Superior Court
State of Alaska
FIRST JUDICIAL DISTRICT
STATE CAPITOL BUILDING
POUCH U
JUNEAU, ALASKA
99801

THOMAS B. STEWART
PRESIDING JUDGE

March 24, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson:

This is in response to your letter of March 2, 1975, concerning legislation on divorce, alimony, and child custody. I regret the unavoidable delay that has occurred in making response to your letter.

With respect to your question no. 1, I feel that it is possible to obtain a fair and equitable settlement for both parties involved as our present statutes read. Those statutes must be read together with the decisions of our Supreme Court interpreting them, and one feature to note is that fault is not to be considered in the division of property interest between the parties. The standard for determining child custody is the best interest of the child, and the case of King v. King which you cited, reported at 477 P.2d 356, stands for that proposition and not for a so-called "tender years doctrine". In fact, in the King case the decision which I made awarding the custody to the father was affirmed by the Supreme Court.

With regard to your question no. 2 on men and women being treated with equality in child custody matters, I am inclined to think that this is so. The King case cited above would confirm this view.

With respect to your question no. 3 on giving weight to the opinion of children as to where they would rather live, I can't comment about the decisions of other judges since I am not aware of them. In my own experience, the child's opinion is given substantial weight, of course deperding upon the age and capacity of the child to form an intelligent opinion. Again, the ultimate decision is based on a standard of what is in the best interest of the child. Any judge is always entitled to take into consideration the child's own desires in reaching an ultimate conclusion.

With respect to your item no. 4 on the stringency of the grounds for divorce, I see no particular need for change in this respect. Our "incompatibility of temperament" ground amounts to a no-fault basis for divorce, and I am inclined to the view that this is appropriate in the modern society.

With respect to the alimony laws, I find nothing unjust about them when construed together with court decisions. Recent decisions make it clear that alimony be awarded from a wife to a husband if the relative earning capacity of the parties and their needs would so indicate. That rather seldom happens, but it's one of the possibilities under our existing law where the facts might justify it.

As indicated above, I have already commented on the guidelines generally followed in determining the custody of minor children, i.e., what is in the best interest of the child. In this connection, you should be aware of the recent publication entitled "Beyond the Best Interest of the Child" by Goldstein, Freud and Solnit. This volume provides some interesting new insights and suggests a standard involving the concept of the least detrimental alternative to the child. In a sense this is consistent with the "best interest" concept although it involves some aspects that depart from more traditional views of the latter standard. I commend the volume to you for your reading in the course of the studies you are making.

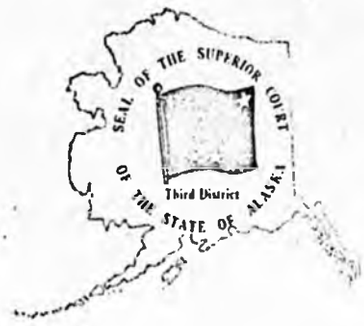
Please do not hesitate to write further if you have additional questions of me on this subject.

Very truly yours,

Thomas B. Stewart

Thomas B. Stewart
Presiding Judge

TBS:pw



Superior Court

State of Alaska

THIRD JUDICIAL DISTRICT

303 K STREET

ANCHORAGE, ALASKA

99501

CHAMBERS OF

JAMES K. SINGLETON, Jr., JUDGE

March 24, 1975

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Re: Child Custody and Support in Alaska

Dear Mr. Johnson:

Thank you for your letter of March 2, 1975, in which you ask my opinion of existing law regarding marital property settlements, alimony, child support and custody. I believe two decisions I wrote in a case called Markley vs Markley, Superior Court No. 72-1910 fully set forth my opinion in these issues. I am enclosing them for your consideration.

I hope these will be of assistance to you.

Very truly yours,

James K. Singleton

JAMES K. SINGLETON
Superior Court Judge

JKS/jm

enclosures

IN THE SUPERIOR COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

AMY ANNE McMILLAN,)
)
Plaintiff,)
)
vs.)
)
THOMAS ROBERT McMILLAN,)
)
Defendant.)
)

No. 71-1876

ORDER DENYING MOTION FOR ATTORNEY'S FEES AND COSTS, PROVIDNG FOR CHILD SUPPORT THROUGH COURT TRUSTEE, AND ADOPTING PARTY'S AGREEMENT REGARDING VISITATION

This court entered its Findings of Fact and Conclusions of Law on August 3, 1973, in which I denied defendant's motion to amend the decree of divorce dated July 30, 1971, to reduce child support.

On August 17, 1973, plaintiff filed a motion asking for the following: (1) an award of $3,610.18, or some other reasonable amount, as attorney's fees since she was the prevailing party; (2) that future child support, as well as any arrearage, be paid through the Court Trustee; (3) that this court fix visitation consistent with a letter agreement between the parties; (4) for an award of costs; and (5) for a court determination whether child support should continue during any period when when the children were visiting Mr. McMillan.

I will deal with these issues in order.

The Supreme Court in Houger v. Houger, 449 P.2d 766 (Alaska 1966) held that costs and attorney's fees in domestic relations matters were support, not costs; and, consequently, should be distributed between the parties on the basis of their support rights and duties rather than on the basis of the "prevailing party" test mandated by Civil Rules 54 and 82. Support is traditionally determined on the basis of the spouse's relative

need and ability to pay.[1/]

In the instant case, I have found Mr. McMillan's earning capacity to be $3,000 per month, and Mrs. Springer, nee McMillan, to have an earning capacity of $800 per month as a secretary or officer manager. In addition, Mrs. Springer is married to a man whom she testified has an earning capacity of approximately $80,000 per year, or $6,600 + per month (approximately twice Mr. McMillan's!). Further, Mr. McMillan is paying Mrs. Springer $300 per month per child as support, and Mrs. Springer testified that this amount was not segregated for use by the children but was paid into a joint account into which Mr. Springer paid an equal amount and out of which all of the monthly expenses of the Springer household were paid. Thus, while Mr. McMillan has a greater earning capacity than Mrs. Springer, both are in the upper quadrant of earnings in Alaska, and Mr. McMillan is paying Mrs. Springer $900 per month as child support.

Based upon these facts, I have exercised my discretion and determined not to award Mrs. Springer her attorney's fees.

---

1. I have dealt with similar issues in Bishop v. Bishop, Superior Court No 70-2497 (2-6-73); and Markley v. Markley, Superior Court No. 72-1910 (8-8-73).

Generally I distribute costs and attorney's fees between the parties to a divorce in the following manner. First, I calculate each party's net earning capacity (generally on the basis of present earnings disclosed in their financial declarations, but present earnings are not conclusive any more than they are in workmen's compensation; cf. AS 23.30.210). Then I determine the total attorney's fees necessarily and reasonably incurred by both parties, i.e. the marital community in obtaining a divorce. (In determining necessity and reasonableness, I look to Canon 12 of The Canon of Ethics.) I then distribute the total fees between the parties on the basis of their respective net earning capacity, e.g. suppose husband's after-tax earnings (i.e. take-home pay) accurately reflects his net earning capacity and amounts to $600 per month, while wife's after-tax earnings reflect her earning capacity and amounts to $400 per month. Suppose, further, that each party has incurred $600 of attorney's fees (the average for a contested divorce). The parties' total net earnings are $1000 per month. The total fees are $1200. Husband's share is 60% or $720, and wife's share is 40% or $480. Thus, husband would pay his $600 fee plus contribute $120 toward the wife's $600 fee.

I did not follow this approach in those cases where special circumstances make such a procedure unfair. I believe this to be such a case.

I realize that Houger, supra, has been interpreted by some superior courts as standing for the proposition that AS 09.55.200(a)(1) requires an award of costs and attorney's fees to the wife in every domestic relations matter regardless of the economic position of the parties, the nature of the litigation, and its outcome. Cf. Miklautsch v. Dominick, 452 P.2d 438, 440, n. 9 (Alaska 1969). I believe that this interpretation of Houger, supra, is erroneous and that the error is clear from an examination of the Houger decision. The Supreme Court relied upon AS 09.55.200(a)(1) [2/] and 3 Nelson, Divorce and Annulment, sec. 29.03, Cost Items at 214 (1945), for the proposition that attorney's fees and costs in domestic relations matters were "support", not "costs". It should be noted, however, that a husband under Alaska law has no greater obligation to support his wife (AS 47.25.230) or child (AS 25.20.030) than his wife has to support him or her child (ibid.). The duty to support in Alaska is not a function of sex, but of need and ability to pay. Reference should also be made to AS 11.35.010 as amended which governs imposition of criminal penalties for failure to support without regard to sex.

There is nothing in AS 09.55.200 inconsistent with this approach. The language is permissive, not mandatory:

> " . . . (M)ay provide by order (1) that the husband pay an amount of money to enable the wife to prosecute or defend the action." (emphasis supplied)

The statute applies to orders pendente lite and not to final orders; and the order involved is only to "enable the wife to prosecute or defend" presupposing that absent an award, the wife could not effectively participate in the action. It should be noted that the predecessors to AS 09.55.200 were enacted at a time when the average married woman was totally economically dependent upon her husband for support. It would be wrong to suppose that all of the economic disadvantages women as a sex suffer have been removed by the greater employment opportunities now available to women. But in this

---

2. AS 09.55.200 provides:

> Orders during action. (a) During the pendency of the action, the court may provide by order
>
> (1) That the husband pay an amount of money as may be necessary to enable the wife to prosecute or defend the action; . . .

age of women's liberation where in the state of Alaska almost every woman who has sought a divorce in my court has been steadily employed, or readily employable, a specific person's economic needs should be a question of fact, not presumption of law predicated on social and cultural considerations that in the present might properly be termed a matter of historical accident.

In saying this, I do not mean to substitute one inaccurate stereotype or generalization about married women involved in domestic litigation, i.e. an independent, self-supporting liberated woman, for another, i.e. the classic dependent, unskilled and uneducated household drudge. I realize that some married women are not trained for today's labor market, and that others who have the education and experience to prosper nevertheless have been out of the labor market and have been conditioned to lack confidence in themselves; and thus, will have greater difficulty getting back into that market. I also realize that women generally make less money than men. All I am saying is that each case should be decided on its own facts.

Any other view of this problem is, in my opinion, constitutionally suspect.[3/] While the proposed Federal Equal Rights Amendment to the United States Constitution (H.R.J. Res. 208, 92nd Cong. 1st Sess. (1971) and S J. Res. 92nd Cong. 1st Sess. (1971)) has been ratified in Alaska, it will not be effective untill three-fourths of the United States have ratified it which has not occurred. Nevertheless, Alaska has independently adopted a constitutional amendment which precludes, in my opinion, a classification based solely on sex. (Cf. Alaska Constitution, art. I, sec. 3, which prevents denial of a civil or political right on the basis of sex, with art. I, sec. I, which makes equal protection a civil right.) Read together, these provisions, in my opinion, preclude any statute from making a classification based solely on sex. Thus, a party's right to costs and attorney's fees must turn on that party's economic position, not his or her sex. See Brown, et al., The Equal Rights Amendment, 80 Yale L.J. 871, 944-46 (1971); and cf.

---

3. If the husband must pay the wife's fees in every case, many husbands will, because of poverty, be precluded from litigating child custody even though they could provide a better home for the children than their wives. This, too, is a constitutionally questionable procedure. Cf. Boddie v. Conn., 401 U.S. 371, 28 L. Ed.2d 113, 120 (1971).

Reed v. Reed, 404 U.S. 71, 75, 92 S. Ct. 251, 30 L. Ed.2d 225 (1972) and Alexander v. Louisiana, 405 U.S. 625, 633-44, 31 L. Ed.2d 536, 92 S. Ct. 1221 (1972) (concurring opinion, Douglas, J.).

The foregoing analysis also finds support in the legislative history of AS 09.55.200. Congress in legislating a code of laws for the then Territory of Alaska in 1900 drew primarily from the existing laws of Oregon. See City of Fairbanks v. Schaible, 375 P.2d 201, 207 (Alaska 1962). The laws governing divorce were included in the Alaska Code of Civil Procedure which was derived from the Oregon Code of Civil Procedure. AS 09.55.200 as originally enacted was Sec. 47(1) of Carter's Annotated Code which was based on Hill's Annotated Laws of Oregon, Sec. 500, enacted on October 11, 1862. The present Oregon statutes are Secs. 107.095 and 107.090, Oregon Revised Statutes. (For a discussion of the source of the Alaska Code, see Frederick E. Brown, The Sources of the Alaska and Oregon Codes, Part I: New York and Oregon, 2 U.C.L.A.-Alaska L. Rev. 15 (1972) and Part 2: The Codes in Alaska, 1867-1901, id. at 87 (1973).) The Oregon Code was in turn derived from Field's New York Code of Civil Procedure. See Brown, supra, and Harris, The History of the Oregon Code, Part I, 1 Ore. L. Rev. 129 (April 1922); Part 2, 1 Ore. L. Rev. 184, 210-15, esp. p. 215 (June 1922). Variations of the Field Code of Civil Procedure were adopted in all of the western states. See Albertsworth, Theory of Code Pleading, 10 Cal. L. Rev. 202, 205-06, esp. n. 8 at p. 205 (March 1922). Thus, all of the western states have code provisions comparable to AS 09.55.200 (though some have amended them to substitute a "party" for "wife" in their counterpart to AS 09.55.200(a)(1) (see, e.g. O.R.S. Sec. 107.095; cf. RCW 26.08.090; Cal. Civil Code, Sec. 4370 (former CC Sec. 137).

The cases interpreting these statutes establish that in determining whether a wife is entitled to an award of attorney's fees, the court should consider three things: first, the financial resources of the parties; second, the property division allowed; and, third, the fault of the parties. Since fault is not a consideration in most Alaska incompatibility divorces, and was not a consideration here (the motion to modify was not

frivolous and I find that it was brought in good faith), [4/] I have based my decision exclusively on the financial resources of the parties as I understand them based, in part, on their testimony and the financial declaration submitted in response to the pretrial order previously issued.

Cases supporting this approach in interpreting the foregoing statutes are: Turner v. Turner, 390 P.2d 360, 361 (Ore. 1964); Blake v. Blake, 31 P.2d 768, 772 (Ore. 1934); Jolley v. Jolley, 363 P.2d 1020 (Idaho 1961); Bell v. Bell, 328 P.2d 115 (Mont. 1958); Schmidt v. Schmidt, 321 P.2d 895 (Wash. 1958); Coons v. Coons, 491 P.2d 1333 (Wash. App. 1972); Smith v. Smith, 474 P.2d 619 (Colo. 1970).

For a consistent interpretation of California Civil Code, Sec. 137, at about the time the United States Congress was adopting the Oregon Code as the law of Alaska, see Stewart v. Stewart, 156 Cal. 651, 105 Pac. 955 (1909).

In making these observations, I do not mean to imply disagreement with the Supreme Court of Nevada's decision in Sargeant v. Sargeant, 495 P.2d 618 (Nev. 1972), that where one spouse has valuable property which is not income-producing and does not have the ability to earn income, he or she may nevertheless be entitled to an award of attorney's fees (or other support) against a spouse having a substantial income-earning capacity. A party should have his or her day in court without destroying his financial position by the sale of non-income-producing property. Here, however, Mrs. Springer has, in my opinion, an earning capacity sufficient to meet her needs and pay her attorney and, therefore, will not be deprived of her day in court by my denial of her motion for attorney's fees.

Plaintiff suggests that the foregoing is not relevant because the fees incurred here

---

4. See Malvo v. J.C. Penney Co., ___ P.2d __ (Alaska July 13, 1973, Supreme Court Op. No. 901); and see Philips Mause, Winner Take All: A Re-examination of the Indemnity System, 55 Ia. L. Rev. 26 (1969).

were for the benefit of the children and, thus, should be characterized as child support.[5] She argues further that her contracting to pay them was in the nature of a furnishing of necessaries[6] to the children for which she is entitled to reimbursement. Finally, she contends that this court by its findings of fact and conclusions of law determined that the children "needed" $300 per month per child for their support and would, therefore, be injured if any part of that money was used to defray her legal expenses.

I believe plaintiff misconceives both the law and my prior decision. First, there are cases which characterize a divorced wife's resisting her former husband's efforts to have child support lowered as a trusteeship for the children in her custody[7] and the fees incurred by her as child support,[8] but I do not believe that this case can be so characterized.

Under Alaska law each parent, regardless of his or her sex, has an equal obligation to support his or her children (AS 25.20.030) and this obligation exists independent of any contractual allocation of the obligation inter se in a divorce decree (see AS 11.35.090).[9] Thus, the child to be supported and his creditors may sue a parent for support and the matter may not defend on the basis of the decree.[10] Consequently, I have con-

---

5. See In Re H., 468 P.2d 204 (Calif. 1970).

6. See Rees v. Archibald, 6 Utah 2d 264, 311 P.2d 788, 789-90 (1957).

7. See, e.g. Price v. Perking, 219 A.2d 557 (Md. 1966).

8. A wife's rights under AS 09.55.200 to have her attorney paid by her husband derives from her right to support, a right which terminates with divorce (absent an award of alimony). In post-divorce litigation, a wife's right to have her attorney paid depends upon her husband's child support obligation.

9. See State v. Langford, 176 Pac. 197 (Ore. 1918) (criminal liability exists without regard to divorce decree).

10. See Rees v. Archibald, supra, n. 6 (civil liability exists regardless of divorce decree).

sistently held [11] that litigation pursuant to AS 09.55.200, et. seq., is not, in the ordinary case, intended primarily to determine the child's right to support, but rather given that right to support (which, of course, must be established), to distribute it, i.e. the support obligation between the parents. Thus, the primary issue in this case as I conceive it has never been what support was necessary for the children, but rather how should the support obligation be divided between Mrs. Springer and Mr. McMillan. Consequently, in this case Mrs. Springer was acting for her self and not her children. [12]

Mrs. Springer has also misconceived this court's holding. Specifically, I found that the questions (1) what was a fair child support and (2) how should it be divided between the parties were so inextricably intertwined with the parties' property settlement agreement that they could not be separately considered; and that when considered together, I could not find on the basis of the evidence submitted that the entire agreement, including its determination of the amount of child support [13] and its allocation of child support between

---

11. These concepts are developed in Paige v. Paige, Superior Court No. 71-1357, Decision filed May 16, 1972, reprinted in 1 Alaska Bar Brief, Issue No. 1, 1a - 3a (October 1972).

12. This conclusion might be different as a matter of fact if Mrs. Springer could not contribute to her children's support in which case all support would have to come from Mr. McMillan; but I found Mrs. Springer to have an $800 per month earning capacity.

It would also be different as a matter of law if I followed the treatise written, i.e. Clark and Nelson, in holding that the wife's obligation for child support was secondary and regardless of her economic situation only arose if and to the extent that her husband could not support the children. But I specifically rejected this legal theory on constitutional grounds (see McMillan v. McMillan, No. 711876, Findings of Fact and Conclusions of Law dated August 3, 1973, pp. 67. Those cases which adopt the trusteeship theory which I have found can all be distinguished on the basis of the factual or legal conclusions rejected in this footnote (and in my findings and conclusions mentioned, supra).

13. While I relied on other evidence in making my decision and did not receive the attached chart (here denominated Exhibit A) until after the decision was made, it is useful to illustrate the precise issue which I resolved. The chart is one adopted by the Superior Court in Denver, Colorado (and also I am told Milwaukee, Wisconsin and through the Middle West) as a guide to the bar as to an appropriate award of child support. While the chart ends at net earnings per week of $296-$300, it is a simple problem in arithmetic series to carry it out since for a family of three children, the weekly child support (Column 4) increases at the rate of approximately $2.50 for each $5.00 increase in net weekly income (Column 1), i.e. Column 4 increases at 1/2 the rate that Column 1 increases. (Since Column 1 is a $5.00 range, e.g. $296-$300, inclusive, while Column 4 is a single figure, e.g. $123.50, this is not a completely accurate statement but is sufficiently accurate for

the parties was unconscionable either in the present or at the time of its execution.[14] Or, alternatively, that changed circumstances since the divorce justified modifying the child support provisions of the agreement while leaving the remainder of the agreement intact.

Proceeding to the other issues, the parties have no strong objection to future collection through the court trustee (though the trustee as a matter of policy will not attempt collection from non-residents).

---

13. (Cont'd)

illustrative purposes). We determine the necessary net income to justify a $300 per month per child payment for three children as follows: if we assume 4.2 weeks in a month, then $900 per month is $214.25 per week. $214.25 per week is $91 more than $123, the highest payment on the chart, and, therefore, would require a net income per week of $478-$482 (calculated as follows: $91 x 2 = $182 + $296 = $478; $182 + $300 = $482; $478 per week x 4.2 = $2007.60 per month ; $482 per week x 4.2 = $2024.40 per month). Thus, while we know Mr. McMillan's gross earning capacity (found to be $3000 per month), we don't know his net income per month (or net earning capacity); but it isn't inconceivable that a businessman who was sole owner of his own corporation could translate $3000 of gross earnings per month into $2000 per month net, i.e. after tax, earnings. The practical problem is that the chart assumes that only one parent (the non-cutstodial parent) can contribute money for child support while the custodial parent will contribute only services to the child(ren), but may work for his (her?) own subsistence. Where the custodial parent is able to earn more than his (her) own subsistence and contribute financially to the child's support, then the figures on the chart are reduced to reflect the custodial parent's fair contribution. Thus, the real issue is this case from the beginning has been how much Mrs. Springer should contribute financially to the children's support; or, more properly, how much should be deducted from Mr. McMillan's child support obligation (and assumed by Mr. Springer) to reflect what Mrs. Springer would have been able to contribute had she and Mr. Springer not jointly decided that she would not work.

14. The court held for purposes of determining unconscionability that it could not limit its consideration to child support but would have to consider the property settlement agreement as a whole, since any payment of child support in excess of what was a reasonable child support allocation might have been intended by the parties as in lieu of alimony or a payment in installments of Mrs. Springer's additional property rights. While alimony and child support have different tax consequences, installment payments on a property settlement agreement and child support have the same tax consequences. Determination of what a reasonable property settlement would be would require a comparison of what Mrs. Springer got with what Mr. McMillan got which would require a valuation of Mr. McMillan's business, an issue upon which there was no evidence save the "book value" of his stock, which I consider insufficient. (For reasons why one should not use book value to calculate the value of a close corporation, see Charles M. Williams & Pearson Hunt, Some Concepts of Valuation, pp. 177-203 (inclusive) in Helfert (ed.), Techniques of Financial Analysis (Homewood, Ill., Richard D. Irwin, Inc. 1963). Thus, my holding was essentially that Mr. McMillan had failed to sustain his burden of proof

The parties have amicably resolved their dispute regarding visitation.

I have reviewed Mrs. Springer's cost bill and have concluded that she should pay her own costs for the same reason I feel she should pay her own attorney's fees.

Finally, considering all of the evidence and those factors peculiar to this case which lead me to deny the motion to modify, I am unable to determine that Mr. McMillan has proved facts which would justify this court in modifying the decree, and the parties' underlying agreement, to excuse child support during those periods when the children are with him; nor am I able to say (without understanding the basis for the property settlement agreement) that failure to excuse payments during visitation is unreasonable.

IT IS, THEREFORE, ORDERED:

1. Each party shall bear his or her own costs and attorney's fees.

2. Any money paid by Mr. McMillan into the registry of the court shall be released to Mr. Jensen for transmittal to Mrs. Springer.

3. The parties' letter agreement regarding visitation is approved.

4. Mr. Jensen shall obtain from the court trustee and prepare, serve and file the court's standard form "Minute Order of Support", all blanks properly filled in, providing that future support and any arrearage be paid through the court trustee.

DATED at Anchorage, Alaska, this 26 day of October, 1973.

JAMES K. SINGLETON, JR.
JUDGE OF THE SUPERIOR COURT

cc: Jensen
Eastaugh

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

March 2, 1975

Mr. Terry Gardner
State Representative
Pouch V
Juneau, Alaska 99801

Dear Terry:

I met with Superior Court Judge Thomas Schultz Tuesday, February 18, 1975, to discuss our Domestic Relations Statutes and get his thoughts on the subject. I believe the results of the meeting could be beneficial to future legislation. I would like to make his thoughts known to you and add a few of my own.

I explained to Judge Schultz that three local attorneys have told me it is literally impossible for a man to obtain child custody in this state, unless he can prove his wife to be unfit. I told him the attorneys all said the Courts refer to the Tender Years Doctrine (King vs. King, Superior Court, 1970) in deterning custody. (That ruling basically says that if everything is equal as far as the parents fitness is concerned, the children are better off with the mother.)

The Court often calls upon the Department of Health and Welfare to make investigations and recommendations in child custody suits. Marian Swain is in charge of this in Ketchikan. I met with her December 4, 1974, to discuss this issue. Before our meeting had ended she agreed that they begin their investigations with the biased attititudes of the Tender Years Doctrine and make their final recommendations accordingly. All this was also discussed with Judge Schultz.

Judge Schultz said he certainly was not aware of the Welfare Department's attitude concerning this. He also said that as far as he is concerned the Tender Years Doctrine is no longer legitimate because of many Court decisions made since that ruling. He did say, thought, that is is quite possible that the doctrine still sways other judges decisions. He made no mention of the fact that we all have certain prejudice ideas that unintentially sway our decisions at times.

He agreed that our present statutes give the Court almost unlimited authority in divorce proceedings and agreed that this authority could very easily be abused by unintentional, preconceived thoughts. As a whole, he thought our domestic relations statutes were pretty good compared to other states. When I asked if he thought any problems that may exist now, concerning divorce proceedings, could be alleviated through legislation, he had these suggestions to make:

1. Set specific guidelines that the Court must follow in determining custody of minor children. These guidelines would include taking the children's desires into consideration. He felt by doing this we would see more continuity in different Courts decisions.

2. Set specific guidelines for anyone doing an investigation to determine who the children's best interest would be with. (My thought: as it is now, much is left up to the investigator's discretion and too many of these people just are not qualified to make the decisions they are making. Guidelines they would have to follow, should preety much take care of this problem.)

3. Investigator's reports should be made available to spouses involved.

4. The Judge should have to give the spouses involved, the reasons for his or her decision based on the guidelines that the legislature would provide. (My thought: I believe these two suggestions are excellent and believe it would provide everyone involved with a fair and impartial decision. It would also put the responsibility on the legislatures rather than individual judges. It would seem as if this is where the respondibility belongs since our legislatures are expressing the peoples wishes as a whole, in their legislation.

5. No fault divorce that could be obtained by simply filling out the required form, which would be provided, if there were no children involved. Judge Schultz said he felt this would save a lot of the Court's valuable time, not to mention the money it would save those people involved. Thus, effectively taking the profit out of divorce for attorneys.

I was very impressed with Judge Schultz and believe that anyone coming before his Court, would surely be treated equally and fairly. After thinking about the things he said and re-examining our statutes, I am inclined to agree with him that we have a pretty good set of laws concerning our Domestic Relations. I think the problems are coming more from the individual judges, investigators, and attorneys than from the statutes themselves. Rather than completely overhauling these statutes, I would like to offer these thoughts:

1. Write Judge Schultz's suggestions on guidelines into our statutes- which would include guidelines for awarding alimony and child support payments.

2. Adopt a no fault clause.

3. Change any and all wording that makes any reference to sex. Where husband or wife is used, change to spouse. This would effectively give both spouses equal responsibilities, privileges and risk in marriage and divorce.

4. Specific guidelines for any Court orders pending a divorce proceeding. For example, removing either spouse from home, temporary restraining orders, and temporary child support and custody.

I have written the rest of the Superior Court Judges in the state, hoping to get some more input and facts.

I believe with what Judge Schultz has told me, it is imperative that a very close look be taken at the statistics I have requested from Juneau.

I have requested:

1. The number of divorces granted in the last five years involving children.

2. Of that number, how many were filed for by the men as compared to women?

3. Of the total that involved children, how many child custody cases were disputed?

4. Of that number, how many men won custody as compared to women?

I believe these figures could reveal the possiblity of certain biased and unfair practices in our judicial system. Among other things I am wondering if men are getting the advice and representation they are paying for from their attorneys. I can not see what an attorney would have to gain by such a practice, but it certainly would be a very serious thing, and should be looked into if the possibility is supported by the state's cases already processed.

I would appreciate knowing where this possible legislation stands at present. I also would very much appreciate seeing any proposals that may be introduced.

I hope this material may be of some use to you.

Sincerely,

RJ:sm

Rudy Johnson

P.S. Judge Schultz said to say hello.

cc: Mr. Mike Bradner
State Representative
Pouch V
Juneau, Alaska, 99801

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

Pouch H01, Juneau 99811

~~POUCH H-JUNEAU 99801~~

Child Rep File

February 25, 1975

The Honorable Mike Bradner
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

In reply to your letter of February 4, 1975, information from the divorce statistical sheet is punched onto cards and kept on file with the Statistical Services Unit of the Department of Health and Social Services. Data is not available on the number of contested divorces involving children or to whom the children were awarded. We do have information on the total number of divorces involving minor children and the number of minor children involved. Attached is a table showing this data.

Information is also available on age and race characteristics of the husband and wife, the duration of the marriage, the number of previous marriages, and the education of the husband and wife. If you desire any breakdowns by these categories, additional time will be needed to compile the figures.

If there is any other way we may be of assistance, do not hesitate to call.

We might suggest the Alaska Court System as a source for the remainder of your questions.

Sincerely,

Francis S.L. Williamson

Francis S.L. Williamson
Commissioner

Attachment

Alaska Divorces Showing Number of Minor Children Involved 1970 - 1974

Number of Children Involved	1974		1973		1972		1971		1970	
Total Divorces	2,224		2,051		2,139		1,746		1,694	
0	1,004		877		883		718		670	
1	501		473		511		433		376	
2	402	804	399	798	403	806	318	636	309	618
3	169	507	174	522	168	504	166	498	137	411
4	74	296	75	300	91	364	48	192	94	376
5	38	190	22	110	25	125	27	135	44	220
6	15	90	7	42	24	144	14	84	11	66
7	5	35	7	119	10	110	8	56	7	49
8	2	16	2	16	2	16	1	8	5	40
9+	3	27	3	27	1	9	0		2	18
NS	11		12		21		13		39	
Total Children involved	2466		~~2220~~ 2210		2549		2042		2174	

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF ADMINISTRATIVE SERVICES
STATISTICS SECTION

Jay S. Hammond, Governor

POUCH H 02E
JUNEAU, ALASKA 99811

January 9, 1975

Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

Dear Mr. Johnson:

The information you requested is not readily available. Due to a shortage of manpower and available computer time we can only answer requests on a time available basis. There is an extensive backlog of requests and I can give no commitment to when yours might be completed.

Sincerely,

Thaddeus J. Miller
Research Analyst

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

JAY S. HAMMOND, Governor

Pouch H01, Juneau 99811

April 7, 1975

The Honorable Terry Gardiner
Chairman, House Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Gardiner:

In reply to your letter of March 7 we are pleased to submit the following information concerning total number of divorces over the past five years involving children and the number filed by men as compared to women.

Year	Number Filed by Men	Number Filed by Women	Total
1970	306	679	985
1971	317	698	1,015
1972	377	862	1,239
1973	394	773	1,167
1974	446	876	1,322

We keep no records relating to disputed cases as this is a function of the Alaska Court System and the information does not appear on the divorce document.

Our information is gleaned from the divorce document and only basic statistical information is kept. This also holds true for information concerning custody.

May we suggest that these same questions be asked of the Court System, they may be able to give you more assistance in areas of dispute and custody.

If there is any other way we might be of assistance, do not hesitate to ask.

Sincerely yours,

Francis S. Williamson

Francis S.L. Williamson
Commissioner

HB

238

"An Act relating to the custody and representation of a child in court proceedings; and adding to the court's authority under Rule 17(b), Rules of Civil Procedure, and Rules 11(a) and 15, Rules of Children's Procedure.

COMMITTEE REPORT

2/28/75 HOUSE FINANCE

Mr. Speaker: Date 3/20/75

The Committee on Judiciary has had HB 238 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

(V) recommends it BE REPLACED WITH CS FOR HB 238 AND THAT CS FOR HB 238 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Jerry Harding

L. S. Bradley Sr.

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Jerry Harding Chairman

Original sponsor: Bradner, Beirne, Bowman, et al

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 238

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the custody and representation of a child in court proceedings; and adding to the court's authority under Rule 17(b), Rules of Civil Procedure, and Rules 11(a) and 15, Rules of Children's Procedure."

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

* Section 1. AS 09.55.205 is amended to read:

Sec. 09.55.205. JUDGMENTS FOR CUSTODY. In an action for divorce or for legal separation the court may, during the pendency of the action, or at the final hearing or at any time thereafter during the minority of any child of the marriage, make an order for the custody of or visitation with the minor child which may seem necessary or proper and may at any time modify or vacate the order. Appointment of any guardian ad litem or attorney for the child shall be made under the terms of AS 09.65.130. In awarding custody the court is to be guided by the following considerations:

(1) by what appears to be for the best interests of the child and if the child is of a sufficient age and intelligence to form a preference, the court may consider that preference in determining the question;

(2) as between parents adversely claiming the custody neither parent is entitled to it as of right.

* Sec. 2. AS 09.65 is amended by adding a new section to read:

Sec. 09.65.130. REPRESENTATION OF CHILD. (a) The court may, upon the motion of either party or upon its own motion, appoint an

add the shall

attorney or guardian ad litem to represent the interests of a minor or dependent child with respect to his custody, support, and visitation or in any other legal proceeding involving his welfare. When custody, support, or visitation are at issue in a divorce, it is the responsibility of the parties or their counsel to notify the court that those matters are at issue. Upon notification, the court shall determine whether the child should have legal assistance or other services and shall make a finding on the record before trial. The court shall enter an order for costs, fees, and disbursements in favor of the child's attorney or guardian ad litem and may further order that other services be provided for the protection of the child.

(b) If custody, support, or visitation is an issue, the order for costs, fees, and disbursements shall be made against either or both parents, except that, if the responsible party is indigent, the costs, fees, and disbursements shall be borne by the state. If either or both parents are only temporarily without funds, as determined by the court, the court may advance payment for legal representation or other services rendered to the child. The attorney general is responsible for enforcing collections owed the court, and repayment shall be made directly to the court under the provisions of rules governing the administration of the courts. The court shall, if possible, avoid assigning costs to only one party by ordering that costs of the child's legal representation or other services be paid from proceeds derived from a sale of property belonging to both parties, before a division of property is made. No repayment may be required for those who are receiving legal services for the indigent.

* Sec. 3. AS 18.85.100(b) is amended to read:

(b) The attorney services and facilities and the court costs shall be provided at public expense to the extent that the person, at

the time the court determines indigency, is unable to provide for payment without undue hardship. Appointment of any guardian ad litem or attorney shall be made under the terms of AS 09.65.130, to the extent that that section is not inconsistent with the requirements of this chapter.

* Sec. 4. AS 20.15.100 is amended by adding a new subsection to read:

(j) Appointment of any guardian ad litem or attorney for a person to be adopted who is a minor shall be made under the terms of AS 09.65.-130.

* Sec. 5. AS 47.10.050 is amended to read:

Sec. 47.10.050. APPOINTMENT OF GUARDIAN AD LITEM OR ATTORNEY. Whenever in the course of proceedings instituted under this chapter it appears to the court that the welfare of a minor will be promoted by the appointment of a guardian ad litem or attorney, the court may make the appointment. Appointment of any guardian ad litem or attorney shall be made under the terms of AS 09.65.130.

* Sec. 6. Section 1 of this Act has the effect of adding to the discretionary authority of the court to appoint a guardian ad litem or attorney to represent the interests of a minor child in legal proceedings under Rule 17(b), Alaska Rules of Civil Procedure, and Rules 11(a) and 15, Alaska Rules of Children's Procedure, by allowing the court to appoint an attorney to represent the interests of a child in a legal proceeding either on the court's own motion or on the motion of either party, and by providing for advances for legal representation and payment of costs from the sale of joint property before property settlement.

House Judiciary Committee
March 6, 1975

The meeting was called to order at 11:30 a.m. by Chairman Gardiner. All members were present except Reps. Brown and Parr.

CS CS SB 28 Marriage

The committee reviewed the proposed Judiciary CS. Mr. Fink moved and asked unanimous consent that H CS for CS for SB 28 pass out of committee with a do pass recommendation. There being no objections, it was so ordered.

HB 237/238 Divorce

Speaker Bradner, sponsor of the legislation testified that HB 237 was intended to provide for an informal forum outside the Rules of Court Procedure. He suggested the following amendments:

p 1, line 14 - within 30 days after
p 1, line 23 - delete "himself"
p 2 - delete section (e)
add a section stating that counsel may be present

He explained the purposes of HB 238 as follows: if custody is at issue, the court will be notified and will consider the possibility of appointing a lawyer for the child. It specifies the method of payment for the lawyer. Mr. Fink raised the question of why legal services would have a special exception.

The meeting adjourned at 12:10 p.m. and was reconvened at 1:20 p.m. All members were present except Mr. Parr and Mr. Brown.

Art Snowden testified that the Court system had no objections to the bills.

Don Clocksin of Alaska Legal Services stated that they supported HB 237 with the following amendments:
- p 1, line 14 - within 30 days after all necessary papers (cross complaints) had been filed
- p 1, line 20 - may, at any time,
- p 1, line 23 - delete "himself"
- p 2 - delete section (e)

Mr. Fink stated that if (e) were deleted, "himself could be retained for those circumstances where only the judge would be qualified to do the mediation. There was no objection from anyone present.
Mr. Clocksin continued that he thought that the right to counsel in attendance at mediation was implied, but if there was a question to add language to that effect. "Parties to the action and their counsel, if they choose . . "

Mr. Clockson stated that they favor HB 238.
Mr. Fink again raised the issue of why legal services was exempted. Possible language suggested instead of "legal services" in lines 8 and 18, page 2 - "except as prohibited by federal requirement."

Alan Compton testified that the guardian ad litem in HB 238 should be an attorney. He suggested that the language on page 2, lines 2 and 3 be changed from "or in any other legal proceding involving his welfare" to "or those matters directly affecting the child's welfare."

Mr. Fink asked if this bill would make more juvenile hearings formal. The reply from Compton and Clocksin was no even though it would probably result in more juveniles being represented by counsel.

Mr. Fink suggested that "shall" in p 1, line 28 be changed to "may"

HB 238 Child's representation in divorce

Mr. Brown moved on page 2, line 22: correct the spe_ ng of administration. The amendment passed.

Mr. Brown moved on page 1, line 17; page 3, line 2, 7, 15 change a guardian to any guardian. The amendment passed.

Mr. Parr moved that on page 1, line 28: delete all and insert: "Sec. 09.65.130. REPRESENTATION OF CHILD. (a) The court may" The amendment passed.

Mr. Brown moved on page 2, line 18: put a period after child, delete however, and change no to No. Mr. Cotton objected. Mr. Gardiner moved that the sentence beginning No repayment on line 18 should be moved to line 26. The amendment was adopted.

CS HB 238 was moved out of committee with a do pass.

The meeting was adjourned at 9 p.m.

4 237

March 7, 1975

Francis Williamson
Commissioner
Department of Health and Social Services
Pouch H
Juneau, Ak. 99811

Dear Commissioner Williamson:

The House Judiciary Committee is now considering HB 237, concerning mandatory mediation in divorce cases, and HB 238, concerning representation for children. On this same subject, I would appreciate receiving information on the following:

1. Of the total number of divorces granted in the last five years involving children (I have these figures broken down by year), how many were filed for by men as compared to women?

2. Of the total that involved children, how many child custody cases were disputed?

3. Of the number of disputed cases, how many men won custody as compared to women?

If your department does not have these figures, do you know who does or why they are not kept?

Thank you very much for your assistance.

Sincerely,

Terry Gardiner
Representative

Alaska Divorces Showing Number of Minor Children Involved 1970 - 1974

Number of Children Involved	1974	1973	1972	1971	1970
Total Divorces	2,224	2,051	2,139	1,746	1,694
0	1,004	877	883	718	670
1	501	473	511	433	376
2	402	399	403	318	309
3	169	174	168	166	137
4	74	75	91	48	94
5	38	22	25	27	44
6	15	7	24	14	11
7	5	7	10	8	7
8	2	2	2	1	5
9+	3	3	1	0	2
NS	11	12	21	13	39

March 7, 1975

Rudy Johnson
3710 Alaska Avenue
Ketchikan, Ak. 99901

Dear Rudy,

Thank you for your letter of March 2 on our domestic relations statutes. Your recommendations and those of Judge Schultz seem to make a lot of sense to me as a layman. I would like an opportunity to talk these over with some of the people involved in the judicial and legal systems. As you know, Representative Mike Bradner has put a lot of time and effort into the entire area of divorce and child custody.

Representative Bradner has introduced HB 237 and HB 238 which our House Judiciary Committee is presently working on. While these bills are not direct answers to the specific problems that you are concerned about, I do think that they have a general effect on these problem areas. HB 237, which provides for a mediation procedure between husband and wife, could possibly alleviate some of the tough battles that go on in divorce procedings over child custody. HB 238, which provides for childrens' attorneys, would help the problem you bring up of taking the childrens' desires and interests into consideration. Too many times the children become the objects of the parents conflicts in a divorce proceding. I would be interested in your comments on these bills. I have requested the information that you originally requested from the Department of Health and Social Services. I will send you this information as soon as I receive it. I would be interested in any further recommendations or research that you come up.

Sincerely,

Terry Gardiner
Representative

Mr. Rudy Johnson
3710 Alaska Avenue
Ketchikan, Alaska 99901

March 2, 1975

Mr. Terry Gardner
State Representative
Pouch V
Juneau, Alaska 99801

Dear Terry:

I met with Superior Court Judge Thomas Schultz Tuesday, February 18, 1975, to discuss our Domestic Relations Statutes and get his thoughts on the subject. I believe the results of the meeting could be beneficial to future legislation. I would like to make his thoughts known to you and add a few of my own.

I explained to Judge Schultz that three local attorneys have told me it is literally impossible for a man to obtain child custody in this state, unless he can prove his wife to be unfit. I told him the attorneys all said the Courts refer to the Tender Years Doctrine (King vs. King, Superior Court, 1970) in deterning custody. (That ruling basically says that if everything is equal as far as the parents fitness is concerned, the children are better off with the mother.)

The Court often calls upon the Department of Health and Welfare to make investigations and recommendations in child custody suits. Marian Swain is in charge of this in Ketchikan. I met with her December 4, 1974, to discuss this issue. Before our meeting had ended she agreed that they begin their investigations with the biased attititudes of the Tender Years Doctrine and make their final recommendations accordingly. All this was also discussed with Judge Schultz.

Judge Schultz said he certainly was not aware of the Welfare Department's attitude concerning this. He also said that as far as he is concerned the Tender Years Doctrine is no longer legitimate because of many Court decisions made since that ruling. He did say, though , that is is quite possible that the doctrine still sways other judges decisions. He made mention of the fact that we all have certain prejudice ideas that unintentially sway our decisions at times.

He agreed that our present statutes give the Court almost unlimited authority in divorce proceedings and agreed that this authority could very easily be abused by unintentional, preconceived thoughts. As a whole, he thought our domestic relations statutes were pretty good compared to other states. When I asked if he thought any problems that may exist now, concerning divorce proceedings, could be alleviated through legislation, he had these suggestions to make:

1. Set specific guidelines that the Court must follow in determining custody of minor children. These guidelines would include taking the children's desires into consideration. He felt by doing this we would see more continuity in different Courts decisions.

2. Set specific guidelines for anyone doing an investigation to determine who the children's best interest would be with. (My thought: as it is now, much is left up to the investigator's discretion and too many of these people just are not qualified to make the decisions they are making. Guidelines they would have to follow, should preety much take care of this problem.)

3. Investigator's reports should be made available to spouses involved.

4. The Judge should have to give the spouses involved, the reasons for his or her decision based on the guidelines that the legislature would provide. (My thought: I believe these two suggestions are excellent and believe it would provide everyone involved with a fair and impartial decision. It would also put the responsibility on the legislatures rather than individual judges. It would seem as if this is where the respondibility belongs since our legislatures are expressing the peoples wishes as a whole, in their legislation.

5. No fault divorce that could be obtained by simply filling out the required form, which would be provided, if there were no children involved. Judge Schultz said he felt this would save a lot of the Court's valuable time, not to mention the money it would save those people involved. Thus, effectively taking the profit out of divorce for attorneys.

I was very impressed with Judge Schultz and believe that anyone coming before his Court, would surely be treated equally and fairly. After thinking about the things he said and re-examining our statutes, I am inclined to agree with him that we have a pretty good set of laws concerning our Domestic Relations. I think the problems are coming more from the individual judges, investigators, and attorneys than from the statutes themselves. Rather than completely overhauling these statutes, I would like to offer these thoughts:

1. Write Judge Schultz's suggestions on guidelines into our statutes- which would include guidelines for awarding alimony and child support payments.

2. Adopt a no fault clause.

3. Change any and all wording that makes any reference to sex. Where husband or wife is used, change to spouse. This would effectively give both spouses equal responsibilities, privileges and risk in marriage and divorce.

4. Specific guidelines for any Court orders pending a divorce proceeding. For example, removing either spouse from home, temporary restraining orders, and temporary child support and custody.

I have written the rest of the Superior Court Judges in the state, hoping to get some more input and facts.

I believe with what Judge Schultz has told me, it is imperative that a very close look be taken at the statistics I have requested from Juneau.

I have requested:

1. The number of divorces granted in the last five years involving children.

2. Of that number, how many were filed for by the men as compared to women?

3. Of the total that involved children, how many child custody cases were disputed?

4. Of that number, how many men won custody as compared to women?

I believe these figures could reveal the possibility of certain biased and unfair practices in our judicial system. Among other things I am wondering if men are getting the advice and representation they are paying for from their attorneys. I can not see what an attorney would have to gain by such a practice, but it certainly would be a very serious thing, and should be looked into if the possibility is supported by the state's cases already processed.

I would appreciate knowing where this possible legislation stands at present. I also would very much appreciate seeing any proposals that may be introduced.

I hope this material may be of some use to you.

Sincerely,

Rudy Johnson

RJ:sm

Rudy Johnson

P.S. Judge Schultz said to say hello.

cc: Mr. Mike Bradner
State Representative
Pouch V
Juneau, Alaska, 99801

Rudy Johnson
3710 Alaska Ave.
KTN

1. No of divorces filed Sept.
2. Who filed them
3. contested child custody & decisions

Man sacrifices by having women at home because of financial loss is penalized in divorce because then man is not good housekeeper but woman is

Men don't file because lawyers ~~don't~~ say they can't win custody

based on old laws New York 172 yrs.

Court forced to make decision on fact of what parents are not their sex

What percentages of cases are referred to family + children Services

N

Mandatory Marriage Counselors

8 states requires

guarantee quality of counselors

Attorneys for Kids

would help pick parent best able to raise kids

boys into statistically

Resolution to courts

most effective

initially 2

Rudy Johnson
3710 Alaska Ave.
Ketchikan, Alaska
99901
January 11, 1975

Terry Gardiner
Bob Ziegler
Oral Freeman

Dear Mr. Gardiner, Mr. Ziegler, and Mr. Freeman,

In the last thirty years the number of divorces involving children has increased astronomically. Since 1962 the divorce rate in this country has risen 80%. In 1953 45.5% of divorces involved children, and by 1974 this rate increased to 68%. One of the few things that psychiatrists and sociologists seem to agree upon is that a broken home greatly affects the chances of a child being successful and being able to cope with adult life in later years. This theory is heavily supported by many different studies made in the last few decades. One such study concluded that a child affected by a broken home has about the same frequency of mental health problems as children that have lost one parent through death. The number of divorces for 1972 was about 900,000 and affected over 1,000,000 children nationally. These figures are not just numbers but they represent people who may not ever really have a chance to be successful because of an environment forced upon them by a selfish parent or parents.

The reasons for the increase in divorces vary from theory to theory. It seems that one of the main reasons lie in the social acceptance of divorce today and the permissive attitudes reflected in most state laws concerning divorce, Alaska being one of the most permissive. (Please refer to enclosed articles.) As an example to this are the figures mentioned above on the increase of divorces over the last 21 years. Unfortunately, children are always the victims of a divorce and that is why something needs to be done about it. No child ever asked to be born and they deserve more than they are getting out of our courts today.

Under the present Alaska statutes a person can get a divorce for virtually any reason. If all else fails, they can claim incompatibility. There are defenses for any grounds a person may claim, but several local attorneys that are very experienced in divorce cases have told me that it is literally impossible to stop a divorce in this state if one spouse or the other desires it.

I feel very certain that no state legislature could pass laws that would force parents to stay together and make their marriages work. However, the Alaska State Legislature could pass legislation that would make our laws much more just and fair and that would encourage marriage rather than divorce, as it presently does.

The most unjust aspect of our present laws on divorce and child custody are that they greatly discriminate against men and actually encourage women to seek a divorce. Most people do not realize how severe this problem is in our state. For instance, I found that under the present state statutes a man could be obligated to pay for the woman's legal fees, no matter who the plantiff. It does not stop here, but he could also be ordered to pay his wife's expenses to his location so that she can prosecute him. A man can be extradited for desertion or nonsupport, but there is absolutely no mention of a wife deserting a family in our statutes. A woman is almost certain of obtaining custody of the minor children in a divorce action in this state no matter who is at fault in the disolving of the marriage. A woman can be sure of obtaining 25% of her husband's lifetime earnings whether or not she remarries. It makes no difference if she has been a dedicated wife or not and that she may want a divorce simply out of boredom. In conclusion, a woman in the state of Alaska has everything to gain and nothing to lose, except a husband, by divorce.

Besides the things mentioned, a woman is certain to end up with at least half and probably more of the husband's estate although she may be the only one wanting to terminate the marriage and may be guilty of the things that make reconciliation impossible.

Although the main concern of the courts is theoretically the children's welfare, we have the Tender Years Doctrine in Alaska (King vs King Sup CT Op No. 650 1970) that often sways the courts decisions, as can be seen by the fact that in the majority of divorce cases in this state the children are awarded to the mother. The effect of these attitudes seem to be reflected by the fact that women filing divorce actions against their husbands exceeds men doing the same thing by a great extent. Again women have nothing to loose by their divorce action. I am sure many women would work much harder at making their marriage successful if they knew that they stood a chance of loosing their children as well as their financial security in a divorce action. Theoretically, the present laws were passed as they are so as to insure the children of these homes would be properly taken care of. Instead it encourages divorce action when all that may be needed to make the marriage work would be a little more work and compromise on both spouses' parts. Children need a family life with both a mother and father and all the financial security in the world will not replace that. Some dedicated fathers realize this but are literally blackmailed by their wives because these women know how important a man's children are to him and that if he does not adhere to her wishes she can take everything he has, including his children. This is a very real problem in our state and any state that has biased divorce laws. It seems to be that the legislatures that caused these laws to be passed have defeated their original purpose as the results of their legislation testify.

A civil contract with a bank or company of one kind or another cannot be broken just because one party has had second thoughts and now desires to be free from it. If a party should default from a comtract he or she is ordered by the courts to make restitution. This is not so with a divorce, but what could be more important than the family unit and the children within that unit?

Is a used car more important? I think not, but a used car salesman is much better off in our courts, trying to collect from a defaulting customer than a man is in trying to save his children from the heartaches of a broken home and the loss of a father in a divorce action.

Many people realize how important an issue this is and how unjust these laws are. They have gone to their state legislatures and helped to get legislation passed that has greatly affected these laws. One very important thing that has been happening concerning divorce is that now nine states require mandantory divorce conseling aimed at reconciliation before they will grant a divorce. There are many organizations such as the Committee for Fair Divorce and Alimony Laws, New York; American Divorce Association for Men, Chicago; and the U.S. Divorce Reform, California; that are causing much concern amoung the public for these things and are responsible for a lot I needed legislation to rectify some very unjust laws. I believe that laws that would put the responsibility of divorce equally upon both spouses would certainly deter many broken homes. Many people feel that their next marriage will be what they want but studies indicate that the second marriage usually is not as successful as the first.

There are many men that are very dedicated husbands and fathers but after dedicating years of their lives to their families they can have it all taken away by a bored wife in thirty days.

I would like very much to see legislation passed that would rectify this situation and give every man in the state of Alaska the legal right to raise their children in the family unit they worked so hard to provide if they are found to be responsible. This should also apply to women. The spouse that shows irresponsibility by terminating the marriage in one way or another without just cause, is the one who should stand to loose the most, including their God given right to raise their children. I am no legal authority, but it seems that a lot of our present state statutes are unconstitutional, concerning divorce and child custody, with the new constitutional amendment on equal rights.

My main concern is the children involved in so many divorces and I believe proper legislation would certaintly deter many would be divorces. We all have a moral responsibility to our children to offer them the most meaningful life possible. To do this I believe we will have to get rid of the predent inequeties in our courts and state statutes concerning divorce, child custody and alimony.

If any of you would be interested in persueing this matter I would be more than willing to offer any assistance I could. I am sure there is a lot of ground work to be done to create this kind of legislation and I would be most willing to assist you.

References for this material include:
Alaska Statutes 09.55.090-- 09.55.230 and 25.05.010 to 25.25.270
American Law Reports
Alaska Law Journal
Alaska Reporter
Marriage and Family Interaction Bell 1967
Contemporary Social Problems 1972
Let's Stop Destroying Our Children 1974

Respectfully Yours,

Judy Johnson

Unjust And Biased Alaska Statutes

Sec.09:55:150 Use of husbands residence where wife is plaintiff:

If husband meets residency requirements and wife doesnt she can use his residency to file for a divorce, but it doesnt give the man the same right.

Sec. 09:55:170 Seperate residence during action:

Wife may aquire seperate residence during action without consent of husband and without being charged with misconduct, but this doesnt apply to men as well.

Sec.09:55:200 Temporary alimony and wifes legal fees:

The courts may order a husband to provide a amount of money as may be necessary to prosecute him. This goes so far that the husband can be ordered to pay for a appeal the wife may make. (Leak vs Leak 156 f. 474)
Even though the courts have ruled a wife also can be ordered to pay alimony (Olsen vs Olsen 5 Alaska 459) most cout rulings on alimony specify men such as: Goggans vs Goggans 15 Alaska 451 237F 2d 186
Also in American Law Reports 2nd, page 309 it is stated, "If it is proved a wife is guilty of marital misconduct the court can denie her temporary alimony and attorneys fees but as a praatical matter the husband does not prevail very frequently."

Tender Years Doctrine: King vs King Sup CT. Op No. 650 1970

Although this is not a law but a court ruling it has greatly affected many court decisions as can be seen by examining the records for the last five years. This decision says that young children are better off with their mothers and should be placed there whenever possible. This certaintly does not take other statutes into consideration and makes child custody almost impossable for a man. The following laws seem to indicate this decision but the courts go right on awarding children to the mothers as a matter of fact.

09.55.205: Niether parent is entitled to custody as a right.
Superior Court Ruling Op No. 847 1972 Custody has to be made without regard to sex. Also new constitutional ammendment on equal rights.

Sec 09.55.201 Paragraph I say child custody should be given to the party not at fault and the guilty party should help support the children.

Suggestion: It should be absolutly mandatory that the children go with the inocent party if they want them. and if both parents are equally fit.
It is a parents God given responsibility and right to raise their children and not even the courts have a right to take that away so long as they are doing their job in a responsible way. After all if a man was not being sued for divorce the court would not be involved and he would be allowed to raise his children. Here is a perfect example where a bored wife has everthing to gain and nothing to loose. Sec. 25.20.030 says it is the duty of children to care for parents when they become unable to do so. The courts have ruled this is a moral issue. How much more so in a child custody situation?

HB

241

"An Act relating to the operation of fishing gear."

COMMITTEE REPORT

HOUSE

4/1/75

Mr. Speaker: Date 4/1/75

The Committee on JUDICIARY has had HB 241 under consideration. A Majority of the members of the Committee

( ) recommends it DO PASS

( ) recommends it DO NOT PASS

( ) recommends it DO PASS WITH ATTACHED AMENDMENT(S)

( ) recommends it BE REPLACED WITH CS FOR HB 241 AND THAT CS FOR 241 DO PASS

( ) "and" recommends it BE REFERRED TO THE _____ COMMITTEE

( ) reports it back WITHOUT RECOMMENDATION

( ) "other"

Members signing the Majority report:

Members NOT concurring in the Majority report:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

_____ recommends:

Jerry Hamilton Chairman

Original sponsor: Malone

IN THE HOUSE BY THE JUDICIARY COMMITTEE

CS FOR HOUSE BILL NO. 241

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the operation of fishing gear."

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

* Section 1. AS 16.05.540 is amended to read:

Sec. 16.05.540. LIMITATION ON ISSUANCE OF FISHING GEAR LICENSES. The fishing gear licenses mentioned in secs. 550 - 650 of this chapter shall be issued one to the applicant. Each applicant shall personally operate or assist in the operation of the licensed fishing gear. "Operating or assisting in the operation of licensed fishing gear" means being present at the gear site and operating, assisting, or supervising the immediate fishing operation. Each applicant for the fishing gear licenses mentioned in secs. 570 and 580 of this chapter shall also personally own or lease the licensed fishing gear. The license is transferable as provided under sec. 670 of this chapter.

* Sec. 2. AS 16.05.670(e) is amended to read:

(e) It is unlawful for gear which is licensed as provided in this chapter to be operated or caused to be operated by a person other than the licensee or his assistant under the supervision of the licensee while the licensee is present at the gear site, or the person to whom the license was transferred or his assistant under the transferee's supervision while the transferee is present at the gear site, upon notice to the department.

HB 384 Evaluation of Judges

Since the committee had previously heard testimony on this bill from the Judicial Council, HB 384 was passed out of committee, do pass.

HB 241 Fishing gear

Rep. Malone, sponsor of the bill, testified that this bill would correct the situation where the owner of a license was determined to be required to have his hand on the nets at all times when they were being used. A court interpretation of the bill required the licensee to personally participate in all work. This was not the legislative intent in passing the original bill, so HB 241 would give clear legislative intent.

Mr. Brown moved CS HB 241 (incorporating the Resources amendment) out of committee do pass. There being no objection, it was so ordered.

Introduced: 3/3/75
Referred: Resources and Judiciary

IN THE HOUSE BY MALONE

HOUSE BILL NO. 241

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to the operation of fishing gear."

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

* Section 1. AS 16.05.540 is amended to read:

Sec. 16.05.540. LIMITATION ON ISSUANCE OF FISHING GEAR LICENSES. The fishing gear licenses mentioned in secs. 550 - 650 of this chapter shall be issued one to the applicant. Each applicant shall personally operate or assist in the operation of the licensed fishing gear. "Operating or assisting in the operation of licensed fishing gear" means being present at the gear site and operating, assisting, or supervising some portion of the immediate fishing operation. Each applicant for the fishing gear licenses mentioned in secs. 570 and 580 of this chapter shall also personally own or lease the licensed fishing gear. The license is transferable as provided under sec. 670 of this chapter.

* Sec. 2. AS 16.05.670(e) is amended to read:

(e) It is unlawful for gear which is licensed as provided in this chapter to be operated or caused to be operated by a person other than the licensee or his assistant under the supervision of the licensee while the licensee is present at the gear site, or the person to whom the license was transferred or his assistant under the transferee's supervision while the transferee is present at the gear site, upon notice to the department.

#

Alaska House of Representatives

POUCH V
JUNEAU
99801

—

P. O. BOX 9
KENAI
99611

HUGH MALONE

M E M O R A N D U M

TO: Mr. John Elliott
Executive Director
Legislative Affairs Agency

February 24, 1975

FROM: Hugh Malone
Chairman
House Finance Committee

SUBJECT: Corrective Amendment AS 16.05.540 and AS 16.05.670(e)

Attached is a recent District Court Decision providing for a narrow interpretation of the Statutes regulating the operation of fishing gear. In my opinion the Court interpretation of the Statutes is too narrowly drawn, however, a strict interpretation of the Statutes might also be the same result on appeal. It is my belief that the Legislature intended that the gear license holder be present at the operation of fishing and that it take place under his direct charge and supervision. I am sure that the Legislature did not intend that the gear license operator had to have his hand on the net every time his helper did. Therefore I would request that you prepare corrective Amendments to the above Statutes, which would make very clear that the legislative intent is that the gear license holder must be present at the fishing site or on the boat during the operation of fishing and the gear operation take place under his supervision and control. I would appreciate having this bill as soon as possible. Thank you.

Attachment

HM:kfs

LAW OFFICES OF
HAHN, JEWELL & STANFILL

A. ROBERT HAHN, JR.
ALLEN L. JEWELL
STAN B. STANFILL

542 WEST SECOND AVENUE
ANCHORAGE, ALASKA 99501
TELEPHONE 279-1544

HOMER, ALASKA
TELEPHONE 235-8709

KENAI, ALASKA
TELEPHONE 283-7759

October 1, 1974

Mr. Marvin Eppes
2751 N. Crosby Road
Oak Harbor, Washington 98277

Dear Marvin:

I today received and enclose for your examination the memorandum opinion of Judge Nicholas in your set net cases. As you can see, the court has taken the position that all persons holding licenses must be present at and physically assist in all operations of the fishery from the time the net is put into the water until its taken out. I believe that the position he has taken is an extremely strict interpretation of the statutes and might very well be open to amendment either by the legislature here in Alaska or in a higher court proceeding.

I talked with Judge Nicholas today and he indicated to me that he would really like to see the case appealed to a higher court and I got the impression that his initial opinion took a very narrow position as to "assistance" under the statutes in hopes that the matter would be appealed to a higher court. The Judge was extremely friendly in his conversation and indicated that he was grateful to the parties for proceeding as they had and getting all of the evidence on the record. All of which is, of course, small comfort in view of the fact that we felt that our position was correct and it is disappointing to have the court adopt such a restrictive definition of assistance.

The Judge told me that he would continue the matter for whatever period of time I needed to confer with you and possibly any other set net fishermen who might wish to combine their resources and challenge the decision. Thus, as you can see, the court is not treating the proceeding in any way as a criminal action, and is in fact eager to have the matter resolved at a higher level. The Judge indicated that he would ask only a very nominal fine

If you did not decide to press your appeal, such fine amounting to $50 each for you, Jim, and Dick. The case as to Tom Anderson was, as you know, dismissed so there would be no fine in that regard. I have enclosed a copy of the Order of Dismissal as to Tom so that you can provide him with a copy of same.

Obviously the cheapest and easiest way for you to go would be to pay the fine and let the matter drop. An appeal to a higher court would run at a minimum around $5,000 I'm sure before we got through. This would only be feasible if you could get up a joint effort with a number of other fishermen in the area. I would suggest that if you would consider an appeal, that you write to any of your friends who do fish the beach and ask them if they would be willing to contribute a certain amount to take the question of assistance up on appeal to a higher court. It would certainly appear to me that under the definition of assistance as rendered by the Kenai Judge, that it will be very difficult for other set net fishermen to remain strictly legal at all times. I would be delighted to handle the appeal as you well know, however, if it is the consensus of you and your fellow fishermen that some other attorney might do a better job, I will understand completely and will be only too happy to assist whoever is chosen for the task in his preparation with any information that I have as a result of handling the initial hearing.

It has been a real pleasure getting to know you and your fine family and we will definitely be looking forward to seeing you next spring. Please let me know as to your thinking with regard to the question of an appeal as soon as possible.

With warmest personal regards to you,

HAHN, JEWELL & STANFILL

A. Robert Hahn, Jr.

ARH/da
enclosure

IN THE DISTRICT COURT FOR THE STATE OF ALASKA

THIRD JUDICIAL DISTRICT

AT KENAI

STATE OF ALASKA,

Plaintiff,

vs.

MARVIN E. EPPES,

Defendant.

No. 74-10538 & 74-10636

MEMORANDUM OPINION

The statutes that the court is called upon to interpret are A.S. 16.05.540 and 16.05.670(e). The thrust of the two statutes as they pertain to the complaint at bar is two-pronged: (1) In order to operate a gill net one must have a license issued by the State; and (2) Such nets as are permitted by law may not be utilized unless the person to whom the nets are licensed operates or assists in the operation. It is the construction to be placed on the underlined language that will be taken up in this opinion.

Counsel for Defendant would have the Court rule that almost any single act required for gill net fishing would be a sufficient act for a person to be "assisting" in the operation of his set gill net. Using this rational if a person assisted in loading his nets into a boat, he need never be present while his nets were being fished by other persor It is this Courts opinion that the Legislature put the words "or assists' for the simple reason of allowing the licensee the opportunity of having some other person assist him in the legal operation of his fish nets should this become necessary.

First, the Court is called upon to define the word operation as it pertains to the use of gill nets. Or, more specifically, what activities are encompassed by the term and what activities are not to

be considered as part of the operation of the nets. The Court has been unable to find any cases that specifically define "operation" as it applies to fishing with nets. The word has been defined in general and non-specific terms: "operation" is doing some act or performance of some type of service, work, deed, production, creation or product of work". Alterman S.S. Corp. V. Snow, 222 F. Supp 892, 897 (Dist. Ct. Ore. 1963). It is quickly apparent that this definition does little to help us here. In Dale V. Saunders Bros., 157 N.Y.S. 1062, 171 App. Div. (1916) the Court dealt with the question of what was encompassed by the phrase "operation of a horse-drawn vehicle." The Court stated, at p. 1063, "the 'operation' of a vehicle drawn by horses, referred to in Workmen's Compensation Law.....as a hazardous employment is not confined merely to moving the vehicle, but relates to everthing incident to the employment, and includes the loading of a wagon with sand in the course of employment. (emphasis added). The rational of this holding may be readily applied to the statutes at issue here. The legislature obviously intended to restrict the use of the gill nets, to some degree, to those persons to whom the nets were licensed. For if this were not their purpose there would be no justification for either the statute or the language requiring the licensee to personally participate in the utilization of the nets. With this conclusion in hand and mindful of the language in Dale V. Saunder supra, the operation of a gill net should include all activities involved in (1) placing the nets in the water; (2) the periodic checking of the nets and all activities necessary to such checking, including but not necessarily limited to pulling up the nets for this purpose, removing any fish from the nets, and returning the nets to the water after such checking; and (3) removing the nets from the water after the period for gill-net fishing has ended. All of these activities should be performed by the person to whom the nets are licensed, or at least partly performed by him in the event that assistance is required. Conversely, none of these activities should be permitted without the participation of the licensee. Similarly, it should not be sufficient under the statute for

a licensee to direct from the shore any of the above mentioned activities when they are being undertaken by others in a boat; nor from a boat when the activities are being performed on shore.

By passage of the statute the legislature intended to restrict the use of gill nets to those in possession of a valid license. And the application for and acceptance of the license signifies an agreement by the licensee to abide by the statutes. For all of these reasons, and mindful of the general rule that criminal statutes are to be narrowly construed, the Court will consider a somewhat narrow construction of the word 'operation' to those activities directly related to gill net fishing.

In the same vein the Court will require, under the language of the statutes permitting a licensee to assist in the operation of the gear, the same type of affirmative conduct in furtherance of successful gill net fishing. In 1960 OP. Atty Gen No. 12, the attorney general stated that the licensee must assist in the operation of the licensed gear (nets). The presumption leaps out that active and affirmative participation in the utilization of the gill nets in accordance with the guidlines suggested above is required by the statute. The legislation was aimed at prohibiting one person from operating gill nets licensed to another and that is precisely the conduct engaged in by the defendant in this case.

In view of the above, it is the Courts opinion that a licensee must be present at, and physically assist, in all operations of gill net fishing, from the time the net is placed in the water, until it is removed from the water at the close of the fishing period; however, he may be assisted by any other person who is licensed as a commercial fisherman, should the need arise.

DATED this 24 day of September, 1974 at Kenai, Alaska.

MAGISTRATE

Feburuary 14, 1975

Governor Jay Hammond
Capitol Hill
Juneau, Alaska

Honorable Sir,

Cook Inlet Fishermen's Fund members present at a Februrary 9 1975 meeting strongly recommend that we start Cook Inlet on a minimum of a three (3) day (18 hour periods) a week fishery, as even a three day per week fishery is a test fishery.

This recommendation is made on the basis that there has never been adequate evidence that the type of closures that we have had helps build the salmon runs. For example, the King Salmon and early Red Salmon closure for the past 13 years. (The Department of Fish & Game still doesn't know the strength of these runs.)

If on a three day per week fishery we find that any given stream still is lacking an adequate escapement, let us enhance this stream with the use of gravel incubators.

Another matter that we are all concerned with is the decision made by Magistrate Jess Nicholas last fall in regards to the case of State of Alaska vs. Marvin E. Eppes (Case No. 74-10636 & 74-10538 defining what the word "assist" means in Section 16:05.540 'Limitation of Fishing' Gear Licenses in the Commercial Fishing Regulation book page 7.) Enclosed is a copy of the above case. Having fished before, you no doubt realize that legal gill net fishing will be virtually impossible under the above ruling.

We feel the Legislature should amend or change the wording to read: (Section 16:05.540 Limitations of Fishery - on issuance of Fishing gear licenses.) "Assist" shall be defined as being present on the location and helping with any portion of the operation. Any other licensed crew member may also operate or assist in the operation of the above said gear.

This is protection a family set Gill Net Unit must have; and can see where problems might also arise aboard a drift Gill netter.

Floyd Blossom
Floyd A Blossom
Cook Inlet Fishermen's Fund Representative

Enc. 2
copies to: W.I. Palmer - Executive Secretary
Clem Tillion - Senator
Representative - Hugh Malone
Representative - Leo Rhodes
Jim Reardon - Board of Fish & Game
James Brooks - Comm. of Fish & Game

AMENDMENT

OFFERED IN THE HOUSE: BY: House Resources COMMITTEE

TO: Amend HOUSE BILL No. HB 241

SENATE BILL No. _____

PAGE: 1 LINE: 15

Delete the words

"Some portion of"

[

HOUSE RESOURCES COMMITTEE REPORT

HB # ~~[illegible]~~ HB ~~[illegible]~~
241

A recent court case has interpreted AS 16.05.540. so restrictively as to require a gear licensee to actually have his hands on each net each time the net is placed, checked, and removed, during rather than just being present at the site of the immediate fishing operation while a crew member acted at his instruction. The original legislative intent was only to keep licenses from being operated by "remote control" from a town on shore or even from Seattle.

The current bill, including a minor amendment suggested by the sponsor, would instead require that the licensee be present "at the gear site and operating, assisting, or supervising the immediate fishing operation," which would more closely fit the original legislative intent and still take into account practical realities of commercial fishing.

HB

242

02-001B (REV. 08-73)

MEMORANDUM

State of Alaska

DEPARTMENT OF MILITARY AFFAIRS

TO: Honorable Bill Parker
Chairman
House State Affairs

DATE: 3 April 1975

FILE NO:

TELEPHONE NO:

FROM: Major General C.F. Necrason
The Adjutant General

SUBJECT: House Bill 242

I received your memo dated 21 March requesting my comments on House Bill 242.

After reviewing the bill, I feel that it appears to be sound and sensible. I have no basic objections.

Thank you for providing me the opportunity to comment on this matter.

MEMORANDUM

State of Alaska

DEPARTMENT OF MILITARY AFFAIRS

TO: Honorable Bill Parker
Chairman
House State Affairs

DATE: 3 April 1975

FILE NO:

TELEPHONE NO:

FROM: Major General C.F. Necrason
The Adjutant General

SUBJECT: House Bill 242

I received your memo dated 21 March requesting my comments on House Bill 242.

After reviewing the bill, I feel that it appears to be sound and sensible. I have no basic objections.

Thank you for providing me the opportunity to comment on this matter.

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF LABOR

OFFICE OF THE COMMISSIONER / *P. O. BOX 1149—JUNEAU 99801*

March 28, 1975

Representative Bill Parker
Chairman, House State Affairs
Committee
Pouch V
Juneau, Alaska 99811

Dear Representative Parker:

Your memorandum, as well as a copy of House Bill 242, was received today. Thank you for sharing this information with us.

The Department of Labor has no "dress code" per se; however, it is written on page 21 of our "Employee Handbook" that "because we serve the public and there are frequent visitors, it is expected that personal appearance be appropriate, neat and clean."

I have no intention of adopting standards of dress in this Department. To the best of our knowledge, we have not had any complaints on the attire of our employees.

I feel that the Department of Labor can better spend its time on more important matter of government than establishing a dress code.

Sincerely,

Ed Orbeck

Edmund N. Orbeck
Commissioner

Enclosure: "Employee Handbook"

STATE OF ALASKA

WILLIAM A. EGAN, GOVERNOR

DEPT. OF COMMUNITY & REGIONAL AFFAIRS

OFFICE OF THE COMMISSIONER / POUCH B–JUNEAU 99801

March 26, 1975

The Honorable Bill Parker
Alaska House
of Representatives
Pouch V
Juneau, Alaska 99811

Dear Representative Parker:

Re: HB 242

Legislative review of any dress codes and appearance standards adopted should apply to all not just those State employees classified and partially exempt.

Such a difficult thing to determine in this age --- appropriate dress.

Sincerely,

Lee

Lee McAnerney
Commissioner

LMcA:lb

HB

246

SB 99 Public records

The committee felt that (b) should be in title 11.
line 12: change hinder to withhold or deny or obstructs of to a phrase using several other words.
line 11: change to the person responsible for the custody of the records -- also in line 17

HB 246 Liquor license

Don Clocksin stated that the first section concerns notice. Section 2 provides that if one person objects to any license filed, the ABC Board has the option of accepting his protest. If 35% of the adults object, an election is required in which they can vote to go dry. This must cover all establishments in the area and not be selective. Outside a village, if a majority of the people object at a public hearing, the Board may refuse to grant the license. Section 4 makes a violation of the law a misdemeanor so that Troopers could be called in to enforce.

Mr. Bradley moved the C & RA CS out of committee do pass. There being no objection, it was so ordered.

SB 180 Salmon Hatcheries

Phil Daniels stated that the bill will require Fish and Game to cooperate with private hatchery groups. This was the legislative intent in allowing private hatchery groups in the past but this apparently was not clear to the Department because some problems developed.

Mr. Brown moved SB 180 out of committee do pass.

The committee agreed that the four bills discussed earlier should go to legislative affairs to make sure that they were in the correct titles.

File HB246

STATE OF ALASKA

JAY S. HAMMOND, Governor

DEPARTMENT OF REVENUE

OFFICE OF THE COMMISSIONER / *POUCH S—JUNEAU 99801*

March 26, 1975

The Honorable Samuel Cotten
Chairman
House Community Regional Affairs Committee
Alaska State Legislature
State Capitol
Juneau, Alaska

Re: House Bill No. 246

Dear Mr. Cotten:

House Bill No. 246, an Act relating to liquor licenses and municipal regulation of the sale of intoxicating liquor was introduced in the House on March 3, 1975 and was referred to the House Community and Regional Affairs and Judiciary Committees.

Under the date of March 4, 1975 I requested by memorandum dated March 4, 1975 addressed to Linda Brown, Director, Alcoholic Beverage Control Board, Anchorage, Alaska a review of the proposed legislation for comments on costs or problems of administration.

Attached is a copy of a memorandum from Linda Brown, Director, Alcoholic Beverage Control Board, Anchorage, Alaska concerning the subject bill.

If you or any members of your Committee have any questions on the material submitted, please contact the writer by telephone at 465-2397 and I will contact Linda Brown for further material for submission to the Committee.

Very truly yours,

R. D. Stevenson
Special Assistant

cc: The Honorable Terry Gardiner
Chairman
House Judiciary Committee

STATE
of ALASKA

MEMORANDUM

TO: Linda Brown
Director
Alcoholic Beverage Control Board
Anchorage, Alaska

DATE: March 4, 1975

FILE NO:

FROM: R. D. Stevenson
Special Assistant
Department of Revenue

SUBJECT: House Bill No. 246

Attached is a copy of House Bill No. 246, an Act relating to liquor licenses and municipal regulation of the sale of intoxicating liquor.

Please review the proposed legislation and prepare a memorandum to the writer advising of costs or problems of administration.

02-001

02-001B

STATE
of ALASKA

MEMORANDUM

TO: R. D. Stevenson
Special Assistant
Department of Revenue
Juneau

DATE : March 12, 1975

FROM: Linda E. Brown, Director
ABC Board
Anchorage

SUBJECT: HB No. 246

In response to your memo on the above, I would like to make the following comments:

The amendment to AS 04.10.200 is very difficult. We could require posting affidavits as in a new application, but it greatly increases paperwork. In all fairness to the industry, it is an added burden. If the purpose of this is to increase public knowledge of their right to protest a reissuance, it is an awkward and expensive method.

Regarding the amendment to AS 04.10.300, reference is made to line 27, and the words "or otherwise." I am in doubt just what it means, and suspect that nobody else will either, leaving it very open to interpretation. It doesn't make sense to discuss hearings and make a vague reference to other possibilities at the same time. The purpose of the hearing is to determine whether a license may be issued by giving everyone a chance to speak. It should lead to a final resolution of the issues. The "or otherwise" could keep an issue going indefinitely with all the accompanying headaches these situations produce.

The rest of the amendments appear to be helpful.

Thanks for your interest.

LEB:vk

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
315 FIFTH STREET, SUITE 8
JUNEAU, ALASKA 99801
TELEPHONE 586-6425

MEMORANDUM

TO: House Judiciary Committee

FROM: Donald E. Clocksin

RE: CSHB 246 - Liquor Licensing

DATE: April 23, 1975

- -

I. Background.

At the Bush Justice Conference at Minto in June, 1974, the problems of alcohol in rural Alaska were discussed extensively. It was felt by people at the Minto Conference that abuse of alcohol was one of the most pressing problems facing the bush. While urban areas had ways of controlling liquor, the bush areas had little to say about the presence of liquor.

The Conference adopted the following recommendations relating to this issue:

THAT PARTICIPATION OF VILLAGE PEOPLE IN VIRTUALLY ALL AGENCIES OF THE JUSTICE SYSTEM IS SEVERELY LACKING

1. Recommendation: that all State regulatory agencies guarantee village input into agency decisions by visiting the villages, and making the villages' [illegible] and wishes known to the decision body.

2. Recommendation: that liquor licenses issued to unincorporated areas be revokable upon request by a majority of the residents of the area without those residents having to first organize a municipal government.

3. Recommendation: that legislation be enacted to enable a Native village to vote dry and enforce such legislation against residents of the village, visitors and any carrier who knowingly transports liquor into the village in violation of this legislation.

4. Recommendation: that legal and other public notices to bush villages be simple, clear, and bilingual so that they can be understood.

5. Recommendation: that all notices be given so that they reach the people, and that radio and tv be used more often to give these notices.

II. Present Law.

The present procedure is for an applicant to file an application, which must be posted for 10 days on the proposed licensed premises, at the nearest post office, and at one other place. No new license may be issued if there is already more than one license for each 1500 population in the city (1500 within 5 miles in unincorporated areas). Once issued the license is renewed automatically unless the licensee is convicted of a crime or the Board has revoked it. In an incorporated city a local option election is allowed. In unincorporated areas a protest is allowed which is not binding on the Board. If a license is for an unincorporated area more than 50 miles from a municipality, 2/3 of the residents must approve of the issuance of a license.

In smaller incorporated communities there is not sufficient law enforcement to enforce a dry ordinance; state assistance is needed. In unincorporated villages there is no power to go dry; the village residents can only object at the initial issuance of a license, often without sufficient notice.

III. What the Bill Would Do.

CSHB 246 does three things:

1. Notice. Section 1 modifies the notice requirements to require public notice of reissuance, renewal, and transfer of licenses, as well as initial issuance. The notice shall be bilingual where necessary, and shall utilize the most effective means of notice, e.g. radio, tv, etc.

2. Local Protests. Section 2 provides for three situations in which local protest is allowed in unincorporated areas. The section extends the right to protest to reissuances, renewals and transfers.

   a. A single resident outside a municipality may protest licenses within two miles of where he lives. A public hearing in the areas may be held by the ABC Board.

b. If 35% of adult residents in and around an unincorporated "established village", as defined by the Department of Community and Regional Affairs, protest, an election conducted by DCRA must be held. The results are binding on the Board.

c. If the Board schedules a hearing to hear protests in an unincorporated area outside an established village, and a majority of the residents within two miles object, the Board may refuse to issue, reissue, renew, or transfer the license.

Section 3 of CSHB 246 limits the automatic renewal of a license to take into account the Section 2 protests.

3. Local Option Election. Section 4 provides that, once a local option election has been held in an incorporated area, violation of any ordinance adopted is a misdemeanor. This allows the State Troopers to assist in enforcement.

IV. Support.

Phillip Wall, ex-director of the ABC Board, assisted in drafting the Committee Substitute. He is in support of the principle of the bill. Linda Brown, the present ABC Board director, should support the bill. The Department of Community and Regional Affairs has no objection that I am aware of. Ben Marsh, representing the Cabaret, Hotel, and Restaurant Owners Association, did not oppose the bill, once it was altered so that the protest procedure did not apply in municipalities.

DEC:mjb

Present Law

Sec. 04.10.200. Posting of application. Before a new license is issued the applicant shall post a true copy of the application for license at the location of the premises, at the nearest post office and at one other conspicuous location in the area, for a period of 10 days before the filing of the application. The applicant shall submit with the application proof of posting on a form to be provided by the board. (§ 35-4-22(B) ACLA 1949; am § 1 ch 181 SLA 1953; am § 2 ch 181 SLA 1957; am § 2 ch 197 SLA 1959; am § 7 ch 183 SLA 1960)

Sec. 04.10.300. Protest of issuance. A resident of an area outside an incorporated city who desires to protest the issuance of a license in the voting area in which he resides, shall serve upon the applicant and the board a written statement of the reasons for his protest. Upon the receipt of the protest, the board may give notice and hold a hearing, in the voting precinct in which the protestant resides, at which all persons interested may be heard. If at the hearing it appears that the majority of the citizens over the age of 19 years, residing within two miles of the place for which a license is sought, object to the issuance of the license, the board shall refuse to issue the license. (§ 35-4-22(E) ACLA 1949; am § 1 ch 181 SLA 1953; am § 2 ch 181 SLA 1957; am § 2 ch 197 SLA 1959; am § 4 ch 53 SLA 1973)

Effect of amendment.—The 1973 amendment substituted "city" for "town" in the first sentence and "19" for "21" in the third sentence.

Legislative committee report.—For report on ch. 53, SLA 1973 (CSHB 382), see 1973 House Journal, pp. 793, 885.

A M E N D M E N T

TO: CSHB 246 BY ELIASON

On page 1, line 6, after "licenses", insert: "fees,"

On page 1, between lines 8 and 9, insert, and renumber bill sections accordingly:

* Section 1. AS 04.10.110 is amended to read:

Sec. 04.10.110. WHOLESALE LICENSE. (a) The holder of a general wholesale license may sell intoxicating liquors in the original package, and wine in bulk, in quantities of not less than five wine gallons to holders of licenses. The holder of a general wholesale license may not sell to a consumer. Liquor requiring internal revenue strip stamps shall have the stamps intact on the package. A general wholesale license shall be required for each distributing point. The general wholesale license fee schedule is based upon the total amount of business transacted during any year and is $500 as a minimum license fee, to accompany the application, and in payment of the fee for the first $50,000 of business transacted, and, in addition thereto, a sum equal to one per cent of the business transacted during the year for which the license is issued. [ON THE BUSINESS TRANSACTED DURING ANY YEAR,

ABOVE $50,000 AND NOT OVER $75,000 ..... A FEE OF $ 250
ABOVE $75,000 AND NOT OVER $100,000 ..... A FEE OF $ 500
ABOVE $100,000 AND NOT OVER $125,000 ..... A FEE OF $ 750
ABOVE $125,000 AND NOT OVER $150,000 ..... A FEE OF $1000
ABOVE $150,000 AND NOT OVER $175,000 ..... A FEE OF $1250
ABOVE $175,000 AND NOT OVER $200,000 ..... A FEE OF $1500
ABOVE $200,000 AND NOT OVER $250,000 ..... A FEE OF $2000

House Judiciary Committee
Statement of Intent
CS HB 246

The present procedure is for an applicant to file an application, which must be posted for 10 days on the proposed licensed premises, at the nearest post office, and at one other place. No new license may be issued if there is already more than one license for each 1500 population in the city (1500 within 5 miles in unincorporated areas). Once issued the license is renewed automatically unless the licensee is convicted of a crime or the Board has revoked it. In an incorporated city a local option election is allowed. In unincorporated areas a protest is allowed which is not binding on the Board. If a license is for an unincorporated area more than 50 miles from a municipality, 2/3 of the residents must approve of the issuance of a license.

In smaller incorporated communities there is not sufficient law enforcement to enforce a dry ordinance; state assistance is needed. In unincorporated villages there is no power to go dry; the village residents can only object at the initial issuance of a license, often without sufficient notice.

What the Bill Would Do.

CSHB 246 does three things:

1. Notice. Section 1 modifies the notice requirements to require public notice of reissuance, renewal, and transfer of licenses, as well as initial issuance. The notice shall be bilingual where necessary, and shall utilize the most effective means of notice, e.g. radio, tv, etc.

2. Local Protests. Section 2 provides for three situations in which local protest is allowed in unincorporated areas. The section extends the right to protest to reissuances, renewals and transfers.

   a. A single resident outside a municipality may protest licenses within two miles of where he lives. A public hearing in the areas may be held by the ABC Board.

   b. If 35% of adult residents in and around an unincorporated "established village", as defined by the Department of Community and Regional Affairs, protest, an election conducted by DCRA must be held. The results are binding on the Board.

   c. If the Board schedules a hearing to hear protests in an unincorporated area outside an established village, and a majority of the residents within two miles object, the Board may refuse to issue, reissue, renew, or transfer the license.

   Section 3 of CSHB 246 limits the automatic renewal of a license to take into account the Section 2 protests.

3. Local Option Election. Section 4 provides that, once a local option election has been held in an incorporated area, violation of any ordinance adopted is a misdemeanor. This allows the State Troopers to assist in enforcement.

House Judiciary Committee
Statement of Intent
CS HB 246

The present procedure is for an applicant to file an application, which must be posted for 10 days on the proposed licensed premises, at the nearest post office, and at one other place. No new license may be issued if there is already more than one license for each 1500 population in the city (1500 within 5 miles in unincorporated areas). Once issued the license is renewed automatically unless the licensee is convicted of a crime or the Board has revoked it. In an incorporated city a local option election is allowed. In unincorporated areas a protest is allowed which is not binding on the Board. If a license is for an unincorporated area more than 50 miles from a municipality, 2/3 of the residents must approve of the issuance of a license.

In smaller incorporated communities there is not sufficient law enforcement to enforce a dry ordinance; state assistance is needed. In unincorporated villages there is no power to go dry; the village residents can only object at the initial issuance of a license, often without sufficient notice.

What the Bill Would Do.

CSHB 246 does three things:

1. Notice. Section 1 modifies the notice requirements to require public notice of reissuance, renewal, and transfer of licenses, as well as initial issuance. The notice shall be bilingual where necessary, and shall utilize the most effective means of notice, e.g. radio, tv, etc.

2. Local Protests. Section 2 provides for three situations in which local protest is allowed in unincorporated areas. The section extends the right to protest to reissuances, renewals and transfers.

   a. A single resident outside a municipality may protest licenses within two miles of where he lives. A public hearing in the areas may be held by the ABC Board.

   b. If 35% of adult residents in and around an unincorporated "established village", as defined by the Department of Community and Regional Affairs, protest, an election conducted by DCRA must be held. The results are binding on the Board.

   c. If the Board schedules a hearing to hear protests in an unincorporated area outside an established village, and a majority of the residents within two miles object, the Board may refuse to issue, reissue, renew, or transfer the license.

   Section 3 of CSHB 246 limits the automatic renewal of a license to take into account the Section 2 protests.

3. Local Option Election. Section 4 provides that, once a local option election has been held in an incorporated area, violation of any ordinance adopted is a misdemeanor. This allows the State Troopers to assist in enforcement.

HB
256

ALASKA STATE LEGISLATURE - HOUSE OF REPRESENTATIVES

REPRESENTATIVE MIKE BEIRNE
P. O. BOX 4-1539
ANCHORAGE, ALASKA 99509

POUCH V
JUNEAU, ALASKA 99811

13 May 1975

Representative Tim Wallis
Pouch V
Juneau, Alaska 99811

Dear Rep. Wallis:

You were interested in having some of my comments on House Bill 256, with particular reference as to how physicians were licensed in our state as contrasted to dentists.

Really, the issue as I see it, is the ease with which a licensure takes place for physicians, and the difficulties incountered in getting a dentist licensed.

Lets take a physician first and I will explain to you how it works. A physician comes from any medical school in the United States, and he can also come from Canada and England and some other foreign countries. All he has to have is a license in another state and have good references so that we know he is not a kook, and we can license him on the same day he arrives in the state. I have done it many times. We license physicians by endorsement. We don't use reciprocity, obviously, since we don't have any medical schools or dental schools to reciprocate with.

But any physician, or all physicians in the United States, can be licensed in Alaska simply, quickly, and easily. It is extremely rare for one to be turned down. Probably 95% of the applicants are licensed without difficulty. This encourages physicians to come into the state. We don't care who they work for, whether they work for themselves, for non-profit corporations, for the Teamsters, for the Sisters, for the local governments, or for the state. It's all the same.

The Medical Examining Board has a member in the big cities around the state and the applicant has to have an interview with the board member who grants him a temporary license and then the paper work is finished up in the routine manner by the Department of Commerce.

The Dental Board of course does not work the same way. Dentists are not licensed by endorsement. They are licensed only by examination. When a physician takes an examination, he has to go outside to a University and take the exam there, or take a National Exam, because it is much better than the local doctors trying to come up with a written exam for him.

The dentists only give their examination once each year. Quite a few of the applicants are screened out before they are permitted to take the exam. Of those who are permitted to take the exam, my understanding is that about half of them pass it. There is no way possible for a dentist to take the written exam, or the practical exam that they give him, at an outside University, or to take it from a disinterested third party.

What I would recommend, is any changes that are going to be made, be that dentists that are licensed in Washington, Oregon, and California now be permitted to practise in Alaska by licensing them on endorsement. For example if 100 dentists graduate from the University of California in June, everyone of them should be qualified to practise dentistry in Alaska, and should be able to get a license up here by endorsement, simply by presenting their graduation certificate from the dental school, letters of reference regarding character and professional ability, and their California license.

The dentists have testified at the HESS meeting that East Coast dentistry is inferior. Of course I don't believe this. I came from Pennsylvania and I think the University of Pennsylvania has as good a dental school as exists in the United States. The same with New York. The same with all the states back there. The schools are good. The dentists have said that the West Coast schools are good. Okay lets license them all by endorsement. I don't see any need to go through this far-out examination they chose. Also the bill should provide that examination of dentists for licensure in our state can be conducted by outside Universities or dental schools. There are also those exams, written and practical, theoretical and technical, could be made available to the Board of Examiners.

The Board of Examiners of the Dental Board, just like the Board of Examiners of any professional board, should include at least one non-professional person so that the public has some more to say about licensure of the professional peoples. I think that Senator Croft has a bill in the Senate which would put a lay person on the Board of the Bar Examiners.

The only reason that Nome has three doctors now at the Norton Sound Health Corporation, which I visited last winter, is because it is easy to get physicians to come to Alaska. They can get licensed here easily. But you can't get a dentist licensed easily, and that means you can't get them to go to Nome, or Kotzebue, or Barrow, or any place else in the state, without planning ahead for a long time and then having the Dental Board decide how many dentists are going to practise in the state. I will be the first to admit that bringing in more dentists may make it harder on the private practitioners who are here. But I think the duty is to the consumers, and not to the providers.

If the Natives were operating a Health Center they should be able to hire the dentist, and put him on the Health Center payroll as an employee, just like everbody else. For three years I've operated a Health Clinic in Anchorage, called the Anchorage Neighborhood Health Center. It was under a Federal grant. We had five physicians working in that clinic over the years, and there are two working there now. I am no longer associated with the Center. But we had no trouble getting physicians because we could get them licensed so quickly and easily. But we could never get a dentist. We wanted a dental program, and our consumers needed it, but there was no way we could give it to them. We were able to hire physicians for $35,000 a year who were good physicians and competent to do the job that needed to be done. It was easy to get physicians from the Public Health Service and from the military, because they knew it only took a day to get licensed if they wanted to enter private practise here. But the dentists had to plan ahead at least a year, and the young guys in the service just don't plan ahead that far.

I certainly think dentistry is important. And I think that the quality of dentistry is very important. But certainly no more important than medicine. Quality is true because physicians are generally controlled through hospital staffs, so that they can not do certain procedures in the hopitals unless they are fully qualified, none the less a physician who just operates an office practise and doesn't utilize the hospital still takes care of peoples lives everyday. He takes care of the whole person. We want the quality of both medicine and dentistry to be high, but I can not see how it would be lowered by licensing everyone who graduated this year from the University of California Dental School.

One should also remember that the army and the Public Health Service send dentists and physicians all over the state, and they don't meet any state licensing laws. They don't have to. But the Public Health Service Dentist who is practising in Kotzebue is discharged from the service and the next day he can not practise on those same people because he can not get a license in this state. That just doesn't make any sense to me.

The Board of Examinors of any profession is given their special position for the purposes of protecting the public from poor quality practisioners. They are not given the power to regulate the numbers who practise in the profession. Everybody who is qualified to practise in the profession, and who applies for a license, must be licensed. I am sure the Legislature did not intend the professions to control the number of practitioners who practise in the state arbitrarily. I know the Bar Association

does this, but we don't seem to have much control over them. But putting lay people on the Bar or Board I'm sure would help alot too.

If I can be of any further assistance to you in providing other ideas let me know.

Sincerely yours,

Mike Beirne

Mike Beirne

STATEMENT BY THE ALASKA DENTAL SOCIETY

HB #256

There are several pre-existing facts that must be considered in contemplating a bill that so vitally affects the dental care available to Alaskans. They are as follows:

1) The dental act and examining board exists to determine and maintain a good quality of professional competency.

2) Reciprocity is by definition a two-way agreement. In 1956 the dental board offered reciprocal rights to every state and only New Hampshire accepted. The states most likely to feel positive toward such an agreement, Washington and Oregon declined because they felt it would allow an exodus from Alaska. . . not enough to be noticeable below, but a significant loss to Alaska. Much work is being done with reciprocity, but it can not be considered "safe" at this time until the level of dental education is more standardized, and all state dental boards cease giving favored treatment or, worse, rubber stamping licenses to graduates of the school(s) of their respective states.

3) The permit system was included in the dental act many years ago to answer a unique need for outlying areas in aquiring dentists. It allows for a community to aquire a dentist without delay, and yet maintains the quality control. The board can issue a permit upon being satisfied the applicant meets certain requirements as set forth and then requires the granted permittee to take the next board exam.

Anything that will open holes in this basic quality control system would be disastrous to the unsuspecting public. This bill will gut the exi ing dental act to the detriment of the public, not the dentist.

Now enters HB #256 during Health & Social Services committee hearings, the author states that the natives are setting up health care organizations and require this legislation in order to proceed with setting up clinics and negotiating with potential dentist employees. He also states they have had no problem with the existing statutes to date!

The author also vividly describes the tragic type of care received by some of the villagers where teeth are extracted on a wholesale basis and no follow-up care provided! Yet this type of "service" is performed by that single group of dentists that are not subject to board control--the public health service dentist.

The Alaska Dental Society has been working hard and effectively in trying to do away with just this type of thing. It has brought about more comprehensive care being offered, more care to adults, preventive care, and a significant amount of contract care by private Alaska dentists. A top level American Dental Association Committee was brought to Alaska at the Alaska Dental Society's request to review the level and type of care received by Alaska natives and they made recommendations to the Indian Health Service in 1974.

There has been a vast improvement in a short time. There is much more to be done and yet progress to date is significant considering the wheels that must be turned and bureaucratic changes required.

This bill will allow more dentists to come in without consideration for quality and do it within the natives own organization! This would be an increase in the problem and a condition I'm sure they would not want to occur. The natives can least afford to perpetuate the double level dental care. They have suffered enough!

If, in fact, other people or groups such as the Teamsters or chain dental groups desire this legislation to enable them to serve their personal needs, the same question must be raised. Do you want to take this high risk approach in order to satisfy their immediate needs? A significant percent of those taking the Alaska Board Exam failed, thereby protecting the public. With a mandatory open door for permits, or open reciprocity this same percent of Board failures would be practicing on your friends and maybe family!

The Alaska dentists are truly dedicated to providing good care for all Alaskans and remain willing to work with any group toward solving their dental care problems. They are equally dedicated to their responsibility in maintaining a good level of care. They feel this bill would undermine and destroy the very principle that established the Dental Act and Board. As new needs require changes, Alaska dentists want to work to allow these changes to come to pass in the manner that will maintain the maximum public benefit.