

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2278 HHESS HB 631 - HB 681

2278

Do you know someone with ALS? (Lou Gehrig's disease)

If you do, then you know how devastating ALS can be. But, you may not know that throughout the country, friends and relatives of ALS patients are doing something about ALS by setting up Local Chapters of the National ALS Foundation.

Local Chapters are resource centers—places where ALS patients and their families can find out what services are available. They can get together for rap sessions, to share and ease the burden of ALS, and to find out that they are not alone.

Local Chapters can generate public awareness—raise money for the all important research—and bring us one step closer to finding a cure for ALS.

To learn how you can help set up a Local Chapter and to be part of a growing, nationwide organization that's doing something about ALS, contact the National ALS Foundation, 185 Madison Avenue, New York, NY 10016, or call (212) 679-4016.

Image for this message contributed by Newsweek Inc.

LIFE/STYLE



Back home: Darcy Reeves (front) with mother and sister

tans" who offered to take her to their house. The Port Authority police were also converging on her and won the contest, she was soon on a plane headed home. "You soon find out that all those 'good people' who want to 'help you' want something in return," says a Philadelphia 16-year-old who was not so lucky—and is now pregnant by her newfound "friend."

Pimps: Hustlers operate in a netherworld all their own. In Hollywood, for instance, there's a wage scale of sorts. Attractive new arrivals can earn top dollar (\$250 or so, on up) from the homosexual "chicken hawks" who cruise Santa Monica Boulevard in search of young boys. "Everyone knows the regulars, so when they see a new face, they have to try you," explains one young denizen. "After they get to know you, though, you have to do more and more to earn your money." Times can be even tougher for girls, who usually have pimps to support, and staying straight is often well-nigh impossible. L.A. police detective Larry Broadhurst still shudders over one young victim from two years ago. "She was a real good-looking blond girl," he recalls. "A pimp approached her to work for him, and she refused. Told him she didn't want to have anything to do with his business." The pimp didn't give up, he followed her and pounded on her motel door. "When she opened it, this guy just stuck a knife right through her head."

Authorities are trying to provide more effective refuge. In Boston, the vans from Bridge Over Troubled Waters roll right up to the kids on the streets, offering dentists,

doctors and drug therapy. At many shelters the rules are stricter than those at the homes the kids have left at Houston's Family Connection, residents must rise at 8:30 a.m., cook all their own meals, clean their rooms and request permission to stay out after 5:30. Generally, the shelters' goal is to identify family problems, begin counseling and return the runaways—except to parents who abuse them. The success rate runs anywhere from 50 to 70 percent. "We desperately need more places like this," says Sandra Reeves of Houston, whose 15-year-old daughter, Darcy, has run away three times, only to be reunited through family counseling. "Please tell mothers and fathers that their children can come home."

To help those children who resolutely won't—or can't—go home again, states and municipalities have also been changing their juvenile laws. At least a dozen states now allow courts to "emancipate" minors, so that they may hold jobs and

apartments on their own, in Connecticut, a 16-year-old can effectively "divorce" abusive parents and be treated as an adult. Some law-enforcement officials are less than enthusiastic about the liberalization trend, claiming they're now unable to step in and aid troubled runaways. But some frustrated parents are saying "good riddance" to incorrigible adolescents. Toughlove, the Pennsylvania-based parents organization, suggests families lock the doors behind difficult runaways until they promise to change—while providing them with a list of other Toughlovers who will act as caretakers. In several states, wits-end parents can also ask the courts to designate perennial troublemakers "persons in need of supervision"; they can then be picked up for running away, and a judge can impose psychiatric care or other treatment.

Rebels: To be sure, not every vagabond child can be classified as either innocent or incorrigible. Some classic rebels without cause still take off from pure pique or boredom. Beth, 16, showed up at a shelter in Prince Georges County, Md., claiming she had been maltreated by her mother, the "abuse" turned out to be a failure to provide designer jeans. But many experts say such cases represent a declining minority. "There is the child who is just too big for his britches," concedes Alice O'Shea, chief of the child-advocate unit in Philadelphia's Office of the Public Defender. "But they are the minority." Experts say only 10 percent of runaways qualify as "spoiled brats."

Authorities worry that s...med juvenile

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Facilities won't be able to handle an influx of teen-agers who jump, or are pushed out, on their own. Financing for shelters is precarious, although Congress authorized more than \$20 million, the administration proposed only \$6.6 million in the current budget. Several senators managed to boost the figure to \$18 million. Even that amount would provide less than \$18 per runaway—and the budget battle must be fought again when the current funding expires Dec. 15. "The private sector cannot and will not pick this program up," says Rep. Pat Williams of Montana. "This is a bedpan program, the kind that no one wants to get involved in, and that is why the Feds got into it in the first place."

Ultimate Rejection: Yet even if sufficient money could be found to put counselors on every street corner, more fundamental questions would remain. One's own home is, after all, supposed to be the place where they have to take you in, no matter what. Being forced to leave it can be the ultimate rejection. Sister Dolores Gattamuth of New York's Noah's Ark shelter deplors "the Kleenex mentality" that brings most young charges to her door. "We live in a society where we use things and just throw them away," she says. "I swear, a lot of people have this attitude toward kids." And so the throw-away children pile up, from New York to California, to be exploited and brutalized. Sooner or later, those who cast them off must realize that children are not so neatly disposable. The longer they remain on the streets, the less chance they can ever be reclaimed—and the more they will cost everyone.

LYNN LANGWAY is GORENSEE MICHAEL in *N.Y.*; MARY FORD is Washington; DEANNE H. McDONALD is *Portrait of the Artist as a Young Man*; RICK RUIZ is *U.S. News*.

Lookout, Father Ritter in Times Square



Alaska State Legislature



House of Representatives

John J. Liska

March 26, 1984

MEMORANDUM

TO: Rep. Mae Tischer, Chairman - Health, Education and Social Services

FROM: Rep. John J. Liska

SUBJECT: HB 631, "An Act relating to runaway children."

The purpose of this bill is three fold.

- a. Section 1 - is an attempt to require by law a minor to be accountable to either parents at home or a guardian at a foster home or be placed in an appropriate institution.

Presently, if a minor runs away from home, and he is not breaking any laws, he is free to do as he wishes. The intention behind our bill is - The child does not have the maturity to exist in today's society without becoming a subject of prey for a variety of undesirable types of people. If you will refer to item D, Article number 1 - in your packet, it clearly describes what happens to these run away children.

While it is not the intention to violate the rights of any child, we feel it is the responsibility of either the parents of the State to be in control of the minor because at this stage in their life they are not mature enough to be able to function in society on their own.

Section C refers to a minor who refuses to reside with the parents, and who's custody has been transferred to the state, not because of abuse, neglect or abandonment, the minor has just decided he does not want to live at home. The parents of such a minor will no longer be responsible for the support of such a minor. Simply put, if the child refuses to live at home by the parents rules, the parents can legally be declared not responsible for the support of the child. This will encourage the child to work this out with their parents. Additionally, it will encourage the Department of Health and Social Services to recommend the minors go back to their families due to additional state costs.

And the last section of the bill states that a peace officer shall make a reasonable effort to locate a minor who is evading his guardian. Presently the police can, if they want to but they don't have to, try to locate a run away child.

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Additionally, it is essential in my opinion that these children not be allowed to remain on the streets, even for a couple of days or long enough to decide at a court hearing whether or not they are to be picked up.

I refer to item D, Article number 2, the longer they are on the streets the more likely they will become involved in situations that will have a life long effect on them. We feel they are incapable of protecting themselves from this involvement and therefor it is the states responsibility to protect them.

In your packet you will find the following for your informa:

- A. Copy of HB 631.
- B. Position Paper from Health, Education and Social Services.
- C. Memorandum from Jos Mapranath, Director-Division of Administrative Services, Department of Public Safety.
- D. Article regarding runaway children.
 1. From USA Today March 1979, Life in America, "The Adolescent Runaway: A national Problem"
 2. Newsweek Oct. 18, 1982, Life/Style, "A Nation of Runaway Kids"

JJL/tm

POSITION PAPER
HOUSE BILL 631

"An Act relating to runaway children."

OVERVIEW: This Bill proposes three major changes to the present statutes which deal with runaway children: 1. It adds a new subsection to Sec. 47.10.080, "Judgments and Orders," which automatically gives custody of runaway children to the Department for the purpose of institutional placement; 2. The Bill proposes relieving the parents (of runaway children) from any responsibility for support if the child is in the custody of someone other than the parent; and 3. This Bill adds to the responsibility of peace officers in two ways: (a.) the peace officer shall make efforts to locate runaway children; and (b.) the peace officer shall detain the runaway child.

STATEMENT OF THE PROBLEM

The Department of Health and Social Services provides services to runaway children through its field offices and by funding programs specifically designed to counsel runaway children and their families. These services can include placement of the runaway child; but the major goal is to reunite the family, and not support further family breakdown by premature or lengthy placement of the child. The child's action of running away from home is an indicator, a symptom of family dysfunction; the action is not criminal.

At the present time a runaway minor becomes a ward of the State under AS 47.10.010. Once a minor and his/her parents have participated in a court hearing the minor may be determined by the court to be a child in need of aid. If the court makes a child in need of aid determination, the court then orders the child committed to the Department for placement in an appropriate setting (AS 47.10.080 Judgments and Orders). The Department decides if a juvenile institution is the treatment service needed by the runaway child. If this Bill becomes law this whole procedure would be bypassed since this Bill essentially defines the runaway child as a ward of the State and then mandates the Department to place the child in a juvenile institution.

In 1977 the statutes were specifically changed to allow a runaway child to be defined as a child in need of aid and not a delinquent minor since running away from home was not defined as a crime. Before the statute changed, runaway children were detained in juvenile detention facilities; and it was recognized nationwide as an inadequate and punitive method for dealing with children and families who were in need of counseling services. With the lack of specificity in the current definition of "juvenile institution" and with the lack of definition in this proposed legislation, there is a high risk that children could/would be locked up in detention facilities with delinquents who have committed crimes.

POSITION PAPER

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In reference to the issue of parental support, currently when the Department of Health and Social Services is granted custody of a child, the parent remains responsible for the support of the child. The rationale for the continuation of a parent's responsibility is to encourage reunification of the family. The parents of a runaway child (who is found to be a child in need of aid and placed in the custody of the State) are not treated any differently than any other parents.

This Bill differentiates between the responsibilities of the parent of a runaway child whose custody has been given to the State as opposed to the responsibilities of the parent who has lost custody because of abuse and/or neglect. It is also conceivable that divorce custody support issues would be impacted since the wording of the Bill does not identify to whom custody has been given.

In regard to the third change which is proposed, running away is not currently defined as a crime; therefore, peace officers are not required to search for runaway children, nor are they required to detain a child when the child is located. The law enforcement agencies in the State of Alaska are not adequately staffed to assume the responsibility of even making reasonable efforts to locate runaway minors; and this law mandates peace officers to broaden their responsibility. If the Bill becomes law peace officers will also be mandated to detain minors relieving the police officer of any personal judgment in deciding whether or not a child should be detained.

RECOMMENDATION

The Department opposes this proposed legislation because: 1) It is not consistent with adjudication and dispositional statutes; 2) It appears to violate constitutional rights by excluding a hearing before granting custody to the Department; 3) It defines the placement need of the child without consideration of the individual case; 4) It provides for "special" treatment to parents of runaway children by relieving their responsibility for support; and 5) It endangers the non-criminal status of runaway children.

RECOMMENDED BY:

Michael L. Price, Director
Division of Family and
Youth Services

DATE:

APPROVED BY:

Robert London Smith
Robert London Smith, Ph. D.
Commissioner
Department of Health and
Social Services

DATE:

3/2/84

MEMORANDUM

State of Alaska JAN 11 1984

TO: Jay Hogan, Associate Director
Division of Budget Review
Office of Management and Budget
Office of the Governor

DATE: January 6, 1984

FILE NO:

TELEPHONE NO: 465-4322

FROM: *W. M. S.*
Pos Mapranath, Director
Division of Administrative Services
Department of Public Safety

SUBJECT: Criminally Exploited
Children

We have reviewed the materials submitted on criminally exploited children in Alaska and wish to express our support for the formation of a special law enforcement unit in Anchorage to deal with this serious problem. The unit would be a joint State and local cooperative effort similar to the successful Anchorage Metro Drug Unit. The cost is estimated at \$375.0 for FY 85 and would include one Anchorage P.D. Sergeant, one Anchorage Police Officer, one Anchorage clerical position, and one State Trooper Sergeant.

While we recognize the seriousness of criminal exploitation of children and that this is a growing problem, it is not feasible at this time for either the Anchorage Police Department or the Division of Alaska State Troopers to divert limited existing resources to form the proposed special unit. We would, however, be pleased to participate in such an effort if funding is provided. Therefore, I urge your support of an appropriation in the amount of \$375.0 to fund a special investigative unit on criminally exploited children.

Further details are available upon request. Your consideration of the requested appropriation to deal with this problem is appreciated.

cc: Commissioner Robert J. Sundberg
Commissioner Roger Endell
Peter B. McDowell, OMB
Brian Porter, Chief, APD
Colonel Michael C. Kolivosky, AST
Marroyce Hall, AK Juvenile Crime Commission
Sandra Borbridge, Spec. Assistant to the Governor
Allen Blume, Spec. Staff Assistant to the Governor

TO: Mrs Hall

FROM:

LAW ENFORCEMENT OFFICER KNOWLEDGABLE IN THE FIELD
OF CHILD EXPLOITATION. OFFICERS' NAME DELETED AS A
POLICY OF THE ANCHORAGE POLICE DEPARTMENT

DATE: October 20, 1981

SUBJECT: Criminal Activities of Juveniles in Anchorage

The purpose of this brief letter is to state my opinion of the status of current criminal activity involving juveniles in the Anchorage area. As you know I have been a police officer for the past five plus years in the Anchorage area and have worked for two different periods as a counselor at McLaughlin Youth Center. What I am stating here is strictly my opinion and does not represent in any way the viewpoint of my employer, the Anchorage Police Department.

During recent years Anchorage, as well as other communities within the State of Alaska, has experienced a tremendous increase in the level and depth of juvenile criminal activity. I believe that this is in part due to the tremendous growth that this community and this State have experienced in recent years and also because of the ineffectiveness of the criminal justice system to deal with the problem. My opinion of the current status of this activity has developed because of my involvement with juveniles in the community and as a result of my involvement in numerous investigations dealing with some of these problems.

What has developed in this community, as is characteristic of other communities in other States, is a network of criminal activity of which juveniles play a substantial part. This has developed to the extent that many of our young persons so exposed actually are a part of a sub-culture existing in the same space but at different times within the mainstream of our society. This subculture has a set of values and morals that are substantially different than those of the mainbody of our society and paramount within this set of values is the belief that youth equates to victimization. When a young person in our community is, for a variety and combination of reasons, forced out of the home environment and onto the "streets" (so to speak), he is subjected to an elaborate system of victimization on the part of adults within the community who, in essence, use youth to their advantage in the perpetuation of their criminal activities and personal desires.

A young person finding himself/herself within this position is necessarily forced to first, survive. In order to do this, the youth must engage in activities which an adult can support. These activities extend from theft to drug usage/sales and prostitution. Adults involved in these activities will promote the involvement of juveniles to the advantage of the adult while at the same time providing for the juvenile, as a minimum, the basic needs of food, clothing and shelter needed by the juvenile to survive. Juveniles within this community are extensively involved in theft, drugs and prostitution and these activities are promoted and supported by adults within the community. The extent of the

problem is largely unseen, even by many persons within the criminal justice system who deal with these juveniles daily as a part of their jobs, because the juvenile does not often talk about depth of involvement to anyone, other than his/her peer group and in some cases, not even to them. The system tends to look at each individual act by itself, failing to realize that there is a much greater problem, individually and collectively, lurking below the surface of the individual act.

As an example of what I have previously stated, I would estimate that about 50% of all the boys admitted to McLaughlin Youth Center have had some contact with adults of a homosexual nature. I would further estimate that in excess of 25% of these have had what could be termed deep involvement with more than one adult. Often, this kind of activity, develops in relation to other types of activity including the adult using the juvenile for drug sales and to provide merchandise for fencing operations of small and large scale. It is not surprising then, that when the juvenile so involved is picked up for a property crime or drug related offense, the depth of his involvement is never revealed to those professionals within the system that later deal with him.

Any juvenile who, for whatever reasons, spends more than a short amount of time living away from a home and on the "streets" will become involved to a greater or lesser degree in the kind of activity I have just described. Since the adult(s) involved use the juvenile for their purposes, the normal role of adult guidance in the maturing process is severely distorted which in turn perpetuates the problem as the juvenile grows older and changes from being the victim to the user. Over a period of time of involvement in these kinds of activities the youth gradually begins to believe that the only thing that will change his being used to another's advantage is age and that when that age is attained the role can be reversed.

It is virtually impossible for a young person to survive away from home without becoming involved in these kinds of activities because of the inability of a young person to legitimately obtain the basic necessities of food, clothing and shelter necessary for survival. It is further, virtually impossible, for that young person to steal enough through burglary, robbery or theft to attain these necessities. As such, the young person in that position, must turn to other more profitable activities. These activities involve drugs and prostitution. The problem is further compounded, in most cases, because of the emotional problems that the youth is experiencing as the result of his necessity to leave the home or to replace the home needs with persons met outside the home and his resultant turn towards drug useage. Drugs are expensive and not within the reach of the average young person through legitimate earnings. Adults desiring use of juveniles for sexual purposes are well aware of the juvenile's problems and will frequently provide, either the basic needs of survival, or drugs or both in return for sexual favors. In many cases, the juvenile can provide sexual favors for a much higher than could be obtained through other types of criminal activity. Adults desiring these kind of favors are very perceptive in being able to identify those juveniles that are in a position to which they would be susceptible to such propositions.

All this exists on a large scale in the Anchorage area. The extent of this existence increases steadily because of the inability of the Criminal Justice System and the community to control it. I would estimate that the extent of the

problem in Anchorage is proportionately greater than it is in other comparable communities in the United States, again for a variety of reasons. It is common knowledge that large scale fencing operations exist within the Anchorage area as is evidenced by the very small percentage of stolen property that is recovered and the relatively high frequency of recovery of stolen property from Alaska in other states. The extent of drug sales operations and drug useage amongst juveniles in the Anchorage area, again, is particularly high to the extent that it is virtually impossible for any young person not to be exposed to drugs, and not just marijuana, beginning in junior high school. The extent of juvenile prostitution activities, particularly as it involves males, is also extremely high in the Anchorage area to the degree that virtually all juveniles living out of the home are exposed and many still living at home are exposed.

There exists, in Anchorage, houses where juveniles on the run can find temporary shelter. These houses are provided either directly or indirectly by an adult. Unfortunately, there are strings attached to the use of the house by the juvenile. There have been commercial pornography operations involving sexual involvement of juveniles in the most perverted kinds of sexual activity operating in the Anchorage area. These operations have been directed by organizations from without the State of Alaska. There have been commercial prostitution operations within the Anchorage area in which juveniles were the merchandise and in which the fees paid were extremely high. There have been large scale drug operations in which juveniles, many of them going to school and living at home, were involved as the primary pushers. There have been large scale fencing operations in the Anchorage area in which merchandise stolen by juveniles was fenced by adults to create huge profits.

The depth of this whole problem is really seen when one realizes what becomes of the juvenile that is involved in these kinds of activities. All young persons growing up need adult guidance and emotional support in order that a moral and value system can develop. If the child receives, for this need, guidance and "emotional support" from persons that only wish to use him, it is understandable how we are developing a subculture of increasing size within the mainstream of our primary culture, in which the value system is as foreign as one would be from a far Eastern country. The use of youth for personal gain is as foreign to the basis of our culture as is the crime of murder and yet we are allowing this to exist, and to in fact grow, within the Anchorage area to a massive degree. Much of this problem is a criminal problem and must be solved through enforcement means. To this end we are sorely lacking.

LIFE IN AMERICA

The Adolescent Runaway:

A NATIONAL PROBLEM

"No one seems willing to accept clear responsibility for the thousands of children over 15 who stand outside the jurisdiction of family courts, criminal courts, and, in large part, the child welfare system."

by Bruce Ritter, O.F.M.

OVER a decade ago I became involved, almost against my will, with one of the major problems of any large metropolitan area when 10 runaway children from the ages of 13-17 sought my help, asking to sleep on the floor of my apartment in the East Village of New York City. I was exercising at that time a ministry of service to the poor. These particular 10 children had been severely abused by some punks in the neighborhood, had been burned out of the abandoned building in which they were living, and before that had been forced to make a pornographic movie in order to pay for their room and board.

Because I could not find any place for them in the child welfare system, I kept them—they simply moved into my apartment. No many hundreds of homeless young people began knocking on my door that I and my friends were forced to begin a new child care agency—some, that time, over 10 years ago. Overhead, Thoree has sheltered

many thousands of runaway and self-emancipated kids, returning many to their homes and keeping many for long-term care. Hundreds upon hundreds were victims of child abuse.

Many people are unaware of the enormous dimensions of the problem of runaways and homeless children in our society—or what can happen to them. Over 4,000,000 juveniles run away every year in this country. According to a New York City Police estimate, there are at least 20,000 runaways under 16 in New York City at any one time. If you add to that number the many thousands of self-emancipated youngsters between the ages of 16-18 and even the greater number between 19 and 21, the numbers of children on the streets are staggering.

These numbers are not just pulled out of a rhetorical hat. In the first year after the Covenant House crisis center, Under Twenty One, was opened (April 1, 1977), well over 4,000 children have sought out help; over 500 of them were 15 and under, another 900 were between 16 and 17, and over 1,500 between 18 and 20. Covenant House expects to serve about 4,000 walk-in children under 18 at its Eighth Avenue center this year who should not be on the streets, but for whom no effective programs exist. As a result, these children are frequently subjected to the

grossest kind of abuse. About 7,000 children under the age of 21 have come to Under Twenty One for help during 1978.

A question of responsibility

The very complex issues raised by these thousands of homeless young people cross a dozen different jurisdictions: states' rights, parents' rights, children's rights, family and criminal court questions, the nature of the child care system, etc. The thinking and practice regarding the rights of juveniles has been evolving so quickly over the past 10 years that legislators have had great difficulty keeping up with the changing status of juveniles in our country. The ambiguity and confusion and differences in statutes between one state and another and within the same state make it almost impossible on occasion to resolve the legal status of a runaway or homeless child. Until recently, the problem of runaways was always considered essentially a police matter. The juveniles were to be found and returned home. Yet, an overburdened New York City police force can not begin to cope with the huge numbers (there is a seven man unit assigned for that purpose) and the police do not have any jurisdiction over children 16 and older.

Editor Bruce Ritter is the Executive Director of Covenant House and the Executive Director of the Child Care Agency in New York City, that specializes in caring for homeless and homeless children and adults.

the problem is especially acute for a 16 and over since the law simply permits a child of 16 to manipulate himself and then effectively disincludes that child. For the most part a child can not get the medical care he or she needs, can not easily apply for public assistance, can not get into contracts, and can not find a part job. Children are free to wander the streets, panhandling, exploiting, and being exploited. No one seems being either to accept clear responsibility for the thousands of children under 18 who stand outside the jurisdiction of family courts, criminal courts. On large part, the child welfare system. Neither Special Services for Children, the Division for Youth, or the Department of Social Services will not take immediate jurisdiction and responsibility for a 16 year old boy or girl wandering up and down 42nd Street once it is manifestly not in the best interest of the child or the general public to permit this to happen, *some jurisdiction must take the clear responsibility.* We operate on a principle, originally, of *caveat pater* let the child beware. Covenant House can document an almost endless series of children under 18 for whom it can find no one to accept responsibility, no court, no family, no part of the child welfare system. The tangle of conflicting jurisdictions, of vague and ambiguous laws, a severe fiscal crisis, and the fact that most of these kids are black and Spanish make it easy to let them fall through the cracks. Many thousands of them become willing or unwilling victims of the \$1,500,000,000 sex industry that feeds on children in the Times Square area. They have few options, cold, hungry, homeless, desperate for affection, they fall easy prey to the sex merchants who know all too well how to exploit them. These children find it almost impossible to get help. Until Covenant House, with the help of the Roman Catholic Archdiocese, opened its Under Twenty One crisis center on April 1, 1977, there were absolutely no services for these thousands of children in the Times Square area. Covenant House is always understaffed, underfunded, and overwhelmed by the numbers of children coming to us at all hours of the day and night.

During the first year that Under Twenty One was open, over 4,000 children came to us for help and over 60% of these had some contact, major or minor, with prostitution and pornography. The list of horror stories are endless.

This program is financed by the New York State State Legislature and by the New York City Board and is the product of a joint effort.

● A 14 year old boy chased into our center by his pimp, a man of 40 who had a broken bottle. The man wanted to kill the boy who had escaped after being held prisoner for six weeks in a Times Square hotel.

● A pimp who offered us \$500 for a young girl in our center.

● A 16 year old call boy with a contract on him. All he wanted to do was escape. He had made the mistake of taping off one of his johns.

● A 14 year old girl held prisoner, raped, and forced into prostitution, her hair dyed and with a false ID, saying she was 18, who had gotten a job in an Eighth Avenue strap joint.

They are not bad kids and it is wrong to think that they are. They are good kids whose only crime is, for the most part, to be cold, hungry, and homeless, with no skills, no resources, cut off from jobs or the possibility of getting medical help or public assistance. Since they have nothing to sell, except themselves, they are easily victimized and abused by the so called victimless crime of prostitution.

There are many hundreds of juveniles caught up in a vicious, degrading life style that kills many of them. They are caught in a kind of quicksand and can not easily escape. Hundreds will come, have already come, to Under Twenty One this year. Under Twenty One stays open 24 hours a day and offers a kid no questions when he or she asks for help, food, shelter, protection from their pimp and exploiters, a chance to go home again if that is possible, a chance to get a job, to go to school, to begin to think that they might live. Many times I have heard a kid say, "Bruce, I'm not going to make it, I'm going to die out there, the street is going to kill me." A 17 year old boy said to me recently,

"Bruce, can you give me one reason why I shouldn't pump off the Brooklyn Bridge?" It was hard for me to answer.

What can be done

Why do we permit it? Why and how can such a wholesale abuse and neglect of children happen in our society? We seem both unable and unwilling to do anything about it.

There is much that can and must be done. It would be easy and unfair to attack the police for inadequate enforcement of existing laws. The police in New York City quite clearly have limited ability to achieve effective enforcement. At the same time, however, it is quite clear that the crime of child prostitution and abuse is not a priority for our police. Neither is it a priority for our district attorneys and the Attorney General, nor the judges of our

criminal courts, who could exercise a little more fortitude in handing out sentences, nor for our politicians, who only seem to discover the problem of child abuse and prostitution around election time.

Prostitution and this loathesome child abuse are big business and are obviously protected. What other reason could explain the apparent immunity with which this blatant, sick, savage destruction of children is carried on in our society?

We not only need more effective enforcement and more vigorous prosecution of the criminals that buy and sell children and more effective community action, we also need programs to help the thousands of juveniles on the streets that turn to prostitution simply in order to survive.

As I recently stated,

Last night 60 children came in all the way, looking for a bed. Because we were able to provide one for them, they did not sleep on the street or in someone else's bed. We are almost without funds, our resources are still strained to the utmost. With the cold weather coming on, we estimate that as many as 80 or 100 kids a night will come to us for help. We are committed to not sending a child away without a bed. I did not come, and I can't do it alone. A young girl told me I can never forget one face, of a kid that knocked on my door yesterday night. One of the kids said, "Are you Bruce and I can't say, and he said, 'The cops take kids in' and I said, 'Yes' and he said, 'Can we stay with you?' I said, 'No, because we have no room' and he began to cry and he said, 'Where can I go and who can I do?' I said, 'You can go back into the street and look out.' And he dropped down and looked at me and said, 'I can do that.' He did. They both went back into the street. One boy was 17, the other was 14.

Our records can document hundreds of cases of child abuse and maltreatment drawn at random from our files. Based on our experience at Under Twenty One, we can distinguish three broad categories of gross child abuse: abuse within a family setting, abuse on the street, and abuse by bureaucracy.

Abuse within a family setting

In these cases, children come to Under 21 because of abuse by parents or guardians and because they did not have any other recourse. Typically this is the tragic plight of thousands of runaway children who every year find dangerous and punitive situations at home. This type of child abuse is certainly the best known and considered the public attention has already been focused on it. The following are typical examples.

LIFE/STYLE

A Nation of Runaway Kids

Louis F.'s homelife has long been lonelier than many a street-bounced among a drug-addict mother, an indifferent father and a savage stepmother who repeatedly hit the 15-year-old boy and tried to choke him to death. Nevertheless, Louis is a most reluctant runaway. His macho mask crumples as he sits in a cheerful Houston shelter—somewhat incongruously called Family Connection—and speaks sadly of those he still loves. "I didn't want to leave her, but she said to get out and don't come back. In four years, near tears whenever he mentions the mother who finally pushed him aside. Then, as other teenagers return within earshot, Louis recoups his cool. "I learned the hard way," he says. "Ain't nobody going to do nothing for me but myself."

A new generation of American youngsters is on the run—often at a desperate pace. They resemble less their romantic predecessors, from Huck Finn to the flower children, than refugees fleeing the wreckage of their families. Many are more truly cartaways than runaways, forced from their homes by neglect, abuse or abandonment. "These kids are running from something, not to something," says Russell Frank, director of The Runaway Place, a Boston shelter. As many as 50 percent may be fleeing physical abuse, including sexual assaults. A growing number are economic refugees, evicted by jobless parents who can no longer support them. "This is one of the first times we've seen people voluntarily bringing their kids in," says Carol Frank of the Child Welfare League. "It's a dust-bowl kind of thing."

Others, without being told to leave home, may be driven out by violent arguments, drinking bouts, and other recession-related strains in the family. "A 14-year-old can't understand fully that his father may be depressed over losing his job," says Washington social worker Robbie Callaway. "As economic conditions get tougher, more and more kids are going to be out on the street."

'Meat Rack': The thoroughfares they travel include the likes of the infamous Minnesota strip located near Times Square, so named for the many blond nymphets from out of town who sell themselves there—and the "meat rack" on Hollywood's Santa Monica Boulevard where boy hookers are on display. Too young to work legally, a significant number support themselves by stealing, drug dealing or peddling sex. Like apprentice derelicts, they huddle in abandoned buildings, on

park benches or in the warm breeze from subway gratings. Many runaway kids display a pathetic ingenuity, fearful of pimps and muggers as well as policemen; one Philadelphia youth buried himself to his chin every night in a playground sandbox. But for most of the young nomads, there may be no place to hide—some 50,000 runaways simply disappeared last year.

There's no telling where they went, since



Way station: Seeking aid at New York bus terminal

the United States does not keep computerized track of missing children as it does missing cars. By the most conservative estimates, however, each year more than 1 million kids between 10 and 17 leave home. Until 1974 the government's main helping hand was an arrest for juvenile delinquency. Then Congress—disturbed by reports of deaths and maltreatment in jails, reform schools and other institutions—passed the Runaway and Homeless Youth Act, to establish federally funded telephone hot lines and temporary teen-age shelters. But the 166 shelters—with their hopeful names like Haley House or Stepping Stone—serve only 45,000 kids in a year, roughly 5 percent of the runaway population, for a maximum stay of between two weeks and 30 days—and proposed Federal budget cutbacks threaten to cramp the space still more.

Luckily for their survival odds, most runaways are relatively timid. According to present welfare experts, mostly no further than a relative or friend, and 90 percent return home within 48 hours. The remaining, however, seem singularly ill-equipped for even a temporary life on the loose. A recent report from the U.S. Department of Health and Human Services based on shelter admissions indicates the average runaway is 18. That's a drop of one year from the 1976 average—and kids, as young as nine, are now turning up with alarming regularity. Most of the kids are white (70 percent) and female (56.7 percent), although the paper's closure. Forty percent are school dropouts—many of whom are labeled "drop and have no other skills or income. The remaining are a cadre of hard-core trouble-makers. HHS estimates that 60 percent have never been in school, and 60 percent work in odd jobs, often before they run.

'Flirters': Left to their own devices, kids develop a depressive sub-culture. Full as it is of boredom, unserved, unloved. Boston's male prostitute cafe, specifically, were near the bus terminal, where many work the notorious Combat Zone. Hard-core street kids are supposed to congregate on Boston Common, while the trendiest dropouts—"flirters"—mingle in the hang-out in Haymarket Square. Some runaways try to integrate the community of the city's cash pad, when one makes some money, many will rent a room, get their splitting the windfall on wine, dips, and food. In one northeast suburb of Philadelphia, teen transients even built their own haven in the woods with timber stolen from construction sites, complete with escape tunnels. Survival lessons are willingly shared, to score a free restaurant meal with a minimum of fuss (a gambit, sometimes known as "chew and screw"), leave the waitress a tip before you walk out without paying the check.

Time seems to be the greatest divider, determining which runaways can be salvaged. "If a kid has lived in the street for a month or so, it becomes very hard to reach him," says Father Bruce Ritter, founder of New York City's Covenant House for runaway youths. "If it's been six months, we've almost lost him, and if it's a year, he's gone. The poison works very, very quickly." In many cases, it takes only two days, he, and the 48-hour mark, one in 10 teen-agers is likely to become a prostitute. Incoming nads are quickly spotted at such entry points as New York's Port Authority Bus Terminal by pimps or their scouts, sometimes called catchers. Blue-janed Marcia R., 13, remembers that she was barely off the bus from Ohio before a "man in one of those hats" approached her. He was headed off by a man and woman, two self-professed "good Samaritans."

Alaska State Legislature

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House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

MEMORANDUM

April 9, 1984

TO: Representative Mae Tischer, Chairman, House HESS
FROM: Bill Lovell, Professional Assistant, House HESS *lovel*
RE: Comparison of CSHB 631 (HESS) and HB 631

For your convenience, I have prepared the following comparison of the proposed House HESS Committee Substitute for House Bill 631 and the bill as originally introduced, both relating to runaway children.

Page and line citations refer to the original bill.

Page 1, lines 11 - 13, deletes "is habitually absent from the home or foster home to which the minor has been released by court order, without the consent of the minor's parent, guardian, or other legal custodian," and substitutes "habitually evades the person to whom the minor has been released by court order." This change has no substantive effect on the intent of the legislation, but may remove some possible difficulties in interpreting the bill.

Page 1, line 14, deletes "institution," and substitutes "facility." Although essentially semantic, this change makes it clear that the bill permits the Department of Health and Social Services to place children into child care services other than correctional "institutions".

Page 1, line 24, after "for" and before "support," inserts "financial." This change eliminates some ambiguity as to the precise definition of "support" by limiting the term to include financial support only.

Page 1, line 26, after "for," inserts "financial." This change, as in the previous amendment, eliminates some ambiguity as to the precise definition of "support" by limiting the term to include financial support only.

Page 2, line 17, inserts new Section 4, amending AS 47.10.120 (a), the principle effect of which is contained

Comparison of CSHB 631 (HESS) and HB 631
April 9, 1984
Page 2

in the new line 18. The amendment on new line 18 adds a proviso to the law, "Except as provided in as 47.10.084 (c)." This change eliminates an ambiguity in the law caused by the bill, whereby parents or guardians were held liable for financial support of a delinquent minor in situations which may be made exempt by the passage of this bill. The other changes to this section of the law are merely technical in nature: substituting "that" for "which" on lines 21, and 22; and in two places on line 25.

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Sec. 47.10.080. Judgments and orders. (a) The court, at the conclusion of the hearing, or thereafter as the circumstances of the case may require, shall find and enter a judgment that the minor is or is not a delinquent or a child in need of aid.

(b) If the court finds that the minor is delinquent, it shall

(1) order the minor committed to the Department of Health and Social Services for a period of time not to exceed two years or in any event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it; the department shall place the minor in the juvenile facility which the department considers appropriate and which may include a juvenile correctional school, detention home, or detention facility; the minor may be released from placement or detention and placed on probation on order of the court and may also be released by the department, in its discretion, under AS 47.10.200;

(2) order the minor placed on probation, to be supervised by the department, and release him to his parents, guardian, or a suitable person; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it;

(3) order the minor committed to the department and placed on probation, to be supervised by the department, and release him to his parents, guardian, other suitable person, or suitable nondetention setting such as a family home, group care facility, or child care facility, whichever the department considers appropriate to implement the treatment plan of the predisposition report; if the court orders the minor placed on probation, it may specify the terms and conditions of probation; the department may transfer the minor, in his best interests, from one of the probationary placement settings listed in this paragraph to another, and the minor, his parents or guardian and attorney are entitled to reasonable notice of the transfer; the probation may be for a period of time, not to exceed two years and in no event extend past the day the minor becomes 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; or

(4) order the minor to make suitable restitution in lieu of or in addition to the court's order under (1), (2) or (3) of this subsection.

(5) order the minor committed to the Department of Health and Social Services for placement in an adventure-based education program established under AS 47.21.020 with conditions the court considers appropriate concerning release upon satisfactory completion of the program or commitment under (1) of this subsection if the program is not satisfactorily completed.

(c) If the court finds that the minor is a child in need of aid, it shall

(1) order the minor committed to the department for placement in an appropriate setting for a period of time not to exceed two years or in any event past the date the minor becomes 19 years of age, except that the department may petition for and the court may grant in a hearing (A) two-year extensions of commitment which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and (B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; the department may transfer the minor, in his best interests, from one placement setting to another, and the minor, his parents or guardian and attorney are entitled to reasonable notice of the transfer;

(2) order the minor released to his parents, guardian, or some other suitable person, and, in appropriate cases, order the parents, guardian, or other person to provide medical or other care and treatment; if the court releases the minor, it shall direct the department to supervise the care and treatment given to the minor, but the court may dispense with the department's supervision if the court finds that the adult to whom the minor is released will adequately care for the minor without supervision; the department's supervision may not exceed two years or in any event extend past the date the minor reaches age 19, except that the department may petition for and the court may grant in a hearing

(A) two-year extensions of supervision which do not extend beyond the child's 19th birthday if the extension is in the best interests of the minor and the public; and

(B) an additional one-year period of supervision past age 19 if the continued supervision is in the best interests of the person and the person consents to it; or

(3) by order, upon a showing in the adjudication by clear and convincing evidence that there is a child in need of aid under AS

disposition by clear and convincing evidence that the parental conduct is likely to continue to exist if there is no termination of parental rights, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child, and the department or guardian shall report annually to the court on efforts being made to find a permanent placement for the child.

(d) An order issued under (c) (3) of this section authorizes the commissioner of health and social services or his designee or the guardian of the person of the child to consent to the adoption of the child.

(e) If the court finds that the minor is not delinquent or a child in need of aid, it shall immediately order his release from the department's custody and his return to his parents, guardian, or custodian, and dismiss the case.

(f) A minor found to be delinquent or a child in need of aid is a ward of the state as long as he is committed to the department or the department has the power to supervise his actions. The court shall review an order made under (b) or (c)(1) or (2) of this section annually, and may review the order more frequently to determine if continued placement, probation, or supervision, as it is being provided, is in the best interest of the minor and the public. The department, the minor, the minor's parents, guardian, or custodian are entitled, when good cause is shown, to a review on application. If the application is granted, the court shall afford these parties and their counsel reasonable notice in advance of the review and hold a hearing where these parties and their counsel shall be afforded an opportunity to be heard. The minor shall be afforded the opportunity to be present at the review.

(g) No adjudication under this chapter upon the status of a child may operate to impose any of the civil disabilities ordinarily imposed by conviction upon a criminal charge, nor may a minor afterward be considered a criminal by the adjudication, nor may the adjudication be afterward deemed a conviction, nor may a minor be charged with or convicted of a crime in a court, except as provided in this chapter. The commitment and placement of a child and evidence given in the court are not admissible as evidence against the minor in a subsequent case or proceedings in any other court, nor does the commitment and placement or evidence operate to disqualify a minor in a future civil service examination or appointment in the state.

(h) The department shall pay all court costs incurred in all proceedings in connection with the adjudication of delinquency under this chapter, including hearings which result in the release of the minor.

(i) A minor, his parents or guardian acting on his behalf, or the department may appeal a judgment or order, or the stay, modification, setting aside, revocation, or enlargement of a judgment or order issued by the court under this chapter.

(j) Repealed by § 29 ch 63 SLA 1977.

(k) In making its order under (c) of this section, the court shall consider the fact, if it is a fact, that the minor was being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination. (§ 10(2) art 1 ch 145 SLA 1957; am § 2 ch 110 SLA 1960; am § 2 ch 118 SLA 1962; am § 1 ch 40 SLA 1967; am §§ 1—4 ch 27 SLA 1970; am §§ 12—15 ch 245 SLA 1970; am § 6 ch 104 SLA 1971; am §§ 6, 7 ch 1 SLA 1972; am §§ 1, 2 ch 125 SLA 1974; am §§ 14-18, 29 ch 63 SLA 1977; am § 6 ch 86 SLA 1979)

Effect of amendments. — The 1977 amendment substituted "delinquent or a child in need of aid" for "delinquent, or a child in need of supervision, or dependent minor" at the end of subsection (a), rewrote subsections (b) and (c), and in subsection (c), substituted "delinquent or a child in need of aid" for "delinquent, a child in need of supervision, or dependent," "the department's custody" for "its custody," and "dismiss" for "close." In subsection (f), the amendment substituted "delinquent or a child in need of aid" for "delinquent, a child in need of supervision, or dependent" in the first sentence, deleted "or (j)" following "under (b) or (c)(1) or (2)" and "and to determine if the minor is being treated fairly" following "and the public" in the second sentence, inserted "as it is being provided" in the second sentence, rewrote the third sentence, and inserted the present fourth sentence. The amendment also repealed subsection (j), which provided for orders of disposition when the minor was a child in need of supervision.

The 1979 amendment added paragraph (5) to subsection (b).

Editor's note. — Section 31, ch. 63, SLA 1977, provides: "Section 18 of this Act has the effect of adding to the court's responsibilities when holding a review under Rule 28, Alaska Rules of Children's Procedure, by requiring the court to hold a hearing upon a showing of good cause, give notice, and afford an opportunity to be heard."

Section 31, ch. 63, SLA 1977, in the first sentence provides: "The portions of AS 47.10.080(b) and (c) in secs. 15 and 16 of this Act which specify the length of commitment to the department or probation or supervision by the department are applicable to those minors affected under former AS 47.10.080(b), (c) and (j) before the effective date of this Act

probation or supervision of minors by the department before the effective date of this Act (August 26, 1977) shall continue, but may not exceed two years from the effective date of this Act (August 26, 1977) unless two-year extensions have been granted by the court under this Act." Subsection (j) of AS 47.10.080 was repealed by § 29, ch. 63, SLA 1977.

Legislative history reports. — For report on amending bill, see 1960 House Journal, p. 494. For report on ch. 40, SLA 1967 (HB 131), see 1967 House Journal, p. 339. Chapter 245, SLA 1970 (HCSSB 399 am H), was identical to CSHB 406 (Jud.). For report on CSHB 406 (Jud.), see 1970 House Journal Supplement No. 6.

Each category of children mandates differences regarding content of dispositional orders. — Alaska's pertinent statutory provisions and procedural rules distinguish between categories of children for purposes of administering Alaska children's laws. Of controlling significance is that each class or category mandates distinct differences regarding the permissible content of any dispositional order the trial court can enter. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Where a delinquent child was sentenced for a fixed time period and ordered to an adult institution, this amounted to a penal sentence as opposed to the juvenile disposition required under subsection (b)(1). B.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

Court cannot place child in particular institution. — Under this section as amended, the court no longer has discretion to order the delinquent child placed in a particular institution. The court only has authority to commit the child to the department, which then places the child. B.A.M. v. State, Sup. Ct. Op. No. 1104 (File

Sup. Ct. Op. No. 1181 (File No. 2406), 538 P.2d 1004 (1975).

Jurisdiction dependent upon age of offender at time of act. — Juvenile jurisdiction of the superior court in delinquency proceedings is dependent upon the age of the offender at the time of the delinquent acts. Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Where a delinquent child was under the age of 18 at the time the acts of delinquency were committed, he is considered a minor for the purposes of adjudication and disposition. B.A.M. v. State, Sup. Ct. Op. No. 1,91 (File No. 2144), 528 P.2d 437 (1974).

One who committed a crime when 18 years of age could be criminally prosecuted, as an adult, when he had been previously adjudged a delinquent minor and the court had retained supervisory jurisdiction over him until age 19. Henson v. State, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Section is maximum sentencing statute. — Statutes requiring release upon a specified birthday are, in effect, maximum sentencing statutes. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Sentence reduction to 19 years of age not retroactive. — There was nothing in the amendatory legislation to this section that indicated an intention that the sentence reduction should operate retrospectively. Davenport v. McGinnis, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

There is no conflict between subsection (b)(1) and AS 47.10.060(d). In re F.S., Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

Age 20 is the proper age for determining whether a minor is amenable to treatment. In re F.S., Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

The inconsistency between AS 47.10.060(d) and subsection (b)(1) of this section that existed prior to the 1977 amendments to these sections has been eliminated in that AS 47.10.060 (d) now provides that the determinative age is 20 and subsection (b)(1) provides that the maximum limitation of confinement of minors is 20. In re F.S., Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

The lower court erred in considering the purported consent of a minor to an additional year of supervision because: (1) the minor could withdraw his consent upon reaching majority and (2) even assuming

the minor's consent could not be withdrawn, subsection (b)(1) requires that the department petition the court and that additional commitment be in the minor's best interests before the court has jurisdiction to order the additional one-year period. In re F.S., Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

Subsection (b)(1) requires that the department petition for an additional one-year period of supervision and that continued supervision be in the best interests of the minor before the court may order an additional year. Thus, a minor's prospective consent to additional supervision is not a material factor unless the other two conditions of the statute are fulfilled. In re F.S., Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

This statute contemplates that the decision to extend the period of supervision be made after the initial dispositional hearing. To give effect to the minor's advance consent would thus be contrary to the apparent intent of the legislature. In re F.S., Sup. Ct. Op. No. 1756 (File No. 4015), 586 P.2d 607 (1978).

The court must choose between commitment to the Department of Health and Social Services and probation, and may not delegate the choice to the Department of Health and Social Services. This is a correct textual analysis, especially in light of the provision in subsection (b)(1) for subsequent court order for probation following placement or detention. The legislature has clearly indicated its intent to place this choice in the hands of the court. RLR v. State, Sup. Ct. Op. No. 706 (File No. 1156), 487 P.2d 27 (1971).

The hearing judge erred by placing a delinquent child on probation until his 20th birthday. B.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

Petition necessary to extend probation beyond 19th birthday. — The superior court was without authority to extend probation beyond the delinquent child's 19th birthday without a petition from the department to extend the probationary period for an additional year. B.A.M. v. State, Sup. Ct. Op. No. 1104 (File No. 2144), 528 P.2d 437 (1974).

A minor who has been adjudged a child in need of supervision [see now child in need of aid] cannot be institutionalized under the Children's Code. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Where a runaway child is found to be a child in need of supervision [see now child

in need of aid], not a delinquent minor, no legal basis exists for his incarceration. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The only instance under Alaska children's laws authorizing institutionalization or incarceration is when the child has violated the laws of the state, or any of its political subdivisions, and in turn has been adjudged a delinquent minor. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The legislature has authorized institutionalization only where the child is found to be a delinquent minor. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Power of court under subsection (c). — Under subsection (c) of this section, the court is empowered to order the minor committed to the Department of Health and Social Services or order the minor released to his parents, guardian, or some other suitable person. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The Department of Health and Social Services does not possess the authority to institutionalize any minor, including one who has been declared a child in need of supervision [see now child in need of aid], who has been committed to its custody. It is unreasonable to construe Alaska children's statutes in a manner which would result in the grant to the Department of Health and Social Services of broader powers of commitment than possessed by the trial court. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

A child "in need of aid" appears to be the functional equivalent of a "dependent" child under AS 47.10.010 as it existed prior to its 1977 amendment. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Parental right to custody and control is not absolute. — While a parent has a right to the care, custody and control of his or her children, this right is not absolute, and "courts have become increasingly aware of the rights of children." The Alaska legislature has struck a balance between these potentially competing rights by requiring the state to prove its allegations by clear and convincing evidence in parental rights termination cases. Once this burden of proof has been met, however, the statute mandates a termination. In re D.C., Sup. Ct. Op. No. 1862 (File No. 3840), P.2d (1979).

The discretion allotted a parent in the administration of punishment is not

unlimited. Clearly it does not extend to punishment regularly causing the "substantial physical harm" which under AS 47.10.010(a)(2)(C) determines that a child is in need of aid. In re D.C., Sup. Ct. Op. No. 1862 (File No. 3840), P.2d (1979).

Statutory provisions governing judgments and orders terminating parental rights have been changed. In order to terminate parental rights, the court must now find that the child is in need of aid under AS 47.10.010(a)(2) as the result of parental conduct proved by clear and convincing evidence and that the parental conduct is likely to continue to exist if there is no termination of parental rights, proved again by clear and convincing evidence. AS 47.10.080(e)(3). In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Under former AS 47.10.010(a)(5) and AS 47.10.080(a) and (e)(3)(D), in order to terminate parental rights, the superior court was required to find (1) that the child was a "dependent minor" and (2) that the parent had demonstrated by her conduct, proved by clear and convincing proof, that she was unfit to continue to exercise her parental rights and responsibilities. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Abandonment. — For cases construing former language in subsection (c) providing for termination of parental rights and responsibilities when the child had been abandoned, see D.M. v. State, Sup. Ct. Op. No. 962 (File No. 1843), 515 P.2d 1234 (1973); In re B.J., Sup. Ct. Op. No. 1110 (File No. 2161), 530 P.2d 747 (1975); In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

A rehabilitation program is not a common practice in the trial courts absent approval by a representative of the state. In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Trial court did not abuse discretion in failing to consider possibility of setting up plan for reestablishing family relationship between father and son. — See In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Role of trial court in proceeding involving termination of parental rights. — See In re E.J. (T.), Sup. Ct. Op. No. 1348 (File No. 2775), 557 P.2d 1128 (1976).

Applicability of burden of proof. — A burden of proof is not applicable to a dispositive hearing other than when termination of parental rights is involved. In re S.D., Sup. Ct. Op. No. 1255 (File No.

2530), 549 P.2d 1190 (1976). See also In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Determination of the standard to be applied by the court at the dispositive phase of a child hearing was not tantamount to establishing a burden of proof requirement. Such a requirement had been set forth in former subsection (e)(3)(D) [see now subsection (e)(3)]. No such requirement had been set forth in situations such as where termination of parental rights was not involved. In re S.D., Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Standard of proof held constitutional. — Allowing parental rights to be terminated based on a standard of proof less stringent than "beyond a reasonable doubt" does not violate the due process clause of the United States Constitution or the Alaska Constitution. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Since in proceedings brought to terminate parental rights, the parent is neither charged with criminal behavior nor subject to incarceration as a direct consequence of the proceeding, there is nothing in the federal constitution that compels adoption of the proof beyond a reasonable doubt standard in termination proceedings. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Clear and convincing proof is a more demanding standard than a mere preponderance of the evidence and is adequate to protect the parent's substantial interest in his or her child custody rights. This evidentiary standard balances the competing interests involved in a proceeding brought to terminate parental rights, one of which is the right of a child to an adequate home. In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

The due process clause did not require a standard of proof greater than clear and convincing evidence when the state sought to terminate parental rights because of unfitness under former subsection (e)(3)(D). In re C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

Standard of proof under former subsection (e)(3)(D) calling for "clear and convincing" evidence of the natural mother's unfitness for the care and custody of the child was held proper. In re Adoption of K.S., Sup. Ct. Op. No. 1219 (File No. 2359), 543 P.2d 1191 (1975).

Orders terminating parental rights met statutory and rule of court requirements regarding findings of fact. — See In re

C.L.T., Sup. Ct. Op. No. 1866 (File No. 3607), P.2d (1979).

For reference to apparent conflict between subsection (e)(1) as it read prior to 1977 amendment and Children's Rule 22(f), see footnote 30 in In re S.D., Sup. Ct. Op. No. 1255 (File No. 2530), 549 P.2d 1190 (1976).

Peremptory challenge procedure inapplicable to juvenile proceedings. — While juvenile proceedings have some of the characteristics of both civil and criminal actions, they are basically different from both, and the words "civil or criminal" as used in AS 22.20.022 must be strictly construed. The trial judge was correct in holding that peremptory challenge procedure applied only to civil and criminal actions and not to juvenile proceedings. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Notions of benevolent protective policies cannot be used to validate departures from positive law relating to the adjudicative and dispositive phases of children's proceedings. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

Nor to justify dispensing with constitutional safeguards. — The benevolent social theory supposedly underlying children's court acts does not furnish justification for dispensing with constitutional safeguards. In re A Minor Child, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 658 (1971).

The right of confrontation is paramount to the state's policy of protecting a juvenile offender. Davis v. State, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

But state's interest in secrecy of juvenile adjudications need not always fall before confrontation right. — See Gonzales v. State, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512 (1974).

Prosecution witness impeachable by cross-examination for bias from probationary status as juvenile delinquent. — The confrontation clause requires that a defendant in a criminal case be allowed to impeach the credibility of a prosecution witness by cross-examination directed at possible bias deriving from the witness's probationary status as juvenile delinquent although such an impeachment would conflict with a state's asserted interest in preserving the confidentiality of juvenile adjudications of delinquency. Davis v. Alaska, 415 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

Whatever temporary embarrassment might result to a prosecution witness or his family by disclosure of his juvenile record — if the prosecution insisted on using him to make its case — is outweighed by petitioner's right to probe into the influence of possible bias on the testimony of a crucial identification witness. *Davis v. Alaska*, 115 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

The state cannot, consistent with right of confrontation, require the defendant to bear the full burden of vindicating the state's interest in the secrecy of juvenile criminal records. *Davis v. Alaska*, 115 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974).

The United States supreme court has held that the constitutional right of confrontation required that defense counsel be allowed to investigate the potential bias of a crucial prosecution witness, even where that potential bias arose out of a juvenile adjudication and its resultant probationary status. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

The United States supreme court concluded that Alaska's interest in protecting the anonymity of the juvenile offender was outweighed by the more critical need to afford a criminal defendant reasonable inquiry into the motives of prosecution witnesses. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Conflict between section and decision in *Davis v. Alaska* is superficial. — The conflict between this section and the supreme court's decision in *Davis v. Alaska*, 115 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974), is only superficial. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Since disclosure required because of probationary status, not juvenile adjudication. — The constitutional requirement of disclosure in the facts in *Davis v. Alaska*, 115 U.S. 308, 94 S. Ct. 1105, 39 L. Ed. 2d 347 (1974), is created not by the juvenile adjudication itself but by the probationary status of the juvenile at the time of *Davis*'s trial, with its potential for motivating false testimony. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Where the witness was not on juvenile probation, it cannot be seriously argued

that the fact of previous juvenile convictions, standing alone, provided any inference of potential bias. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

State adjudications directed solely at credibility do not conflict with confrontation right. — Juvenile adjudications which are stale by Alaska's standards and directed solely at general credibility rather than bias are generally not sufficiently probative to create a genuine conflict with the defendant's right of confrontation. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

Where the attempted impeachment was of general credibility by proof of prior "convictions," the probative value of this type of evidence is considerably less than that which suggests false or distorted testimony because of bias, and the need to confront a witness with such evidence is correspondingly less. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

As a general rule, the trial courts could properly refuse evidence of state convictions or juvenile adjudications where these were offered for the purpose of discrediting the witness generally rather than to show some specific potential for bias or prejudice toward the defendant. *Thomas v. State*, Sup. Ct. Op. No. 1040 (File No. 1888, 1854), 552 P.2d 528 (1974).

Privilege against self-incrimination. — When a person under the age of 18 years violated former AS 47.10.010(a)(1), he could be adjudged a "delinquent minor," one possible consequence of which adjudication was commitment to a juvenile facility until the age of 19 [now 20]. Moreover, if there was probable cause to believe the minor was delinquent and the court found that he was not amenable to treatment as a juvenile, he could be prosecuted as if he were an adult. Thus, there was always some danger of incarceration, or other criminal sanctions, when a child committed an act which would have been a crime if committed by an adult. Under such circumstances a child had a privilege against self-incrimination. *E.L.L. v. State*, Sup. Ct. Op. No. 1540 (File No. 3374), 572 P.2d 787 (1977).

A child adjudicated delinquent for selling LSD may be incarcerated, possibly even in a city jail, until age 19, which may be many years. *R.R. v. State*, Sup. Ct. Op.

No. 706 (File No. 1156), 487 P.2d 27 (1971).

Subsection (g) provides in part that a juvenile offender may not be considered a criminal by reason of the adjudication, nor may the adjudication be afterward deemed a conviction. *Gonzales v. State*, Sup. Ct. Op. No. 1030 (File No. 2002), 521 P.2d 512, cert. denied, 419 U.S. 868, 95 S. Ct. 125, 42 L. Ed. 2d 106 (1974).

A judge cannot consider a juvenile offense as a criminal conviction for the purpose of prescribing a mandatory sentence. *Berfield v. State*, Sup. Ct. Op. No. 581 (File No. 960), 458 P.2d 1008 (1969).

The judge's consideration of factors relating to accused's life, characteristics, background and behavior prior to reaching the age of 18 years did not mean that he was using the juvenile offenses as criminal convictions in determining the sentence to impose. *Berfield v. State*, Sup. Ct. Op. No. 581 (File No. 960), 458 P.2d 1008 (1969).

Consideration of the juvenile record is proper by the court imposing a sentence upon an adult offender. *Penn v. State*, Sup. Ct. Op. No. 1774 (File No. 3873), 588 P.2d 288 (1978).

Use of the juvenile history of the offender in sentencing proceedings does not amount to the use of those proceedings as evidence against the offender within the proscription of such a statute as this section. *Penn v. State*, Sup. Ct. Op. No. 1774 (File No. 3873), 588 P.2d 288 (1978).

Sec. 47.10.081, Predisposition hearing reports. (a) Before the disposition hearing of a delinquent minor the department shall submit a predisposition report with a recommended plan of treatment to aid the court in its selection of a disposition, and any further information which the court may request.

(b) Before the disposition hearing of a child in need of aid the department shall submit a predisposition report to aid the court in its selection of a disposition. This report shall include, but is not limited to, the following:

(1) a statement of changes in the child's or parent's behavior, which will aid the court in determining that supervision of the family or placement is no longer necessary;

(2) if removal from the home is recommended, a description of the reasons the child cannot be protected or rehabilitated adequately in the home, including a description of any previous efforts to work with the parents and the child in the home and the parents' attitude toward placement of the child;

(3) a description of the potential harm to the child which may result from removal from the home and any efforts which can be made to

When sentence determined. — The sentence which may be imposed upon a convicted adult is determined as of the time of the final judgment of conviction, or as of the time of commission of the offense. These rules have been applied to juvenile sentencing. *Davenport v. McGinnis*, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Review of custody orders. — The new children's law, as a result of the 1977 acts, provides for review of custody orders annually or more often if good cause is shown. *In re J.M.*, Sup. Ct. Op. No. 1548 (File Nos. 3219, 3529), 573 P.2d 1376 (1978).

Appellate jurisdiction. — AS 22.05.010 places final appellate jurisdiction in all cases in the supreme court. *In re A Minor Child*, Sup. Ct. Op. No. 737 (File No. 1524), 490 P.2d 655 (1971).

Applied in *L.A.M. v. State*, Sup. Ct. Op. No. 1249 (File No. 2221), 537 P.2d 827 (1976); *Adams v. Ross*, Sup. Ct. Op. No. 1281 (File No. 2458), 551 P.2d 948 (1976); *D.H. v. State*, Sup. Ct. Op. No. 1396 (File No. 2837), 561 P.2d 294 (1977).

Quoted in *Davis v. State*, Sup. Ct. Op. No. 846 (File Nos. 1428, 1436), 499 P.2d 1025 (1972).

Stated in *In re G.K.*, Sup. Ct. Op. No. 796 (File Nos. 1627, 1651, 1674), 497 P.2d 914 (1972).

Cited in *Ellison v. State*, Sup. Ct. Op. No. 898 (File No. 1750), 511 P.2d 1066 (1973).

(4) any further information which the court may request.

(c) The court shall inform the child, his parents and the attorneys representing the parties and the guardian ad litem that the predisposition report will be available to them not less than 10 days before the disposition hearing.

(d) For purposes of this section "parents" means the natural or adoptive parents, and any legal guardian, relative, or other adult person with whom the minor has resided and who has acted as a parent in providing for the minor for a continuous period of time before this action. (§ 26 ch 63 SLA 1977)

Sec. 47.10.082. Best interests of the child. In making its dispositional order under AS 47.10.080(b) the court shall consider the best interests of the child and the public, and in making its dispositional order under AS 47.10.080(c) the court shall consider the best interests of the child; in either case the court shall consider also the ability of the state to take custody and to care for the child to protect his best interests under AS 47.10.010 — 47.10.142. (§ 26 ch 63 SLA 1977)

Sec. 47.10.083. Review hearing information. In the case of a child in need of aid, the child shall be returned home at the review hearing under AS 47.10.080(f) unless the court finds by a preponderance of the evidence that the basis upon which the child was adjudicated under AS 47.10.010(a)(2) continues to exist. If the child is not returned home, the court shall establish on the record:

- (1) why the child was removed from the home;
- (2) what services have been provided to or offered to the parents to facilitate reunion;
- (3) what services were utilized by the parents to facilitate reunion;
- (4) the visitation history between the parents and the child;
- (5) whether additional services are needed to facilitate the return of the child to his parents;
- (6) when return of the child can be expected. (§ 26 ch 63 SLA 1977)

Sec. 47.10.084. Legal custody, guardianship, and residual parental rights and responsibilities. (a) When a child is committed under AS 47.10.080(b)(1) or (c)(1) to the department or released under AS 47.10.080(b)(2) or (3) or (c)(2) to his parents, guardian, or other suitable person, a relationship of legal custody exists. This relationship imposes on the department and its authorized agents or the parents, guardian, or other suitable person the responsibility of physical care and control of the child, the determination of where and with whom the child shall live, the right and duty to protect, train and discipline the child, and the duty of providing the child with food, shelter, education, and medical care. These obligations are subject to any residual parental rights and responsibilities and rights and responsibilities of a guardian if one has been appointed. When parental rights have been terminated or there are no living parents and no guardian has been appointed, the

responsibilities of legal custody include those in (b) and (c) of this section. The department or person having legal custody of the child may delegate any of the responsibilities under this section, except authority to consent to marriage, adoption, and military enlistment may not be delegated. For purposes of this chapter a person in charge of a placement setting is an agent of the department.

(b) When a guardian is appointed for the child, the court shall specify in its order the rights and responsibilities of the guardian. The guardian shall be removed only by court order. The rights and responsibilities may include, but are not limited to, having the right and responsibility of reasonable visitation, consenting to marriage, consenting to military enlistment, consenting to major medical treatment, obtaining representation for the child in legal actions, and making decisions of legal or financial significance concerning the child.

(c) When there has been transfer of legal custody or appointment of a guardian and parental rights have not been terminated by court decree, the parents shall have residual rights and responsibilities. These residual rights and responsibilities of the parent include, but are not limited to, the right and responsibility of reasonable visitation, consent to adoption, consent to marriage, consent to military enlistment, consent to major medical treatment except in cases of emergency or cases falling under AS 09.65.100, and the responsibility for support, except if by court order any residual right and responsibility has been delegated to a guardian under (b) of this section. (§ 26 ch 63 SLA 1977)

Sec. 47.10.085. Child in need of aid; religious treatment. In a case in which the minor's status as a child in need of aid is sought to be based on his need for medical care, the court may, upon consideration of the health of the minor and the fact, if it is a fact, that the minor is being provided treatment by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination, dismiss the proceedings and thereby close the matter. This may be done, in the interests of justice and religious freedom, on the court's own motion or upon the application of a party to the proceedings, at any stage of the proceedings after information is given to the court under AS 47.10.020(a). (§ 8 ch 1 SLA 1972; am § 19 ch 63 SLA 1977)

Effect of amendment. — The 1977 "aid" for "dependent minor" near the amendment substituted "child in need of aid" beginning of the first sentence.

Sec. 47.10.090. Records. (a) The court shall make and keep records of all cases brought before it. The court's official records may be inspected only with the court's permission and only by persons having a legitimate interest in them. All information and social records pertaining to a minor and prepared in the discharge of his official duty by an employee of the

court or by a federal, state or city agency are privileged and may not be disclosed directly or indirectly to anyone without the court's permission. However, a state or city law-enforcement agency shall disclose information regarding a case which is needed by the person or agency charged with making a preliminary investigation for the information of the court. Within 30 days of the date on which a minor reaches his 18th birthday or, if the court retains jurisdiction of a minor past his 18th birthday, within 30 days of the date on which the court relinquishes jurisdiction over the minor, the court shall order sealed all the court's official records, information and social records pertaining to that minor, as well as records of all criminal proceedings against him and punishments assessed against him, except for traffic offenses. No person may use records so sealed for any purpose except that the court may order their use for good cause shown or may order their use by an officer of the court in making a presentencing report for the court.

(b) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a delinquent child or a child in need of aid unless authorized by order of the court, except that the name of a minor who is found for the second time to have violated a law, which if committed by an adult would be a felony, shall be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure.

(c) A person who violates a provision of this section is guilty of a misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or by imprisonment for not more than one year, or by both. (§ 10(3)(4) art I ch 145 SLA 1957; am § 1 ch 124 SLA 1972; am § 1 ch 90 SLA 1975; am § 20 ch 63 SLA 1977)

Effect of amendments. — The 1975 amendment, in subsection (b), deleted "by a newspaper, radio, or television station" following "may not be made public," substituted "unless" for "except as," and added the language beginning "except that" to the end.

The 1977 amendment substituted "delinquent child or a child in need of aid" for "delinquent or dependent child" in subsection (b).

Editor's note. — Section 2, ch. 90, SLA 1975, provides: "Section 1 of this Act changes Rule 26 of the Supreme Court Rules of Children's Procedure in that the rule now provides that the names and pictures of minors under the jurisdiction of the children's court are not to be made available to the public unless authorized by a court order which is accompanied by a written statement supporting the authorization, and sec. 1 provides that for a minor who is found for the second time to have violated a law which if committed by an

adult would be a felony, the minor's name must be made public unless the court, for good cause, in certain individual cases, enters an order prohibiting the disclosure."

Purpose for enacting subsection (a). — Reading this section together with other sections of the laws relating to children's proceedings leads one to believe that subsection (a) was enacted principally for the purpose of protecting the child against the possible adverse effects an unauthorized revelation of his social record would have. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

There is no indication that subsection (a) was intended to authorize the granting of testimonial use immunity to parents. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

The supreme court could not say with certainty that this section would be construed to forbid the use, in a subsequent criminal action against a parent, of testimony that the parent pays at a

children's proceeding. In re P.N., Sup. Ct. Op. No. 1127 (File No. 2191), 533 P.2d 13 (1975).

Waiver of provisions of section. — In the case of use of restraints more severe than placement in adjustment rooms (solitary confinement), the approval of the director of McLaughlin Youth Center must

be obtained and a report made to the child's attorney and the family court. The provisions of this section are waived for this purpose. T.M. v. Director of McLaughlin Youth Center, Superior Court, No. 72-449 (1973).

Stated in R.R. v. State, Sup. Ct. Op. No. 706 (File No. 1156), 457 P.2d 27 (1971).

Sec. 47.10.095. Arrest of a minor. The arrest of a minor other than for a traffic offense is not considered an arrest for any purpose except for the purpose of the disposition of a proceeding arising out of that arrest. (§ 2 ch 124 SLA 1972)

Sec. 47.10.100. Retention of jurisdiction over minor. (a) The court retains jurisdiction over the case and may at any time stay execution, modify, set aside, revoke, or enlarge a judgment or order, or grant a new hearing, in the exercise of its power of protection over the minor and for his best interest, for a period of time not to exceed two years or in any event extend past the day the minor becomes 19, unless sooner discharged by the court, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. An application for any of these purposes may be made by the parent, guardian, or custodian acting in behalf of the minor, or the court may, on its own motion, and after reasonable notice to interested parties and the appropriate department, take action which it considers appropriate.

(b) If the court determines at a rehearing that it is for the best interests of the minor that he be released to the care or custody of his parent, guardian, or custodian, it may enter an order to that effect and the minor is discharged from the control of the department.

(c) If a minor is adjudicated a delinquent or a child in need of aid before his 18th birthday, the court may retain jurisdiction over him after his 18th birthday for the purpose of supervising his rehabilitation, but the court's jurisdiction over him under this chapter never extends beyond his 19th birthday, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. The department may retain jurisdiction over a child between his 18th and 19th birthdays for the purpose of supervising his rehabilitation, if he has been placed under the supervision of the department before his 18th birthday, except that the department may apply for and the court may grant an additional one-year period of supervision past age 19 if continued supervision is in the best interests of the person and the person consents to it. (§ 11 art I ch 145 SLA 1957; am §§ 16, 17 ch 245 SLA 1970; am § 21 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment, in subsection (a), substituted the language beginning "for a period of time not to exceed two years" for "until he becomes nineteen years of age, unless sooner discharged by the court, except that the department may petition the court for continued supervision for an additional one-year period for minors who have not responded to treatment" at the end of the first sentence, and in subsection (c), substituted "delinquent or a child in need of aid" for "delinquent, a child in need of supervision, or a dependent" in the first sentence, the language beginning "apply for and the court may grant" for "petition the court for continued supervision for an additional one-year period for minors who have not responded to treatment" in the first and second sentences, and "has been placed under the supervision" for "is committed to the custody" in the second sentence.

Legislative history report. — Chapter 245, SLA 1970 (HCSB 399 am H), was identical to CSBB 406 (Jud.). For report on

CSBB 406 (Jud.), see 1970 House Journal Supplement No. 6.

When one commits a criminal offense after reaching the age of 18 years, he is no longer entitled to claim the benefits of the Children's Code. *Henson v. State*, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Offenses to which court's jurisdiction not extended. — Neither subsection (a) nor subsection (c) purports to extend the court's juvenile jurisdiction to newly committed offenses occurring between the offender's 18th and 19th birthday. *Henson v. State*, Sup. Ct. Op. No. 1590 (File No. 3024), 576 P.2d 1352 (1978).

Jurisdiction defeated only by expressly retroactive statute. — Once the sentencing court acquires jurisdiction over the individual, only an expressly retroactive statute could defeat its continuing jurisdiction for the duration of the sentence originally imposed. *Davenport v. McGinnis*, Sup. Ct. Op. No. 1049 (File No. 1942), 522 P.2d 1140 (1974).

Sec. 47.10.110. Appointment of guardian or custodian. When, in the course of a proceeding under this chapter, it appears to the court that the welfare of a minor will be promoted by the appointment of a guardian or custodian of his person, the court may make the appointment. The court shall have a summons issued and served upon the parents of the minor, if they can be found, in a manner and within a time before the hearing which the court considers reasonable. The court may determine whether the father, mother, or the Department of Health and Social Services shall have the custody and control of the minor, if the minor is of sufficient age and intelligence to state his desires, the court shall consider his desires. (§ 12 art I ch 145 SLA 1957; am § 6 ch 104 SLA 1971; am § 22 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment rewrote the last sentence.

Sec. 47.10.120. Support of minor. (a) When a child in need of aid is committed under this chapter, the court may, after giving the parent a reasonable opportunity to be heard, adjudge that the parent shall pay in a manner which the court directs a sum which will cover in full or in part the support of the child in need of aid. When a delinquent minor is committed under this chapter, the court shall order that the parent of the minor pay in a manner which the court directs a sum which will cover in full or in part the support of the delinquent minor.

(b) If a parent wilfully fails or refuses to pay the sum fixed, he may be proceeded against as provided by law in cases of family desertion and

(c) The sum collected from a parent under this section shall be directly credited to the general fund of the state. (§ 13 art I ch 145 SLA 1957; am § 1 ch 31 SLA 1959; am § 1 ch 141 SLA 1959; am § 23 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "child in need of aid" for "dependent minor" in two places in the first sentence of subsection (a).

Sec. 47.10.130. Detention. No minor under 18 years of age who is detained pending hearing may be incarcerated in a jail unless assigned to separate quarters so that the minor cannot communicate with or view adult prisoners convicted of, under arrest for, or charged with a crime. When a minor is detained pending hearing, his parent, guardian, or custodian shall be notified immediately. (§ 14 art I ch 145 SLA 1957)

A detention which was twice continued by the master of the children's court for a total period of six days exemplifies a usurpation of judicial power. *In re P.H.*, Sup. Ct. Op. No. 857 (File No. 1538), 501 P.2d 837 (1972).

Sec. 47.10.140. Temporary detention and detention hearing. (a) A peace officer may arrest a minor who violates a law or ordinance in his presence, or who he reasonably believes is a fugitive from justice. A peace officer may continue a lawful arrest made by a citizen. He may have the minor detained in a juvenile detention facility if in his opinion it is necessary to do so to protect the minor or the community.

(b) A peace officer who has a minor detained under (a) of this section shall immediately, and in no event more than 12 hours later, notify the court, the minor's parents or guardian, and the Department of Health and Social Services of the officer's action. The department may file with the court a petition alleging delinquency before the detention hearing.

(c) The court shall immediately, and in no event more than 48 hours later, hold a hearing at which the minor and his parents or guardian if they can be found shall be present. The court shall determine whether probable cause exists for believing the minor to be delinquent. The court shall inform the minor of the reasons alleged to constitute probable cause and the reasons alleged to authorize his detention. The minor is entitled to counsel and to confrontation of the witnesses against him.

(d) If the court finds that probable cause exists, it shall determine whether the minor should be detained pending the hearing on the petition or released. It may either order the minor held in detention or order him to be released to the custody of a suitable person pending the hearing on the petition. If the court finds no probable cause, it shall order the minor released and close the case.

(e) Except for temporary detention pending a detention hearing or temporary detention under (d) of this section, no minor may be detained

(f) A peace officer may detain a minor who is evading the person having legal custody of him if the minor is not otherwise subject to arrest or detention under (a) of this section, for the sole purpose of either (1) returning the minor to the person having legal custody of him or (2) if the minor prefers, taking him to an office specified by the Department of Health and Social Services, facility or contract agency of the Department of Health and Social Services where such exists in the community. Immediately upon detaining a minor under this provision, the peace officer shall advise him of his right to social services under AS 47.10.142(b), and, if known, the peace officer shall advise the person having the legal custody of the minor of his detention.

(g) No minor who is detained under (f) of this section may be detained in a jail or other facility unless kept out of contact with adult persons convicted or accused of a crime. No minor may be detained in a jail or other detention facility which has not been approved by the Department of Health and Social Services before detention of the minor. (§ 15 art 1 ch 145 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972)

Detention orders neither based on competent testimony nor accompanied by the required statement of facts are invalid. In re P.H., Sup. Ct. Op. No. 857 (File No. 1538), 504 P.2d 837 (1972)

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

- (1) the minor has been abandoned;
- (2) the minor has been grossly neglected by his parents or guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;
- (3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department.

(b) A minor who has left home and is evading the person having legal custody of him may obtain the services of the department. The department shall assess the situation and furnish the minor with the social services it considers appropriate to protect the well-being of the minor and to preserve his family life if preserving it is considered desirable under the circumstances. If, after assessing the situation, considering the wishes of the minor, and furnishing appropriate social services, the department considers it necessary, the department may take emergency custody of the minor.

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the

parents or court of the is a child in

(d) The after being hearing at guardian. court shall minor to. shall inform of the rea given as a

(e) If the committed returned a department probable parents of § 24 ch 6

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THE RUNAWAY YOUTH PROGRAM MODEL:

A FEDERAL, STATE, AND LOCAL PARTNERSHIP

25th DISTRICT

2401 Carter Lane
Columbia, MO 65201
(314) 874-3838

State Capitol
Jefferson City, MO 65101
(314) 751-2419

KEN JACOB



MISSOURI HOUSE OF REPRESENTATIVES

COMMITTEES:

EDUCATION: ELEMENTARY
AND SECONDARY

EDUCATION: HIGHER

CHILDREN, YOUTH AND FAMILIES

APPROPRIATIONS: SOCIAL
SERVICES AND CORRECTIONS

REVENUE AND ECONOMICS

VITAE SYNOPSIS

EDUCATION

B.S. Education, Life-time teaching certificate Social Studies and Economics, University of Missouri at Columbia.

M.Ed., Counseling and Personnel Services, University of Missouri at Columbia.

Masters in Public Administration Graduate Program, University of Missouri at Columbia.

EMPLOYMENT

1983 - Missouri State Legislator, Committees: Appropriations Social Services and Corrections, Education: Elementary and Secondary, Education: Higher, Children, Youth & Families, Revenue and Economics.

1974 to 1983 - Director of Development, Front Door Counseling and Youth Center, formerly Executive Director.

MEMBERSHIP

Member Columbia Public Schools Board of Education, Member Missouri Prevention Network.

25th DISTRICT

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SERVICES AND CORRECTIONS
REVENUE AND ECONOMICS

PRESENTATION OUTLINE

1. Runaway programs in Missouri.
 - a. A model on federal, state and local collaboration.
 - b. Evolution and future perspectives.

2. Missouri Legislature proposals for youth.
 - a. House Bill 617; Division of Children & Youth Services - creation of a new division to represent the needs of troubled youth.
 - b. House Bill 256; Youth Services Commission - coordinating and networking state activities for youth.
 - c. House Bill 550; Childrens Trust Fund a pot of gold for prevention.

3. Political Advocacy for services for troubled youth.



The National Youth Work Alliance

1346 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 785-0764

Robbie Calloway

VITAE

EMPLOYMENT HISTORY

June 1981 - present	Executive Director, National Youth Work Alliance
September 1979 - June 1981	Assistant Director, National Youth Work Alliance
January 1979 - September 1979	Juvenile Justice Specialist, National Youth Work Alliance
1977 - 1979	Director of Shelter Care - Boys and Girls Homes of Montgomery County, Inc.
1974 - 1977	Program Director, Caithness Shelter Home, Silver Spring, Maryland
1970 - 1973	Intern/Volunteer Coordinator, University of Maryland - D.C. Children's Center Program

RELEVANT COMMITTEES

Chairman - National Ad Hoc Coalition for Juvenile Justice. Over 40 members including National PTA's, American Bar Association, National Association of Counties, National Council of Jewish Women, U.S. Catholic Conference, Girl Scouts of U.S.A., Junior Leagues, etc.

Appointed Member - Maryland Governors Juvenile Justice and Delinquency Prevention Advisory Committee. Initially appointed in 1975 and reappointed by the 2 following Governors.

Appointed Member - Montgomery County Juvenile Court Committee. Initially appointed in 1977. Twice reappointed by new County Executive.

PUBLICATIONS

- o Guide to the 1980 Reauthorization of the Juvenile Justice and Delinquency Prevention Act. Co-author.
- o Youth Alternatives - regular contributor.
- o PTA Today - Washington Update Runaway Youth in America.
- o Stalking the Large Green Grant - Contributing Author.

PRIMARY AREAS OF FOCUS

- . Runaway and Homeless Youth
- . Juvenile Justice
- . Youth Employment
- . Missing Children
- . Substance Abuse
- . Families

THE RUNAWAY YOUTH PROGRAM MODEL

Outline of presentation by Mr. Robbie Callaway
Executive Director
National Youth Work Alliance

- I. INTRODUCTION OF THE PROBLEM
- II. QUIZ ON RUNAWAYS (attendees will need writing instruments)
 - A. Severity of the Problem
 - B. Federal Involvement
 - C. State Response
 - D. Local Program Activity
 - E. Parental Involvement
 - F. Program Specifics
 - G. Prostitution Among Runaways
 - H. Miscellaneous
- III. FEEDBACK ON THE QUIZ
 - A. Question by Question response
 1. Self-checking System
 2. Audience participation
- IV. WRAP-UP
 - A. What can the States do to better address the problem.

February, 1983

STATE LEGISLATIVE STRATEGIES:
RUNAWAY AND HOMELESS YOUTH

I. Legislation Enacted

1. New York

In 1978, New York passed the "Runaway and Homeless Youth Act" clarifying the legal status of runaway youth and establishing both procedures and funds to expand services through the development of new programs.

- Runaways are children under 18 years of age
- Administration by State Division of Youth Services
- 30-day state limitation in emergency shelter;
may extend to 60 days without court petition
- Models the federal Runaway and Homeless Youth Act
- Requires county plan and county match

II. Line-Item Appropriation

1. Florida

In 1982, the Florida legislature developed a special line-item appropriation for runaway youth programs to replace lost federal dollars.

2. Vermont

Since 1980, the Vermont legislature has supported runaway youth programs through line-item, general fund appropriations.

III. Related Legislation

1. Ohio

In 1982, Ohio passed HB440 creating a two-part, formula-based grant of state aid to counties. Grants may be used for a variety of services for "alleged or adjudicated unruly or delinquent children, or children at risk of becoming unruly or delinquent."

- Requires annual local plan developed by juvenile courts and county commissioners
- Administered by State Division of Youth

2. Louisiana

In 1980, the Louisiana legislature passed Act 452 authorizing start-up funds for new shelter care facilities. The Department of Health and Human Services establishes provider contracts of services also under this legislation.

- Recipients of services must be clients of Department of Health and Human Services

3. California

California's AB90 established the "County Justice System Subvention Programs" in 1978. The program's broad objectives encompass the development, maintenance, and expansion of a range of local, community-based justice programs, including services to juvenile and status offenders. The goal of the program is to decrease the number of state institutional commitments.

- Requires advisory group at state and local levels
- Inter-agency coordination

4. North Carolina

In 1980, the North Carolina legislature established the development of community-based alternatives to eliminate placement of status offenders in state institutions.

- Requires local-level evaluation prior to juvenile court hearing disposition
- Administered by Department of Human Resources
- Formula funding for counties on a matching basis

Related Legislation (continued)

5. Pennsylvania

In 1978, the Pennsylvania legislature established what is now known as Act 148. The basic intent of the Act is to deinstitutionalize children and youth by providing counties with financial incentive to develop and utilize community-based alternatives to institutionalization.

6. Wisconsin

In 1982, Wisconsin passed legislation that earmarks Title IVB (the federal Child Welfare program) funds for runaway youth programs. Funding replaces lost federal appropriations for YDB grantees and establishes funding for additional programs.

Wisconsin also employs what is known as 'Youth Aids'. 'Youth Aids' are capacity-building grants to counties to improve the quality and range of juvenile delinquency and related services.

IV. Other State Strategies

1. Texas

The Texas legislature supported an appropriations rider to the Texas Family Code, setting aside \$4.4 million (biennium FY83/84) to the Department of Human Resources (DHR) to serve runaways and truants. Should the rider secure passage, it is likely the funds will be targeted for new and innovative programs.

Several states, through the Department of Social Services typically, contract out to community-based programs through purchase-of-service agreements for specialized services for runaway youth and their families. This is the most difficult strategy to track because state agencies may not identify such contracts specifically for the runaway youth population.

V. States Considering Runaway and Homeless Youth Legislation

Other states exploring the development of specific runaway and homeless youth legislation include:

1. Florida
2. California
3. New Jersey

For further information, including state legislation, contact:

NCSL Youth Services Project
Michele R. Magri / Mary Kay Henderson
1125 Seventeenth Street, Suite 1500
Denver, Colorado 80202
(303) 292-6600

We would also appreciate receiving information to update this report.

The Juvenile Justice and Delinquency Prevention Act of 1974

Public Law 93-415

The JJDP Act of 1974, as amended, encourages states, through the disbursement of federal funds, to achieve the mandates of the federal legislation. These include: deinstitutionalization of status offenders; sight and sound separation from adult criminals; the use of the 'least restrictive alternative' for juveniles; and the removal of juveniles from adult jail or lock-up. Title III of the Act, administered separately by the Youth Development Bureau within the Department of Health and Human Services, is the federal mechanism establishing community-based programs for runaways. The Act will require reauthorization in September, 1984.

TITLE III—RUNAWAY AND HOMELESS YOUTH

SHORT TITLE

SEC. 301. This title may be cited as the "Runaway and Homeless Youth Act". (42 U.S.C. 5701 note)

FINDINGS

SEC. 302. The Congress hereby finds that—

(1) the number of juveniles who leave and remain away from home without parental permission has increased to alarming proportions, creating a substantial law enforcement problem for the communities inundated, and significantly endangering the young people who are without resources and live on the street;

(2) the exact nature of the problem is not well defined because national statistics on the size and profile of the runaway youth population are not tabulated;

(3) many such young people, because of their age and situation, are urgently in need of temporary shelter and counseling services;

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already

overburdened police departments and juvenile justice authorities; and

(5) in view of the interstate nature of the problem, it is the responsibility of the Federal Government to develop accurate reporting of the problem nationally and to develop an effective system of temporary care outside the law enforcement structure. (42 U.S.C. 5701)

RULES

SEC. 303. The Secretary of Health, Education, and Welfare (hereinafter referred to as the "Secretary") may prescribe such rules as he considers necessary or appropriate to carry out the purposes of this title. (42 U.S.C. 5702)

PART A—GRANTS PROGRAM

PURPOSES OF GRANT PROGRAM

SEC. 311. (a) The Secretary is authorized to make grants and to provide technical assistance and short-term training to States, localities and nonprofit private agencies and coordinated networks of such agencies in accordance with the provisions of this part. Grants under this part shall be made equitably among the States based upon their respective populations of youth under 18 years of age for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of such youth in the community and the existing availability of services. Grants also may be made for the provision of a national communications system for the purpose of assisting runaway and homeless youth in communicating with their families and with service providers. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with such youth.

(b) The Secretary is authorized to provide supplemental grants to runaway centers which are developing, in cooperation with local juvenile court and social service agency personnel, model programs designed to provide assistance to juveniles who have repeatedly left and remained away from their homes or from any facilities in which they have been placed as the result of an adjudication.

(c) The Secretary is authorized to provide on-the-job training to local runaway and homeless youth center personnel and coordinated networks of local law enforcement, social service, and welfare personnel to assist such personnel in recognizing and providing for learning disabled and other handicapped juveniles. (42 U.S.C. 5711)

ELIGIBILITY

SEC. 312. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund an existing or proposed runaway center, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians or to other homeless juveniles.

(b) In order to qualify for assistance under this part, an applicant shall submit a plan to the Secretary meeting the following requirements and including the following information. Each center—

(1) shall be located in an area which is demonstrably frequented by or easily reachable by runaway youth;

(2) shall have a maximum capacity of no more than twenty children, with a ratio of staff to children of sufficient portion¹ to assure adequate supervision and treatment;

(3) shall develop adequate plans for contacting the child's parents or relatives (if such action is required by State law) and assuring the safe return of the child according to the best interests of the child, for contacting local government officials pursuant to informal arrangements established with such officials by the runaway center, and for providing for other appropriate alternative living arrangements;

(4) shall develop an adequate plan for assuring proper relations with law enforcement personnel, social service personnel, and welfare personnel, and the return of runaway youths from correctional institutions;

(5) shall develop an adequate plan for aftercare counseling involving runaway youth and their parents within the State in which the runaway center is located and for assuring, as possible, that aftercare services will be provided to those children who are returned beyond the State in which the runaway center is located;

(6) shall keep adequate statistical records profiling the children and parents which it serves, except that records maintained on individual runaway youths shall not be disclosed without the consent of the individual youth and parent or legal guardian to anyone other than another agency compiling statistical records or a government agency involved in the disposition of criminal charges against an individual runaway youth, and reports or other documents based on such statistical records shall not disclose the identity of individual runaway youths;

(7) shall submit annual reports to the Secretary detailing how the center has been able to meet the goals of its plans and reporting the statistical summaries required by paragraph (6);

(8) shall demonstrate its ability to operate under accounting procedures and fiscal control devices as required by the Secretary;

(9) shall submit a budget estimate with respect to the plan submitted by such center under this subsection; and

(10) shall supply such other information as the Secretary reasonably deems necessary. (42 U.S.C. 5712)

APPROVAL BY SECRETARY

Sec. 313. An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 312. Priority shall be given to grants smaller than \$150,000. In considering grant

¹ So in original. Apparently should be "proportion".

applications under this part, priority shall be given to organizations which have a demonstrated experience in the provision of service to runaway and homeless youth and their families. (42 U.S.C. 5713)

GRANTS TO PRIVATE AGENCIES, STAFFING

SEC. 314. Nothing in this part shall be construed to deny grants to nonprofit private agencies which are fully controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the runaway house. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds. (42 U.S.C. 5714)

REPORTS

SEC. 315. The Secretary shall annually report to the Congress on the status and accomplishments of the runaway centers which are funded under this part, with particular attention to—

- (1) their effectiveness in alleviating the problems of runaway youth;
- (2) their ability to reunite children with their families and to encourage the resolution of intrafamily problems through counseling and other services;
- (3) their effectiveness in strengthening family relationships and encouraging stable living conditions for children; and
- (4) their effectiveness in helping youth decide upon a future course of action. (42 U.S.C. 5715)

FEDERAL SHARE

SEC. 316. (a) The Federal share for the acquisition and renovation of existing structures, the provision of counseling services, staff training, and the general costs of operations of such facility's budget for any fiscal year shall be 90 per centum. The non-Federal share may be in cash or in kind, fairly evaluated by the Secretary, including plant, equipment, or services.

(b) Payments under this section may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments. (42 U.S.C. 5716)

PART B—RECORDS

RECORDS

SEC. 321. Records containing the identity of individual youths pursuant to this Act may under no circumstances be disclosed or transferred to any individual or to any public or private agency. (42 U.S.C. 5731)

PART C—REORGANIZATION

REORGANIZATION PLAN

SEC. 331. (a) After April 30, 1978, the President may submit to the Congress a reorganization plan which, subject to the provisions of subsection (b) of this section, shall take effect, if such reorganization plan is not disapproved by a resolution of either House of the Congress, in accordance with the provisions of, and the procedures established by chapter 9 of title 5, United States Code, except to the extent provided in this part.

(b) A reorganization plan submitted in accordance with the provisions of subsection (a) shall provide—

(1) for the establishment of an Office of Youth Assistance which shall be the principal agency for purposes of carrying out this title and which shall be established—

- (A) within the Office of Juvenile Justice and Delinquency Prevention in the Department of Justice; or
- (B) within the ACTION Agency;

(2) that the transfer authorized by paragraph (1) shall be effective 30 days after the last date on which such transfer could be disapproved under chapter 9 of title 5, United States Code;

(3) that property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions of the Office of Youth Development within the Department of Health, Education, and Welfare in the operation of functions pursuant to this title, shall be transferred to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, and that all grants, applications for grants, contracts, and other agreements awarded or entered into by the Office of Youth Development shall continue in effect until modified, superseded, or revoked;

(4) that all official actions taken by the Secretary of Health, Education, and Welfare, his designee, or any other person under the authority of this title which are in force on the effective date of such plan, and for which there is continuing authority under the provisions of this title, shall continue in full force and effect until modified, superseded, or revoked by the Associate Administrator for the Office of Juvenile Justice and Delinquency Prevention or by the Director of the ACTION Agency, as the case may be, as appropriate; and

(5) that references to the Office of Youth Development within the Department of Health, Education, and Welfare in any statute, reorganization plan, Executive order, regulation, or other official document or proceeding shall, on and after such date, be deemed to refer to the Office of Youth Assistance within the Office of Juvenile Justice and Delinquency Prevention or within the ACTION Agency, as the case may be, as appropriate. (42 U.S.C. 5741)

RUNAWAY YOUTH: GOVERNMENT RESPONSE TO A NATIONAL PROBLEM

by

Michele R. Magri
NCSL Youth Services Project

This issue brief on runaway youth details federal efforts in this field, summarizes the service delivery system, and highlights the states' involvement.

HISTORY

Community-based runaway youth programs emerged in the mid-1960's in response to the needs of thousands of youth who left home and were on the move across the country. Concerned with the potential exploitation and victimization of young people while on the streets, the early programs provided neutral ground and protection unconnected with the "established systems." Emergency shelter, food, medical care, and immediate assistance were offered by volunteers, churches, and community groups through these centers.

Runaway programs provided home-like atmospheres and were located in old homes, apartments, or storefronts with open access 24-hours a day. Although their primary objective was to keep youth off the streets, these early shelters made every effort to put youth in touch with their parents and to help them return home.

A humanistic philosophy of youth's rights to self-determination and involvement guided the evolution of these centers. Program staff were committed to the concepts of trust, non-judgmental and supportive interaction, and responsiveness in service delivery to youth and to the needs of the community. Prevention and early intervention were the cornerstones of their work.

By the early 1970's, youth problems had begun to take on new dimensions. For example, the number of delinquency cases brought into the juvenile courts increased from 280,000 in 1970 to 1,112,500 in 1972, and the ratio of cases to the youth population (11 years to 18 years of age) rose from 1.6% to 3.4%.^[1] Truancy and school drop-out rates also climbed dramatically. By spring 1972, the issue of runaway youth grew from a collective concern of parents and residents in certain communities to a concern of federal policymakers. Running away had become a common response to family and social pressures, reaching what a Senate Committee in 1973 called "epidemic proportions." The 1976 National Statistical Survey on Runaway Youth estimated that 733,000 young people annually leave home at least overnight without the permission of their parents or legal guardians.

THE EMERGENCE OF FEDERAL LEGISLATION: THE RUNAWAY YOUTH ACT

In the latter part of 1973, the Secretary of Health, Education and Welfare established an Intra-Departmental Committee on Runaway Youth in response to the growing national concern about the problems of runaway youth. Senator Birch Bayh, then the chairman of the U.S. Senate Judiciary Committee, was firmly committed to developing alternatives that would divert runaway youth, labeled

as status offenders. Many runaway program staff members testified before Bayh's Committee that the swelling number of runaway youth had begun to overwhelm their volunteer staffs and limited operating budgets.

As a result of these efforts, The National Runaway Youth Program was initiated under the authorization of Title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (PL 93-415).

The goals of the Runaway Youth Act, as mandated by section 315, are:

- (1) to meet the needs of youth during the runaway incident;
- (2) to reunite youth with their families and to encourage the resolution of family problems;
- (3) to strengthen family relationships and to encourage stable living goals for youth; and
- (4) to help youth decide upon a future course of action.

The Juvenile Justice Delinquency Prevention Act has been amended twice since its enactment, expanding the legislative scope of the Runaway Youth Act in two areas. The first set of amendments in 1977 expanded the definition of runaway youth to include the previously unidentified and unserved population of homeless youth. The amendments also specified that family reunification be encouraged when appropriate-- recognition of the fact that many of these youth were homeless because of parental abuse or neglect. The second set of amendments, in 1980, changed the grant funding process to a direct state allocation based on population to ensure services in each state. (See Table 1).

The Youth Development Bureau (YDB), located within the Administration for Children, Youth, and Families, Office of Human Development Services, has administered the Act since its passage. The Act authorizes grants, technical assistance, and short-term training to public and private non-profit agencies within the community. Grants are made to develop and strengthen community-based programs that provide the core services of temporary shelter, counseling, and after-care (follow-up services) to runaway, homeless youth and their families.

These services are provided both directly by the programs and through contracts established with other service providers. In addition to these grants, support is also being provided through the National Communications System, designed to serve as a neutral channel of communication between runaway youth and their families. This system also refers youth to needed services within their communities.

Even with the bipartisan support this legislation received, appropriation difficulties have plagued the program. However, in 1975, the appropriation was set at \$5 million, and gradually increased to \$11 million in 1978 where it remained through 1981. The appropriation for 1982 encountered difficulty, as several proposals were considered by both the Administration and the Department of Health and Human Services, including the incorporation of the Runaway Youth Act into a block grant to the states. It is anticipated that the program will

remain a categorical operation within the Youth Development Bureau of Health and Human Services for FY 83. An amendment to the Continuing Resolution for FY 1983 authorizes an increase in appropriations to \$21 million. The Runaway and Homeless Youth Act, as part of the Juvenile Justice and Delinquency Prevention Act, is scheduled for reauthorization in 1984.

IMPORTANCE OF THE LEGISLATION

The Runaway and Homeless Youth Act is regarded as an important social service initiative for several reasons:

(1) Framed within the Juvenile Justice Delinquency Prevention Act, the Runaway and Homeless Youth legislation provides an impetus for the development and expansion of community-based programs designed to serve status offenders. Thus, non-violent, less serious offenders are diverted from the courts and inappropriate institutional arrangements.

(2) It is comprehensive in mandating the integration of the family into a wide network of community-based services designed to meet family needs. It requires attempts at family reunification and stabilization through individual and family counseling, and after-care services.

(3) The Runaway Youth Act provides recognition of the fact that the runaway youth problem is a national and interstate issue.

(4) The Act provides funding to ensure that programs exist in each state. These programs are linked together on a state, regional, and national level, providing a mechanism that assists youth in returning to their families. Acting under authority of the Act, the YDB facilitates and encourages information and resource sharing among the various programs.

(5) The Act provides YDB with the capability to collect data. This collection is the only source of nationwide statistical information on runaway, homeless youth and their families.

(6) Standard model regulations, developed by YDB, provide for program quality and consistency while allowing program flexibility and innovation.

(7) Programs funded by the Act are able to use YDB funds to establish credibility as recognized, federally-funded programs, using such funds as "seed money" to gather additional, broad-based support.

CHARACTERISTICS OF YOUTH SERVED

Why do youth run? There are many explanations for why youths run away from home. Although the research on this topic is fairly recent, the most comprehensive studies stress that runaways are not a homogenous group, and they examine three environments that constitute most of a youth's life experience: home, peer, and school.

A 1974 study concluded that the interaction of interpersonal, family, and school factors seems to precipitate running away from home. The most often

cited factors include the frequency of disruptive family activities, such as frequent moves, parental alcoholism, absence of one parent, little communication in the family, and physical or sexual abuse. Further studies demonstrate a correlation among alcohol abuse, drug abuse, and running away.

In short, it is important to stress that runaway and homeless youth represent two distinct categories: the former who run from a family situation that has the potential for reconciliation, and the latter in which reunification may not be possible because of family indifference.

Runaway Youth Centers are serving six distinct youth populations.

- (1) Runaway Youth. Youth who are away from home without permission or legal guardians.
- (2) Push-out Youth. Youth who leave home with parental encouragement.
- (3) Throwaways. Youth who leave home with knowledge and approval of parents or legal guardians, and who desire to leave home.
- (4) Potential Runaway Youth. Youth who are still living at home but are considering leaving home without permission.
- (5) Non-crisis Youth. Youth who are living in an unstable or critical situation, but who are not planning to leave.
- (6) Other. Youth who use the projects for various other purposes.

Demographics. The 1979 data base established by YDB reveals that runaways are the largest category (42%), followed by pushouts and throwaways (28%) and non-crisis youth (20%). More females than males run away in each category, with the exception of the push-outs where males predominate. The 14-17 age group represents 83% of the youth served, although programs also serve youth between the ages of 9 and 13 years (13.3%). While 72% of youth served are white/caucasian, minority youth also use these programs (16% black; 6% Hispanic).

Living situations. Of the youth who come to these shelters as runaways, the largest proportion (81.6%) had been living at home. However, the family had been typically (61.7%) headed by a single parent or stepparent.

Referrals. Youth come in contact with the runaway centers through a wide variety of referrals. The majority (19%) refer themselves for services. However, the police, courts, probation, and other juvenile justice agencies initiate 27% of all referrals--indicating that these programs, as a result of the implementation of deinstitutionalization laws, are serving as alternative service programs for status offenders. Protective services, mental health, and other public or private agencies account for 21% of the total referrals, demonstrating that these programs fill community service gaps.

PROGRAM DESCRIPTION

It is important to note that the 169 programs funded by the Runaway Youth Act do not constitute all of the runaway youth service programs in the country. The YDB programs, however, offer a successful demonstration effort which can be viewed as a model.

Runaway youth centers are diverse in terms of structure, ranging from free-standing emergency shelters to multi-purpose youth service agencies. Some have developed in response to specific community needs, while other programs have been selected as demonstration-sites to test their ability to deal more comprehensively with numerous youth problems. Examples of such problems include teenage pregnancy, school drop-outs, prostitution, youth employment, and adolescent abuse.

Despite this diversity, some common denominators exist in terms of key service components for all runaway youth programs. (All services are provided at no cost and have no eligibility requirements.) Emergency shelter is the cornerstone of the runaway program. Temporary housing is provided at the client's request on a 24-hour, 7-day-a-week basis through residences maintained by the programs, or through temporary foster homes, "host homes," and other community-based resources.

Crisis intervention counseling is another key component that assists the youth in thinking about family dynamics and the reasons for running away. This service attempts to avoid a breaking point in family communication and encourages family reunification. Other key services include outreach, information and referral, medical assistance, legal services, transportation, placement, advocacy, and after-care services. In addition to providing services directly, the projects have established solid working relationships with other institutions in the local communities, including welfare departments, juvenile justice agencies, social services programs, schools, police, and other runaway programs and crisis intervention units.

In a 1979 study, a sample of YDB funded runaway youth programs revealed that programs were operating highly complex and diversified service programs. In fact, the average YDB grant provided funding for less than half the cost of these programs. Other funds used by the programs included contracts from the Office of Juvenile Justice Delinquency Prevention, National Institute of Mental Health, Title XX, state agencies, local agencies, and private foundations. (See Table 2.) A cost analysis demonstrated that the projects generated an additional \$3,000 worth of resources per month through the use of volunteers, donated resources, and in-kind services.

THE STATES' RESPONSE

The states have entered this arena by providing services to runaways, homeless youth, and their families through a variety of techniques, including specific legislation, line-item appropriations in general fund categories, and purchase of service contracts on the local level.

Because state involvement is a fairly recent activity, this section of the report is limited in scope and offers only a sample of state involvement. Further research in this area will continue through NCSL's Youth Services Project.

State Legislation. To date, New York, is the only state to have passed specific legislation related to runaway and homeless youth. Two key factors played a role in the legislation's development. (1) In 1976, Assemblyman Howard Lasher, chairman of the Assembly's Child Care Committee, held hearings to examine New York's runaway problems in light of the federally funded runaway youth programs which he perceived as useful. (2) Also in 1976, the state moved to keep status offenders out of institutions in order to comply with the Juvenile Justice Delinquency Prevention Act. Through joint hearings, committee members, police officers, and community groups developed a consensus that the best way to deal with runaways was through treatment rather than detention.

Passed in 1978, New York's law follows the Federal Runaway Youth legislation, and is administered by the Division of Youth. The statute clarifies the legal status of runaway youth and establishes both procedures and funds to expand services through the development of new programs. This provision restricts support to existing federally funded programs.

Ohio has passed legislation, HB440, that balances the goals of fair treatment for youth and protection for the public. (See "Juvenile Justice in the States: Which Way Is It Heading?" State Legislatures, January, 1982, pp. 19-24.) Administered by the Division of Youth, this legislation created a two-part, formula-based grant of state aid to counties. The grants may be used to support prevention, diversion, diagnosis, counseling, treatment, foster care, and rehabilitation programs for "alleged or adjudicated unruly or delinquent children, or children at risk of becoming unruly or delinquent." The juvenile courts and county commissioners jointly establish an annual plan of services needed at the local level.

Following an unsuccessful attempt to obtain line-item appropriation from the U.S. Department of Health and Human Services, Wisconsin passed legislation that earmarks Title IVB (the Federal Child Welfare Program) funds for runaway youth programs. For each of the next two years, \$100,000 has been made available to support existing federally-funded programs. This funding replaces lost federal appropriations. Additionally, the law provides \$100,000 per year for a two-year period to nonfederal programs that serve runaway youth as a portion of their overall client population. The selection of the Title IVB legislation as a potential revenue source for runaway youth programs was appealing to the legislature and to runaway programs, because the money remains administered by a state agency.

Connecticut has taken a unique approach in passing a no-cost bill that sets a framework within which the family may be considered in need of services. This law grew out of Connecticut's efforts to deinstitutionalize status offenders.

Florida, which last year created a \$307,000 line-item appropriation for runaway youth programs to replace lost federal dollars, also appointed an interim committee on status offenders within the Senate Judiciary-Criminal Committee. The committee is expected to recommend a state-local partnership in providing services to runaway youth. Legislation is being proposed in both the Florida Senate and House for Shelter programs, with the share used to purchase beds and support one-half of the operating costs of these programs.

Maryland has demonstrated its support by calling for a "sole source" 33% across the board increase to runaway youth programs. The Governor, whose approval is required, is expected to support this action.

Other State Action. Several states have responded to federal cutbacks in funding for runaway youth programs and to arguments for the cost-effectiveness of these programs by providing line-item appropriations. These states include Wisconsin, Maryland, Minnesota, California, Vermont, Florida, Ohio, and Hawaii. Other options for state support that will require review and study include: using state-formula Office of Juvenile Justice Delinquency Prevention grants; using funds available under the Social Services Block Grants; and creating various pass-through mechanisms from the state to local level that could result in purchase-of-contract services or free-for-service reimbursements.

FOOTNOTES

[1] JUVENILE COURT STATISTICS, Office of Youth Development, 1972, p. 415

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TABLE 1

RUNAWAY AND HOMELESS YOUTH CENTERS
FY '83 ALLOCATIONS BY STATE

STATE	ALLOCATION
Alabama.....	\$299,200
Alaska.....	39,100
Arizona.....	199,750
Arkansas.....	170,000

American Samoa.....	3,400
California.....	1,688,100
Colorado.....	212,330
Connecticut.....	217,600
Delaware.....	44,200
D.C.....	44,200
Florida.....	595,000
Georgia.....	408,000
Guam.....	15,300
Hawaii.....	73,100
Idaho.....	78,200
Illinois.....	858,500
Indiana.....	425,000
Iowa.....	217,600
Kansas.....	171,700
Kentucky.....	277,100
Louisiana.....	343,400
Maine.....	85,000
Maryland.....	304,300
Massachusetts.....	402,900
Michigan.....	725,900
Minnesota.....	309,400
Mississippi.....	214,200
Missouri.....	357,000
Montana.....	62,900
Nebraska.....	119,500
Nevada.....	54,400
New Hampshire.....	68,000
New Jersey.....	530,400
New Mexico.....	107,100
New York.....	1,276,160
North Carolina.....	428,400
North Dakota.....	51,000
Northern Marianas.....	1,700
Ohio.....	819,400
Oklahoma.....	215,900
Oregon.....	185,300
Pennsylvania.....	826,200
Puerto Rico.....	343,400
Rhode Island.....	64,600
South Carolina.....	239,190
South Dakota.....	54,400
Tennessee.....	331,500
Texas.....	1,086,300
Trust Territories.....	17,000
Utah.....	134,300
Vermont.....	37,400
Virginia.....	382,500
Virgin Islands.....	10,200
Washington.....	290,700
West Virginia.....	142,800
Wisconsin.....	357,000
Wyoming.....	37,400

SOURCE: Federal Register, March 1983, Department of Health & Human Services, Office of Human Development Services, Runaway & Homeless Youth Program; Availability of Financial Assistance.

TABLE 2

RUNAWAY AND HOMELESS YOUTH PROGRAMS REPORTING "OTHER SOURCES OF INCOME"+

SOURCE	BUDGET PERCENTAGE

FEDERAL FUNDING	
Youth Development Bureau	25%
Law Enforcement Assistance Administration/ Juvenile Justice and Delinquency Prevention Act	2%
Title XX of the Social Security Act	4%
USDA	1%
DOL/NCCAN/NDEA	1%
Other	3%
STATE FUNDING	
Dept. of Public Welfare/Social Services	10%
Dept. of Mental Health & Corrections	1%
Other	8%
CITY/TOWN/COUNTY PRIVATE FUNDS	
United Way	3%
Welfare & Mental Health	4%
Foundations & Corporations	2%
In-Kind Services	9%
Youth Bureaus or Councils	1%
Fees	2%
Donations	15%
Revenues	5%
Other	4%

+ 148 programs reporting

SOURCE: U.S. Dept. of Health & Human Services, Office of Human Development Services, Administration for Children, Youth & Families, Youth Development Bureau.

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Girl on the Run: "Scared, Lonely, Scheming to Live"

UNHAPPY YOUNGSTERS who flee their families soon find that the road holds only fear, disillusionment and want. Yet taking the first step homeward is often the ultimate test.

Such was the experience of "Lisa," 17, who has a history of running away from her Maryland home. Now in a residential school, she gives this report of life on the run.

BETHESDA, Md.

I remember when my girlfriend and I hit Daytona, Fla., hopped up on "speed" that the truckers had given us, and these three guys pulled up in a car.

After two days of hitchhiking, all I wanted was a shower, so I cozied up to one of them—Michael—a 25-year-old guy from Ohio. Right off, he took me to the house he shared with the two others.

While the men were out at work rebuilding piers, I would clean and cook for them. Michael responded by protecting me from the others and keeping me away from Main Street, where drugs were dealt and people were always doing weird things. But when he asked me to marry him, I was scared because I was only 15 and I didn't really love him.

So I went to a party without him, got drunk and woke up in another house. When Michael wouldn't take me back, I started feeling desperate, went to the police and ended up in a youth shelter. In all, I had been in Florida for two weeks when my parents sent a plane ticket and I came home.

Through five years of running away, that's how it has always been: Looking for love but acting phony. Usually I'd drink or drug my way into trouble—then use seduction to get by.

The first time I ran away—when I was 13—it was because I had been drinking and stayed out late with a guy. My parents got the police involved, and things soon got so complicated I took off. A friend took me to an abandoned house in a cornfield near where he lived.

I stayed there a week, sweeping and cleaning and singing when I was lonely. I slept on the floor and tried to keep warm by wrapping myself in old sheets of plastic left over from

the movers. One night a policeman—Officer Bear I called him—saw me in a parking lot and took me home. I called cops pigs then, but I loved that man because he cared enough to talk about my troubles.

That's what I was looking for—someone to care for me. At first, whenever I ran away I'd say to myself: "Wow, I'm on my own. I can drink and party all I want, take a bong hit [smoke a marijuana pipe] any time I want."

But it wasn't long before I realized how scared, lonely and totally phony I was. I was doing everything to get something—to be loved, to feel secure, to get money or food. I was using people, scheming to live. It was fun at first, but after a while you don't have any friends because people start getting back at you.

I think I ran because I was trying to get away from myself and the crazy way I was living. Also, I didn't feel loved at home, so maybe I would feel loved somewhere else.

My birth wasn't exactly welcome because my father was a chronic alcoholic. My parents divorced when I was 6 months old, and I only saw my father a couple of times before he was killed while being robbed.

My mother remarried when I was 9, but I couldn't stand my stepfather. Without giving it a chance, I downright hated the man because my mom was all I had and it seemed like he was taking her away. I felt very lonely. Both my parents are teachers, and when my mother got home from work I was buried somewhere in the four kids that came with my stepfather.

A few times our brawls were my parents' fault, but usually I'd bait my stepfather. "Come on, hit me, man," I'd say, "so I can take you to court." I was just a punk.

By eighth grade, I had run away twice, started skipping school to go partying, and, even though I have the ability to be an A student, I flunked twice before I reached 10th grade.

No paradise. I kept on running, five times in all, but my life on the road was always the same—too many trashy people, too many drugs, too much promiscuity and drinking.

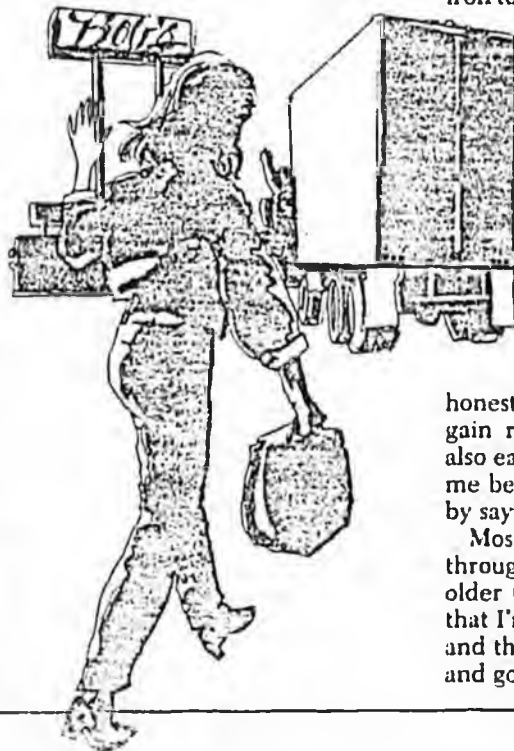
Usually, when I called my mom, she'd say something like, "I don't agree with what you're doing, and I think you should come home." She was angry, but she knew she didn't have any control over me.

But this last time—six months ago—things were different. When my roommate and I went AWOL from the school where I'm living, we only got as far as Pascagoula, Miss., before the cops pulled the truck over. They arrested the driver for picking up hitchhikers and locked me in a cell that was the real thing—with only an iron toilet, a hard bed and a slot where they pushed in your food.

After the strip search, I was ready to come home. This time, my mother made no attempt to hide the fact that she was angry, and the counselors at the school where I stay have helped me see why I've been unhappy and how I'm responsible for my own actions.

Now I'm finally beginning to realize that I have to stop scheming and start being honest about my feelings in order to gain real love and self-respect. It's also easier to feel that my mom loves me because she now will risk a fight by saying "No."

Most of all, even though I've been through a lot, I don't want to act older than I am any more. I realize that I'm not 25—that I'm just a kid—and that I really do need my parents and good friends.



An Endless Parade of Runaway Kids

They may number 1 million a year—frightened, rebellious and often easy prey. Society is trying to help, but only a few can find safe refuge.

Despite scores of programs to help them, thousands of youngsters each year still are joining the rootless, troubled group known as runaway children.

The federal government's General Accounting Office estimates that at least 1 million children a year are absent from their homes. Of these, half are considered "push outs" who are not wanted by their parents. The rest are runaways who, at the average age of 15, turn their backs on anxious families to try a life full of chaos and peril.

The vast majority of runaways—80 percent, according to social workers—return home within two days, before police have included them in missing-persons reports.

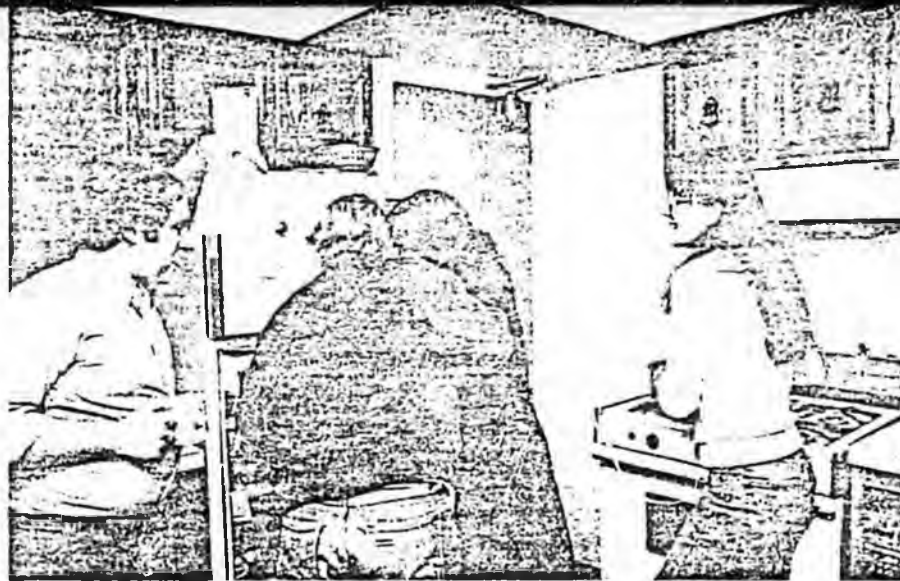
Some 44,000 a year find their way to federally funded shelters, and additional thousands land in jail. Still others stay away from home for weeks, months or years and are numbered among the 18,000 juveniles who make up three quarters of the missing persons listed by the National Crime Information Center.

A drifter's life. As they move from city to city, these youngsters typically fall quickly into patterns of runaway life: Sleeping outdoors, hitchhiking, crashing parties, shoplifting, looking for odd jobs, panhandling or turning to prostitution, pornography or drugs.

"The incidence of criminal activity rises sharply with the length of time a kid is away from home," says Robbie Callaway, executive director of the National Youth Work Alliance in Washington, D.C. Although only 40 percent of runaways report legal troubles before leaving home, Callaway says, almost all children who have been gone more than two weeks get involved in crime, either as perpetrator or victim.

On the road, homeless young people tend to gravitate toward resorts or big cities: San Francisco, Los Angeles and Denver in the West, New York and Florida beach towns in the East.

Sixty percent are girls, and few have any work experience. Some earn tourist-season money at shops and restaurants, but many resort to dealing dope to friends or sex to strangers.



House parents Jerry and Sandy Girbach help a pair of young guests raid the refrigerator at the Open Door, a shelter and counseling center for runaways in Rockville, Md.

"What can a 13-year-old girl do besides show her body?" asks a girl at a youth shelter. "In all my trips, I had one real job: Making candles at the beach. But twice I had guys asking me to pose nude for pictures—\$100 for the first shot, then a lot more later on."

In New York, runaways are the staple of the "Minnesota strip," a stretch of hookers' turf near Times Square that got its name by providing mostly out-of-state boys and girls between the ages of 10 and 20. In Chicago, recruiters at bus stations seek runaways for call-in services offering hired "companions" at rates as high as \$450 a weekend for a boy in his early teens.

Although most young people return home after their first brush with trouble, dramatic incidents show how vulnerable they are. For example—

- The bones of many runaways were found among those of 27 victims linked to Elmer Wayne Henley, an 18-year-old convicted in 1974 as an operator of a homosexual torture ring in Houston.

- In 1980, Chicago handyman John Wayne Gacy was convicted of killing 33 boys and young men, many of them reported to police as runaways.

- Police are still searching for the bodies of several of the girls reported slain by Gerald Eugene Stano, who told authorities that over some 10 years he killed at least 31 females, mostly hard-to-trace young hitchhikers and prostitutes, in Florida and New Jersey.

Politicians have responded to the runaway problem by pressing for more money and manpower to locate missing children. In October, President Reagan signed a law authorizing the Federal Bureau of Investigation to take reports about absent youngsters from parents and distribute them electronically to police departments nationwide.

Congress recently increased the funding of programs aimed at runaways from 10 million dollars to 21 million.

Most of the money goes for youth shelters and for telephone hot lines set up to aid young people in major cities.

Typically, a child looking for help is steered to one of the 166 federally funded shelters by the police, church or social-welfare workers. Some agencies send scouts to areas where runaways often gather, and others run newspaper ads containing a child's picture and a toll-free phone number that anyone with information can call.

Within 24 hours after a runaway arrives at a center, counselors try to contact the parents and begin negotiating as to what the young person should do next. Social workers check out with teachers and police any complaints of parental abuse. Within 30 days, the runaway must decide whether to go home, live independently or move to a longer-term institution—usually one of 300 residential schools or group houses that provide a foster-family atmosphere.

Sticking point. "The problem in getting through to runaways is that, on the surface at least, most have what look like perfectly good reasons for leaving," says Dr. Martin H. Stein, medical director of Dominion Psychiatric Treatment Center in Falls Church, Va.

Probation officers report that well over half the fugitives who land in juvenile courts come from homes marred by alcoholism, beatings or sexual abuse by fathers or other relatives.

Even so, counselors say that they are encouraged by the progress they can make with youngsters who turn to the shelters. "Usually, running away is a sign that a kid feels a need for a change," says H. R. Kelly Kjeldsen, program coordinator of the Open Door in Rockville, Md. "If you can show them how, and sometimes get the parents involved, it's often gratifying to see the way they respond." □

By JAMES JANN

POOR

Lena Horne Prevails



NO PLACE TO HIDE

A Story of Runaways
by *Dolson Rader*

RUNAWAYS

The average age is 15 and most depend on prostitution or theft to survive • by Dotson Rader

Ann is a very pretty girl, with a round, childlike face, lovely smile and large brown eyes. She dresses colorfully and delights in collecting stuffed animals, bunnies mostly, and baby dolls. When she moves from one cheap hotel to another, as she frequently does, she piles her toys into two enormous plastic garbage bags and drags them with her.

Ann is 15. Like hundreds of other runaways, she hangs out around First and Post Streets in Seattle, a derelict in an area of porn shops, saloons, fleabag hotels. She sleeps late, spending her nights wandering the streets or sitting in the Donut Shop. While it's an unpleasant place, runaways feel welcome there, safe from the johns, pushers and pimps outside, and from the cops. For many, the Donut Shop is the only place they have to go.

Like Ann, all the children in this story are real. While their names have been changed, their stories are true. What they say here is typical of what hundreds of other kids told me across America, from Key West to Boston, and New York to Los Angeles.

This article centers on the runaways in Seattle and San Diego, cities chosen because they anchor the ends of U.S. I-5, the main road for kids on the run in the West. Also, they are representative places, largely middle class. These children could be from your town, from next door.

I sat opposite Ann at one of the long formica tables, under harsh fluorescent lights. I asked her why she didn't go home to her family.

"Everytime I try to go home to live, my Dad starts hitting me," she said. "Now I only go home on Christmas, Thanksgiving and on my birthday. I owe them that. I'd like to live at home again, but I know it would start all over again, Daddy drinking and beating me up. That's why I left. The first time I ran away, I was 11. When I was

12, I was gone for good. I got a job at the Exotic Body Exercise Club downtown near the Donut Shop.

"After I lost that job, I met this old man on the street. He said he needed a babysitter. I'd get paid well. He lived in a hotel in Chinatown. He had a prostitute there, and she had a baby I took care of. After a while, the old man made me a prostitute. I was 13 years old, and I had no place to go.

"The old man knew all these Japanese guys who'd come to the hotel for sex. Two or three times a week I'd turn tricks, usually five or six a night. They each paid the old man \$40 for sex with me. He was good to me. Sometimes he gave me \$7 to go to the disco, and \$10 to spend. But I left him after nine months."

Ann glanced around the Donut Shop at the other kids. Then she leaned forward, lowering her voice, not wanting the other children to hear. Her modesty was touching and sad.

"My parents never spoke to me about sex. What I knew about it I learned at the movies," she confided. "When I first did it, I'd drink before the sex happened, and then I'd pretend it wasn't happening to me. I'd think about pretty things, like I wasn't even there. The first time, I was scared because I didn't know what was going to happen. Then I didn't care anymore. I really only like sex with someone I love. Other times I'm indifferent. I'm very lucky. I haven't been hurt by a trick. A lot of kids have.



Brent Petersen

"After I left the pimp," she continued, "I started mud wrestling on weekends all over the country. I was 14."

Ann told me about the mud show circuit, how she was auctioned off after each match to the highest bidder, who then had the right to bathe her down. She added that her life was okay. Anyway, what choice did she have? Nobody since she first ran away had ever tried to help her. Nobody.

We left the Donut Shop. Kids were huddled in doorways or walking back and forth to keep warm, some as young as 10, waiting around in the cold for someone to stop and buy their bodies for a few dollars or a meal or a warm place to stay. Police cars cruised by, as did johns peering through closed car windows, looking for kids to pick up.

Up to 1 million children in the United States run away from home each year, according to the federal Health and Human Services Administration. And most, after a few weeks, turn to prostitution and theft for survival. The average age of a runaway child is 15.

Forty-seven percent of runaways are girls, the agency says. More than half leave home because of child abuse. One-third are sexually abused. Of these children, 83 percent come from white families. The majority are never even reported as missing by their parents. Knowing all that, it was still disheartening to see in Seattle so many kids with nowhere to go.

As we walked, Ann introduced me

to other street children, two of whom I asked to interview. Most of the runaways I met were unusually bright, attractive, lonely and hungry for adult regard and affection.

There were also johns who came up, trying to solicit Ann.

These men who have sex with children are almost entirely middle-class, usually married, and most often they have children at home about the same age as the child they violate, according to social workers. They are rarely arrested. When the police act, it is always against the children.

Before I left Ann, I asked how she envisioned her future. It was now after midnight. She stood near the entrance of a smut parlor, her small hands shoved in her jacket pockets, looking weak and defenseless. "Oh, I don't plan to be a prostitute for the rest of my life," she declared. "In Seattle, most of the runaway girls on the street end up in prostitution. It's do or die. The same with the boys. Do you know how hard it is for a kid to get a job in Seattle?" She shook her head. "If I had my life to do all over again, I wouldn't live like this. I would have stayed home. I'd rather be abused at home than this. Seriously, I would."

She paused.

"But it's too late now."

The following day I found Ann waiting in my hotel lobby with two of her friends, Daniel and Melanie.

Daniel, who just turned 15, is tall, handsome and unusually articulate. He told me about running away from home at 12, of being raped a week later by a middle-aged man in the back of a van and being too frightened to tell anybody. In almost deferential tones, he outlined his brief life—hitchhiking up and down the West Coast. His was an account of sexual abuse, drugs, desperation and an aching need to belong somewhere, to somebody. Now he was working as a busboy. He wants to be a radio announcer. Someone told him he had the voice for it.

After speaking with Daniel, I talked

"My parents never spoke to me about sex. What I knew about it I learned

in Melanie. She spoke rapidly, chain-smoking. There was a bravado in her manner, belied by her sorrowful gray eyes. She was 5 feet and underfed.

She told me about her parents' divorce and the death of her grandmother, whom she loved deeply. At 13 she became pregnant. She didn't know how pregnancies happened, she said. She left home when her mother forced her to abort the child. Melanie has been on the run since.

"I ran away on Christmas night, about two months after the abortion," she said. "I hated Mom after that. One night I went to downtown Seattle. I met a guy named Jim. He was 18, and he'd been a runaway since he was 14. We got an apartment together. It was really a hotel for bums. I started trucking [prostitution] to get money for us because Jim was having a hard time of it. The johns wanted younger boys, 14, 15, and Jim was too old. When I first started trucking, I didn't let Jim know. I wanted him to think I was an innocent little girl. Now it doesn't bother him."

Melanie sat by the window in my room. It was an overcast day, but you could still see past the skyscrapers to the lake beyond and, farther still, the hills of the neighborhood where she had been reared.

"I used to live over there," she remarked. "It was a nice house."

Now she lived with Jim, who was a bum dealing drugs, drinking and hanging out. She loved him, but she hated prostitution, all her years lost to the streets. She felt trapped.

"I'm so tired of sex," Melanie said wearily. "It doesn't do me any good, sex with anybody, even Jim. I don't enjoy it anymore." She is 16 now.

I suggested that she return home. If she told her parents what she had been through, they would help.

She laughed. "My parents know I'm a prostitute," she said. "All my father says is, don't get arrested. He doesn't want it in the newspapers."

Before I left for San Diego, I took Daniel and Ann to the restaurant at the hotel. They ate a hot and talked as children will about all they are going to do in life and what shining futures awaited them, but I knew they didn't believe a word of it.

"I'm flying to California on Tuesday to go on the roller-coaster and see a guy down there named Walt," Ann boasted. "He's a television producer."

"I've been to Disneyland!" said

Daniel. "Twice!"

She ignored him. "I met Walt at an amusement park last year in Santa Cruz. I went to his ranch and rode horses and drank lemonade. He likes little girls. He likes me."

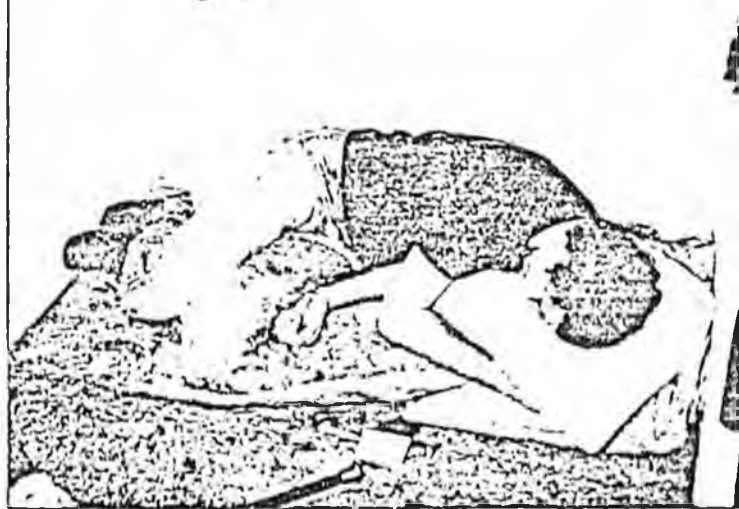
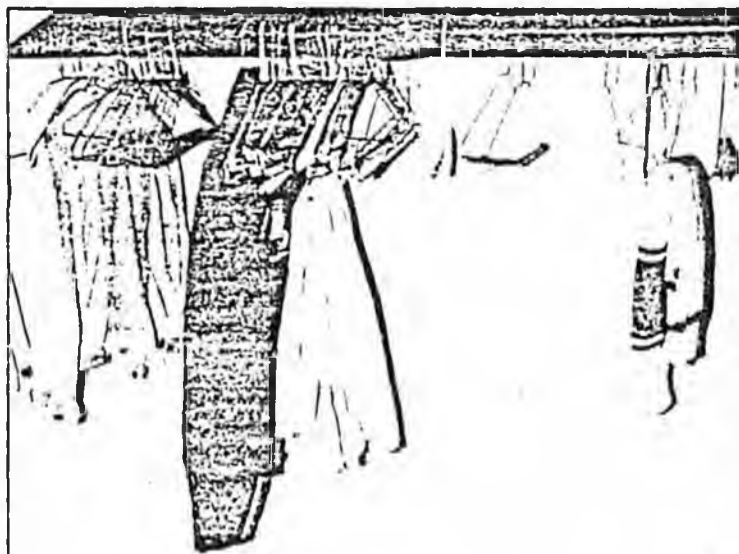
I asked how old he was, this man who likes little girls.

"Sixty-five," Ann said.

When they finished eating, they said

where children on the lam gather. They're not hard to find. They sleep in the bus depot, or in the parks, particularly the area near the zoo. You find them in abandoned cars or empty houses or grouped around fires on beaches. They are everywhere.

Of the hundreds of children I met, Patrick was the most private. He was wounded inside, and the pain bred



A runaway in San Diego finds a place to sleep—for a night.

they had to go to the bathroom. As I waited for them to return, I grew wary and began to suspect they were conspiring to hit me for money.

When they returned, each had a small gift for me they had bought at the hotel's gift shop. A bottle of after-shave and a souvenir mug.

For three days in San Diego, a runaway named Patrick took me to places

distrust and silence. He was 17, although he looked much younger. Blond, with blue-green eyes, he was small but athletic, liking gymnastics. Quiet, shy, suspicious. But despite that, he had a natural winsomeness, a ready smile and easy laugh joined by an insistent vulnerability that made him at once likable and sad. He elicited in me, as did the others, a desire to pro-

tect. But he was different, possessed by an almost palpable rage. When I first asked about his life, he angrily refused to reply. So I let it go by.

On my second day, we drove to Chula Vista Park, where many runaways live. They survive by doing odd jobs, stealing, helping each other out.

We came to the park two days after the police had raided it, and we saw children with bruised faces and cuts on their heads. The police don't like children living in the parks.

Among the runaways I interviewed there was Steven, 15, from Ocean Beach, Cal. He ran away when he was 13, he said. Like most runaways, his chief concern was getting enough food and a dry place to sleep. He comes from a good family, but he can't go home again.

"It's frightening to be a runaway," Steven said, "because you don't know about tomorrow. You wonder where you're going to eat or live. Am I going to be all right? Will I be able to sleep somewhere other than in the park? You got nothing to grab onto because all that you own is what's on your back. Nothing is mine. When I want something to eat, I steal it."

"When you run away, you meet a lot of kids who got no place," he added.

"Why don't kids want to go home?" I asked.

"Some of them get beat up so bad," he said. "But the streets are bad too. The cops hassle you. Sometimes they beat you up."

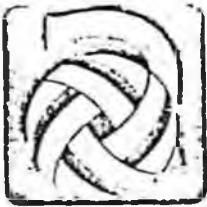
"I don't want to go home because I really hate my mother. When I was 13, she kicked me out."

"If I had a child who ran away, I'd find him. I'd do my best. I'd sit down and ask him what was on his mind. What's troubling you, kid? And after we talked, I'd try to change the things he didn't like. We'd compromise. I want to go back home, but I can't. I see how small I am. I'm nothing. God, I can't live on my own. It's mad out there. It's crazy! Whew! It's scary! I can't pay my own way. And I know it."

The day I was to leave San Diego, Patrick and I went to Ocean Beach to interview more runaways. I talked to a girl and a boy who lived in a broken-down car. And to a girl of 15 with a year-old baby, and her friend of 13. They had been traveling together for two years and could not see beyond

continued

"the movies. When I first did it, I'd pretend it wasn't happening to me."



The National Youth Work Alliance

1346 CONNECTICUT AVENUE, N.W. • WASHINGTON, D.C. 20036 • (202) 785-0764

THE NATIONAL YOUTH WORK ALLIANCE (NYWA) IS A PRIVATE NON-PROFIT ORGANIZATION WHICH ASSISTS IN THE ESTABLISHMENT OF RUNAWAY CENTERS AND OTHER YOUTH PROGRAMS FOR TROUBLED YOUTH. NYWA ALSO SUPPORTS EXISTING PROGRAMS THROUGH TECHNICAL ASSISTANCE, STAFF TRAINING AND PROGRAM DEVELOPMENT. BESIDES THE NATION'S 220 RUNAWAY PROGRAMS, NYWA ASSISTS HUNDREDS OF YOUTH DRUG AND ALCOHOL ABUSE PROGRAMS, JUVENILE DELINQUENCY PREVENTION PROGRAMS, YOUTH EMPLOYMENT PROGRAMS AND CRISIS COUNSELING CENTERS.

PLEASE FEEL FREE TO CONTACT US FOR FURTHER INFORMATION.

RUNAWAYS/continued

tomorrow. Also, there were young run-
aways spaced out on drugs or stagger-
ing about on cheap booze; children
obviously undernourished, unhealthy,
unwanted, America's children.

As the sun began to set, Patrick and
I sat on the pier watching the light
fade.

"I've had a pretty hard life," Patrick
suddenly said, staring at the ocean.
I replied that I knew, although I
didn't.

"I don't want to tell you all of it,"
he said. "I was always made to feel
less." He sipped a beer as he sat hunched
on the pier, his feet dangling above
the water. "My mom hated me," he
went on, "because I reminded her of
my dad. I always knew she was bad,
from the first day I can remember, like
when I was 2 years old. She was al-
ways doing weird things, like wanting
me and my little brother to take a bath
with her." He stopped. I said nothing,
for I sensed Patrick was trying to tell
me what he had never told any other
adult.

"She tried to do sexual stuff with
us, too," he began again, staring out
to sea as if he were addressing the
ocean and not me. "To go to bed with
her. All through my growing up, she
was always trying something with me,
and my little brother, too. She was
dating a guy, and she had a girlfriend
at the same time, and they were all
sleeping in the same bed, running
around naked all the time. It makes
me sick. My own mother. I've shocked
it all out. That's the only way I've
survived."

"Then when I was 13, I was sent to
live with my grandparents," he said.
"They cheated and lied. When I was
15, they sold me to a lady for \$500. I
ran away. So I never had a real family.
I never saw my real father. I was al-
ways lonely . . . I feel like there must
be something wrong with me. How
come no one ever loved me? I must be
bad. I feel like I don't exist because
nobody ever loved me."

"My mom used to beat me with
boards," he continued. "You wouldn't
believe some of the stuff she whipped
me with. Hot Wheel tracks. And my
stepfather? He whipped me 25 times
on the back of the legs with a rubber
hose. I tried to block it, and I got hit
on the hands. I counted every swat.
Twenty-five times he hit me. And now
he beats my little brother. How can I
get even? I *can't* get even. But I'll
remember it, believe me."

I asked Patrick if that was why he
ran away, because of the beatings.
He looked at me, full of anger, and

then he threw his beer can into the
sea. He stood. We walked on the pier.
"I didn't want to be a runaway,"
said. "I had no place to go. I didn't
want to starve. I didn't want to steal
and live here to go."

He stopped and grabbed my arm.
"No one ever helped me! Please
me. Help me! I need help. *Someone*
I know." I pulled my arm free.

"There's a lot of things I don't know
and I'd like to learn. I want to learn to
survive legally," he went on. "I don't
have my ID, and I don't know how to
get it. I'm willing to learn. I don't
want to be a dummy, all my life.
I don't want to be a bum, because I'm
better than that. Do you understand
where I'm coming from? I need to
know things to survive. I don't know
anything. I can barely read, to tell the
honest truth. My mom never helped
me with my schoolwork. They didn't
care about me."

I looked at him, his eyes expressing
beseechment, pain and deep humili-
ation. *I can barely read.*

"Patrick," I began, and gave up. I
had no answer to give him.

We walked toward the fence separ-
ating the parking lot from the beach.
"Don't you think loving is hard?"
he asked.

I said nothing.
He glanced at me, and then he
climbed manfully. "I never cry."
With that, Patrick rushed to the fence,
climbed it, and like a circus acrobat
ran along the top of it quickly—away
from me. *pr*

HOW YOU CAN HELP

A national network of shelters
for runaways, financed by govern-
mental and private sources, provides
temporary housing and food to home-
less children. Many, such as The
Bridge in San Diego and Shelter
Runaway Center in Seattle, are ex-
cellent. But The Bridge has eight
beds and Shelter has six. Others
around the country are similarly
small and poorly funded and un-
equipped to significantly help a grow-
ing mass of children in flight.

The shelters need help. You can
get in touch with those in your com-
munity through the National Run-
away Hotline (1-800-231-6946) or
the National Runaway Switchboard
(1-800-621-4000). Or write The Na-
tional Youth Work Alliance, Dept.
P, 1346 Connecticut Ave., N.W.,
Washington, D.C. 20036.

H

B

6

4

9

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____
(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB 649
Title: Minimum benefit under TRS

FISCAL DETAIL

Agency Affected: Dept. of Educ., U of A
Program Category Affected: TRS

Sponsor: Bettisworth
Requestor: _____
Date of Request: _____

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs		13.0				
100 Rtmnt & Bnfts		146.5	158.3	170.9	184.6	199.4
200 Travel						
300 Contractual						
400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		872.5	942.3	1,017.7	1,099.1	1,187.0
TOTAL OPERATING		1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Fund	-0-	1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary		1				

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys, Director Phone: 465-4460
Division: Retirement & Benefits Date: 4-9-84

Approved by Commissioner: Lisa Ridd Date: 4/10/84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill 649
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

April 9, 1984

IV Analysis: We have assumed that this bill would affect 439 TRS members by increasing their benefit by \$10 per month for each year of service. We have calculated that passage of this bill will increase the state's contribution rate by .23% and the TRS State Match by .23%. The present value of these costs is \$19,730,000.00 and would result in a decrease in the funding ratio of 2.46%.

The estimated FY 85 State TRS salaries are \$63,713,500.00 and the total estimated TRS State Match salaries are \$379,349,200.00.

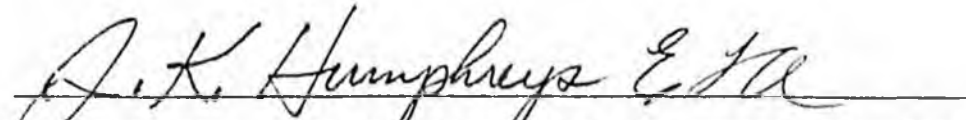
We have also estimated that efforts of researching and correcting the current minimum benefit recipients and those newly qualifying recipients would involve approximately 500 hours at a one year cost of \$13,000.00.

Position Paper

HB 649


The Department of Administration opposes this bill. The new minimum benefit would be paid to any retiree who retired with less than a \$21,000 annual salary for their high three years. The adjustment under this bill would be made and then any post retirement pension adjustments which had been granted would be added. For example, the minimum benefit under this bill granted to a member who retired in 1965 would, when combined with post retirement pension adjustments, yield a total benefit equivalent to that of a person retiring today with a final salary of \$31,966.44. This seems excessive for a minimum benefit. Those retirees who have been retired longer would benefit more because of the addition of post retirement pension adjustments.

The Department feels that the current minimum benefit provision when coupled with post retirement pension adjustments is adequate.



J.K. Humphreys, Director, Division of Retirement & Benefits

4/9/84
Date



Commissioner Lisa Rudd, Department of Administration

4/10/84
Date

Post Retirement
Pension Adjustments

<u>PERS</u>		<u>INFLATION*</u>	<u>TRS</u>	
			7-1-67	1.5%
1-1-68		2.6%**	7-1-68	1.5%
1-1-69	1.5%	4.4%**	7-1-69	1.5%
1-1-70	1.5%	3.9%**	7-1-70	1.5%
1-1-71	1.5%	3.8%	7-1-71	1.5%
1-1-72		3.1%	7-1-72	1.5%
1-1-73	2.5%	2.6%	7-1-73	1.5%
1-1-74	3.0%	3.9%	7-1-74	3.0%
1-1-75		11.3%	7-1-75	
1-1-76		14.8%	7-1-76	
1-1-77		7.2%	7-1-77	10%
1-1-78	4.0%	7.6%	7-1-78	4.0%
1-1-79	4.0%	6.3%	7-1-79	4.0%
1-1-80	4.0%	10.0%	7-1-80	4.0%
7-1-81	4.0%	10.1%	7-1-81	4.0%
7-1-82	4.0%	7.7%	7-1-82	4.0%
7-1-83		7.1%	7-1-83	

*converted from Anchorage CPI (only for 1971 on).

**these percentages were furnished by Dept. of Labor



ALASKA STATE LEGISLATURE
 HOUSE OF REPRESENTATIVES
 RESEARCH AGENCY

Pouch Y, State Capitol
 Juneau, Alaska 99811
 (907) 465-3991

April 10, 1984

MEMORANDUM

TO: Representative Bob Bettisworth

FROM: David Teal *Teal*
 Legislative Analyst

RE: Adjustment of Teachers' Retirement Benefits
 Research Request 84-091

Ralph Bennett, of your staff, asked us to apply inflation factors in order to determine benefit amounts that correspond to previous payments through the teachers' retirement system. The table below shows (1) previous minimum benefit amounts (in the first year in which an amount was applicable), (2) the Anchorage Consumer Price Index (CPI) in the same year, (3) the inflation factor required to bring the previous value to an equivalent value in January 1984, and (4) the minimum benefit (in 1984 dollars) that corresponds to the previous amount.

<u>Year</u>	<u>Minimum Benefit*</u>	<u>January CPI</u>	<u>CPI Adjustment Factor**</u>	<u>1984 Minimum Benefit</u>
1974	\$15	125.6	2.16	\$32.42
1975	20	142.9	1.90	38.00
1980	25	215.9	1.26	31.44

*The minimum benefit is presented as the minimum monthly payment per year of service. The floor was set at \$200 per month, regardless of time served, prior to 1974.

**The CPI for January 1984 was 271.5. Adjustment to later values would increase the amount shown in column 5.

* * *

If we can be of further assistance on this or another project, please call.

STATE OF ALASKA

DEPARTMENT OF ADMINISTRATION

DIVISION OF RETIREMENT & BENEFITS

POUCH CR

JUNEAU, ALASKA 99811

Public Employees' Retirement System
Teachers' Retirement System
Judicial Retirement System
Elected Public Officers Retirement System
National Guard Retirement System
Territorial Retirement System
Retirees' Voluntary Dental-Vision-Audio Plan
Supplemental Benefits System
Group Health/Life Insurance Benefits
Deferred Compensation Plan
Public Employers Social Security Contributions

Bill Sheffield, Governor

(907) 465-4460

January 20, 1984

RECEIVED

JAN 23 1984

BUDGET/AUDIT
COMMITTEE

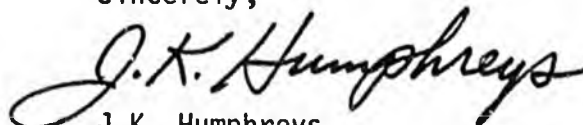
Honorable Robert H. Bettisworth
Chairman
Legislative Budget & Audit Committee
Pouch V
Juneau, AK 99811

Dear Mr. Chairman:

Attached is an estimate of the fiscal impact on the Teachers' Retirement System (TRS) of your attached draft legislation. This estimate is for information purposes only and the assumptions used are outlined on the second page.

We appreciate your aide's efforts in working with this Division in drafting this legislation. When the bill is introduced, we will review it and prepare an accompanying, formal fiscal note. If we can be of any further assistance, please contact me.

Sincerely,



J.K. Humphreys
Director

JKH/sf
Attachments
cc: Rebecca Burch

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

DRAFT

Revision Date: _____

(Page 1 of 2)

REQUEST

Bill/Resolution No.: HB Draft
Title: Minumum benefit under TRS

Sponsor: Bettisworth

Requestor: _____

Date of Request: _____

FISCAL DETAIL

Agency Affected: Dept. of Educ., U of A
Program Category Affected: TRS

BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

Operating	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
100 Personal Svcs		13.0				
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400 Supplies						
500 Equipment						
600 Land & Struct						
700 Grants, Claims						
700 TRS Match		872.5	942.3	1,017.7	1,099.1	1,187.0
TOTAL OPERATING	-0-	1,032.0	1,100.6	1,188.6	1,283.7	1,386.4

CAPITAL						
---------	--	--	--	--	--	--

REVENUE						
---------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

General Fund	-0-	1,032.0	1,100.6	1,188.6	1,283.7	1,386.4
Federal Funds						
Other						
Total						

POSITIONS:

Full-Time						
Part-Time						
Temporary		2				

SOURCE OF FUNDS TO OFFSET IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: J.K. Humphreys Phone: 465-4460
Division: Retirement & Benefits Date: 1-16-84

Approved by Commissioner: Lisa Rudd Date: 1-16-84
Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

House Bill Draft
Fiscal Note Analysis
Prepared by the Division of Retirement & Benefits
Department of Administration

January 16, 1984

IV Analysis: We have assumed that this bill would affect 439 TRS members by increasing their benefit by \$10 per month for each year of service. We have calculated that passage of this bill will increase the state's contribution rate by .23% and the TRS State Match by .23%. The present value of these costs is \$19,730,000.00 and would result in a decrease in the funding ratio of 2.46%.

The estimated FY 85 State TRS salaries are \$63,713,500.00 and the total estimated TRS State Match salaries are \$379,349,200.00.

We have also estimated that efforts of researching and correcting the current minimum benefit recipients and those newly qualifying recipients would involve approximately 500 hours at a one year cost of \$13,000.00.

PRPA- CALL FRED ZHAROFF

TEACHERS WHO RETIRED OVER 16 YEARS AGO WHO FEW
BELOW THE NEW RATES ESTABLISHED ABOUT 10 YEARS AGO.

C EMPLOYEES RETIREMENT SYSTEM / TEACHERS' RETIREMENT SYSTEM / JUDICIAL RETIREMENT SYSTEM / ELECTED PUBLIC OFFICIALS RETIREMENT SYSTEM / NATIONAL GUARD RETIREMENT SYSTEM

A COMPARISON - MAY, 1983

	<u>PERS</u>	All Other	<u>TRS</u>	<u>JRS</u>	<u>EPORS</u>	<u>NGRS</u>
Contributor	PO/F 2% on years 1-10 2 1/2% on years over 10		2%	5%	5% membership 2% other creditable service	\$100.00 x no. of months NGRS service
Waiting Period	5 years	5 years	8 years	5 years	5 years	5 NG out of 20 MIL
Eligibility	55 w/5 years service OR 20 years PO/F service	55 w/ 5 years service OR 30 years service	55 w/8 years membership service; OR 5 years membership service and 3 years AK BIA; OR 15 years credited service if hired prior to 7/1/75, last 5 years membership service; OR at any age: 20 years membership service; OR 20 years combined mem- bership and AK BIA, last 5 years membership service; OR 25 years credited service, last 5 years membership service.	60 w/ 5 years service	60 w/ 5 years service	N/A
Transferability	55 w/2 years service if if vested in the PERS	55 w/2 years service if vested in the TRS	55 w/2 years membership service if vested in the PERS	N/A	N/A	N/A
Rate	5%	4.25%	7%	7% for Judges hired after 7/01/78; 0% for Judges hired before 7/01/78	7%	N/A
Cost	22.36% consolidated rate; FY 83	12.71% consolidated rate; FY 83	8.45%; FY 83	104.78%; FY 83 and FY 84	Unfunded System, Annual Appropriation	Funded System, \$1,202,000 FY 83 and FY 84
Service	Military (max. of 5 years) Territorial Service (must have 3 years service w/State after 1961) Temporary Service	Military (max. of 5 years) Territorial Service (must have 3 years service w/State after 1961) Temporary Service	Military (max. of 5 years) Outside (max. of 10 years; military & outside not to exceed 10 years) AK BIA (no max.)	Magistrate Pre 7/01/67 N/A N/A	PERS Covered Employment	N/A
Death Benefit	10% (or \$50.) if domiciled in AK	10% (or \$50.) if domiciled in AK	10% if domiciled in AK	NO	NO	NO
Spouse	Ad Hoc	Ad Hoc	Ad Hoc	Benefits Increase with Last Position's Salary Increase	Benefits Increase With Last Positions Salary Increase	NO
Portability	Yes	Yes	Yes	Yes	Yes	NO

Appendix I

Alaska State Legislature



POUCH V
JUNEAU, ALASKA 99811

REPRESENTATIVE

ROBERT H. "BOB" BETTISWORTH

211 CUSHMAN STREET
FARBANKS, ALASKA 99701

April 10, 1984

M E M O R A N D U M

To: Representative Mae Tischer, Chair, House HESS Committee

From: Rep. Bob Bettisworth *RB*

Subject: H3649, "An Act relating to the minimum monthly retirement benefit under the Teachers' Retirement System; and providing for an effective date."

It has become evident that TRS retirement benefits have not kept up with inflation. This has resulted, for the most part, from the failure of post retirement pension adjustments to keep pace with actual inflation. In an attempt to partially redress this problem HB649 proposes to raise the current statutorial minimum TRS benefit for retirees under the system from \$25/month/year to \$35/month/year. The cost of this increase for those receiving minimum benefits would have to be borne by the state through increased annual appropriations to the TRS match.

The TRS system had no minimum or floor level for retirees until 1973 when a \$200 minimum benefit per month was provided. In 1974 this was changed to \$15/month/year of service and in 1975 the per month per year minimum was raised again to \$20. The \$20 floor remained in effect until it was raised to \$25 in 1980 and it remains at that level today. DOA, Division of Retirement and Benefits has estimated that the number of retirees affected by the increased benefit would be 439.

In calculating what an appropriate increase would be the Anchorage CPI was used keeping in mind the changes over time since the first per month per year based floor was installed in 1974. A figure based on the amount of CPI change since the 1975 adjustment to \$20/month/year was also calculated. Based on these two scenarios, a median figure of \$35 was selected bearing in mind that the numbers were based on calculations of inflation only through January 1, 1984.

A chart showing the present minimum benefit levels for specific service longevity and the same representation for the new minimum benefit levels is provided:

Currently TRS contributors vest at eight years of service.

1.) EXISTING MINIMUM BENEFIT LEVELS FOR TRS RECIPIENTS

Eight Years	8 X \$25	=	\$200
Ten Years	10 X \$25	=	\$250
Twelve Years	12 X \$25	=	\$300

2.) PROPOSED MINIMUM BENEFIT LEVELS FOR TRS RECIPIENTS

Eight Years	8 X \$35	=	\$280
Ten Years	10 X \$35	=	\$350
Twelve Years	12 X \$35	=	\$420

An increase in minimum benefit from \$25 to \$35 is an increase of 40%.

Alaska State Legislature

REP. MAE TISCHER
CHAIRMAN



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3777

House of Representatives
HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

STAFF REVIEW

House Bill 649, "An Act relating to the minimum monthly retirement benefit under the Teachers' Retirement System; and providing for an effective date," by Representative Bob Bettisworth, raises the minimum amount for eligible members of the Teachers' Retirement System from \$25 (under current law) to \$35 a month for each year of credited service, excluding adjustments.

The bill provides that the law would take effect July 1, 1984.

(Legislative Reporting Service, 2/20/84, p. 369)

person, or circumstance shall not be affected thereby. If this agreement shall be held contrary to the constitution of any state participating therein, the agreement shall remain in full force and effect as to the state affected as to all severable matters. (§ 1 ch 83 SLA 1970)

Editor's notes. — In article III(1) of the compact, the word "that" was substituted for "his" in the first sentence and the words "the state official" were substituted

for "he" in the third sentence by the revisor of statutes pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982.

Sec. 14.20.640. Designated state official to make contracts. The designated state official to make contracts on behalf of the state according to Article III of the agreement shall be the commissioner. (§ 1 ch 83 SLA 1970)

Revisor's notes. — The words "of education" were deleted following "com-

missioner" by the revisor of statutes under AS 01.05.031. See AS 14.60.010.

Sec. 14.20.650. Filing and publishing of contracts. True copies of all contracts made on behalf of this state according to the agreement shall be kept on file in the office of the commissioner and in the office of the lieutenant governor. The Department of Education shall publish all contracts in convenient form. (§ 1 ch 83 SLA 1970)

Revisor's notes. — In the first sentence of the section, the words "of education" were deleted following "the commissioner"

and "lieutenant governor" was substituted for "secretary of state" by the revisor of statutes under AS 01.05.031.

Chapter 25. Teachers' Retirement.

Section

- 10. Retirement system established
- 12. Purpose and effective date
- 15. Administrator
- 20. Powers of the administrator
- 22. Regulations
- 30. Duties of the administrator
- 35. Teachers' Retirement Board
- 40. Membership
- 43. Reemployment of retired members
- 45. Participation by National Education Association employees
- 50. Contributions by teachers
- 55. Supplemental contributions by teachers
- 60. Arrearage indebtedness
- 61. Retroactive indebtedness
- 62. Reinstatement indebtedness
- 63. Payment of indebtedness
- 65. Transmittal of contributions
- 70. Contributions by employer
- 80. Contributions by the state
- 90. [Repealed]
- 100. Credit for service in the armed forces

Section

- 105. Credit for service as an employee of the Territory of Alaska
- 107. Credit for Alaska BIA service
- 110. Retirement benefits
- 115. Unused sick leave credit
- 120. [Repealed]
- 125. Conditional service retirement benefits
- 130. Disability benefits
- 135—140. [Repealed]
- 142. Cost of living allowance
- 143. Post retirement pension adjustment
- 145. Interest on individual accounts
- 150. Refund upon termination
- 155. Nonoccupational death benefits
- 157. Occupational death benefits
- 160. Death benefits
- 162. Survivor's allowance
- 164. Spouse's pension
- 166. Designation of beneficiary
- 167. Joint and survivor option
- 168. Medical benefits
- 169. Duplicate benefits
- 170. Administration

Section
 173. Adjustments
 175. Waiver of adjustments
 177. Effect of amendments
 180. Custody and investment
 190. Actuarial evaluations of the retirement fund

Section
 200. Exemption from taxation and process
 205. Time limit for application
 210. Penalty for false statements
 220. Definitions

Collateral references. — 60 Am. Jur. 78 C.J.S. Schools and School Districts, 2d Pensions and Retirement Funds, §§ 231-236. §§ 39-72.

Sec. 14.25.010. Retirement system established. A joint-contributory retirement system for teachers of the state is created. (§ 1 ch 145 SLA 1955; am § 1 ch 89 SLA 1960)

Sec. 14.25.012. Purpose and effective date. (a) The purpose of this chapter is to encourage qualified teachers to enter and remain in service with participating employers by establishing a system for the payment of retirement, disability, and death benefits to or on behalf of the members.

(b) The system created became effective as of July 1, 1955, at which time contributions by the participating employers and members began. (§ 1 ch 13 SLA 1980)

Sec. 14.25.015. Administrator. The commissioner of administration shall appoint an administrator of the system. (§ 1 ch 13 SLA 1980)

Cross references. — For definition of "administrator," see AS 14.25.220(3).

Sec. 14.25.020. Powers of the administrator. (a) The administrator may

- (1) formulate and recommend to the Alaska Teachers' Retirement Board regulations to govern the operation of the system;
- (2) make expenditures from the retirement fund necessary to administer this chapter.

(b) The administrative expenditures permitted by (a) (2) of this section shall be included in the governor's budget for each fiscal year and are subject to appropriation by the legislature. (§ 4 ch 145 SLA 1955; am § 2 ch 142 SLA 1957; am § 3 ch 89 SLA 1960; am § 1 ch 137 SLA 1982)

Effect of amendments. — The 1982 amendment, in subsection (a), rewrote paragraph (1), which formerly read "promulgate and issue appropriate regulations having the force of law to implement this chapter and to cover matters not expressly touched upon or anticipated but implied by this chapter."

Sec. 14.25.022. Regulations. Regulations adopted by the Alaska Teachers' Retirement Board under this chapter relate to the internal

(e) The governing body of the district may advance the teacher on the district salary schedule when the teacher returns to employment if the governing body determines that the teacher's leave of absence was educationally or professionally beneficial to the teacher or the district.

(f) A teacher may make contributions to the retirement fund for each year or portion of a year of leave of absence taken. The contribution shall include the required per cent of the salary the teacher would have received had the leave of absence not been taken, plus the required employer and state contributions that would have been made. Compound interest at the rate prescribed by regulation shall be added as computed from the beginning date of the leave of absence to the date the teacher pays the contribution. (§ 5 ch 104 SLA 1965; am §§ 33, 34 ch 98 SLA 1966; am § 1 ch 44 SLA 1971; am § 1 ch 184 SLA 1972; am § 2 ch 99 SLA 1974)

Editor's notes. — The revisor of statutes, pursuant to AS 01.05.031 and § 4, ch. 58, SLA 1982, substituted "the teacher's" for "his" in subsection (a)(1); substituted "the teacher" for "he" in subsections (a)(2), (d), (e), and (f); substituted "the teacher"

for "him" in subsection (b); substituted "the" for "his" in subsection (d); and, in subsection (f), substituted "the leave of absence not been taken" for "he not taken the leave of absence."

Sec. 14.20.350. Definition. In AS 14.20.280 — 14.20.350 "teacher" means a certificated member of the teaching, supervisory, or administrative corps in the public schools of the state. (§ 8 ch 134 SLA 1962)

Revisor's notes. — This section was rewritten to eliminate former paragraph (2) which defined "department" by the

revisor of statutes under AS 01.05.031 because of the redundancy in light of AS 14.60.010(4).

Article 5. Professional Teaching Practices Act.

Section

- 370. Teaching profession
- 380. Creation of a commission
- 390. Appointment and qualifications
- 400. Composition of the commission
- 410. Selection of members
- 420. Term of office
- 430. Dismissal
- 440. Reimbursement

Section

- 450. Responsibilities of commission
- 460. Duties of commission
- 470. Powers of commission
- 475. Applicability of the Administrative Procedure Act
- 480. Effect of standards
- 500. Support
- 510. Short title

Sec. 14.20.370. Teaching profession. Teachers required by Alaska law to be certificated, instructors in institutions of higher learning, school administrators, school program administrators, and school counselors are within the teaching profession. (§ 35 ch 98 SLA 1966)

Opinions of attorney general. — Unless the duties of an employee of the department of education can be characterized as falling within one of the five categories of this section, that employee cannot be said to fall within the teaching profession for purposes of the Professional Teaching Practices Act. July 15, 1977, Op. Att'y Gen.

The only employees of the department of education who might fit into one of the categories of this section are those who are employed by the department at the Alaska Skill Center or in its centralized correspondence study program. July 15, 1977, Op. Att'y Gen.

Sec. 14.20.380. Creation of a commission. There is a commission of professional educators known as the Professional Teaching Practices Commission. (§ 35 ch 98 SLA 1966)

Sec. 14.20.390. Appointment and qualifications. The commission consists of nine members appointed by the governor and confirmed by a majority of the members of the legislature in joint session. Each member, in addition to having been actively engaged in the teaching profession for at least five years immediately preceding appointment, shall be a citizen of the United States and a resident of the state. (§ 35 ch 98 SLA 1966)

Editor's notes. — The revisor of statutes, pursuant to § 4, ch. 58, SLA 1982 and AS 01.05.031, deleted "his" preceding "appointment" in the second sentence.

Collateral references. — Bias of members of license revocation board. 97 ALR2d 1210.

Sec. 14.20.400. Composition of the commission. The commission consists of the following members:

- (1) five classroom teachers;
- (2) one principal;
- (3) one superintendent;
- (4) one representative of the office of the commissioner;
- (5) one representative of an Alaska institution of higher learning. (§ 35 ch 98 SLA 1966)

Revisor's notes. — The words "of education" were deleted following "the

commissioner" by the revisor of statutes under AS 01.05.031. See AS 14.60.010.

Sec. 14.20.410. Selection of members. (a) Members of the commission shall be selected as follows:

- (1) the five classroom teachers from lists of names submitted by recognized Alaska teachers' organizations, each list not to exceed 12 names; however, in lieu of one of the five, one classroom teacher may be selected from a list of not more than four names signed and submitted by not less than 25 teachers who have no affiliation with any organization qualified to submit nomination lists, with the limitation that no teacher may sign more than one list in any year;
- (2) the principal from a list of three names submitted by the Alaska Principals Association;

(3) the superintendent from a list of three names submitted by the Superintendents Advisory Commission;

(4) the representative of the office of the commissioner from a list of three names submitted by the commissioner;

(5) the representative of an Alaska institution of higher learning from lists of names submitted by Alaska institutions of higher learning, each list not to exceed three names.

(b) The lists shall be submitted to the commissioner who shall submit them as a group to the governor's office.

(c) At least 30 days before a position on the commission is due to become vacant, the chairman shall cause notice of the impending vacancy to be published and to be conveyed to each organized group eligible to submit a list of nominees. (§ 35 ch 98 SLA 1966)

Editor's notes. — In subsection (a)(4), revisor of statutes pursuant to AS the words "of education" were deleted 01.05.031. See AS 14.60.010. following "the commissioner" by the

Sec. 14.20.420. Term of office. (a) The term of office for each member of the commission is three years and until a successor is appointed, except that members of the first commission shall be appointed as follows: three members for one year, three members for two years, and three members for three years. Members of the first commission shall draw by lot for the initial term of appointment.

(b) Vacancies shall be filled by appointment by the governor for the unexpired term.

(c) No individual may serve more than a total of two 3-year terms.

(d) The commission shall select a chairman from among its members. (§ 35 ch 98 SLA 1966)

Sec. 14.20.430. Dismissal. Any member may be removed by the governor for misconduct, malfeasance or nonfeasance in office, or incapacity. (§ 35 ch 98 SLA 1966)

Sec. 14.20.440. Reimbursement. Members of the commission shall receive per diem according to law and are to be granted administrative leave with full pay by their employer for time spent in the performance of official duties under AS 14.20.370 — 14.20.510. If a member is required to spend more than 15 days in a fiscal year in the performance of official duties under AS 14.20.370 — 14.20.510, the state shall reimburse the employer for costs incurred after the 15th day. (§ 35 ch 98 SLA 1966; am § 1 ch 4 SLA 1975)

Editor's notes. — The word "his" was pursuant to AS 01.05.031 and § 4, ch. 58, deleted preceding "official duties" in the SLA 1982. second sentence by the revisor of statutes

Sec. 14.20.450. Responsibilities of commission. (a) The commission shall have the initial responsibility of developing, through the teaching profession, criteria of professional practices in areas including, but not limited to:

(1) ethical and professional performance;

(2) preparation for and continuance in professional services; and

(3) contractual obligations. (§ 35 ch 98 SLA 1966)

Sec. 14.20.460. Duties of commission. The commission shall

(1) establish procedures, and adopt rules to implement the purposes of AS 14.20.370 — 14.20.510;

(2) conduct investigations and hearings on alleged violations of ethical or professional teaching performance, contractual obligations, and professional teaching misconduct;

(3) review the regulations of the department as they relate to teacher certification and recommend necessary changes;

(4) review the decisions of the department regarding the issuance or denial of certificates and in its discretion recommend reversal of decisions. (§ 35 ch 98 SLA 1966)

Sec. 14.20.470. Powers of commission. (a) The commission may

(1) study proposals developed by regular committees of any existing professional organization whose members are within the teaching profession;

(2) subpoena witnesses, place them under oath, and maintain written records;

(3) warn or reprimand members of the teaching profession, if in the judgment of the commission such action is warranted;

(4) suspend or revoke the certificate of a member of the teaching profession for one of the reasons set out in AS 14.20.030 except that in the case of an administrator, the commissioner must concur;

(5) make any recommendation to the board or to school boards which will promote an improvement in the teaching profession;

(6) request assistance through any of the investigative processes of any existing professional teaching organizations when analyzing charges of breach of ethical or professional teaching practices;

(7) appoint an executive secretary, delegate those ministerial functions to executive secretary as the commission may decide and set executive secretary's compensation with a starting salary not exceeding range 26, step B of the pay plan for state employees in AS 39.27.011(a).

(b) A decision issued by the commission with the approval of the commissioner under (a) (4) of this section is final. (§ 35 ch 98 SLA 1966; am § 1 ch 77 SLA 1972; am §§ 3, 4 ch 9 SLA 1975; am § 2 ch 103 SLA 1976; am § 13 ch 94 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "the pay plan for state employees in AS 39.27.011(a)" for "AS 39.27.010" at the end of paragraph (7) of subsection (a).

Editor's notes. — The revisor of statutes, under the authority of AS 01.05.031 and § 4, ch. 58, SLA 1982, deleted "of

education" following "commissioner" in subsection (a)(4) and subsection (b), and, in subsection (a)(7), substituted "executive secretary" for "him" and "executive secretary's" for "his."

Legislative history reports. — For report on ch. 77, SLA 1972 (SB 126), see 1972 House Journal, p. 1208.

Sec. 14.20.475. Applicability of the Administrative Procedure Act. The Administrative Procedure Act (AS 44.62) applies to regulations and proceedings under AS 14.20.370 — 14.20.510. (§ 5 ch 9 SLA 1975)

Sec. 14.20.480. Effect of standards. Members of the teaching profession are obligated to abide by the professional teaching standards adopted by the commission. (§ 35 ch 98 SLA 1966)

NOTES TO DECISIONS

Applied in *Renfroe v. Green*, Sup. Ct. Op. No. 2233 (File Nos. 4394, 4481), 626 P.2d 1068 (1980).

Sec. 14.20.500. Support. In addition to available state funds, the commission shall also be financed by members of the profession in accordance with regulations adopted by the department including, if necessary, an increase in the fees for certificates. (§ 35 ch 98 SLA 1966; am § 1 ch 73 SLA 1973)

Revisor's notes. — The word "adopted" was substituted for "promulgated" by the revisor of statutes under AS 01.05.031.

Sec. 14.20.510. Short title. AS 14.20.370 — 14.20.510 shall be known as the Professional Teaching Practices Act. (§ 35 ch 98 SLA 1966)

Article 6. Negotiation and Mediation.

Section	Section
550. Negotiation with certificated employees	570. Mediation
555. Optional coordinated employee negotiations	580. The mediation report
560. Teachers' bargaining groups and meetings with the groups	590. Grievance procedures
	600. Individual cases
	610. Legal responsibilities of boards

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STATE OF ALASKA

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OFFICE OF THE ATTORNEY GENERAL

March 16, 1984

The Honorable Mae Tischer, Chair
Health, Education, and Social
Services Committee
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Draft CS for HB 681 (HESS)
-- default on and col-
lection of student loans
Our file: 377-114-84

Dear Representative Tischer:

At the request of Bill Lovell, of your staff, I have reviewed Legislative Counsel Lynn Asper's February 29, 1984 draft of a committee substitute for HB 681, which Bill delivered to me this morning. The draft CS makes no substantive change from the original HB 681, and the Department of Law has no objection to it on that basis.

The draft CS makes two minor style changes: (1) it changes the word "which" to the word "that" in two places, which is good; and (2) in the bill's sec. 2, the draft deletes our subsec. (f)'s reference to default "under (o) of this section," while adding to (f) a sentence stating that default occurs if a loan payment is 120 or more days past due. That new sentence in (f) repeats our new sentence in (o) and adds the phrase "under this subsection" in both places. Basically, that looks okay.

Regarding the latter, my only concern is that, when an identical provision is placed in two different locations in the statutes, there is always the potential for one of them to be amended in the future while the other one is overlooked; this could cause confusion and litigation. Lynn's objection to our version is based on his feeling that where our subsec. (f) refers to "default under (o) of this section" it is not really accurate since, although (o) contains what is essentially a definition of "default," default is not really occurring under that subsection. It's a fairly subtle point, but a third approach that would meet both of our concerns would be to change both (f) and (o) to refer to "default as defined in (q) of this section." Then add a new section to the bill that would add a new AS 14.43.120(q) to read "For the purposes of this section, a loan is in default if a loan

The Honorable Mae Tischer
377-114-84

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Page 2

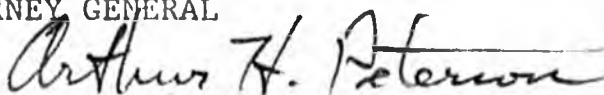
payment is 120 or more days past due." (Or perhaps this definition could be added to the definition section for AS 14.43's art. 4 -- AS 14.43.160.)

Thank you for this opportunity to comment.

Yours truly,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By:


Arthur H. Peterson
Assistant Attorney General

AHP/jb

cc: Kerry Romesburg
Executive Director
Alaska Commission on Post-
secondary Education
Department of Education

Lynn Asper
Legislative Counsel
Legislative Affairs Agency

Linda Scoccia
Assistant Attorney General
Juneau

TO CSHB 681 (HESS):

Lines 24 - 26, Page 1

Delete "A loan is in default under this subsection if a loan payment is 120 or more days past due."

Line 29, Page 1 - Line 1, Page 2

Delete "A loan is in default under this subsection if a loan payment is 120 or more days past due."

Line 6, Page 2

AS 14.43.120 is amended by adding a new subsection to read:

"(q) For the purposes of this section, a loan is in default if a loan payment is 120 or more days past due."

Article 3. Free Tuition and Fees for Dependents.**Section**

80. Free tuition and fees at state-supported educational institutions

Revisor's notes. — This article derived from AS 14.40.920 and was renumbered by the revisor of statutes under AS 01.05.031. Collateral references. — 15A

AmJur.2d Colleges and Universities, §§ 19, 20.
14 C.J.S. Colleges and Universities, §§ 27, 28.

Sec. 14.43.080. Free tuition and fees at state-supported educational institutions. (a) Any dependent of a bona fide Alaska resident who, while serving during the hostilities involving the United States forces in Southeast Asia, was listed by the United States Department of Defense as a prisoner of war or missing in action in Southeast Asia may attend any state-supported educational institution without payment of tuition and fees.

(b) As used in this section, "dependent" means a dependent spouse or child. (§ 1 ch 176 SLA 1972; AS 14.40.920)

Article 4. Scholarship Loan Program.**Section**

90. Scholarship revolving loan fund
95. Financial aid committee
100. Applications
105. Administration of program
110. Undergraduate loans
115. Graduate loans
120. Conditions of loans

Section

125. Eligibility of students
130. Selection criteria
135. Discrimination prohibited
140. Enforceability of certain contracts with minors
160. Definitions

Revisor's notes. — This article derived from AS 14.40.761 — 14.40.806 and was renumbered by the revisor of statutes under AS 01.05.031.

Collateral references. — 15A AmJur.2d Colleges and Universities, §§ 19, 20.

14 C.J.S. Colleges and Universities, §§ 27, 28.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 00 ALR 714.

Validity and application of provisions governing determination of residency for purpose of fixing fee differential for out-of-state students in public college. 60 ALR3d 641.

Increase in tuition as actionable in suit by student against college or university. 99 ALR3d 885.

Absence from, or inability to attend, school or college as affecting liability for, or right to recover back payments on account of, tuition or board. 00 ALR 714.

Sec. 14.43.090. Scholarship revolving loan fund. (a) There is created a scholarship revolving loan fund. The fund shall be used to make scholarship loans to students selected under AS 14.43.090 — 14.43.160. All repayments of principal and interest on scholarship loans shall be paid into the scholarship revolving fund shall be used to make new scholarship loans. If estimated funds available from scholarship loan repayments are inadequate to fully fund estimated scholarship loans for any fiscal year, additional funding from the general fund may be requested and appropriated for that year.

(b) Repealed by § 31 ch 59 SLA 1982.

(c) Repealed by § 31 ch 59 SLA 1982. (§ 1 ch 98 SLA 1971; am § 1 ch 156 SLA 1972; am §§ 1, 2 cl 136 SLA 1974; am § 1 ch 136 SLA 1976; am § 31 ch 59 SLA 1982; AS 14.40.751)

Revisor's notes. — In subsection (a), AS 14.43.090 — 14.43.160 was substituted for a reference to AS 14.40.751 — 14.40.806 to conform to the renumbering of those sections by the revisor of statutes under AS 01.05.031.

Effect of amendments. — The 1982 amendment repealed subsection (b), which provided for a tuition grant fund, and sub-

section (c), which provided for the transfer of unobligated funds in the tuition grant fund to the scholarship revolving loan fund.

Legislative history reports. — For report on ch. 98, SLA 1971 (CSHB 415 [Finance] am St. see 1971 House Journal, p. 935.

Sec. 14.43.095. Financial aid committee. (a) The student financial aid committee is composed of the members of the Alaska Commission on Postsecondary Education. The commission may delegate its functions under AS 14.43.090 — 14.43.160 to a committee of its members, with augmented membership as the commission considers appropriate. The executive officer of the committee is the executive secretary of the committee. The Alaska Commission on Postsecondary Education shall administer the program established by AS 14.43.090 — 14.43.160.

(b) Members of the committee serve without compensation but are entitled to per diem and travel expenses authorized by law for boards and commissions.

(c) The committee shall make an annual report reviewing the work of the committee to the governor, the legislature and the private colleges and universities where students receiving tuition grants are enrolled.

(d) The committee shall meet at least once a year. The meetings shall be held at the call of the chairman or upon petition by two members. (§ 1 ch 98 SLA 1971; am § 2 ch 156 SLA 1972; am § 5 ch 78 SLA 1974; am § 3 ch 136 SLA 1974; AS 14.40.753)