

ALASKA LEGISLATURE

1542

HOUSE and SENATE FINANCE COMMITTEE FILES, 1995-1996



1007 W. Fluvion Ln, Suite 210  
Anchorage, Alaska 99503

Business 907/278-7277  
24 Hour Crisis 907/278-7277  
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Fax 907/278-9983  
TTY 907/278-9983

March 18, 1996

Representative Pete Kott, Chair  
House Labor and Commerce  
State Capitol  
Juneau, AK 99801

Dear Representative Kott:

STAR strongly supports SB 197. By denying medical coverage to victims of Domestic Violence, the insurance companies are further "punishing" the victim.

To hold a woman accountable for her abuser's behavior by denying medical coverage will serve to push domestic violence back in the closet. Women will become more reluctant to seek medical help. If they must seek help, they will be forced to lie and cover up the "real" reason for their visit to the hospital or personal doctor.

Forcing women to "keep the silence" around abuse will further endanger both the victim and the children involved. A cost that I suggest is too high to pay in exchange for the big business of insurance.

I urge you to take the much needed step in protecting women and children in Alaska by passing SB 197.

Thank you for your consideration.

*Trisha Gentle*

Trisha Gentle  
Executive Director

cc: All members of House Labor and Commerce Committee  
Representative Dave Donley



**Alaska Women's Resource Center**  
111 W. 9th Avenue • Anchorage, Alaska 99501 • (907) 276 0628 • Fax: (907) 278 0944

*George:  
Do we have  
this letter in  
the packets  
3-21  
P*

March 20, 1996

VIA FAX

House Labor & Commerce Committee  
Alaska State Capitol

Dear Representatives Kott, Rokeberg, Elton, Kubisa, Masek, Porter, & Sanders:

I am writing to request your support for SB 197. The current bill protects the citizens of Alaska from insurance discrimination.

Discrimination in any arena is unacceptable; in the insurance industry, it is directly impacting upon the life and death of individuals. Insurance discrimination puts victims at risk both by denying them the benefits that insurance provides and by discouraging them from seeking medical assistance that may cause them to lose their insurance. Insurance carriers are currently able to assess the health of an individual and determine the appropriate premium with regard to any pre-existing medical condition. If this assessment is also granted in response to personal circumstances, it is an encroachment on our freedom as Americans.

Your support of SB 197 will protect the individual rights of Alaskans and let America know that we value the rights of our citizens.

Sincerely,

*Diane J. Heard*

Diane J. Heard  
Executive Director

*Ps. Diane knows you already support this - but just wants you to have a copy of what's going to the committee.*



Todd R. Thaker  
Vice President, Government Relations

The Prudential Insurance Company of America  
Government Affairs Western Division  
P.O. Box 9220, Van Nuys, CA 91409  
818 712-5572 Fax 818 712-5596

March 26, 1996

The Honorable Norman Rokoberg  
Member, House Labor and Commerce Committee  
State Capitol  
Juneau, Alaska 99811

*RE: Request Support for State Farm Amendment to S.197 Before the House Labor and Commerce Committee, Wednesday, March 27, 1996*

Dear Representative Rokoberg:

I am writing on behalf of the Prudential Insurance Company of America to respectfully request your support for the State Farm amendment to S. 197. It is my understanding that the House Labor and Commerce Committee will consider S. 197 and the State Farm amendment on Wednesday, March 27.

Prudential supports the State Farm amendment because we believe it affords protection to victims of domestic abuse or violence without compromising the integrity of the insurance industry's existing ability to underwrite in appropriate situations. Specifically, the amendment states that an insurer "may not discriminate against a victim of domestic abuse based on an individual's status as a victim of domestic abuse." Thus, the amendment prohibits underwriting on the basis that the insured is or may become the victim of domestic abuse or violence.

In addition, the amendment preserves the ability of an insurer to underwrite or rate for a medical condition "in the same manner as they would for an insured or applicant who is not a victim of domestic abuse." Thus, while an insurer may not underwrite based on an individual's status as a victim or potential victim of domestic violence or abuse, insurers may continue to consider physical and medical conditions when underwriting.

As the State Farm amendment prohibits underwriting based on an individual's status as a victim of domestic violence or abuse without hamstringing an insurer's ability to underwrite for medical or physical conditions, we urge your support for the State Farm amendment. Thank you for your consideration and please do not hesitate to contact me at 818-712-5572 if you have questions regarding the amendment.

Very truly yours,

Todd R. Thaker

VIA FACSIMILE

March 27, 1996

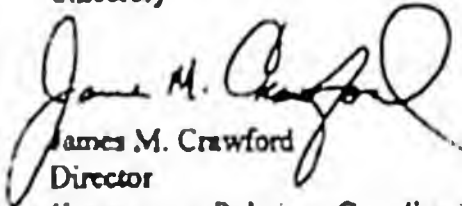
The Honorable Norman Rokeberg  
Vice Chairman House Labor and Commerce Committee  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear Representative Rokeberg

This letter is to acknowledge that The Principal Mutual Life Insurance Company supports the amendment to CS197 offered by State Farm Insurance Company. The language proposed in the amendment is consistent with the American Council of Life Insurance policy statement and is also consistent with my company's position on this subject.

I am enclosing for your consideration a copy of our position summary concerning domestic abuse. While my company's position summary does not address the issue of civil and criminal liability, we also support this portion of the amendment as drafted. I urge you and your colleagues to support the amendment to this important legislation. Please contact me or Amy Anderson at 1-800-325-2532, if you have any questions or need additional information.

Sincerely



James M. Crawford  
Director  
Government Relations Coordination

JMC/vlc

9 20027-14/20027

l:dc

cc Amy Anderson  
Alicia Cordova, ACLI

## Domestic Abuse

### Issue

State and federal legislation has been introduced requiring the issuance of life and health insurance to victims of domestic abuse. The legislation also prohibits the use of evidence from domestic abuse situations in the underwriting of insurance.

### Background

Unfortunately domestic abuse occurs in this country at alarming rates. To aid domestic abuse victims, lawmakers are proposing legislation that prohibits insurers from using relevant health information to underwrite and classify risk accurately. Further, some of these proposals include prohibitions against declining life and health insurance coverage to applicants who are victims, or probable victims, of domestic abuse.

The intensity of this issue has increased because domestic abuse victims are encouraged to seek assistance from medical providers and others. In addition, medical providers recognize more accurately domestic abuse situations because they are more aware and better trained. Thus, these factors contribute to the greater likelihood that medical records reviewed by insurers may include information about domestic abuse. However, if The Principal learns of a situation involving domestic abuse, the objective evidence of injuries and hospitalization is considered no differently than if it resulted from a cause other than domestic abuse.

### The Principal Position

The Principal does not discriminate against victims of domestic abuse. We do not ask applicants any questions to learn if they are victims of domestic abuse.

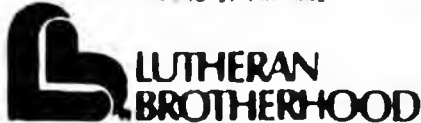
We treat physical or mental conditions that result directly or indirectly from domestic abuse as any other physical or mental condition in the underwriting of applications for any insurance coverage. Any legislation addressing the issue of domestic abuse should continue to allow this objective classification of risks. Coverage of injuries or conditions resulting from domestic abuse should be subject to the same conditions, limitations, exclusions, deductibles and co-payments that apply to any other injury or condition.

The Principal supports legislation that prohibits an insurer from declining coverage solely on the basis that the applicant has been, or may become, the victim of domestic abuse. Further, The Principal supports measures that prohibit the use of specific exclusions or benefit caps for claims resulting from domestic abuse and questions on applications designed specifically to elicit evidence of domestic abuse.

The Principal supports legislation that denies payment of benefits to a beneficiary convicted of a crime involving domestic abuse that gave rise to the claim for benefits.

over, please

125 South Avenue South  
Minneapolis, Minnesota 55415  
TEL: 612/343-7211  
FAX: 612/343-7212



Richard J. Kleven  
Assistant Vice President  
Law Division

March 27, 1996

VIA FACSIMILE

Alaska House of Representatives  
House Labor and Commerce Committee  
c/o Representative Norman Rokeberg

Re: Domestic violence and insurance, S.197

Dear Rep. Rokeberg:

We are writing to ask for your support of the proposed amendment to S. 197, SSB 5436- SMD-119, supported by State Farm, the American Council of Life Insurance and others, a copy of which we've attached. We believe this amendment is necessary to make certain that we treat all applicants for insurance fairly, regardless of how they may have suffered a malady, while prohibiting underwriting based on the fact that someone is a victim of domestic abuse. This will make your bill similar to those that have been created in other states, including the bill we supported in our home state of Minnesota this year.

We appreciate your attention to this issue.

Sincerely,

A handwritten signature in black ink, appearing to read 'Richard J. Kleven', written over a large, stylized circular flourish.

Richard J. Kleven

Richard J. Kleven

Attachment

1100 South Clinton  
Fort Wayne, IN 46802

March 27, 1996

Representative Norman Rokeberg  
House Labor and Commerce Committee  
State Capital  
Juneau, Alaska 99801-1182

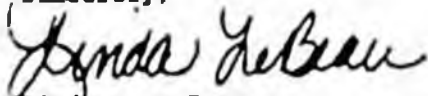
SENT VIA FACSIMILE (907) 465-2819

RE: SB 197 - DOMESTIC VIOLENCE

Dear Representative Rokeberg:

We have reviewed a copy of SB 197 and an amendment which has been suggested by State Farm. We very much support the State Farm amendment and appreciate the opportunity to pass on our comments.

Sincerely,



Linda S. LeBeau  
Government Relations Consultant  
Telephone: (219) 455-3747  
Facsimile: (219) 455-6777



The Company You Know.™

New York Life Insurance Company  
51 Madison Avenue, New York, NY 10010  
212 576-7807 Fax: 212 576-4473

Eileen L. Gallagher  
Assistant Vice President

March 27, 1996

**VIA FACSIMILE**

The Honorable Norman Rokeberg  
House Labor and Commerce Committee  
Alaska State Capitol  
Juneau, AK 99801-1182  
Fax# (907) 465-2819

Re: State Farm's Amendment to SB 197

Dear Representative Rokeberg:

I am writing on behalf of New York Life Insurance Company to strongly support State Farm's amendment to Senate Bill 197 regarding insurance for domestic violence victims. New York Life's underwriting policy does not deny coverage to proposed insureds solely because they have been victims of domestic violence.

The amendatory language (see attached) would prohibit insurers from discriminating against victims of domestic abuse based on an individual's status as a victim of domestic abuse. Additionally, while prohibiting this discrimination, a preferential class of applicants is not created. Therefore, this language would facilitate the important social goal of preventing discrimination against victims of domestic abuse.

In closing, I would like to strongly urge the inclusion of State Farm's amendment to this bill.

Sincerely,

*Eileen L. Gallagher*

Eileen L. Gallagher

**ALLSTATE LIFE INSURANCE COMPANY**

LAW AND REGULATION DEPARTMENT

3100 Sandton Road, 35B

Northbrook, Illinois 60062

Direct Dial Number (847) 402-2077

Residence (847) 402-3781

JOHN MATHEWS  
Counsel

March 27, 1996

House Labor & Commerce Committee  
c/o Representative Norman Rokeberg

Re: Senate Bill 197 - Domestic Violence Legislation

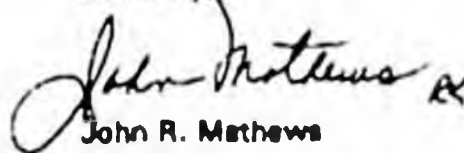
Dear Representative Rokeberg:

On behalf of Allstate Life Insurance Company, Northbrook Life Insurance Company, Glenbrook Life Insurance Company, Lincoln Benefit Life Insurance Company and Surety Life Insurance Company, I am writing regarding the amendment to Senate Bill 197, Domestic Violence legislation.

We support the addition of this amendment because, while we agree that it is inappropriate to use an individual's status as a victim of domestic abuse, it is necessary for an insurer to be able to underwrite based on the physical and mental condition of the individual. The proposed amendment would permit an insurance company to underwrite based on the applicant's medical condition. The State Farm amendment very simply addresses our concerns with regard to CS197 Domestic Violence Legislation.

We appreciate your consideration of our comments and hope that you favorably consider the amendment.

Sincerely,



John R. Mathews  
Counsel

JRM:rk



Sharon B. Cockey  
Government Relations Counsel

House Labor and Commerce Committee  
c/o Representative Norman Rokeberg

RE CS187

Dear Representative Rokeberg:

MetLife strongly supports the State Farm amendment to CS187, which relates to insurance for domestic violence victims and which requires certain disclosures by insurers. We feel that the amendment succinctly and adequately addresses our concerns and opposition to CS187.

We strongly urge your Committee to adopt this amendment, which is fair to both insureds and the insurance industry.

In the event that you need additional information, please feel free to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "Sharon B. Cockey".

Sharon B. Cockey  
Government Relations Counsel

March 27, 1998

March 20, 1996

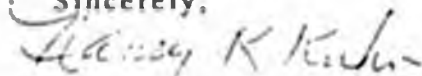
Dear Labor and Commerce Committee,

Alaska has one of the highest domestic violence rates in the nation. What a sad commentary that innocent victims of domestic violence would need worry about health insurance as a result of the harm inflicted upon them. Increases in health insurance premiums, or denial of benefits to the victim is punishment. We should protect and secure the rights of victims, and seek censure of the perpetrators. Domestic violence victims are not currently protected from insurance discrimination in Alaska. SB 197 offers an opportunity to be proactive instead of reactive, and there is no fiscal impact to the State budget.

SB 197, sponsored by Senator Dave Donley, prohibits insurers from increasing premiums, or canceling or denying insurance solely on the basis of domestic violence.

I urge you to vote favorably in support of SB 197 and to pass it quickly out of committee.

Sincerely,



Nancy K Kuhn  
President  
Interior Alaska Women's Political Caucus  
2060 Amy Dyan Rd  
Fairbanks, AK 99712



SENT BY TELEFAX: (907) 465-2319

March 26, 1996

State of Alaska  
House Labor and Commerce Committee  
c/o Rep. Norman Rokeberg

RE: Domestic Violence Bill: CS 197

Dear Committee Members:

We strongly urge that you support the State Farm amendment to the domestic violence bill under consideration before the Committee. We agree that it is inappropriate to use an individual's status as a victim of domestic abuse in the underwriting process for insurance. On the other hand, insurers should be permitted to underwrite and rate for medical conditions in the same manner that they would for a proposed insured who is not a victim of domestic violence.

We believe that it would be unfairly discriminatory to single out victims of domestic violence for special treatment. Absent this amendment (or similar language), insurers would be required to treat these individuals more favorably than those suffering from the same medical conditions through different events.

We appreciate any efforts which would encourage the adoption of this important amendment.

Very truly yours,

Katherine L. Coleman, FLMI, HIA  
Assistant Vice President  
Law Staff Administration & Compliance

R.I.C. 197

**LESSMEIER & WINTERS**  
ATTORNEYS AT LAW

MICHAEL L. LESSMEIER  
GREGORY W. LESSMEIER  
SHELDON E. WINTERS  
MARGARET A. DOWLING  
\*WASHINGTON STATE BAR

ONE SEALASKA PLAZA  
SUITE 303  
JUNEAU, ALASKA 99801-1249

TELEPHONE: (907) 586-8813  
FACSIMILE: (907) 483-3020

April 3, 1996

Representative Rokeberg  
Labor & Commerce Committee  
Alaska State Legislature  
State Capitol, Room 110  
Juneau, Alaska 99801

Re: *CS for SB 197(L&C)*  
Our File No. 15-6

Dear Representative Rokeberg:

The present language of CS for SB 197(L&C) would impose a burden on State Farm unique to this state. While it is not possible to accurately predict all costs to State Farm associated with implementation of this legislation, the following list outlines some of the impacts this proposed legislation would have on the 238 employees in Alaska and the 41 employees in Washington State whose responsibilities involve handling matters in Alaska.

To comply with subsection (b) concerning the confidentiality of records would require State Farm to:

1. Determine what kind of information in a record might "reflect" that an insured was a victim.
2. Change all staff training materials throughout Alaska to provide direction to employees about how to comply with the law.
3. Implement training procedures.
4. Pay staff for the extra time needed to identify all records that could potentially "reflect the fact" that the insured was a victim of domestic violence.
5. Implement a procedure and pay staff for the extra time needed to flag, handle, and segregate these records as they come into each State Farm office.
6. Change all computer record keeping and tracking systems accordingly.

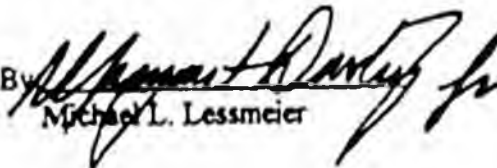
**LESSMEIER & WINTERS**  
ATTORNEYS AT LAW

Representative Rokeberg  
Labor & Commerce Committee  
Alaska State Legislature  
April 3, 1996  
Page 2

Likewise, the section requiring the carrier to disclose the reason for denying an application for coverage imposes similar burdens. State Farm would have to:

1. Change all staff training manuals throughout Alaska to provide direction to employees about how to comply with the law.
2. Implement training procedures.
3. Pay staff for the extra time needed to draft personalized letters addressing the factors considered in determining whether or not to extend coverage.

Sincerely,  
LESSMEIER & WINTERS

By   
Michael L. Lessmeier

MLL.mad

**SENATE COMMITTEE REPORT**  
**First Committee of Referral**

DATE: 1/8/96

FURTHER:

Date of 5-Day Notice: \_\_\_\_\_  
 (in accordance with Uniform Rule 23)

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

The Labor & Commerce Committee considered SENATE BILL NO. 197

"An Act prohibiting increases in health insurance premiums if the insured is a victim of domestic violence."

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 title
  - new: SCR' \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Mike Huber</i>	✓				
<i>John Loggerson</i>	✓				
<i>Jim...</i>	✓				
<i>J. E. Sald</i>	✓				
CHAIR: <i>Tom Kelly</i>	✓				

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal


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

Department                      Date    Zero    Fiscal


APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

C  
(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: February 29, 1996

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-3-97

The LABOR AND COMMERCE Committee considered:

CSSB 197(L&C)

CS FOR SENATE BILL NO. 197(L&C)

INS:DOMESTIC VIOL. VICTIMS & DISCLOSURES

"An Act relating to insurance covering an insured who is a victim of domestic violence and requiring certain disclosures by an insurer."

HCS CS SB 197 (L&C)

recommends it be replaced with the following committee substitute \_\_\_\_\_  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) \_\_\_\_\_

<sup>Senate</sup> zero fiscal note(s) CEP 2-23-96

SIGNING WITH RECOMMENDATIONS		DP	DNP	NR	AM
<i>[Signature]</i>	Kott		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	
<i>[Signature]</i>	Rokeberg	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	Elton	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	Kubina	<input checked="" type="checkbox"/>			
<i>[Signature]</i>	Sanders			<input checked="" type="checkbox"/>	
		(3)		(2)	

CHAIR'S SIGNATURE *[Signature]*  
L&C

**Insurance  
Discrimination  
Against Victims of  
Domestic Violence**



**Prepared by the Women's Law Project and  
the Pennsylvania Coalition Against Domestic Violence  
Revised - March, 1996  
Second Printing**

*The Women's Law Project gratefully acknowledges  
the Rockefeller Family Fund and the Phoebus Fund for their generous support.*

# Insurance Discrimination Against Victims of Domestic Violence

## • How are insurance companies discriminating against victims of domestic violence?

Many insurance companies are denying victims of domestic violence access to all kinds of insurance by using domestic violence as an underwriting criterion, i.e., a basis for determining who to cover, how much to cover and how much to charge.

## • How do insurers learn that someone is a victim of domestic violence?

When applying for insurance, individuals often sign a release to permit the insurer to obtain medical records. Usually, it is those medical records which reveal the information. This is becoming more common because physicians have been encouraged to follow protocols to identify and document abuse for the purpose of providing help and referrals.

There are also companies, such as the Medical Information Bureau (MIB) and Equifax, that maintain databases on risk factors, including violence. Insurance companies who become members of these databases are required to report client risk factors and are entitled to request risk-related information on an applicant or insured.

Insurers can also get information from other records, such as public court documents and credit reports, which are becoming popular underwriting tools and often contain information about court orders, including protection from abuse orders.

## • How does insurance discrimination hurt victims of domestic violence?

Insurance discrimination puts victims at risk both by denying the benefits that insurance provides and by discouraging them from seeking help that may result in loss of insurance. Without insurance, victims are unable to obtain health care for themselves and their families or provide for their families in case of death or disability. If unable to obtain health and other insurance, victims may feel they have no alternative but to stay in an abusive situation.

Victims will stop seeking appropriate and necessary medical treatment, counseling, legal intervention and other forms of assistance, as they learn that insurers use information in client records to deny them insurance. Victims will also refrain from identifying the cause of their injury. Furthermore, doctors, health care workers and other service providers who have started identifying and documenting abuse may stop if continuing to do so will put their patients at risk of losing their insurance. The enormous efforts made over the past 20 years to create new sources of assistance and avenues of relief for victims of domestic violence will be for naught.

**? Does insurance discrimination against victims of domestic violence occur frequently?**

Yes. An informal survey by the staff of the Subcommittee on Crime and Criminal Justice of the United States House Judiciary Committee in 1994 revealed that eight of the 16 largest insurers in the country were using domestic violence as a factor when deciding whether to issue and how much to charge for insurance.

In March of 1995, the Pennsylvania Insurance Commissioner surveyed company practices in Pennsylvania and found that a substantial number of health, life and accident insurers - 26% of the respondents - utilized domestic violence as an underwriting criterion.

The Kansas Insurance Commissioner surveyed health, accident and life insurers in October 1995 and found that 24% of the insurers used domestic violence as an underwriting criterion.

**? How many people are affected by these practices?**

We know that many insurance companies discriminate against victims of domestic violence and that many people are victimized. (A July 1994 study by The Commonwealth Fund reported that almost four million American women were physically abused by boyfriends and husbands in 1993.)

It is difficult to say just how many people are affected by these practices. Insurers are not required to tell applicants the reasons for rejections or other adverse actions and victims may not know that domestic violence was a consideration. Those who know that domestic violence is the reason for action taken against them by an insurance company

have very good reasons for not reporting discriminatory insurance practices — fear of further violence to themselves and their children from the batterer, as well as social stigma and embarrassment. Finally, insurers are not required to file the criteria they use in deciding who to insure with state insurance departments or disclose that information to the public.

• **? What are some examples of insurance company discrimination against victims of domestic violence?**

**Health Insurance**

- A Santa Cruz, California woman was repeatedly turned down for health insurance following review of medical records which detailed beatings by her husband.
- A California hospital reports denial of payment by HMO's for repeated treatment for injuries caused by domestic violence.
- A woman from rural Minnesota was beaten severely by her ex-husband. After she remarried, she applied for health insurance and was told that she would not be covered for treatment relating to the abuse-related pre-existing conditions of depression and neck injury.
- Three insurance companies denied health insurance to a Minnesota women's shelter because, "as a battered women's program we were high risk."
- A women's shelter in Rochester, Minnesota was told that it was considered uninsurable because its employees are almost all battered women.
- A woman sought the services of Women House in St. Cloud, Minnesota because the abuse during her 12-year marriage had escalated in severity. She was hospitalized for a broken jaw and spent 2 weeks in a mental health unit in a hospital. Subsequently, she was denied health insurance by two companies, including one that stated it would not cover any medical or psychiatric problems that could be related to the past abuse.
- A Washington state child was twice denied health insurance because he had been sexually abused in a day care facility.
- A Washington man who was physically attacked by his wife was denied over \$1,500 worth of health coverage for injuries he sustained. He was told that his wife, who owned the company which purchased the group coverage, instructed the insurer not to cooperate with him. Following divorce, he obtained an individual policy with exclusions for pre-existing conditions relating to domestic violence.

- A York county, Pennsylvania employer provides health insurance through a self-insured plan which excludes expenses for medical treatment arising from or related to a domestic dispute.
- A Lancaster county, Pennsylvania woman has been unable to obtain reimbursement for emergency room treatment for injuries resulting from domestic violence under her employer's self-insured health plan. She has been billed for over \$5,000.

### Life Insurance

- In October 1993, a resident of Cumberland county, Pennsylvania was denied life, health and mortgage disability insurance by State Farm Insurance Company and life insurance by First Colony Life Insurance Company because of information in medical records revealing a single incident of domestic violence. State Farm has since changed its policy and no longer considers domestic violence in the issuance of any line of insurance.
- In August 1994, Nationwide Insurance Company denied an application for life insurance in Delaware based on medical records "indicating an unstable family environment" because they included documentation of three assaults by the husband against the wife as well as marital counseling.
- Prudential Insurance Company denied an Iowa woman a life insurance policy in November 1993, because the woman had a history of multiple assaults from her boyfriend.

### Disability Insurance

- An Iowa woman was sexually abused as a child and received some counseling. Despite a clear record of good health since then, when she applied for disability insurance, she was turned down on the basis of earlier treatment.
- A Washington woman was twice denied insurance due to treatment received for physical, emotional and sexual abuse inflicted on her by her family during her childhood and by her spouse during marriage. In the late 1980's her employer's disability insurance carrier denied her disability coverage because of a nervous condition related to abuse. In 1993, Cigna denied her application for an increase in life insurance coverage provided through her employer based on a diagnosis of a dissociative disorder related to counseling for abuse. Although she suffers from obesity, Type II diabetes and a seizure disorder, the abuse related counseling is the only reason given by the insurers for denial. She has divorced her abuser, has no further contact with her family of origin and is not on any medications.

## Property and Casualty Insurance

- In 1994, Allstate Insurance Company canceled the homeowner's insurance of an Oregon woman whose former spouse set fire to her home. The woman had been abused by the former spouse throughout the marriage and left the marriage in 1992. Following cancellation, the woman sought other insurance but was repeatedly denied. When she was referred to the Oregon Fair Plan, she was quoted a price for insurance that was eight times what she had been previously paying. The former spouse was convicted and imprisoned for arson.
- The homeowner's policy of a Washington state woman was canceled by Safeco Insurance Companies in May 1993 by a letter reciting five claims filed over the 12-year life of the policy and noting concern that the most recent three occurred over a span of four months, but "more importantly," the most recent one "involved a domestic violence situation of individuals that are living with" the insured. The angry ex-wife of the woman's boyfriend's brother damaged her door.
- A Washington state landlord's policy was canceled because the insurer learned that the landlord intended to rent a home to a women's shelter.
- In September 1995, Farmer's Insurance Companies denied a property claim to a Washington state woman whose former boyfriend and abuser broke into her home and stole over \$5,000 worth of personal property. The woman was subjected to two years of abuse, which included physical assault, stalking and property damage. During the course of investigating the claim, the insurer disclosed to the abuser the fact that he was suspected of stealing property and he retaliated by breaking into the women's home and beating her, shoving her head-first into the fireplace, rendering her unconscious and threatening her life if she pressed charges. The woman fled the state with her children.
- The Women Helping Battered Women shelter in Burlington, Vermont lost insurance coverage after the carrier concluded the shelter was an "undesirable risk" due to life safety issues. On the day the coverage was due to expire, and after seven other carriers refused coverage, a non-profit insurer agreed to cover the shelter.
- Two other shelters in Vermont lost their coverage and one saw their liability insurance double in cost because an insurance company said "it was a high risk" even though there are no recorded problems with any shelters in the state.

### • ? What reasons do Insurers give for using domestic violence as an underwriting criterion, and why are they invalid?

1. *Some insurers say that a victim of domestic violence makes a voluntary lifestyle choice, such as skydiving or riding a motorcycle, and liken a battering to a career choice, such as washing skyscraper windows, for which an insurance company should not be responsible.*

Domestic violence is a crime — not a career, a lifestyle or a choice. No one chooses to be battered and no one chooses to remain in a violent situation. Leaving a violent domestic situation is a difficult process, complicated by concerns for safety and economics.

Victims realistically fear that their batterer will pursue and harm them and/or their children if they leave. Studies show that violence does not stop and may increase after leaving.

Without money, it is impossible for a victim to get away, establish a new home and feed children. Housing is a problem: shelters offer only temporary housing, often for 30 days or less, a very difficult time frame in which to create a new life.

2. *Others argue that domestic violence is a risk factor that needs to be considered by insurers and that limiting their ability to take domestic violence into account will impair their ability to offer affordable insurance products.*

Domestic violence is a crime and a person's likelihood of being a victim of a crime should not be used as a basis for underwriting insurance.

Furthermore, insurers have produced no actuarial studies showing that domestic violence is a particular risk that changes the overall cost of insurance. We know that there are many insurers who do not use domestic violence as an underwriting criterion and they are able to stay in business and provide affordable products.

Even those companies with policies requiring denial of coverage to victims of domestic violence cover victims and resulting injuries, when as is often the case, the abuse remains unidentified. Domestic violence is therefore already factored into the pricing of insurance products without impairing the market.

In addition, insurers do not, in a scientific and consistent manner, take into account all so-called risk factors when underwriting and rating insurance. To the contrary, although there are numerous risk factors insurers can choose to use, they do not use all of them and their selection is not based solely on risk. Some classifications are not chosen because it is more cost-effective to pay the claims than to identify and segregate the information needed to use them as underwriting criteria. Others may not be used because their use would negatively impact on marketing. Even where risk is the driving force behind the selection of criteria, the determination of risk is often based on assumptions and stereotypes, rather than any scientific assessment of risk.

Nor are insurers completely free from regulation. They are subject to extensive state regulation and are restricted by law from using particular classifications for underwriting and rating, including race, age, ethnic origin, residence, sex, and some physical and mental disabilities. Despite potential or actual statistical correlation to various health claims and morbidity, these classifications have been legally decreed to be unacceptable criteria for discriminating among insurance risks.

Many laws prohibit redlining — the practice of refusing to insure or raising the cost of homeowners' insurance in high crime areas — even though one could expect more crime or damage to homes in those areas. Yet, with respect to domestic violence, insurers are essentially redlining particular homes.

By virtue of government and private initiatives, we as a society have made a decision that domestic violence cannot be tolerated and that protection must be offered to victims. Allowing insurers to deny insurance based on records created when someone takes steps to obtain assistance will deter victims from seeking help and undo all our efforts.

3. *Life insurers argue that insuring the life of a victim gives the batterer an incentive to kill and collect on the policy and, if the insured is killed, the insurer could be sued for issuing a policy with knowledge of a history of domestic violence.*

Insurers have failed to provide any evidence that insurance acts as an incentive to further domestic violence or that denying insurance deters domestic violence. Domestic violence experts find that batterers abuse for power and control, not profit. Any hypothetical danger posed by providing coverage is outweighed by the known cost of denying insurance to victims of domestic violence: the inability of the victim to care for herself and her family, the perpetuation of violence and the increased health care costs imposed on society.

Insurers are already fully protected from suit by contract and law. Insurance policy provisions typically prohibit beneficiaries from recovering when the death or injury is a result of intentional misconduct. Furthermore, state laws regulate and limit the rights of a slayer from inheriting real and personal property and receiving benefits from insurance policies arising out of or as a result of the death of the person slain. Insurers should be fully protected from suit as long as they issue policies only with the consent of the insured and follow all applicable laws and procedures. Insurers have not identified any situation in which they have paid on a policy or been successfully sued for a homicide which resulted from the issuance of a policy with knowledge of a domestic violence situation.

- ?** **Isn't insurance discrimination against victims of domestic violence already illegal? If not, is something being done to make it illegal?**

Until very recently, there have been no laws making such discrimination illegal. In 1994, state legislatures started considering legislation to stop insurance discrimination against victims of domestic violence. In 1995, federal proposals were introduced. As noted below, not all legislative initiatives cover all lines of insurance. As discrimination

against victims of abuse occurs in all lines, it is recommended that legislation prohibit discrimination in all lines.

### State Legislative Activity

In 1995, laws were enacted in six states: California<sup>1</sup>, Connecticut<sup>2</sup>, Delaware<sup>3</sup>, Florida<sup>4</sup>, Iowa<sup>5</sup> and Massachusetts<sup>6</sup>. The laws of two of those states outlaw discrimination against victims of abuse in all lines of insurance (Iowa and Massachusetts). The Delaware and Florida laws apply to health and life insurance. The California law applies to health care service plans and disability plans. The Connecticut law applies only to health insurance.

Legislation has been introduced in other states and is currently pending in: Alaska, Arizona, California, Georgia, Illinois, Indiana, Kansas, Maine, Maryland, Michigan, Minnesota, New York, Pennsylvania, Utah, Washington, West Virginia, Wisconsin, and Wyoming<sup>7</sup>. Some cover all lines of insurance; others cover one or more of the following lines: health, life, and disability.

In addition, the National Association of Insurance Commissioners (NAIC), an association of all state insurance regulators, is developing model state legislation to address discrimination against victims of domestic violence. A working group of the NAIC has completed its work on four separate models addressing discrimination in health, disability, life and property and casualty insurance. The health insurance model will be submitted to the NAIC for approval by the plenary in the spring of 1996.

<sup>1</sup> Act of July 31, 1995, Cal. Legis. Serv., Ch 603 (West) (to be codified at CAL. HEALTH & SAFETY CODE, § 1374.75, CAL. INS. CODE § 10144.2 (1995)).

<sup>2</sup> An Act Concerning Domestic Violence Effective October 1, 1995, Public Act No. 95-193 (to be codified at CONN. GEN. STAT. § 38a-816 (1995)).

<sup>3</sup> An Act Effective July 19, 1995 (to be codified at DEL. CODE ANN. tit. 18, §§ 2302 (5), 2304 (23)).

<sup>4</sup> An Act Relating To Domestic Violence, Effective July 1, 1995, 1995 Fla. Sess. Law Serv. Ch 95-187 § 6 (to be codified at FLA. STAT. ANN. § 626.9541 (q) (3) (1995)).

<sup>5</sup> An Act Relating To The Regulation of Insurance, Effective July 1, 1995 (to be codified at IOWA CODE, § 508.4(7)(c) (1995)).

<sup>6</sup> An Act Effective July 1, 1995 (to be codified at MASS. GEN. L. ch. 175, §§ 95B, 106G, 120D, ch. 176A, § 3A, ch. 175B, § 5A, ch. 176G, § 19 (1995)).

<sup>7</sup> H.B. 395, 19th Leg., 2d Sess., 1996, S.B. 197, 19th Leg., 2d Sess., 1996 (ALASKA); H.B. 2236, 42d Leg., 2d Reg. Sess., 1996 (ARIZ.); A.B. 115, 1995-96 Reg. Sess. (CALI); H.B. 1457, S.B. 679, Reg. Sess., 1996 (GA); H.B. 2566, 89th Gen. Ass., 1995-96 Reg. Sess. (ILL.); S.B. 306, 109th Gen. Ass., 2d Reg. Sess. (IND); S.B. 444, 1996 Reg. Sess. (KAN); L.D. 1665, 117th Leg., 2d Reg. Sess., 1996 (ME); H.B. 39, 1996, Reg. Sess. (MD); H.B. 4634, 88th Leg., 1995-96 Reg. Sess. (MICH); S.B. 1815, H.F. 2144, 79th Leg., 1995-96, Reg. Sess. (MINN); AO2769, 1995-96 Reg. Sess. (NY); H.B. 1100, 1995-96 Reg. Sess. (PA); H.B. 331, 1996 Gen. Sess. (UTAH); S.B. 5436, 1996 Reg. Sess. (WASH); H.B. 4316, 1996 Reg. Sess. (W.VA); A.B. 292, S.B. 138, 1995 Reg. Sess. (WIS); H.B. 43, 53rd Leg., 1996 Reg. Sess. (WY).

## Federal Legislative Activity

Several bills are being considered in the U.S. Congress as well. Legislation at the federal level will provide protection for victims of abuse whose health insurance plans are not governed by state insurance laws (ERISA, the federal law regulating pensions and other employee benefit plans, preempts state insurance laws from governing certain employer sponsored health plans). To the extent that states are slow to pass legislation, federal legislation has the potential to offer a speedier and more comprehensive approach, insuring victims of abuse that they will receive the same protection from insurance discrimination wherever they go.

Legislation which would prohibit discrimination against victims of abuse in health insurance was introduced by Senator Wellstone<sup>8</sup>(MN) and Representatives Schumer<sup>9</sup> (NY), Wyden<sup>10</sup>(OR), and Molinari<sup>11</sup> (NY) between March and June 1995. On July 28, 1995, Senator Kassebaum (KS) presided over a hearing on the issue of insurance discrimination against victims of abuse before the Senate Committee on Labor and Human Resources<sup>12</sup>. The hearing was conducted in connection with the Committee's consideration of the Health Insurance Reform Act of 1995 sponsored by Senators Kassebaum (KS) and Kennedy (MA)<sup>13</sup>. The Committee reported favorably on the Health Insurance Reform Act of 1995, after amending it to clarify that pre-existing condition exclusions, which the bill permits on a limited basis, could not be used to deny or limit coverage to victims of abuse<sup>14</sup>.

In October, 1995, Representative Sanders (VT) introduced legislation which prohibits insurance discrimination against victims of abuse in all lines of insurance: health, disability, life, and property and casualty<sup>15</sup>. Senator Wellstone (MN) will introduce the Sander's bill in the Senate in the spring of 1996.

<sup>8</sup> S. 524, 104th Cong., 1st Sess. (1995).

<sup>9</sup> H.R. 1191, 104th Cong., 1st Sess. (1995); also co-sponsor of H.R. 1201, introduced by Rep. Wyden.

<sup>10</sup> H.R. 1201, 104th Cong., 1st Sess. (1995).

<sup>11</sup> H.R. 1920, 104th Cong., 1st Sess. (1995).

<sup>12</sup> *Health Insurance and Domestic Violence, 1995: Hearing Examining Proposal To Prohibit Insurers From Denying Health Insurance Coverage, Benefits, or Varying Premiums Based on the Status of an Individual as a Victim of Domestic Violence, Including Related Provisions of S. 524, S. 1028, and H.R. 1201 Before the Senate Committee on Labor and Human Resources, 104th Cong., 1st Sess. (1995)*

<sup>13</sup> S. 1028, 104th Cong., 1st Sess. (1995).

<sup>14</sup> H.R. Rep. No. 156, 104th Cong., 1st Sess. (1995).

<sup>15</sup> H.R. 2654, 104th Cong., 1st Sess. (1995).

## **? What do the new laws and legislative proposals do?**

Most prohibit insurers from using domestic violence as a basis for underwriting or rating insurance, meaning that they prohibit an insurer from refusing to insure someone or charging them a higher premium because they are, have been or might become a victim of domestic violence. They may also prohibit insurers from writing policies that exclude coverage for injuries resulting from domestic violence.

Some also include important provisions requiring that abuse-related information be kept confidential and that insurers develop protocols for employees, agents and contractors to make sure their interactions with victims do not either endanger the safety of the victim or result in disclosure of confidential information. They also include definitions of necessary terms and enforcement mechanisms and remedies to insure that a person complaining of insurance discrimination can obtain appropriate relief.

## **? How are insurance companies reacting to legislative proposals to prohibit discrimination against victims of domestic violence?**

Very few insurers have changed their practices voluntarily. To our knowledge, only State Farm has completely eliminated domestic violence as a reason to rate or deny insurance. Some say they will only deny in the most egregious cases. All say they must continue to look at medical condition regardless of cause. Most of the Pennsylvania insurers who use domestic violence as an underwriting criterion are continuing to do so over two years after the practice became public and the subject of legislation.

Some insurers voice support for legislation protecting domestic violence victims, but with limitations, urging a number of amendments and provisos to pending legislation. These include language that would allow insurers to underwrite and rate on the basis of mental and physical history regardless of the underlying cause, protect an insurer from liability for any injury resulting from compliance with the legislation, and allow insurers to deny insurance to abusers.

Others simply oppose any limitation on their ability to consider abuse in underwriting and rating, stating that insurers should have leeway in considering this type of material information.

**?** What is wrong with allowing insurers to underwrite on the basis of medical conditions caused by abuse?

The purpose of the protective legislation will be undermined if it allows insurers to underwrite on the basis of medical conditions caused by abuse. Such an exception would allow an insurer to deny insurance to a victim based on medical records documenting bruises or broken bones resulting from the abuse and have the same effect as allowing an insurer to deny insurance based on the domestic violence itself. Consideration of the medical records in any way will deter victims from seeking help and leaving. The only way to end the cycle of violence is to make sure that battered individuals are able to freely seek assistance for abuse.

Permitting underwriting on the basis of abuse-related medical conditions will also enable insurers to discriminate indirectly against victims of domestic violence. Insurers will be able to deny an applicant and refuse to renew an insured based on a medical condition that is frequently associated with abuse. They will also be able to apply particular medical criteria selectively to victims of abuse, for example, determining only victims of abuse ineligible for insurance because of treatment for bruises and black eyes. Because insurers are subject to little regulation in their selection and use of medical underwriting criteria, no one will know or stop them from selecting and applying medical underwriting criteria with the express intent of weeding out abuse victims.

Furthermore, allowing insurers to consider the health status of victims of domestic violence is inconsistent with the trend toward limiting the insurer's consideration of health status in both issuance and rating of insurance through "community rating" and "guaranteed issuance."

At the very least, any legislation permitting insurers to underwrite on the basis of abuse-related medical conditions must contain safeguards. We recommend the following language:

An insurer taking action that adversely affects a victim of abuse on the basis of an abuse-related medical condition or property or casualty claim must explain the reason for its action to the applicant or insured in writing and must be able to demonstrate that the action taken:

(A) Is otherwise permissible by law and is applied in the same manner and to the same

2

extent to all applicants and insureds with similar medical conditions or property or casualty claims without regard to whether the medical condition or property or casualty claim is abuse-related.

- (B) Does not have the purpose or effect of avoiding the intent and prohibitions of this Act or any other provision of law, and is not based upon any actual or perceived correlation between a medical condition or type of property or casualty claim and abuse.
- (C) Does not have the purpose or effect of treating an individual's status as being, having been or having the potential to be the subject of abuse as a medical condition or underwriting criterion.
- (D) Is based on a determination, made in conformance with sound actuarial principles and supported by reasonable statistical evidence, that there is a correlation between the medical condition or type of property or casualty claim and a material increase in insurance risk.

This language attempts to prevent discriminatory use of underwriting standards. It also requires notice to the applicant or insured of the reason for any adverse insurance action and, should that insurance action be challenged, properly places the burden of proof on the party who has the information, the insurer. Similar language has been included in the NAIC model laws to prohibit insurance discrimination. The California and Delaware state statutory provisions include some, but not all, of the safeguards.

**?** **If legislation prohibits insurers from considering medical conditions caused by abuse, doesn't it create a special class of individuals who get special treatment?**

No. Prohibiting discrimination on the basis of domestic violence will insure that these victims are treated like all other applicants. It is insurers who have created the special class, singling out domestic violence as a special classification of uninsurability.

Protection for victims of domestic violence will not make inequitable an otherwise equitable system of underwriting. Insurance industry practices are not premised on either fundamental fairness or uniformity. Insurance companies already treat people differently regardless of how compelling their circumstances may be.

For example, timing and preexisting condition clauses may result in one pregnant woman being covered while another is not. A violent neighborhood will not be taken into account, but a violent household will be in determining whether to issue insurance. Some companies cover some conditions, while others do not. In this context, it is disingenuous to argue unfairness with respect to legislation that is necessary to end domestic violence.

For further information, contact:

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(800) 537-2238 (outside PA)



# ALASKA STAT

Post-It brand fax transmittal memo 7671

Page 1 of 1

Rep. Haulcy	From Feb 8 1990
HOUSE FINANCE	Co
WRITTEN TESTIMONY	FILED FEB
SB 197	

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE House Finance  
 COMMITTEE ON SB 197 DATED 4-25-90  
 BILL/SUBJECT COMMITTEE NAME

I had hoped to testify on this bill through teleconferencing but it had not been gotten to prior to my needing to get to my next appointment.

SB 197 was intended to prevent discrimination against victims of domestic violence by protecting them against insurance premium increases, cancellations, or denial. I think it is obvious that victims of crime should not be penalized for being victims. However, with the amendments made by the House Labor Commerce Committee, this bill is not only what I consider "gutted" but may actually put victims in a worse position than they are now.

It's beyond my ability to understand the reasons for deleting a subsection requiring confidentiality of records identifying victims of domestic violence unless it is intended to use or share this information for use in determining underwriting. This being the case, victims would be discouraged from seeking medical assistance for fear of losing their ability to obtain or maintain insurance for themselves and their families. Additionally, agents/employees of insurance companies could endanger the well-being or life of a domestic violence victim by disclosing what should be confidential information.

I further do not understand how the subsection providing that provisions of this bill may not prevent an insurer from rating for medical conditions resulting from domestic violence the same as for other medical conditions is protecting victims of domestic violence at all. It seems to me, this subsection obviates the whole intent of the bill and Commerce. I respectfully request you not adopt the amendments made by House Labor

SIGNED Andy Samaniga  
 TESTIFIER

WIC-CA  
 REPRESENTING (OPTIONAL)

717 9th Ave. Fairbanks 99701 452-2295  
 ADDRESS/PHONE NUMBER

# WOMEN'S L.A.W. PROJECT

125 South Ninth Street, Suite 401  
Philadelphia, PA 19107  
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## CASES OF INSURANCE DISCRIMINATION AGAINST VICTIMS OF DOMESTIC VIOLENCE

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### California

A Santa Cruz woman was repeatedly turned down for health insurance following review of medical records which detailed beatings by her husband.

A California hospital reports denial of payment by HMOs for repeated treatment for injuries caused by domestic violence.

### Delaware

In August, 1994, Nationwide Insurance Company denied an application for life insurance based on medical records "indicating an unstable family environment" because they included documentation of three assaults by the husband against the wife and counseling.

### Iowa

Prudential Insurance Company denied a woman a life insurance policy in November, 1993, because the woman had a history of multiple assaults from her boyfriend.

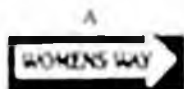
A woman was sexually abused as a child and received some counseling. Despite a clear record and good health since then, when she applied for disability insurance, she was turned down on the basis of the earlier treatment.

### Minnesota

Three insurance companies denied health insurance to a women's shelter because "as a battered women's program we were high risk."

A women's shelter in Rochester was told that it was considered uninsurable because its employees are almost all battered women.

A woman who sought the services of Women House in St. Cloud because the abuse during her 12-year marriage had escalated to such an extent that she was hospitalized for a broken jaw and spent 2 weeks in a mental health unit of a hospital, was denied health insurance by two companies, one saying they would not cover any medical or psychiatric problems that could be related to the past abuse.



AGENCY

Prepared by the Women's Law Project, Philadelphia, PA

June, 1995

### Oregon

In 1994, Allstate Insurance Company canceled the homeowners' insurance of a woman whose former spouse set fire to the home twice. The woman had been abused by the former spouse throughout the marriage and left the marriage in 1992. Following cancellation, the woman was referred to the Oregon Fair Plan and was quoted a price for insurance that was eight times what she had previously been paying. After the former spouse was convicted and imprisoned for arson, the woman applied for insurance with Hartford, but was rejected for a poor credit record which was a result of the her former husband's failure to pay family debts for which he was responsible.

### Pennsylvania

In October, 1993, a resident of Cumberland County, Pennsylvania was denied life, health and mortgage disability insurance by State Farm Insurance Company and life insurance by First Colony Life Insurance Company because of information in medical records revealing an incident of domestic violence.

An employee of a self-insured employer has been unable to obtain reimbursement for health care expenses resulting from abuse because of an exclusion for expenses arising from or related to a domestic dispute.

### Washington

A woman's homeowner's policy was canceled by Safeco Insurance Companies in May, 1993 by letter reciting 5 claims filed over the 12 year life of the policy and noting concern that the most recent three occurred within a span of four months, but "more importantly", the most recent one "involved a domestic violence situation of individuals that are living with" the insured. The angry ex-wife of her boyfriend's brother damaged her door.

A landlord's policy was canceled because the insurer learned that the landlord intended to rent a home to a woman's shelter.

A child was twice denied health insurance because he had been abused in a day care facility.

A woman was twice denied insurance due to treatment received for physical, emotional and sexual abuse inflicted on her by her family during her childhood and by her spouse during marriage. In the late 1980's her employer's disability insurance carrier denied her disability coverage because of a nervous condition related to abuse. In 1993, Cigna denied her application for an increase in life insurance coverage provided through her employer based on a diagnosis of dissociative disorder related to counseling received for abuse. Although she also suffers from obesity, Type II diabetes and a seizure disorder, the abuse related counseling is the only reason given by the insurers as grounds for denial. She has divorced her abuser, has no further contact with her family of origin and is not on any medications.

A man who was physically attacked by his wife was denied \$1500 to \$2000 worth of health coverage for injuries he sustained. He was told that his wife, who owned the company that purchased the group coverage, instructed the insurer not to cooperate with him. Following divorce, he obtained an individual policy with exclusions for pre-existing conditions relating to domestic violence.

*CASES OF INSURANCE DISCRIMINATION  
AGAINST VICTIMS OF DOMESTIC VIOLENCE  
(compiled by the Women's Law Project, Philadelphia, PA)*

In August, 1994, Nationwide Insurance Company denied an application for life insurance in Delaware, based on medical records "indicating an unstable family environment" because they included documentation of three assaults by the husband against the wife and counseling.

Prudential Insurance Company denied an Iowa woman a life insurance policy in November, 1993, because the woman had a history of multiple assaults from her boyfriend.

In 1994, Allstate Insurance Company canceled the fire insurance policy of an Oregon woman after her former spouse set multiple fires in the victim's home. The woman had been abused by the former spouse throughout the marriage and left the marriage in 1992. Two weeks prior to setting the fires, the former spouse had burgled the home, breaking five windows. Initially Allstate also refused to pay the fire claim on the basis of the former marital relationship, even though he was not on the policy. After Allstate canceled her policy, the woman sought other coverage and was repeatedly denied because of the arson, even though the arsonist had been convicted and was in jail.

Women's shelters in Vermont have reported difficulty obtaining insurance due to rejections and high rates.

The homeowner's policy of a Washington state woman was canceled by Safeco Insurance Companies in May, 1993, by letter reciting 5 claims filed over the 12 year life of the policy and noting concern that the most recent three occurred within a span of four months, but "more importantly", the most recent one "involved a domestic violence situation of individuals that are living with" the insured. The ex-wife of her boyfriend's brother damaged her door.

A Washington state landlord's policy was canceled because the insurer learned that the landlord intended to rent a home to a woman's shelter.

In September, 1995, Farmers' Insurance Companies denied a property claim to a Washington state woman whose former boyfriend and abuser broke into her home and stole over \$5000 worth of personal property. During the course of investigating the claim, the insurer disclosed to the abuser the fact that he was suspected of stealing the property and had been named by the woman. The abuser retaliated by breaking into the woman's home and beating her, shoving her head-first into the fireplace, rendering her unconscious and threatening her life if she pressed charges. The woman fled the state with her children.



This year, in  
emergency rooms,  
clinics and  
physicians offices

## **One in five women**

will seek medical care because of  
injuries or presenting problems  
caused by domestic violence.

**You can help.**

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# You Can Help . . .

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**by understanding the scope  
of domestic violence.**

**DOMESTIC VIOLENCE IS A MAJOR HEALTH ISSUE.** It is the single largest cause of injury to women in the United States. Abused and battered women account for:

- 22% to 35% of women seeking emergency services for any complaint
- 14% of women seen in ambulatory care internal medicine clinics
- 25% of all women who attempt suicide
- 25% of women seeking psychiatric emergency services
- 23% of pregnant women seeking prenatal care
- 45% to 59% of mothers of abused children
- 58% of women over 30 years old who have been raped
- 50% of all female homicide victims

— National Statistics courtesy of the American Medical Association

*"In Alaska, more than 9,000 women and their children sought emergency safe shelter in Alaska's statewide shelter program during FY 93."*

— Alaska Council on Domestic Violence and Sexual Assault

**HEALTH CARE PROFESSIONALS** are among the first persons a woman will turn to for help. You have a unique opportunity to offer effective, timely identification and referral that can end the cycle of violence.

# You Can Help . . .

**by understanding the problem  
of domestic violence.**

**DOMESTIC VIOLENCE** is characterized as a pattern of coercive behaviors that may include:

- Repeated battering
- Psychological abuse
- Sexual assault
- Progressive social isolation from friends and family
- Deprivation (food, money, shelter, transportation)
- Intimidation
- Threats of violence
- Destruction of home or personal property

These behaviors are perpetrated by someone who is or was involved in an intimate relationship with the victim.

Although men can find themselves in this situation, 95% of reported cases involve women. For this reason this booklet is written assuming the patient is a woman. For the most part, the same advice applies regardless of the sex of the patient.

Domestic violence occurs in all ethnic groups, all economic classes, all religions and all age groups. Abuse often begins when a woman becomes pregnant. 17.5% of all low birth weight babies are born to battered women. Children who live in homes where domestic violence occurs are 13 times more likely to be physically abused than children living in non-violent homes. Children who witness the battering of their mothers can demonstrate significant behavioral and/or emotional problems.

Domestic violence does not just happen once or twice:

- ♦ Battering increases in frequency and severity over time
- ♦ Women may live with violence for a long time before seeking help
- ♦ Many women fear greater harm from partners if they leave or report abuse
- ♦ The danger of abuse actually does increase for women during separation or divorce
- ♦ Some women in abusive relationships do not have the financial resources to live without their partner

Your response to domestic violence can contribute to a woman's understanding of the seriousness of abuse and her ability to end the violence. The failure to identify abuse may result in withholding important resources at exactly the point when a woman is most able to initiate change.



# You Can Help . . .

## by identifying domestic violence.

### How and What to Ask

Domestic violence should be considered a potential health problem for all women, especially pregnant women and women receiving emergency medical treatment. Due to the prevalence of domestic violence, the American Medical Association advises routine screening of all women (guidelines are available on the AMA; see page 12). If you are treating a child for suspected or confirmed neglect and/or abuse, also check for abuse toward the mother.

Routine assessment with new patients and periodic reassessment with all patients during regularly scheduled visits provides a structure to identify patients in violent, threatening or highly controlling relationships. Screening questions fit logically into a patient's social and family history. It is appropriate to include questions about interpersonal violence in any evaluation.

Establish a physically and emotionally safe setting to interview patients. Ensure the woman's partner, children and family members are not present. A battered woman will not discuss an abusive situation if her abuser is present; she may be reluctant to cause further stress for her children by discussing her situation while they are present.

Simple, direct questions delivered with concern in a safe and confidential encounter are the most effective way to identify domestic violence. For example: "What happens when there are fights and disagreements at your home?" "Someone hurt you tonight . . . can you tell me about it?" "I'm concerned that someone hurt you like this . . . tell me how it happened?"

Build trust and confidence with your patient. Avoid any reaction that would cause the woman to feel humiliated or at fault. Remember the patient may be the victim in a very violent situation; she is not responsible for the abuse. Ask for enough detail to be able to form an accurate assessment of the level of violence in the relationship. Keep in mind she wants to end the abuse, not the relationship.

## WHAT TO LOOK FOR Common Diagnoses/Clinical Indicators

### Signs of Physical Abuse

Injuries most commonly involve the head, neck, chest and abdomen. Trauma to the genital area is also commonly observed. During pregnancy, the breasts and abdomen are particularly common injury sites.

### *Nature and Circumstances of Injuries Suspect of Abuse*

- Injury inconsistent with history
- Numerous injuries at multiple sites in absence of catastrophic event (motor vehicle crash etc.)
- Injuries in multiple stages of healing; old and often untreated injuries often evident
- Repeated or chronic injuries
- Patterned injuries such as belt buckles, fist marks, heel/shoe mark from kicking or stepping on the victim's back or abdomen
- Bilateral injuries (ex. bilateral extremity injuries)
- Delay in seeking medical care for injury
- Partner unwilling to leave woman alone in treatment; anxious to answer all questions directed to patient

### *Head and Spinal Injuries*

- Serious head injuries are common
- Mild traumatic head injury from cumulative trauma such as repeatedly being shoved/slammed against a wall; slurred speech and hearing deficits are commonly observed
- Back/spinal injuries as a result of being pushed, shoved or thrown, often repeatedly; these injuries often resemble what is seen with fall-related injuries but the nature and circumstances of the injury reveal that the injury was inflicted (ex. patient has other injuries not likely to be caused by a fall)
- Ruptured ear drums as a result of blows to the head/ears

### Sprains and Fractures

- Fractures associated with falls due to being pushed and/or shoved
- Fractures of the forearm are commonly seen as woman attempts to shield herself with her arms
- Facial and orbital fractures from direct blows to the the area of the eyes

### Contusions, Bruises and Lacerations

- Proximal or central bruising on the body, often in hidden areas covered by clothing is highly suspicious for abuse (ex. bruises on inner thighs)
- Black eye (s)
- Facial lacerations: frequently a U-shaped cut is observed with bruising due to a ring that the abuser had on when he hit/punched the victim
- Cuts and slashes: often observed on a victim's hand/wrist area as she attempts to defend herself from a knife
- Neck burns and wrangle marks around the throat/neck
- Finger marks: often observed on inner soft tissue of the legs and/or arms from the abuser holding the victims down (during sexual assault, beating, etc.)

### Burns and Bites

- Burns: often from a cigarette, iron, radiator commonly involving the hands, feet
- Friction burns from being restrained, dragged (ex. rope burns)
- Human bite marks

### Self-Inflicted Injuries

- Abused women are at very high risk for suicide and suicide attempts
- Self-induced or attempted abortions

### Signs of Sexual Abuse

- Frequent vaginal and urinary tracts infections; difficulty/painful urination (dyspareunia)

- Chronic pelvic pain
- Pelvic inflammatory disease (PID) with negative lab findings
- Recurrent sexually transmitted diseases (STD's): the batterer may force his partner to have unsafe sex
- Irregular vaginal bleeding
- Pain and fear upon examination; vaginismus (very tense vaginal muscles when exam attempted)
- Poor contraceptive compliance and/or multiple therapeutic abortions: the batterer may forbid use of contraceptives and family planning
- Sexual dysfunction

### Medical Signs During Pregnancy

- Any injury during pregnancy, particularly injuries to the breasts, abdomen and genital area
- Pre-term abortions, bleeding, miscarriages and premature labor; abused women are at significantly higher risk of having intrauterine growth retardation and low-birth weight infants
- Hyperemesis (excessive vomiting)
- Substance abuse, poor nutrition or depression
- Late or sporadic prenatal care: the abuser restrains the woman from obtaining prenatal care

### Related Medical Findings

- Chronic pain syndrome due to diffuse, repetitive trauma (no evidence of visible injury may be present at time of examination)
- Recurrent sinus infections and/or dental problems secondary to facial trauma
- Physical symptoms related to stress, chronic post-traumatic stress disorder, other anxiety disorders or depression. Examples are
  - panic attacks
  - eating disorders, malnutrition
  - chronic headaches
  - abdominal and gastrointestinal complaints

#### Related Medical Findings, continued

- numbness and tingling (paresthesia)
- atypical chest pain
- frequent visits with vague complaints or symptoms without evidence of physiologic abnormality
- ◆ frequent use of prescribed tranquilizers or pain medications

#### Mental Health/Psychiatric Symptoms

- ◆ Depression
- ◆ Substance abuse
- ◆ Post-traumatic stress reactions/disorder
- ◆ Suicide attempts or gestures

#### Patients' and Partners' Behavioral Signs

- ◆ Patient's anxiety or distress is out of proportion to the severity of injuries or complaints
- ◆ Patient is reluctant to speak in front of her partner
- ◆ The partner accompanies patient, stays close and answers questions directed to her
- ◆ Denial or minimization of violence by partner or patient
- ◆ Intense jealousy or possessiveness demonstrated by partner or reported by patient
- ◆ Self-blame by patient for abuser's violence

#### Issues for Treatment

An abuser's pattern of controlling and intimidating his partner creates the following obstacles to treatment:

- ◆ Limited access to routine and/or emergency medical care; missed appointments
- ◆ Noncompliance with treatment; not allowed to obtain or take medication

# You Can Help . . .

**by providing treatment and effective intervention.**

#### **Treat the Illness or Injury**

Assess the chief complaint or problem against the shared recognition of the violence. A review of symptoms with particular attention to sites of previous injury and chronic pain may help both the health care professional and the patient identify how the violence affects her general health. If the patient is pregnant, review both injury and stress related health risks to her fetus. If she has children in the home, review the possible risks to her children resulting from domestic violence. Inform the patient that her situation is potentially lethal, that domestic violence is a crime and that she is protected by the law. *Use caution in administering or prescribing tranquilizers, painkillers, and sleeping pills which alter the patient's ability to escape or avoid assault.*

#### **Assess Safety**

Escalating injuries, sexual assault, threats of homicide or suicide, threats against other family members, gun possession, either party's use of drugs and alcohol, and separation and divorce proceedings are all associated with a higher risk of serious injury or death. The absence of these factors does not however guarantee safety.

If your patient does not feel safe, then it is imperative for her to begin working with crises intervention advocates at once. Help her to call the local domestic violence services in your area from the safety and privacy of your office. Help her identify other "safe" places or people she can turn to for help such as relatives, friends or community members.

If the patient indicates she "feels safe for now" then give her information on services that are available to her and a list of shelters or other safe programs. Encourage her to participate in a women's support group, consider legal protection or contact an advocate or counselor who works with victims of domestic violence. Couples counseling or family intervention services are not recommended due to the increased risk of harm. A complete listing of domestic violence programs and shelters in Alaska is provided on page 11.

# DUPLICATION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



Rev. 6/98

Central Microfilm Services  
Department of Education  
State of Alaska

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- atypical chest pain
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## Document Findings

When bruises and other injuries heal, the medical record you have written may be the only evidence that remains of assault. Take the time to fully document your findings. Use simple, but descriptive, language and quote the patient's own words as much as possible (ex. "My husband hit me with his fist" versus "Patient was abused" or "hit by fist."). Use a sketch of the body to indicate the sites of current—and past—injuries. Record all details of the event including: name, address and phone # of the abuser, if disclosed; if police are called, the name, badge and phone number of the officer; name of anyone who accompanies the victim. If possible, photograph the injuries. Let the patient know that her medical record is confidential but available to her should she decide to use it for court proceedings.

As a health care professional in Alaska, you are required by law to formally report confirmed and suspected child abuse and neglect immediately to the nearest office of the state's Department of Health and Social Services, Division of Family and Youth Services.

All facilities providing emergency treatment are required to have emergency room protocols covering the treatment of cases involving domestic violence. Model protocols can be obtained through the Family Violence Prevention Fund (see page 12).

## Follow-up

Address domestic violence at each subsequent visit. Reassess the patient's safety, her children's safety and the effectiveness of strategies she has used to diminish the violence.

## Know That You Can Make a Difference.

*"As health professionals, we must make every effort to end domestic violence. Women must be able to live their lives free from violence, both inside and outside the home. Our awareness, our intolerance of violence, and our active interventions greatly diminish the license for domestic violence. As professionals, we can make a remarkable difference."*

—former Surgeon General Antonia C. Novello, MD, MPH

## Resource List of Shelter and Domestic Violence Prevention Programs in Alaska

Immediate Area Resources \_\_\_\_\_  
Local Shelter Crisis Line # \_\_\_\_\_  
Local Law Enforcement # \_\_\_\_\_  
State Division of Family and Youth  
Services Statewide Referral # **1-800-478-4444**  
State Division of Family & Youth Services Local # \_\_\_\_\_

Anchorage	Abused Women's Aid in Crisis	crisis 272-0100 office 279-9581
Anchorage	Alaska Women Resource Center	office 276-0582
Anchorage	Standing Together Against Rape	crisis 563-7273 office 563-9981
Barrow	Arctic Women in Crisis	crisis 852-0267 office 852-0261 toll-free statewide 1-800-478-0267
Bethel	Tundra Women's Coalition	crisis 543-3456 office 543-3444
Dillingham	Safe & Fear-Free Environment	crisis 842-2316 office 842-2320
Emmonak	Emmonak Women's Shelter	office 949-1434
Fairbanks	Women in Crisis Counseling and Assistance	crisis 452-RAPE office 452-2293
Fairbanks	Tanana Chiefs Conference, Family Services Program	office 452-8251
Homer	South Peninsula Women's Services	crisis 235-8101 office 235-7712
Juneau	Aiding Women in Abuse and Rape Emergencies	crisis 586-1090 office 586-6623
Juneau	Parent Aid and Family Support Center	office 586-3785
Juneau	Tongass Community Counseling Center	office 586-3585
Kenai	Leeshore Women's Resource & Crisis Center	crisis 283-7257 office 283-9479
Ketchikan	Women in Safe Homes	crisis 225-9474 office 225-0202
Kodiak	Kodiak Women's Resource & Crisis Center	crisis 486-3625 office 486-6171
Kotzebue	Mannila's Regional Women's Crisis Program	crisis 442-3969 office 442-3311
Nome	Bering Sea Women's Group	crisis 443-5444 office 443-5491
Palmer	Valley Women's Resource Center	crisis 746-4080 office 746-4080
Seward	Seward Life Action Council	office 224-5257
Sitka	Sitkans Against Family Violence	office 747-3370
Unalaska	Unalaskans Against Sexual Assault and Family Violence	office 581-1500
Valdez	Advocates for Victims of Violence	crisis 835-2999

**Alaska Network on Domestic Violence  
and Sexual Assault**

130 Seward Street, Suite 501  
Juneau, AK 99801



**SB**

**198**

SFIN

FILE

2/2/96 #1

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SB198

Revision Date: \_\_\_\_\_ Department Affected: Fish and Game  
 Title: An Act Establishing the Homer Airport BRU: Habitat and Restoration  
Critical Habitat Area Component: Habitat Protection  
 Sponsor: Senator Torgerson  
 Requester: Senate Resources COMPONENT SERIAL NO. 2100

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

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

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ( )	0	0	0	0	0	0
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL						

Estimate of any current year (FY96) 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)

Prepared by: Janet Kowalski  
 Division: Habitat and Restoration  
 Approved by Commissioner: Frank Rue  
 Agency: Fish and Game

Phone: 465-4105  
 Date: 1/26/96  
 Date: 1-27-96

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3/22/96 This note became  
note # 2

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB198(RES)

Revision Date: Original Dept Affected: Natural Resources  
 Title: An act establishing the Homer Airport BRU: Management & Administration  
Critical Habitat Area Component: Information Resource Management  
 Sponsor: Senator Torgerson  
 Requestor: Senate Finance Component Serial No. 427

Expenditures/Revenues	(Thousands of Dollars)					
	FY97	FY98	FY99	FY00	FY01	FY02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	00	00	00	00	00	00
<b>CAPITAL EXPENDITURES</b>	00	00	00	00	00	00
<b>CHANGE IN REVENUES ( )</b>	00	00	00	00	00	00

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	00	00	00	00	00	00

Estimate of any current year (FY96) cost: \$ none

POSITIONS						
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

This legislation will require the Land Records Information Section to note a new Legislatively Designated Area to the state records, both the status plats and the LAS. The legal description for the LDA is complex, as well as the land status in Homer. This particular township is still a manual plat and the LDA cannot be noted without converting the plat to ARC.

The total cost to implement this legislation is approximately \$1.0, so we are submitting a zero fiscal note and will absorb the cost in our regular operations.

Prepared by: Nico Bus, Acting Director Phone: 465-2400  
 Division: Support Services Date: 21-Mar-96  
 Approved by Commissioner: [Signature] Date: 21-Mar-96  
 Agency: Natural Resources

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# FISCAL NOTE

REPORTED DATE

3/28/96

No. 2

## STATE OF ALASKA 1996 LEGISLATIVE SESSION

BILL

Bill Version: CS SB 198 (RES)

(S) Publish Date: 3-22-96

Revision Date: Original Dept Affected: Natural Resources  
 Title: An act establishing the Homer Airport BRU: Management & Administration  
Critical Habitat Area Component: Information Resource Management  
 Sponsor: Senator Torgerson  
 Requestor: Senate Finance Component Serial No. 427

Expenditures/Revenues (Thousands of Dollars)

	FY97	FY98	FY99	FY00	FY01	FY02
<b>OPERATING EXPENDITURES</b>						
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	0.0	0.0	0.0
<b>CHANGE IN REVENUES ( )</b>	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

	FY97	FY98	FY99	FY00	FY01	FY02
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 (FY96) cost: \$ none

POSITIONS

	FY97	FY98	FY99	FY00	FY01	FY02
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)

This legislation will require the Land Records Information Section to note a new Legislatively Designated Area to the state records, both the status plats and the LAS. The legal description for the LDA is complex, as well as the land status in Homer. This particular township is still a manual plat and the LDA cannot be noted without converting the plat to ARC.

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Prepared by: Nico Bus, Acting Director Phone: 485-2408  
 Division: Support Services Date: 21-Mar-96  
 Approved by Commissioner: [Signature] Date: 21-Mar-96  
 Agency: Natural Resources

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*moved Donley  
Adopted*

AMENDMENT #1

OFFERED IN THE SENATE

TO: CSSB 198(RES)

- 1 Page 3, line 18:
- 2 Delete ";
- 3 Insert ".
  
- 4 Page 3, line 19, through page 4, line 3:
- 5 Delete all material.

*Fix*  
CS FOR SENATE BILL NO. 198(RES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE SENATE RESOURCES COMMITTEE

Offered: 3/14/96  
Referred: Finance

Sponsor(s): SENATOR TORGERSON

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the Homer Airport Critical Habitat Area."

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

3 \* Section 1. PURPOSE. The purpose of the Homer Airport Critical Habitat Area is to  
4 provide an area for enhancing winter browse for the moose herd in the lower Kenai Peninsula  
5 area and for guaranteed public access to and continued public fishing, hunting, and trapping  
6 activities and opportunities in the area, consistent with maximum sustained yield.

7 \* Sec. 2. AS 16.20 is amended by adding a new section to read:

8 Sec. 16.20.630. HOMER AIRPORT CRITICAL HABITAT AREA  
9 ESTABLISHED. (a) The following described area is established as the Homer  
10 Airport Critical Habitat Area:

11 (1) Tract A:

12 Township 6 South, Range 13 West, Seward Meridian

13 Section 21; that portion of the S1/2NE1/4 upland of the  
14 ordinary high water line of Beluga Lake, comprising 9.3 acres,  
15 more or less;

1 (2) Tract B:

2 Township 6 South, Range 13 West, Seward Meridian

3 Section 21: that portion of the NE1/4 upland of the  
4 ordinary high water line of Beluga Lake that is encompassed by  
5 a boundary beginning at the section corner common to Sections  
6 15, 16, 21, and 22, Township 6 South, Range 13 West, Seward  
7 Meridian; thence proceeding South 00 degrees 01 minute 00  
8 seconds East along the section line common to Sections 21 and  
9 22, Township 6 South, Range 13 West, Seward Meridian, to the  
10 point of intersection with a line located 1,520 feet South of and  
11 parallel to the northern section line of Section 21, Township 6  
12 South, Range 13 West, Seward Meridian; thence along the line  
13 located 1,520 feet South of and parallel to the northern section  
14 line of Section 21, Township 6 South, Range 13 West, Seward  
15 Meridian, to the point of intersection with the ordinary high  
16 water line of Beluga Lake; thence in a northwesterly direction  
17 along the meanders of the ordinary high water line of Beluga  
18 Lake to the point of intersection with the West boundary line of  
19 NE1/4, Section 21, Township 6 South, Range 13 West, Seward  
20 Meridian, being common to the center quarter line of Section  
21 21, Township 6 South, Range 13 West, Seward Meridian; thence  
22 North 00 degrees 01 minute 00 seconds West along the West  
23 boundary line of NE1/4, Section 21, Township 6 South, Range  
24 13 West, Seward Meridian, to the point of intersection with the  
25 section line common to Sections 16 and 21, Township 6 South,  
26 Range 13 West, Seward Meridian; thence East along the section  
27 line common to Sections 16 and 21, Township 6 South, Range  
28 13 West, Seward Meridian, to the point of beginning;  
29 comprising 70.4 acres, more or less;

30 (3) Tract C:

31 Township 6 South, Range 13 West, Seward Meridian

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Section 15: S1/2SW1/4, comprising 80 acres, more or less;

(4) Tract D:

Township 6 South, Range 13 West, Seward Meridian

Section 22: that portion of the NW1/4 northwesterly of a line parallel to, northwesterly of, and 750 feet perpendicular from the monumented runway centerline of the Homer Airport, comprising 60 acres, more or less;

(5) Tract E, comprising 74 acres, more or less:

Township 6 South, Range 13 West, Seward Meridian

Section 15: those portions of SW1/4SE1/4 and E1/2SE1/4 northwesterly of a line parallel to, northwesterly of, and 750 feet perpendicular from the monumented runway centerline of the Homer Airport;

Section 22: that portion of the NW1/4NE1/4 northwesterly of a line parallel to, northwesterly of, and 750 feet perpendicular from the monumented runway centerline of the Homer Airport;

(6) Tract F:

Township 6 South, Range 13 West, Seward Meridian

Section 22: those portions of Government Lots 5 and 6 southeasterly of a line parallel to, southeasterly of, and 850 feet perpendicular from the monumented runway centerline of the Homer Airport, comprising 4 acres, more or less;

(7) Tract G, comprising 2.7 acres, more or less:

Township 6 South, Range 13 West, Seward Meridian

Section 22: that portion of Government Lot 9 southeasterly of a line parallel to, southeasterly of, and 850 feet perpendicular from the monumented runway centerline of the Homer Airport;

Section 22: that portion of the NW1/4NE1/4

1                                   southeasterly of a line parallel to, southeasterly of, and 850 feet  
2                                   perpendicular from the monumented runway centerline of the  
3                                   Homer Airport.

4                                   (b) Notwithstanding AS 16.20.500 - 16.20.530, the land in Township 6 South,  
5                                   Range 13 West, Section 21 described in (a) of this section is subject to the following:

6                                   (1) the right of unobstructed passage by aircraft over the land;

7                                   (2) the right of aircraft to use the airspace above the land without  
8                                   restrictions on noise, dust, or fumes, other than those imposed under federal and state  
9                                   laws governing air and water quality;

10                                  (3) the authority of the Department of Transportation and Public  
11                                  Facilities to

12                                   (A) prohibit the construction of obstructions and permanent  
13                                   structures on the land;

14                                   (B) clear the land and keep the land clear, including removal  
15                                   of trees, brush, soil, berms, hills, irregularities in the topography, stockpiles,  
16                                   rocks, buildings, structures, and other obstructions;

17                                   (C) prohibit or remove an activity, installation, or object on the  
18                                  land that

19                                   (i) creates electrical interference with radio  
20                                   communication or navigational instruments of aircraft or the Homer  
21                                   Airport;

22                                   (ii) may enhance bird habitat on or in the vicinity of the  
23                                   Homer Airport;

24                                   (iii) hinders the ability of pilots to distinguish between  
25                                   airport lights and other lights;

26                                   (iv) results in glare in the eyes of pilots using the Homer  
27                                   Airport;

28                                   (v) impairs visibility in the vicinity of the Homer  
29                                   Airport; or

30                                   (vi) endangers the landing, departure, or maneuvering of  
31                                   aircraft at the Homer Airport;

- 1 (D) prohibit development on the land for any purpose, other
- 2 than public access across the land;
- 3 (E) require
- 4 (i) approval of the Department of Transportation and
- 5 Public Facilities for the design and construction of access across the
- 6 land;
- 7 (ii) relocation of access across the land as necessary to
- 8 satisfy applicable standards of airport design, safety, and security;
- 9 (F) install navigational aids on the land; and
- 10 (G) enter upon the land for the purpose of enforcing or
- 11 implementing this subsection.
- 12 (c) Notwithstanding AS 16.20.500 - 16.20.530, the land in Township 6 South,
- 13 Range 13 West, Sections 15 and 22 described in (a) of this section is subject to the
- 14 following:
- 15 (1) the right of unobstructed passage by aircraft over the land;
- 16 (2) the right of aircraft to use the airspace above the land without
- 17 restrictions on noise, dust, or fumes, other than those imposed under federal and state
- 18 laws governing air and water quality;
- 19 (3) the authority of the Department of Transportation and Public
- 20 Facilities to
- 21 (A) prohibit the construction of obstructions and permanent
- 22 structures extending above the imaginary surface of the Homer Airport as
- 23 determined under regulations of the Federal Aviation Administration;
- 24 (B) clear the land and keep the land clear of obstructions
- 25 extending above the imaginary surface of the Homer Airport as determined
- 26 under regulations of the Federal Aviation Administration, including removal of
- 27 trees, brush, soil, berms, hills, irregularities in the topography, stockpiles, rocks,
- 28 buildings, structures, and other obstructions;
- 29 (C) prohibit or remove an activity, installation, or object that
- 30 (i) creates electrical interference with radio
- 31 communication or navigational instruments of aircraft or the Homer

1 Airport;

2 (ii) may enhance bird habitat on or in the vicinity of the  
3 Homer Airport;

4 (iii) hinders the ability of pilots to distinguish between  
5 airport lights and other lights;

6 (iv) results in glare in the eyes of pilots using the Homer  
7 Airport;

8 (v) impairs visibility in the vicinity of the Homer  
9 Airport; or

10 (vi) endangers the landing, departure, or maneuvering of  
11 aircraft at the Homer Airport;

12 (D) enter upon the land for the purpose of enforcing or  
13 implementing this subsection.

14 (d) The Department of Fish and Game shall cooperate with the Department of  
15 Transportation and Public Facilities in implementing (b) and (c) of this section.

16 (e) Neither the Department of Fish and Game nor another person may create,  
17 develop, or enhance bird habitat within the Homer Airport Critical Habitat Area.

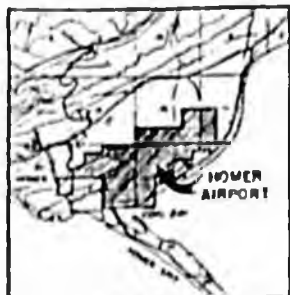
18 (f) The state land described in (a) of this section may not be transferred to  
19 municipal or private ownership or to another state agency unless covenants or  
20 easements in the land, containing provisions substantially similar to (b) and (c) of this  
21 section, are reserved to the Department of Transportation and Public Facilities for the  
22 benefit of the Homer Airport.

23 (g) The Department of Fish and Game shall establish and appoint an advisory  
24 committee to work with the department and advise on the management of the Homer  
25 Airport Critical Habitat Area. If the department develops a management plan for the  
26 critical habitat area, the department shall consult with the advisory committee, and the  
27 plan must allow guaranteed access to and continued public fishing, hunting, and  
28 trapping activities and opportunities in the area. Among appointments to the advisory  
29 committee, the department shall include

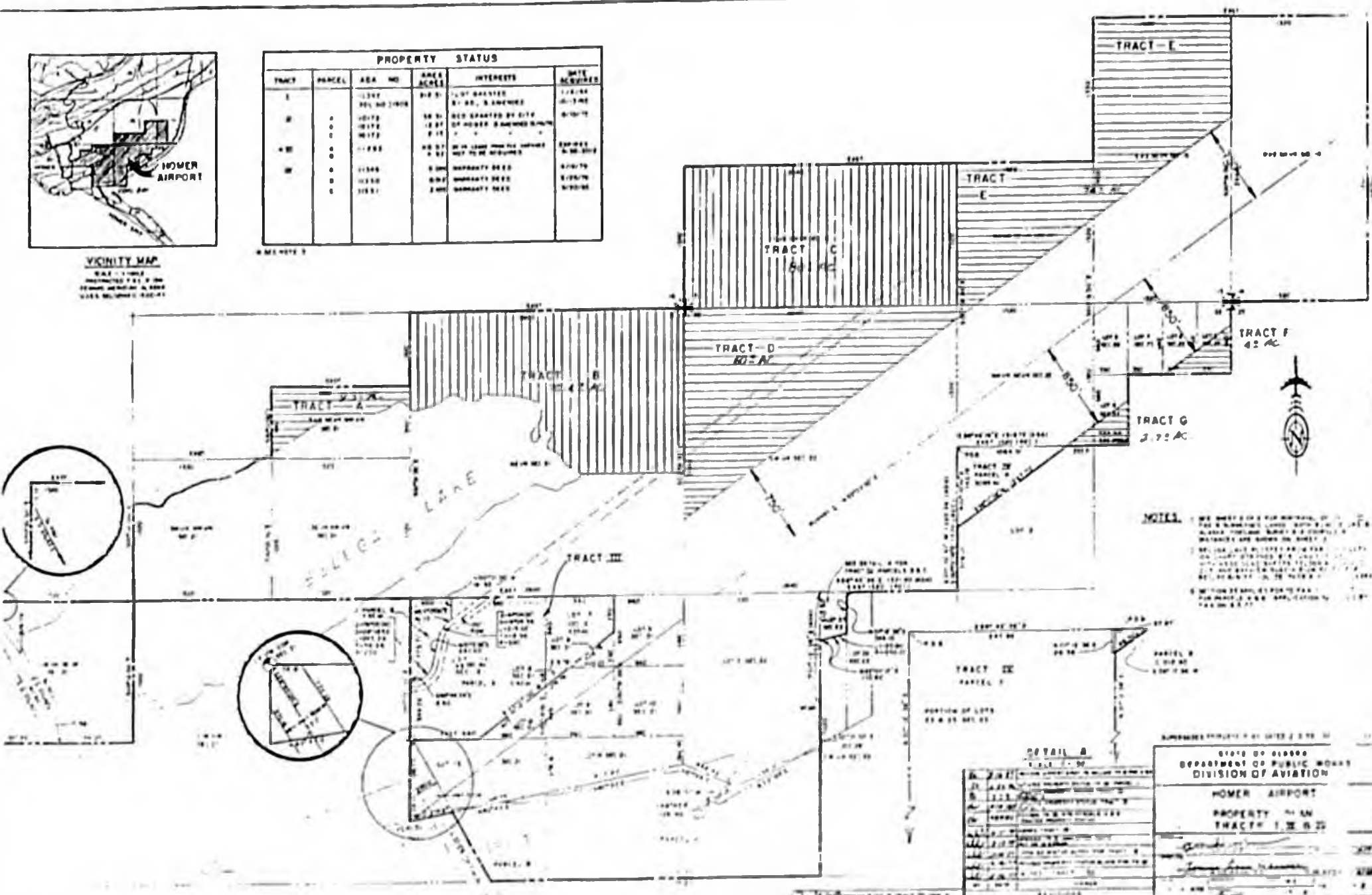
30 (1) industry and commercial users and hunters, trappers, fishermen, and  
31 recreational users recommended by the City of Homer;

1  
2  
3

- (2) an official representing the City of Homer; and
- (3) a representative of the Department of Transportation and Public Facilities.



PROPERTY STATUS					
TRACT	PARCEL	ADA NO	AREA ACRES	INTERESTS	DATE ACQUIRED
I		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
II		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
III		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
IV		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
V		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
VI		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
VII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
VIII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
IX		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
X		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XI		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XIII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XIV		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XV		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XVI		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XVII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XVIII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XIX		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XX		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXI		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXIII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXIV		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXV		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXVI		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXVII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXVIII		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXIX		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50
XXX		1247	0.10	LOT GRANTED BY AD. S. SENECA	1/1/50



# Alaska State Legislature

**District Address:**  
145 Main St. Loop; Suite 226  
Kenai, AK 99611  
(907) 283-2690; fax 283-9267



**Session Address:**  
State Capitol, Room 427  
Juneau, AK 99801-1182  
(907) 465-2828; fax 465-4779

*Senator John Torgerson*

## SECTIONAL ANALYSIS

### CSSB 198 (RES) - Homer Airport Critical Habitat Area

**Section 1: Purpose.** States that the purpose of the legislation is for moose habitat and for guaranteed continued public access.

**Section 2.** New section AS 16.20.630, adding Homer Airport Critical Habitat Area

subsection (a) setting forth legal description for included properties, Tract A through and including Tract G;

subsection (b) specific restrictions applicable to Tracts A and B;

subsection (c) specific restrictions applicable to Tracts C, D, E, F, and G;

subsection (d) language requiring ADF&G cooperation with ADOT in implementing restrictions set forth in subsection (b) & (c);

subsection (e) language prohibiting bird habitat enhancement, development, and creation within the C.H.A.;

subsection (f) protective covenant and easement language for land transfers which may be needed to implement the C.H.A.;

subsection (g) establishes an advisory committee for management of the C.H.A. and requires the management plan to include guaranteed continued public access.

(JT.maj) CSSB198(RES).3/25/96)

# Alaska State Legislature

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Kenai, AK 99611  
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(907) 465-2828; fax 465-4779

*Senator John Torgerson*

## SPONSOR STATEMENT

### SB 198 - HOMER AIRPORT CRITICAL HABITAT AREA

The Department of Transportation currently has an interest in 1,042.31 acres of uplands and tide and submerged lands for the Homer Airport. SB 198 would transfer 300.4 acres to the Alaska Department of Fish and Game, to be managed as a critical habitat area. Approximately 741.91 acres of land will continue to be dedicated for airport purposes after the creation of the Critical Habitat Area.

The primary purpose of the CHA is to protect the existing area for wintering and calving moose and nesting waterfowl and shorebirds. However, the legislation specifically restricts enhancement activity for waterfowl and shorebirds. No effort will be allowed to increase existing populations through creation of additional nesting sites, feeding programs, or other enhancement activities. Enhancement for browse area for moose is not restricted, and the areas set aside for the CHA are outside the fenced runway.

Future expansion plans have been reviewed by the Department and the local jurisdiction, the City of Homer. The Department initially recommended an area of about 75 acres in size as future expansion. Concerns were expressed by some local residents about that removal and the issue was brought before the City of Homer. The City Council supported the full 300 acre area, without any removal for future expansion. Given the local government support, the Department then provided the legal description for the full 300 acres.

This legislation provides for an Advisory Committee to work with the department and advise on the management of the Area, including a representative of the Department of Transportation and Public Facilities.

This legislation required substantial interaction with the Department of Transportation, to ensure that their interests in a public improvement were adequately protected. All drafts of the bill has been reviewed by the Department and subsequently corrected as recommended by the Department.

(JT: maj; SB 198; 2/14/96)



# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB198(RES)

Revision Date: Original Dept Affected Natural Resources  
 Title: An act establishing the Homer Airport BRU: Management & Administration  
Critical Habitat Area Component: Information Resource Management  
 Sponsor: Senator Torgerson  
 Requestor: Senate Finance Component Serial No. 427

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
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	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES	0.0	0.0	0.0	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						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

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

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

This legislation will require the Land Records Information Section to note a new Legislatively Designated Area to the state records, both the status plats and the LAS. The legal description for the LDA is complex, as well as the land status in Homer. This particular township is still a manual plat and the LDA cannot be noted without converting the plat to ARC.

The total cost to implement this legislation is approximately \$1.0, so we are submitting a zero fiscal note and will absorb the cost in our regular operations.

Prepared by: Nico Bus, Acting Director Phone: 485-2406  
 Division: Support Services Date: 21-Mar-96  
 Approved by Commissioner: [Signature] Date: 21-Mar-96  
 Agency: Natural Resources

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HOMER SOCIETY OF NATURAL HISTORY  
 PRATT MUSEUM  
 3779 Bartlett Street  
 Homer, Alaska 99603  
 (907)235-8635 FAX 907/235/2764



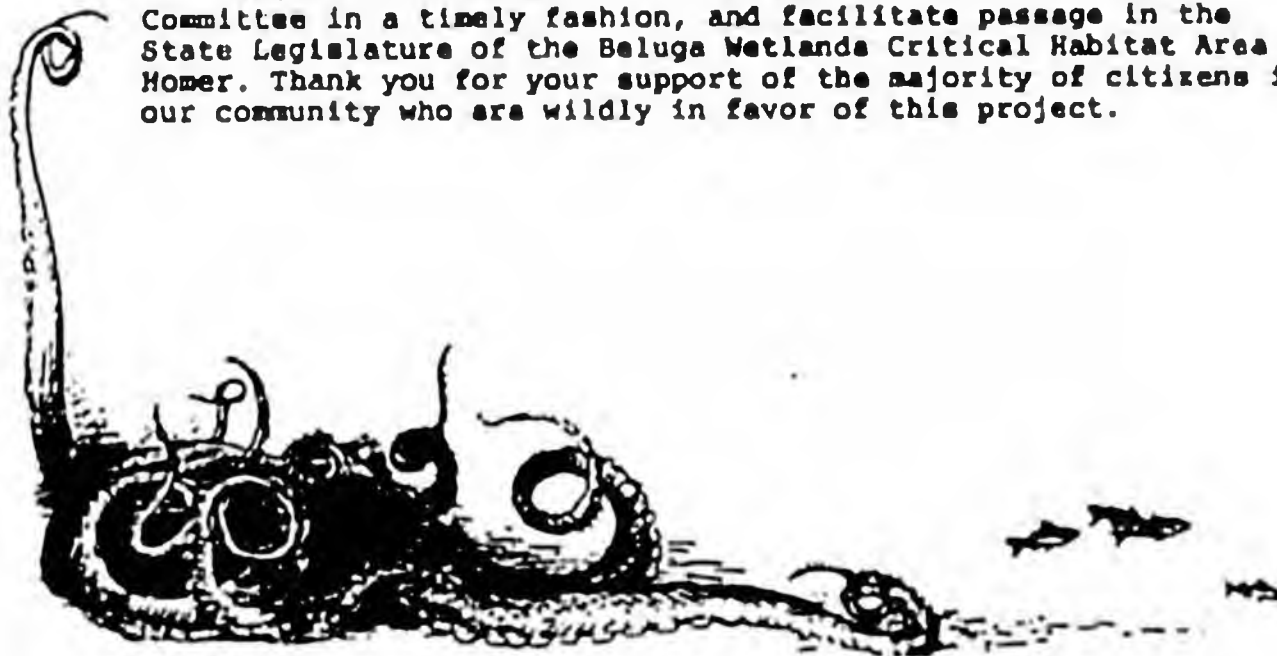
## FACSIMILE TRANSMISSION

DATE: 3.22.96 TIME: 4:30  
 TO: Rick Halford  
 COMPANY: Senate Finance Committee  
 FAX #: 465-4928  
 TOTAL NUMBER OF PAGES INCLUDING COVER: 1  
 FROM: Betsy Webb

## MEMORANDUM

TO: Rick Halford, Senate Finance Committee  
 FROM: Betsy Webb, 40015 Waterman Rd., Homer, Alaska 99603  
 RE: Passage of Homer Beluga Wetlands Critical Habitat Area  
 DATE: March 22, 1996

Please act on Senate Bill 198 in the Senate Finance Committee in a timely fashion, and facilitate passage in the State Legislature of the Beluga Wetlands Critical Habitat Area in Homer. Thank you for your support of the majority of citizens in our community who are wildly in favor of this project.



# Alaska State Legislature

Committee Chair  
Community & Regional Affairs

Committee Vice-Chair  
Labor & Commerce

Committee Membership  
Legislative Council



District Address:  
145 Main St. Loop, Suite 226  
Kenai, AK 99611  
(907) 283-2690; fax 283-9287

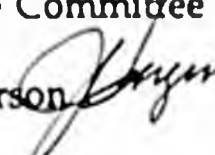
Session Address:  
State Capitol, Room 427  
Juneau, AK 99801-1182  
(907) 465-2828; fax 465-4779

*Senator John Torgerson*

## MEMORANDUM

DATE: March 14, 1996

TO: Senator Halford, Co-Chair  
Senate Finance Committee

FROM: Senator Torgerson 

RE: CSSB 198 (RES)

I would appreciate your scheduling the referenced bill for hearing in Senate Finance at your earliest convenience.

As you may recall from the Senate Resource hearings, this bill has two zero fiscal notes, and so I do not anticipate difficulties with the financial aspects of this legislation.

Thank you for your time and consideration in this matter.

# SENATE COMMITTEE REPORT

## First Committee of Referral

DATE: 1/8/96

FURTHER: Finance

Date of 5-Day Notice: 2-15-96  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: 3-14-96

The Resources Committee considered SENATE BILL NO. 198

"An Act establishing the Homer Airport Critical Habitat Area."

*FN for CS writing*

*0/50*

and recommends:

- be replaced with CS SB 198 ( RES )
- 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 DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>[Signature]</i>	✓	<i>John L. Taylor</i>	✓		
<i>[Signature]</i>	✓	<i>Rich Helford</i>	✓		
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					
<i>[Signature]</i>					

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal
<i>DIG - Habitat</i>	<i>2/15/96</i>	✓	

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

Department	Date	Zero	Fiscal

*CS + SB  
to the bill  
referred to  
committee*

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# SENATE FINANCE COMMITTEE REPORT

REPORTED OUT OF  
SRC 3/28/96

DATE: 3/14/96

DATE TURNED INTO OFFICE: 3/28/96

The Finance Committee considered SENATE BILL NO. 198

"An Act establishing the Homer Airport Critical Habitat Area."

*CS FIN version  
on its way*

and recommends:

- be replaced with CS SB 198 (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<sup>\*</sup>             

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Steve Perry</i>	<input checked="" type="checkbox"/>	<i>Roll &amp; Pass</i>	<input checked="" type="checkbox"/>		
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			
Co-Chair: <i>[Signature]</i>	<input checked="" type="checkbox"/>	Co-Chair:			

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

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

Department	Date	Zero	Fiscal
Fish & Game	1/26/96	<input checked="" type="checkbox"/>	
Natural Resources	3/21/96	<input checked="" type="checkbox"/>	

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

**SB**

**199**

**HFIN**

**FILE**

HOUSE COMMITTEE REPORT

(11)  
Date Referred to Committee: May 2, 1996

FURTHER REFERRALS:

Date of Committee Action: \_\_\_\_\_

The FINANCE Committee considered:

CSSB 199(FIN)

CS FOR SENATE BILL NO. 199(FIN)

ENVIRONMENTAL & HEALTH/SAFETY AUDITS

"An Act relating to environmental audits and health and safety audits to determine compliance with certain laws, permits, and regulations."

recommends it be replaced with the following committee substitute \_\_\_\_\_  
[ ] 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) \_\_\_\_\_

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
Died  in committee				

CHAIR'S SIGNATURE \_\_\_\_\_

# FISCAL NOTE

No. 4

Bill Version: CS SB 199(LRE)

(S) Publish Date: 3-12-96

**STATE OF ALASKA  
1996 LEGISLATIVE SESSION**

Bill

Revision Date: Original Dept Affected: Military & Veterans Affairs  
 Title: An Act relating to environmental audits and BRU: Alaska National Guard  
health and safety audits to determine compliance with... Component: Office of the Commissioner  
 Sponsor: Senator(s) Leman, Pearce  
 Requestor: \_\_\_\_\_ Component Serial No. 414

Expenditures/Revenues		(Thousands of Dollars)					
OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02	
PERSONAL SERVICES							
TRAVEL							
CONTRACTUAL							
SUPPLIES							
EQUIPMENT							
LAND & STRUCTURES							
GRANTS, CLAIMS							
MISCELLANEOUS							
<b>TOTAL OPERATING</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	
<b>CAPITAL EXPENDITURES</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	
<b>CHANGE IN REVENUES ( )</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	

FUND SOURCE		(Thousands of Dollars)					
1002 Federal Receipts							
1003 GF Match							
1004 GF							
1005 GF/Program Receipts							
1008 GF/MHTIA							
Other							
<b>TOTAL</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	

Estimate of any current year (FY96) cost: \$ none

POSITIONS		(Thousands of Dollars)					
FULL-TIME							
PART-TIME							
TEMPORARY							

ANALYSIS: \_\_\_\_\_  
 (Attach a separate page if necessary)

Prepared by: Carol Carroll, Director Phone: 465-4730  
 Division: Administrative Services Date: 23-Jan-96  
 Approved by Commissioner: *Carol Carroll* Date: 23-Jan-96  
 Agency: Military & Veterans Affairs

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# FISCAL NOTE

No. 5  
 Bill Version CS SB 199(RES)  
 (S) Publish Date: 3-12-96

STATE OF ALASKA  
 1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Fish and Game  
 Title: Environmental Audits BRU: Habitat and Restoration  
 Component: Stream and Refuge  
 Sponsor: Senator Leman  
 Requester: Senate Resources COMPONENT SERIAL NO. 2099

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 100	FY 01	FY 02
PERSONAL SERVICES	60.0	60.0	60.0	60.0	60.0	60.0
TRAVEL	2.0	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	4.0	4.0	4.0	4.0	4.0	4.0
SUPPLIES	0.5	0.5	0.5	0.5	0.5	0.5
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>

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

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

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	68.5	68.5	68.5	68.5	68.5	68.5
1005 GF Program Receipts						
1037 GF Mental Health						
Other						
<b>TOTAL</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>	<b>68.5</b>

Estimate of any current year (FY96) cost: 0

**POSITIONS**

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

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

Because of its broad definition of information that is privileged, SB199 would require a new habitat biologist to be assigned to monitor operations that are regulated by the Habitat and Restoration Division. The additional staff is need to detect violations and to allow the state to develop its own independent information to ensure compliance with its Title 15 laws and regulations.

Prepared by: Janel Komaricki, Sen. Staff Phone: 465-4105  
 Division: Habitat and Restoration Division Date: 3/2/96  
 Approved by Commissioner: [Signature] Date: 3-2-96  
 Agency: \_\_\_\_\_

# FISCAL NOTE

No. 6

Bill Version: CS SB 199 (FIN)

(S) Publish Date: 4-3-96

## STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: 19-Mar-96 Dept Affected: Natural Resources  
 Title: An Act relating to environmental audits and BRU: Management and Administration  
health and safety audits to determine compliance with Component: Commissioner's Office  
 Sponsor: Senator(s) Leman, Pearce  
 Requestor: Senate Finance Component Serial No. 423

Expenditures/Revenues (Thousands of Dollars)

	FY97	FY98	FY99	FY00	FY01	FY02
<b>OPERATING EXPENDITURES</b>						
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	40 0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	40 0	0 0	0 0	0 0	0 0	0 0
<b>CAPITAL EXPENDITURES</b>	0 0	0 0	0 0	0 0	0 0	0 0
<b>CHANGE IN REVENUES ( )</b>	0 0	0 0	0 0	0 0	0 0	0 0

FUND SOURCE (Thousands of Dollars)

	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF	40 0					
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	40 0	0 0	0 0	0 0	0 0	0 0

Estimate of any current year (FY96) cost: \$ none

POSITIONS

	FY97	FY98	FY99	FY00	FY01	FY02
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 a potential impact on the Division of Forestry, Agriculture, Lands and the State Pipeline Coordinator's Office. To determine whether what we do with our leases, permits, and contracts will fall under this bill we will be contracting with a third party.

Prepared by: Nico Bus, Acting Director Phone: 465-2408  
 Division: Support Services Date: 19-Mar-96  
 Approved by Commissioner: [Signature] Date: 19-Mar-96  
 Agency: Natural Resources

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 7  
Bill Version: CSSB199(FIN)  
(S) Publish Date: 4-3-96

Revision Date: 3/12/96 Dept. Affected: DCT&PF  
 Title: "An Act relating to environmental audits and health and safety audits Appellate Procedure 202 and 31" BRU: SA/PA  
 Sponsor: Senators Leman Pearce Component: Administration  
 Requester: Senators Leman Pearce COMPONENT SERIAL NO. 613 619

**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						
<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>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGE IN REVENUES</b>						

**FUND SOURCE** (Thousands of Dollars)

100 Federal Receipts						
100J GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTA						
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 (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME	
PART-TIME	
TEMPORARY	

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

Prepared by: Nate Johnson/Loren Rasmussen, P.E., Acting Director Phone: 165-2960  
 Division: Engineering and Operations - Highway Administration Date: 3/13/96  
 Approved by: Joseph L. Penno, Commissioner Date: 3/13/96  
 Agency: Department of Transportation and Public Facilities

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

No. 8  
Bill Version: CS SB199(FIN)  
(S) Publish Date: 4-3-96

Revision Date: 12-Mar-96  
Title: Environmental and health and safety audits  
Sponsor: Senator Lembo  
Requestor: Senate Finance

Department Affected: Environmental Conservation  
BRU: Department-wide  
Component: Department-wide

COMPONENT SERIAL NO. 633

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	39.0	7.8	7.8	7.8	7.8	7.8
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>39.0</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGE IN REVENUES ( )</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>

FUND SOURCE

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	39.0	7.8	7.8	7.8	7.8	7.8
1005 GF/Program Receipt	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MOTLA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>39.0</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>	<b>7.8</b>

Estimate of any current year (FY96) cost: 0.0

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.)  
 The CS creates a privilege for audit reports and provides immunity for any violations of environmental or health and safety laws. However, it does not specify which laws are covered. Any audit information the department now receives voluntarily would have to be a requirement of a permit, compliance agreement or similar document, otherwise that information would be privileged and not accessible to the agency.

This fiscal note represents an RSA with Law for legal services to delineate the legal scope of the bill and assist with renegotiating permits and contract terms.

Prepared by: Janice Adair  
 Division: Director, Division of Environmental Health

Phone: 269-7645  
 Date: 3/18/96

Approved by Commissioner: [Signature]  
 Agency: Department of Environmental Conservation

Date: 3-19-96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HCS CSSB199 (RES)

Revision Date: 05/03/96

Dept. Affected: Alaska Court System

Title: Environmental and Health/Safety Audits

BRU: Trial Courts

Component: \_\_\_\_\_

Sponsor: Sen. Leman

Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. 788

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	17.7	17.7	17.7	17.7	17.7	17.7
TRAVEL						
CONTRACTUAL	80.0	80.0	80.0	80.0	80.0	80.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (						
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**Fund Source**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	97.7	97.7	97.7	97.7	97.7	97.7
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>	<b>97.7</b>

Estimate of any current year (FY 98) cost: None

**Positions**

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: C. S. Christensen III, Staff Counsel

Agency: Alaska Court System

Phone: 284-8228

Date: 05/03/96

Approved by: Arthur H. Snowden, II, Administrative Director

Agency: Alaska Court System

Date: 05/03/96

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Alaska Court System  
Fiscal Analysis  
HCS CSSB 199 (RES)  
Revised 05/03/96

HCS CSSB 199 (RES) creates a privilege from disclosure in certain court proceedings for information contained in an environmental audit. If a person or entity asserts the privilege, the opposing party would need to request an in-camera review of the information, in order to determine if the information is not privileged and must be disclosed.

An in-camera review of this nature can be extremely time consuming; many environmental audits (a term broadly defined in the legislation) are composed of tens of thousands of pages of documents. Cases in which an in-camera review is requested will require large amounts of time for pretrial proceedings. According to the Department of Law, it is currently representing the Department of Environmental Conservation in 45 cases involving contaminated property. These are complex cases in which an environmental audit was probably performed. Law estimates that it will take an average of 50 hours to litigate the privilege issue in those cases in which a privilege is asserted. In addition, due to the complexity of the legislation and the ambiguity of its provisions, Law anticipates substantial litigation and appeals, particularly regarding the privilege. Law has also advised that in some cases, the court system will need to retain scientific and technical experts to assist in evaluating audit reports.

The Department of Law has estimated a need for two additional attorneys to handle the increased litigation and appeals resulting from passage of HCS CSSB 199 (RES), largely from the creation of the privilege, as well as \$75,000 for outside counsel to handle in-camera matters in criminal cases. DEC has also projected the need for additional attorney resources. Note that many privilege cases not involving state agencies will also be litigated, such as cases in which the plaintiff is a private citizen or a municipality. Accordingly, the court system will see far more cases than the cases which involve LAW, DEC, and other state entities. This fiscal note reflects contractual costs for a discovery master to handle the in-camera review of documents, as well as the greater clerical costs associated with cases involving extremely large amounts of documents.

Alaska Court System  
Fiscal Analysis  
HCS CSSB199 (RES)

Personal Services

<u>Position</u>	<u>SALARY</u>	<u>Benefits</u>	<u>Total</u>
Records Clerk, range 10A, Anchorage, PPT, 6 months	\$12,006	\$5,738	\$17,744

Contractual

Discovery master for 1,000 hours at \$75 an hour. 75,000

Fees of experts to assist discovery master in technical and scientific matters 5,000

Total Contractual 80,000

Total Estimated Cost 597,744

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HCSCSSB 199(RES)

Revision Date: 5/3/96 Dept. Affected: Department of Law  
 Title: ...relating to environmental audits and health and safety audits to determine compliance with certain laws, permits... BRU: Criminal Division, Civil Division  
 Sponsor: Senator Leman Component: Criminal Division, General Legal Services  
 Requester: House Rules Committee Environmental Law  
 COMPONENT SERIAL NO. 2085.2087  
2092

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	652.2	652.2	652.2	652.2	652.2	652.2
TRAVEL	30.0	30.0	30.0	30.0	30.0	30.0
CONTRACTUAL	2,254.3	2,254.3	2,254.3	2,254.3	2,254.3	2,254.3
SUPPLIES	18.6	18.6	18.6	18.6	18.6	18.6
EQUIPMENT	52.1	6.0	6.0	6.0	6.0	6.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>3,007.2</b>	<b>2,961.1</b>	<b>2,961.1</b>	<b>2,961.1</b>	<b>2,961.1</b>	<b>2,961.1</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,176.0	1,176.0	1,176.0	1,176.0	1,176.0	1,176.0
1005 GF/Program Receipts						
1007 I/A Receipts	411.9	411.9	411.9	411.9	411.9	411.9
Other I/A Oil HZ	1,373.2	1,373.2	1,373.2	1,373.2	1,373.2	1,373.2
<b>TOTAL</b>	<b>3,007.2</b>	<b>2,961.1</b>	<b>2,961.1</b>	<b>2,961.1</b>	<b>2,961.1</b>	<b>2,961.1</b>

Estimate of any current year (FY96) cost: \$ 00

**POSITIONS**

FULL-TIME	90	90	90	90	90	90
PART-TIME						
TEMPORARY						

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

The bill amends AS 09.25 and AS 12.45 by adding several new sections which, with respect to environmental laws, would create (1) a new evidentiary privilege that applies in criminal, civil, and administrative cases; and (2) immunity from civil and administrative penalties. During testimony on the bill industry representatives testified that once the bill took effect they would immediately initiate many audits covering a wide area of activities where violations may be occurring. This will have the effect of depriving the public and the state of important information about environmental problems that would otherwise lead to remedial actions being taken.

Section 09.25.490(a)(3) defines environmental laws to include federal, state, and municipal environmental laws. Under section 09.25.490(b), the term "environmental law" is to be broadly construed.

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 5/3/96  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 5/3/96  
 Agency: Department of Law

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## 1996 LEGISLATIVE SESSION

Section 09.25.490(a)(2) defines the term "environmental audit" as the voluntary, internal, review or assessment of compliance with environmental laws. Under the bill, an audit may be conducted randomly, regularly, or in response to a particular event. Audits may be conducted by owners or operators of a regulated facility or activity or by their employees or independent contractors.

The bill broadly defines the term "audit report" in section 09.25.490(a)(1) to include any document or communication associated in any way with an audit, as well as the resulting corrective action plan.

The Proposed Audit Privilege

Under section 09.25.450(a), a party may not discover or use audit reports, including the underlying information gathered or generated during the audit, in civil actions, criminal proceedings, or administrative proceedings, except for workers' compensation proceedings. However, under section 09.25.450(c), a person who conducts or participates in an audit may testify regarding events he or she observed during the audit, but may not testify about or produce documents relating to the audit itself. Under section 09.25.450(d), regulators may neither request,

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HCSCSSB 199 (RES)

review, nor use an audit report during an inspection. Under section 09.25.450(e), all documents in the audit report must be labeled.

The privilege may be waived by following the mechanisms established in section 09.25.455, including written waivers and confidentiality agreements. Under section 09.25.455(e), disclosure by any other means or under any other circumstances does not waive the privilege.

Under section 09.25.465, certain materials are nonprivileged. These include documents and information required to be gathered under an environmental law or permit, under a license, or under a contract with the state. Information gathered by a regulatory agency or provided by a person not involved in the audit is also nonprivileged. There are a number of other exceptions for information gathered independent of the audit.

The Proposed Immunities

Under section 09.25.475, a person who voluntarily discloses the violation of an environmental law is immune from administrative and civil penalties. The bill establishes a