

ALASKA LEGISLATURE COMMITTEE FILES 1981-1982 8672

1384 HHESS HB 621 - HB 665 384

MSG 92-00003966 PRTY 1 01/26/82 17:14:37 ORIG: LA00 IN= 0016 OUT= 0111
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M PAGE 000

TO: ALL MEMBERS OF THE LEGISLATURE
FROM: PAUL WILSON, SRA BOX 2348, ANC 99507 (HM 345-4949, WK 344-0501)

I URGE YOUR SUPPORT OF HOUSE BILL 621. MY DAUGHTER AND NEICE WERE BOTH ADOPTED FROM COSTA RICA. THEY ARE COMING TO SCHOOL AGE AND NEED BIRTH CERTIFICATES VERY BADLY.

FROM: MARTIN AND FRANK CORLEY

WE HAVE STUDIED HB 621 AND MUST RESCIND OUR SUPPORT. WE HAD THOUGHT IT WOULD PROVIDE BIRTH CERTIFICATES FOR FOREIGN BORN CHILDREN WHO WOULD OTHERWISE HAVE NONE. WE DO NOT BELIEVE IN FALSIFYING OR OBSCURING A PERSON'S ORIGINS, REGARDLESS OF THE COUNTRY OF BIRTH.

MSG 82-00003972 PRTY 1 01/26/82 17:29:35 ORIG: LA03 IN= 0011 OUT= 0117
FROM: EFFIE TO: JNU INFO
TARGET: LJH2 SUBJ: F.O.M. PAGE 0001

TO: REFS. BEIRNE, MARTIN, CATO, SMITH, MALONE.

FR: GEOFF FEILER
RAINBOW VALLEY
INDIAN, AK 99540 (W) 277-1601

PLEASE SUPPORT HB 621. THE FOREIGN BORN ADOPTED CHILD SHOULD BE ABLE
TO HAVE A BIRTH CERTIFICATE RATHER THAN A BIRTH DATA CARD. 30 OTHER
STATES HAVE ALREADY RECOGNIZED THIS NEED FOR FOREIGN BORN ADOPTED CHILDREN.

(D)

MSG 82-00003570 PRTY 1 01/25/82 18:51:47 ORIG: LA00 IN= 0019 OUT= 0144
FROM: MARCIE, ANC INFO TO: PCM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M. PAGE 0013

TO: REPRESENTATIVES ABOOD, BEIRNE, CATO, MALONE, MARTIN, SMITH
FROM: G. T. WILKINSON, SRA 2827, ANC 99507 (349-9182)

WE ENCOURAGE YOUR COMMITTEE TO RECOMMEND HOUSE APPROVAL OF HOUSE BILL
424. CHILDREN LIKE OUR KOREAN BORN DAUGHTER ARE NOW AMERICAN CITIZENS,
~~BUT~~ ~~SOMETIMES~~ ARE TREATED IN A DISCRIMINATORY MANNER BECAUSE THEY LACK A
BIRTH CERTIFICATE. PLEASE PROVIDE THE OPPORTUNITY FOR THIS NEEDED
DOCUMENT JUST AS ALMOST 40 OTHER STATES HAVE.

MSG 82-00001323 PRTY 1 01/15/82 11:51:02 ORIG: LA03 IN= 0003 OUT= 0050
FROM: CAROL, ANCH. TO: JUNEAU INFC
TARGET: LJH2 SUBJ: P.O.M. PAGE 0004

TO: ALL REPRESENTATIVES
FROM: SUSAN HOYER
4900 NOTTINGHAM WAY
ANCHORAGE 99503 (H) 279-2130

REP. ABOOD IS PRESENTING HB 621 AND AS AN INTERESTED PERSON, I AM IN
SUPPORT OF THIS BILL AND WOULD LIKE FOR YOU TO SUPPORT HIM TOO.

MSG 82-00001467 PRTY 1 01/15/82 16:55:28 ORIG: LA03 IN= 0013 OUT= 0130
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M

PAGE 0007

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: MONA & EARL JONES, 2200 FOUR ACRE, ANC 99507 (274-8326)

I WANT YOU TO APPROVE HOUSE BILL 621

MSG 82-00001467 PRTY 1 01/15/82 16:55:28 ORIG: LA03 IN= 0013 OUT= 0130
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M

PAGE 0002

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: LINDA SLONE, 6400 REED WAY, ANC 99502 (278-3033)

STRONGLY URGE YOU TO SUPPORT HOUSE BILL 621 SO THAT OURS AND OTHER FOREIGN ADOPTED CHILDREN CAN BE ISSUED SUBSTITUTE BIRTH CERTIFICATES

MSG 82-00001581 PRTY 1 01/18/82 10:10:49 ORIG: LA00 IN= 0002 OUT= 0030
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M

PAGE 0007

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: JACULINE TORKELSON, P. O. BOX 551, CHUGIAK 99567 (688-2127)

IN SEPTEMBER WE ADOPTED A BABY GIRL FROM INDIA. PLEASE SUPPORT THE PASSAGE OF HOUSE BILL 621 AND MAKE IT POSSIBLE FOR OUR DAUGHTER TO GET A BIRTH CERTIFICATE. ALASKA IS OUR PERMANENT HOME. MY PARENTS MOVED HERE IN 1951 AND IT WILL BE OUR DAUGHTERS HOME FOR MANY YEARS. THANK YOU.

MSG 82-00001280 PRY 1 01/15/82 10:36:25 ORIG: LA00 IN= 0002 OUT= 0028
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 0001

TO: ALL LEGISLATORS

FROM: REID AND SANDY BOND
3060 REDWOOD
ANCHORAGE 99504 (H) 274-8428

WE ARE IN SUPPORT OF HB 621, SPONSORED BY REP. MITCH ABOOD. OVER 30
OTHER STATES HAVE PASSED SIMILAR LEGISLATION. DO NOT LET ALASKA BE
THE LAST. PLEASE VOTE YES ON HB 621.

MSG 82-00002360 PRY 1 01/20/82 13:32:15 ORIG: LA00 IN= 0012 OUT= 0080
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M PAGE 0009

TO: SENATORS BRADLEY, COLLETTA, DANKWORTH, FISCHER, KELLY, RODEY,
STIMSON, STURGULEWSKI

REPRESENTATIVES ABOOD, ANDERSON, BARNES, BEIRNE, BUCHHOLDT, BYLSMA,
CLOCKSIN, COTTEN, CUDDY, HALFORD, HAYES, MARTIN, MEEKINS, METCALFE,
MONTGOMERY, PHILLIPS

FROM: LES LANGMIER, 3409 BONIFACE, ANC 99504 (338-1073)

PLEASE SUPPORT HOUSE BILL 621.

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: G. T. WILKINSON, SRA BOX 2827, ANC 99507 (349-9182)

HOUSE BILL 621 RELATING TO BIRTH CERTIFICATES FOR CHILDREN BORN
OUTSIDE OF THE UNITED STATES AND ADOPTED BY ALASKANS IS A VERY HUMAN-
ITARIAN BILL. THIS BILL SATISFY A SUBSTANTIAL NEED IN THE STATE WITH
NO SUBSTANTIAL COST TO THE STATE. I STRONGLY URGE THAT YOU GIVE THIS
BILL YOUR ACTIVE SUPPORT.

MSG 82-00001441 PRTY 1 01/15/82 15:50:11 ORIG: LA00 IN= 0022 OUT= 0117
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LNH2 SUBJ: P O M PAGE 0007

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: RALPH AND GRACE KNAPP, 5016 VANCE DRIVE, ANC 99504 (338-2677)

WE SUPPORT HOUSE BILL 621.

MSG 82-00002360 PRTY 1 01/20/82 13:32:15 ORIG: LA00 IN= 0012 OUT= 0080
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LNH2 SUBJ: P O M PAGE 0009

TO: SENATORS BRADLEY, COLLETTA, DANKWORTH, FISCHER, KELLY, RODEY,
STIMSON, STURGULEWSKI

REPRESENTATIVES ABOOD, ANDERSON, BARNES, BEIRNE, BUCHHOLDT, BYLSMA,
CLOCKSIN, COTTEN, CUDDY, HALFORD, HAYES, MARTIN, MEEKINS, METCALFE,
MONTGOMERY, PHILLIPS

FROM: LES LANGMIER, 3409 BONIFACE, ANC 99504 (338-1073)

PLEASE SUPPORT HOUSE BILL 621.

TO: ALL MEMBERS OF THE LEGISLATURE

FROM: G. T. WILKINSON, SRA BOX 2827, ANC 99507 (349-9182)

HOUSE BILL 621 RELATING TO BIRTH CERTIFICATES FOR CHILDREN BORN
OUTSIDE OF THE UNITED STATES AND ADOPTED BY ALASKANS IS A VERY HUMAN-
ITARIAN BILL. THIS BILL STATISFYs A SUBSTANTIAL NEED IN THE STATE WITH
NO SUBSTANTIAL COST TO THE STATE. I STRONGLY URGE THAT YOU GIVE THIS
BILL YOUR ACTIVE SUPPORT.

MSG 82-00001443 PRTY 1 01/15/82 15:56:31 ORIG: LA03 IN= 0011 OUT= 0111
FROM: CHARITY TO: JNU LID
TARGET: LJH2 SUBJ: PUBIC OPINION MESSAGE PAGE 0001

TO ALL LEGISLATORS

FROM: GAVIN & TERRY REED, 458 ATLANTIS ANCH 99502 274-4401

AS ADOPTIVE PARENTS OF TWO FOREIGN BORN CHILDREN WE ASK YOU TO PLEASE
SUPPORT HB 621. OUR CHILDREN NEED YOUR HELP. THANK YOU VERY MUCH

MSG 82-00001354 PRTY 1 01/15/82 13:06:20 ORIG: LF01 IN= 0010 OUT= 006
FROM: DEBBIE/FBX TO: JUNO LTN
TARGET: LJH2 SUBJ: POM PAGE 000

TO: HOUSE HESS COMTE. REPS: BEIRNE, MARTIN, CATO, MALONE

REPS. BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS
SENS. PARR, FAHRENKAMP, BENNETT

FR: JAYE E. DELBRIDGE
BOX 440
FAIRBANKS, 99707 479-3983

RE: HB 621

MSG: PLEASE PASS THIS BILL! I'M SURE THAT NONE OF YOU WOULD WANT YOUR
OWN CHILD DENIED A BIRTH CERTIFICATE.
THANK YOU.

MSG 82-00001488 - PRTY 1 - 01/15/82 17:30:34 ORIG: LF01 IN= 0013 OUT= 0137
FROM: MAXINE/FBX TO: JUNO INF
TARGET: LNH2 SUBJ: POM THIS IS TO BE HEARD THIS AM 1/18/82 PAGE 0001

TO: REP'S BEIRNE, MARTIN, CATO, SMITH, MALONE
REP'S BETTISWORTH, BROWN, FANNING, RANDOLPH, ROGERS
SEN'S FAHRENKAMP, BENNETT, PARR
REP ABOOD

FR: OLGA COOK, SR 50119, FBX 99701 PH. 456-6994
RE: HB 621

PLEASE VOTE YES ON HB 621 AND GIVE FOREIGN BORN ADOPTED CHILDREN
US CITIZENSHIP RECOGNITION WITH THIS SUBSTITUTE BIRTH CERTIFICATE.

-----EOM

MSG 82-00001413 PRTY 1 01/15/82 15:00:54 ORIG: LM00 IN= 0008 OUT= 00
FROM: MARY/MATSU TO: JNU INFO
TARGET: LNH2 SUBJ: P.O.M. PAGE 00

TO: SENATOR KERTTULA
REP. CARNEY
REP. BEIRNE, REP. MARTIN, REP. CATO, REP. SMITH, REP. MALONE

FR: SHARON SCHULLING, BOX 1541, PALMER 99645 - 745-4370

RE: HB 621

I AM IN FAVOR OF PASSAGE OF THIS BILL AND URGE YOU TO SUPPORT IT.
WE HAVE A FOREIGN BORN DAUGHTER AND ARE UNABLE TO OBTAIN A BIRTH
CERTIFICATE FOR HER. A BIRTH CERTIFICATE IS REQUIRED FOR SO MANY
GOVERNMENTAL, SCHOOL AND ATHLETIC ACTIVITIES, IT MAKES IT VERY DIFFICULT
NOT HAVING ONE. PLEASE DO WHAT YOU CAN TO ASSIST THIS BILL'S PASSAGE.
THANK YOU.

MSG 82-00007A67 PRY 1 01/15/82 16 75 28 ORIG LA03 IN=0013 OUT=0130
FROM: MARGIE, AND INFO TO: POM, JUNEAU INED
TARGET: LJH2 SUBJ P D M PAGE 0003

TO: ALL MEMBERS OF THE HOUSE
FROM: LINDA M. STEENMEYER, 2906 WEST 34TH AVENUE, AND 99593 (243-6032)

PLEASE SUPPORT HOUSE BILL 621. MY HUSBAND AND I ARE VITALLY CONCERNED
WE ARE TRYING TO ADOPT OUR 2ND CHILD FROM INDIA, A LITTLE GIRL. WE WANT
HER TO HAVE A BIRTH CERTIFICATE THE SAME AS HER BROTHER, A NATIVE BORN
ALASKAN. PLEASE PASS THIS BILL.

MSG 82-02001513 PRY 1 01/15/82 16 74 14 ORIG LD00 IN=0010 OUT=0146
FROM: KODIAK TO: ALL STATE REPRESENTATIVES PAGE 0001
TARGET: LJH2 SUBJ: PUBLIC OPINION MESSAGE
DEAR REPRESENTATIVE

I WOULD APPRECIATE YOUR VOTE AND SUPPORT OF HR 621.
SINCERELY,
JUG DAWSON
P.O. BOX 885
KODIAK, AK. 99615
486-3131
186-3532

MSG 82-00001329 PRTY 1 01/15/82 12:12:49 ORIG: LA00 IN= 0008 OUT= 006
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M PAGE 000

TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES
FROM: BECKY WEIL, 3451 KACHEMAK CIRCLE, ANC 99502 (344-5660)

PLEASE SUPPORT HOUSE BILL 621 WHICH WILL COME BEFORE YOU ON MONDAY.
MANY CHILDREN WILL THANK YOU.

MSG 82-00001329 PRTY 1 01/15/82 12:12:49 ORIG: LA00 IN= 0008 OUT= 006
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M PAGE 001

TO: ALL MEMBERS OF THE HOUSE OF REPRESENTATIVES
FROM: KIMBERLY GRANT, 4952 WESLEYAN, ANC 99504 (337-3392)

I WOULD LIKE TO RECOMMEND PASSAGE OF THE BILL FOR PROVISION OF
SUBSTITUTE BIRTH CERTIFICATES FOR FOREIGN BORN CHILD ADOPTED BY ALASKAN
PARENTS. THIS WOULD END THE PROBLEM THESE CHILDREN HAVE IN OBTAINING
THE PAPERWORK WE ALL NEED AS WE GO THROUGH LIFE AND WOULD BE DETRIMENTAL
TO NO ONE.

MSG 82-00001329 PRTY 1 01/15/82 12:12:49 ORIG: LA00 IN= 0008 OUT= 0061
FROM: MARCIE, ANC INFO TO: POM, JUNEAU INFO
TARGET: LJH2 SUBJ: P O M PAGE 0010

TO: ALL MEMBERS OF THE HOUSE
FROM: ALICE BOWLES, P. O. BOX 302 EAGLE RIVER 99577 (688-2038)

WE'RE APPEALING FOR PASSAGE OF HOUSE BILL 621 CONCERNING ADOPTED
CHILDREN. WE'RE ATTEMPTING TO ADOPT A KOREAN BABY AND RECENTLY LEARNED
THAT BABIES THAT ARE ADOPTED BY ALASKAN RESIDENTS FROM FOREIGN COUNTRIES
DON'T HAVE BIRTH CERTIFICATES. HOUSE BILL 621 WOULD REMEDY THIS SITUATION
PROVIDING FOR ISSUANCE OF BIRTH CERTIFICATES FOR PERSONS BORN OUTSIDE THE
UNITED STATES.

MSG 82-00001304 PRTY 1 01/15/82 11:23:53 ORIG: LA00 IN= 0005 OUT= 0045
FROM: LANA IN ANC TO: JNU INFO
TARGET: LJH2 SUBJ: POM

PAGE 0001

TO: ALL LEGISLATORS
FROM: JUDY AND BRUCE CLARDY
SRA BOX 2282
ANC, 99507 349-7288 (H)

I ENCOURAGE ALL STATE LEGISLATORS TO SUPPORT AND PASS THIS BILL AMENDING
CURRENT STATE LEGISLATION TO ALL FOREIGN BORN CHILDREN ADOPTED BY US
CITIZENS TO ACQUIRE A SUBSTITUTE BIRTH CERTIFICATE. STATE REP. ABOOD
IS SPONSING THIS BILL HB 621. WE STRONGLY RECOMMEND THIS TO BE PASSED.

MSG 82-00001323 PRTY 1 01/15/82 11:51:02 ORIG: LA03 IN= 0003 OUT= 0050
FROM: CAROL, ANCH. TO: JUNEAU INFO
TARGET: LJH2 SUBJ: P.O.M.

PAGE 0003

TO: ALL LEGISLATORS
FROM: WALTER AND JEAN BHAGATRAM
1013 E. 28TH
ANCHORAGE 99504 (H) 279-2780

I URGE YOUR SUPPORT OF HB 621 RE ISSUANCE OF BIRTH CERTIFICATES FOR FOREIGN
BORN CHILDREN.

1118 Ingra
Anchorage, Alaska 99501

7 January 1982

Representative Mike Seirne
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Mr. Seirne:

When an Act providing for the Issuance of
Certificates of Birth for Persons Born Outside the United
States and Adopted by Alaska Residents comes before
the legislature for consideration next week, please
give it your support.

Sincerely,

Paullette Oakes
Martin Oakes

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

TO: Legislative Affairs Agency

TO: REPS. Pettisworth, Brown, Fanning, Randolph, Rogers and Smith, Beirne, & Abood
Sens. Fahrenkamp, Bennett, and Parr

Please send the following message to the Fairbanks Legislative delegation members, to Representative Michael F. Beirne, Chairman of the House Health, Education & Social Services Committee, and to Representative Mitchell E. Abood, Jr.:

We the undersigned support House Bill 621 allowing the issuance of Alaska substitute birth certificates to foreign born children adopted in Alaska.

<u>Print Name:</u>	<u>Signature:</u>	<u>Address:</u>	<u>Phone:</u>
<u>KENTON ANDERSON</u>	<u>[Signature]</u>	<u>SR20827 Fairbanks AK</u>	<u>479-7674</u>
<u>RONALD S. MASON</u>	<u>[Signature]</u>	<u>SR20222-C Fairbanks AK</u>	<u>479-6552</u>
<u>Wallace F Baird</u>	<u>[Signature]</u>	<u>384 Cindr Dr</u>	<u>456-1667</u>
<u>DENNIS R WEEVER</u>	<u>[Signature]</u>	<u>1 1/2 mi Henderson</u>	<u>479-4745</u>
<u>Gregory P. Labovis</u>	<u>[Signature]</u>	<u>4935 [Address]</u>	<u>452-7050</u>
<u>JESSY J COOK</u>	<u>[Signature]</u>	<u>P.O. Box 2134</u>	<u>456-6066</u>
<u>Susan K. Cook</u>	<u>[Signature]</u>	<u>PO Box 2134</u>	<u>456-6066</u>
<u>Kelly S Elbert</u>	<u>[Signature]</u>	<u>4152 10th & Broadmover</u>	<u>479-3730</u>
<u>Melody H. Hawk</u>	<u>[Signature]</u>	<u>S.R. 10723-A</u>	<u>479-5599</u>
<u>Jeffrey James Jacobson</u>	<u>[Signature]</u>	<u>P.O. Box 221 99701</u>	<u>479-3477</u>
<u>Ann K. Ballack</u>	<u>[Signature]</u>	<u>Box 5707 Nome</u>	<u>443-5575</u>
<u>Theresa Mason</u>	<u>[Signature]</u>	<u>SR 20022 C</u>	<u>479-6552</u>
<u>MERRI ANN WEAVER</u>	<u>[Signature]</u>	<u>SR 10542 A</u>	<u>479-4745</u>
<u>KATHLEEN STEEBERS</u>	<u>[Signature]</u>	<u>3A82427 College AK</u>	<u>479-5530</u>
<u>INGO KUPIEL</u>	<u>[Signature]</u>	<u>P.O. Box 80266 College AK</u>	<u>479-6800</u>
<u>Stanley Steenberg</u>	<u>[Signature]</u>	<u>Box 303 Fairbanks</u>	<u>479-5530</u>
<u>Betty D. Perry</u>	<u>[Signature]</u>	<u>Box 847033 Fairbanks</u>	<u>479-6906</u>
<u>Sally B Bailey</u>	<u>[Signature]</u>	<u>1824 Kennedy Fairbanks</u>	<u>456-3260</u>
<u>Floyd A. BAILEY</u>	<u>[Signature]</u>	<u>11 11</u>	<u>11 11</u>

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

MSG 82-00001470 PRTY 1 01/15/82 16:57:02 ORIG: LM00 IN= 0009 OUT= 012:
FROM: MARY/MATSU TO: JNU INFO
TARGET: LJH2 SUBJ: P.O.M. PAGE 000:

TO: REP. CARNEY
REP. BEIRNE, REP. MARTIN, REP. CATO, REP. SMITH, REP. MALONE
FR: EUGENE AND CONNIE HUSTON, SR BOX 317, WASILLA 99687 - 376-5626
RE: HB 621

PLEASE SUPPORT HB 621. FOREIGN BORN CHILDREN ADOPTED BY ALASKAN FAMILIES SHOULD BE ABLE TO RECEIVE BIRTH CERTIFICATES. WE WANT THIS PRIVILEGE FOR OUR DAUGHTER. THANK YOU.

TO: SENATORS FISCHER AND STIMSON
REPRESENTATIVES BEIRNE, CLOCKSIN, CUDDY AND MEEKINS
FROM: CHARLES BATES, 2038 BOREALIS DR., ANC. 99503 279-2777

PLEASE SUPPORT HB-621. Birth Certificates.

~~Dear _____~~
~~Thank you for your letter~~
~~expressing your support for~~
~~HB 621. This bill was just~~
~~referred to the Education~~
~~Committee on the 11th~~
~~social services, & will~~
~~be heard in the next few~~
~~days.~~
~~action on this bill~~
~~is in the session~~
~~starting on the 15th~~
~~of the month.~~
~~your concerns~~
~~will be taken~~
~~into account.~~
~~Thank you for~~
~~your input on~~
~~this issue.~~
~~Sincerely,~~
~~_____~~

House Bill 621, relating to birth certificates

Passage of this bill would allow foreign born children who are adopted by residents of the state to obtain an Alaskan birth certificate. Although this birth certificate would not be a proof of citizenship and the child would still have to be naturalized, it would remove the stigma associated with certificates provided by the U.S. Department of Immigration and Naturalization.

Sectional Analysis of SSB621

Sec. 1. (a) This section deals with the report of adoption. The added language of lines 15-20 adds flexibility to the existing statute by deleting the necessity for an original birth certificate. Findings may be requested by parents which could be used to establish a birth certificate for foreign born adopted children.

Sec. 2. Limits the location for forwarding a copy of an adoption report, vacation or amendment of an adoption document to the United States.

Sec. 3. Allows the state registrar to issue birth certificates for foreign born children if the parents were residents of Alaska at the time of adoption. The child or his parent or guardian must request this and there must be an adoption report together with information necessary to identify the original birth certificate or court findings. The findings may be replaced by an affidavit of the adoptive parent if the adoption took place prior to the effective date of this bill. The adopted person may not be 18 years or older at the time application is made. The registrar shall prescribe the form and it is not proof of citizenship.

Sec. 4. Provides for changing the name on the birth certificate and adds foreign born adopted children whose parents were residents of the state at the time of adoption.

Sec. 5. Divides this section into subsections. Requires that parents request a birth certificate within 30 days of adoption decree from the clerk of court and expands the location that the application be forwarded to include the registrar of state vital statistics in cases of foreign birth. If parents request, findings shall be provided in addition to an adoption report. These findings shall specify the date, place of birth and parentage of the adopted person based on evidence from the petitioner and/or reliable state or federal sources. These findings shall be certified and included with the report of adoption.

Catholic Social Services

811 W. 6th Ave.
Anchorage, Alaska 99501
(907) 277-2554

January 22, 1982

Rep. Mitch Abood
Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

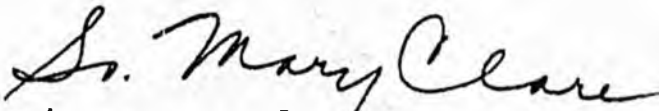
RE: H B # 621

Dear Rep. Abood:

Please be aware that Catholic Social Services is in support of action that will enable the child born outside the United States and placed for adoption in the State of Alaska to obtain an appropriate birth certificate.

I am pleased to see sponsorship of this bill.

Sincerely,



Sister Mary Clare, ACSW
Director

SMC:trb
cc:GCM

JAN 26 1982

*Every child comes with a message
that God is not yet discouraged with man.*



CERTIFICATION OF BIRTH DATA
FROM IMMIGRATION AND NATURALIZATION RECORDS

THIS IS TO CERTIFY THAT THE RECORDS OF THE U.S. IMMIGRATION AND NATURALIZATION SERVICE INDICATE THAT:

NAME JOHN MATTHEW HANLON

WAS BORN ON January 9, 1958

AT Seoul, Korea

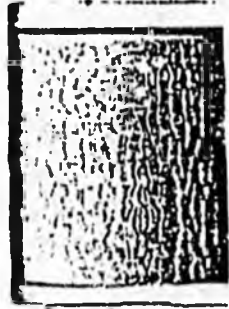
FILE NO. A13 843 620 SEX _____

DATE OF ISSUANCE June 1, 1973 PLACE OF ISSUANCE Anchorage, Alaska

SIGNATURE OF ISSUING OFFICER _____ TITLE OF ISSUING OFFICER Actg District Dir.

THIS IS NOT PROOF OF UNITED STATES CITIZENSHIP

U.S. DEPARTMENT OF JUSTICE
Immigration and Naturalization Service
Form G-380 (Rev. 5-1-64) 16-751.7-2 GPO



CERTIFICATE OF LIVE BIRTH

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
BUREAU OF VITAL STATISTICS - JUNEAU, ALASKA 99811

DATE RECEIVED

TYPE OR PRINT IN
PERMANENT INK

RECORDER'S NO. _____ CHILD - NAME FIRST _____ MIDDLE _____ LAST _____

CHILD

1 SEX _____ DATE OF BIRTH (MONTH, DAY, YEAR) _____ HOUR _____ PLACE OF BIRTH _____ CITY, VILLAGE OR LOCATION _____
2 2a _____ 2b _____ 2c _____ M. ALASKA 2c

4a HOSPITAL - NAME _____ 4b STREET AND NUMBER (IF NOT IN HOSPITAL, GIVE STREET AND NUMBER) _____

I CERTIFY THAT THE ABOVE NAMED CHILD WAS BORN ALIVE AT THE PLACE AND TIME AND THE DATE STATED ABOVE.

5a SIGNATURE _____ IF ATTENDANT SAME AS PERSON SIGNING CHECK HERE IF NOT, ENTER NAME AND TITLE BELOW

CERTIFIER

5b NAME (TYPE OR PRINT) _____ NAME _____
5c TITLE: M.D. NURSE MIDWIFE OTHER 5d TITLE _____

DATE SIGNED (MONTH, DAY, YEAR) _____ MAILING ADDRESS - STREET OR P.O. BOX NO., CITY, VILLAGE, STATE, ZIP CODE _____

6a MOTHER - MAIDEN NAME FIRST _____ MIDDLE _____ LAST _____ AGE (AT TIME OF THIS BIRTH) _____ STATE OF BIRTH (IF NOT U.S.A., NAME COUNTRY) _____
6b YEARS 6c

MOTHER

RESIDENCE - STATE _____ CITY, VILLAGE OR LOCATION _____ INSIDE CITY LIMIT: YES NO

6d STREET AND NUMBER _____ RECORDING DISTRICT _____
6e 6f

FATHER

7a FATHER - NAME FIRST _____ MIDDLE _____ LAST _____ AGE (AT TIME OF THIS BIRTH) _____ STATE OF BIRTH (IF NOT U.S.A., NAME COUNTRY) _____
7b YEARS 7c

I CERTIFY THAT THE PERSONAL INFORMATION PROVIDED ON THIS CERTIFICATE IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. (SIGNATURE OF PARENT)

8a RECORDER - SIGNATURE _____ ADDRESS _____ MOTHER'S MAILING ADDRESS (FOR BIRTH REGISTRATION NOTICE) STREET OR P.O. BOX NO., CITY OR VILLAGE, STATE, ZIP CODE _____
8b

9a _____ 9b _____ 9c _____ 9d _____

CONFIDENTIAL INFORMATION FOR MEDICAL AND HEALTH USE ONLY.

10 RACE - MOTHER	11 RACE - FATHER	12 BIRTHWEIGHT	13 THIS BIRTH - SINGLE, TWIN, TRIPLET, ETC. (SPECIFY)	14 IF NOT SINGLE BIRTH - BORN FIRST, SECOND, THIRD, ETC. (SPECIFY)	15 IS MOTHER MARRIED? <input type="checkbox"/> YES <input type="checkbox"/> NO
------------------	------------------	----------------	---	--	--

16a LIVE BIRTHS (Do not include this child)		16b OTHER TERMINATIONS (Spontaneous or Induced)		17 EDUCATION - MOTHER (Specify only highest grade completed)		18 EDUCATION - FATHER (Specify only highest grade completed)	
16a	16b	16c	16d	17	18	18	18

19a NOW LIVING	19b NOW DEAD	19c BEFORE 20 WEEKS	19d AFTER 20 WEEKS	19e DATE LAST NORMAL MENSES BEGAN (MONTH, DAY, YEAR)	19f MONTH OF PREGNANCY PRENATAL CARE BEGAN FIRST, SECOND, ETC. (SPECIFY)	19g PRENATAL VISITS TOTAL NUMBER (IF NONE, SO STATE)	19h APGAR SCORE 1 min	19i APGAR SCORE 5 min
19a	19b	19c	19d	19e	19f	19g	19h	19i

20a DATE OF LAST LIVE BIRTH (MONTH, YEAR) _____ 20b DATE OF LAST OTHER TERMINATION (AS INDICATED IN DDDH E ABOVE) (MONTH, YEAR) _____

21 COMPLICATIONS OF PREGNANCY? - IF YES, DESCRIBE YES NO

22 ILLNESS OR CONDITIONS AFFECTING THE PREGNANCY? - IF YES, DESCRIBE YES NO

23 COMPLICATION OF LABOR AND/OR DELIVERY? - IF YES, DESCRIBE YES NO

24 CONGENITAL MALFORMATIONS OR ANOMALIES OF CHILD? - IF YES, DESCRIBE YES NO

CERTIFICATE OF LIVE BIRTH

ALASKA DEPARTMENT OF HEALTH AND SOCIAL SERVICES
BUREAU OF VITAL STATISTICS - JUNEAU, ALASKA 99811

DATE RECEIVED
MAR 10 1981

TYPE OR PRINT IN
PERMANENT INK

RECORDER'S NO. 81-70

CHILD - NAME FIRST: STEPHANIE MIDDLE: LYNN LAST: STRAUSS
--

SEX: FEMALE	DATE OF BIRTH: FEBRUARY 16, 1981	HOUR: 7:23 A.M.	PLACE OF BIRTH: ALASKA	CITY, VILLAGE OR LOCATION: JUNEAU
--------------------	---	------------------------	-------------------------------	--

HOSPITAL - NAME: BARTLETT MEMORIAL HOSPITAL	STREET AND NUMBER (IF NOT IN HOSPITAL, GIVE STREET AND NUMBER): 3260 HOSPITAL DRIVE
--	--

SIGNATURE: <i>William M. Palmer MD</i> NAME: DR WILLIAM PALMER TITLE: MD NURSE: <input type="checkbox"/> MIDWIFE: <input type="checkbox"/> OTHER: <input type="checkbox"/>	IF ATTENDANT SAME AS PERSON SIGNING CHECK HERE: <input type="checkbox"/> IF NOT, ENTER NAME AND TITLE BELOW:
---	---

DATE SIGNED: 2/25/81	MAILING ADDRESS - STREET OR P.O. BOX NO., CITY, VILLAGE, STATE, ZIP CODE: 3260 HOSPITAL DRIVE, JUNEAU, ALASKA 99801
-----------------------------	--

MOTHER - MAIDEN NAME: BARBARA LYNN SHULER	AGE - LAST TIME OF THIS BIRTH: 37 YEARS	STATE OF BIRTH (IF NOT U.S., NAME COUNTRY): RHODE ISLAND
--	--	---

RESIDENCE - STATE: ALASKA	CITY, VILLAGE OR LOCATION: JUNEAU	INSIDE CITY? <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
----------------------------------	--	--

STREET AND NUMBER: 433 4TH STREET #1	RECORDING DISTRICT: JUNEAU
---	-----------------------------------

FATHER - NAME: EDVINS YANIS STRAUSS	AGE - LAST TIME OF THIS BIRTH: 38 YEARS	STATE OF BIRTH (IF NOT U.S., NAME COUNTRY): LATVIA
--	--	---

CERTIFY THAT THE PERSONAL INFORMATION PROVIDED ON THIS CERTIFICATE IS CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. SIGNATURE OF PARENT: <i>Richard Strauss</i>	MOTHER'S MAILING ADDRESS - FROM BIRTH REGISTRATION NOTICE: 433 4TH STREET #1 JUNEAU, ALASKA 99801
---	--

RECORDER - SIGNATURE: <i>Richard Strauss</i>	ADDRESS: Pouch U, Juneau, Alaska 99811	RECORDING DISTRICT: JUNEAU	DATE RECORDED (MONTH, DAY, YEAR): FEB 27 1981
--	---	-----------------------------------	--

I hereby certify that the foregoing is a true copy of the record on file with the Alaska State Bureau of Vital Statistics at Juneau, Alaska.

Joan P. Brooks
Joan P. Brooks
State Registrar of Vital Statistics

BY: *Hayden B. Powell*
Date: **JAN 22 1982**



Testimony Anchorage Adoptive Parents - OURS

This testimony is given in support of passage of HB 621 now in your committee. The bill will provide birth certificates to foreign born children adopted by U.S. Citizens and we feel its passage is important.

We are aware that certain individuals in the Department of Health and Social Services think issuing birth certificates to these special children is a duplication of the federally issued birth data cards. We disagree.

Experiences of our group members shows that the birth data cards do not work on the local level where they are most utilized. Delays in qualifying for certain programs as well as unnecessary personal and pointed questioning of the adoptive parents and child occur when birth data cards are shown instead of birth certificates. If those persons complaining about duplication had children with birth data cards, they would soon change their opinion and be in favor of birth certificates, especially when they would see the bond between the child and parents damaged.

Concern has also been raised regarding foreign born children having two birth certificates - one from their country of origin and one from the U.S. Our group has a large number of foreign born children - most from Korea and India. Because of circumstances in those countries these children never had birth certificates to begin with and without this legislation will never have birth certificates. Our group is especially concerned about these children, and we see the two birth certificate problem as a very minor one. Thirty four other states in the U.S. have passed legislation similar to H.B. 621, and they evidently thought the two birth certificate problem was minor also.

We urge committee passage of this bill from a personal level. The need for birth certificates for foreign born adopted children exists as we adoptive parents know from first hand experience.

Presented by Leanne Pilcher on behalf of the Anchorage Adoptive Parents - OURS.



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

January 27, 1982
AGENDA

The House H.E.S.S. Committee will take up HB Bill 621
and continue work on HB 194.

Witnesses for HB 621:

Paul Hoffman

Richard Taylor

Joan Brooks

Rep. Abood

House Bill 621, relating to birth certificates

Passage of this bill would allow foreign born children who are adopted by residents of the state to obtain an Alaskan birth certificate. Although this birth certificate would not be a proof of citizenship and the child would still have to be naturalized, it would remove the stigma associated with certificates provided by the U.S. Department of Immigration and Naturalization.

Sectional Analysis of SSHB621

Sec. 1. (a) This section deals with the report of adoption. The added language of lines 15--20 adds flexibility to the existing statute by deleting the necessity for an original birth certificate. Findings may be requested by parents which could be used to establish a birth certificate for foreign born adopted children.

Sec. 2. Limits the location for forwarding a copy of an adoption report, vacation or amendment of an adoption document to the United States.

Sec. 3. Allows the state registrar to issue birth certificates for foreign born children if the parents were residents of Alaska at the time of adoption. The child or his parent or guardian must request this and there must be an adoption report together with information necessary to identify the original birth certificate or court findings. The findings may be replaced by an affidavit of the adoptive parent if the adoption took place prior to the effective date of this bill. The adopted person may not be 18 years or older at the time application is made. The registrar shall prescribe the form and it is not proof of citizenship.

Sec. 4. Provides for changing the name on the birth certificate and adds foreign born adopted children whose parents were residents of the state at the time of adoption.

Sec. 5. Divides this section into subsections. Requires that parents request a birth certificate within 30 days of adoption decree from the clerk of court and expands the location that the application be forwarded to include the registrar of state vital statistics in cases of foreign birth. If parents request, findings shall be provided in addition to an adoption report. These findings shall specify the date, place of birth and parentage of the adopted person based on evidence from the petitioner and/or reliable state or federal sources. These findings shall be certified and included with the report of adoption.

Norbert Lague
Immigration & Naturalization
701 C S., Rm 229
Anchorage, Ak 99513



REVISED
POSITION PAPER

HOUSE BILL NO. 621

"An Act providing for the issuance of certificates of birth for persons born outside the United States and adopted by Alaska residents."

The Department recognizes that this is an emotional issue to those new parents of adopted aliens, who feel it is very important for their child to have a birth certification document from the State of Alaska. --More than 30 states now have similar legislation. However, we would like to bring to the Committee's attention that, of the 650 to 700 adoptions granted each year in Alaska, only 3 to 4 percent are adoptions of foreign-born aliens, amounting to about 25, and of these, less than half are adoptions of Asian children.

The Registration Methods Branch of the National Center for Health Statistics has opposed the establishment of a birth certificate by any state for a foreign-born alien. This position is based on the firm belief, of more than 40 years standing, that the basic principle of registration is to record vital events where they occur. The Model Vital Statistics Act, endorsed by the Council of State Governments, makes no provision for such a birth certificate because of the ease by which abuses might result. A person could enter the United States using his original birth certificate, become adopted, and establish an entirely new identity without becoming a citizen. Even if the new certificate bears the statement that it is not evidence of United States citizenship, it could be misleading because, in most cases, both adoptive parents are native to this country.

Passage of this bill would give a selected few people two birth certificates, one in the country of birth and one in Alaska. Children born to American citizens in a foreign country get only one birth certificate, and it is from that foreign jurisdiction. When a person, born in Alaska, is adopted, the original record is sealed away and replaced by a substitute birth certificate. Hence, an alien would always have two birth certificates, but the Alaska-born adoptee does not.

It is the opinion of the Department of Health & Social Services that the need addressed in this bill is already satisfied. In 1960 the U.S. State Department recognized that aliens in this country needed an acceptable document as proof of date and place of birth. Since that time the birth record issued by the U.S. Immigration and Naturalization Service has been totally accepted by all jurisdictions. Should the alien become naturalized, further documentation is provided. A birth record prepared by the State of Alaska for an adopted alier is a duplication of effort and does not maintain the integrity of vital records by registering only births which occur in Alaska.

It is recommended that the provisions of this bill be limited to minor foreign-born aliens adopted in Alaska, and that the certificate provided be on a form designed to suit the need, but not in the identical style of the standard certificate of birth for Alaska.

With these amendments, the Department of Health & Social Services would support passage of HB No. 621.

RECOMMENDED BY:

Joan P. Brooks
JOAN P. BROOKS
STATE REGISTRAR
BUREAU OF VITAL
STATISTICS

DATE:

January 25, 1982

APPROVED BY:

Helen D. Beirne
HELEN D. BEIRNE
COMMISSIONER
DEPARTMENT OF HEALTH &
SOCIAL SERVICES

DATE:

1-26-82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HOUSE BILL NO. 621
Title "An Act providing for the issuance of certificates of birth"
Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Health & Social Services
Program Category Affected Administrative Services
BRU, Program, Or Subprogram(s) Affected Vital Statistics
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No fiscal impact

IV. DATE January 25, 1982 PREPARED BY Paul P. Brack
AGENCY D.H.S.S.
Original: Legislative Finance PHONE 465-3397
cc: Budget and Management
Prime Sponsor (First Legislator Named)
33-001 (Rev. 12/81)

Testimony Anchorage Adoptive Parents - OURS

This testimony is given in support of passage of HB 621 now in your committee. The bill will provide birth certificates to foreign born children adopted by U.S. Citizens and we feel its passage is important.

We are aware that certain individuals in the Department of Health and Social Services think issuing birth certificates to these special children is a duplication of the federally issued birth data cards. We disagree.

Experiences of our group members shows that the birth data cards do not work on the local level where they are most utilized. Delays in qualifying for certain programs as well as unnecessary personal and pointed questioning of the adoptive parents and child occur when birth data cards are shown instead of birth certificates. If those persons complaining about duplication had children with birth data cards, they would soon change their opinion and be in favor of birth certificates, especially when they would see the bond between the child and parents damaged.

Concern has also been raised regarding foreign born children having two birth certificates - one from their country of origin and one from the U.S. Our group has a large number of foreign born children - most from Korea and India. Because of circumstances in those countries these children never had birth certificates to begin with and without this legislation will never have birth certificates. Our group is especially concerned about these children, and we see the two birth certificate problem as a very minor one. Thirty four other states in the U.S. have passed legislation similar to H.B. 621, and they evidently thought the two birth certificate problem was minor also.

We urge committee passage of this bill from a personal level. The need for birth certificates for foreign born adopted children exists as we adoptive parents know from first hand experience.

Presented by Leanne Pilcher on behalf of the Anchorage Adoptive Parents - OURS.

times that want to adopt. Because of this imbalance, prospective parents are going to other countries for children.

Best, adopting a child is complicated. But when the adoption involves a foreign national, the problems are compounded. Prospective parents

Find an American agency that will handle the adoption.

Arrange for actual physical possession of the child.

Research and comply with regulations governing adoption in both the U.S. and the child's native land.

Cope with federal and state regulations involving tax matters and birth certificates.

Anchorage's Jean and Walt Bhagatram have three adopted children: Alexander, 7, Katia, 5, and little Nicholas, who just celebrated his first birthday.

They are beautiful children, and obviously not blood relatives of their parents. The older son and daughter are Korean and the baby is from Taiwan. Each child came to the Bhagatrams at the age of 4 months.

Jean laughs as she says, "The family teases me about getting the 'different' one. Besides the children coming from different countries, my husband is Russian, born in Russia with an Indian background."

"We always wanted to adopt children," she says. "We chose the route to build our family."

For the Bhagatrams, the complexity of the U.S. adoption system prompted them to look across the border.

Most American adoption agencies have an "incredible number of rules," according to Tom Dickinson of the Anchorage Adoptive Parents Association.

Age of parents, square footage of space for the child's room, income and other matters are considered. She says that agencies on the other

side of the border are more successful."

Then Joan read a magazine article about an agency in Oklahoma that specialized in adoption of the foreign-born.

"Still, it was a long and arduous task," Tom says. "We waited 26 months."

By December 1979, when 3-year-old Karyn arrived from Korea, the couple was living in Anchorage.

"It was fortunate we were transferred here," Tom says.

"Many people who adopt a foreign child must go to the child's native land and bring them home. Others must travel to some central pickup point in the U.S."

But because the Wilkinsons lived here, they only had to drive to Anchorage International Airport.

Walt Bhagatram played a role in the adoption of another Asian child by an Anchorage couple. Reid and Sandy Bond had decided to adopt a Korean baby when it became apparent they would not have a child themselves. They, too, were frustrated by the lack of interest shown by adoption agencies in Arizona, where they lived at that time.

After the Bonds moved to Anchorage, however, they heard of a Chinese infant in Taiwan, and when Bhagatram went to that country last May to pick up his son, Nicholas, he took photographs of the baby the Bonds had learned about.

"We decided immediately that we wanted him," Sandy says, and they began adoption proceedings. In November, the Bonds traveled to Taiwan to get their son, Christopher Reid, who was then 8 months old.

All three families have gone to great expense to adopt their children: The adoption proceedings cost \$3,500 to \$5,000, Sandy Bond says, with perhaps an additional \$1,000 in travel expenses. Adoptive parents are not allowed to deduct any of



Anchorage Daily News/Tom Alvarez

Their T-shirts leave no doubt about who stands where in the Bhagatram family's age line. From left are 'Little Brother' Nicholas, 1; 'Big Sister' Katia, 5; and 'Big Brother' Alexander, 7.

Sandy and Reid Bond found their son, Christopher, in Taiwan.

these expenses from their income tax. Parents who have children in the U.S., on the other hand, can deduct some childbirth expenses. This, adoptive parents contend, is unfair.

Ann and Fern Chandonnet, an Eagle River couple who adopted a Costa Rican child nine years ago, are part of a growing movement to change this law.

When the difficulties of finding a baby in the United States became apparent, the Chandonnets went the route of other frustrated adoptive parents and sought a child from outside the country.

They went to Costa Rica from their home, then Oakland, Calif., to pick up Yves. Their lawyer in Costa Rica anticipated they would have difficulty obtaining a birth certificate for the child in the U.S., so she suggested that they baptize Yves as soon as they returned home and send her the baptismal record.

They followed the lawyer's



Anchorage Daily News/Barbara Krizman

advice and she obtained a birth certificate for Yves — in Spanish.

Then, four years ago, "when I couldn't be accused of trying to seek special privilege for myself," Ann says she proposed legislation in Alaska that would allow a deduction on the state income tax for expenses incurred in adopting a child.

A bill was introduced, passed by the House but defeated in the Senate. Now that Alaska has abolished the state income tax, the Chandonnets are seeking

legislation that would allow a deduction on federal income tax returns.

Alaska, however, remains one of 16 states that do not issue birth certificates to foreign-born adoptees. The document is required on many occasions: entering school, joining the Little League, getting into military service and marrying, for example.

Rep. Mitch Abood, R-Anchorage, is seeking to remedy that situation with a bill he has introduced allowing the issu-

ance of birth certificates to foreign-born children under age 18 who have been adopted by Alaskans.

If passed, the law would be retroactive and apply to children adopted before its passage.

A local support group for parents of foreign-born children, the Anchorage Adoptive Parents Association, may be helpful in supplying information on child adoption. Interested persons may call Becky Weil at 344-5660.

A M E N D M E N T

Offered in the HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

TO: SSHB 621

Page 2, following line 21:

Insert a new subsection to read:

(d) Upon proof of naturalization an amended certificate of birth shall be issued under this section that deletes the statement that the certificate is not evidence of United States citizenship.

Wed. HB 194 -

Mr. Hoffman

Adopted card - called "Data card" now - slows to
much discrimination.

Joan Brooks - Vital statistics.

* Lack of information - can this be distributed to
adoption agencies.
fiscal note

Lee Ann Hilcher -
May we have your written test - - -

Ken Casello -

Sally

Would you want to move the bill. >

H B

6 5 6



Official Business

Alaska State Legislature

House of Representatives Committee on Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

February 26, 1982

Agenda

- HB 113 Marriages of limited duration
HB 656 Adoption and Relinquishment of parental rights.
CSSB 399 Relating to Adoption

WITNESS LIST

- HB 113:
Rep. Ken Fanning
Jana Varrati
- HB 656
Rick Robertson, Dept. of Law
- SCSB 399
Sen. Pat Rodey
Pudge Kleinkauf, National Association of Social Workers.
Marsha Schneider, " " " "

11.15.200, as a lesser included offense.¹¹ The defendant contends this refusal constituted a prejudicial error.

In *Christie v. State*, 580 P.2d 310, 320 (Alaska 1978), we held that the defendant was entitled to an instruction on the lesser included offense of careless use of a firearm when evidence to support a finding of careless use was presented and the defendant was convicted of shooting with intent to kill, wound or maim, and the jury also had been instructed on assault with a dangerous weapon. Applying *Christie*, we recently held in *Elisovsky v. State*, 592 P.2d 1221, 1226 (Alaska 1979), that the trial court erred in refusing to give an instruction on careless use of a firearm when the indictment charging assault with a dangerous weapon was sufficient to notice the crime of careless use, and sufficient evidence was presented at trial indicating that perhaps the defendant committed *only* the lesser offense of careless use.

While *Elisovsky* and *Christie* recognize careless use as a lesser included offense of both shooting with intent to kill, wound or maim, and assault with a dangerous weapon, the cases also acknowledge that evidence from which a jury could find the defendant guilty of the lesser included offense must be presented at trial in order to entitle the defendant to an instruction on the lesser offense. *Elisovsky*, 592 P.2d at 1226; *Christie*, 580 P.2d at 317 & n.22.

[11-13] In the present case, Loesche testified that he intentionally pointed his firearm and intentionally shot Joe Burk five times. No evidence was offered by Loesche

11. We have interpreted AS 11.15.200 as covering three distinct sets of circumstances:

- (1) Pointing a firearm at a person intentionally but without malice.
- (2) Pointing a firearm at a person intentionally but without malice, followed by an unintentional discharge.
- (3) Pointing and discharging a firearm at a person or object without malice, and without knowing the identity of the object, and maiming or injuring a human being.

Christie v. State, 580 P.2d 310, 319 (Alaska 1978).

12. Counsel for defendant contends that the jury might have found that Loesche lacked the gen-

eral intent to harm even tending to suggest that Loesche acted without general intent to harm, the presence of which precludes application of the careless use charge. *Christie*, 580 P.2d at 830 n.29. Since no evidence was introduced suggesting that Loesche acted in jest, or that either the pointing or discharge of the firearm was an accident or done unintentionally, it would not be possible for a jury to find, from the evidence at trial, that he was guilty only of careless use and not assault with a dangerous weapon.¹² This fact distinguishes the present case from *Elisovsky* and *Christie*. The necessary conclusion is that Loesche was not entitled to an instruction on careless use of a firearm under the circumstances of this case.

AFFIRMED.

BOOCHEVER, J., not participating.



B. J. B. A., Natural Mother, Appellant,
v.

M. J. B. and F. G. B., Adoptive
Parents, Appellee.

No. 4733.

Supreme Court of Alaska.

Nov. 21, 1980.

Natural mother put child up for adoption but later rescinded her consent.

eral intent to harm required by AS 11.15.200, because of the emotions aroused by the love relationship between his wife and the victim, of which Loesche was aware. However, the general intent that constitutes the mental component of assault with a dangerous weapon is a general intent to harm or cause fear—the general intent of simple assault at common law. A finding that Loesche was suffering from diminished capacity due to emotional trauma would not affect the determination of whether he acted with general criminal intent. *Mill v. State*, 585 P.2d 546, 551 (Alaska 1978), cert. denied, 444 U.S. 827, 100 S.Ct. 51, 62 L.Ed.2d 34 (1979).

The Superior Court, Third Judicial District, Anchorage, Ralph E. Moody, J., relying on probate master's recommendation, but unaware of natural mother's attempted withdrawal of consent, signed and entered decree of adoption, and natural mother appealed after her motion for relief from decree, new trial, and interim visitation rights was denied. The Supreme Court, Matthews, J., held that: (1) statutory provision which stated that relinquishment of parental rights was invalid unless it included statement of ten-day right of withdrawal of consent was not applicable to consent to adoption; (2) failure of statute governing withdrawal of consent to adoption to include requirement that consent to adoption form include statement of right to withdraw consent within ten days did not deprive natural mother due process of law and statute was not unconstitutional, and (3) natural mother was entitled to hearing to determine whether withdrawal of her consent was in best interest of child.

Vacated and remanded.

Rabinowitz, C. J., concurred in part and dissented in part and filed opinion in which Burke, J., joined.

1. Corporations ⇨ 377½

The determination of eligibility for representation by legal services corporation is administrative decision within scope of decision of corporation and its recipients.

2. Adoption ⇨ 7.6(1)

Statutory provision governing relinquishment of parental rights which states that relinquishment is invalid unless it includes notice of ten-day right of withdrawal of consent is inapplicable to consent to adoption. AS 20.15.070, 20.15.180(b)(1).

3. Constitutional Law ⇨ 70.1(11)

Since legislature has enacted statutes prescribing how adoptions shall be accomplished, Supreme Court has no power to change in any particular the law as expressed in those statutes; role of Supreme Court is limited to construing adoption statutes and attempting to ascertain meaning

of legislature as expressed therein. AS 20.15.070, 20.15.180(b)(1).

4. Adoption ⇨ 3

Constitutional Law ⇨ 274(5)

Failure of statute governing withdrawal of consent to adoption to include requirement that consent to adoption form include statement of right to withdraw consent within ten days did not deprive natural mother of due process of law and statute was not unconstitutional. AS 20.15.070(b); U.S.C.A.Const. Amend. 14.

5. Adoption ⇨ 13

Natural mother was entitled to hearing to determine whether withdrawal of her consent was in best interest of child where mother filed written notice of withdrawal prior to entry of decree of adoption. AS 20.15.070(b).

Bruce Horowitz, Alaska Legal Services, Juneau, for appellant.

Ty R. Settles, Eckert, Kalamarides & Associates, Anchorage, for appellees.

Before RABINOWITZ, C. J., CONNOR, BURKE and MATTHEWS, JJ., and COOKE, Superior Court Judge.

OPINION

MATTHEWS, Justice.

On March 9, 1978, B.J.B.A., the natural mother of M.R.B., flew to Anchorage with her child from their home in the state of Washington to place the child for adoption with M.J.B. and F.G.B. Upon her arrival, the natural mother was transported to the office of the attorney for the adoptive parents where, unaccompanied by counsel, she signed a consent to adoption and waiver of notice form. She then returned to Washington that same afternoon.

On May 23, 1978, the natural mother unsuccessfully attempted to notify the adoptive parents by telephone of her intention to withdraw her consent to the adoption. On May 24, a hearing was held before the probate master on the appellees' petition for adoption. The master indicated that

she would wait until at least June 2 before closing the proceedings to allow for filing of an adoption investigation report pursuant to AS 20.15.100.¹

On May 27, the natural mother notified the master by wire of her desire to withdraw her consent.² On May 30, the probate master notified the natural mother that, based on the March 9 consent, "there appears to be no reason to prevent entry of a decree" of adoption, but that an appeal from the decree could be taken. On June 5, before filing of the investigation report and without finding a waiver of the report to be in the best interest of the minor child,³ the master recommended that the petition be granted. On the same day the superior court, relying on the probate master's recommendation, but unaware of the natural mother's attempted withdrawal of consent, signed and entered the decree of adoption. The adoption investigation report was filed with the court on June 12.

[1] On June 15, the natural mother moved for relief from the decree, a new trial, and interim visitation rights. This

motion was denied, after various delays,⁴ on October 10, 1979, and this appeal followed.

The issues here involve construction of AS 20.15.070, which provides:

Withdrawal of Consent. a) A consent to adoption may not be withdrawn after the entry of a decree of adoption.

b) A consent to adoption may be withdrawn before the entry of a decree of adoption, within 10 days, by delivering written notice to the person obtaining the consent, or after the 10 day period, if the court finds, after notice and opportunity to be heard is afforded to petitioner, the person seeking the withdrawal, and the agency placing a child for adoption, that the withdrawal is in the best interest of the person to be adopted and the court orders the withdrawal.

The natural mother contends that her consent was invalid because the consent to adoption form did not include a statement of her right to withdraw the consent within ten days. She argues that such a statement was either required by statute, or, alternatively, the failure of the statute to include such a requirement has deprived her of due

1. AS 20.15.100 provides in part:

(d) Except as provided in (g) and (i) of this section, an investigation shall be made by the department or any other qualified agency or person designated by the court to inquire into the conditions and antecedents of a minor sought to be adopted and of the petitioner for the purpose of ascertaining whether the adoptive home is a suitable home for the minor and whether the proposed adoption is in the best interest of the minor.

(e) A written report of the investigation shall be filed with the court by the investigator before the petition is heard so long as the report is filed within 30 days of the designation by the court of the department, agency or person to make the investigation.

(f) The report of the investigation shall contain an evaluation of the placement with a recommendation as to the granting of the petition for adoption and any other information the court requires regarding the petitioner or the minor.

2. The court was also notified of the withdrawal by counsel on May 30, 1975.

3. AS 20.15.100(g) provides:

(g) Unless directed by the court, an investigation and report is not required in cases in which an agency is a party or joins in the petition for adoption, a step-parent is the

petitioner, the person to be adopted is within the fourth degree of lineal or collateral consanguinity to the petitioner, or the person to be adopted is an adult. In other cases, the court may waive the investigation only if it appears that the waiver is in the best interest of the minor and that the adoptive home and the minor are suited to each other. The department which is required to consent to the adoption may give consent without making the investigation.

4. Part of the delay was occasioned by the adoptive parents' challenge to the natural mother's eligibility for representation by Alaska Legal Services Corporation. "[T]he determination of 'eligibility' is an administrative decision within the scope of decision of the corporation and its recipients." *Martens v. Hall*, 444 F.Supp. 34, 35 (S.D.Fla.1977). See generally, *Dimmick v. Watts*, 490 P.2d 483 (Alaska 1971). Although Alaska Legal Services does not have unlimited discretion in determining whether to accept clients, we can see no interests other than vexatious ones that were promoted by counsel for the adoptive parents in challenging such a determination. See *Public Defender Agency v. Superior Court*, 534 P.2d 947, 952 n. 7 (Alaska 1975).

process of law. Second, she argues that AS 20.15.070(b) required the superior court to grant a hearing on whether she could withdraw her consent.

[2, 3] The natural mother's first point is based on a reference to the statutory provision governing relinquishment of parental rights which states that a relinquishment is invalid unless it includes a statement of the ten-day right of withdrawal.⁵ The requirement of that provision, however, is not applicable to a consent to adoption. We agree that it might be beneficial to include such a requirement in AS 20.15.070, but that action is appropriate for consideration by the legislature rather than this court. As the Oregon Supreme Court stated in response to a challenge to its consent revocation statute, which bars the natural parents from revoking consent upon entry of a decree at the expiration of six months:

Since the legislature has enacted statutes prescribing how adoptions shall be accomplished, this court has no power to change in any particular the law as expressed in those statutes. . . . The role of this court is limited to construing the adoption statutes and attempting to ascertain the meaning of the legislature as expressed therein.

Strobel v. Garrison, 255 Or. 16, 464 P.2d 688, 689-90 (1970).

[4] The natural mother argues in the alternative that if notice of the statutory right to withdraw one's consent to adoption within ten days after it is given is not required by AS 20.15.070(b), then that statute has violated her right to due process of law. No persuasive authority is submitted to support this argument. We have recog-

5. AS 20.15.180(b)(1) provides:

b) All rights of a parent with reference to a child, including the right to receive notice of a hearing on a petition for adoption, may be relinquished and the relationship of parent and child terminated by a writing, signed by the parent, regardless of the age of the parent, a copy of which shall be given to the parent,

1) in the presence of a representative of an agency taking custody of the child, whether

nized, in several different contexts, that a valid consent may be given without the person whose consent is requested first being advised of his or her statutory or constitutional right to refuse. A driver's right to refuse consent to a breathalyzer test is one example. In *Wirz v. State*, 577 P.2d 227 (Alaska 1978), we held that in the absence of a specific statutory requirement that arrestees be advised of their right to refuse the test, "it would be inappropriate for this court to engraft such a requirement onto [the statute]." 577 P.2d at 230. Similarly, the constitutional right to withhold consent to a police search need not be expressly communicated. *Schneckloth v. Bustamonte*, 412 U.S. 218, 93 S.Ct. 2041, 36 L.Ed.2d 854 (1973); *Frink v. State*, 597 P.2d 154 (Alaska 1979); *Henry v. State*, 621 P.2d 1 (Alaska 1980). We find these authorities persuasive and decline to hold AS 20.15.070 (b) to be unconstitutional as it stands.

[5] The natural mother's second point, however, is well taken. AS 20.15.070(b) provides, in addition to the absolute right of withdrawal within ten days, that one may withdraw one's consent to adoption at any time before the entry of the adoption decree if the court finds, after notice and an opportunity to be heard is afforded to all parties involved, that the withdrawal is in the best interest of the person to be adopted. No statement of reasons for the desired withdrawal is called for. The statute clearly calls for a hearing on the best interest of the child if written notice of withdrawal is filed at any time prior to entry of the decree of adoption. Since such a notice was filed, the court's failure to afford the natural mother a hearing was error.

the agency is within or outside of the state or in the presence and with the approval of a court within or outside of this state in which the minor was present or in which the parent resided at the time it was signed, which relinquishment may be withdrawn within 10 days after it is signed or the child is born, whichever is later; and the relinquishment is invalid unless it states that the parent has this right of withdrawal;

In summary, we hold that the natural mother is entitled to a hearing to determine whether withdrawal of her consent is in the best interest of the child.⁶ We remand for such a hearing and set aside the decree of adoption pending its outcome. Since the consent is valid unless and until the court orders its withdrawal pursuant to AS 20.15.070(b), the adoptive parents shall maintain interim custody. Should the court find withdrawal not in the best interest of the child, the decree may be reinstated *nunc pro tunc*.

VACATED and REMANDED.

BOOCHEVER, J., not participating.

RABINOWITZ, Chief Justice, concurring in part, dissenting in part, joined by BURKE, Justice.

I am in agreement with the court's construction of AS 20.15.070(b) and its holding that here the natural mother must be afforded a hearing concerning her withdrawal of consent to the adoption of her minor child. However, in my view, the decree of adoption in the case at bar must be permanently vacated, since the natural mother's consent to adoption is invalid.

In *Delgado v. Fawcett*, 515 P.2d 710 (Alaska 1973), we stated:

The correlative rights and duties inherent in the parent-child relationship are natural rights of such fundamental importance that it is generally held that parents should not be deprived of them 'except for grave and weighty reasons'. In an adoption proceeding, where an absolute severance of this relationship is sought, the consent provisions are designed to protect the natural rights of a parent to the custody, society, comfort, and services of the child.¹

6. As one factor in this determination the court should consider the circumstances as they were in May of 1978 when withdrawal of this consent was attempted. Of course, present circumstances must also be weighed.

In recognition of the substantial rights of a natural parent which are implicated in adoption proceedings, the legislature in part has provided that:

A consent to adoption may be withdrawn before the entry of a decree of adoption, within 10 days, by delivering written notice to the person obtaining the consent.²

Given the "essential" nature of a parent's right to conceive and raise his or her children,³ I am of the view that unless the natural parent receives actual notice of the protection afforded by AS 20.15.070(b) his or her consent to adoption is invalid.

In past decisions, this court has stressed the importance of adequate notification of a party's rights in cases involving economic relations. *Aguchak v. Montgomery Ward Co., Inc.*, 520 P.2d 1352 (Alaska 1974). In *Aguchak*, a summons to appear in a small claims proceeding did not mention the receiving party's right to file a written pleading rather than make a personal appearance. We held the summons to be defective and a denial of due process because it did not adequately inform the receiving party of his option of filing a written pleading and therefore failed to convey the constitutionally required information sufficient to afford the party an opportunity to be heard. *Id.* at 1356. Surely notification of a natural mother's rights, when that parent is involved in adoption proceedings which could sever, for all time, her rights and interests as a natural parent, is equally, if not more, significant. As the Supreme Court said in *Stanley v. Illinois*, 405 U.S. 645, 92 S.Ct. 1208, 31 L.Ed.2d 551 (1972):

It is plain that the interest of a parent in the companionship, care, custody, and management of his or her children 'come[s] to this Court with a momentum for respect lacking when appeal is made

1. 515 P.2d at 712, quoting *In re Parks' Petition*, 267 Minn. 468, 127 N.W.2d 548, 553 (Minn. 1964) (footnotes omitted).

2. AS 20.15.070(b).

3. *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct.

to liberties which derive merely from shifting economic arrangements.⁴

The consent to adoption form which the natural mother signed in this case did not contain an advisement that she had the right to withdraw her consent within ten days. This omission was particularly important here because placement of the child with the adoptive parents and execution of the consent occurred simultaneously.⁵ I consider it of further significance that the consent to adoption was executed by the natural parent, without the advice of independent counsel, in the office of the adoptive parent's attorney and acknowledged by that attorney.⁶ For these reasons, I conclude that the natural mother, in the factual context of this case, was denied due process of law under Article I, section 7 of the Alaska Constitution and thus that her consent was invalid.⁷

One further observation is appropriate. I agree with the majority that, to avoid future injustice, it would be helpful to include a statutory provision in AS 20.15.070 similar to the provisions governing relinquishment of parental rights,⁸ which would provide that a consent to adoption is invalid unless it includes a statement that the parent has a ten-day right of withdrawal.



1208, 1212, 31 L.Ed.2d 551, 558-59 (1972).

4. 405 U.S. at 651, 92 S.Ct. at 1212, 31 L.Ed.2d at 558, quoting *Kovacs v Cooper*, 336 U.S. 77, 95, 69 S.Ct. 448, 458, 93 L.Ed. 513, 527 (1949) (Frankfurter, J., concurring).
5. Where placement and consent occur at the same time, the 10-day withdrawal provision of AS 20.15.070(b) provides an opportunity for reflection upon the consent decision beyond the potentially emotional moment of placement.
6. There is nothing in the record to indicate that the natural parent had notice of her withdrawal right in time for her to exercise it within the 10 day period.
7. Although the consent to adoption form that the natural mother signed contained a "waiver of notice" provision, this waiver was invalid

The F/V AMERICAN EAGLE, ADF&G No. 39 and \$100,677.50 Representing the Proceeds of 143,825 lbs. of Alaska King Crab Delivered Pursuant to ADF&G Fish Ticket No.'s E95626, E95627, Appellant and Cross-Appellee,

v.

STATE of Alaska, Appellee and Cross-Appellant.

STATE of Alaska, Appellant,

v.

The F/V AMERICAN EAGLE, ADF&G No. 39 and \$100,677.50 Representing the Proceeds of 143,825 lbs. of Alaska King Crab Delivered Pursuant to ADF&G Fish Ticket No.'s E95626, E95627, Appellee.

Nos. 3973, 3974, 4023.

Supreme Court of Alaska.

Nov. 21, 1980.

In an in rem civil forfeiture proceeding involving fishing vessel which was seized by state officials during unloading of king crab allegedly taken out of season, the Superior Court, Third Judicial District, Kodiak, Roy H. Madsen, J., entered order directing forfeiture of crab sale proceeds and of the bond posted for release of the vessel, and

because it contained no description of what actual rights and provisions were being waived. See *Fuentes v. Shevin*, 407 U.S. 67, 94-96, 92 S.Ct. 1983, 2001-02, 32 L.Ed.2d 556, 578-79 (1972).

Unlike the authorities referred to in the court's opinion, we are dealing here with an explicit legislative grant of a right to withdraw a consent to adoption. Given the fundamental importance of the parent-child relationship and the right of withdrawal, granted by AS 20.15.070(b), I find the authorities cited by the majority unpersuasive.

8. See AS 20.15.180(b)(1). Compare Indian Child Welfare Act §§ 103(a), (c), 25 U.S.C.A. §§ 1913(a), (c) (West Supp.1980).

POSITION PAPER

HOUSE BILL NO. 656

"An Act relating to adoption and relinquishment of parental rights."

House Bill No. 656 proposes changes to the adoption statute in regard to the procedures to be followed when a parent relinquishes a child for adoptive placement. This statutory change has been suggested by the Alaska Supreme Court in the case of B.J.B.A. v. J.M.J.B. and F.G.B., 620 P. 2d 652 (Alaska 1980).

When a parent decides to give up his or her rights to a child, it is done by means of signing a consent to adoption. Under the existing statute, a parent may withdraw the consent to adoption by certain specified procedures; however, there is no requirement in the existing statute that a parent be notified that he or she has the right to withdraw the consent. Often a mother decides to place a child for adoption under very emotionally trying conditions, and signs the consent immediately after giving birth to the child. In some cases, she may be coerced, or feel that she has been. She may later regret that decision, and may not know she has the right to withdraw the consent. This Bill would require that the relinquishment state that the parent has the right to withdraw it.

The Department wishes to point out that similar language has been added in Section 3 of Senate Bill No. 399. However, Senate Bill No. 399 adds a provision that the person signing the consent is provided with a copy of the consent. The Department recommends that this language be added to House Bill No. 656.

RECOMMENDED BY: John R. Pugh
John R. Pugh, Director
Division of Family and Youth
Services

DATE: 1/18/82

APPROVED BY: Helen D. Beirne
for Helen D. Beirne
Commissioner

DATE: 1/19/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 656

Title "An Act relating to adoption and relinquishment of parental rights."

Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected _____

BRU, Program, or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER (Specify Fund Source)	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-
	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS

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

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

The Bill entitled: "An Act relating to adoption and relinquishment of parental rights" has no fiscal impact on the Department of Health & Social Services.

IV. DATE 1/15/82 PREPARED BY John R. Pugh John R. Pugh, Director
 AGENCY Division of Family and Youth Services
 PHONE 465-3170
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

H B
657

HOUSE

(5)

FURTHER: JUDICIARY

1/12/82

Date: 2/1/82

Mr. Speaker:

HEALTH, EDUCATION &
SOCIAL SERVICES

The Committee on _____ has had HB 657

"An Act making miscellaneous amendments to the statutes pertaining to the crime of driving while intoxicated; and providing for an effective date."

under consideration and (~~a majority of the committee~~) (~~the committee~~) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 657 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

D. Smith

MEMBERS HAVING
OTHER RECOMMENDATIONS:

Paula Davis
no rec.
Long M. for same sec.

Paula Davis
CHAIRMAN

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST Proposed
 Bill/Resolution No. CS for House Bill No. 657 (HESS)
 Title "An Act relating to penalties for driving while intoxicated . . ."
 Requested by _____ Date January 29, 1982

II. FISCAL DETAIL
 Agency Affected Dept. of Health & Social Services
 Program Category Affected Offender Confinement, Reformation, & Supervision
 BRU, Program, Or Subprogram(s) Affected Adult Confinement
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			1,487.0	1,591.1	1,702.4	1,821.6
200 TRAVEL		3.0	24.0	26.2	28.5	31.1
300 CONTRACTUAL		50.0	357.9	390.1	425.2	463.5
400 COMMODITIES		135.6	593.6	647.0	705.3	768.7
500 EQUIPMENT			30.0			
600 LAND & STRUCTURES		180.0				
700 GRANTS, CLAIMS, ETC.			142.3	155.1	169.1	184.3
TOTAL		15,368.6	2,634.8	2,809.5	3,030.5	3,269.2

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		15,368.6	2,634.8	2,809.5	3,030.5	3,269.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME		-0-	64	64	64	64
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

A. Enactment of this bill will have a significant fiscal impact on the

Division of Adult Corrections. The major thrust of this proposed legislation is to lengthen the minimum sentences for persons convicted of driving while intoxicated. Amendments to the section of the statute addressing driving with a cancelled, suspended, or revoked license will result in a fiscal impact, also.

Minimum sentence length for first time drunk driving offenders is increased tenfold (from 3 days to 30 days); second offenders sentences are increased eighteenfold (from 10 days to 180 days); and third time, and subsequent, offenders are increased from 10 days (minimum) to 5 years.

IV. DATE February 3, 1982

PREPARED BY Roger C. Lange
 AGENCY Division of Adult Corrections

Original: Legislative Finance

PHONE 465-3376

cc: Budget and Management

Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

B. The data used in estimating numbers of offenders for driving while intoxicated is from the master plan data base and current commitment cards. There were an estimated 18,000 admissions into the Alaska correctional system during 1981. The commitment cards give the offenses for which the persons were charged and average length of sentences. Estimates used in computing this fiscal note are, as follows:

1. 21.7% of all admissions into state correctional centers are for driving while intoxicated.
2. There are approximately 18,000 admissions per year into state correctional centers. This results in approximately 3,900 DWI admissions.
3. Of the 18,000 admissions, approximately 45% are second admissions for the same offense. Subsequent admissions would include circumstances such as transfer to another state correctional center, readmission of a person who was previously released on his own recognizance or bail, etc. Therefore, there are approximately 55% unduplicated admissions for persons arrested for DWI. This results in 2,145 individual unduplicated cases per year.
4. Approximately 75% of the DWI arrests are for first time offenders, 25% are repeat offenders. Therefore, there are 1,609 first time offenders and 536 repeat offenders annually for driving while intoxicated.
5. First time offenders now serve an average of 55 hours in confinement. This is equal to approximately 10 person-years of confinement. Repeat offenders now serve an average of 206 hours in confinement. This is equal to approximately 12.6 person years of confinement. Therefore, approximately 22.6 beds are currently occupied full time by DWI offenders.

C. Fiscal Impact if CS for House Bill No. 657 (HESS) is enacted:

1. Assumptions
 - a. There will be no significant change in the length of time presentenced DWI offenders spend in confinement.
 - b. There will be no significant change in the number of persons arrested for first time DWI offenses.
 - c. The number of repeat offenders will decline significantly under the proposed legislation and will stabilize at approximately one-half of the present number of offenders (approximately 265 per year). Of the repeat offenders, it is estimated that 255 would be second offenders, the remaining 10 would be for third and subsequent offenses.
 - d. Additional time served for convictions of traffic offenses while a person's driving license is suspended or revoked due to prior DWI offense is not amenable to accurate forecasting, but is assumed to result in a modest increase in confinement beds. The best guess for needs resulting from amending Section 28.15.291 is 10 beds.

- e. The average sentence length for offenders are estimated to be:

First offenders - 22.5 days (30-day minimum sentence, no suspension, no probation until minimum sentence served. Good time of one day for three served was considered applicable in all cases).

Second/Subsequent offenders - 6 months (8 months average minimum sentence length, no suspension, no probation until minimum sentence served. Good time of one day for three served was considered applicable in all cases).

- f. Additional beds required

(1.) 1,609 offenders x 22.5 days ÷ 365 equals approximately 100 beds, less 10 beds now utilized by first offenders equals 90 new beds.

- (2.) Second/Subsequent Offenders

265 offenders x 6 months ÷ 12 equals approximately 132.5 beds, less 12.6 beds now utilized by second/subsequent offenders equals 120 new beds.

(3.) Driving offenses while license suspended or revoked is estimated to be 10 new beds (see d above).

(4.) Therefore, it is estimated that 220 new beds will be needed in the state correctional system if CS for House Bill No. 657 is enacted.

(5) A significant impact will be experienced during the first year that this law is in force. This will result in overcrowded conditions within the existing state facilities if a temporary alternative cannot be provided.

D. Estimated Costs

1. Capital Expenditures

It would be anticipated that a 100-bed minimum security facility would be constructed in the Fairbanks area and a 120-bed minimum security facility would be constructed in the Anchorage area. Based on the fast track construction method utilized and cost per bed at the Palmer Addition, and considering one year of inflation at 15%, it is estimated that the cost will be \$69,000 per bed. Therefore, capital expenditures are estimated to be:

$$220 \times \$69,000 = \$15,180,000.$$

2. Operating costs

a. Personal Services

It is estimated that a total of 64 new positions would be required to operate the two new facilities. The numbers of positions, by class specifications, are:

<u>No. of Positions</u>	<u>Class Title</u>
2	Superintendent
2	Assistant Superintendent
2	Administrative Officer I
2	Clerk III
2	Clerk II
10	Correctional Officer III
24	Correctional Officer II
4	Probation Officer II
4	Food Services Worker/Cook
10	Nurse
<u>2</u>	Maintenance Mechanic
64	

Estimated cost for FY 1984 was computed using the 1982 negotiated salary schedule with 7% inflation added for all subsequent fiscal years.

b. All Other Expenditure Categories

The continuation budget for Palmer Correctional Center was used as a basis for estimating operational costs, since it serves the approximate classification of inmates as would be served in the two new facilities. The figures were adjusted to reflect 220 inmates as compared to the 100 inmates budgeted for continuation of the existing Palmer Correctional Center. No area differential in costs between Fairbanks and Palmer was considered. A 9% inflation factor was utilized for all fiscal years after FY 1983.

It is estimated that a minimum of an additional 100 full time equivalent inmates would be incarcerated during FY 1983. Operational costs itemized for FY 1983 are for the additional food, clothing, and medical costs related to the increased inmate population.

Since medical costs are not budget in the Palmer Correctional Center component, \$500 per inmate was included in the cost estimate over and above the Palmer basic costs. This results in \$50,000 costs for FY 1983 and \$119,900 for FY 1984, with subsequent years increased by 9% per year for inflation.

POSITION PAPER

HOUSE BILL NO. 657

"An Act making miscellaneous amendments to the Statutes pertaining to the crime of driving while intoxicated, and providing for an effective date".

Although the primary concern of HB 657 is public safety, the department of Health and Social Services is highly supportive of the passage of this bill.

Driving while intoxicated is one of the most dangerous behaviors Alaskans undertake resulting in an annual financial cost estimated at \$22,532,000 related to death, injury, and property damage. Passage of HB 657 would clarify existing language to make the present statute more workable thus aiding in the prevention of this most serious offense.

The bill will have no workload or fiscal impact on the Department of Health and Social Services responsibilities.

Recommended By: Robert L. Cole

Robert L. Cole
Coordinator
Office of Alcoholism/
Drug Abuse

Date: 1/18/82

Approved By: Helen D. Beirne

for Helen D. Beirne
Commissioner
Dept. of Health &
Social Services

Date: 1/19/82

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. HB 657

Title An Act making miscellaneous amendments to the OMVI Statute

Requested by The Rules Committee by Request of Date 1/12/82
the Governor

II. FISCAL DETAIL

Agency Affected Health & Social Services

Program Category Affected Office of Alcoholism/Drug Abuse

BRU, Program, Or Subprogram(s) Affected _____

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES		-0-	-0-	-0-	-0-	-0-
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		-0-	-0-	-0-	-0-	-0-
400 COMMODITIES		-0-	-0-	-0-	-0-	-0-
500 EQUIPMENT		-0-	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES		-0-	-0-	-0-	-0-	-0-
700 GRANTS, CLAIMS, ETC.		-0-	-0-	-0-	-0-	-0-
TOTAL		0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS		-0-	-0-	-0-	-0-	-0-
OTHER (Specify Source)		-0-	-0-	-0-	-0-	-0-
		-0-	-0-	-0-	-0-	-0-
		-0-	-0-	-0-	-0-	-0-
POSITIONS		0	0	0	0	0

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

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

IV. DATE January 15, 1892 PREPARED BY Robert L. Cole
 AGENCY Office of Alcoholism/Drug Abuse
 Original: Legislative Finance PHONE 586-6201
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

January 11, 1982

The Honorable Joe L. Hayes
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Mr. Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill making miscellaneous amendments to the statutes pertaining to the crime of driving while intoxicated.

The former crime of driving while under the influence of intoxicating liquor was redesignated as "driving while intoxicated," by ch. 129, SLA 1980. This bill makes the same redesignation in other statutes which refer to the same offense, in order to avoid any ambiguity in the reference.

Section 2 of the bill also resolves another possible ambiguity in existing law. It amends AS 28.35.032(a) to provide that the prohibition in the "implied consent" statute against administering other chemical tests after a person refuses to take a breathalyzer examination does not apply when the person is arrested for an assault or homicide committed while he was driving a motor vehicle.

The constitutionality of requiring a defendant to submit to a blood test incident to an arrest for an offense committed while driving while intoxicated has been recognized by the United States Supreme Court in Schmerber v. California, 384 U.S. 757 (1966), and by the Alaska Supreme Court in Leyland v. State, 535 P.2d 1043 (Alaska 1975). However, in the more recent opinion of Anchorage v. Gerber, 592 P.2d 1187 (Alaska 1979), the Alaska Supreme Court held that language in the implied consent law prohibited the administration of all tests once a breathalyzer had been refused after a person had been arrested for driving while intoxicated.

While the court in Gerber did not apply its holding to offenses outside AS 28, an extension of the holding in that case to homicide and assault offenses would have serious implications. When an intoxicated driver, for example,

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. CS for House Bill No. 657 (HESS)
Title "An Act relating to penalties for driving while intoxicated.."
Requested by House HESS Committee Date February 5, 1982

II. FISCAL DETAIL

Agency Affected Dept. of Health & Social Services
Program Category Affected Offender Confinement, Reformation & Supervision
BRU, Program, Or Subprogram(s) Affected Adult Confinement
(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			1313.8	1405.7	1504.1	1609.4
200 TRAVEL		1.5	9.8	10.7	11.7	12.7
300 CONTRACTUAL		22.5	146.4	159.6	174.0	189.6
400 COMMODITIES		82.1	242.8	264.7	288.5	314.5
500 EQUIPMENT			15.0			
600 LAND & STRUCTURES		6210.0				
700 GRANTS, CLAIMS, ETC.		27.2	58.2	63.5	69.2	75.4
TOTAL		6343.3	1786.0	1904.2	2047.5	2201.6

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND		6343.3	1786.0	1904.2	2047.5	2201.6
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME	-0-	-0-	32	32	32	32
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

A. Enactment of this bill will have a significant fiscal impact on the Division of Adult Corrections. The major thrust of this proposed legislation is to lengthen the minimum sentences for persons convicted of driving while intoxicated. Amendments to the section of the statute addressing driving with a cancelled, suspended, or revoked license will result in a fiscal impact, also.

Minimum sentence length for first time drunk driving offenders is increased from 3 to 5 days; second offenders sentences are increased from 10 days to 90 days; and third time, and subsequent, offenders are increased from 10 days (minimum) to 5 years.

IV. DATE February 8, 1982

PREPARED BY Roger C. Lange
AGENCY Division of Adult Corrections

Original: Legislative Finance PHONE 465-3376
cc: Budget and Management
Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/81)

- B. The data used in estimating numbers of offenders for driving while intoxicated is from the master plan data base and current commitment cards. There were an estimated 18,000 admissions into the Alaska correctional system during 1981. The commitment cards give the offenses for which the persons were charged and average length of sentences. Estimates used in computing this fiscal note are as follows:
1. 21.7% of all admissions into state correctional centers are for driving while intoxicated.
 2. There are approximately 18,000 admissions per year into state correctional centers. This results in approximately 3,900 DWI admissions.
 3. Of the 18,000 admissions, approximately 45% are second admissions for the same offense. Subsequent admissions would include circumstances such as transfer to another state correctional center, readmission of a person who was previously released on his own recognizance or bail, etc. Therefore, there are approximately 55% unduplicated admissions for persons arrested for DWI. This results in 2,145 individual unduplicated cases per year.
 4. Approximately 75% of the DWI arrests are for first time offenders, 25% are repeat offenders. Therefore, there are 1,609 first time offenders and 536 repeat offenders annually for driving while intoxicated.
 5. First time offenders now serve an average of 55 hours in confinement. This is equal to approximately 10 person-years of confinement. Repeat offenders now serve an average of 206 hours in confinement. This is equal to approximately 12.6 person-years of confinement. Therefore, approximately 22.6 beds are currently occupied full time by DWI offenders
- C. Fiscal Impact if CS for House Bill No. 657 (HESS) is enacted:
1. Assumptions
 - a. There will be no significant change in the length of time presentenced DWI offenders spend in confinement.
 - b. There will be no significant change in the number of persons arrested for first time DWI offences.
 - c. The number of repeat offenders will decline significantly under the proposed legislation and will stabilize at approximately 56% of the present number of offenders (approximately 300 per year). Of the repeat offenders, it is estimated that 290 would be second offenders, the remaining 10 would be for third and subsequent offenses.
 - d. Additional time served for convictions of traffic offenses while a person's driving license is suspended or revoked due to prior DWI offense is not amenable to accurate forecasting, but is assumed to result in a modest increase in confinement beds. However, due to the uncertainty in the deterrent effect percentage for repeat offenders, no additional beds are included in this fiscal note specifically for this section of the bill.

- e. The average sentence length for offenders are estimated to be:

First offenders - 5 days (5 day minimum sentence, no suspension, no probation until minimum sentence is served).

Second offenders - 67.5 days (90 day minimum sentence length, no suspension, no probation until minimum sentence is served. Good time of one day for three served was considered applicable in all cases).

Third/Subsequent offenders - 3.75 years (5 year minimum sentence, no suspension, no probation until minimum sentence is served. Good time of one day for three served was considered applicable in all cases).

- f. Additional beds required

(1.) 1,609 offenders x 5 days ÷ 365 equals approximately 22 beds, less 10 beds now utilized by first offenders equals 12 new beds.

(2.) Second offenders - 290 offenders X 67.5 days ÷ 365 equals approximately 53.6 beds, less 12.6 beds now utilized by second offenders equals 41 new-beds.

(3.) Third/Subsequent offenders - 10 offenders x 3.75 years equals 37.5 new beds.

(4.) Therefore, it is estimated that 90 new beds will be needed in the state correctional system if CS for House Bill No. 657 is enacted.

(5.) A significant impact will be experienced during the first year that this law is in force. This will result in overcrowded conditions within the existing state facilities if a temporary alternative cannot be provided.

D. Estimated Costs

1. Capital Expenditures

It would be anticipated that a 90 bed minimum to medium security facility would be constructed in the Anchorage area. Based on the fast track construction method utilized and cost per bed at the Palmer Addition, and considering one year of inflation at 15%, it is estimated that the cost will be \$69,000 per bed. Therefore, capital expenditures are estimated to be:

$$90 \times \$69,000 = \$6,210,000.$$

2. Operating costs

a. Personal Services

It is estimated that a total of 32 new positions would be required to operate the two new facilities. The numbers of positions, by class specifications, are:

<u>No. of Positions</u>	<u>Class Title</u>
1	Superintendent
1	Assistant Superintendent
1	Administrative Officer I
1	Clerk III
1	Clerk II
5	Correctional Officer III
12	Correctional Officer II
2	Probation Officer II
2	Food Services Worker/Cook
5	Nurse
1	Maintenance Mechanic

32

Estimated cost for FY 1984 was computed using the 1982 negotiated salary schedule with 7% inflation added for all subsequent fiscal years.

b. All other expenditure Categories

The continuation budget for Palmer Correctional Center was used as a basis for estimating operational costs, since it serves the approximate classification of inmates as would be served in the new facility. The figures were adjusted to reflect 90 inmates as compared to the 100 inmates budgeted for continuation of the existing Palmer Correctional Center. A 9% inflation factor was utilized for all fiscal years after FY 1983.

It is estimated that a minimum of an additional 45 full time equivalent inmates would be incarcerated during FY 1983. Operational costs itemized for FY 1983 are for the additional food, clothing, and medical costs related to the increased inmate population.

Since medical costs are not budget in the Palmer Correctional Center component, \$500 per inmate was included in the cost estimate over and above the Palmer basic costs. This results in \$22,500 costs for FY 1983 and \$45,000 for FY 1984, with subsequent years increased by 9% per year for inflation.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

January 29, 1982

SUBJECT: Penalties for driving while intoxicated
(CSHB 657)

TO: Representative Michael F. Beirne
Chairman, Health, Education and
Social Services Committee

FROM: Diane T. Colvin *DTC*
Legislative Counsel

Enclosed please find the committee substitute you requested increasing penalties for the offense of driving while intoxicated. We should like to point out that the bill, while defensible on policy grounds, is open to challenge on legal grounds. For example, the penalties, and in particular the consecutive penalties for multiple convictions, are subject to challenge as excessive, particularly since they exceed current penalties for the most violent, serious crimes and for habitual offenders as well.

In addition, the vehicle confiscation concept is vulnerable to challenge. As a general rule, forfeiture proceedings are disfavored by the law, and such statutes are strictly construed against the government. F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980). The usual justification for confiscation and forfeiture, which applies in fish and game matters and in narcotics cases, is to prevent possible use of the property in further illegal acts. This purpose is not served here, since under the provisions of the bill the driver is confined to jail and his privilege to drive suspended -- he would be unable to use the vehicle in any event.

We point out these problems in the hope that the information will be of assistance to you in committee deliberations. If you wish further information, please do not hesitate to contact us.

DTC:ljb

Enclosure

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill 657
 Title "An Act...pertaining to driving while intoxicated..."
 Requested by _____ Date _____

II. FISCAL DETAIL

Agency Affected Department of Public Safety
 Program Category Affected Administration of Justice
 BRU, Program, Or Subprogram(s) Affected Alaska State Troopers
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
POSITIONS	-0-	-0-	-0-	-0-	-0-	-0-

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
FULL TIME						
PART TIME						
TEMPORARY						
	-0-	-0-	-0-	-0-	-0-	-0-

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

No fiscal impact is anticipated.

IV. DATE January 20, 1982

PREPARED BY Francis C. Allan
 AGENCY Department of Public Safety
 PHONE 269-5691

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

- B. The data used in estimating numbers of offenders for driving while intoxicated is from the master plan data base and current commitment cards. There were an estimated 18,000 admissions into the Alaska correctional system during 1991. The commitment cards give the offenses for which the persons were charged and average length of sentences. Estimates used in computing this fiscal note are as follows:
1. 21.7% of all admissions into state correctional centers are for driving while intoxicated.
 2. There are approximately 18,000 admissions per year into state correctional centers. This results in approximately 3,900 DWI admissions.
 3. Of the 18,000 admissions, approximately 45% are second admissions for the same offense. Subsequent admissions would include circumstances such as transfer to another state correctional center, readmission of a person who was previously released on his own recognizance or bail, etc. Therefore, there are approximately 55% unduplicated admissions for persons arrested for DWI. This results in 2,145 individual unduplicated cases per year.
 4. Approximately 75% of the DWI arrests are for first time offenders, 25% are repeat offenders. Therefore, there are 1,609 first time offenders and 536 repeat offenders annually for driving while intoxicated.
 5. First time offenders now serve an average of 55 hours in confinement. This is equal to approximately 10 person-years of confinement. Repeat offenders now serve an average of 206 hours in confinement. This is equal to approximately 12.6 person-years of confinement. Therefore, approximately 22.6 beds are currently occupied full time by DWI offenders.
- C. Fiscal Impact if CS for House Bill No. 657 (HESS) is enacted:
1. Assumptions
 - a. There will be no significant change in the length of time presentenced DWI offenders spend in confinement.
 - b. There will be no significant change in the number of persons arrested for first time DWI offences.
 - c. The number of repeat offenders will decline significantly under the proposed legislation and will stabilize at approximately 56% of the present number of offenders (approximately 300 per year). Of the repeat offenders, it is estimated that 290 would be second offenders, the remaining 10 would be for third and subsequent offenses.
 - a. Additional time served for convictions of traffic offenses while a person's driving license is suspended or revoked due to prior DWI offense is not amenable to accurate forecasting, but is assumed to result in a modest increase in confinement beds. However, due to the uncertainty in the deterrent effect percentage for repeat offenders, no additional beds are included in this fiscal note specifically for this section of the bill.

- e. The average sentence length for offenders are estimated to be:

First offenders - 5 days (5 day minimum sentence, no suspension, no probation until minimum sentence is served).

Second offenders - 67.5 days (90 day minimum sentence length, no suspension, no probation until minimum sentence is served. Good time of one day for three served was considered applicable in all cases).

Third/Subsequent offenders - 3.75 years (5 year minimum sentence, no suspension, no probation until minimum sentence is served. Good time of one day for three served was considered applicable in all cases).

- f. Additional beds required

- (1.) 1,609 offenders x 5 days ÷ 365 equals approximately 22 beds, less 10 beds now utilized by first offenders equals 12 new beds.
- (2.) Second offenders - 290 offenders X 67.5 days ÷ 365 equals approximately 53.6 beds, less 12.6 beds now utilized by second offenders equals 41 new-beds.
- (3.) Third/Subsequent offenders - 10 offenders x 3.75 years equals 37.5 new beds.
- (4.) Therefore, it is estimated that 90 new beds will be needed in the state correctional system if CS for House Bill No. 657 is enacted.
- (5.) A significant impact will be experienced during the first year that this law is in force. This will result in overcrowded conditions within the existing state facilities if a temporary alternative cannot be provided.

D. Estimated Costs

1. Capital Expenditures

It would be anticipated that a 90 bed minimum to medium security facility would be constructed in the Anchorage area. Based on the fast track construction method utilized and cost per bed at the Palmer Addition, and considering one year of inflation at 15%, it is estimated that the cost will be \$69,000 per bed. Therefore, capital expenditures are estimated to be:

$$90 \times \$69,000 = \$6,210,000.$$

2. Operating costs

a. Personal Services

It is estimated that a total of 32 new positions would be required to operate the two new facilities. The numbers of positions, by class specifications, are:

<u>No. of Positions</u>	<u>Class Title</u>
1	Superintendent
1	Assistant Superintendent
1	Administrative Officer I
1	Clerk III
1	Clerk II
5	Correctional Officer III
12	Correctional Officer II
2	Probation Officer II
2	Food Services Worker/Cook
5	Nurse
1	Maintenance Mechanic

32

Estimated cost for FY 1984 was computed using the 1982 negotiated salary schedule with 7% inflation added for all subsequent fiscal years

b. All other expenditure Categories

The continuation budget for Palmer Correctional Center was used as a basis for estimating operational costs, since it serves the approximate classification of inmates as would be served in the new facility. The figures were adjusted to reflect 90 inmates as compared to the 100 inmates budgeted for continuation of the existing Palmer Correctional Center. A 9% inflation factor was utilized for all fiscal years after FY 1983.

It is estimated that a minimum of an additional 45 full time equivalent inmates would be incarcerated during FY 1983. Operational costs itemized for FY 1983 are for the additional food, clothing, and medical costs related to the increased inmate population.

Since medical costs are not budget in the Palmer Correctional Center component, \$500 per inmate was included in the cost estimate over and above the Palmer basic costs. This results in \$22,500 costs for FY 1983 and \$45,000 for FY 1984, with subsequent years increased by 9% per year for inflation.

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST Proposed
 Bill/Resolution No. CS for House Bill No. 657 (HESS)
 Title "An Act relating to penalties for driving while intoxicated . . ."
 Requested by _____ Date January 29, 1982

II. FISCAL DETAIL
 Agency Affected Dept. of Health & Social Services
 Program Category Affected Offender Confinement, Reformation, & Supervision
 BRU, Program, Or Subprogram(s) Affected Adult Confinement
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 82	FY 83	FY 84	FY 85	FY 86	FY 87
100 PERSONAL SERVICES			1,487.0	1,591.1	1,702.4	1,821.6
200 TRAVEL		3.0	24.0	26.2	28.5	31.1
300 CONTRACTUAL		50.0	357.9	390.1	425.2	463.5
400 COMMODITIES		135.6	593.6	647.0	705.3	768.7
500 EQUIPMENT			30.0			
600 LAND & STRUCTURES		5,180.0				
700 GRANTS, CLAIMS, ETC.			142.3	155.1	169.1	184.3
TOTAL		15,368.6	2,634.8	2,809.5	3,030.5	3,269.2

FUNDING (Thousands of Dollars)

GENERAL FUND		15,368.6	2,634.8	2,809.5	3,030.5	3,269.2
FEDERAL FUNDS						
OTHER (Specify Source)						

POSITIONS

FULL TIME		-0-	64	64	64	64
PART TIME						
TEMPORARY						

III. ANALYSIS (See Fiscal Note Preparation Instruction, Section III)

A. Enactment of this bill will have a significant fiscal impact on the

Division of Adult Corrections. The major thrust of this proposed legislation is to lengthen the minimum sentences for persons convicted of driving while intoxicated. Amendments to the section of the statute addressing driving with a cancelled, suspended, or revoked license will result in a fiscal impact, also.

Minimum sentence length for first time drunk driving offenders is increased tenfold (from 3 days to 30 days); second offenders sentences are increased eighteenfold (from 10 days to 180 days); and third time, and subsequent, offenders are increased from 10 days (minimum) to 5 years.

IV. DATE February 3, 1982

PREPARED BY *Roger C. Lange*
 AGENCY Division of Adult Corrections
 PHONE 465-3376

Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)
 33-001 (Rev. 12/81)

FISCAL NOTE

CS for House Bill No. 657 (HESS)

Page 2

B. The data used in estimating numbers of offenders for driving while intoxicated is from the master plan data base and current commitment cards. There were an estimated 18,000 admissions into the Alaska correctional system during 1981. The commitment cards give the offenses for which the persons were charged and average length of sentences. Estimates used in computing this fiscal note are, as follows:

1. 21.7% of all admissions into state correctional centers are for driving while intoxicated.
2. There are approximately 18,000 admissions per year into state correctional centers. This results in approximately 3,900 DWI admissions.
3. Of the 18,000 admissions, approximately 45% are second admissions for the same offense. Subsequent admissions would include circumstances such as transfer to another state correctional center, readmission of a person who was previously released on his own recognizance or bail, etc. Therefore, there are approximately 55% unduplicated admissions for persons arrested for DWI. This results in 2,145 individual unduplicated cases per year.
4. Approximately 75% of the DWI arrests are for first time offenders, 25% are repeat offenders. Therefore, there are 1,609 first time offenders and 536 repeat offenders annually for driving while intoxicated.
5. First time offenders now serve an average of 55 hours in confinement. This is equal to approximately 10 person-years of confinement. Repeat offenders now serve an average of 206 hours in confinement. This is equal to approximately 12.6 person years of confinement. Therefore, approximately 22.6 beds are currently occupied full time by DWI offenders.

C. Fiscal Impact if CS for House Bill No. 657 (HESS) is enacted:

1. Assumptions
 - a. There will be no significant change in the length of time presentenced DWI offenders spend in confinement.
 - b. There will be no significant change in the number of persons arrested for first time DWI offenses.
 - c. The number of repeat offenders will decline significantly under the proposed legislation and will stabilize at approximately one-half of the present number of offenders (approximately 265 per year). Of the repeat offenders, it is estimated that 255 would be second offenders, the remaining 10 would be for third and subsequent offenses.
 - d. Additional time served for convictions of traffic offenses while a person's driving license is suspended or revoked due to prior DWI offense is not amenable to accurate forecasting, but is assumed to result in a modest increase in confinement beds. The best guess for needs resulting from amending Section 28.15.291 is 10 beds.

- e. The average sentence length for offenders are estimated to be:

First offenders - 22.5 days (30-day minimum sentence, no suspension, no probation until minimum sentence served. Good time of one day for three served was considered applicable in all cases).

Second/Subsequent offenders - 6 months (8 months average minimum sentence length, no suspension, no probation until minimum sentence served. Good time of one day for three served was considered applicable in all cases).

- f. Additional beds required

(1.) 1,609 offenders x 22.5 days ÷ 365 equals approximately 100 beds, less 10 beds now utilized by first offenders equals 90 new beds.

- (2.) Second/Subsequent Offenders

265 offenders x 6 months ÷ 12 equals approximately 132.5 beds, less 12.6 beds now utilized by second/subsequent offenders equals 120 new beds.

(3.) Driving offenses while license suspended or revoked is estimated to be 10 new beds (see d above).

(4.) Therefore, it is estimated that 220 new beds will be needed in the state correctional system if CS for House Bill No. 657 is enacted.

(5) A significant impact will be experienced during the first year that this law is in force. This will result in overcrowded conditions within the existing state facilities if a temporary alternative cannot be provided.

D. Estimated Costs

1. Capital Expenditures

It would be anticipated that a 100-bed minimum security facility would be constructed in the Fairbanks area and a 120-bed minimum security facility would be constructed in the Anchorage area. Based on the fast track construction method utilized and cost per bed at the Palmer Addition, and considering one year of inflation at 15%, it is estimated that the cost will be \$69,000 per bed. Therefore, capital expenditures are estimated to be:

$$220 \times \$69,000 = \$15,180,000.$$

2. Operating costs

a. Personal Services

It is estimated that a total of 64 new positions would be required to operate the two new facilities. The numbers of positions, by class specifications, are:

<u>No. of Positions</u>	<u>Class Title</u>
2	Superintendent
2	Assistant Superintendent
2	Administrative Officer I
2	Clerk III
2	Clerk II
10	Correctional Officer III
24	Correctional Officer II
4	Probation Officer II
4	Food Services Worker/Cook
10	Nurse
2	Maintenance Mechanic
<hr/>	
64	

Estimated cost for FY 1984 was computed using the 1982 negotiated salary schedule with 7% inflation added for all subsequent fiscal years.

b. All Other Expenditure Categories

The continuation budget for Palmer Correctional Center was used as a basis for estimating operational costs, since it serves the approximate classification of inmates as would be served in the two new facilities. The figures were adjusted to reflect 220 inmates as compared to the 100 inmates budgeted for continuation of the existing Palmer Correctional Center. No area differential in costs between Fairbanks and Palmer was considered. A 9% inflation factor was utilized for all fiscal years after FY 1983.

It is estimated that a minimum of an additional 100 full time equivalent inmates would be incarcerated during FY 1983. Operational costs itemized for FY 1983 are for the additional food, clothing, and medical costs related to the increased inmate population.

Since medical costs are not budget in the Palmer Correctional Center component, \$500 per inmate was included in the cost estimate over and above the Palmer basic costs. This results in \$50,000 costs for FY 1983 and \$119,900 for FY 1984, with subsequent years increased by 9% per year for inflation.



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

February 4, 1982

The Honorable Joe Hayes
Speaker, House of Representatives
Pouch V
Juneau, Ak 99811

Dear Mr. Speaker:

The House Health, Education and Social Services Committee passed out CS HB 657 February 4, 1982. The original HB 657 had no projected fiscal impact. As amended, however, fiscal effects are involved. Due to this, the H.E.S.S. Committee requests that the House Finance Committee be added as the final committee of referral.

Sincerely,

A handwritten signature in cursive script that reads "Terry Martin".

Rep. Terry Martin
Vice Chairman
House H.E.S.S.

REPRESENTATIVE SALLY SMITH
321 CHURCH STREET • FAIRBANKS, ALASKA 99701

POUCH V • JUNEAU, ALASKA 99811

Mike -

Attached is the
alcohol (drunk
driving bill) I
mentioned in
Committee. Hope
you may be willing
for a Conte intro.

Sally

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

December 9, 1981

SUBJECT: Penalties for driving while intoxicated
(Work Order No. 12-2044)

TO: Representative Sally Smith

FROM: Diane T. Colvin *[Signature]*
Legislative Counsel

Enclosed please find the bill draft you requested increasing penalties for the offense of driving while intoxicated. The bill incorporates the proposals you submitted to us with certain exceptions. Some features were deleted or modified for legal reasons; these are discussed below.

1. Mandatory breathalyzer -- refusal constitutes a felony. We do not find a problem with making refusal to submit to a chemical test a separate crime. In fact, such a provision was enacted in Nebraska and withstood a court challenge. See State v. Manley, 202 N.W.2d 831 (1972).

It is questionable, however, to make refusal to submit to a test a felony. This would mean that refusal would carry a heavier penalty than conviction of the offense of drunk driving itself. The offender could argue that he was left with no choice but to submit; that the statute compelled him to take the test. Because of this, the statute could be challenged on Fifth Amendment grounds (privilege against self incrimination) and due process grounds.

Since such a challenge could likely succeed, we have drafted the bill making refusal to submit a misdemeanor. This would subject an offender to a possible penalty of one year imprisonment and a \$5,000 fine for the separate crime of refusing to submit. This should be sufficient to accomplish your purpose of decreasing the incidence of refusal, and yet not risk the potential legal problems discussed above.

2. Special license plates for persons convicted of driving while intoxicated. We have eliminated this proposal because it almost certainly would not withstand court challenge. A similar provision was struck down by the U.S. Supreme Court in Wisconsin v. Constantineau, 91 S.Ct. 507 (1971). The statute in question in that case, enacted in Wisconsin, allowed notices to be posted in retail liquor outlets forbidding sales or gifts of liquor to certain individuals. The Court held the act unconstitutional, finding that such a posting not only denied a person the ability to purchase alcohol but exposed a person to disgrace and public ridicule as well. The Court stated that before a state could impose such a stigma on a person, notice and an opportunity to be heard must be given.

This means that in order to issue special license plates, procedural due process requirements would have to be met. This would be administratively unwieldy, and difficult to draft as well, since standards would have to be developed to satisfy due process requirements.

In addition, the statute could still be challenged on equal protection grounds. The state would have to show why drunk drivers are more dangerous and deserve "marking" more than any other class of driver such as reckless drivers, negligent drivers, hit and run drivers or even inattentive drivers. This would be impossible to do.

For these reasons, we have not incorporated the special license plate proposal into the draft bill.

3. Confiscation of vehicle -- owner maintaining financial responsibility to lienholder. We have included the vehicle confiscation idea in the draft, although we would caution that it is certainly open to legal challenge. As a general rule, forfeiture proceedings are disfavored by the law, and such statutes are strictly construed against the government. F/V American Eagle v. State, 620 P.2d 657 (Alaska 1980). The usual justification for confiscation and forfeiture, which applies in fish and game matters and in narcotics cases, is to prevent possible use of the property in further illegal acts. This purpose is not served here, since under the proposed scheme the driver is confined to jail and his privilege to drive suspended -- he would be unable to use the vehicle in any event.

Representative Sally Smith

Page 3

December 9, 1981

Despite the potential problems, we have included a forfeiture procedure in the bill, based on present fish and game proceedings. We have not required the owner/driver to maintain financial responsibility -- this may be impossible in many cases with the owner confined to jail for lengthy periods of time. Rather, we have included the usual confiscation and forfeiture procedures, providing for an opportunity for a remission hearing in court, thus allowing an innocent lienholder opportunity to be reimbursed for its interest in a forfeited vehicle.

4. Accidents occurring while license suspended for drunk driving -- attempted murder charge. You indicated that a person involved in an accident during a period of license suspension for drunk driving should be charged with attempted murder, and if convicted, should be sentenced to twenty years imprisonment. We have not included this proposal because in order to be convicted of murder, either in the first degree or in the second degree, the person must act with intent. Intoxication could be used to show that the person could not have acted with the requisite intent.

However, the district attorney can now, if the necessary elements are present, charge a person involved in an accident with manslaughter or criminally negligent homicide. If convicted, the defendant would be sentenced under present statutory provisions (manslaughter is a class A felony; criminally negligent homicide is a class C felony).

Finally, we should caution that, in addition to the legal problems discussed above, any of the penalties and especially the consecutive penalties included in the draft bill are subject to challenge as excessive, particularly since they exceed current penalties for the most violent, serious crimes and for habitual offenders as well. We have included the penalties as suggested, however, in accordance with your request.

DTC:ljb

Enclosure

PROPOSED CS FOR HB 657 (HESS)

"An Act relating to penalties for driving while intoxicated"

Sec. 1 AS 28.15.181(b) amended

Proposed CS eliminates (a)(s)"driving or operating a motor vehicle while under the influence of alcohol or another drug" from the coverage of present section (b) scheme relating to court suspensions, revocations and limitations of driver's licenses.

SEC. 2 AS 28.15.181 "Court suspensions, revocations, and limitation" is amended by adding new subsection (c).

An individual convicted of DWI (a)(s) above shall have his driver's license revoked for at least 90 days on the first conviction; 2 years upon second conviction; and 5 years upon the third or subsequent conviction. No limited license privilege (ex. may drive to work, etc.) may be granted. No restoration of driving privileges until expiration of the revocation period.

SEC. 3 AS 28.15.291 amended

(a) Should an individual drive while his license is suspended from DWI charges, a minimum imprisonment penalty of 120 consecutive hours is imposed. If license was revoked for 5 years, minimum sentence shall be 5 years imprisonment.

(b) When a person's license is cancelled, limited, suspended, or revoked he shall be informed of the penalties for violating such; including the new DWI penalties when such is the violation.

SEC. 4 AS 28.35.030 (b) amended

(b) DWI is changed from a class A misdemeanor to a class A felony.

Sec. 5 AS 28.35.030(c) amended

Upon the first DWI conviction, minimum sentence shall be 30 consecutive days rather than 3. Second conviction- 180 days rather than 10. Upon a 3rd conviction- 5 years. Fourth or subsequent conviction- 5 years per conviction plus 5 years if last offense committed while license revoked. Alcohol education or rehabilitation shall be imposed by the court.

Sec. 6 AS 28.35.030 New subsection

(e) In DWI cases, motor vehicle may be seized. Upon conviction, such vehicle is forfeited to the state and shall be disposed of as the court directs. Unless the court orders such vehicle forfeited, it shall be returned to its owner after the case is complete, fines paid and sentence served.

(f) An encumbered motor vehicle is taken by the state subject to that encumbrance provided the secured party neither had knowledge nor consented to the offense.

Sec. 7 AS 28.35.032(a) Amended

(a) Officer must advise motorist refusing to submit to a chemical test of his breath that such refusal is a misdemeanor.

SEC. 8 AS 28.35.032 New subsection (a) refusal to submit to a chemical test is a Class A misdemeanor.

H

B

665

COMMITTEE REPORT

HOUSE

(5)

1/14/82

FURTHER: JUDICIARY

Date: 2/2/82

Mr. Speaker:

HEALTH, EDUCATION &
SOCIAL SERVICES

The Committee on _____ has had HB 665

"An Act relating to smoking in public places."

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s) () with zero fiscal impact
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation () with zero fiscal impact
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

J. Malone

Steve Martin

J. Smith

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

A M E N D M E N T

OFFERED IN THE HOUSE:

By: House HESS

To: _____ HOUSE BILL No. HB 665

SENATE BILL No. _____

PAGE: 1

LINE: 9

Insert after "...public schools"

"including"University of Alaska and Community Colleges"

MARCH 23, 1982

Representative Mike Beirne
Pouch V
Juneau, Alaska 99811

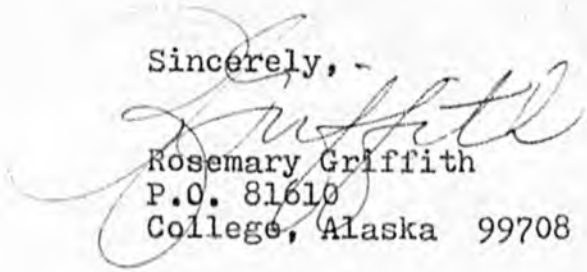
Dear Rep. Beirne:

I am writing in support of House Bill 665. I am delighted that Alaska is finally taking a positive step in the direction of protecting non-smokers right to breathe clean air. While I believe that people should be free to do as they wish, it would be wonderful if the day would come when we could avoid smoke-filled situations if we choose.

I hope that the future will bring legislative proposals to ban smoking in all public areas (public buildings, elevators, grocery stores, etc.) so that those who choose not to smoke will not be forced to by their neighbors that do.

Your support and consideration of these bills is greatly appreciated.

Sincerely, -



Rosemary Griffith
P.O. 81610
College, Alaska 99708

Introduced: 1/14/82
Referred: Health, Education &
Social Services and Judiciary

1 IN THE HOUSE

BY ROGERS AND MILLER

2 HOUSE BILL NO. 665

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to smoking in public places."

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

8 * Section 1. AS 18.35.300(3) is amended to read:

9 (3) a public school; *including at the University of Alaska* [OR IN A ROOM, CHAMBER, PLACE OF MEETING

10 OR PUBLIC ASSEMBLY UNDER THE CONTROL OF THE STATE, OR A DEPARTMENT OR
11 AGENCY OF THE STATE, WHILE A PUBLIC MEETING HELD UNDER THE AUSPICES OF
12 THE STATE, OR A DEPARTMENT OR AGENCY OF THE STATE, IS IN PROGRESS;]

13 * Sec. 2. AS 18.35.300 is amended by adding new paragraphs to read:

14 (7) a room in which a meeting is being conducted by a legisla-
15 tive body, a board of regents, or an administrative body, board, commis-
16 sion, committee, subcommittee, authority, council, agency, or other
17 organization, including a subordinate unit of these groups, of the state
18 or a political subdivision of the state, including but not limited to a
19 municipality, borough, school board, and all other boards, agencies,
20 assemblies, councils, departments, divisions, bureaus, commissions or
21 organizations, advisory or otherwise, of the state or local government
22 supported in whole or in part by public money or authorized to spend
23 public money; or

24 (8) a room in which a jury is meeting.

(7) "remodeling" means any substantial modification of the physical structure or redesign and redecoration the value of which exceeds 10 per cent of the fair market value of the structure. (§ 1 ch 58 SLA 1974; am § 3 ch 78 SLA 1976; am Executive Order No. 51, § 36 (1981))

Effect of amendments. — The 1976 amendment added paragraph (7). The 1981 amendment, effective July 1, 1981, substituted "Department of Envi-

ronmental Conservation" for "Department of Health and Social Services" in paragraph (1).

Article 4. Health Nuisances.

Section	Section
300. Smoking in public places, vehicles prohibited	330. Display of smoking prohibited signs
310. Exemptions	340. Penalties
320. Smoking areas provided	350. Enforcement authority
	360. Regulations

Sec. 18.35.300. Smoking in public places, vehicles prohibited. Smoking in any form may constitute a nuisance and is prohibited in the following areas, unless otherwise exempted by AS 18.35.010 — 18.35.340:

- (1) a train, limousine for hire, bus, state-operated ferry vessel, or elevator;
- (2) a library, indoor theater, museum, lecture or concert hall, gymnasium, or swimming pool or other indoor publicly owned and operated place of entertainment or recreation;
- (3) a public school; or in a room, chamber, place of meeting or public assembly under the control of the state, or a department or agency of the state, while a public meeting held under the auspices of the state, or a department or agency of the state, is in progress;
- (4) the public waiting room of laboratories associated with health care or the healing arts;
- (5) the waiting room, restroom, lobby or hallway of a hospital, nursing home, rest home or other health care institution or facility; or
- (6) a place of business in which the owner, manager, proprietor, or other person who has control of the premises posts a sign conveying the message that smoking is prohibited by law. (§ 1 ch 125 SLA 1975)

Sec. 18.35.310. Exemptions. Smoking in the places or vehicles set out in AS 18.35.300 is permitted if

- (1) the smoking is confined to areas which are specifically designated as smoking areas;
- (2) the place, vehicle, or passenger carrier is being used for a private gathering or affair which is privately sponsored and is not open to the general public;
- (3) the smoking is done by performers upon the stage as part of a

(4) the state, or a department or agency of the state, has exempted the building or room over which it has control on the basis that the building or room is sufficiently well-ventilated by natural or mechanical means. (§ 1 ch 125 SLA 1975)

Sec. 18.35.320. Smoking areas provided. (a) In a building covered by AS 18.35.300(2), (3) or (5), reasonable smoking areas must be provided, unless prohibited for the protection of the public safety or the protection and preservation of the building and its contents.

(b) To the extent practicable, the state shall require its lessees or sublessees to provide separate smoking areas. (§ 1 ch 125 SLA 1975)

Sec. 18.35.330. Display of smoking prohibited signs. Every owner, manager, proprietor or other person who has control of a place or vehicle set out in AS 18.35.300(1) — (5) shall conspicuously display in the place or vehicle a sign reading "Smoking Prohibited by Law." (§ 1 ch 125 SLA 1975)

Sec. 18.35.340. Penalties. (a) A person who wilfully violates the provisions of AS 18.35.300 is punishable by a civil fine of not less than \$5 nor more than \$25 for each offense.

(b) A person who wilfully violates AS 18.35.330 is punishable by a civil fine of not less than \$10 nor more than \$100 for each offense.

(c) Punishment under this section shall be initiated only by civil complaint or citation. The court may establish procedures for payment of fines by mail. (§ 1 ch 125 SLA 1975)

Sec. 18.35.350. Enforcement authority. The commissioner of environmental conservation or his designee is responsible for enforcing the provisions of AS 18.35.300 — 18.35.340 and the regulations adopted under AS 18.35.360. This section does not limit the authority of peace officers. (Executive Order No. 51, § 37 (1981).

Effective dates. — Section 43 of Executive Order No. 51 (1981) makes this section effective July 1, 1981.
Revisor's notes. — The words "provisions of" were deleted preceding "regulations" in the first sentence and the word "section" was added in the second sentence by the revisor of statutes under AS 01.05.031.

Sec. 18.35.360. Regulations. The Department of Environmental Conservation may adopt regulations to implement the provisions of AS 18.35.300 — 18.35.350. (Executive Order No. 51, § 37 (1981))

Effective dates. — Section 43 of Executive Order No. 51 (1981) makes this section effective July 1, 1981.

18 COMMUNITY & REGIONAL AFFAIRS

MISCELLANEOUS BOARDS & COMMISSIONS

COMPLAINT PROCEDURE.

Who observes a violation of this chapter AS 18.35.300 - 18.35.360 may file a complaint with the department.

The complainant will provide an affidavit describing the violation. The complainant may describe the observed violation and a form agreement in which the complainant may promise to testify in court concerning the observed violation if necessary.

The complainant executes both documents with the assistance of the department's office. Will, in its discretion, file a claim in small claims court for a civil penalty and attorney's fees against the person observed violating this chapter AS 18.35.300 - 18.35.360. (Eff. 8/28/81,

- AS 18.35.340 AS 46.03.020
- AS 18.35.350 AS 46.03.140
- AS 18.35.360

WAIVER OF PROVISIONS.

The department will, in its discretion, waive the provisions of AS AAC 55.010 - 18 AAC 55.010 if the complainant demonstrates that the public health or safety is not impaired and that the requirements of AS 18.35.300 - 18.35.360 are satisfied.

A waiver must be made in writing. The department will answer a request for a waiver within 30 days after receipt of the request. (AS 18.35.300 - 18.35.360)

The department will answer a request for a waiver within 30 days after receipt of the request. (AS 18.35.300 - 18.35.360)

- AS 18.35.340 AS 46.03.020
- AS 18.35.350 AS 46.03.140
- AS 18.35.360

DEFINITIONS. (a) In this

- (1) "ASHRAE" means the American Society of Heating, Refrigeration and Air Conditioning Engineers;
- (2) "complainant" means a person who has observed a violation of this chapter and notifies the department;
- (3) "department" means the Department of Environmental Conservation.

(b) In AS 18.35.300 - 18.35.360 "public meeting" means a regular or special meeting of a legislative body, a board of regents, or an administrative body of the state, including but not limited to their boards, agencies, assemblies, councils, departments, divisions, bureaus, commissions, committees, offices, organizations, and other subordinate units, advisory or otherwise, supported in whole or in part by public money or authorized to spend public money; however, "public meeting" does not include a meeting of

- (1) a judicial or quasi-judicial body solely to make a decision in an adjudicatory proceeding;
- (2) a jury;
- (3) a parole or pardon board;
- (4) the medical staff of a hospital; or
- (5) the governing body or a committee of a hospital solely to act upon matters of professional qualifications, privileges, or discipline.

(c) In this chapter and in AS 18.35.300 - 18.35.360

- (1) "bus" means a self-propelled vehicle with capacity for carrying more than 10 passengers which is used on public highways to transport passengers for compensation;
- (2) "limousine for hire" means a self-propelled vehicle with capacity for carrying six to 10 passengers which is used on public highways to transport passengers for compensation between a transportation terminal and other designated points;
- (3) "other person who has control" means the agent of the owner, manager, or proprietor

HB 665 SMOKING IN PUBLIC PLACES

PROPOSED AMENDMENTS

*Section 1. AS 18.35.300 is amended to read:

- (9) a place used as a waiting room for paying passengers of a vessel or winged or wheeled vehicle;
- (10) in any place where food or beverage is offered to the public for sale and on-premise consumption.

*Section 2. AS 18.35.310 is amended to read:

- (1) Smoking in the places or vehicles set out in in AS 18.35.300 is permitted if
 - (a) the smoking is confined to areas which are specifically designated as smoking areas;
 - (b) the place, vehicle or passenger carrier is being used for a private gathering or affair which is privately sponsored and is not open to the general public;
 - (c) the smoking is done by performers upon the stage as part of a theatrical production; or
 - (d) the state, or a department or an agency of the state, has exempted the building or room over which it has control on the basis that the building or room is sufficiently well ventilated by natural or mechanical means.
- (2) Areas may be designated as smoking areas only if
 - (1) they are ventilated in a manner which will prevent smoke generated within them from creating a nuisance in adjacent areas;
 - (2) neither their combined seating capacity nor their combined area are greater than one half of the total seating capacity or area available to the public in the place or vehicle; and
 - (3) the areas where smoking is prohibited are not of inferior quality, use or function to the areas which are designated for smoking.

PAGE 2

Proposed Amendments to HB 665

*Section . AS 18.35. 330 is amended to read:

Every owner, manager, proprietor, or other person who has control of a place or vehicle set out in AS 18.35.300 (1)-(5) and (7)-(10) shall conspicuously display in the place or vehicle a sign reading "smoking prohibited by law".

Prepared by Larry Edwards ~~586-6942~~

no longer in town

#

12023 NL FAIRBANKS ALASKA 61 03-23 145P AST
PMS REP MIKE BEIRNE

1769

JUN

MYSELF AND A GROUP OF MY CUSTOMERS ARE GOING TO BE VERY INTERESTED
IN HOW YOU VOTE ON HB665 WE SHOULD THINK YOU HAVE MORE IMPORTANT
THINGS TO DO THAN PROHIBIT SMOKING IN JURY ROOMS OTHER STATES
HAVE TIME TO MAKE UP STUPID LAWS BUT I THINK ALASKA HAS HER
FILL OF THEM THANK YOU

DAVID SHAW PIPE N POUCH TOBACCO SHOP
3627 AIRPORT WAY FAIRBANKS AK 99701

07
7
PM
23
MAR
82

TELEGRAM

ALASCOM, INC.
PHONE: 586-6442
DUNEAU, AK 99802



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

March 26, 1982

AGENDA

- HB 412 Dental Disease Prevention Program ✓
- HB 798 Disclosure/Vital Statistics ✓
- SB 399 Relating to Adoption
- HB 801 Sp. Approp. to City of Kodiak for day care Center
- CSSB 692 Relating to the duties of coroners and the coroners inquest.
- HB 665 Smoking in Public Places. ✓

Witnesses:

- ✓ HB 412 Rep. Thelma Buchholdt
- Jana Varrati
- Dr. David Spence, DHSS

SB 399 Joyce Lanier

① HB 665 Rep. Brian Rogers

P.O. Box 343
Fairbanks, AK 99707
March 8, 1982


Representative Mike Beirne
Pouch V
Juneau, AK 99811

Dear Sir:

I am writing in support of House Bill 665. Last summer I served on jury duty, which I feel is a part of my responsibility as an American citizen. However, the smoke-filled jury waiting room, as well as the adjacent hall area, was not only uncomfortable, but a health hazard as well.

Your consideration and aid in regard to this bill will be greatly appreciated.

Sincerely,


Elizabeth M. Klaich

Alaska State Legislature



Senate

SENATOR MIKE COLLETTA

February 19, 1982

Mrs. Barbara Petruska
P.O. Box 4-1910
Anchorage, Alaska 99509

Dear Mrs. Petruska:

Thank you for your petition of February 1, listing the names of interested persons in HB 665; inclusion of a non-smoking area in public restaurants.

I have taken the liberty of forwarding your petition to the House Health, Education and Social Services Committee (HESS) for review by said committee.

By way of HB 10, Representative Miller introduced legislation pertaining to food and smoking in public places in February, 1981. I believe that HB 665 is a comprehensive bill that would tend to benefit the public more. Inclusion of the ammendment you suggest could indeed accommodate the smoker, as well as the non-smoker. The policy of a "non-smoking section" has already been implemented at many restaurants in the Anchorage area with proven success.

Mrs. Petruska, please be assured I will support measures that would include this ammendment to HB 665.

Thank you again for your comments and interest in this bill. Legislation that may be of interest to you in the future is of my concern, please feel free to contact my office any time.

Sincerely,

Mike Colletta

NO 213

Representative Rogers
Representative Miller
House HESS ✓

Barb
is this your bill?
Jane

P.O. Box 4-1910
Anchorage, Alaska 99509

February 1, 1982

Rep. Bierne
Health, Education and Social Services
Pouch V
Juneau, Alaska 99811

Dear Rep. Bierne:

We urge you to make an amendment to House Bill 665 stipulating that all restaurants provide a non-smoking section in their dining areas. This has been done in several states and proved most effective as both smokers and non-smokers are very satisfied with the arrangement.

Sincerely,

Mrs. Barbara Petruska

Barbara Petruska

Maria McLaughlin 3841 corner bay St AK
Lianne Wesley POB 1251 Anchorage, AK 99510
(5520 E 97th, Anchorage, AK)
Jeffrey E Wesley P.O. Box 1251 Anchorage, AK 99570
Kym Hohl P.O. Box 4-1264 Anchorage, AK 99509
Michael Baffay 1321 Latouche St Anchorage 99501
Jan Ayette SRA Box 376 P Anchorage 99507
Jackie Williams SRA Box 489 Anchorage, 99507
Joyce Myers 454 Atlantis, Anchorage, 99502
Arlene Creason SRA 1551-S Anchorage, AK 99507
Leary Entwistle P.O. Box 4-1910, Anch. AK 99509
Dumb SRA 1903 A Anchorage AK 99507
Jane Warner SRA Box 480 D anchorage, AK 99507
Laura Harton SRA Box 1580 Z Anch. AK 99507
Martha Ethington SRA. Box 948-A Anch AK 99502
Lorn Washburn SRA Box 1515 C anch ak 99507
Dyanne L. Combs P.O. Box 10-252 Anch. ak. 99511
Mary Westra SRA Box 331 " " 99507

Dianne Walle SRA Box 720 Anch 99507
Virginia L Pettibon SRA Box 404 Anch 99507
LaPril Christian SRA Box 1507-R Anch 99507
Susan Hood SRA 500 B Anch 99507
Effie E. McEwen Box 254 SRA Anch. AK 99507
Susette Walling SRA Box 493 Anch. AK 99507
Rekema Kwak SRA Box 1548M Anch. AK 99507
Julie Moody SRA Box 477-w Anch. AK 99507
Jacquelyn Shea P.O. Box 1367 Anch. AK 99510
Dean Troyer Box 189 Dillingham AK 99576
John W. Winkler 1611 Early View Dr. Anchorage, AK 99504
Bick Moody SRA Box 477-w Anch. AK 99507
Kerin Apgau SRA Box 1548M Anch AK 99507
David J. Tremont Box 64 Juneau AK 99802