

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2355 SHESS SB 346 - SB 354 2355



Official Business

# Alaska State Legislature

Pouch V  
State Capitol  
Juneau, Alaska 99811

November 17, 1983

Oliver Osborn, M.D.  
Cordova Medical Clinic  
Box 310  
Cordova, Alaska 99574

Dear Dr. Osborn:

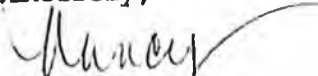
Senator Josephson sent your letter to me, as I am the one who has been working on the drafting of the Mental Health Commitment Bill, and I wanted to respond to your concerns over commitment procedures.

At the last hearing on the draft bill in Anchorage, the Committee decided to expand those permitted to initiate emergency detention to include "Mental Health Professional". As defined in the title, this includes physicians, psychologists, psychological associates (both with training in clinical psychology) and social workers.

I expect to receive the latest copy of the draft from our legal services within the next few days, and would be happy to send you a copy of the bill for your perusal and comments. I think we have come up with a good bill that deals with the concerns of professionals and family groups as well, and should make the system work better and provide better care for those in need.

Thank you for taking the time to write, and feel free to contact me at any time at the above address or at 465-4907.

Sincerely,

  
Nancy Deitrick, Professional Assistant  
Senate HESS Committee

# ALASKA PSYCHIATRIC ASSOCIATION

ALASKA DISTRICT BRANCH  
of  
AMERICAN PSYCHIATRIC ASSOCIATION

February 15, 1984

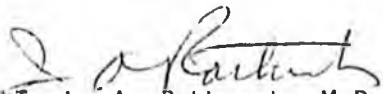
The Honorable Joseph Josephson  
Alaska State Senator  
Pouch V  
Juneau, Alaska 99811

Dear Senator Josephson:

At a recent meeting of the Executive Committee of the Alaska District Branch of the American Psychiatric Association this group voted to support your bills regarding changes in the involuntary hospitalization statutes and also the bill which you have submitted requiring parity coverage for psychiatric services by insurance companies doing business in the State of Alaska. It was the wish of the Executive Committee that I write you and notify you that we strongly support you on both these issues.

Thank you very much for introducing this much needed legislation.

Sincerely yours,



Irvin A. Rothrock, M.D.  
President, Alaska District Branch  
American Psychiatric Association

IAR:bw

FAMI  
Fairbanks Alliance for the  
Mentally Ill  
SR Box 30754  
Fairbanks, Alaska 99701

October 17, 1983

Ms. Nancy Deitrick, Aide  
Senate HESS Committee  
Alaska State Senate  
Pouch V  
Juneau, Alaska 99811

Dear Nancy:

Thank you for the copy of the new draft bill. Our group will study it and comment in detail in the near future. A quick reading shows me the committee is making an attempt to include families in the overall approach to the continuing treatment of chronic mental illness and we deeply appreciate it.

Two concerns jump immediately to attention:

1. Section 47.30.870. Transportation of patient and escort to the designated facility. Once more this section authorizes payment for transportation to the API only for involuntary patients. No where does the act provide payment for transportation of voluntary patients, thus presenting a great hardship to patients willing to accept treatment. By the time folks are ready for the API, they have also bottomed out financially. See page 3, paragraph 1 of our written testimony dated September 23, 1983.
2. Section 27. AS 47.30.915(a) of the draft bill changes the description of registered nurse...and we agree with these changes. However, we are concerned with the description of social worker. A Master's level with no experience does not preclude an understanding of severe mental illness. Thus, "experience in the field of mental illness" should be changed to three years experience in the field of mental illness."  
I will enlarge upon this in our detailed comment.

page 2  
Nancy Deitrick  
October 17, 1983

On behalf of FAMI, I thank you for your sensitivity and understanding. Please convey this to Senator Josephson and other members of the HESS Committee.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ann".

Ann F. DeNardo  
Chairperson

# ALASKA STATE SENATE

JOE P. JOSEPHSON  
DISTRICT G - ANCHORAGE  
1526 F STREET  
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COMMITTEES  
HEALTH, EDUCATION & SOCIAL SERVICES (CHAIR)  
JUDICIARY (VICE CHAIR)  
FINANCE  
MAJORITY CAUCUS (CHAIR)

October 21, 1983

Ann F. DeNardo, Chairperson  
Fairbanks Alliance for the Mentally Ill  
SR Box 30754  
Fairbanks, Alaska 99701

Dear Ann:

Thank you for responding to promptly to my letter, because I really am quite anxious to get this bill in final form to be introduced this session. We had a hearing in Anchorage on the 14th with a very good turnout, and some further suggestions for changing the bill although the overwhelming response was good.

I want to address your concerns specifically:

1. Transportation - When I have questioned the department about the way they handle transportation costs, I have been informed that costs are paid for anyone who needs it regardless of the type of commitment. If you know of instances when people have requested transportation expenses and been denied, I would like to hear about it.
2. Social Workers - The issue was raised and completely discussed at the Anchorage hearing, with pretty much the same conclusion you reached - three years experience. We have a bill to license social workers in our committee, but the governor has expressed himself against the bill - nothing against the profession, but he feels we have too many boards and wants no more.

Suggestions made in Anchorage:

1. That all "mental health professionals" listed in the bill be allowed to commit people, not just physicians and police officers.
2. The constant battle over the rights of juveniles continues. If any of the families in your group have experience with minors, I would greatly appreciate hearing their feelings about

the 72 hour hearing not being provided for children following admittance for evaluation. Those who would like to see children admitted indefinitely for evaluation (not 21 or 30 days), and feel the court proceedings are too frightening for children. Those advocating equal protection feel that the children should have the same procedures as adults. A law similar to ours was overturned by a California court.

3. That the concept of outpatient commitment is not feasible and should be dispensed with.
4. That anyone threatened by the individual before they were committed should also be notified when the person is absent without leave, and that notification should be immediate and not within three hours.

If you have any comments on these suggestions or any others relating to the draft bill, I will be happy to consider them. Thank you for your time and interest.

Sincerely yours,

Nancy Deitrick, aide  
Senate HESS Committee

SECTIONAL ANALYSIS - DRAFT "AN ACT RELATING TO THE TREATMENT OF MENTALLY ILL PERSONS." by Senator Joe Josephson

- Section 1 Provides a word change to limit the endless paperwork from patients transferring in and out of voluntary status in order to leave against medical advice.
- Section 2-5 Changes the age of majority under the title from 14 to 18, changes the commitment period for minors from 21 to 30 days, and eliminates sex gender pronouns. Section 4 also changes the term "immediate" to "timely" in order to avoid inoperable situations (eg. if a patient wants to leave in the middle of the night, the facility must call in a psychiatrist). Pg. 2, line 9 changes "notice of intent" to "request".
- Section 6 Provides options for the release of a minor, and options for the facility to keep a minor who is in danger of causing serious harm to self and others.
- Section 7 Adds "physician licensed in the state" to current law allowing a peace officer to take someone into custody for emergency detention. NOTE: we should also add a clause for Federally employed physicians exempt from licensure (drafting error). Also limits the use of correctional facilities for the mentally ill to situations requiring protective custody while awaiting transportation to a treatment facility.
- Section 8 Changes the commitment time period from 21 to 30 days.
- Section 9 The purpose of this section was to move the term "gravely disabled" after "mentally ill" (pg. 5, lines 20-22). Other changes relate only to neutral pronouns and changing commitment time periods.
- Section 10 Changes the 21 day commitment period to 30 days, and substitutes neutral pronouns in the section.
- Section 11 Changes the commitment time period from 21 to 30 days. Subsection (4) relaxes the rules of evidence and allows for informal court proceedings. Subsection (9) allows respondent to call experts and witnesses to testify.
- Section 12 Changes 21 day commitment to 30 day, and substitutes sex neutral pronoun.
- Section 13-14 Change commitment time periods from 21 to 30 days; and from 120 days to 180 days.
- Section 15 Adds a new section to the statute allowing the designated facility to administer medication or treatment that is

consistent with Article 9 - Patients Rights.

- Section 16 Adds new language to the section relating to unauthorized absences to provide that the facility must notify the parent or guardian of the situation within three hours.
- Section 17 Adds a new section relating to the change of admission status from involuntary to voluntary if the responsible physician agrees that it is appropriate and that the change is made in good faith.
- Section 18 Adds to provisions for computation of time, specific references to AS 47.30.715 (Acceptance of order), and AS 47.30.685. Current interpretation of the law requires that a judge must be brought to the facility at these times, and many are unwilling to do so on a holiday or weekend. Also changes commitment time periods to be consistent with other sections.
- Section 19 Amends section relating to liability to include physician and transportation, to be consistent with Section 7.
- Section 20 Amends the section of law relating to informed consent for unusual procedures, to include informed consent of the parent or guardian in case the patient is unable to give informed consent.
- Section 21 New language specifies that the discharge plan shall be shared with the parent or guardian.
- Section 22 Limits the rights of the patient in areas of visitors, mail and access to a phone if the professional person in charge determines that it is not in the best interest of the patient or will cause harm to the patient or others.
- Section 23 Allows access to records to a law enforcement agency under special circumstances.
- Section 24 Adds federal facilities to the definition of "evaluation facility."
- Section 25 Expands the definition of "gravely disabled" to include persons who are not in imminent danger but whose lack of treatment would cause deterioration of their condition.
- Section 26 Expands definition of "likely to cause bodily harm" beyond recent attempts, to include threats and likelihood of injury in the near future.
- Section 27 Changes the requirements for a nurse to be classified as a mental health professional, as there are only two in the state with a Master's Degree in Psychiatric nursing.

TESTIMONY BEFORE THE SENATE HESS COMMITTEE  
Re: Mental Health Commitment Law  
September 23, 1983 - Fairbanks, Alaska

The families of severely mentally ill victims have worked with the Mental Health Commitment Law for two years. We wish to convey our position regarding the bill.

Section 47.30.660. This section sets out the powers and duties of the Department of Health and Social Services. Paragraph (4) of this section calls for the Department to designate, operate and maintain treatment facilities...to provide...care and treatment for the mentally ill. A treatment facility is defined in 47.30.915(15). In spite of the directive to designate treatment facilities, the API remains Alaska's only such facility.

Section 47.30.670. This section sets out standards for voluntary admission. A patient who accepts voluntary admission can leave the hospital anytime "against medical advice," or AMA. This is why there are so many voluntary admissions as opposed to involuntary. A psychiatrist might do a screening at this point to determine a patient's ability to function and make these decisions.

Section 47.30.705. This section addresses emergency detention for evaluation. It states that a police officer "...may cause the person to be taken into custody and delivered to the nearest evaluation facility. A correctional facility may be used as an emergency evaluation facility if an evaluation facility is not available... (and) the peace officer shall...be interviewed by a mental health professional at the facility." There are no mental health professionals at the correctional facilities.

Section 47.30.710. Examination. This section states that a person so placed in a correctional facility shall be examined and evaluated within 24 hours. This puts a person in jail for 24 hours because of an illness he cannot control. There is no other illness where, due to the illness itself, a person is incarcerated!

Section 47.30.715. Acceptance of Order. In this section the court is ordered to set a date for hearing and notify the respondent's attorney. There is no directive for the attorney to make an effort to see the respondent. Often the first contact the respondent has with his attorney is in the courtroom itself, immediately preceding the hearing.

Section 47.30.735. This section sets out the civil procedure for a 21 day commitment. These procedures should be redefined in order to create a less adversarial situation between patient and family. Families become the caretakers following hospitalization in 50-55% of the cases. It is important to understand that hospitals do not cure patients. They are only stabilized with neuroleptic medications and returned to the family with their illness in tact, and the added belief that the family has turned against them.

Judicial procedures are either civil or criminal. Commitment procedures are civil. Families feel it might be possible to create a new area within which commitments could be handled. We request the Judiciary Committee to study this concept with a view toward lessening the adversarial approach.

Section 47.30.790. This section deals with absence without leave. If a patient is absent from a treatment facility without authorization a peace officer is instructed to take the patient into custody and return him to the treatment facility. This section should include a provision that the family or guardian be notified of such absence with a specified time, say 3 hours.

Section 47.30.795. This section addresses involuntary outpatient care. Paragraph (c). It states that if it is determined that respondent needs inpatient care due to a critical condition, oral and written notice that he must return to a treatment facility within 24 hours must be given him. If the patient is experiencing thought disorder this gives him 24 hours to get out of town. This section further states a police officer shall pick up the patient if he has not complied with the notice. The respondent is not a criminal, to be served and treated as a criminal. We object to the constant posture of addressing mental disease as criminal.

Section 47.30.825. This section deals with patient rights. Paragraph (6) of this section prevents psychosurgery, lobotomy, or other form of treatment without specific, informed consent of the patient and a court order. We would like to see a provision included that would also require specific informed consent given by "an adult designated in accordance with 47.30.725". (This is an adult designated by the respondent.)

Again, paragraph (8) of this section should insure a copy of the discharge plan is given to "an adult designated in accordance with 47.30.725". Families rarely know of any discharge plan and it is the nature of the disease that patients will not follow through without help.

Section 47.30.845. This section deals with confidential records. Paragraph (2) of this section makes it possible for an individual to whom the patient has given written consent to receive records and information on the patient. This release of records should be dated within a specified time period, -say- one year. This release of records to a designated individual should not be open-ended, but lapse within a restricted time frame.

Section 47.30.870. This section deals with transportation of patient and escort to the designated facility following involuntary commitment. (In this State, of course, this means a trip to Anchorage.) There is provision authorizing the Department to pay for transportation of patient and escort the API for INVOLUNTARY commitments only. Provision should be made to authorize payment of transportation costs for VOLUNTARY commitments as well. At present the family, or the patient, must bear this cost. This creates a continuing financial burden for families trying to remain "case manager" over the years. The continuing financial burdens encourage families to give up attempts to maintain relationships beneficial to the patient.

Section 47.30.875. This section addresses nonresident patients and the return of a mentally ill resident of this state who has been placed in a facility outside of this state. Paragraph (c) of this section is the only section of this Act which mentions the importance of maintaining family relationships and encouraging visits beneficial to the patient. It is ironic that this important approach to treatment is mentioned only under such subtitle as "nonresident patients". We would like to see the encouragement of more family involvement.

Section 47.30.915. Definitions. Paragraph (7) defines "gravely disabled" and paragraph (10) defines "likely to cause serious harm". It is the contention of everyone involved with this Act that these definitions must be broadened. This is such a complicated and emotional issue that agreement is difficult. As a consequence many people who need mental health treatment desparately are not being served. Instead of waiting for a person to commit a crime, or attempt to commit a crime, we recommend the following criteria to enlarge the definition of a mentally ill person for purposes of providing treatment:

- (7) "gravely disabled" means a condition in which a person, as a result of mental illness,...
- (b) or is not receiving such care and mental medical treatment as is necessary for health and safety, or a person whose thought processes, perception of reality or judgement is substantially impaired.

We would like to see a study of other states' commitment laws in reference to their criteria for commitment.

*2 on 30th  
Sept 23*



SENATE AMENDMENT

By Senate HCSS Committee

To: \_\_\_\_\_ SENATE BILL No. 316

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 4 LINE: 7

Add a new subsection to read:

(c) an additional 30 day commitment of a minor under the age of 18 may be sought by parents or guardians if, in the opinion of the professional person in charge of the treatment facility, the conditions under subsection (a) (1) (2) and (3) continue to exist.

COMMITTEE REPORT  
SENATE

FURTHER:

1/12/86

Date: Feb 1 1986

Mr. President:

The Committee on Finance has had Sub A

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

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

MEMBERS SIGNING  
DO PASS

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

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\_\_\_\_\_  
CHAIRMAN



# ALASKA STATE SENATE

JOE P. JOSEPHSON  
DISTRICT G - ANCHORAGE  
1526 F STREET  
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COMMITTEES  
HEALTH EDUCATION & SOCIAL SERVICES (CHAIR)  
JUDICIARY (VICE-CHAIR)  
FINANCE  
MAJORITY CAUCUS (CHAIR)

February 2, 1984

Ms. Ann F. DeNardo  
Chairperson  
Fairbanks Alliance for the  
Mentally Ill  
SR Box 30754  
Fairbanks, Alaska 99701

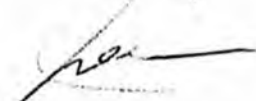
Dear Ann:

Thank you for sending me copy of your letter to Governor Sheffield dated January 11.

We have been working with community mental health groups, especially within Anchorage, and will try to remain mindful, as our session proceeds, of your concerns for adequate community-based living facilities for the chronically mentally ill.

With best wishes, I am

Sincerely,

  
Joe P. Josephson  
State Senator

JPJ:rak

FAMI -- Fairbanks Alliance for the Mentally Ill  
SR Box 30754  
Fairbanks, Alaska 99701

January 11, 1984

Governor "Bill" Sheffield  
Pouch A  
Juneau, Alaska 99801

RE: State of the State Message, January 10, 1984

Dear Governor Sheffield:

How disappointing that the plight of the chronically mentally ill did not appear as one of your priorities in the State of the State message.

During our meeting and exchange of correspondence this past summer, we pointed out that discharge from the API without adequate living arrangements will cause the patient to suffer more crises and to soon return to the hospital. The State walks a dangerous path by ignoring the lack of adequate community-based living facilities for its chronically mentally ill population.

We look forward to your public recognition of the needs of this vulnerable and suffering population.

Sincerely,

*Ann F. DeNardo*

Ann F. DeNardo, Chairperson  
FAMI - Fairbanks Alliance for the Mentally Ill

c: Commissioner Robert L. Smith  
Alaska Legislators (60)

*Thank you for  
sending me  
copy -*

SB 346 - Mentally Ill.

Dr Phil Shapiro - DHS

Revisions consistent w, secure, safe & therapeutic treatment of the individual & the community.

Jim Parsons - MOA - Beh. Health.

In 30 yrs know of no misuse of MH Law.

"a state licensed or certified" mental health professional

MEMORANDUM

TO: JOE  
FROM: NANCY  
RE: MENTAL HEALTH HEARING - OCTOBER 14, 1983

There is a new draft version of the bill which incorporates suggestions made by the Department, family groups and others who work with troubled children at the two previous hearings in Anchorage and Fairbanks.

These amendments include:

1. Reducing the involvement of the correction system in dealing with the mentally ill, by allowing a mentally ill person to be held in a prison facility before transfer only for protective custody purposes, and allowing physicians to admit patients for emergency care rather than only policemen.
2. Changing the age of majority in the Title from 14 to 18.
3. Changing time computations from 21, 90 and 120 days to 30, 90 and 180 days for the commitment periods. Also changes the commitment period for minors from 21 to 30 days to allow sufficient evaluation and placement time.
4. Allowing records to be available to a law enforcement agency if there is substantiated concern over imminent danger to the community.
5. Adding a qualifier to the Right to Privacy and Personal Possessions that mail, visitors and access to a phone can be denied if the professional person in charge determines it is not in the best interest of the person and will pose a threat to the safety or well being of the patient or others.
6. Adding approval of psychiatrist as a requirement for Conversion of status if a patient wants to change from involuntary to voluntary.
7. Changing court proceedings by relaxing the rules of evidence and recommending that the hearing be as informal as possible.
8. Requiring that families or guardian be notified if a patient is absent without leave.
9. Requiring informed consent of parent or guardian under subsection (6) of patient rights relating to alternative treatments, and notification of a parent or guardian of the discharge plan.

OTHER AREAS THAT NEED CONSIDERATION:

HEARINGS FOR MINORS - Under current law, a minor may be admitted by a parent or guardian for a 21 day period, but does not receive the 72 hour hearing which is required for an adult. Questions over equal protection have been raised by Pudge Kleinkof and others.

TIME PERIOD OF COMMITMENT FOR MINORS - The Department recommended deletion of the 21 day limit for minors (which was in the first draft), I have extended that period to 30 days in the second draft because it seems unfair to commit someone for an indefinite time period. The committee needs to decide if this 30 days is adequate.

DESIGNATED FACILITIES - The regulations have been in the drafting process since 1981, and have currently been returned to the Department by the Attorney General's office in order to be adapted to recent changes in Medicaid standards. There has been a great deal of concern at hearings over the designation of regional facilities, and I have asked the Department to have someone available to answer questions.

INVOLUNTARY OUTPATIENT COMMITMENT - This is not addressed in the draft bill, but is an area that is apparently not working well according to the Commissioner's letter (Page 3, (6) ). He states that the change in the definition of "gravely disabled" may assist the success of the concept, but there are still problems with the conversion from involuntary outpatient commitment to inpatient commitment.

USE OF THE CORRECTIONAL SYSTEM FOR THE MENTALLY ILL - I have changed emergency detention (AS 47.30.705) to match the Model APA Law, but that still allows a person to be taken into a correctional facility for protective custody prior to transfer within 24 hours. Realistically, many areas of the state have no alternative facility and may continue to use prisons, but this change should eliminate the conflict over evaluations in prisons.

TRANSPORTATION - Costs are paid for a person involuntarily committed, ordered by statute, but there is no requirement for those who voluntarily admit themselves. The Department says that it pays costs for anyone in need, but the parent groups talk about this creating a financial hardship for families. You may want to discuss this issue and solve it within the bill.

13-0936  
Josephson  
10/11/83

*age discrepancy  
minor has consent  
rights to liberty*

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IN THE SENATE

BY JOSEPHSON

SENATE BILL NO.

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to the treatment of mentally ill persons."

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

\* Section 1. AS 47.30.655(1) is amended to read:

(1) that persons be given a reasonable [EVERY] opportunity to accept voluntary treatment before involvement with the judicial system;

\* Sec. 2. AS 47.30.670 is amended to read:

Sec. 47.30.670. STANDARDS FOR VOLUNTARY ADMISSION. A person 18 [14] years of age or older may be voluntarily admitted to a treatment facility if the person [HE] is suffering from mental illness and [HE] voluntarily signs the admission papers.

\* Sec. 3. AS 47.30.675 is amended to read:

Sec. 47.30.675. NOTICE OF RIGHTS. (a) Upon the application of a person for voluntary admission, or at the time a person admitted under AS 47.30.690 reaches the age of 18, the person [14, HE] shall be given a copy of the following documents which shall be explained [TO HIM] as necessary:

(1) notice of rights as set out in AS 47.30.825 - 47.30.865 and an explanation of any document served upon the person [HIM]; and

(2) notice that should the person [HE] desire to leave at a time when the treatment facility determines that the person [HE] is mentally ill and as a result is likely to cause serious harm to self [HIMSELF] or others or is gravely disabled, the facility could

1 initiate commitment proceedings against the person [HIM].

2 (b) If an applicant for voluntary admission does not understand  
3 English, the explanation shall be given in a language the applicant  
4 [HE] understands.

5 \* Sec. 4. AS 47.30.685 is amended to read:

6 Sec. 47.30.685. NOTICE OF INTENT TO LEAVE FACILITY; COMMITMENT.  
7 A voluntary patient who is 18 [14] years of age or older and who  
8 desires to leave a treatment facility must submit to the facility a  
9 request [WRITTEN NOTICE OF INTENT] to leave on a form provided [TO  
10 HIM] by the facility. Upon <sup>Gottstein</sup> timely [IMMEDIATE] investigation, the  
11 patient shall be evaluated in writing and discharged immediately or  
12 given written notice that involuntary commitment proceedings will be  
13 initiated against the patient [HIM]. The treatment facility may  
14 detain the patient for no more than 48 hours after receipt of the  
15 patient's request [NOTICE OF INTENT] to leave in order to initiate  
16 involuntary commitment proceedings.

17 \* Sec. 5. AS 47.30.690 is amended to read:

18 Sec. 47.30.690. ADMISSION OF MINORS UNDER 18 [14] YEARS OF AGE.  
19 (a) A minor under the age of 18 [14] may be admitted for 30 [21] days  
20 of evaluation, diagnosis, and treatment at a designated treatment  
21 facility if the minor's [HIS] parent or guardian signs the admission  
22 papers and if, in the opinion of the professional person in charge,  
23 (1) the minor [HE] is gravely disabled or is suffering from  
24 mental illness and as a result [HE] is likely to cause serious harm to  
25 the minor [HIMSELF] or others;  
26 (2) there is no less restrictive alternative available for  
27 the minor's [HIS] treatment; and  
28 (3) there is reason to believe that the patient's mental  
29 condition could be improved by the course of treatment or would ~~not~~ <sup>be</sup>

*Deeanna*  
*not*

1 deteriorate further if treated.

2 (b) The minor may be released by the treatment facility at any  
3 time [DURING THE 21-DAY PERIOD] if the professional person in charge  
4 or the minor's [HIS] designated mental health professional determines  
5 the minor would no longer benefit from continued treatment [HOSPITAL-  
6 IZATION] and the minor is not dangerous. The minor's parents or [HIS]  
7 guardian must be notified by the facility of the contemplated release  
8 [AND THAT, UNLESS THEY INITIATE INVOLUNTARY COMMITMENT PROCEEDINGS,  
9 THE MINOR WILL BE RELEASED].

10 \* Sec. 6. AS 47.30.695 is amended to read:

11 Sec. 47.30.695. NOTICE OF REQUEST FOR RELEASE OF MINORS UNDER 18  
12 [14] YEARS OF AGE FROM DETENTION AND COMMITMENT. The parent or  
13 guardian of a minor who is less than 18 [14] years of age may file a  
14 notice to withdraw the minor from the facility. On receipt of the  
15 notice, the facility may

16 (1) discharge the minor to the custody of the parent or  
17 guardian; or

18 (2) if, in the opinion of the treating physician, the minor  
19 is likely to cause serious harm to self or others or there is reason  
20 to believe the release could place the minor in imminent danger, the  
21 treating physician may

22 (A) discharge the minor to the custody of the parent  
23 or guardian after advising the parent or guardian that this  
24 action is against medical advice and after receiving a written  
25 acknowledgement of the advice; or

26 (B) refuse to discharge the minor, initiate involun-  
27 tary commitment proceedings, and continue to hold the minor until  
28 a court order under AS 47.30.700 has been issued [REQUEST AND  
29 OBTAIN IMMEDIATE RELEASE OF THE MINOR AT ANY TIME, UNLESS AS THE

*Purpose*  
*was to clarify*  
*the*  
*number etc*

*Does this apply to minors?*

1 RESULT OF MENTAL ILLNESS, THE MINOR IS LIKELY TO CAUSE SERIOUS  
2 HARM TO HIMSELF OR OTHERS].

3 \* Sec. 7. AS 47.30.705 is amended to read:

4 Sec. 47.30.705. EMERGENCY DETENTION FOR EVALUATION. A peace  
5 officer or a physician licensed in this state who has probable cause  
6 to believe that a person is gravely disabled or is suffering from  
7 mental illness and is likely to cause serious harm to the <sup>self</sup> person [HIM-  
8 SELF] or others of such immediate nature that considerations of safety  
9 do not allow initiation of involuntary commitment procedures set out  
10 in AS 47.30.700, may cause the person to be taken into custody and de-  
11 livered to the nearest evaluation facility. A person taken into  
12 custody for emergency evaluation may not be placed in a jail or other  
13 correctional facility except for protective custody purposes and only  
14 while awaiting transportation to a treatment facility. The [A COR-  
15 RECTIONAL FACILITY MAY BE USED AS AN EMERGENCY EVALUATION FACILITY IF  
16 AN EVALUATION FACILITY IS NOT AVAILABLE. UPON ARRIVAL AT THE EVALU-  
17 ATION FACILITY, THE] peace officer or physician shall complete an  
18 application for examination of the person in custody and be inter-  
19 viewed by a mental health professional at the facility.

*do this will police*

20 \* Sec. 8. AS 47.30.715 is amended to read:

21 Sec. 47.30.715 ACCEPTANCE OF ORDER. When a facility receives  
22 a proper order for evaluation, it must accept the order and the  
23 respondent for an evaluation period not to exceed 72 hours. The  
24 facility shall promptly notify the court of the date and time of the  
25 respondent's arrival. The court shall set a date, time and place for  
26 a 30-day [21-DAY] commitment hearing, to be held if needed within 72  
27 hours after the respondent's arrival, and the court shall notify the  
28 facility, the respondent, the respondent's [HIS] attorney, and the  
29 prosecuting attorney of the hearing arrangements. Evaluation

1 personnel, when used, shall similarly notify the court of the date and  
2 time when they first met with the respondent.

3 \* Sec. 9. AS 47.30.725 is amended to read:

4 Sec. 47.30.725. COMMITMENT PROCEEDING RIGHTS; NOTIFICATION. (a)  
5 When a respondent is detained for evaluation under AS 47.30.660 -  
6 47.30.915, the respondent [HE] shall be immediately notified orally  
7 and in writing of the [HIS] rights under this section. Notification  
8 shall be in a language understood by the respondent. The respondent's  
9 [HIS] guardian, if any, and if the respondent requests, an adult  
10 designated by the respondent, shall also be notified of the respon-  
11 dent's rights under this section.

12 (b) Unless a respondent is released or voluntarily admitted  
13 [ADMITS HIMSELF] for treatment within 72 hours of [HIS] arrival at the  
14 facility or, if the respondent [HE] is evaluated by evaluation person-  
15 nel, within 72 hours from the beginning of the respondent's [HIS]  
16 meeting with evaluation personnel, the respondent [HE] is entitled to  
17 a court hearing to be set for not later than the end of that 72-hour  
18 period to determine whether there is cause for detention [TO DETAIN  
19 HIM] after the 72 hours have expired for up to an additional <sup>30 days</sup> ~~21~~ days  
20 on the grounds that the respondent [HE] is [GRAVELY DISABLED OR]  
21 mentally ill, and as a result presents a likelihood of serious harm to  
22 the respondent [HIMSELF] or others, or is gravely disabled. The  
23 facility or evaluation personnel shall give notice to the court of the  
24 releases and voluntary admissions under AS 47.30.700 - 47.30.820.

25 (c) The respondent has a right to communicate immediately, at  
26 the department's expense, with the respondent's [HIS] guardian, if  
27 any, or an adult designated by the respondent and the attorney desig-  
28 nated in the ex parte order, or an attorney of the respondent's  
29 choice.

1 (d) The respondent has the right to be represented by an attorney,  
2 to present evidence, and to cross-examine witnesses who testify  
3 against the respondent [HIM] at the hearing.

4 (e) The respondent has the right to be free of the effects of  
5 medication and other forms of treatment to the maximum extent possible  
6 before the 30-day [21-DAY] commitment hearing; however, the facility  
7 or evaluation personnel may treat the respondent [HIM] with medication  
8 under prescription by a licensed physician or by a less restrictive  
9 alternative of the respondent's [HIS] preference if, in the opinion of  
10 a licensed physician in the case of medication, or of a mental health  
11 professional in the case of alternative treatment, the treatment is  
12 necessary to

13 (1) prevent bodily harm to the respondent or others;

14 (2) prevent such deterioration of the respondent's mental  
15 condition that subsequent treatment might not enable the respondent  
16 [HIM] to recover; or

17 (3) allow the respondent to prepare for and participate in  
18 the proceedings.

19 (f) A respondent, if [HE IS] represented by counsel, may waive,  
20 orally or in writing, the 72-hour time limit on the 30-day [21-DAY]  
21 commitment hearing and have the hearing set for a date no more than  
22 seven calendar days after [HIS] arrival at the facility. The  
23 respondent's counsel shall immediately notify the court of the waiver.

24 \* Sec. 10. AS 47.30.730 is amended to read:

25 Sec. 47.30.730. PROCEDURE FOR 30-DAY [21-DAY] COMMITMENT; PETI-  
26 TION FOR COMMITMENT. (a) In the course of the 72-hour evaluation  
27 period, a petition for commitment to a treatment facility may be filed  
28 in court. The petition must be signed by two mental health profes-  
29 sionals who have examined the respondent, one of whom is a physician.

1 The petition must

2 (1) allege that the respondent is mentally ill and as a  
3 result is likely to cause harm to the respondent [HIMSELF] or others  
4 or is gravely disabled;

5 (2) allege that the evaluation staff has considered but has  
6 not found that there are any less restrictive alternatives available  
7 that would adequately protect the respondent or others; or, if a less  
8 restrictive involuntary form of treatment is sought, specify the  
9 treatment and the basis for supporting it;

10 (3) allege with respect to a gravely disabled respondent  
11 that there is reason to believe that the respondent's mental condition  
12 could be improved by the course of treatment sought;

13 (4) allege that a specified treatment facility or less  
14 restrictive alternative that is appropriate to the respondent's  
15 condition has agreed to accept the respondent;

16 (5) allege that the respondent has been advised of the need  
17 for, but has not accepted, voluntary treatment, and request that the  
18 court commit the respondent to the specified treatment facility or  
19 less restrictive alternative for a period not to exceed 30 [21] days;

20 (6) list the prospective witnesses who will testify in  
21 support of commitment or involuntary treatment;

22 (7) list the facts and specific behavior of the respondent  
23 supporting the allegation in (1) of this subsection.

24 (b) A copy of the petition shall be served on the respondent,  
25 the respondent's [HIS] attorney, and the respondent's [HIS] guardian,  
26 if any, before the 30-day [21-DAY] commitment hearing.

27 \* Sec. 11. AS 47.30.735 is amended to read:

28 Sec. 47.30.735. 30-DAY [21-DAY] COMMITMENT. (a) Upon receipt  
29 of a proper petition for commitment, the court shall hold a hearing at

1 the date and time previously specified according to procedures set out  
2 in AS 47.30.715.

3 (b) The hearing shall be conducted in a physical setting least  
4 likely to have a harmful effect on the mental or physical health of  
5 the respondent, within practical limits. At the hearing, in addition  
6 to other rights specified in AS 47.30.660 - 47.30.915, the respondent  
7 has the right

8 (1) to be present at the hearing; this right may be waived  
9 only with the respondent's informed consent; if the respondent is  
10 incapable of giving informed consent, the respondent may be excluded  
11 from the hearing only if the court, after hearing, finds that the  
12 incapacity exists and that there is a substantial likelihood that the  
13 respondent's presence at the hearing would be severely injurious to  
14 the respondent's [HIS] mental or physical health;

15 *Handwritten: Give copy* (2) to view and copy all petitions and reports in the court  
16 *Handwritten: No way* file of the respondent's [HIS] case;

17 (3) to have the hearing open or closed to the public as the  
18 respondent [HE] elects;

19 (4) to have the rules of evidence and civil procedure  
20 applied so as to provide for the informal but efficient presentation  
21 of evidence [TO BE PROCEEDED AGAINST ACCORDING TO THE RULES OF  
22 EVIDENCE APPLICABLE TO CIVIL PROCEEDINGS]; *Handwritten: VERKAZEN*

23 (5) to have an interpreter if the respondent [HE] does not  
24 understand English;

25 (6) to present evidence on the respondent's [HIS] behalf;

26 (7) to cross-examine witnesses who testify against the  
27 respondent [HIM];

28 (8) to remain silent;

29 (9) to call experts and other witnesses to testify on th:

1 respondent's behalf.

2 (c) At the conclusion of the hearing the court may commit the  
3 respondent to a treatment facility for not more than 30 [21] days if  
4 it finds, by clear and convincing evidence, that the respondent is  
5 mentally ill and as a result is likely to cause harm to the respondent  
6 [HIMSELF] or others or is gravely disabled.

7 (d) If the court finds that there is a viable less restrictive  
8 alternative available and that the respondent has been advised of and  
9 refused voluntary treatment through the alternative, the court may  
10 order the less restrictive alternative treatment for not more than 30  
11 [21] days if the program accepts the respondent.

12 (e) The court shall specifically state to the respondent, and  
13 give the respondent [HIM] written notice, that if commitment or other  
14 involuntary treatment beyond the 30 [21] days is to be sought, the  
15 respondent shall have the right to a full hearing or jury trial.

16 \* Sec. 12. AS 47.30.740 is amended to read:

17 Sec. 47.30.740. PROCEDURE FOR 90-DAY COMMITMENT FOLLOWING 30-DAY  
18 [21-DAY] COMMITMENT. (a) At any time during the respondent's 30-day  
19 [21-day] commitment, the professional person in charge, or that  
20 person's [HIS] professional designee, may file with the court a  
21 petition for a 90-day commitment of that respondent. The petition must  
22 include all material required under AS 47.30.730(a) except that  
23 references to "30 days" ["21 DAYS"] shall be read as "90 days"; and

24 (1) allege that the respondent has attempted to inflict or  
25 has inflicted serious bodily harm upon the respondent [HIMSELF] or  
26 another since the respondent's [HIS] acceptance for evaluation, or  
27 that the respondent [HE] was committed initially as a result of  
28 conduct in which the respondent [HE] attempted or inflicted serious  
29 bodily harm upon the respondent [HIMSELF] or another, or that the

1 respondent [HE] continues to be gravely disabled, or that the  
2 respondent [HE] demonstrates a current intent to carry out plans of  
3 serious harm to the respondent [HIMSELF] or another;

4 (2) allege that the respondent has received appropriate and  
5 adequate care and treatment during the respondent's 30-day [HIS  
6 21-DAY] commitment;

7 (3) be verified by the professional person in charge, or  
8 that person's [HIS] professional designee, during the 30-day [21-DAY]  
9 commitment.

10 (b) The court shall have copies of the petition for 90-day  
11 commitment served upon the respondent, the respondent's [F S]  
12 attorney, and the respondent's [HIS] guardian, if any. The petition  
13 for 90-day commitment and proofs of service shall be filed with the  
14 clerk of the court, and a date for hearing shall be set, by the end of  
15 the next judicial day, for not later than five judicial days from the  
16 date of filing of the petition. The clerk shall notify the  
17 respondent, the respondent's [HIS] attorney, and the petitioner of the  
18 hearing date at least three judicial days in advance of the hearing.

19 (c) Findings of fact relating to the respondent's behavior made  
20 at a 30-day [21-DAY] commitment hearing under AS 47.30.735 shall be  
21 admitted as evidence and may not be rebutted except that newly  
22 discovered evidence may be used for the purpose of rebutting the  
23 findings.

24 \* Sec. 13. AS 47.30.745(b) is amended to read:

25 (b) Unless the respondent is released or is admitted voluntarily  
26 [ADMITS HIMSELF] following the filing of a petition and before the  
27 hearing, the respondent [HE] is entitled to a judicial hearing within  
28 five judicial days of the filing of the petition as set out in AS 47.-  
29 30.740(b) to determine if the respondent [HE] is mentally ill and as a

1 result is likely to cause harm to self [HIMSELF] or others, or if the  
 2 respondent [HE] is gravely disabled. If the respondent is admitted  
 3 voluntarily [ADMITS HIMSELF] following the filing of the petition, the  
 4 voluntary admission constitutes a waiver of any hearing rights under  
 5 AS 47.30.740 or under AS 47.30.685. If at any time during the respon-  
 6 dent's voluntary admission under this subsection, the respondent  
 7 submits to the facility a written request [NOTICE OF INTENT] to leave,  
 8 the professional person in charge may file with the court a petition  
 9 for a 180-day [120-DAY] commitment of the respondent under AS 47.30.-  
 10 770. The 180-day [120-DAY] commitment hearing shall be scheduled for  
 11 a date not later [EARLIER] than 90 days after the respondent's volun-  
 12 tary admission.

13 \* Sec. 14. AS 47.30.770 is amended to read:

14 Sec. 47.30.770. ADDITIONAL 180-DAY [120-DAY] COMMITMENT. (a)  
 15 The respondent shall be released from involuntary treatment at the  
 16 expiration of 90 days unless the professional person in charge files a  
 17 petition for a 180-day [120-DAY] commitment conforming to the  
 18 requirements of AS 47.30.740(a) except that all references to "30-day  
 19 commitment" ["21-DAY COMMITMENT"] shall be read as "the previous  
 20 90-day commitment" and all references to "90-day commitment" shall be  
 21 read as "180-day commitment" ["120-DAY COMMITMENT"].

*H.R. Korman: Disagree*

22 (b) The procedures for service of the petition, notification of  
 23 rights, and judicial hearing shall be as set out in AS 47.30.740 -  
 24 47.30.750. If the court or jury finds by clear and convincing evidence  
 25 that the grounds for 90-day commitment as set out in AS 47.30.755 are  
 26 present, the court may order the respondent committed for an  
 27 additional treatment period not to exceed 180 [120] days from the date  
 28 on which the first 90-day treatment period would have expired.

29 (c) Successive 180-day [120-DAY] commitments are permissible on

1 the same ground and under the same procedures as the original 180-day  
2 [120-DAY] commitment. An order of commitment may not exceed 180 [120]  
3 days.

4 (d) Findings of fact relating to the respondent's behavior made  
5 at a 30-day [21-DAY] commitment hearing under AS 47.30.735, a 90-day  
6 commitment hearing under AS 47.30.750, or a previous 180-day [120-DAY]  
7 commitment hearing under this section shall be admitted as evidence  
8 and may not be rebutted except that newly discovered evidence may be  
9 used for the purpose of rebutting the findings.

10 \* Sec. 15. AS 47.30 is amended by adding a new section to read:

11 Sec. 47.30.772. MEDICATION AND TREATMENT. A designated treat-  
12 ment facility may administer medication or other treatment to an  
13 involuntarily committed patient consistent with the provisions of  
14 AS 47.30.825 - 47.30.865.

15 \* Sec. 16. AS 47.30.790 is amended to read:

16 Sec. 47.30.790. RETURN FROM UNAUTHORIZED ABSENCE. When a  
17 respondent undergoing involuntary treatment on an inpatient basis is  
18 absent from the treatment facility without, or in excess of,  
19 authorization under AS 47.30.785, the professional person in charge,  
20 or that person's [HIS] professional designee, may contact the  
21 appropriate peace officers who shall take the respondent into custody  
22 and return the respondent [HIM] to the treatment facility. If it is  
23 determined by the professional person in charge to be necessary, a  
24 member of the treatment facility staff shall accompany the peace  
25 officers when they take the respondent into custody. In addition, the  
26 family or guardian of the patient shall be notified of the patient's  
27 unauthorized absence within three hours of its discovery.

28 \* Sec. 17. AS 47.30 is amended by adding a new section to read:

29 Sec. 47.30.803. CONVERSION FROM INVOLUNTARY TO VOLUNTARY STATUS.

1 A patient subject to involuntary hospitalization under AS 47.30.705,  
2 47.30.735, or AS 47.30.755 may at any time convert to voluntary status  
3 if the responsible physician agrees that

4 (1) the patient is an appropriate patient for voluntary  
5 hospitalization; and

6 (2) the conversion is made in good faith.

7 \* Sec. 18. AS 47.30.805(a) is amended to read:

8 (a) Except as provided in (b) of this section,

9 (1) computations of a 72-hour evaluation period under  
10 AS 47.30.615 or a 48-hour detention period under AS 47.30.685 do not  
11 include Saturdays, Sundays, legal holidays, or any period of time  
12 necessary to transport the respondent to the treatment facility;

13 (2) a 30-day [21-DAY] commitment period expires at the end  
14 of the 30th [21ST] day after the 72 hours following initial  
15 acceptance;

16 (3) a 90-day commitment period expires at the end of the  
17 90th day after the expiration of a 30-day [21-DAY] period of  
18 treatment;

19 (4) a 180-day [120-DAY] commitment period expires at the  
20 end of the 180th [120TH] day, after the expiration of a 90-day period  
21 of treatment or previous 180-day [120-DAY] period, whichever is  
22 applicable.

23 \* Sec. 19. AS 47.30.815(b)(4) is amended to read:

24 (4) a peace officer or physician responsible for detaining  
25 or transporting a person under AS 47.30.700 - 47.30.915.

26 \* Sec. 20. AS 47.30.825(6) is amended to read:

27 (6) In no event may treatment include psychosurgery,  
28 lobotomy, or other <sup>VERKOZEN - what does this mean?</sup> comparable form of treatment without specific  
29 informed consent of the patient, including a minor unless the minor

1 [HE] is clearly too young or disabled to give an informed consent in  
2 which case the consent of the minor's [HIS] legal guardian is  
3 required. In the case of an adult patient who is unable to give  
4 informed consent, informed consent must be obtained from an adult  
5 designated in accordance with AS 47.30.725. In addition, that [SUCH]  
6 treatment may not be given without a court order after hearing  
7 compatible with full due process.

8 \* Sec. 21. AS 47.30.825(8) is amended to read:

9 (8) A patient upon discharge shall be given a discharge  
10 plan specifying the kinds and amount of care and treatment the patient  
11 [HE] should have after discharge and such other steps as the patient  
12 [HE] might take to benefit the patient's [HIS] mental health after  
13 leaving the facility. The patient shall have the right to  
14 participate, as far as practicable, in formulating the patient's [HIS]  
15 discharge plan. A copy of the plan shall be given to the patient, the  
16 patient's [HIS] guardian, an adult designated in accordance with  
17 AS 47.30.725, the court if appropriate, and any follow-up agencies.

18 \* Sec. 22. AS 47.30.840 is amended by adding a new subsection to read:

19 (b) The patient's rights under (a)(4) - (7) of this section may  
20 be suspended temporarily if the professional person in charge of the  
21 patient determines it is not in the best interests of the patient and  
22 will pose a threat to the safety or well-being of the patient or  
23 others to grant the patient those rights.

24 \* Sec. 23. AS 47.30.845 is amended by adding a new paragraph to read:

25 (7) a law enforcement agency when there is substantiated  
26 concern over imminent danger to the community by a presumed mentally  
27 ill person.

28 \* Sec. 24. AS 47.30.915(5) is amended to read:

29 (5) "evaluation facility" means a health care facility that

1 has been designated or is operated by the department to perform the  
2 evaluations described in AS 47.30.660 - 47.30.915; or a medical facil-  
3 ity licensed under AS 18.20.020 or operated by the federal government;

4 \* Sec. 25. AS 47.30.915(7) is amended to read:

5 (7) "gravely disabled" means a condition in which a person  
6 as a result of mental illness [,]

7 (A) is in danger of physical harm arising from such  
8 complete neglect of basic needs for food, clothing, shelter, or  
9 personal safety as to render serious accident, illness or death  
10 highly probable if care by another is not taken; or

11 (B) will, if not treated, suffer or continue to suffer  
12 severe and abnormal mental, emotional or physical distress, and  
13 this distress is associated with significant impairment of judg-  
14 ment, reason or behavior causing a substantial deterioration of  
15 the person's previous ability to function independently;

16 \* Sec. 26. AS 47.30.915(10) is amended to read:

17 (10) "likely to cause serious harm" means a person who

18 (A) poses a substantial risk of [IMMINENT AND SUBSTAN-  
19 TIAL] bodily harm to that person's self [HIMSELF], as manifested  
20 by recent behavior causing, attempting or threatening that  
21 [ATTEMPTS AT SUICIDE OR BODILY] harm;

22 (B) poses a substantial risk of [IMMINENT AND SUBSTAN-  
23 TIAL BODILY] harm to others [ONE OR MORE OTHER PERSONS] as mani-  
24 fested by recent behavior causing, [OR] attempting, or threaten-  
25 ing harm, and is likely in the near future to cause physical  
26 injury, physical abuse or substantial property damage to another  
27 person [INCLUDING, IN REGARD TO EVALUATIONS, AT LEAST ONE INCI-  
28 DENT WITHIN 30 DAYS BEFORE THE FILING OF A PETITION FOR EMERGENCY  
29 HOSPITALIZATION]; or

*Removes  
Licensing Law*

(C) manifests [DEMONSTRATES] a current intent to carry out plans of serious harm to that person's self [HIMSELF] or another;

\* Sec. 27. AS 47.30.915(11) is amended to read:

(11) "mental health professional" means a psychiatrist or physician who is licensed to practice in this state or employed by the federal government; a ~~clinical~~ <sup>PARANOID</sup> psychologist licensed by the state Board of Psychologists and Psychological Associate Examiners; a psychological associate with a clinical psychology or counseling specialty licensed by the Board of Psychologists and Psychological Associate Examiners; a registered nurse with three years of experience in clinical psychiatric nursing in a psychiatric facility accredited by the Joint Commission on the Accreditation of Hospitals [A MASTER'S DEGREE IN PSYCHIATRIC NURSING], licensed by the State Board of Nursing; and a social worker with a master's degree in social work and experience in the field of mental illness;

*Part of  
which  
social worker →*

*Book  
Requires  
diagnostic  
knowledge*

*See also state def -  
office of  
involuntary  
commitment*

FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 346  
 Title: "An Act relating to the treatment of mentally ill persons."  
 Sponsor: Sen. Josephsei  
 Requestor: Senate HFSS  
 Date of Request: 1/17/84

FISCAL DETAIL

Agency Affected: Department of Law  
 Program Category Affected: General Government  
 BRU, Program or Subprogram(s) Affected: Legal Services Operations

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
10% PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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

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

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND	0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

N/A

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues Director Phone: 465-3672  
 Division: Administrative Services Date: 1-18-84  
 Approved by Commissioner: Norman O. Gorsuch Date: 1-18-84  
 Agency: Department of Law

Distribution (by Agency preparing fiscal note):

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

12/1/83

Fiscal Note  
Analysis  
SB 346

January 18, 1984

This act amends the state's statutes covering the treatment of mentally ill persons. The amendment clarify existing law and provide additional safeguards for the general public and the relatives of mentally ill persons, while seeking to protect the legal rights of persons suffering from mental illness. The amendments will not require any additional legal services, over those currently being provided, and their enactment will not have a fiscal impact on the department's operations.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

RECEIVED

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

**REQUEST**  
 Bill/Resolution No.: SB 346  
 Title: "An act relating to the treatment of mentally ill persons."  
 Sponsor: Sen. Josephson & Halford  
 Requestor: Senate HESS  
 Date of Request: 1-20-84

**FISCAL DETAIL**  
 Agency Affected: Public Safety  
 Program Category Affected: Administration of Justice  
 BRU, Program or Subprogram(s) Affected: Alaska State Troopers

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

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS:** Attach a separate page for analysis

Prepared By: Francis C. Allan G.C.A. MK Phone: 269-5691  
 Division: Alaska State Troopers Date: 01/19/84  
 Approved by Commissioner: Robert J. Sundberg Date: 1-26-84  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):  
 Legislative Finance  
 Legislative Sponsor  
 Requestor  
 Office of Management and Budget  
 Impacted Agency(ies)

DEPARTMENT OF PUBLIC SAFETY

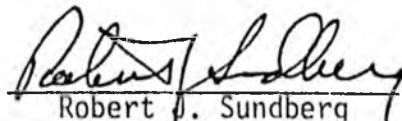
POSITION PAPER - SB 346

Support

January 19, 1984

SB 346 - "An act relating to the treatment of mentally ill persons."

This Bill provides law enforcement officers with the latitude to protect both the mentally ill person and the public from the actions of the mentally ill.

  
Robert J. Sundberg  
Commissioner

DEPARTMENT OF PUBLIC SAFETY

RECEIVED

POSITION PAPER - SB 346

Support

Jacobson

January 19, 1984

SB 346 - "An act relating to the treatment of mentally ill persons."

This Bill provides law enforcement officers with the latitude to protect both the mentally ill person and the public from the actions of the mentally ill.

  
Robert J. Sundberg  
Commissioner

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 346  
Title: "An act relating to the treatment of mentally ill persons."  
Sponsor: Sen. Josephson & Halford  
Requestor: Senate HESS  
Date of Request: 1-20-84

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: Administration of Justice  
BRU, Program or Subprogram(s) Affected: Alaska State Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0.0	0.0	0.0	0.0	0.0	0.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Francis C. Allan G.C.A. mCK Phone: 269-5691  
Division: Alaska State Troopers Date: 01/19/84  
Approved by Commissioner: Robert J. Sundberg Date: 1-26-84  
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

12/1/83

S

B

354

January 18, 1984

I want to thank the sponsors of HB 514 and Senate Bill 354 for their attitude, concern, and intentions. The purpose of this legislation as expressed is excellent. The assurance of religious liberty and a child's education without conflict is supported by most of us. However, there is an incongruence in the bill as written. Section I subsection (1) states that "the state shall not control or interfere with the rights of conscience and religious liberty;". Yet, in this bill churches seeking exemptions have to meet conditions and file reports to the state.

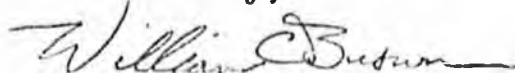
I am the Minister of Education for Glacier Valley Baptist Church, in Juneau. As a church we can not request or accept an exemption from the Department of Education. Exemptions can only be granted to a lesser by a greater power. We can not take an easy way out from possible confrontations if that way involves denial of the Sovereignty of our Lord.

The state can still meet its obligations of ensuring that a child receives an education that prepares him as a viable member of society, by placing the primary responsibility of education where it belongs, on the parent. The parent should be responsible for the reports to the state if he elects to educate his child in a program other than the public schools, or state controlled alternatives.

In view of the purpose of this legislation, please see my enclosure for the suggested changes.

Thank you.

Sincerely,



William E. Brown

Minister of Education

Page 1 line 16 DELETE "all" from all education. In line 19 one example is given that voids the "all" aspect.

Section 14.45.030. page 5 lines 3-9 DELETE If you don't meet the requirements of the exemption (voluntary or otherwise) you are under Department of Education's control.

Section 14.45.100. page 5 lines 11-16 DELETE Asking for an exemption implies recognition of control or higher authority. This is incongruent to the stated purpose of the legislation in Section I subparagraph (1) and (2)

Page 5 lines 25, 26, 27 recognizes the local public school superintendent as in authority over the church school.

Page 5 lines 28, 29 Page 6 lines 1-5 Entangles the church school unnecessarily and once again places the school as answerable to the state.

Page 6 lines 6-11 Testing requirements DELETE (a) A religious or other private school" Excessive entanglement.

Page 6 lines 14-19 Subsection (c) DELETE

#### CHANGES

Article 2 Section 14.45.100. Children Enrolled In Private and Religious Schools.

Parents choosing to enroll their children in schools where the laws and regulations relating to education except law and regulations relating to physical health, fire safety, sanitation, immunization, and physical examinations are not applicable must file notice of enrollment with their local public school district.

Section 14.45.110 Parental Responsibilities concerning non licensed education.

Page 5 lines 18-24 Remain

line 25 DELETE school shall notify, add "the parent shall notify."

Page 6 lines 6-11 change "a religious or other private school" to "a parent"

Page 6 line 8 change "shall administer" to "shall submit the results"

Page 6 line 14-19 Subsection (C) change line 19 from "the composite test results" to "the student test results from a non licensed school utilized by parents in compliance with AS 14.45.100-AS 14.45.140"

Page 6 lines 28-29

A parent or guardian that elects to comply with AS 14.45.100-14.45.140 shall file an annual report reflecting standardized test scores, past year's grades, and approaching year's course of study, no later than October 1. Students enrolled for the first time in a non licensed church or private school will not be required to report previous year's performance.

Page 7 lines 1-3 DELETE. Insert A student that transfers from an alternative education covered by AS 14.45.100-14.45.140 to a public school shall have records that reflect immunizations, physical examinations, standardized testing, academic achievement, and courses attended.

Page 7 lines 4-7 DELETE - excessive entanglement

NOTICE OF ENROLLMENT IN A NON-LICENSED SCHOOL

198\_\_ SCHOOL YEAR

STUDENT'S NAME \_\_\_\_\_ AGE \_\_\_\_\_ GRADE \_\_\_\_\_

SCHOOL PROVIDING SERVICES \_\_\_\_\_ CITY \_\_\_\_\_

COURSE OF STUDY FOR THIS ACADEMIC YEAR

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

REST OF FORM IS TO BE COMPLETED FOR STUDENTS CONTINUING IN A NON-LICENSED SCHOOL.

COURSES TAKEN PRIOR ACADEMIC YEAR. LIST GRADES EARNED.

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

IF A CHILD WAS IN GRADES ONE, THREE, SIX, OR NINE, COMPLETE THE FOLLOWING STANDARDIZED TEST INFORMATION.

NAME OF TEST	DATE ADMINISTERED	PCTL SCORES				
		ENGLISH	GRAMMAR	READING	SPELLING	MATHEMATICS

PARENT'S OR GUARDIAN'S SIGNATURE \_\_\_\_\_

ADMINISTRATOR'S SIGNATURE OF \_\_\_\_\_  
SERVICING SCHOOL

SECTIONAL ANALYSIS - CS FOR SB 354 (Jud) An Act relating to the regulation of private schools.

- Section 1                   PURPOSE. States that the purpose of the act is to guarantee freedom of religion, ensure freedom from state control in the matters of education by a religious organization, and speaks to quality and diversity in education.
- Section 2                   DUTIES OF THE DEPARTMENT (OF EDUCATION). Adds to the statute in subsection (7) a change requiring the state fire marshal and sanitarian to consult with the department concerning health and safety regulations for private schools; and requires immunizations and physical exams.
- Subsection (8) deletes private pre-schools from the supervision of the Department, the cooperative supervisory arrangement with Health and Social Services, and supervision over the educational component of nurseries (attached).
- Subsection (10) provides that nothing in the section allows the Department to require private schools to be licensed.
- Section 3                   COMPULSORY ATTENDANCE LAW. Subsection (1) (C) Provides that this law does not apply to a child enrolled in a school operated under the exemption in Section 5 of the bill. Also deletes the current requirement in this subsection for proficiency testing.
- Section 4                   NON-EXEMPT SCHOOLS. Provides that those in charge of a private school not in compliance with the exemption in section 5 of the bill are under the authority of laws and regulations of the Department of Education.
- Section 5                   Adds new sections to the statute that provide an exemption section for private schools which is not mandatory. The exemption states that those who choose to operate under it are:
- 1) Exempt from laws and regulations except those pertaining to health and safety.
  - 2) subject to filing a report on a student no longer enrolled in school (the parent must submit the initial enrollment form annually).
  - 3) Required to operate on a regular schedule of at least 180 days, and submit monthly and annual attendance reports.
  - 4) required to administer a standardized test, maintain records of the results but need not make them public unless similar requirements are made of public schools.
  - 5) required to maintain student records with the

chief administrator certifying that the records are maintained.

"religious school" is defined.

Section 6

Repeals current law providing that the Commissioner of Education may provide exam questions for and furnish diplomas to eighth grade pupils.

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: SB 354  
 Title: Regulation of Private  
Schools  
 Sponsor: Sen. Faiks  
 Requestor: Senate Judiciary  
 Date of Request: 1-20-84

FISCAL DETAIL

Agency Affected: Public Safety  
 Program Category Affected: Life and Property Protection  
 BRU, Program or Subprogram(s) Affected: Fire Prevention

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		0	0	0	0	0
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

No fiscal impact

ANALYSIS: Attach a separate page for analysis

Prepared By: Gordon Brunton Phone: 465-4331  
 Division: Fire Prevention Date: 1-20-84  
 Approved by Commissioner: Robert J. Sundberg Date: 1-20-84  
 Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

12/1/83

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date:

**REQUEST**

Bill/Resolution No.: S.B. 354  
 Title: An Act relating to the regulation of private schools  
 Sponsor: Faiks, et al  
 Requestor: \_\_\_\_\_  
 Date of Request: 1/23/84

**FISCAL DETAIL**

Agency Affected: Environmental Conservation  
 Program Category Affected: NRMEC  
 BRU, Program or Subprogram(s) Affected: Environmental Quality Management

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

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
<b>OPERATING</b>						
100 PERSONAL SERVICES		0	0	0		
200 TRAVEL		0	0	0		
300 CONTRACTUAL		0	0	0		
400 SUPPLIES		0	0	0		
500 EQUIPMENT		0	0	0		
600 LAND & STRUCTURES		0	0	0		
700 CRANTS, CLAIMS		0	0	0		
800 MISCELLANEOUS		0	0	0		
<b>TOTAL OPERATING</b>		0	0	0		
<b>CAPITAL</b>		0	0	0		
<b>REVENUE</b>						

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		0	0	0		
FEDERAL FUNDS		0	0	0		
OTHER		0	0	0		
<b>TOTAL</b>		0	0	0		

**POSITIONS:**

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

**SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:**

**ANALYSIS:** Attach a separate page for analysis

Prepared By: Joe Cladouhos, Director Phone: 465-2640  
 Division: Environmental Quality Management Date: 1/23/84

Approved by Commissioner: Richard Neve Date: 1/23/84  
 Agency: Environmental Conservation

**Distribution (by Agency preparing fiscal note):**

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

MEMORANDUM  
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: Senate HESS Committee  
FROM: League of Women Voters of Alaska  
SUBJECT: Senate Bill 354

DATE: January 23, 1984

Although the subject matter of SB 354 is regulation of private schools, the League of Women Voters is directing your attention to one portion of the bill which we feel may have the potential of nullifying some of the state's effectiveness in licensing and regulating day care centers. The Alaska League does not have any position relative to private schools. We do, however, strongly advocate well run, well financed and well regulated day care programs. A portion of our day care position states:

"The League of Women Voters of Alaska believes there should be differentiation between day care and pre-elementary school programs. Specific requirements should be related to the number of hours per day a child is in attendance."

Page 2, lines 17-22 of SB 254 exempt private pre-elementary schools from the general supervision of the Department of Education and define private pre-elementary schools in terms of the children's age and the school's primary function.

The League is concerned that this exemption has the potential of creating a loophole whereby operators or would-be operators of day care centers could proclaim themselves to be private pre-elementary schools and thus avoid any state licensing and/or regulation. The phrase, "when the school's primary function is educational" is somewhat subjective. We would feel that the integrity of day care programs in Alaska would be much better protected if pre-elementary schools were defined in terms of hours per day a child is in attendance. The figure we would suggest is anything less than ~~four~~ hours. With such a definition in the bill, the potential loophole earlier described would be eliminated.

We would appreciate the committee's consideration of an amendment to accomplish this safeguard of day care programs and, more importantly, day care attenders in Alaska.

Thank you.

Paula Ziegler  
President  
127 N Franklin #909  
Juneau, Alaska 99801

MEMORANDUM

TO: JOE  
FROM: NANCY  
RE: CSSB 354 (JUD) Regulation of Private Schools

SENATE JUDICIARY

the Committee adopted a change to the purpose section of the bill which would make it more applicable to private schools as a whole without as much emphasis on the separation of church and state.

Senator Pettyjohn presented a letter from the AG speaking to the equal protection problems of providing a consistent education program to all students in the state. The AG was of the opinion that there are no problems with the bill as it currently stands.

the Committee also discussed what to do with the Bill following the major changes (they are assuming) will be made by HESS. They decided to not recall it to Judiciary, but to simply adopt the Judiciary Committee Substitute to present to the floor for a vote in the Rules Committee.

OTHER ISSUES

Burt Carney, of the Harvester Academy, will be here to testify on behalf of the bill. He must leave on a 5:00 flight and would like to address the committee early in the meeting.

Bill Brown, of the Juneau Baptist church/school, will be here to testify on their position (I am sure you will remember the Browns from last year). They still object to language in the bill which would exempt the schools on the grounds that the granting of the exemption means that the government has authority over the schools. His proposal (in your folder) recommends that parents be given the responsibility of handling all paperwork involving their child with no responsibility for these matters with the school. The Anchorage groups do not support this idea.

The task of handling all this paperwork, which would fall on local school districts, could be enormous. The Department estimates that there are at least 6,000 children in the state in private schools - each of these handled on an individual basis could overwhelm local schools with the paperwork.

ACCREDITATION

There were some questions on accreditation at the Judiciary hearing last week. I have a file of info on the Northwest Accreditation Association which includes their standards.

FISCAL NOTES

The Judiciary committee passed the bill without a fiscal note (AS 24.30.035 prohibits that practice), but I will try to have one for the hearing. I have called DEC and Public Safety since the state fire marshall and sanitarian will be involved in health and safety regulations instead of DH&SS.

IN YOUR FOLDER:

- 1) the bill (Judiciary CS)
- 2) a sectional analysis
- 3) a position paper with request for changes from Bill Brown, Glacier Valley Baptist Church/School.

FISCAL NOTES

Because there is a requirement for regulation development in cooperation with the state fire marshal and sanitarian, there will be a fiscal impact from D.E.C. and Public Safety. I have requested fiscal notes from them but do not know if they will be here monday.

1/20/84 DEC SAID THERE WOULD BE NO FISCAL IMPACT.

QUESTIONS:

Given that the state has a vested interest in every child's education, and that the Department is moving aggressively toward program improvement, what is the guarantee under this bill for continuing improvement in private education?

Will this bill minimize the conflict between the state and private schools?

Under the records section (pg. 7, lines 3-11), the chief officer of a private school must swear that they are maintained, but will they be available for any official/public purpose?

There was testimony in the Judiciary committee that the grade levels for standardized testing (pg. 6, line 14) were incorrect, are there any recommendations for change?

Without any established standards for pre-schools under this bill, how will it be determined that a school's primary purpose is educational? Who will be responsible for that determination?

Why are the sponsors of this bill deleting the Department of Health and Social Services' supervisory authority over public pre-elementary schools? (pg.2, subsection (8))

JCE:

Burt Curney is bringing two national figures to testify:

AL Janney - National President of the Assoc. of Christian Schools

Eugene Fadel - Regional Director Association of Christian Schools International

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CS SB-354  
Title: ... regulation of private schools  
Sponsor: Faiks  
Requestor: Hess  
Date of Request: 1-19-84

FISCAL DETAIL

Agency Affected: Education  
Program Category Affected: Elementary & Secondary Education  
BRU, Program or Subprogram(s) Affected: School Improvement

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS: N/A

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard Luther, Director Phone: \_\_\_\_\_  
Division: Education Program Support Date: \_\_\_\_\_

Approved by Commissioner: Harold Reynolds, Jr. Date: 1-20-84  
Agency: Education

Distribution (by Agency preparing fiscal note):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Impacted Agency(ies)

#1  
A M E N D M E N T

Offered in the Senate

By V. Fischer

To: CSSB 354(Jud)

Page 2, line 23, following "pre-elementary schools" insert:

"and private pre-elementary schools that are not in facilities  
associated with an elementary school operating grades one through  
three"

Jan 23, 1984

Joe, Vic, Paul, Rick

Joe

OSHB 354 - Regulation of Private School  
intro and background of the Bill - HB 357 from 1983 - veto -

Dr. Eugene Fadell - NW Reg. of Christian Sch. Assoc.

3,077 students in AK - 34 schools (27 local churches)

Evangelical fundamental Christian schools strong academic programs w/ high standards. Students test one year over grade level. Ak. Idaho - Wash - Ore - Wyo

\* Oregon - state not allowed to license, teachers not certified, schools can register w/ state (optional)

Nufford

School reporting report? - why not parent?

Fadell feels it would be better - less central!

Vic

possibilities of abuse - define pre-elementary schools  
what about home element? difference between daycare and school.

Dr. Al Janney

many states in country have passed bills of same nature. states w/o legislation end up in litigation

Jim Ewell - Personal Liberties Committee

support bill.

Should parent or school report on student attendance?

Prefer parent.

Parents have an "overwhelming ability to decide what is

right for their child" and should decide what pre-school  
in which to place their children.

Walford

is it a violation of church/state relationship for schools to report?

EWELL - yes!

state could require of the parent to submit forms to comply w/  
compulsory attendance law.

David Burt Carney - Harvester Christian Academy  
Difference between ~~child~~ day care & pre-elementary schools  
~~there~~ are in funding - day care receive a great deal of  
state funding. Day care double or higher than schools.  
Parents of 4 & 5 yr olds have full day or half  
day option. (this yr all 4 & 5 yr olds are all day)  
all 34 schools represented have a pre-school as well  
as an elementary.

Joe

Committee report - legislative history.

Vic

rather a definition for pre-school.

Carney - the Montessori school in existence since mid 50s and has a  
full educational program all day. This was a court case  
on the issue of a time limit.

re. parents making report - believe it would give Sheffield  
reason to veto bill.

Chung pg 5, line 24 after child add "of compulsory school age."

Cherie Jacobus

\* parent reporting - want an agreement from Administration that bill won't be vetoed prior to changing the bill. There will be some people who, by consensus, cannot go along with this model.

\* pre-school - health & safety will be regulated; physical exams and immunizations are included and that is not in current law. Day care has subsidy - if you force pre schools under these regs, you will force these people out of business. DEISS and DOE have taken too much power in regulating schools.

Susan Clark - AMUW - state legis. Chair

suggested amendment to define pre-elementary schools as those operating 4 hrs. a day or less.

no requirement for staff to be teachers, nutrition requirements, etc.

pre-elementary education is functionally different - shorter attention span, more physical activity; pre-primary skill development; learn self-sufficiency; socialization cognitive skills - not standard education and the distinction is hard to draw.

The diff. between an all day pre-school and a day care are not very different - but the requirements are very different. require emergency records.

Vic - preceding testimony agree on differentiation between day care and pre school - criterion -> part of an elem. school?

Bro Brown - Glacier Valley Baptist Church - Valley <sup>B</sup> Academy  
same problems as in 1983. Purpose is beautiful but the parents are responsible for their children and he sees the bill as a violation of separation of church & state. He doesn't want to be a bureaucrat officer.

Bro Cooksey - NEA - Alaska

Concerns about bill. State obligation in education -> 'quality' But the exemptions seem to deny this when health & safety are one thing but the educational component

pg 2 line 22

pg 5 line 8 - non-exempt provision inconsistent

Reports to public school good - but require so many basic reports etc but don't deal w/ ed. component or minimal teacher requirements.

Sen. Jan Ficks

This is compromise legislation - Gov, H.C., DOE etc. Al. had lead in the bill/lack of compromise



# Alaska State Legislature

Representative Mike Davis

Pouch V  
Juneau, Alaska 99811  
(907) 465-4930/4941

Interim Office:  
P.O. Box 81435  
Fairbanks, Alaska 99708

February 6, 1984

To: Sen. Josephson

From: Rep. Davis

Attach please find a letter from one of my constituents concerning the regulation of private schools.

I am providing a copy to your for your information.

Thank you.

RECEIVED



January 26, 1984

Representative M. Davis  
Pouch "V"  
Juneau, Alaska

re: HB514 and SB354.

Dear Rep. Davis:

I have built a Child Care Center. We have a quality Preschool Program and I have worked very dilligently to provide a high ratio of trained staff to children, nutritious meals, information to parents on our program, uniform standards of discipline and a quality environment which meets (and beats) current licensing standards. If a parent does have a complaint, though, they can go to H.&.S.S. to report it, thus providing a back up to my good intentions.

I testified against these two bills. There were 200 clapping, vocal people at that meeting, many from "moral Majority" churches, who clearly did not want ANY regulation to intrude into their schools. The passing of these bills to placate this vocal minority is a terrible disservice to children, in my opinion. If you pass these bills, that means that Child Care Centers (who range from babysitting to quality preschool programs) will be asked to meet higher standards than preschools. Any person who wants to start an unregulated program will call it a preschool. Children would be cared for in large groups, with little staff, with no assurances of safety for children. Is this your aim? Is the system so unresponsive to the needs of many that it backs down to the loud tactics of a vocal minority?

We need safe places for children during the day. The parents often don't ask the questions you think they might. They often ask "Where are you located, and how much does it cost?" They ASSUME that someone

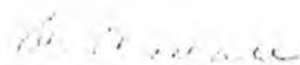
1327 KALAKAKET.  
FAIRBANKS, ALASKA 99701  
479-0753 / 479-3193 OFFICE

is guaranteeing the standards for their children. But with passage of these Bills, an important part of that guarantee will be lost.

My hope is that the State will sit down with sensible, responsible members of the religious community and sift out the offending parts of the legislation. The State should not be telling churches what or how to teach, but I think it is sensible for the State to define some basic standards to ensure that profit-motivated and unsavoury types are not allowed to abuse preschool operation by allying themselves with the "no regulation church types."

Please find a sensible way out of this other than eliminating all regulation for our children. Passage of these bills is a very large step towards opening a door for child abuse. Please don't do that.

Yours truly,

  
Diane Duvall  
Director (and Mother)

DD:bsk

Sent to Reps. Miller, Davis & Kopponen

p.s. The number of Child Care Centers in Fairbanks has doubled in the past year. The trend is for centers to be established which are catering to large numbers of children (most over 30, some over 50 and one to 170 children). The profit motive is there and growing. It must be regulated. It is so difficult to make money in this business with a small, personalized center, that you will find people starting up larger centers. This is part of why regulation is needed now, not elimination of standards.

SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

WITNESS REGISTER

BILL NUMBER SSB 354 (JUD) REGULATION DATE January 23, 1984  
OF PRIVATE SCHOOLS

NAME	REPRESENTING	ADDRESS	PHONE NUMBER
Susan Clark	AAUW	1109 C St - Juneo	586-6952
✓ Dr. Fadel	ASET ACSI	Portland, Ore.	
✓ Burt Carney	Harvester Christian Academy	Anchorage	
Fenton McNewen	Tumana Christian Sch	Tumana AK	789-2176
✓ William E. Brown	Glacier Valley Baptist Church	Tumana AK	789-7348
✓ Dr. Al Janssen	American Assoc. of Christian Schools	Tidwellville, FL	
✓ Tim Ewert	Personnel Librarians Committee	PO Box 496 Eagle River	338-2345
✓ Cheri Jacobus	self	1348 CRESCENT AVE	501-8754
Bob Cooksey	NEA - Alaska		586-3090

# Nebraska pastor's crusade clashes with public interest

Ray Jenkins  
Baltimore Evening Sun

**R**ENDER to Caesar the things that are Caesar's, and to God the things that are God's.

So reads one of the most familiar — and possibly most misunderstood — passages in the Bible. It is Jesus' response to guileful questioners who sought a definitive statement on what one must do when civil obligation conflicts with the demands of conscience. As was so often the case, the questioners were dumbstruck by the brilliance of the reply, and quietly slipped away to concoct yet more promising questions in their relentless quest to entangle this troublemaker in incriminating words.

Yet, when we study the words carefully, it becomes clear that the advice contains a large measure of calculated ambiguity. The answer was really no answer at all, but merely a restatement of the question.

It was well enough that we should render to Caesar and to God each according to his due. But

25/Jan 84  
to determine precisely what is due, and to whom, we are, alas, left to our own frail devices. Worse, we are left to live with the frightful consequences of miscalculation.

What better evidence of the enduring tension between God and Caesar than the cases of the Rev. Sun Myung Moon and the Rev. Everett Sileven — two men, each claiming to be God's agent, under imminent threat of imprisonment.

This month Sileven was in Baltimore as part of his national campaign to gather support — chiefly by warning that when he is gone, others will surely feel Caesar's boot upon the neck. Several U.S. senators and distinguished law professors support his cause. His meetings are well attended, and no one doubts Sileven's sincerity.

But this only begs the question. It is not sincerity that is at stake, but rather the public interest. And clearly the two are on collision course.

Sileven is a committed advocate — indeed, fanatic is not too strong a word — of the rapidly growing force known as "Christian education." Now, it is crucial to understand that "Christian schools" are not your ordinary



United Press International

The Rev. Everett Sileven, left, got the support of the Rev. Jerry Falwell, leader of the Moral Majority, at a Nebraska rally two years ago in the dispute over a private church school.

parochial schools. These schools are in every sense an extension of church teaching; even algebra instruction is laced with religious indoctrination.

"Christian school" partisans see public education as pursuing its own form of indoctrination under the guise of "secular humanism," an argument that has plausibility.

But Sileven is so determined to keep Caesar from crossing God's

threshold in his remote Nebraska village that he refuses to comply with the state law requiring that all teachers, whether in church schools or public schools, be certified by the state as competent instructors. It is noteworthy that even though Sileven has the credentials for certification, he refuses to submit as a matter of principle.

For his refusal, he already has served 120 days in jail for con-

tempt of court; six of his brethren are still imprisoned, and others are fugitives.

Caesar — in this case, the State of Nebraska — is equally adamant. Like most states, Nebraska feels strongly enough about the value of universal education that it maintains strict compulsory-attendance and teacher-certification laws.

So Daniel is in the lion's den; Sileven sees the issue exclusively as a matter of religious freedom; Nebraska sees it exclusively in terms of the integrity of universal education.

To get a proper perspective, let us for the moment remove religion from the picture altogether. Let us say that Sileven opened a school in Nebraska exclusively as a commercial, profit-making venture.

Would anyone for one moment argue that such a school would be beyond state regulation? Indeed, to contend so would be as ludicrous as to argue that it would be none of the state's concern if McDonald's started making horsemeat hamburgers.

So in the end, Sileven's claim to immunity from regulation rests exclusively on his unilateral assertion that he is God's agent. And once God enters the picture, according to this reasoning, the State of Nebraska must depart.

But if we accept his definition of the issue, we have effectively obliterated society's ability to guarantee all children an acceptable education. Indeed, if we take Sileven's argument to its logical conclusion, then any form of con-

duct — including human sacrifice — could be placed beyond the reach of state law simply by a unilateral assertion of "God's law."

Far-fetched? Not at all. Let us not forget the tragic case in Detroit recently in which a child was beaten to death by parents who belonged to a religious cult that believed God demanded merciless discipline; so powerful was their belief that the parents were not even remorseful over their own child's death. It was as if the Abraham and Isaac story had been carried to its bloody conclusion, without God's intervention.

A few years ago the U.S. Supreme Court, in a decision fraught with potential mischief, carved out what might be called a religious endangered-species act by exempting from state school regulation the small but generally admired religious sect known as the Amish. The Amish devoutly believe that public schools are the pathway to a sinful life — precisely the basis of Sileven's resistance.

It will take quite a trick for the federal courts now to distinguish the Amish case from Sileven's dispute with Nebraska. But if a distinction cannot be found, we might as well forget about compulsory-school-attendance laws and state requirements for competent teachers. Indeed, we might even have to forget about parents who beat their children to death — on instructions from God, of course.

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MEMORANDUM

TO: JOE  
FROM: NANCY  
RE: SB 354 \_ RELATING TO THE REGULATION OF PRIVATE SCHOOLS

SECTION 1

(7) PROVIDES THAT THE DEPARTMENT OF EDUCATION WITH THE FIRE MARSHALL AND STATE SANITARIAN WILL PROVIDE REGULATIONS THAT "WILL ASSURE HEALTHFUL AND SAFE CONDITIONS" IN ALL PUBLIC AND PRIVATE PRESCHOOLS AND OTHER SCHOOLS.

(8) PROVIDES FOR GENERAL SUPERVISION OVER PUBLIC PRE-ELEMENTARY SCHOOLS ONLY.

SECTION 2 (COMPULSORY ATTENDANCE STATUTE)

EXEMPTS FROM COMPLIANCE ANY STUDENT IN A PRIVATE SCHOOL AND DELETES THE WORDING CONCERNING PROFICIENCY REQUIREMENTS AND THE PROMULGATION OF REGULATIONS DEFINING SUBJECT AREAS TO BE TESTED AND MINIMUM TEST SCORES.

SECTION 3

LANGUAGE IN THIS SECTION REGARDING EXEMPTIONS FROM THIS CHAPTER IS SOMEWHAT CONFUSING. RICK ROBERTSON FROM THE A.G.'S OFFICE TOLD ME THIS MORNING THAT THIS IS A DRAFTING ERROR THAT HE DID BRING UP TO KEITH LEVY AT LEGAL.

THIS SECTION STATES THAT PRIVATE SCHOOLS ARE NOT EXEMPT FROM GENERAL PROVISIONS OF LAW AND REGULATION RELATING TO EDUCATION EVEN IF THEY DECIDE NOT TO COMPLY WITH THE CHAPTER. ACTUALLY, THERE ARE NO GENERAL PROVISIONS - OTHER THAN TEACHER CERTIFICATION REQUIREMENTS IN THE COMPULSORY ATTENDANCE LAW - THAT WOULD APPLY TO PRIVATE SCHOOLS.

SECTION 4 AND 5

THESE TWO SECTIONS SET UP SEPARATE MECHANISMS FOR PRIVATE SECTARIAN AND PRIVATE NON-SECTARIAN SCHOOLS THAT ARE IDENTICAL, HOWEVER, THE SECTIONS ON ATTENDANCE REPORTS, REPORTING (ON THE SCHOOL CALENDAR), AND STUDENT RECORDS ARE PURELY VOLUNTARY. THE ONLY REQUIREMENTS THAT ARE MANDATORY ARE "LAWS AND REGULATIONS RELATING TO PHYSICAL HEALTH, FIRE SAFETY, SANITATION, IMMUNIZATION, AND PHYSICAL EXAMINATIONS."

DIFFERENCES IN THE HOUSE BILL

THERE IS A PURPOSE SECTION THAT GENERALLY TALKS ABOUT THE SEPARATION OF CHURCH AND STATE. STRANGELY ENOUGH SUBSECTION (2) SPEAKS TO THE QUALITY OF ALL EDUCATION, INCLUDING PRIVATE EDUCATION.

UNDER DUTIES OF THE DEPARTMENT, ACCREDITATION, THERE IS ADDITIONAL LANGUAGE THAT THERE IS NO AUTHORITY FOR THE DEPARTMENT TO REQUIRE LICENSES FOR RELIGIOUS OR PRIVATE SCHOOLS - UNNECESSARY LANGUAGE SINCE THE SUBSECTION IS STRICTLY APPLIED ONLY ON REQUEST.

THE CONFUSING LANGUAGE MENTIONED ABOVE IN SECTION 3 IS SOMEWHAT CLEARER,

HOWEVER IT REQUIRES MONTHLY ATTENDANCE AND ANNUAL REPORTS WHILE THE EXEMPTION SECTIONS STATE THAT REPORTS ARE ON A VOLUNTARY BASIS (IN SENATE BILL).

EXEMPTION SECTION (HOUSE BILL)

RELIGIOUS AND PRIVATE SCHOOLS ARE INCLUDED IN ONE SECTION WHICH IS VOLUNTARY EXCEPT FOR HEALTH AND SAFETY REQUIREMENTS.

PAGE 5, LINE 19 - LANGUAGE IS NOT THE SAME AS OTHER SECTIONS, DOES THE SCHOOL HAVE THE ABILITY TO "ELECT TO COMPLY" AS IN OTHER SECTIONS? PAGE 5, LINES 25-27 MUST THE SCHOOL NOTIFY THE DISTRICT OF ANY STUDENT NO LONGER IN SCHOOL EVEN IF THE SCHOOL DOES NOT ELECT TO COMPLY WITH THE LAW AND THE PARENT HAS NOT FILED A NOTICE AS IN SUBSECTION (a)?

PAGE 6, SUBSECTION (b) RELATING TO MONTHLY RECORDS IS VOLUNTARY AND SEEMS TO CONFLICT WITH THE REQUIREMENT FOR RECORDS IN SECTION 4.

THE SECTION ON STANDARDIZED TESTING REQUIREMENTS PAGE 6. LINES 6-27 SEEMS TO BE MAKING AN OBVIOUS THRUST AT EDUCATION REQUIREMENTS BY STATING THAT TEST RESULTS WILL NOT BE MADE PUBLIC UNLESS STANDARDIZED TESTS ARE REQUIRED IN PUBLIC SCHOOLS AND RESULTS MADE PUBLIC.

THE SECTION ON RECORDS PAGE 6, LINE 28 etc. MAKE THE KEEPING OF HEALTH RECORDS VOLUNTARY. THIS WOULD SEEM TO CONFLICT WITH THE REQUIREMENT IN ARTICLE 2 ON PAGE 5, LINES 14 - 16

SECTION 6 REPEALS THE CURRENT STATUTE THAT SAYS THE COMMISSIONER MAY FURNISH EXAM QUESTIONS AND ISSUE 8TH GRADE GRADUATION DIPLOMAS.

Health, Education and  
Social Services Committee



Official Business

**Alaska State Legislature**  
**Senate**

Pouch V  
State Capitol  
Juneau, Alaska 99811  
465-4907  
465-4908

January 17, 1984

Senator Jalmar Kerttula  
President  
Alaska State Senate  
State Capitol  
Juneau

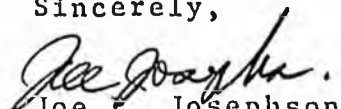
Dear Mr. President:

Pursuant to our discussion yesterday and the Uniform Rules, I am requesting a subsequent referral of Senate Bill 354 to the Committee on Health, Education and Social Services. The bill concerns education and is germane to the scope of the committee's jurisdiction.

I am advised that our colleague, Senator Faiks, desires that the matter reach the floor of the Senate as rapidly as possible. I am sure that you and she will recall that in 1983, when faced with a similar request, I made sure that the Committee on Health, Education and Social Services acted expeditiously to help bring a religious education bill to the floor in order that the Senate could work its collective will on the matter. That is the way I conduct the Committee, and that is the way SB 354 will be treated, of course.

Should Senator Faiks request an early hearing, I will calendar one for the week of January 22.

Sincerely,

  
Joe F. Josephson  
Chairman

cc: Senator Faiks

MEMORANDUM

TO: JOE  
FROM: NANCY  
RE: SB 354 - REGULATION OF PRIVATE SCHOOLS

I HAD A LONG TALK WITH DICK LUTHER FROM D.O.E. YESTERDAY ABOUT THE WAY THAT THE DEPARTMENT IS INTERPRETING THE MEANING OF THIS BILL.

HIS UNDERSTANDING IS THAT A PRIVATE SCHOOL WILL HAVE TWO OPTIONS, EITHER TO COMPLY WITH THE EXEMPT SECTION IN ITS ENTIRETY, OR TO GO BY THE REGULAR REQUIREMENTS FOR ALL SCHOOLS.

THE EXEMPTION SECTION WILL REQUIRE THE MAINTENANCE OF FORMS ON STUDENT ATTENDANCE, HEALTH RECORDS, ETC. WHAT WILL NOT BE REQUIRED IS THAT THE TEACHERS BE CERTIFIED. IT HAS BEEN THIS WAY IN THE PAST EXCEPT THAT THE CURRENT LAW PROVIDES THAT TESTING DATA MUST BE COMPARABLE TO OTHER SCHOOLS IN THE AREA.

DICK SAID THAT ALL DISTRICTS IN THE STATE DO SOME KIND OF STANDARDIZED TESTING, BUT THAT IT IS NOT UNIFORM IN EITHER TESTS OR GRADE LEVELS TESTED. HE BELIEVES THAT THE STATE SCHOOL BOARD MAY INSTITUTE A REQUIREMENT FOR STANDARDIZED TESTS IN THE STATE TO DEVELOP A DATA BASE ON ACHIEVEMENT.

THE ONLY OPTION UNDER THE BILL, ACCORDING TO DICK, IS FOR THE LOCAL SCHOOL DISTRICT TO FILE AGAINST THE PARENT IN THE CASE OF NON-ATTENDANCE. THE DEPARTMENT WOULD PREFER NOTIFICATION TO LE THE RESPONSIBILITY OF THE SCHOOLS RATHER THAN THE PARENTS, WHICH WOULD SEEM TO BE MORE EFFICIENT. AS THE BILL READS, THE PARENTS MUST SIGN THE FORM, HAVE THE SCHOOL ADMINISTRATOR SIGN IT AND DELIVER IT TO THE PUBLIC SCHOOL SUPERINTENDANT. THE SCHOOL HAS THE RESPONSIBILITY OF NOTIFYING THE LOCAL DISTRICT IF A CHILD IS NO LONGER IN SCHOOL.

ACCREDITATION, MENTIONED IN THE BILL UNDER DUTIES OF THE DEPARTMENT, IS AN ALL INCLUSIVE, INDEPTH STUDY OF A SCHOOL THAT INCLUDES THINGS SUCH AS CLASS SIZE, TEACHER-STUDENT RATIO CURRICULUM, ETC. THERE IS A NORTHWEST ACCREDITING ASSOCIATION THAT COVERS ALASKA

I, PERSONALLY, AM MOST DISTRESSED ABOUT THE PRESCHOOL EXEMPTION FROM LICENSURE REQUIREMENTS, AS CHILDREN IN THE 3 - 5 AGE GROUP ARE MOST DEFENSELESS.

SB 354

Purpose section - equal standing in section for religious & private schools.

pg 1; line 26 - Ray says private schools should be included to provide equal protection.

Ray wants to memo on Equal protection aspects of bill - education opportunities.

Joe,

I will offer this as a committee substitute today.

Amitz

RECEIVED  
Josephson

CS for Senate Bill 354 (Judiciary)

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IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION  
A BILL

For an Act entitled: "An Act relating to the regulation of private schools."

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

\* Section 1. PURPOSE. In conformity with the fundamental right to freedom of religion guaranteed by the constitutions of the United States and the State of Alaska, it is the purpose of this Act

(1) to ensure that in matters of education by religious organiza  
the state shall not control or interfere with the rights of conscience and religious liberty; and

typo

(2) to further the state's legitimate interest in ensuring the quality of all education, including private education.

\* Sec. 2. AS 14.07.020 is amended to read:

Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

(1) exercise general supervision over the public schools of the state except the University of Alaska;

(2) study the conditions and needs of the public schools of the state and adopt or recommend plans for the improvement of the public schools;

(3) provide advisory and consultative services to all public school governing bodies and personnel;

(4) prescribe by regulation a minimum course of study for the public schools;

(5) establish, in coordination with the Department of Health and Social Services, a program for the continuing education of

1 children who are held in detention facilities in the state during the  
2 period of detention;

3 (6) accredit those public schools which meet accreditation  
4 standards prescribed by regulation by the department; these regula-  
5 tions shall be adopted by the department and presented to the legisla-  
6 ture during the first 10 days of any regular session, and become  
7 effective 45 days after presentation or at the end of the session,  
8 whichever is earlier, unless disapproved by a resolution concurred in  
9 by a majority of the members of each house;

10 (7) prescribe by regulation, after consultation with the  
11 state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND  
12 SOCIAL SERVICES], standards that will assure healthful and safe con-  
13 ditions in the public and private schools of the state including a  
14 requirement of physical examinations and immunizations in private  
15 pre-elementary schools; the standards for private schools may not be  
16 more stringent than those for public schools;


17 (8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND  
18 SOCIAL SERVICES,] exercise general supervision over public [AND PRI-  
19 VATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF  
20 NURSERIES AS DEFINED IN AS 47.35.080(4)]; pre-elementary schools in  
21 this paragraph means schools for children ages three through five  
22 years when the schools' primary function is educational;

23 (9) provide accredited elementary and secondary correspon-  
24 dence study programs available to any Alaskan through a centralized  
25 office of correspondence study;

26 (10) accredit private [ELEMENTARY AND SECONDARY] schools  
27 which request accreditation and which meet accreditation standards  
28 prescribed by regulation by the department; nothing in this paragraph  
29 authorizes the department to require religious or other private

*What does accreditation mean?*

*Discussed  
Notes*



1 schools to be licensed:

2 (11) review plans for construction of new public elementary  
3 and secondary schools and for additions to and major rehabilitation of  
4 existing public elementary and secondary schools and, in accordance  
5 with regulations adopted by the department, determine and approve the  
6 extent of eligibility for state aid of a school construction project  
7 begun after July 1, 1978; for the purposes of this paragraph, "plans"  
8 include educational specifications, schematic designs, and final  
9 contract documents;

10 (12) provide educational opportunities in the areas of  
11 vocational education and training, basic education, and fire-service  
12 training to individuals over 16 years of age who are no longer attend-  
13 ing school;

14 (13) administer the grants awarded under AS 14.11.020.

15 \* Sec. 3. AS 14.30.010(b) is amended to read:

16 (b) This section does not apply if a child

17 (1) is provided an academic education comparable to that  
18 offered by the public schools in the area, either by

19 (A) attendance at a private school in which the teach-  
20 ers are certificated according to AS 14.20.020;

21 (P) tutoring by personnel certificated according to  
22 AS 14.20.020; or

23 (C) attendance at an educational program operated in  
24 compliance with AS 14.45 by a religious or other private school

25 [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE AVERAGE STUDENT  
26 PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFICIENCY FOUND IN THE  
27 PUBLIC SCHOOLS IN THE AREA AS MEASURED BY NATIONAL ACHIEVEMENT  
28 TESTS; THE DEPARTMENT WITH ASSISTANCE FROM REPRESENTATIVES OF THE  
29 PRIVATE SCHOOLS SHALL PROMULGATE REGULATIONS DEFINING THE SUBJECT

1           AREAS TO BE TESTED AND THE MINIMUM AVERAGE SCORES TO BE  
2           ACHIEVED];

3           (2) attends a school operated by the federal government;

4           (3) has a physical or mental condition which a competent  
5           medical authority determines will make attendance impractical;

6           (4) is in the custody of a court or law enforcement author-  
7           ities;

8           (5) is temporarily ill or injured;

9           (6) has been suspended or denied admittance according to  
10          AS 14.30.045;

11          (7) resides more than two miles from either a public school  
12          or a route on which transportation is provided by the school authori-  
13          ties, except that this subsection does not apply if the child resides  
14          within two miles of a federal or private school which the child is  
15          eligible and able to attend;

16          (8) is excused by action of the school board of the dis-  
17          trict at a regular meeting or by the district superintendent subject  
18          to approval by the school board of the district at the next regular  
19          meeting;

20          (9) has completed the 12th grade;

21          (10) is enrolled in a full-time program of correspondence  
22          study approved by the department; in those school districts providing  
23          an approved correspondence study program, a student may be enrolled  
24          either in the district correspondence program or in the centralized  
25          correspondence study program;

26          (11) is equally well-served by an educational experience  
27          approved by the school board as serving the child's educational inter-  
28          ests despite an absence from school, the request for excuse is made in  
29          writing by the child's parents or guardian, and approved by the

1 principal or administrator of the school that the child attends.

2 \* Sec. 4. AS 14.45.030 is amended to read:

3 Sec. 14.45.030. NON-EXEMPT SCHOOLS [ATTENDANCE AND ANNUAL RE-  
4 PORTS REQUIRED]. Teachers and others in charge of religious or other  
5 private [OR DENOMINATIONAL] schools not operated in compliance with  
6 AS 14.45.100 - 14.45.140 are not exempt from laws and regulations  
7 relating to education. Non-exempt schools shall make regular monthly  
8 attendance reports and annual reports to the commissioner in the same  
9 manner as teachers and superintendents in the public schools.

10 \* Sec. 5. AS 14.45 is amended by adding new sections to read:

11 ARTICLE 2. EXEMPT RELIGIOUS AND OTHER PRIVATE SCHOOLS.

12 Sec. 14.45.100. EXEMPTION. A religious or other private school  
13 that complies with AS 14.45.100 - 14.45.140 is exempt from other  
14 provisions of law and regulations relating to education except law and  
15 regulations relating to physical health, fire safety, sanitation,  
16 immunization, and physical examinations.

17 Sec. 14.45.110. REQUIREMENTS OF EXEMPT SCHOOLS. (a) The parent  
18 or guardian of a child enrolled in a religious or other private school  
19 that complies with AS 14.45.100 - 14.45.140 shall file an annual  
20 notice of enrollment in the school for the child with the local public  
21 school superintendent for the area in which the child resides on a  
22 form provided by the department. The form shall be signed by the  
23 parent or guardian and the chief administrative officer of the school  
24 and returned to the local public school superintendent by the parent  
25 or guardian. The school shall notify the local public school superin-  
26 tendent within a reasonable time if the child is no longer enrolled in  
27 or attending the school.

28 (b) A religious or other private school that elects to comply  
29 with AS 14.45.100 - 14.45.140 shall maintain monthly attendance

1 records for each student enrolled in the school, shall operate on a  
2 regular schedule, excluding reasonable holidays and vacations, during  
3 at least 180 days of the year, and shall make an annual report to the  
4 commissioner of the number of students in each grade and the school  
5 calendar.

6 Sec. 14.45.120. STANDARDIZED TESTING REQUIREMENTS. (a) A  
7 religious or other private school that elects to comply with AS 14.-  
8 45.100 - 14.45.140 shall administer a nationally standardized test  
9 selected by the chief administrative officer of the school to all  
10 students enrolled in grades one, three, six, and nine at least once  
11 each school year.

12 (b) The nationally standardized test must measure achievement in  
13 English grammar, reading, spelling, and mathematics.

14 (c) A religious or other private school that elects to comply  
15 with AS 14.45.100 - 14.45.140 shall maintain records of the results of  
16 the nationally standardized tests and the records shall be made avail-  
17 able to the parent or guardian of the student. Each school shall make  
18 composite test results for the school available annually to an autho-  
19 rized representative of the department. The composite test results of  
20 a religious or other private school operated in compliance with  
21 AS 14.45.100 - 14.45.140 are not public information unless each public  
22 school

23 (1) is also required to administer a nationally standard-  
24 ized test that measures achievement in English grammar, reading,  
25 spelling, and mathematics; and

26 (2) the composite test results for each public school are  
27 public information.

28 Sec. 14.45.130. RECORDS. (a) A religious or other private  
29 school that elects to comply with AS 14.45.100 - 14.45.140 shall

1 maintain permanent student records reflecting immunizations, physical  
2 examinations, standardized testing, academic achievement, and courses  
3 taken at the school.

4 (b) The chief administrative officer of a school that elects to  
5 comply with AS 14.45.100 - 14.45.140 shall certify under oath to the  
6 department that the records required under (a) of this section are  
7 being maintained.

8 Sec. 14.45.140. DEFINITION. In this chapter

9 (1) "religious school" means a private school operated by a  
10 church or other religious organization that does not receive direct  
11 state or federal funding.

12 \* Sec. 6. AS 14.45.020 is repealed.

# Alaska State Legislature

OFFICIAL BUSINESS

CHAIRMAN  
RULES COMMITTEE



JAN FAIKS  
POUCH V  
CAPITOL BUILDING  
JUNEAU, ALASKA 99811

Senate

January 24, 1984

Senator Joe P. Josephson  
Alaska State Senate  
Juneau, Alaska 99811

Dear Senator Josephson:

Thank you for sharing with me your proposed amendments to Senate Bill 354. I have no problem with any of these changes and certainly will support their incorporation into the bill. I will be happy to speak in support of these amendments on the floor if you feel that would be helpful.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jan Faiks".

Jan Faiks  
Senator

JF:ss

RECEIVED

SENATE AMENDMENT

By Halford and Josephson

To: Committee substitute SENATE BILL No. 354

To: \_\_\_\_\_ HOUSE BILL No. \_\_\_\_\_

PAGE: 7      LINE: 9-10

Delete : "under oath to the department"

#1  
A M E N D M E N T

Offered in the Senate

By V. Fischer

To: CSSB 354(Jud)

Page 2, line 23, following "pre-elementary schools" insert:

"and private pre-elementary schools that are not in facilities  
associated with an elementary school operating grades one through  
three"

#1  
A M E N D M E N T

Offered in the Senate

By V. Fischer

To: CSSB 354(Jud)

Page 2, line 23, following "pre-elementary schools" insert:

"and private pre-elementary schools that are not in facilities  
associated with an elementary school <sup>that operate</sup> ~~that operate~~ grades one through  
three" .

NOTE COPY

Offered: 1/19/84  
Referred: Health, Education and  
Social Services

Original sponsors: Faiks, Kerttula,  
Bennett, et al

1 IN THE SENATE BY THE JUDICIARY COMMITTEE  
2 CS FOR SENATE BILL NO. 354 (Judiciary)  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the regulation of private  
7 schools."

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

9 \* Section 1. PURPOSE. In conformity with the fundamental right to  
10 freedom of religion guaranteed by the constitutions of the United States  
11 and the State of Alaska and in recognition of the right of parents to  
12 choose to have their children educated in private schools, it is the pur-  
13 pose of this Act

14 (1) to ensure that in matters of education by religious organ-  
15 izations the state shall not control or interfere with the rights of con-  
16 science and religious liberty;

17 (2) to further the state's legitimate interest in ensuring the  
18 quality of all education, including private education; and

19 (3) to allow diversity in education by encouraging private  
20 education.

21 \* Sec. 2. AS 14.07.020 is amended to read:

22 Sec. 14.07.020. DUTIES OF THE DEPARTMENT. The department shall

23 (1) exercise general supervision over the public schools of  
24 the state except the University of Alaska;

25 (2) study the conditions and needs of the public schools of  
26 the state and adopt or recommend plans for the improvement of the  
27 public schools;

28 (3) provide advisory and consultative services to all  
29 public school governing bodies and personnel;

1           (4) prescribe by regulation a minimum course of study for  
2 the public schools;

3           (5) establish, in coordination with the Department of  
4 Health and Social Services, a program for the continuing education of  
5 children who are held in detention facilities in the state during the  
6 period of detention;

7           (6) accredit those public schools which meet accreditation  
8 standards prescribed by regulation by the department; these regula-  
9 tions shall be adopted by the department and presented to the legisla-  
10 ture during the first 10 days of any regular session, and become  
11 effective 45 days after presentation or at the end of the session,  
12 whichever is earlier, unless disapproved by a resolution concurred in  
13 by a majority of the members of each house;

14           (7) prescribe by regulation, after consultation with the  
15 state fire marshal and the state sanitarian [DEPARTMENT OF HEALTH AND  
16 SOCIAL SERVICES], standards that will assure healthful and safe con-  
17 ditions in the public and private schools of the state including a  
18 requirement of physical examinations and immunizations in private  
19 pre-elementary schools; the standards for private schools may not be  
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21           (8) [IN COOPERATION WITH THE DEPARTMENT OF HEALTH AND  
22 SOCIAL SERVICES,] exercise general supervision over public [AND PRI-  
23 VATE] pre-elementary schools [AND OVER THE EDUCATIONAL COMPONENT OF  
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26 years when the schools' primary function is educational;

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28 dence study programs available to any Alaskan through a centralized  
29 office of correspondence study;

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9 with regulations adopted by the department, determine and approve the  
10 extent of eligibility for state aid of a school construction project  
11 begun after July 1, 1978; for the purposes of this paragraph, "plans"  
12 include educational specifications, schematic designs, and final  
13 contract documents;

14           (12) provide educational opportunities in the areas of  
15 vocational education and training, basic education, and fire-service  
16 training to individuals over 16 years of age who are no longer attend-  
17 ing school;

18           (13) administer the grants awarded under AS 14.11.020.

19 \* Sec. 3. AS 14.30.010(b) is amended to read:

20           (b) This section does not apply if a child

21           (1) is provided an academic education comparable to that  
22 offered by the public schools in the area, either by

23           (A) attendance at a private school in which the teach-  
24 ers are certificated according to AS 14.20.020;

25           (B) tutoring by personnel certificated according to  
26 AS 14.20.020; or

27           (C) attendance at an educational program operated in  
28 compliance with AS 14.45.100 - 14.45.140 by a religious or other  
29 private school [ATTENDANCE AT A PRIVATE SCHOOL IN WHICH THE

1           AVERAGE STUDENT PROFICIENCY IS NOT LESS THAN THE AVERAGE PROFI-  
2           CIENCY FOUND IN THE PUBLIC SCHOOLS IN THE AREA AS MEASURED BY  
3           NATIONAL ACHIEVEMENT TESTS; THE DEPARTMENT WITH ASSISTANCE FROM  
4           REPRESENTATIVES OF THE PRIVATE SCHOOLS SHALL PROMULGATE REGU-  
5           LATIONS DEFINING THE SUBJECT AREAS TO BE TESTED AND THE MINIMUM  
6           AVERAGE SCORES TO BE ACHIEVED];

7           (2) attends a school operated by the federal government;

8           (3) has a physical or mental condition which a competent  
9           medical authority determines will make attendance impractical;

10           (4) is in the custody of a court or law enforcement author-  
11           ities;

12           (5) is temporarily ill or injured;

13           (6) has been suspended or denied admittance according to  
14           AS 14.30.045;

15           (7) resides more than two miles from either a public school  
16           or a route on which transportation is provided by the school authori-  
17           ties, except that this subsection does not apply if the child resides  
18           within two miles of a federal or private school which the child is  
19           eligible and able to attend;

20           (8) is excused by action of the school board of the dis-  
21           trict at a regular meeting or by the district superintendent subject  
22           to approval by the school board of the district at the next regular  
23           meeting;

24           (9) has completed the 12th grade;

25           (10) is enrolled in a full-time program of correspondence  
26           study approved by the department; in those school districts providing  
27           an approved correspondence study program, a student may be enrolled  
28           either in the district correspondence program or in the centralized  
29           correspondence study program;