renovation. The award of the funds would not be expected before late fall 1996 and acceptance would be conditional upon approval by the legislature, including appropriation of the required match. The operational plan and budget would be available at the same time. This would allow the facility to be ready for occupancy on or before the beginning of FY99.

Two alternative approaches exist assuming the bill passes. One, the department could complete the planning project currently under way and bring a complete capital and operational plan, including funding, to the next legislature. Two, the legislature could choose to fund the capital commitments with the passage of this bill.

# FISCAL NOTE

No. 7

Bill Version: CSHB 2(FIN)

(H) Publish Date: 4/15/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An Act relating to the creation of a boot camp BRU: ALL  
 within the Department of Corrections..... Component: \_\_\_\_\_  
 Sponsor: Representative Willis  
 Requester: House Finance COMPONENT SERIAL NO. # 0694

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS	1.0					
<b>TOTAL OPERATING</b>	<b>1.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES	2,000.0					
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CHANGE IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

1002 Federal Receipts	2,000.0					
1003 GF Match						
1004 GF	1.0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>2,001.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Department received a planning grant from the U.S. Office of Justice Programs to study the prison population with regard to appropriate offenders, to study appropriate sites and develop construction or renovation plans and to design suitable programming for the boot camp program and specific probation and parole services (aftercare).

Note: Because renovation could not be finished until federal funds are received, site planning is complete, rfp's are bid, a contractor is selected, and the renovation work is actually completed, it is estimated that the date provisions in section 1, 1c, and 1i are such that the program will only be able to operate for three months.

(Continued on Page 2)

Prepared by: Bob Cole Phone: 465-4652  
 Division: Office of the Commissioner Date: 4/12/96  
 Approved by Commissioner: Margaret Pugh Date: 4/12/96  
 Agency: Department of Corrections

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CSHB2(FIN)

Fiscal Note

Page 2

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The department would renovate two existing, unused buildings on the grounds of the Wildwood Correctional Center. The cost of renovations is estimated to be \$2,000.0. Federal grant funds up to that amount were made available in FFY 96. It is anticipated an equal or greater amount will be available when the FFY 97 appropriation for the Department of Justice is settled. The amount and form of the required state match is also unsettled. If this bill becomes law, the DOC expects it would establish a boot camp program only if construction and operation funding was approved by the Legislature. It is further assumed that the project will not go forward without major capital funding in the form of Federal grant funding.

Therefore the department expects to apply for grant funds for renovation. The award of the funds would not be expected before late fall 1996 and acceptance would be conditional upon approval by the legislature, including appropriation of the required match. The operational plan and budget would be available at the same time. This would allow the facility to be ready for occupancy on or before the beginning of FY 99.

Two alternative approaches exist assuming the bill passes. One, the department could complete the planning project currently under way and bring a complete capital and operational plan, including funding, to the next legislature. Two, the legislature could choose to fund the capital commitments with the passage of this bill.

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 4/23/96

FURTHER: Finance

DATE TURNED INTO OFFICE: 5-4-96

The Judiciary Committee considered CS FOR HOUSE BILL NO. 2(FIN)

Providing for incarceration of certain nonviolent offenders in boot camps.

and recommends:

- be replaced with 5 CS 5482
- adopt previous CS
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical title
  - new: SCR# \_\_\_\_\_

SIGNING D.P. PASS	\DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Th Ellis</i>	<input checked="" type="checkbox"/>				
<i>John Green</i>	<input checked="" type="checkbox"/>				
<i>Mike Miller</i>	<input checked="" type="checkbox"/>				
<b>CHAIR:</b> <i>Adrian L. Taylor</i>	<input checked="" type="checkbox"/>	<b>CHAIR:</b>			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>Corrections</i>	<i>4/2/96</i>		<i>2001C</i>

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**HB**

**4**

HFIN

FILE

1 eligible for a dividend for the current dividend year.

2 \* Sec. 5. AS 43.23.005(d) is amended to read:

3 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual  
4 [WHO HAS BEEN CONVICTED OF A FELONY] is not eligible for a permanent  
5 fund dividend for a dividend year when (1) during the calendar year immediately  
6 preceding that dividend year the individual was convicted of a felony; or (2) [.]  
7 during all or part of the [PREVIOUS] calendar year immediately preceding that  
8 dividend year, as a result of the conviction: of a felony or misdemeanor, the  
9 individual was [IS] incarcerated. This subsection does not apply if the conviction  
10 is reversed. An action taken under AS 12.55.085 - 12.55.110 does not constitute  
11 reversal of a conviction for purposes of this subsection.

12 \* Sec. 6. AS 43.23 is amended by adding a new section to read:

13 Sec. 43.23.008. ALLOWABLE ABSENCES. (a) Subject to (b) of this  
14 section, an otherwise eligible individual who is absent from the state during the  
15 calendar year immediately preceding the current dividend year remains eligible for the  
16 dividend if the individual was absent

17 (1) receiving full-time technical training as part of a career education  
18 program recognized by the Alaska Commission on Postsecondary Education;

19 (2) attending full-time an academic institution, seminar, or other  
20 program for continuing professional educational development, including a sabbatical,  
21 legal, or accounting program, recognized by the Alaska Commission on Postsecondary  
22 Education;

23 (3) attending a special education program to assist in the treatment of  
24 learning or physical disabilities or the treatment of mental disorders if attendance is  
25 recommended by a licensed physician, psychologist, physical therapist, or the  
26 commissioner of education;

27 (4) attending full-time at an educational institution in grades 7 through  
28 12;

29 (5) attending full-time at an accredited college, university, or junior or  
30 community college in a program leading to an associate, baccalaureate, or graduate  
31 degree;

1 (6) serving on active duty as a member of the armed forces of the  
2 United States;

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

6 (8) accompanying a minor who is absent under (7) of this subsection;

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

8 (10) serving on the staff of a member of the United States Congress  
9 from the state;

10 (11) serving as a full-time volunteer in the Peace Corps;

11 (12) serving as an employee of the state, including employment in a  
12 field office;

13 (13) in the custody of the state;

14 (14) actively participating on a United States national athletic team as  
15 an eligible athlete as defined by the International Federation and National Governing  
16 Body for each nonprofessional sport;

17 (15) accompanying an eligible individual as the spouse, minor  
18 dependent, or disabled dependent of the eligible individual;

19 (16) for a reason consistent with the individual's intent to remain a  
20 resident, provided the absence or cumulative absences do not exceed

21 (A) 180 days if the individual is not claiming an absence under  
22 (1) - (15) of this subsection and provided that the individual

23 (i) established the individual's principal home in this  
24 state before leaving this state;

25 (ii) has not taken an action inconsistent with an intent  
26 to maintain the individual's principal home in this state;

27 (iii) has not taken an action to establish or maintain a  
28 principal home outside of this state;

29 (iv) returned to the individual's principal home in this  
30 state at the conclusion of the absence;

31 (B) the greater of 90 days, one school semester during which

# Alaska State Legislature

## House of Representatives

COMMITTEES:  
HEALTH, EDUCATION  
& SOCIAL SERVICES  
JUDICIARY  
STATE AFFAIRS

SPECIAL COMMITTEES:  
MILITARY & VETERANS AFFAIRS  
OIL & GAS



HOME:  
9843 CHICHAGOF LOOP  
EAGLE RIVER, AK 99577  
PHONE (907) 694-7943

DURING SESSION:  
STATE CAPITOL  
JUNEAU, AK 99811  
PHONE (907) 465-3777

### Representative Pete Kott

#### SPONSOR STATEMENT

HB 4 - An Act relating to absences from the state...

This legislation would remedy a problem as a result of a recent court ruling. That ruling declared spouses of a Permanent Fund Dividend (PFD) recipient from being considered eligible to receive a dividend if they were accompanying an eligible spouse out of state on an allowable absence.

This legislation would allow individuals who accompany an eligible spouse out of state on an allowable absence to retain their eligibility for a PFD if that was the only reason that they would have been disallowed.

This correction applies retroactively to January 1, 1994, the first time the Permanent Fund Dividend Division disallowed dividends for that reason. It makes provision for those individuals to receive the previously denied dividend.

I encourage you to support this legislation.



HOUSE COMMITTEE REPORT

(11)

Date Referred: February 13, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/20/95

The FINANCE Committee considered:

HB 4

HOUSE BILL NO. 4

PERMANENT FUND DIVIDEND ELIGIBILITY

"An Act relating to absences from the state for purposes of determining residency under the permanent fund dividend program; and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 4 (STA)  the same title  a new title

additional referral to \_\_\_\_\_ Committee

attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

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

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

fiscal note(s) \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

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

zero fiscal note(s) Rev 2/1/95

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>Mark Hamley</i>	Hamley	X			
<i>Glenn Mulder</i>	Mulder	X			
<i>Terry Martin</i>	Martin	X			
<i>Scott Parnell</i>	Parnell			X	
<i>Vicki Kohring</i>	Kohring	X			
<i>Pete Kelly</i>	Kelly	X			
<i>Gene Theriault</i>	Theriault	X			
<i>Arthur Navarre</i>	Navarre	X			
<i>Tan Brown</i>	Brown	X			
<i>Ben Grussendorf</i>	Grussendorf	X			

CHAIR'S SIGNATURE *Mark Hamley*

# FISCAL NOTE

No. 10

Bill Version: HB 4

(H) Publish Date: 2/1/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: 1/25/95 Dept. Affected: Department of Revenue  
 Title: Permanent Fund Dividend Eligibility BRU: Permanent Fund Dividend Division  
 Component: Permanent Fund Dividend Division  
 Sponsor: Representative KOTT  
 Requester: House State Affairs COMPONENT SERIAL NO. 381

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.5

POSITIONS

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary)

This bill attempts to reinstate the historically allowable "piggyback" absence, which the Superior Court determined was invalid effective January 1, 1992.

This fiscal note assumes that by June 30, 1995 the Division will mail each of the 1,317 denied 1994 "piggybacking" spouse a letter advising them of the change in the law along with a request to reapply application.

Prepared by: Thomas C. Williams, Director Phone: 465-2323  
 Division: Permanent Fund Dividend Division Date: 1/25/95  
 Approved by Commissioner: [Signature] Date: 1/25/95  
 Agency: Department of Revenue

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# CAPITAL INFORMATION GROUP

Telephone 907-586-3118 FAX 907-586-1987

PO Box 21804, Juneau, Alaska 99802

January 23, 1995

Rep. Jeannette James, Chair  
House State Affairs Committee  
Room 102  
State Capitol

Dear Rep. James,

I hope you will favorably consider Rep. Pete Kott's bill, HB 4, to correct what I believe is an error in the distribution of Permanent Fund dividends. Currently, a person who is outside of Alaska for medical treatment can qualify for a dividend, but their spouse and family members that accompany them cannot if they are out of state for an extended time.

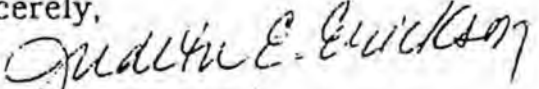
I learned of this last year when my former husband Eric Eckholm had to travel to Seattle for cancer treatment. He has advanced kidney cancer, and only experimental treatments found in the Seattle area can give him any chance of life. His wife has been at his side the entire time and she is needed as he is on pain medication 24 hours a day and needs everyday assistance. Our residents who are suffering such circumstances need the emotional support from their families. If we want marriages to survive such emotional and financial hardships, we shouldn't put an added burden on already taxed financial resources by refusing a dividend to the spouse.

Most of the last year Eric and his wife had to stay in Seattle. The cost of his health care has been a drain on both our families. Since they have been gone, they have continued to maintain their primary residence here in Juneau, renting it occasionally. As you all know, it is quite an expense to maintain two households. It is their intent to return to Juneau, we hope permanently, in April.

I hope you will consider repealing the current prohibition against a spouse or family member from receiving a dividend if they are outside the state for an extended period of time due to the illness of a family member. With cancer, there are many treatments that can't be performed in Alaska. There is so much pressure on a family when one is sick, both financial and emotional. This unjustly adds another.

Thank you for your consideration.

Sincerely,

  
Judith E. Erickson

cc: House State Affairs Committee members

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**SECTIONAL ANALYSIS OF CS HB 4 (STA)**

As of February 10, 1995

- Section 1.* a. Redefines allowable absences as eligibility criteria instead of elements of residency, elimination any potential conflict between the requirements of AS 43.23.015(a) and the allowable absence provisions; and  
b. eliminates redundant language.
- Section 2.* a. Moves into a new section those allowable absences already authorized by statute under AS 43.23.095(8), the current definition of "State Resident"; and  
b. makes the historical "piggyback" allowable absence previously in regulation a statutorily allowable absence.
- Section 3.* a. Deletes the reference to absences in the definition of "state resident" since absences are redefined as eligibility criteria in *Sections 1 & 2*; and  
b. makes it clear that while absent an individual must maintain at all times an intent to return to remain permanently in order to retain residency.
- Section 4.* Retroactively reinstates the eligibility of all otherwise eligible individuals accompanying their eligible resident spouse for 1992, 1993 and 1994 dividends. This will allow the Department to pay "piggybacking" spouses who were originally denied a 1992 or 1993 dividend but whose denial was subsequently overturned on appeal.
- Section 5.* Gives up to 1,317 1994 "piggybacking" spouses who had not appealed by December 31, 1994 the ability to submit an appeal until September 1, 1995 if the only reason they were ineligible was due to the invalidation of the "piggyback" allowable absence.
- Section 6.* Makes sections 1 - 3 retroactive to January 1, 1995, making the "piggyback" allowable absence effective for the 1995 dividend.
- Section 7.* Makes act effective immediately upon signature by the Governor.

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**ANALYSIS OF CS HB 4 (STA)**  
As of February 10, 1995

**Background**

On December 16, 1993 in *Zeiler vs the State of Alaska (Case #3AN-92-1567 Civil)* Alaska Superior Court Judge Dana Fabe ruled that 15 AAC 23.163(c)(15) and its predecessor regulations have been invalid since January 1, 1992, the effective date of an amendment to the Permanent Fund Dividend statutes. That amendment was intended to ensure the nonresidency of an individual's spouse would not inappropriately impact the eligibility of an Alaskan living in state or an Alaskan on his or her own allowable absence. Unfortunately, as Judge Fabe concluded, the technical language of the statutory amendment, in combination with how residency is defined in the Permanent Fund Dividend statutes, had the inadvertent effect of no longer allowing the spouses of eligible Alaskans accompanying their spouse on an absence to "piggyback" their eligibility on their spouse's eligibility.

In January 1994 Representative Sean Parnell, with the Department's strong support, introduced House Bill (HB) 392. This legislation would have reinstated the eligibility of those historically eligible Alaskan spouses and would have made the technical changes necessary to correct the problem prospectively. This legislation passed the Alaska State House of Representatives 31-7. In the last hour of the legislative session the Alaska State Senate passed an amended version of HB 392 on a vote of 20-0. Unfortunately, in the final minutes before adjournment, the House did not consider the amended bill and the legislation died. Consequently, the invalidated "piggyback" absence was *not* reinstated and Alaskans who are "piggybacking" on their spouse's allowable absence are currently not eligible for a dividend.

**Applicants Affected**

The court decision impacted 1992, 1993 and 1994 applicants. By the time the court rendered a decision, virtually all 1992 and 1993 applications had been paid. After consultations with the Department of Law, the Department decided not to assess 1992 and 1993 "piggybacking" spouses who had already been paid. However, there were some 1992 and 1993 "piggybacking" spouses who had appealed denials issued for other reasons. In those cases, when the Department determined that an applicant was incorrectly denied for the other reason and overturned the denial, it still could not issue a dividend because the applicants' absence was no longer an allowable absence. Consequently, the Division has held off issuing those appeals decisions until such time as the legislature has had an opportunity to consider corrective legislation.

Since no 1994 dividends had been issued by the time the 1994 legislative session adjourned, the Department issued denials to 2,178 "piggybacking" spouses who had been absent more than 180 days during the qualifying year. Although the Department made a concerted effort to identify all "piggybacking" spouses absent 180 days or less that qualified for the general discretionary allowable absence under 15 AAC 23.163(c)(16),

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
ANALYSIS OF CS HB 4 (STA)  
As of February 10, 1995

relatively few meet the criteria. Consequently, the Department denied another 512 spouses who were absent from 91 to 180 days during the qualifying year. In all cases the Department explained the reason for the denial was based on the invalidation of the "piggyback" allowable absence and that the Department had sought and was intending to seek corrective legislation. In conjunction with these denials, the Department gave all denied "piggybacking" spouses who were sponsoring children the opportunity to have the sponsorship of their children switched to their spouse. While many took advantage of that opportunity, some did not. Consequently, some children sponsored by denied "piggybacking" spouses were denied when the Department denied all children without an eligible sponsor.

Department Position

The Department strongly supports this legislation. In anticipation of legislation to retroactively and prospectively reinstate the historically allowable "piggyback" absence for spouses of residents, the PFD Division's Dividend Appeals Unit has placed a hold on all pertinent timely file informal conference appeals until such time as the legislature has had an opportunity to consider corrective legislation. If the law is retroactively changed, the *only* reason an applicant was ineligible was because of the original invalidation of the regulation, and the applicant has an timely filed appeal pending, the Department will overturn the applicant's denial. If not, the Dividend Appeals Unit will be required to uphold the denial of those applications.

While the Department denied 2,690 "piggybacking" spouses a 1994 dividend, the department had only received 1,373 appeals as of December 31, 1994. Section 5 of this bill will allow up to 1,317 1994 "piggybacking" spouses the opportunity to appeal their denial until September 1, 1995. The fiscal note assumes that by June 30, 1995 the Division will mail an appeal form to each of the denied spouses who are affected by this section.

For the 1995 Dividend, the Department advised "piggybacking" spouses of the invalidation of their allowable absence. However, as reflected on the attached copy of the back of the 1995 application as well as page 2 of the 1995 Household Application booklet, the instructions advised "piggybacking" spouses to apply if they were otherwise eligible.

Section 4 of this bill would effectively reinstate the "piggyback" allowable absence beginning January 1, 1992, the effective date of the invalidation of the regulation. This would allow the Department to pay those 1992 and 1993 pended appeals from "piggybacking" spouses who are otherwise eligible.

*Attachments*

**Follow the directions which precede each set of questions. Failure to follow directions will cause a delay in the processing of your application.**

Answer questions 14-17C ONLY if you answered NO to question 5.

**Please Print Clearly!**

14. Your Name as It Appears on Your Birth Certificate (See page 4, #14)			15. State of Birth	16. Sex
First Name	M.I.	Last Name		<input type="checkbox"/> M <input type="checkbox"/> F
17A. If married, enter your spouse's name		17B. Spouse's Birth Date	17C. Spouse's Social Security Number	
First Name	M.I. Last Name	Month Day Year		

Answer question 18 ONLY if you answered NO to questions 5 or 6 or answered YES to 7A or 7B.

18. Where Do You Physically Live? ( Street Address or Physical Location - do not list a Post Office Box number)

Answer questions 19-21B ONLY if you answered NO to question 6 or answered YES to question 7A or 7B.

19. List the dates and the number of days you were gone from Alaska in 1994. If you left prior to January 1, 1994, enter the date you actually departed. Circle the reason(s) you were absent for each absence. Attach additional sheets as needed for explanation.

Circle only one absence reason per line from list below	Left	Returned	# of Days	Explanation
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____

( ) Total # of Days during 1994 you were absent.

**Absence Reasons Codes**

A. Accompanying an eligible Alaska resident as the resident's spouse or disabled adult dependent. (See "FROM THE DIRECTOR" on Page 2 of the application booklet for an important notice.)

Name of Alaska Resident You Were With		
First Name	M.I.	Last Name
Alaska Resident's Birth Date		Alaska Resident's Social Security Number
Month	Day Year	

- B. Enrolled as a full-time student.
- C. On active duty as a member of the U.S. Armed Forces.
- D. Continuous medical treatment under a doctor's care. (Attach doctor's statement)
- E. Service as a member of Alaska's congressional delegation or staff.
- F. Full time volunteer under the Peace Corp Act. (Attach Peace Corp statement)
- G. Member of a U.S. National Athletic Team. (Attach confirmation)
- H. As a requirement of employment by the State of Alaska.
- J. Vacation.
- K. Seeking employment or employed for a reason other than C, E, F or H. (Please explain)
- L. Other reasons, including business. (Please explain)

20. A. Have you ever physically lived in Alaska as an adult resident for at least six consecutive months prior to the first absence listed in question 19? Yes  No

B. If YES, please list the dates of the most recent six consecutive month period prior to the first absence listed in question 19.

From \_\_\_/\_\_\_/\_\_\_ through \_\_\_/\_\_\_/\_\_\_  
Month Day Year Month Day Year

21A. Were you physically present in Alaska at some time during 1993 or 1994? Yes  No

B. If YES, which year were you most recently in Alaska? 1993  1994

If you were absent for more than 180 days in 1994, attach copies of supporting documents that show you were physically present at some time during 1993 or 1994. Examples of supporting documents can be found on page 5, line 21A-B of the instructions.

**You are NOT ELIGIBLE for a 1995 dividend, and should not file if you were not physically present in Alaska at some time during 1993 or 1994.**

Answer questions 22-24 ONLY if you answered NO to question 8.

22. What is your Alien Registration Number?	A - _____	24. All non-U.S. citizens must submit a copy of the front and back of their Alien Registration Card with their application.
23. On December 31, 1993 what was your legal alien status?	Resident <input type="checkbox"/> Asylee <input type="checkbox"/> Refugee <input type="checkbox"/> Other (Attach explanation) <input type="checkbox"/>	

## FROM THE DIRECTOR

### IMPORTANT NOTICE TO SPOUSES ABSENT FROM ALASKA

On December 16, 1993 the Alaska Superior Court determined that the "piggyback" allowable absence was invalid. This means that unless the legislature enacts legislation to reinstate this historically allowable absence, otherwise eligible spouses accompanying Alaska residents who are on an allowable absence *will not qualify* for a dividend. As the Department did last year, the Department will again ask the legislature to correct this situation. Accordingly, if you are an otherwise eligible Alaskan resident accompanying your spouse who is an eligible Alaska resident on an allowable absence, you should go ahead and apply for the 1995 dividend by the application deadline.

### REMINDER TO STUDENTS

Students who are attending school out of state should remember that registering to vote in the other state will make you ineligible for a dividend. To register to vote in Alaska, use the voter registration forms contained in this booklet. See page 12 for instructions.

### APPLICATION DEADLINE

The application period for the 1995 dividend is Tuesday, January 3, 1995 through *Friday, March 31, 1995*. Please file early to ensure you don't miss this deadline! If by *March 15, 1995* you have not received a batch card receipt confirming your application is on file, please contact a Dividend Information Office.

### DEADLINE FOR PROVIDING REQUESTED INFORMATION

Please remember that the deadline for providing requested information is June 30, 1995. To provide the most amount of time to respond to a request for information, please file early.

### DIRECT DEPOSIT

In 1994, nearly 246,000 qualified Alaska residents had their 1994 dividend directly deposited to their participating Alaska bank or credit union account. The number of Alaska financial institutions participating in direct deposit has increased this year to 28. If you qualify for direct deposit, you can have your and your children's dividends deposited directly to your or your child's savings or checking account. *All 1995 direct deposit payments will be made on Wednesday, October 11, 1995.* Please see page 10 of this booklet for participation requirements and instructions.

## General Information

Statutory and Regulatory Authority. AS 43.23 and 15 AAC 23.

**Application Receipt (Batch Card).** You will be notified by mail when the applications from your household have been put on file. This receipt is not a guarantee of eligibility for the 1995 dividend. When you receive this notice will depend on the number of applications received at the same time.

**IMPORTANT!** If you don't have this receipt by March 15, 1995 please contact a Dividend Information Office. Dividend Information Offices do not issue receipts.

**Deadline to Provide Requested Information.** You are required to answer all questions and provide all requested information and documentation. The information requested on the application, supplemental schedule and other requests is used by the department to identify the applicant, determine eligibility and determine how the eligible applicant wants to have their dividend paid.

**IMPORTANT!** If you do not provide the required information with your original application or if the division requests additional information, you will only have until the later of June 30, 1995 or 30 days from the date of the request to provide the information. If you do not provide all requested information by the deadline, your application will be denied.

**When Payments Will Be Made.** The Department of Revenue will begin making payments Wednesday October 11, 1995. All payments to eligible applicants will be made by December 31, 1995. Eligible applicants who qualify for direct deposit will have their dividends

deposited as part of the first payment run. All other checks will be issued in the order in which the applications are approved for payment. Applications awaiting an eligibility determination will be paid on a weekly basis as they are approved for payment.

**Name and Address Changes.** If your name or mailing address changes after you have submitted your application but before you get your check, you must let the Permanent Fund Dividend Division know in writing. Use form 04-083 Name Change, Address Change or Social Security Number Addition in the back of this booklet. You must advise the department of any address change even if you requested your dividend to be directly deposited.

**Lost Checks.** If you lose your check, please contact the nearest Dividend Information Office. You will be asked to complete a Request for Stop Payment form. If the check has not been cashed, it will be reissued.

**Applicants Who Die.** If an eligible Alaskan dies after completing a timely filed application, their dividend check belongs to the estate and may be cashed by an heir. However, an heir may not apply for someone who died before signing their application. You may contact a Dividend Information Office for further information.

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ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**HANDOUT FOR HB 4 TESTIMONY**  
As of January 23, 1995

**Background**

On December 16, 1993 in *Zeiler vs the State of Alaska (Case #3AN-92-1567 Civil)* Alaska Superior Court Judge Dana Fabe ruled that 15 AAC 23.163(c)(15) and its predecessor regulations have been invalid since January 1, 1992, the effective date of an amendment to the Permanent Fund Dividend statutes. That amendment was intended to ensure the nonresidency of an individual's spouse would not inappropriately impact the eligibility of an Alaskan living in state or an Alaskan on his or her own allowable absence. Unfortunately, as Judge Fabe concluded, the technical language of the statutory amendment, in combination with how residency is defined in the Permanent Fund Dividend statutes, had the inadvertent effect of no longer allowing the spouses of eligible Alaskans accompanying their spouse on an absence to "piggyback" their eligibility on their spouse's eligibility.

In January 1994 Representative Sean Parnell, with the Department's strong support, introduced House Bill (HB) 392. This legislation would have reinstated the eligibility of those historically eligible Alaskan spouses and would have made the technical changes necessary to correct the problem prospectively. This legislation passed the Alaska State House of Representatives 31-7. In the last hour of the legislative session the Alaska State Senate passed an amended version of HB 392 on a vote of 20-0. Unfortunately, in the final minutes before adjournment, the House did not consider the amended bill and the legislation died. Consequently, the invalidated "piggyback" absence was *not* reinstated and Alaskans who are "piggybacking" on their spouse's allowable absence are currently not eligible for a dividend.

**Applicants Affected**

The court decision impacted 1992, 1993 and 1994 applicants. By the time the court rendered a decision, virtually all 1992 and 1993 applications had been paid. After consultations with the Department of Law, the Department decided not to assess 1992 and 1993 "piggybacking" spouses who had already been paid. However, there were some 1992 and 1993 "piggybacking" spouses who had appealed denials issued for other reasons. In those cases, when the Department determined that an applicant was incorrectly denied for the other reason and overturned the denial, it still could not issue a dividend because the applicants' absence was no longer an allowable absence. Consequently, the Division has held off issuing those appeals decisions until such time as the legislature has had an opportunity to consider corrective legislation.

Since no 1994 dividends had been issued by the time the 1994 legislative session adjourned, the Department issued denials to 2,178 "piggybacking" spouses who had been absent more than 180 days during the qualifying year. Although the Department made

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**HANDOUT FOR HB 4 TESTIMONY**

As of January 23, 1995

a concerted effort to identify all "piggybacking" spouses absent 180 days or less that qualified for the general discretionary allowable absence under 15 AAC 23.163(c)(16), relatively few meet the criteria. Consequently, the Department denied another 512 spouses who were absent from 91 to 180 days during the qualifying year. In all cases the Department explained the reason for the denial was based on the invalidation of the "piggyback" allowable absence and that the Department had sought and was intending to seek corrective legislation. In conjunction with these denials, the Department gave all denied "piggybacking" spouses who were sponsoring children the opportunity to have the sponsorship of their children switched to their spouse. While many took advantage of that opportunity, some did not. Consequently, some children sponsored by denied "piggybacking" spouses were denied when the Department denied all children without an eligible sponsor.

The Department strongly supports legislation to correct this problem. In anticipation of legislation to retroactively and prospectively reinstate the historically allowable "piggyback" absence for spouses of residents, the PFD Division's Dividend Appeals Unit has placed a hold on all pertinent timely file informal conference appeals until such time as the legislature has had an opportunity to consider corrective legislation. If the law is retroactively changed, the *only* reason an applicant was ineligible was because of the original invalidation of the regulation, and the applicant has an timely filed appeal pending, the Department will overturn the applicant's denial. If not, the Dividend Appeals Unit will be required to uphold the denial of those applications.

The Department of Law has advised the Department that there is some question as whether Section 1 of this legislation as drafted will actually reinstate the "piggyback allowable absence. As was the case with the invalidated regulation, this section leaves allowable absences defined as a component of state residency. However, AS 43.23.015(a) does not allow the residency of an individual's spouse to be the principal factor in determining the residency of an applicant. Consequently, the same conflicting relationship that existed with the regulation would exist between two statutes.

**Recommendation**

This conflict can be eliminated by moving allowable absences from the definition of state resident and placing it in a new section that describes allowable absences as an eligibility criteria. Sections 1-3 of the attached Proposed CS for House Bill No. 4 (STA) would accomplish this.

Section 2 of HB 4 allows piggybacking spouses until September 1, 1995 to apply for 1994 and 1995 dividends for themselves or their sponsored children. While the Department denied 2,690 "piggybacking" spouses a 1994 dividend, the department had

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**HANDOUT FOR HB 4 TESTIMONY**

As of January 23, 1995

only received 1,373 appeals as of December 31, 1994. This provision would allow up to 1,317 "piggybacking" spouses to reapply for a 1994 dividend. The fiscal note assumes that by June 30, 1995 the Division will mail each denied 1994 "piggybacking" spouse a letter advising them of the change in the law along with a request to reapply application.

Section 5 of the Proposed CS for House Bill No. 4 (STA) would allow 1994 applicants the opportunity to appeal their denial until September 1, 1995. Instead of mailing denied applicant another application, the Department would mail them an appeal form. This would avoid additional processing of duplicate applications.

For the 1995 Dividend, the Department advised "piggybacking" spouses of the invalidation of their allowable absence. However, as reflected on the attached copy of the back of the 1995 application as well as page 2 of the 1995 Household Application booklet, the instructions advised "piggybacking" spouses to apply if they were otherwise eligible.

Section 4 of the Proposed CS for House Bill No. 4 (STA) would effectively reinstate the "piggyback" allowable absence beginning January 1, 1992, the effective date of the invalidation of the regulation. This would allow the Department to pay those 1992 and 1993 pended appeals from "piggybacking" spouses who are otherwise eligible.

*Attachments*

**PROPOSED CS FOR HOUSE BILL NO. 4 (STA)**

IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:  
Referred:

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to absences from the state for purposes of determining eligibility for  
2 the permanent fund dividend program; and providing for an effective date."

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

4 \* Section 1. AS 43.23.005(a) is amended to read:

5 (a) An individual is eligible to receive one permanent fund dividend each  
6 year in an amount to be determined under AS 43.23.025 if the individual

7 (1) [THE INDIVIDUAL] applies to the department;

8 (2) [ON THE DATE OF APPLICATION THE INDIVIDUAL] is a  
9 state resident on the date of application;

10 (3) [THE INDIVIDUAL] was a state resident for at least the  
11 calendar year immediately preceding January 1 of the current dividend year;

12 (4) [THE INDIVIDUAL] has been physically present in the state  
13 at some time during the prior two calendar years before the current dividend  
14 year; [AND]

15 (5) [THE INDIVIDUAL] is

16 (A) a citizen of the United States;

- 1 (B) an alien lawfully admitted for permanent residence in  
2 the United States;  
3 (C) an alien with refugee status under federal law; or  
4 (D) an alien that has been granted asylum under federal  
5 law: and

6 (6) was, during the entire period described in (3) of this  
7 subsection, present in the state or, if absent, was absent only as allowed  
8 in AS 43.23.008.

9 \* Sec. 2. AS 43.23 is amended by adding a new section to read:

10 Sec. 43.23.008. ALLOWABLE ABSENCES. An otherwise eligible  
11 individual who is absent from the state during the calendar year immediately  
12 preceding the current dividend year remains eligible for the dividend if the  
13 individual was absent for

14 (1) vocational, professional, or other specific education for which  
15 a comparable program was not reasonably available in the state;

16 (2) secondary or postsecondary education;

17 (3) military service;

18 (4) medical treatment;

19 (5) service in congress;

20 (6) service in the peace corps;

21 (7) other reasons which the commissioner may establish by  
22 regulation; or

23 (8) accompanying another eligible resident who is absent for a  
24 reason permitted under this section as the spouse, minor dependent, or  
25 disabled dependent of the eligible resident.

26 \* Sec. 3. AS 43.23.095 is amended to read:

27 Sec. 43.23.095. DEFINITIONS. In this chapter,

28 (1) "Alaska permanent fund" means the fund established by art.  
29 IX, sec. 15 of the state constitution;

1 (2) [REPEALED

2 (3) REPEALED

3 (4)] "disabled" means physically or mentally unable to complete  
4 and sign an application due to a serious emotional disturbance, visual,  
5 orthopedic, or other health impairment, or developmental disability that is  
6 attributable to mental retardation, cerebral palsy, epilepsy, autism or other  
7 cause; "disabled" does not mean "incompetent";

8 (3) [(5)] "dividend fund" means the fund established by  
9 AS 43.23.045;

10 (4) [(6)] "individual" means a natural person;

11 (5) [(7)] "permanent fund dividend" means a right to receive a  
12 payment from the dividend fund;

13 (6) [(8)] "state resident" means an individual who is physically  
14 present in the state with the intent to remain permanently in the state under the  
15 requirements of AS 01.10.055 or, if the individual is not physically present in the  
16 state, maintains and demonstrates at all times an intent [INTENDS] to return  
17 to the state to [AND] remain permanently in the state under the requirements  
18 of AS 01.10.055 [, AND IS ABSENT ONLY FOR ANY OF THE FOLLOWING  
19 REASONS:

20 (A) VOCATIONAL, PROFESSIONAL, OR OTHER  
21 SPECIFIC EDUCATION FOR WHICH A COMPARABLE PROGRAM  
22 WAS NOT REASONABLY AVAILABLE IN THE STATE;

23 (B) SECONDARY OR POSTSECONDARY EDUCATION;

24 (C) MILITARY SERVICE;

25 (D) MEDICAL TREATMENT;

26 (E) SERVICE IN CONGRESS;

27 (F) OTHER REASONS WHICH THE COMMISSIONER  
28 MAY ESTABLISH BY REGULATION; OR

29 (G) SERVICE IN THE PEACE CORPS;

1 (9) "YEAR" MEANS A CALENDAR YEAR].

2 \* Sec. 4. PERMANENT FUND DIVIDENDS FOR CERTAIN SPOUSES AND  
3 DEPENDENTS. Notwithstanding the provision in AS 43.23.015(a) that the residency  
4 of an individual's spouse may not be the principal factor relied upon in determining the  
5 residency of the individual, an otherwise eligible individual who applied for a 1992,  
6 1993 or 1994 permanent fund dividend within the time prescribed by law is eligible for  
7 the dividend even if the individual was absent from the state while accompanying as  
8 the spouse, minor dependent, or disabled dependent another person who was absent  
9 for a reason permitted under former AS 43.23.095(8) and was eligible for that dividend.

10 \* Sec. 5. APPEAL PERIOD. Notwithstanding permanent fund dividend appeal  
11 procedures or deadlines established by law or regulation, an individual or the parent,  
12 guardian, or authorized representative of a minor who qualified for the 1994 dividend  
13 because of AS 43.23.008(8) enacted in sec. 2 of this Act, may appeal a denial of a  
14 1994 dividend by September 1, 1995. The Department of Revenue shall prepare a  
15 form for appeal under this section.

16 \* Sec. 6. This Act take effect immediately under AS 01.10.070(c).

17 \* Sec. 7. Sections 1 - 3 of this Act are retroactive to January 1, 1995.

**Follow the directions which precede each set of questions. Failure to follow directions will cause a delay in the processing of your application.**

Answer questions 14-17C ONLY if you answered NO to question 5.

**Please Print Clearly!**

14. Your Name as it Appears on Your Birth Certificate (See page 4, #14) First Name   M.I.   Last Name			15. State of Birth	16. Sex <input type="checkbox"/> M <input type="checkbox"/> F
17A. If married, enter your spouse's name First Name   M.I.   Last Name		17B. Spouse's Birth Date Month   Day   Year	17C. Spouse's Social Security Number	

Answer question 18 ONLY if you answered NO to questions 5 or 6 or answered YES to 7A or 7B.

18. Where Do You Physically Live? ( Street Address or Physical Location - do not list a Post Office Box number)

Answer questions 19-21B ONLY if you answered NO to question 6 or answered YES to question 7A or 7B.

19. List the dates and the number of days you were gone from Alaska in 1994. If you left prior to January 1, 1994, enter the date you actually departed. Circle the reason(s) you were absent for each absence. Attach additional sheets as needed for explanation.

Circle only one absence reason per line from list below	Left	Returned	# of Days	Explanation
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____
A B C D E F G H J K L	___/___/___	___/___/___	_____	_____

( ) Total # of Days during 1994 you were absent.

**Absence Reasons Codes**

- A. Accompanying an eligible Alaska resident as the resident's spouse or disabled adult dependent. (See "FROM THE DIRECTOR" on Page 2 of the application booklet for an important notice.)
- |  |  |  |
|--|--|--|
| Name of Alaska Resident You Were With<br>First Name   M.I.   Last Name |  |  |
| Alaska Resident's Birth Date<br>Month   Day   Year                     |  | Alaska Resident's Social Security Number |
- B. Enrolled as a full-time student.  
 C. On active duty as a member of the U.S. Armed Forces.  
 D. Continuous medical treatment under a doctor's care. (Attach doctor's statement)  
 E. Service as a member of Alaska's congressional delegation or staff.  
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 G. Member of a U.S. National Athletic Team. (Attach confirmation)  
 H. As a requirement of employment by the State of Alaska.  
 J. Vacation.  
 K. Seeking employment or employed for a reason other than C, E, F or H. (Please explain)  
 L. Other reasons, including business. (Please explain)

20. A. Have you ever physically lived in Alaska as an adult resident for at least six consecutive months prior to the first absence listed in question 19? Yes  No
- B. If YES, please list the dates of the most recent six consecutive month period prior to the first absence listed in question 19.  
 From \_\_\_/\_\_\_/\_\_\_ through \_\_\_/\_\_\_/\_\_\_  
 Month Day Year Month Day Year
- 21A. Were you physically present in Alaska at some time during 1993 or 1994? Yes  No
- B. If YES, which year were you most recently in Alaska? 1993  1994
- If you were absent for more than 180 days in 1994, attach copies of supporting documents that show you were physically present at some time during 1993 or 1994. Examples of supporting documents can be found on page 5, line 21A-8 of the instructions.

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**BEING DEADLINE MARCH 31 1995**  
This deadline is set by the Department of Revenue.

**HB**

**4**

**SFIN**

**FILE**

# SENATE FINANCE COMMITTEE REPORT

REPORTED DATE OF  
5/06/96

DATE: 4/10/95

FURTHER: SFC

DATE TURNED INTO OFFICE: 5/06/96

The Finance Committee considered CS FOR HOUSE BILL NO. 4(STA)(title am)  
Permanent fund dividend eligibility, efd.

and recommends:

- be replaced with S CS CS HB 4 (FIN)
- adopt previous      CS      (    )
- attached amendment(s)
- adopt Letter of Intent by      Committee
- further referral to the      Committee

- Senate Bill:**
- same title
  - new title
- House Bill:**
- same title
  - technical change
  - new: SCR#

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
		<i>Steve King</i>	✓		
		<i>[Signature]</i>	✓		
		<i>[Signature]</i>	✓		
		<i>to be reviewed</i>	✓		
Co-Chair: <i>Rich Halford</i>	✓				
Co-Chair:					

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal
Revenue/PFD	1/24/96		14.8

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

Revision Date: 1/24/96 Dept. Affected: Revenue  
 Title: Permanent Fund Dividend Eligibility BRU: Permanent Fund Dividend Division  
 Component: Permanent Fund Dividend Division  
 Sponsor: Representative KOTT  
 Requestor: Senate Finance COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	9.8					
TRAVEL						
CONTRACTUAL						
SUPPLIES	5.0					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>14.8</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES ( )</b>						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other Permanent Fund Div. Fund	14.8					
<b>TOTAL</b>	<b>14.8</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY96) cost \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will reinstate the historically allowable "piggyback" absence, which the Superior Court determined was invalid effective January 1, 1992.

There are approximately 7,000 applicants (spouses and children) for dividend years 1992, 1993, 1994, 1995, and 1996 who would qualify to have their files reactivated for an eligibility determination and possible dividend payment as a result of the passage of HB 4. See the attached detailed explanation.

Prepared by: Nancy A. Jones, Director Phone: 465-2323  
 Division: Permanent Fund Dividend Date: 1/24/96  
 Approved by Commissioner: [Signature] Date: 1/24/96  
 Agency: Department of Revenue

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ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION

**FISCAL ANALYSIS OF SCS CSHB 4**

As of January 24, 1996

We estimate that 7,000 applicants, 4,500 applicants in years 1992 through 1995, and 2,500 who may apply in 1996, who have been denied a dividend would be made eligible by passage of SCS CSHB 4.

We will determine potentially payable individuals for dividend years 1992 through 1995 by redetermining their eligibility. These applicants have already been denied. Applicants filing during the current year, 1996, will be flagged for special processing; there will be no incremental cost to process the 1996 applications.

The applications will fall into three basic categories: 1) applicants eligible in all other respects, 2) applicants who must supply additional information before their applications are complete, and 3) applicants who have other items that need verification and review in order to determine eligibility. One hundred percent of the applicants in category one can be paid as soon as the bill passes and is signed into law. Applicants in category two may be denied, or may pass into category three once the missing information is supplied.

It will take an estimated four months (120 days) to process the 1992 through 1995 applications. Staff utilized on this project will have to work overtime in order to mitigate the backlog that will be created by this legislation. The estimated cost for this overtime is \$9,753. Costs for special forms, envelopes, and postage make up the balance of the cost of processing these applications at \$5,047.

5/6/96 Sen Sharp moved  
w/o objection  
adopted

WORK DRAFT

WORK DRAFT

WORK DRAFT

Sen. Halford's  
conceptual amend.  
to include 1/1/98 sunset.  
Adopted.

9-LS0036N  
Cook  
5/6/96

SENATE CS FOR CS FOR HOUSE BILL NO. 4(FIN)  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES KOTT, Mulder, Robinson

SENATORS Leman, Taylor

Tom will  
take care  
of w/ legal

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to absences from the state for the purposes of permanent  
2 fund dividend eligibility and receipt of a dividend; relating to the following  
3 allowable absences: receiving secondary or postsecondary education on a full-  
4 time basis, receiving vocational, professional, or other specific education on a  
5 full-time basis for which a comparable program is not reasonably available in  
6 the state, serving on active duty as a member of the armed forces of the  
7 United States, receiving certain medical treatment, accompanying a minor who  
8 is receiving certain medical treatment, providing care for a parent, spouse,  
9 sibling, child, or stepchild with a life-threatening illness who is being treated at  
10 a medical specialty complex outside the state, providing care for a terminally  
11 ill parent, spouse, sibling, child, or stepchild, settling the estate of a deceased  
12 parent, spouse, sibling, child, or stepchild, serving as a member of the Congress,

1 serving on the staff of a member of the Congress from this state, serving in  
2 the Peace Corps, serving as an employee of the state, actively participating on  
3 a United States national athletic team, accompanying another eligible resident as  
4 the spouse, minor dependent, or disabled dependent of the eligible resident, and  
5 for any reason consistent with the individual's intent to remain a resident;  
6 requiring, for the purposes of permanent fund dividend eligibility, an individual  
7 who is not physically present in the state to maintain and demonstrate at all  
8 times an intent to return to the state to remain permanently; relating to the  
9 eligibility for 1992, 1993, 1994, 1995, and 1996 permanent fund dividends of  
10 certain spouses and dependents of eligible applicants; and providing for an  
11 effective date."

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

13 \* Section 1. AS 43.23.005(a) is amended to read:

14 (a) An individual is eligible to receive one permanent fund dividend each year  
15 in an amount to be determined under AS 43.23.025 if the individual

16 (1) [THE INDIVIDUAL] applies to the department;

17 (2) [ON THE DATE OF APPLICATION THE INDIVIDUAL] is a  
18 state resident on the date of application;

19 (3) [THE INDIVIDUAL] was a state resident for at least the calendar  
20 year immediately preceding January 1 of the current dividend year;

21 (4) [THE INDIVIDUAL] has been physically present in the state at  
22 some time during the prior two calendar years before the current dividend year; [AND]

23 (5) [THE INDIVIDUAL] is

24 (A) a citizen of the United States;

25 (B) an alien lawfully admitted for permanent residence in the  
26 United States;

27 (C) an alien with refugee status under federal law; or

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(D) an alien that has been granted asylum under federal law;

and

(6) was, during the entire period described in (3) of this subsection, present in the state or, if absent, was absent only as allowed in AS 43.23.008.

\* Sec. 2. AS 43.23 is amended by adding a new section to read:

Sec. 43.23.008. ALLOWABLE ABSENCES. (a) Subject to (b) of this section, an otherwise eligible individual who is absent from the state during the calendar year immediately preceding the current dividend year remains eligible for the dividend if the individual was absent

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

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

(3) serving on active duty as a member of the armed forces of the United States;

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

(5) accompanying a minor who is absent under (4) of this subsection;

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

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

(8) serving as a full-time volunteer in the Peace Corps;

(9) serving as an employee of the state in a field office or otherwise;

(10) actively participating on a United States national athletic team as an eligible athlete as evidenced by a document provided by the international federation or national governing body for that nonprofessional sport;

(11) accompanying another eligible resident who is absent for a reason permitted under this subsection as the spouse, minor dependent, or disabled dependent of the eligible resident;

(12) for any reason consistent with the individual's intent to remain a

1 state resident, provided the absence or cumulative absences do not exceed

2 (A) 180 days if the individual is not claiming an absence under  
3 (1) - (11) of this subsection;

4 (B) 120 days in addition to any absence or cumulative absences  
5 claimed under (1) or (2) of this subsection if the individual is not claiming any  
6 absence under (3) - (11) of this subsection; or

7 (C) 45 days in addition to any absence or cumulative absences  
8 claimed under (1) - (11) of this subsection.

9 (b) An individual who is otherwise eligible, and who is absent for more than  
10 180 days during the calendar year immediately preceding January 1 of the current  
11 dividend year, remains eligible for the dividend only if the individual was a resident  
12 of the state for at least six consecutive months immediately before leaving the state.

13 \* Sec. 3. AS 43.23 is amended by adding a new section to read:

14 Sec. 43.23.008. ALLOWABLE ABSENCES. (a) Subject to (b) of this  
15 section, an otherwise eligible individual who is absent from the state during the  
16 calendar year immediately preceding the current dividend year remains eligible for the  
17 dividend if the individual was absent

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

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

22 (3) serving on active duty as a member of the armed forces of the  
23 United States;

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

27 (5) accompanying a minor who is absent under (4) of this subsection;

28 (6) providing continuous care, for a period not to exceed 24 consecutive  
29 months, for a parent, spouse, sibling, child, or stepchild with a critical life-threatening  
30 illness whose treatment plan, as recommended by the attending physician, requires  
31 travel outside the state for treatment at a medical specialty complex;

1 (7) providing continuous care, for a period not to exceed 24 consecutive  
2 months, for the individual's terminally ill parent, spouse, sibling, child, or stepchild;

3 (8) settling the estate of the individual's deceased parent, spouse,  
4 sibling, child, or stepchild for a period not to exceed 12 consecutive months;

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

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

8 (11) serving as a full-time volunteer in the Peace Corps;

9 (12) serving as an employee of the state in a field office or otherwise;

10 (13) actively participating on a United States national athletic team as  
11 an eligible athlete as evidenced by a document provided by the international federation  
12 or national governing body for that nonprofessional sport;

13 (14) accompanying another eligible resident who is absent for a reason  
14 permitted under this subsection as the spouse, minor dependent, or disabled dependent  
15 of the eligible resident;

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

18 (A) 180 days if the individual is not claiming an absence under  
19 (1) - (14) of this subsection;

20 (B) 120 days in addition to any absence or cumulative absences  
21 claimed under (1) or (2) of this subsection if the individual is not claiming any  
22 absence under (3) - (14) of this subsection; or

23 (C) 45 days in addition to any absence or cumulative absences  
24 claimed under (1) - (14) of this subsection.

25 (b) An individual who is otherwise eligible, and who is absent for more than  
26 180 days during the calendar year immediately preceding January 1 of the current  
27 dividend year, remains eligible for the dividend only if the individual was a resident  
28 of the state for at least six consecutive months immediately before leaving the state.

29 \* **Sec. 4.** AS 43.23 is amended by adding a new section to read:

30 **Sec. 43.23.009. DIVIDENDS OF CERTAIN INDIVIDUALS WHO HAVE**  
31 **BEEN ABSENT.** (a) An individual eligible for the current year dividend may not

1 receive payment of that dividend until the individual meets the requirements of (b) of  
2 this section if the individual has been

3 (1) eligible for at least the three consecutive permanent fund dividends  
4 immediately preceding the current dividend year; and

5 (2) absent from the state for at least 181 days during each of the four  
6 calendar years immediately preceding the current dividend year.

7 (b) An individual for whom payment of a dividend has been withheld under  
8 (a) of this section may receive payment only when the individual

9 (1) has been physically present in the state for a subsequent calendar  
10 year, except that during that year the individual may have been absent for up to 90  
11 days; and

12 (2) is otherwise eligible for the dividend declared for the year  
13 immediately following the year that satisfies the requirements of (1) of this subsection.

14 (c) If, before receiving payment of a prior year dividend under (b) of this  
15 section, an individual fails to apply or qualify for a dividend for a subsequent year, the  
16 individual becomes ineligible for the prior year dividend.

17 (d) If an individual who is eligible for a dividend but has not received it dies  
18 before satisfying the requirements of (b)(1) and (2) of this section, the department shall  
19 pay the dividend to the appropriate person on behalf of the estate of the individual.

20 \* Sec. 5. AS 43.23.095(8) is amended to read:

21 (8) "state resident" means an individual who is physically present in the  
22 state with the intent to remain permanently in the state under the requirements of  
23 AS 01.10.055 or, if the individual is not physically present in the state, maintains and  
24 demonstrates at all times an intent [INTENDS] to return to the state to [AND]  
25 remain permanently in the state under the requirements of AS 01.10.055 [, AND IS  
26 ABSENT ONLY FOR ANY OF THE FOLLOWING REASONS:

27 (A) VOCATIONAL, PROFESSIONAL, OR OTHER SPECIFIC  
28 EDUCATION FOR WHICH A COMPARABLE PROGRAM WAS NOT  
29 REASONABLY AVAILABLE IN THE STATE;

30 (B) SECONDARY OR POSTSECONDARY EDUCATION;

31 (C) MILITARY SERVICE;

- 1 (D) MEDICAL TREATMENT;  
2 (E) SERVICE IN CONGRESS;  
3 (F) OTHER REASONS WHICH THE COMMISSIONER MAY  
4 ESTABLISH BY REGULATION; OR  
5 (G) SERVICE IN THE PEACE CORPS];

6 \* **Sec. 6. PERMANENT FUND DIVIDENDS FOR CERTAIN SPOUSES AND**  
7 **DEPENDENTS.** Notwithstanding the provision in AS 43.23.015(a) that the residency of an  
8 individual's spouse may not be the principal factor relied upon in determining the residency  
9 of the individual, regardless of appeal status, an otherwise eligible individual who applied for  
10 a 1992, 1993, 1994, 1995, or 1996 permanent fund dividend within the time prescribed by law  
11 is eligible for the dividend even if the individual was absent from the state while  
12 accompanying, as the spouse, minor dependent, or disabled dependent, another person who  
13 was absent for a reason permitted under AS 43.23.095(8) and was eligible for that dividend.

14 \* **Sec. 7. APPLICABILITY OF AS 43.23.009.** The provisions of AS 43.23.009, added in  
15 sec. 4 of this Act, apply only when determining eligibility for the 1999 dividend and for  
16 dividends thereafter.

17 \* **Sec. 8. CONFORMING ACTS.** If a version of House Bill 198 is adopted during the  
18 Second Regular Session of the Nineteenth Alaska State Legislature and enacted into law, secs.  
19 3 and 5 of this Act replace the amendment made to AS 43.23.095(8) in the enacted version  
20 of House Bill 198.

21 \* **Sec. 9.** Section 3 of this Act takes effect only if a version of House Bill 198 is adopted  
22 during the Second Regular Session of the Nineteenth Alaska State Legislature and enacted into  
23 law.

24 \* **Sec. 10.** Section 2 of this Act takes effect only if a version of House Bill 198 is not  
25 adopted during the Second Regular Session of the Nineteenth Alaska State Legislature and  
26 enacted into law.

27 \* **Sec. 11.** Sections 1, 4, 5, and 7 of this Act take effect January 1, 1997.

28 \* **Sec. 12.** Sections 6 and 8 - 10 of this Act take effect immediately under AS 01.10.070(e).

29 \* **Sec. 13.** If sec. 3 of this Act takes effect, it takes effect January 1, 1997.

30 \* **Sec. 14.** If sec. 2 of this Act takes effect, it takes effect January 1, 1997.

**SENATE CONCURRENT RESOLUTION NO.**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE FINANCE COMMITTEE**

**Introduced:**  
**Referred:**

**A RESOLUTION**

**1 Suspending Uniform Rules 24(c), 35, 41(b), and 42(e) of the Alaska State**  
**2 Legislature concerning House Bill No. 4, relating to the permanent fund dividend**  
**3 program.**

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

**5 That under Rule 54 of the Uniform Rules of the Alaska State Legislature, the**  
**6 provisions of Rules 24(c), 35, 41(b), and 42(e) of the Uniform Rules, regarding changes to the**  
**7 title of a bill, are suspended in consideration of House Bill No. 4, so that the title may be**  
**8 changed to read:**

**9 "An Act relating to absences from the state for the purposes of permanent fund dividend**  
**10 eligibility and receipt of a dividend; relating to the following allowable absences:**  
**11 receiving secondary or postsecondary education on a full-time basis, receiving vocational,**  
**12 professional, or other specific education on a full-time basis for which a comparable**  
**13 program is not reasonably available in the state, serving on active duty as a member of**  
**14 the armed forces of the United States, receiving certain medical treatment, accompanying**  
**15 a minor who is receiving certain medical treatment, providing care for a parent, spouse,**  
**16 sibling, child, or stepchild with a life-threatening illness who is being treated at a medical**

1 specialty complex outside the state, providing care for a terminally ill parent, spouse,  
2 sibling, child, or stepchild, settling the estate of a deceased parent, spouse, sibling, child,  
3 or stepchild, serving as a member of the Congress, serving on the staff of a member of  
4 the Congress from this state, serving in the Peace Corps, serving as an employee of the  
5 state, actively participating on a United States national athletic team, accompanying  
6 another eligible resident as the spouse, minor dependent, or disabled dependent of the  
7 eligible resident, and for any reason consistent with the individual's intent to remain a  
8 resident; requiring, for the purposes of permanent fund dividend eligibility, an individual  
9 who is not physically present in the state to maintain and demonstrate at all times an  
10 intent to return to the state to remain permanently; relating to the eligibility for 1992,  
11 1993, 1994, 1995, and 1996 permanent fund dividends of certain spouses and dependents  
12 of eligible applicants; and providing for an effective date."

**OVERVIEW OF DRAFT SCS CSHB 4 (FIN) [9-LS00361N]**

As of May 6, 1996

**Provisions the same as CSHB 4 (STA) (title am)**

1. Reinstates the piggybacking spouse absence, retroactive to 1992 (**Sec. 6**).
2. Removes allowable absences from the definition of state resident and places them in a new section pertaining to eligibility (**Secs. 1, 3 & 5**).

**Provisions different from CSHB 4 (STA) (title am)**

3. Eliminates Commissioner's ability to adopt new absences by regulation.
4. Retains all other allowable absences currently in statute or regulation (**Sec. 2**).
5. Replaces the phrase "military service" with "armed forces" to ensure that only service in the five branches of the armed forces (Army, Navy, Air Force, Marines and Coast Guard) qualify as an allowable absence. Will reinforce that service in the US Public Health Service and NOAA officer corps was not originally intended to be an allowable absence (**Sec. 2**).
6. Adds to statute the current regulatory requirement that an individual must have been a state resident for 6 months immediately before departing on an allowable absence of more than 180 days (**Sec. 2**).
7. Adds a "no-pay-till-stay" provision that requires the PFD Division to withhold payment of a dividend of any otherwise eligible resident who has been absent for more than 180 days in for the fourth qualifying year in a row until the resident returns to the state and lives for a year without being absent for more than 90 days (**Sec. 4**). This provision
  - a. will not be effective until the 1999 dividend (**Sec. 7**); and
  - b. allows students to receive their dividends while attending college and armed forces personnel will receive their dividend during a least one tour of duty without waiting.
8. Incorporates the allowable absences of HB 198 into the amendments made by this act should HB 198 be enacted (**Secs. 3, 8, 9 & 10**).

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION  
**ALLOWABLE ABSENCES FOR PERMANENT FUND DIVIDEND ELIGIBILITY**  
**AS 43.23.095(8) and 15 AAC 23.163**

**Problems**

- Selective and exclusionary allowances creates inequities
- Millions of dollars leave the Alaskan economy
- Allowances are expensive to administer
- Constant requests for additional allowable absences

**Suggested Solutions**

**I. No allowable absences.** (must be physically present in the state for 185 days annually)

- |        |  |
|--------|--|
| Year 1 | ● Increase to Alaskan economy - \$9.3m - (see chart pg. 2) |
|        | ● Increase in amount of annual dividend payout             |
| Year 2 | ● Decrease in operating costs - \$30k - 50k                |
| Year 3 | ● Decrease in PFD staff - 8 PFT - \$340k                   |

**II. No allowable absences except medical.** (see chart pg. 2)  
(continuous medical treatment. minimum weekly doctor's visits)

- |        |  |
|--------|--|
| Year 1 | ● Increase to Alaskan economy - \$9.2m         |
|        | ● Increase in amount of annual dividend payout |
| Year 2 | ● Decrease in operating costs - \$30k - 50k    |
| Year 3 | ● Decrease in PFD staff - 8 PFT - \$340k       |

**III. No allowable absences except education.** (see chart pg. 2)  
(attending secondary or postsecondary school as a full-time student)

- |        |  |
|--------|--|
| Year 1 | ● Increase to Alaskan economy - \$5.7m         |
|        | ● Increase in amount of annual dividend payout |
| Year 2 | ● Decrease in operating costs - \$15k - 20k    |
| Year 3 | ● Decrease in PFD staff - 4 PFT - \$170k       |

ALASKA DEPARTMENT OF REVENUE  
PERMANENT FUND DIVIDEND DIVISION

FISCAL ANALYSIS OF SCS CSHB 4

As of January 24, 1996

We estimate that 7,000 applicants, 4,500 applicants in years 1992 through 1995, and 2,500 who may apply in 1996, who have been denied a dividend would be made eligible by passage of SCS CSHB 4.

We will determine potentially payable individuals for dividend years 1992 through 1995 by redetermining their eligibility. These applicants have already been denied. Applicants filing during the current year, 1996, will be flagged for special processing; there will be no incremental cost to process the 1996 applications.

The applications will fall into three basic categories: 1) applicants eligible in all other respects, 2) applicants who must supply additional information before their applications are complete, and 3) applicants who have other items that need verification and review in order to determine eligibility. One hundred percent of the applicants in category one can be paid as soon as the bill passes and is signed into law. Applicants in category two may be denied, or may pass into category three once the missing information is supplied.

It will take an estimated four months (120 days) to process the 1992 through 1995 applications. Staff utilized on this project will have to work overtime in order to mitigate the backlog that will be created by this legislation. The estimated cost for this overtime is \$9,753. Costs for special forms, envelopes, and postage make up the balance of the cost of processing these applications at \$5,047.

# FISCAL NOTE

No.   1    
 Bill Version:   HB 4    
 (H) Publish Date:   2/1/95  

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date:   1/25/95   Dept. Affected:   Department of Revenue    
 Title:   Permanent Fund Dividend Eligibility   BRU:   Permanent Fund Dividend Division    
 Component:   Permanent Fund Dividend Division    
 Sponsor:   Representative KOTT    
 Recuester:   House State Affairs   COMPONENT SERIAL NO.   981  

### Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

### FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$   0.6  

### POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill attempts to reinstate the historically allowable "piggyback" absence, which the Superior Court determined was invalid effective January 1, 1992.

This fiscal note assumes that by June 30, 1995 the Division will mail each of the 1,317 denied 1994 "piggybacking" spouse a letter advising them of the change in the law along with a request to reapply application.

Prepared by:   Thomas C. Williams, Director   Phone:   465-2323    
 Division:   Permanent Fund Dividend Division   Date:   1/25/95    
 Approved by Commissioner:   [Signature]   Date:   1/25/95    
 Agency:   Department of Revenue  

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# SENATE COMMITTEE REPORT

DATE: 3/30/95

FURTHER: Finance

DATE TURNED INTO OFFICE: \_\_\_\_\_

Judiciary Committee considered CS FOR HOUSE BILL NO. 4(STA)(title am)

Permanent fund dividend eligibility; efd.

PH 4/10/95

and recommends:

be replaced with \_\_\_\_\_ CS \_\_\_\_\_ ( )

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ ( )

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# \_\_\_\_\_

SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Linda Green</i>	✓	<i>all class</i>	✓		
<i>Mike Miller</i>	✓				
CHAIR: <i>Jim Taylor</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date      Zero / Fiscal

<i>Revenue</i>	<i>1/25/95</i>	✓	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

→			

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# SENATE COMMITTEE REPORT

DATE: 3/7/95

FURTHER: Judiciary  
Finance

DATE TURNED INTO OFFICE: 3/29/95

State Affairs Committee considered CSHB 4(STA)(title am)

Permanent fund dividend eligibility relating to appeal periods for certain 1994 permanent fund dividends; efd.

*P H & F*

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:

- same title
- new title
- House Bill:
- same title
- technical change
- new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Loren J. Lemmon</i> (3)	✓	<i>James Donley</i> (2)			✓
<i>Rebecca Wiley</i> (3)	✓	<i>[Signature]</i>	✓		
CHAIR: _____		<i>[Signature]</i>	✓		

**NEW FISCAL NOTE(S):**

Department                      Date      Zero      Fiscal


**PREVIOUS FISCAL NOTE(S):\***

Department                      Date      Zero      Fiscal

<i>REV. (14)</i>	<i>1/25</i>	✓	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

03/06/95

HOUSE JOURNAL

PAGE 0600

INTENT TO RETURN TO THE STATE TO REMAIN PERMANENTLY; RELATING TO THE ELIGIBILITY FOR 1992, 1993, AND 1994 PERMANENT FUND DIVIDENDS OF CERTAIN SPOUSES AND DEPENDENTS OF ELIGIBLE APPLICANTS; RELATING TO APPEAL PERIODS FOR CERTAIN 1994 PERMANENT FUND DIVIDENDS; AND PROVIDING FOR AN EFFECTIVE DATE."

REPRESENTATIVE VEZEY MOVED AND ASKED UNANIMOUS CONSENT THAT CSHB 4(STA)(TITLE AM) BE CONSIDERED ENGROSSED, ADVANCED TO THIRD READING AND PLACED ON FINAL PASSAGE. THERE BEING NO OBJECTION, IT WAS SO ORDERED.

CSHB 4(STA)(TITLE AM) WAS READ THE THIRD TIME.

\*\*THE PRESENCE OF REPRESENTATIVES FINKELSTEIN AND NAVARRE WAS NOTED.

THE QUESTION BEING: "SHALL CSHB 4(STA)(TITLE AM) PASS THE HOUSE?" THE ROLL WAS TAKEN WITH THE FOLLOWING RESULT:

YEAS: 38 NAYS: 0 EXCUSED: 2 ABSENT: 0

YEAS: AUSTERMAN, BARNES, BRICE, BROWN, BUNDE, B.DAVIS, G.DAVIS, ELTON, FINKELSTEIN, FOSTER, GREEN, GRUSSENDORF, HANLEY, IVAN, JAMES, KELLY, KOHRING, KOTT, KUBINA, MACKIE, MACLEAN, MARTIN, MASEK, MOSES, MULDER, NAVARRE, NICHOLIA, OGAN, PARNELL, PHILLIPS, PORTER, ROBINSON, ROKEBERG, SANDERS, THERRIALT, TOOHEY, VEZEY, WILLIS

EXCUSED: DAVIES, WILLIAMS

AND SO, CSHB 4(STA)(TITLE AM) PASSED THE HOUSE.

REPRESENTATIVE VEZEY MOVED AND ASKED UNANIMOUS CONSENT THAT THE ROLL CALL ON THE PASSAGE OF THE BILL BE CONSIDERED THE ROLL CALL ON THE

SELECTION=>

PF1	PF2	PF3	PF4	PF5	PF6	PF7	PF8	PF9	PF10	PF11	PF12
HELP		EXIT	MENU		PRINT	BWD	FWD		FIRST	LAST	QUIT

**HB**

**9**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)

Date Referred: January 30, 1995

FURTHER REFERRALS:

Date of Committee Action: 2/10/95

The FINANCE Committee considered:

HB 9

HOUSE BILL NO. 9

DAMAGE TO PROPERTY BY MINORS

"An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed by the minor."

recommends it be replaced with the following committee substitute CS HB 9 (Fin)  the same title  a new title

additional referral to \_\_\_\_\_ Committee  
 attached amendment(s)

ADOPTS: \_\_\_\_\_ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_ APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) AY Courts  fiscal note(s) \_\_\_\_\_

zero fiscal note(s) DOA  zero fiscal note(s) (2) DOA (2) HSS

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<u>Mark Hanley</u>	Hanley	X			
<u>John Muller</u>	Muller	X			
<u>Sean Parnell</u>	Parnell	X			
<u>Vic Kohring</u>	Kohring	X			
<u>Ben Grussendorf</u>	Grussendorf	X			
<u>Mike Navarre</u>	Navarre	X			
<u>Jan Brown</u>	Brown			X	
<u>Bob Kelly</u>	Kelly	X			
<u>Gene Theriault</u>	Theriault	X			

CHAIR'S SIGNATURE Mark Hanley

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 9

Revision Date: \_\_\_\_\_ Dept. Affected: Alaska Court System  
 Title: An Act relating to recovery of damages BRU: Trial Courts  
from a minor's parent of legal guardian Components: \_\_\_\_\_  
 Sponsor: Reps. Therriault, Porter  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	*	*	*	*	*	*

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

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY 95) cost: \$ None

ANALYSIS: (Attach a separate page if necessary)

\* - See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC* Phone: 264-8228  
 Agency: Alaska Court System Date: 01/27/95

Approved by: Arthur H. Snowden, II, Administrative Director *ASD* Date: 01/27/95  
 Agency: Alaska Court System

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**Alaska Court System  
Fiscal Analysis  
HB 9**

AS 34.50.020(a) provides that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in a civil action not to exceed \$2,000 from either parent or other person having legal custody of an unemancipated minor under the age of 18 year who maliciously or wilfully destroys real or personal property.

HB 9 makes two significant changes to this statute. First, the damage limit is raised from \$2,000 to \$10,000. Second, the requirement that a minor have acted maliciously or wilfully is eliminated, meaning that the parents or legal guardian are liable if the minor merely acted negligently.

These changes will result in an increase in case numbers and costs for several reasons. First, the bill makes parents liable not just for vandalism, but for any negligent act of their children. This will expand the field of potential cases. Second, the increase in the dollar amount which can be recovered will increase the field of potential cases. Third, the higher dollar amount means that many of these cases can now be brought in district court, rather than small claims court. This will increase court costs, because district court proceedings take more time, use more expensive district judges rather than magistrates, and give litigants the right to a jury.

Because of a lack of data, it is impossible to predict how this legislation will impact the court system. If case numbers and costs increase significantly, it will be necessary to return to the legislature at a later time for additional funding.

# FISCAL NOTE

No. 1  
 Bill Version: CSFB 9 (JUD)  
 (H) Publist Date: 1/30/95

STATE OF ALASKA  
 1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to recovery of damages from a BRU: Legal Services  
minor's parents or legal guardian..." Component: Operations  
 Sponsor: Representative Therrault COMPONENT SERIAL NO. 0093  
 Requester: Representative Therrault

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

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This bill amends AS 34.50 to provide that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in a civil action in an amount not to exceed \$10,000, plus court costs, from either parent or both parents or the legal guardian or person having legal custody of an unemancipated minor under the age of 18 years, who destroys real or personal property belonging to the above parties seeking recovery. Currently, the maximum amount that may be recovered is \$2,000. However, the bill also provides that a parent, legal guardian, or person having the legal custody of an unemancipated minor under the age of 18 years who is a runaway or missing minor would not be liable under the foregoing provision if the person having legal custody of the minor makes a report to a law enforcement agency, as authorized by AS 47.10.141 (a), that the minor has run away or is missing. This bill deals with the recovery of damages and, consequently, there will not be a fiscal impact for the Department of Law.

Prepared by: Richard I. Peques, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 1/23/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/23/95  
 Agency: Department of Law

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 2  
- Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Recovery From a Parent or Legal Guardian When Property Is Destroyed By The Minor  
Sponsor: Representative(s) Theriault, Porter  
Requestor: House (JUD)

Dept. Affected: Health and Social Services  
BRU: Purchased Services  
Component: Foster Care  
COMPONENT SERIAL NO. 252  
See also (SN#): 253

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
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)

002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts						
006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:  
FULL-TIME \_\_\_\_\_  
PART-TIME \_\_\_\_\_  
TEMPORARY \_\_\_\_\_

Estimate of any current year (FY95) cost: 50.0

ANALYSIS: Attach a separate page if necessary

There would be no program or fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director  
Division: Division of Family & Youth Services  
Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Phone: 465-3191  
Date: 01/23/95  
Date: 1-24-95

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STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 3  
Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: An Act Relating to Recovery From a Parent or Legal Guardian When Property Is Destroyed By The Minor  
Sponsor: Representative(s) Therriault, Porter  
Requestor: House (JUD)

Dept. Affected: Health and Social Services  
BRU: Purchased Services  
Component: Residential Child Care  
COMPONENT SERIAL NO. 253  
See also (SN#): 252

Expenditures/Revenues: (Thousands of Dollars)

	FY98	FY97	FY98	FY99	FY00	FY01
OPERATING						
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/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	
PART-TIME	
TEMPORARY	

Estimate of any current year (FY95) cost: 50.0

ANALYSIS: Attach a separate page if necessary)

There would be no program or fiscal impact for the Department if this bill were to become law.

Prepared by: Kathy Tibbles, Acting Director  
Division: Division of Family & Youth Services

Phone: 465-3191  
Date: 01/23/95

Approved by Commissioner: Karen Perdue, Commissioner  
Agency: Department of Health & Social Services

Date: 1-24-95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 4  
Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: "An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed...."  
Sponsor: Therriault, Porter  
Requestor: Therriault

Department Affected: Administration  
BRU: Office of Public Advocacy  
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

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

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 95) cost: \$ none

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	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.)

This bill has no fiscal impact on the Office of Public Advocacy.

Prepared by: Brant McGee, Director *Brant McGee*  
Division: Office of Public Advocacy

Phone: 274-1684  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Rover *Mark Rover 1/25/95*  
Agency: Department of Administration

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

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 5  
Bill Version: CSHB 9 (JUD)  
(H) Publish Date: 1/30/95

Revision Date: \_\_\_\_\_  
Title: "An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed...."  
Sponsor: Therriault, Porter  
Requestor: Therriault

Department Affected: Administration  
BRU: Public Defender Agency  
Component: Public Defender Agency  
COMPONENT SERIAL NO. 1631

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

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

CHANGE IN REVENUES ( )						
------------------------	--	--	--	--	--	--

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY 95) cost: \$ \_\_\_\_\_

**POSITIONS:**

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

This legislative proposal will have no fiscal impact on the Alaska Public Defender Agency.

Prepared by: John Salemi, Director *J. Salemi*  
Division: Public Defender Agency

Phone: 264-4412  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer *M. Boyer*  
Agency: Department of Administration

Date: 1/23/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. HB 9

Revision Date: \_\_\_\_\_  
 Title: "An Act Relating to Recovery of Damages to Property  
 by Minors...."  
 Sponsor: Therriault  
 Requestor: \_\_\_\_\_

Department Affected: Administration  
 BRU: Risk Management  
 Component: Risk Management  
 \_\_\_\_\_  
 COMPONENT SERIAL NO. 71

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

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>	0	0	0	0	0	0
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<b>CHANGE IN REVENUES ( )</b>	0	0	0	0	0	0
-------------------------------	---	---	---	---	---	---

**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 95) cost: \$ -0-

**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.)

There is no fiscal impact on the Division of Risk Management.

Prepared by: Brad Thompson  
 Division: Risk Management

Phone: 465-2180  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Department of Administration

Date: 1/30/95

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Am 1 Adopted  
Am 2 Adopted

Am

CS FOR HOUSE BILL NO. 9(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 1/30/95  
Referred: Finance

Sponsor(s): REPRESENTATIVES THERRIAULT, Porter, Green

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to recovery of damages from a minor's parent or legal guardian  
2 when property is destroyed by the minor, and to recovery from a minor's  
3 permanent fund dividend for injury or damage caused by the minor."

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

5 \* Section 1. AS 34.50.020(a) is amended to read:

6 (a) A person, municipal corporation, association, village, school district, or  
7 religious or charitable organization, incorporated or unincorporated, may recover  
8 damages in a civil action in an amount not to exceed \$10,000 [\$2,000] and court costs  
9 [,] from either parent or both parents or the legal guardian or person having the legal  
10 custody of an unemancipated minor under the age of 18 years [,] who, as a result of  
11 a knowing or intentional act, [MALICIOUSLY OR WILFULLY] destroys real or  
12 personal property belonging to the person, municipal corporation, association, village,  
13 school district, or religious or charitable organization.

14 \* Sec. 2. AS 34.50.020 is amended by adding a new subsection to read:

1 (c) A parent, legal guardian, or person having the legal custody of an  
2 unemancipated minor under the age of 18 years who is a runaway or missing minor  
3 is not liable under (a) of this section for the acts of the minor after the parent, legal  
4 guardian, or person having the legal custody of the minor makes a report to a law  
5 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away  
6 or is missing. In this subsection, "runaway or missing minor" means a minor whom  
7 the minor's parent, legal guardian, or legal custodian reasonably believes is absent from  
8 the minor's residence for the purpose of evading the minor's parent, legal guardian, or  
9 legal custodian, or who is otherwise missing from the minor's usual place of abode  
10 without the consent of the parent, legal guardian, or person having legal custody of  
11 the minor.

12 \* Sec. 3. AS 43.23.065(b) is amended to read:

13 (b) An exemption is not available under this section for permanent fund  
14 dividends taken to satisfy

15 (1) child support obligations required by court order or decision of the  
16 child support enforcement agency under AS 25.27.140 - 25.27.220;

17 (2) court ordered restitution under AS 12.55.045 - 12.55.051, 12.55.100,  
18 or AS 47.10.080(b)(4);

19 (3) claims on defaulted scholarship loans under AS 43.23.067;

20 (4) court ordered fines;

21 (5) writs of execution under AS 09.35 of a judgment that is entered

22 (A) against a minor in a civil action to recover damages;  
23 recovery under this subparagraph is limited to \$10,000 [~~\$2,000~~] and court costs,  
24 and may be obtained only when the judgment is based upon

25 (i) an act of the minor that is defined as a crime against  
26 a person under AS 33.30.901, that injured the plaintiff, and for which  
27 the minor was adjudicated a delinquent or convicted as an adult; or

28 (ii) the minor's intentional, or knowing injury of real or  
29 personal property of the plaintiff;

30 (B) under AS 34.50.020 against the parent, parents, legal  
31 guardian, or person having the legal custody of an unemancipated minor;

1 (6) a debt owed by an eligible individual to an agency of the state,  
2 unless the debt is contested and an appeal is pending, or the time limit for filing an  
3 appeal has not expired.

AMENDMENT 1

*Rep. Therrell*

OFFERED IN THE HOUSE  
TO: CSHB 9(JUD)

*Adopted*

- 1 Page 2, line 3, after "minor":
- 2       Insert "that are committed by the minor"
  
- 3 Page 2, line 4:
- 4       Delete "makes"
- 5       Insert "has made"

Adopted

AMENDMENT

OFFERED IN THE HOUSE

TO: CSHB 9(JUD)

1 Page 1, line 1:

2 Delete "minor's parent or legal guardian"

3 Insert "person having legal custody of a minor"

4 Page 1, lines 6 - 13:

5 Delete all material and insert:

6 "(a) A person, municipal corporation, association, village, school district, or  
7 religious or charitable organization, incorporated or unincorporated, may recover  
8 damages in a civil action in an amount not to exceed \$10,000 [\$2,000] and court costs  
9 [,] from a [EITHER PARENT OR BOTH PARENTS OR THE LEGAL GUARDIAN  
10 OR] person having the legal custody of an unemancipated minor under the age of 18  
11 years [,] who, as a result of a knowing or intentional act, [MALICIOUSLY OR  
12 WILFULLY] destroys real or personal property belonging to the person, municipal  
13 corporation, association, village, school district, or religious or charitable organization."

14 Page 2, line 1:

15 Delete "parent, legal guardian, or"

16 Page 2, lines 3 - 4:

17 Delete "the parent, legal guardian, or"

18 Insert "a"

19 Page 2, line 7:

20 Delete "the minor's parent, legal guardian, or legal custodian"

21 Insert "a person having the legal custody of the minor"

1 Page 2, lines 8 - 9:

2 Delete "the minor's parent, legal guardian, or legal custodian,"

3 Insert "a person having the legal custody of the minor,"

4 Page 2, line 10:

5 Delete "the parent, legal guardian, or"

6 Insert "a"

7 Page 2, lines 30 - 31:

8 Delete "the parent, parents, legal guardian, or"

9 Insert "a [THE PARENT, PARENTS, LEGAL GUARDIAN, OR]"

# Alaska State Legislature

REPRESENTATIVE  
GENE THERRIAU, LT

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(907) 488-0862  
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House District 33

## House Of Representatives

**HB 9:** "An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed by the minor."

**Sponsor:** Representative Gene Therriau *G.T.*

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### Sponsor Statement:

This victim's rights legislation, which updates a statute that has been on the books since 1957, is intended to encourage responsibility among parents and juveniles and to provide recourse for victims who have lost property. It is based on the principal that parents or legal guardians of juveniles who caused the damage are monetarily responsible for the loss. This legislation would increase the amount the victim may recover from \$2,000 to \$10,000, and bring Alaska more into line with the national average of \$10,000 to \$15,000.

The impetus for my interest in this bill is partly an incident that occurred last summer in which vandals caused approximately \$50,000 in damage to two schools in Fairbanks. Although the vandals were caught, the school district was able to recoup only a small fraction of its loss. This legislation would ensure that victims of property damage could recover a greater amount of their total loss.

The bill was amended by the Judiciary Committee to add the words "as a result of a knowing or intentional act," which limits liability to damages that were caused purposely, but includes unintentional damages that might be caused as a result of the intentional action.

The Committee also added a new section to incorporate the intent of House Bill 36. It updates the permanent fund dividend law that permits the taking of part or all of a dividend to satisfy a judgment. It increases the amount that can be recovered from a minor's permanent fund dividend for injury or damage caused by the minor from the current \$2,000 to \$10,000 to maintain the parallel recovery provision with the change being proposed in House Bill 9.

# Alaska State Legislature

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## House Of Representatives

### House Bill 9

#### Explanation of changes to CS for House Bill 9 (JUD)

- Section 1. Line 10** Adds the words "as a result of a knowing or intentional act" to limit liability to damages that were caused purposely, but to include unintentional damages that might be caused as a result of the intentional action. The original bill dropped the words "malicious and willful" because they are antiquated terms that lack definition in criminal law.
- Section 3. Line 12** This new section, which incorporates the intent of House Bill 36, was added to update the permanent fund dividend law that permits the taking of part or all of a dividend to satisfy a judgment. It increases the amount that can be recovered from a minor's permanent fund dividend for injury or damage caused by the minor from the current \$2,000 to \$10,000 to maintain the parallel recovery provision with the change being proposed in House Bill 9. Without this amendment, a victim could, arguably, recover up to \$10,000 from a parent's or guardian's dividend under subparagraph (B) but recover only \$2,000 from the dividend of the minor who caused the damage and who, under the law, would be required to make full restitution.

# Vandals hit two schools

## Luke, University Park damage may top \$50,000

By WENDY HOWER  
Staff Writer

Vandals poisoned a tank of fish, smashed vending machines, broke into classrooms and wreaked more than \$50,000 in damages at two public schools last weekend, Alaska State Troopers said.

The rampages at University Park Elementary School and Howard Luke Alternative Junior/Senior High School, both off Geist Road, were likely related, said 1st Sgt. Michael Corkill.

The break-ins took place between Saturday afternoon and 7 a.m. Monday—five weeks before the start of school.

It was probably teenagers who squirted red Hawaiian Punch juice concentrate onto carpeting, furniture and walls at University Park,

troopers said. They poured deadly ammonia into a fish aquarium, killing the fish, then sprayed library walls with permanent ink and discharged a fire extinguisher in the commons area.

They littered the gym floor with playing balls and dribbled liquid automobile tire sealant into a computer keyboard, hard drive and printer.

Across the street at Howard Luke, vandals smashed windows, pulled supplies out of cupboards and poured black paint and rubber cement onto the art room floor. With a baseball bat or another blunt tool, they broke off doorknobs on most classrooms and rummaged through teachers' desks.

The vandals stole speakers and

See VANDALS, Page A-7

## VANDALS: 2 schools hit

Continued from Page A-1

more than 40 compact discs, troopers and school staffers said. They bashed in a dozen or so windows. They cracked and ripped the framed photos of the school's namesake, Athabaskan elder Howard Luke.

"Bored little jerks with jerks for parents," said custodian Kathy Ferrell.

Troopers spotted bike tracks around both schools. They collected fingerprints and footprints at both schools but have no suspects yet, Corkill said. Two troopers are working on the case full time, he said.

"They were on a melee in there for quite some time," Corkill said. "We have some good physical evidence to work on."

At both schools, vandals overturned and smashed vending machines, stealing change and sodas inside. They spared the computer labs in both schools and also left TV sets, video cameras and stereos behind.

Fourth graders expressed shock and sadness as they wandered through the wreckage at Universi-

ty Park Monday afternoon.

"Everything's totally like bogus out there," said Christina Thompson, 8. "It's not the same school anymore."

Nine-year-old Andrew Page gasped when he heard about the poisoned fish.

"I wish they hadn't done this," he said.

School custodians had just finished cleaning the carpets at University Park on Friday. They began to sweep up glass and fire extinguisher chemicals on Monday.

"I get really disgusted. We work so hard and as custodians we take a lot of pride in cleaning our schools," said Dale Shelley, custodian. "To have something like this done, it's just, it's really a shock and angers us. Almost hard to put words to it."

Last week, vandals broke into West Valley High School and stole speakers, Corkill said. Troopers do not know whether the West Valley break-in was related.

Anyone with information about the vandalism should contact troopers at 452-2114.

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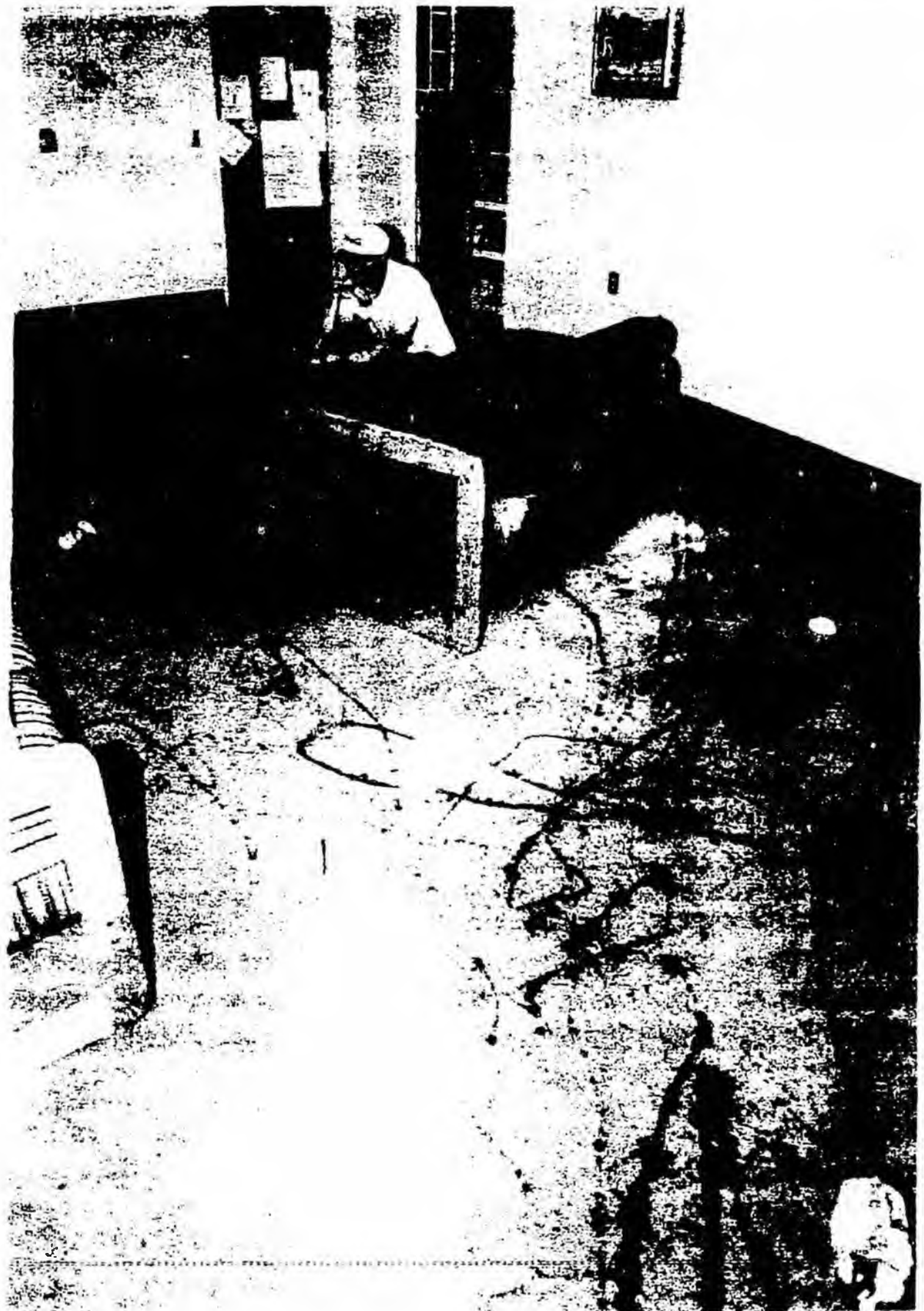
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**WEEKEND VANDALISM**—Mike Wason, a member of the carpet-cleaning crew, surveys the damage in the teacher's lounge at University Park Elementary School. Vandals poisoned a tank of fish, smashed vending machines, broke into classrooms, causing more than \$50,000 in damages at University Park and Howard Luke Alternative Junior/Senior High School.

**DIVISION OF LEGAL SERVICES  
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**MEMORANDUM**

January 25, 1995

**SUBJECT:** HB 9, relating to recovery of damages caused by minors -- sectional analysis (Work Order No. 9-LS0053\C)

**TO:** Representative Gene Therriault  
ATTN: Wilda Whitaker

**FROM:** Jack Chenoweth  
Legislative Council

The measure relates to the ability of the victim of an offense involving damage to property caused by a minor to recover for the damaged property.

Bill section 1, amending AS 34.50.020(a), would raise from \$2,000 to \$10,000 the amount of damages that the owner of real or personal property may recover in a civil action from the parent, parents, legal guardian, or person having the legal custody of an unemancipated minor when the minor has destroyed the property. Recovery is not contingent on a determination that the minor's destruction of the property was malicious or wilful.

Bill section 2, adding a new subsection, subsection (c), to AS 34.50.020, would preclude liability for the payment of property damage by the parent, parents, legal guardian, or person having the legal custody of the minor if the damage occurred while the minor was a runaway or was missing. The provision supplies a definition for the term "runaway minor."

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SECTIONAL ANALYSIS

# Alaska State Legislature

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House District 33

## House Of Representatives

### Explanation of Proposed Amendment House Bill 9

This would amend the permanent fund dividend law that permits the taking of part or all of a dividend to satisfy a judgment. It would increase the amount that can be recovered from a minor's permanent fund dividend for injury or damage caused by the minor from the current \$2,000 to \$10,000 to maintain the parallel recovery provision with the change being proposed in House Bill 9. Without this amendment, a victim could, arguably, recover up to \$10,000 from a parent's or guardian's dividend under subparagraph (B) but recover only \$2,000 from the dividend of the minor who caused the damage and who, under the law, would be required to make full restitution.



## ALASKA COUNCIL OF SCHOOL ADMINISTRATORS

326 Fourth St. Suite 404 Juneau AK 99801-1101 • (907) 586-9702 • (800) 478-9702 • FAX (907) 586-5279

### POSITION STATEMENT

#### HOUSE BILL # 9

"An Act relating to recovery of damages from a minor's parent or legal guardian when property is destroyed by a minor."

The Alaska Council of School Administrators supports House Bill #9.

Across Alaska, school administrators have had to deal directly with the vandalism caused by minors in school buildings. In specific incidence, minor vandals have broken into school buildings, destroyed computers, shattered windows, vandalized school laboratories, and sprayed paint on walls, lockers and floors.

ACSA supports the increase in the amount of recovered damages from \$2,000 to \$10,000. Schools across Alaska have equipped their computer laboratories, offices and individual classrooms with the most sophisticated equipment. This equipment is expensive. When it is destroyed it places a financial burden on the school district for the replacement of the destroyed equipment and furnishings. It is appropriate that the burden of responsibility be shifted to the appropriate level, the guilty minor and their parents or legal guardian.

These malicious acts of vandalism have spoiled the opportunities other children have to learn in a safe environment using the most modern tools available to them.

School districts and local tax payers make a determined effort to provide facilities and educational materials and equipment which enhances the learning environment. Communities hold with pride, the quality of facilities they have for educating their children. Districts do not budget for replacement of windows, furniture, and equipment which has been destroyed by acts of violence. When this equipment and facilities are damaged, it places a tremendous burden on an already tight school budget.

Our only recommended change in HB 9 would be to raise the amount available to be recovered to represent the true replacement costs for damages.

The responsibility for restitution must rest with the parents and legal guardians as well as the minor found guilty of such acts of vandalism.

Stephen T. McPhetres  
Executive Director

The terms "with criminal negligence," "recklessly," "knowingly," and "intentionally" are defined in Criminal Law AS 11.81.900. Each carries an increasingly severe punishment and requires a greater degree of evidence to prove, with "intentional" being the crime for which punishment is most severe.

The terms "malicious" and "wilful" are carry overs from common law days that pre-date the 1978 revision of the criminal code. The fact that they are not clearly set out in code makes them more difficult to prove.

## Sec. 11.81.640. Application of AS 11.81.600 — 11.81.630.

## NOTES TO DECISIONS

Cited in *Cole v. State*, 828 P.2d 175  
(Alaska Ct. App. 1992).

## Article 6. Definitions.

Section  
900. Definitions

**Sec. 11.81.900. Definitions.** (a) For purposes of this title, unless the context requires otherwise,

(1) a person acts "~~intentionally~~" with respect to a result described by a provision of law defining an offense when the person's conscious objective is to cause that result; when intentionally causing a particular result is an element of an offense, that intent need not be the person's only objective;

(2) a person acts "~~knowingly~~" with respect to conduct or to a circumstance described by a provision of law defining an offense when the person is aware that the conduct is of that nature or that the circumstance exists; when knowledge of the existence of a particular fact is an element of an offense, that knowledge is established if a person is aware of a substantial probability of its existence, unless the person actually believes it does not exist; a person who is unaware of conduct or a circumstance of which the person would have been aware had that person not been intoxicated acts knowingly with respect to that conduct or circumstance;

(3) a person acts "~~recklessly~~" with respect to a result or to a circumstance described by a provision of law defining an offense when the person is aware of and consciously disregards a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that disregard of it constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation; a person who is unaware of a risk of which the person would have been aware had that person not been intoxicated acts recklessly with respect to that risk;

(4) a person acts with "~~criminal negligence~~" with respect to a result or to a circumstance described by a provision of law defining an offense when the person fails to perceive a substantial and unjustifiable risk that the result will occur or that the circumstance exists; the risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that a reasonable person would observe in the situation.

(b) In this title, unless otherwise specified or unless the context requires otherwise,

(iii) overpaid contributions by employers to the unemployment compensation fund under AS 23.20.130;

(11) "last known address" means a description of the location of the apparent owner sufficient for the purpose of the delivery;

(12) "owner" means a depositor in the case of a deposit, a beneficiary in the case of a trust other than a deposit in trust, a creditor, claimant, or payee in the case of other intangible property, or a person having a legal or equitable interest in property subject to AS 34.45.110 — 34.45.780; the term includes a person's legal representative;

(13) "person" means an individual, business association, state, municipality or other government, including the United States government, subdivision or agency, public corporation, public authority, estate, trust, two or more persons having a joint or common interest, or other legal or commercial entity;

(14) "property" means personal property;

(15) "state" means a state, district, commonwealth, territory, insular possession, or other area subject to the legislative authority of the United States;

(16) "utility" means a person who owns or operates for public use a plant, equipment, property, franchise, or license for the transmission of communications or the production, storage, transmission, sale, delivery, or furnishing of electricity, water, steam, or gas. (§ 11 ch 133 SLA 1986; am § 1 ch 29 SLA 1988; am § 29 ch 100 SLA 1989)

*Editor's notes.* — This section is set out above to correct a typographical error in the main pamphlet.

## Chapter 50. Actions for Injuries to Property Interests.

### Section

#### 20. Liability for destruction of property by minors

**Liability for destruction of property by minors.** (a) A person, municipal corporation, association, village, school district, or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$2,000 and court costs, from either parent or both parents or the legal guardian or person having the legal custody of an unemancipated minor under the age of 18 years, who maliciously or wilfully destroys real or personal property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization.

(b) A state agency or its agents, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is not liable for the acts of unemancipated minors in its charge or custody. A state agency or an agent of a state agency, including a nonprofit corporation that designates shelters for runaways under AS 47.10.392 — 47.10.399 and employees of or volunteers with that corporation, is not liable for the acts of a minor sheltered in a shelter for runaways, as defined in AS 47.10.399. (§ 1 ch 98 SLA 1957; am § 1 ch 107 SLA 1967; am § 10 ch 33 SLA 1994)

**Effect of amendments.** — The 1994 added the second sentence in subsection amendment, effective August 6, 1994, (b).

## Chapter 55. Uniform Land Sales Practices Act.

### Section

#### 20. General powers and duties

**Sec. 34.55.020. General powers and duties.** (a) The department shall adopt regulations under the Administrative Procedure Act (AS 44.62). The regulations must include but not be limited to provisions for advertising standards to assure full and fair disclosure; provisions for escrow or trust agreements or other means reasonably to assure that all improvements referred to in the application for registration and advertising will be completed and that purchasers will receive the interest in land contracted for; provisions for operating procedures; and other provisions as are necessary and proper to accomplish the purpose of this chapter.

(b) The department, by regulation or by an order, after notice and hearing, may require the filing of advertising material relating to subdivided land before its distribution.

(c) If it appears that a person has engaged or is about to engage in an act or practice constituting a violation of this chapter, or a regulation or order under this chapter, the department, with or without prior administrative proceedings may bring an action in the superior court to enjoin the acts or practices and to enforce compliance with this chapter or a regulation or order under this chapter. Upon proper showing, injunctive relief or temporary restraining orders shall be granted, and a receiver or conservator may be appointed. The department is not required to post a bond in court proceedings.

(d) The department may intervene in a suit involving subdivided land. In a suit by or against a subdivider involving subdivided land, the subdivider promptly shall furnish the department notice of the suit and copies of all pleadings.

(e) The department may

(1) accept registrations filed in other states or with the federal government;

## NOTES TO DECISIONS

**Meaning of "immediately".** — Delinquency Rule 7(b) and this section are not inconsistent. The term "immediately" means the same thing in both the rule and the statute. The language "in no event more than 12 hours later" in the statute is not a modification of "immediately," but merely sets an outside time limit for parental notification. *State v. J.R.N.*, 861 P.2d 566 (Alaska 1993).

**Waiver of parental notification by**

**juvenile.** — A juvenile may waive his or her right to parental notification. The waiver must be a knowing and voluntary one. Whether the juvenile's waiver of his right was knowing and voluntary must be assessed by the totality of the circumstances as they existed when he stated that he did not want his parents notified. *State v. J.R.N.*, 861 P.2d 566 (Alaska 1993).

**Sec. 47.10.141. Runaway and missing minors.** (a) Upon receiving a written, telephonic, or other request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public Safety Information Network and the National Crime Information Center computer system. The report shall also be submitted to the missing persons information clearinghouse under AS 18.65.620. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. Unless (c) of this section applies, the peace officer shall exercise the officer's discretion and (1) return the minor to the legal custodian if the legal custodian consents to the return except that the officer may not use this option if the officer has reasonable cause to suspect that the minor has experienced physical or sexual abuse in the legal custodian's household; (2) take the minor to a nearby location agreed to by the minor and the legal custodian; or (3) take the minor to an office specified by the Department of Health and Social Services, a program for runaway minors licensed by the department under AS 47.10.310, a shelter for runaways that has a permit from the department under AS 47.35.085 that agrees to shelter the minor, or a facility or contract agency of the department. If an office specified by the department, a licensed program for runaway minors, a shelter for runaways that will accept the minor, or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately

§ 47.10.141 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.141

upon taking a minor into protective custody, the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if known, the officer shall advise the legal custodian that the minor has been taken into protective custody and that counseling services for the custodian and the minor's household may be available under AS 47.10.142(b).

(c) A minor may be taken into emergency protective custody by a peace officer and placed into temporary detention in a juvenile detention home in the local community if there has been an order issued by a court under a finding of probable cause that (1) the minor is a runaway in wilful violation of a valid court order issued under AS 47.10.080 or 47.10.142(f), (2) the minor's current situation poses a severe and imminent risk to the minor's life or safety, and (3) no reasonable placement alternative exists within the community. For the purposes of this subsection, a risk may not be considered severe and imminent solely because of the general conditions for runaway minors in the community, but shall be assessed in view of the specific behavior and situation of the minor. A minor detained under this subsection shall be brought before a court on the day the minor is detained, or if that is not possible, within 24 hours after the detention for a hearing to determine the most appropriate placement in the best interests of the minor. A minor taken into emergency protective custody under this subsection may not be detained for more than 24 hours, except as provided under AS 47.10.140. Emergency protective custody may not include placement of a minor in a jail or secure facility other than a juvenile detention home, nor may an order for protective custody be enforced against a minor who is residing in a licensed program for runaway minors, as defined in AS 47.10.390.

(d) If, after investigation of a report of a missing minor, a law enforcement agency has reason to believe that the minor is involuntarily absent from the custody of a custodial parent or guardian, the department shall notify the Bureau of Vital Statistics of the disappearance and shall provide the bureau with a description of the minor. The description of the minor must include, if known, the minor's full name, date and place of birth, parent's names, and mother's maiden name. If the Department of Public Safety has reason to believe that the minor, whether born in this state or not, has been enrolled in a specific school or school district in the state, the department shall also notify the last known school or school district attended in the state by the missing minor of the disappearance. When a person who was listed as a missing minor is found, the Department of Public Safety shall notify the Bureau of Vital Statistics and any school or school district previously informed of the person's disappearance.

(e) In this section, "law enforcement agency" has the meaning given in AS 12.36.090. (§ 2 ch 42 SLA 1985; am § 3 ch 72 SLA 1988;

am §§ 1, 2 ch 144 SLA 1988; am § 4 ch 202 SLA 1990; am § 13 ch 33 SLA 1994)

**Effect of amendments.** — The 1994 amendment, effective August 6, 1994, in subsection (b), rewrote the second sentence, in the third sentence, inserted "a shelter for runaways that will accept the minor," and, in the last sentence, added "and that counseling services for the custodian and the minor's household may be available under AS 47.10.142 (b)" to the end.

**Sec. 47.10.142. Emergency custody and temporary placement hearing.** (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by the minor's parents or guardian, as "neglect" is defined in AS 47.17.290, and the department determines that immediate removal from the minor's surroundings is necessary to protect the minor's life or provide immediate necessary medical attention;

(3) the minor has been subjected to child abuse or neglect by a person responsible for the minor's welfare, as "child abuse or neglect" is defined in AS 47.17.290, and the department determines that immediate removal from the minor's surroundings is necessary to protect the minor's life or that immediate medical attention is necessary; or

(4) the minor has been sexually abused under circumstances listed in AS 47.10.010(a)(2)(D).

(b) The department shall offer available counseling services to the person having legal custody of a minor described in AS 47.10.141 and to the members of the minor's household if it determines that counseling services would be appropriate in the situation. If, after assessing the situation, offering available counseling services to the legal custodian and the minor's household, and furnishing appropriate social services to the minor, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section or when the department is notified of a child's presence in either a program for runaway minors under AS 47.10.300 — 47.10.390 or a shelter for runaway minors under AS 47.10.392 — 47.10.399, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child. If the department determines that continued custody is necessary to protect the child, the department shall notify the court of the emergency custody by filing, within 12 hours after custody was assumed, a petition alleging that the child is a child in need of aid. If the department releases the child within 12 hours after taking the child into custody and does not file a child in need of aid petition the department shall, within 12