

ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 86/2

2457 HJ HB 560 - HB 588

2457



ALASKA STATE LEGISLATURE
HOUSE OF REPRESENTATIVES
RESEARCH AGENCY

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

February 3, 1984

MEMORANDUM

TO: Joseph Brewer
House Judiciary Committee

FROM: David Teal *Teal*
Legislative Analyst

RE: Inflation Rates in Alaska

The following pages from the Alaska Department of Labor's publication entitled Alaska Planning Information describe the Anchorage Consumer Price Index (CPI). Although the reader is cautioned against use of the CPI as a measure of inflation, the index is frequently used for that purpose. The Anchorage CPI from 1969 through September of 1982 is listed on page 78. More recent figures are presented in the attached article published by the Institute of Social and Economic Research. The article also discusses some problems with the index and its use as a measure of the rate of inflation in Alaska.

* * *

If you have additional questions on this subject, we would be pleased to help. You may also wish to speak with John Boucher of the Research and Analysis Section of the Department of Labor. He can be reached at 465-4500.

Attachments

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COMPARISON OF ANCHORAGE TO UNITED STATES

The Anchorage CPI rose less rapidly than the national CPI from October 1967 through October 1973. This trend reversed during the pipeline buildup, reflecting the inflationary impact of drastic economic expansion. Price increases slowed once the pipeline work force and related infrastructure were in place. During the peak pipeline years, 1976 and 1977, Anchorage prices increased at roughly the national rate. A new trend began after completion of the pipeline with Anchorage prices increasing less rapidly than the rest of the nation. Decreased population and consumer spending, and overbuilding during the pipeline era caused this shift.

Following the 1980 domination of residential lending by AHFC an accurate comparison of Anchorage

Table VII-3
Anchorage CPI
January 1969 to Present

		Wage and Clerical			Wage and Clerical	All Urban Consumers 1/
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	July	105.6		May	184.0	184.2
	October	107.3		July	188.6	189.5
1970	January	107.9		September	192.8	193.2
	April	108.2		November	194.8	194.7
	July	109.6	1979	January	197.3	198.1
	October	111.5		March	200.5	201.0
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	July	113.0		September	210.9	213.2
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1972	January	114.2	1980	January	215.9	218.2
	April	115.8		March	220.2	223.5
	July	115.9		May	223.1	226.5
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1973	January	116.4		September	226.7	230.9
	April	119.4		November	232.0	236.5
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	July	134.0		September	245.9	250.5
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1975	January	142.9	1982	January	248.6	253.0
	April	150.0		March	254.5	260.0
	July	153.8		May	258.0	263.8
	October	157.4		July	259.1	263.6
1976	January	158.8		September	258.9	263.4
	April	161.7				
	July	164.9				
	October	167.5				
1977	January	169.4				
	April	172.6				
	July	177.4				
	October	177.3				

Source: U.S. Department of Labor, Bureau of Labor Statistics.

1/ Series began March 1978.

and U.S. price trends is not possible. It appears that Anchorage prices are actually increasing somewhat faster than the national rate, although it cannot be proven that this is the case. The rapid economic expansion in 1981 and 1982 could be expected to result in faster price increases than would otherwise occur.

URBAN FAMILY BUDGET

While the rate of change of the Consumer Price Index for Anchorage can be compared to the rate of change of CPI's in other areas, actual price comparisons to other areas are not possible based on CPI data. Other data available do allow interarea cost comparisons. U.S. Department of Labor, Bureau of Labor Statistics produces *Urban Family Budgets and Comparative Indexes for Selected Urban Areas* which provide a comparison of costs for Anchorage, 28 other areas outside Alaska and an urban U.S. average. It contains estimated income required to support low, medium and high budget standards of living for a hypothetical family of 4. Budgets do not represent how families actually spend their money, nor are they intended to represent a minimum level of adequate income. The budgets are only intended

Table VII-4
Yearly CPI and Percentage Change
Wage and Clerical Workers Only

		United States		Seattle		Anchorage		Fairbanks 3/	
		CPI	% Change	CPI	% Change	CPI	% Change	CPI	% Change
OCTOBER	1967	100.0	-	100.0	-	100.0	-		
	1968	105.7	5.7	106.0 1/	6.0	102.6	2.6		
	1969	111.6	5.6	110.6 1/	4.3	107.3	4.4		
	1970	118.1	5.8	114.9 1/	3.9	111.5	3.9		
	1971	122.6	3.8	117.6 1/	2.3	114.4	2.6		
	1972	126.6	3.3	121.2 1/	3.1	116.9	2.2		
	1973	136.6	7.9	131.4 1/	8.4	123.8	5.9		
	1974	153.0	12.0	147.9 1/	12.6	140.0	13.1		
	1975	164.6	7.6	159.7 1/	8.0	157.4	12.4		
	1976	173.3	5.3	167.9 1/	5.1	167.6	6.5		
NOVEMBER	1977	184.5	6.5	182.5 1/	8.7	177.3	5.8		
	1978	201.8	9.4	202.1	10.7	194.8	9.9		
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	1981	280.4	9.4	285.7	10.1	249.3	7.5	126.8 2/	6.0

Source: U.S. Department of Labor, Bureau of Labor Statistics

1/ CPI is for November rather than October: 5 years listed.

2/ CPI is for December rather than November of year listed.

3/ Discontinued February 1982 due to budget constraints.

Table VII-5
Annual Total Budget for a 4-Person Family
Autumn 1981 1/

Budget Level	Urban U.S.	Anchorage	Seattle-Evoret
Lower	\$15,323	\$22,939	\$17,124
Intermediate	\$25,407	\$31,890	\$25,881
Higher	\$38,060	\$45,119	\$37,396

Source: U.S. Department of Labor, Bureau of Labor Statistics

1/ Source of data, methods of calculations and quantities of goods and services for each budget level are described in detail in BLS Bulletin 1570-5.

CHAPTER VII COST OF LIVING MEASURES

INTRODUCTION

This section summarizes several cost of living measures which are frequently requested. Because there are several different measures, the user of these types of data needs to carefully evaluate different available measures to determine which is most useful for a particular application. Outlined in Table VII-1 is a description of the various measures discussed in detail.

CONSUMER PRICE INDEX

The Consumer Price Index (CPI) is a commonly misunderstood economic statistic despite frequent reports in the media. Following is a brief explanation of how the CPI is used, how it is computed, what it does and does not measure, and how to use it. Changes in CPI methodology and use are also considered. The U.S. Department of Labor, Bureau of Labor Statistics (BLS) produces a CPI for the United States and for selected urban areas. There are no CPI's for an entire state. In Alaska, a CPI is currently produced bimonthly for Anchorage.

USES

The CPI has 3 major uses. It measures the change in prices over time of a constant market basket of goods. This measure is an important economic statistic, and is crucial in evaluating government policy and private investment decisions. To convert the CPI from the actual index number to a percentage, use the following procedure:

INDEX POINT CHANGE

CPI current index	263.4
Less previous index	250.5

Equals index point change	12.9
---------------------------	------

Percentage change

Index point difference	12.9
Divided by previous index	250.5
Equals change	0.0515
Multiplied by 100	0.052 x 100
Equals percentage change	5.2%

This example illustrates that market basket prices for *all urban consumers* in Anchorage increased 5.2% between September 1981 and 1982.

The CPI is also used as a deflator of other dollar-denominated economic indexes. Time series data in *real*, or inflation-free dollars are produced in this manner. To adjust (discount) dollars for the effect of inflation from any given year, use the following procedure:

CPI for past time	250.5
Divided by CPI for current time	263.4
Equals	0.951
Multiplied by current dollars	x\$1,000.00
Equals past dollars	\$951.03

The above example illustrates that \$1,000.00 dollars in Anchorage in September 1982 would be the equivalent of \$951.03 in September 1981.

A third use of the CPI is to escalate income and transfer payments. Many union contracts, government entitlement programs such as social security and food stamps, and private contractual agreements such as leases and child support contain escalation clauses based on the CPI. BLS estimates that a 1% increase in the national CPI results in a \$2.5 increase in government expenditure.

Although the CPI is frequently reported in the media as the *inflation rate* or *cost of living increase*, this is technically not correct. The CPI is based on a constant market basket of goods which was last revised in 1972. For this reason, it is *prices* which are measured, not the *cost of living*. To measure the actual *cost of living*, the market basket would have to be revised more frequently to account for changing consumption patterns. It would also have to take into account living costs such as income taxes, which are not a component of the CPI market basket.

METHODOLOGY

The CPI market basket includes all type of expenditures that typical consumers make, from medical

Table VII-1
Cost of Living Measures

	CONSUMER PRICE INDEX (CPI)	URBAN FAMILY BUDGET	COST OF FOOD AT HOME	FEDERAL GOVERNMENT COST OF LIVING ADJUSTMENT
Description	Measures Rate of Change in Price of a Fixed Market Basket of Goods Relative to a Base Year of 1967	Estimated Income By Expenditure Necessary to Support Assumed Standards of Living in a Hypothetical family of 4 at Low, Intermediate and High Budget Levels	Cost of Food, Wood, Fuel, Electricity for Various Family Groups for a Week	Price Survey of Cost of Living Differentials for Federal Government Workers
Responsible Agency	U.S. Dept. of Labor Bureau of Labor Statistics	U.S. Dept. of Labor Bureau of Labor Statistics	University of Alaska Cooperative Extension Service	U.S. Office of Personnel Management
Source of Data	Bureau of Census Monthly Survey of Prices	Bureau of Census Price Survey and Consumer Price Index	Price Survey	Price Survey
Time Period	Bimonthly (Anch.) Monthly (US) Annual	Autumn of Each Year (Discontinued after 1981)	Quarterly	Annual
Industry Detail	None	None	None	None
Geographic Detail	85 Areas 28 SMSA's 4 Regions (South, Northeast, Northcentral, West) for 5 Population classes. 36 Select Areas U.S. City Average	24 Major Metropolitan Areas, 4 Nonmetropolitan Areas Anchorage Urban U.S. Average	Select Alaskan Communities, Alaska and U.S.	Anchorage, Fairbanks Juneau, Balance of State and Washington, D.C.
Published in	BLS News Releases	BLS News Releases	Cooperative Extension Service Newsletter	Office of Personnel Management Newsletter

services and fuel, to food and entertainment. Each month, Bureau of Census employees check actual prices in all surveyed urban areas.

Survey results are given to BLS and the CPI is computed by assigning weights to each good, depending on the importance of the good in the average consumer's expenditures. An index is available for individual components as well as a total for all items.

There are 2 sets of weightings, one for *all urban consumers*, and the other for *wage and clerical workers* which result in 2 CPI's for each urban area. The *all urban consumer* CPI (CPI-U) approximates the buying habits of 80% of the noninstitutional civilian population. The *wage and clerical* CPI (CPI-W) approximates the buying habits of 40% of noninstitutional civilian population. The *all urban consumers* CPI was begun in 1978. Previously only the *wage and clerical* CPI was available.

The form the CPI takes is a number rounded to one decimal place comparing the current cost of the market basket to the cost in an arbitrary base year. The base year currently being used is 1967. Rebasings of the index was scheduled for 1980 but has been indefinitely postponed due to federal budget constraints.

HOMEOWNERSHIP METHODOLOGY REVISION

Beginning in January 1983 for the CPI-U and January 1985 for the CPI-W, the method for calculating the homeownership component will be changed. Currently, BLS surveys house sale prices and mortgage prices to calculate the homeownership component. In Anchorage, the housing component is about 50% of the total for both CPI's, with homeownership constituting a large portion of housing. BLS does not include Alaska Housing Finance Corporation (AHFC)-financed houses or loans in its survey. AHFC finances almost all house sales in Anchorage. BLS, lacking sufficient sample in Anchorage, uses prices from similar-sized cities in the Western region as a substitute. While this procedure is satisfactory in many instances, in this case the result is a seriously flawed CPI, as Anchorage housing and mortgage prices have changed differently than the prices which are used as a substitute.

Table VII-2
Fairbanks CPI
February 1979 to February 1982 1/

		Wage and Clerical	All Urban Consumers
1979	February	100.0	100.0
	April	101.6	101.4
	June	103.7	103.9
	August	105.5	105.2
	October	108.1	108.2
	December	107.9	107.9
1980	February	110.4	110.2
	April	112.8	112.7
	June	113.5	113.4
	August	115.1	115.0
	October	117.6	117.4
	December	119.6	119.3
1981	February	121.8	121.5
	April	123.6	123.2
	June	124.9	124.3
	August	125.7	125.3
	October	126.2	125.8
	December	126.8	126.7
1982	February	128.0	128.1

Source: U.S. Department of Labor, Bureau of Labor Statistics.

1/ Discontinued due to budget constraints.

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: SSHB 560
 Title: "...relating to the jurisdiction of the District Court..."
 Sponsor: Russell
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

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						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
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: W. Russell
 Division: House Judiciary Committee

Phone: 465-4990
 Date: 7 February, 1984

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

12/1/83

HB

561

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 561
 Title: "relating to the small claims jurisdictional limitation..."
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
 BRU, Program or Subprogram(s) Affected: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

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---------	--	--	--	--	--	--

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The above example illustrates that \$1,000.00 dollars in Anchorage in September 1982 would be the equivalent of \$951.03 in September 1981.

A third use of the CPI is to escalate income and transfer payments. Many union contracts, government entitlement programs such as social security and food stamps, and private contractual agreements such as leases and child support contain escalation clauses based on the CPI. BLS estimates that a 1% increase in the national CPI results in a \$2.5 increase in government expenditure.

Although the CPI is frequently reported in the media as the *inflation rate* or *cost of living increase*, this is technically not correct. The CPI is based on a constant market basket of goods which was last revised in 1972. For this reason, it is *prices* which are measured, not the *cost of living*. To measure the actual *cost of living*, the market basket would have to be revised more frequently to account for changing consumption patterns. It would also have to take into account living costs such as income taxes, which are not a component of the CPI market basket.

METHODOLOGY

The CPI market basket includes all types of expenditures that typical consumers make, from medical

Table VII-1
Cost of Living Measures

	CONSUMER PRICE INDEX (CPI)	URBAN FAMILY BUDGET	COST OF FOOD AT HOME	FEDERAL GOVERNMENT COST OF LIVING ADJUSTMENT
Description	Measures Rate of Change in Price of a Fixed Market Basket of Goods Relative to a Base Year of 1967	Estimated Income By Expenditure Necessary to Support Assumed Standards of Living in a Hypothetical family of 4 at Low, Intermediate and High Budget Levels	Cost of Food, Wood, Fuel, Electricity for Various Family Groups for a Week	Price Survey of Cost of Living Differentials for Federal Government Workers
Responsible Agency	U.S. Dept. of Labor Bureau of Labor Statistics	U.S. Dept. of Labor Bureau of Labor Statistics	University of Alaska Cooperative Extension Service	U.S. Office of Personnel Management
Source of Data	Bureau of Census Monthly Survey of Prices	Bureau of Census Price Survey and Consumer Price Index	Price Survey	Price Survey
Time Period	Bimonthly (Anch.) Monthly (US) Annual	Autumn of Each Year (Discontinued after 1981)	Quarterly	Annual
Industry Detail	None	None	None	None
Geographic Detail	85 Areas 28 SMSA's 4 Regions (South, Northeast, NorthCentral, West) for 5 Population classes. 36 Select Areas U.S. City Average	24 Major Metropolitan Areas, 4 Nonmetropolitan Areas Anchorage Urban U.S. Average	Select Alaskan Communities, Alaska and U.S.	Anchorage, Fairbanks Juneau, Balance of State and Washington, D.C.
Published in	BLS News Releases	BLS News Releases	Cooperative Extension Service Newsletter	Office of Personnel Management Newsletter

services and fuel, to food and entertainment. Each month, Bureau of Census employees check actual prices in all surveyed urban areas.

Survey results are given to BLS and the CPI is computed by assigning weights to each good, depending on the importance of the good in the average consumer's expenditures. An index is available for individual components as well as a total for all items.

There are 2 sets of weightings, one for *all urban consumers*, and the other for *wage and clerical workers* which result in 2 CPI's for each urban area. The *all urban consumer* CPI (CPI-U) approximates the buying habits of 80% of the noninstitutional civilian population. The *wage and clerical* CPI (CPI-W) approximates the buying habits of 40% of noninstitutional civilian population. The *all urban consumers* CPI was begun in 1978. Previously only the *wage and clerical* CPI was available.

The form the CPI takes is a number rounded to one decimal place comparing the current cost of the market basket to the cost in an arbitrary base year. The base year currently being used is 1967. Rebasings of the index was scheduled for 1980 but has been indefinitely postponed due to federal budget constraints.

HOMEOWNERSHIP METHODOLOGY REVISION

Beginning in January 1983 for the CPI-U and January 1985 for the CPI-W, the method for calculating the homeownership component will be changed. Currently, BLS surveys house sale prices and mortgage prices to calculate the homeownership component. In Anchorage, the housing component is about 50% of the total for both CPI's, with homeownership constituting a large portion of housing. BLS does not include Alaska Housing Finance Corporation (AHFC)-financed houses or loans in its survey. AHFC finances almost all house sales in Anchorage. BLS, lacking sufficient sample in Anchorage, uses prices from similar-sized cities in the Western region as a substitute. While this procedure is satisfactory in many instances, in this case the result is a seriously flawed CPI, as Anchorage housing and mortgage prices have changed differently than the prices which are used as a substitute.

Table VII-2
Fairbanks CPI
February 1979 to February 1982 1/

		Wage and Clerical	All Urban Consumers
1979	February	100.0	100.0
	April	101.6	101.4
	June	103.7	103.9
	August	105.5	105.2
	October	108.1	108.2
	December	107.9	107.9
1980	February	110.4	110.2
	April	112.8	112.7
	June	113.5	113.4
	August	115.1	115.0
	October	117.6	117.4
	December	119.6	119.3
1981	February	121.8	121.5
	April	123.6	123.2
	June	124.9	124.3
	August	125.7	125.3
	October	126.2	125.8
	December	126.8	126.7
1982	February	128.0	128.1

Source: U.S. Department of Labor, Bureau of Labor Statistics.

1/ Discontinued due to budget constraints.

Western Regional Office

CIVIL LITIGATION IN ALASKA
IMPROVEMENT THROUGH SIMPLIFICATION

A REPORT TO THE
SUPREME COURT OF ALASKA
BY THE NATIONAL CENTER FOR STATE COURTS

FREDERICK G. MILLER, STAFF ATTORNEY
LARRY L. SIPES, REGIONAL DIRECTOR
DECEMBER 1983



National Center for State Courts
720 Sacramento Street
San Francisco, California 94108

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adoptions, child in need, domestic violence if child custody is an issue, or guardianship of a minor. By accelerating steps in the appellate process, which are explained in detail in the recommendations, final decisions would be obtainable in these cases within not more than 170 days from judgment.

G. District Court Jurisdiction

The personal injury and commercial task forces concluded that the monetary jurisdiction of the District Court is unrealistically low and would appreciably reduce the number of cases in the Superior Court if increased. This in turn would presumably expedite the processing of cases in the Superior Court. The task forces therefore recommended increasing District Court jurisdiction to include actions involving up to \$25,000. As both

recommendations are virtually identical, the recommendation is included in this report in the personal injury recommendations only at page 33.

H. Civil Rule 41: Voluntary Dismissal

Both the personal injury and the commercial task forces have recommended changes to Civil Rule 41 to assure that cases are not voluntarily dismissed to avoid court control of caseflow. The personal injury task force recommends that a case governed by its proposed new Civil Rule 16.2 may not be dismissed without approval by the court. The commercial task force recommends additional language to Civil Rule 41 requiring certification of the reasons for dismissal.

V. PERSONAL INJURY TASK FORCE RECOMMENDATIONS

The task force recommends the following addition to existing Civil Rule 16 to provide for status conferences.

A. New Civil Rule 16.2: Status Conference

- (a) A status conference shall occur in each action filed in the Third District in which any party seeks damages for injury to person or property. The Judge in whose court the action is pending shall schedule and conduct the conference not more than 30 days following the last day on which a response to the complaint could have been filed. If service of process has not been completed the parties shall notify the court and the conference shall be continued until 30 days after service is completed.
- (b) Each party shall furnish to the other parties the following items or information and shall do so not later than the fifth day preceding the status conference:
- | | |
|--------------------------|------------------------------|
| 1) photographs | 6) medical reports and bills |
| 2) statements | 7) tax returns |
| 3) diagrams | 8) insurance policies |
| 4) investigative reports | 9) expert witness reports |
| 5) contracts | |

The documents to be produced are examples of those which would be subject to discovery under Civil Rule 34.

- (c) Each party shall attend the status conference in person or by counsel and shall be prepared to specify the discovery planned by that party. It is the intention that this Rule and the conference held herein be held after the parties have produced as much discoverable information about the incident complained of as possible in order to permit realistic evaluation of the case for possible settlement purposes or to draft a realistic litigation schedule to bring the case to conclusion within one year.
- (d) The Judge shall enter an order at the conclusion of the conference (1) setting a date not more than 180 days following the conference by which discovery shall be completed by all parties; (2) setting a date not more than 120 days following the conference for a second status conference if the Judge is persuaded for good cause that discovery cannot be completed within 180 days; (3) scheduling a pretrial conference, as provided in this Rule, not more than 30 days following the date set, if any, for completion of discovery.

- (e) In all cases where it appears to the court that the case should be considered as a complex case, then the court shall issue an order exempting the case from the time constraints of this Rule. The request for exemption shall be by motion under Civil Rule 77.
- (f) The Judge in whose court the action is pending shall order a party or counsel who fails to comply with any order issued pursuant to this Rule to pay \$200 for the first, \$300 for the second, and \$500 for each subsequent act of noncompliance. The Judge by written order may reduce, suspend, or eliminate an otherwise required payment upon a written and verified showing of good cause filed with the Court by which a party or counsel establishes that noncompliance was excusable.
- (g) All sanctions for violations of this Rule shall be considered under the provisions of Civil Rules 37 and 95.
- (h) A case assigned under this rule may not be dismissed under Civil Rule 41 without approval of the Court. Any stipulations between the parties or attorneys as to anything scheduled under this rule are invalid until approved by the court and the parties may not rely on such stipulation as an excuse to fail to comply with time limits, etc. unless the court has approved the same.

B. District Court Jurisdiction

Jurisdiction of the District Courts should be increased to encompass actions in which the amount of monetary damages involved does not exceed \$25,000. *(or the jurisdictional limit)*

H B

562

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 562
 Title: "...domestic violence
 injunctions..."
 Sponsor: Rep. Liska
 Requestor: House Community & RA
 Date of Request: 2-7-84

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-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis No fiscal impact anticipated.

Prepared By: Francis C. Allan *F.C.A. MCIC* Phone: 269-5691
 Division: Alaska State Troopers Date: 1-3-84
 Approved by Commissioner: R. J. Sundberg *RJS* Date: 1-11-84
 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

Alaska State Legislature

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VICE-CHAIRMAN
Judiciary
Legislative Regulations Review

MEMBER
Resources
Rules
Finance — Sub. Com. Labor

Representative John J. Liska

March 28, 1984

MEMORANDUM

TO: Judiciary Committee

FROM: Rep. John J. Liska

REFERENCE: HB 562, "An Act relating to service of process in cases involving domestic violence."

1. Copy of HB 562.
2. Copy of AS 22.20.110
25.35.040
25.35.010
25.35.020
3. Description of the purpose of HB 562 and what it does.
4. Department of Public Safety Position paper.

JJL/tm

§ 22.20.100

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provide security or to pay
importance of the files to
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Miller v. Paul, Sup. Ct.
No. 5064), 615 P.2d 615

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id. Miller v. Paul, Sup.
le No. 5064), 615 P.2d

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§ 22.20.110

JUDICIARY

§ 22.20.130

Legislative history reports. — For
report on ch. 71, SLA 1972 (HCSSB 383
am H), see 1972 House Journal, p. 898.

Sec. 22.20.110. Duty of the commissioner in the court of appeals, the superior court and district courts. When required by the supreme court, the commissioner shall serve and execute all process issued by the court of appeals, the superior court and the district courts, attend to and wait upon grand and petit juries, maintain order, attend the sessions of the courts, and exercise the power and perform the duties concerning all matters within the jurisdiction of the courts as may be assigned. The commissioner is the executive officer of the court of appeals, the superior court and district courts. (§ 3 ch 95 SLA 1960; am § 3 ch 24 SLA 1966; am § 17 ch 12 SLA 1980)

Effect of amendments. — The 1980 amendment inserted "the court of appeals" following "issued by" near the beginning of the section and following "executive officer of" near the end of the section.

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Sec. 22.20.120. General authority and duty of the commissioner. The authority necessary for the lawful performance of the duties of execution of service of process, seizure and detention of property, the sale of property forfeited or levied upon, and arrest of persons, in connection with civil matters, is vested in the commissioner. Any court of the state issuing any process may direct the process for execution of service to the commissioner or the designee of the commissioner. (§ 4 ch 95 SLA 1960; am § 22 ch 71 SLA 1972)

Editor's notes. — This section was redrafted by the revisor of statutes to remove personal pronouns in conformity with AS 01.05.031(c) and § 4, Chapter 58, SLA 1982.

Legislative history reports. — For report on ch. 71, SLA 1972 (HCSSB 383 am H), see 1972 House Journal, p. 898.

Sec. 22.20.130. Assistance for commissioner. (a) The commissioner shall be assisted in the execution of the authority and duty vested by AS 22.20.100 — 22.20.140 by such members of the division of state troopers or Alaska state constabulary as the commissioner designates. The commissioner is responsible on official bond for the acts of all persons so designated. The persons so designated have the same authority and duty granted to the commissioner and are subject to orders of the courts of the state in the same manner as the commissioner. They are responsible to the commissioner and to the courts, and shall be executive officers of the courts.

(b) The commissioner has the responsibility of providing sufficient personnel to effectively execute the authority and duty vested by AS 22.20.100 — 22.20.140, and shall adopt the necessary rules and regulations within his department for the efficient direction, control and

Revisor's notes. — Formerly AS 09.55.610. Renumbered in 1983.

Effect of amendments. — The 1982 amendment substituted "20 days" for "10

days" in the third sentence of subsection (c) and "three days" for "two days" near the beginning of subsection (e).

Sec. 25.35.030. Forms for filing petition. (a) The Alaska court system, in cooperation with interested persons and organizations, shall prepare forms and instructions for the use of persons seeking an order for relief under AS 25.35.010 or 25.35.020, including forms for waiving filing fees on the basis of indigency. The forms shall conform to the requirements of AS 25.35.010 and 25.35.020 and the Alaska Rules of Civil Procedure, except that information on the forms may be filled in by legible handwriting. The office of the clerk of each superior and district court shall make the forms and instructions available to the public.

(b) *[Repealed, § 16 ch 61 SLA 1982.]* (§ 1 ch 139 SLA 1980; am § 16 ch 61 SLA 1982)

Revisor's notes. — Formerly AS 09.55.620. Renumbered in 1983.

Cross references. — For related court rules on filing fees, see Admin. R. 9 (f)(1) and Admin. R. 10.

Effect of amendments. — The 1982 amendment repealed subsection (b), which read "The form for petition prepared under

(a) of this section shall include a notice that a false statement made in it stating that the respondent has subjected the petitioner to domestic violence constitutes the crime of unsworn falsification under AS 11.56.210, which is punishable by a maximum term of imprisonment of one year and a \$5000 fine."

Sec. 25.35.040. Service of process. Process issued under AS 25.35.010 or 25.35.020 shall be promptly served and executed. If a state peace officer is not available, a superior court, district court, or magistrate may designate any other peace officer to serve and execute process issued under AS 25.35.010 or 25.35.020. A peace officer shall use every reasonable means to serve process issued under AS 25.35.010 or 25.35.020. (§ 7 ch 61 SLA 1982)

Revisor's notes. — Formerly AS 09.55.625. Renumbered in 1983.

Sec. 25.35.050. Notification to law enforcement agencies. If a superior court, district court, or magistrate issues an order under AS 25.35.010 or 25.35.020 restraining a respondent from subjecting a petitioner to domestic violence, the superior court, district court, or magistrate shall transmit a copy of the order to the appropriate local law enforcement agency. Each law enforcement agency shall establish procedures to inform their peace officers of copies of the orders received by the law enforcement agency under this section. Peace officers shall use every reasonable means to enforce an order issued under AS 25.35.010 or 25.35.020. (§ 1 ch 139 SLA 1980)

and to be heard either in person or by attorney. If, at the hearing, the superior court finds that the petitioner has been subjected to domestic violence by the respondent, the superior court may issue any order it determines to be necessary for the protection of the health, safety or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this subsection may include provisions which

(1) restrain the respondent from subjecting the petitioner to domestic violence;

(2) direct the respondent to vacate the home of the petitioner;

(3) restrain the respondent from communicating directly or indirectly with the petitioner;

(4) direct the respondent to pay support for the petitioner or for a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the petitioner or the child;

(5) award temporary custody of a minor child to the petitioner;

(6) direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence;

(7) direct the respondent to engage in personal or family counseling;

(8) restrain the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner.

(c) An order issued under this section remains in effect for a period of time not to exceed 90 days. However, the petitioner may petition the superior court for an extension of a provision of the order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7), or (b)(8) of this section. If the superior court, after notice to the respondent of and a hearing on the petition for the extension in accordance with the procedures described in (b) of this section, finds that an extension of the provision of the order is necessary to protect the petitioner or a minor child in the care of the petitioner from domestic violence, the superior court may extend the provision of the order for a period of time not to exceed 45 days. The court may not grant more than one extension under this subsection.

(d) Proceedings under this section do not preclude any other available civil or criminal remedies. (§ 1 ch 139 SLA 1980; am §§ 3, 4 ch 61 SLA 1982)

Revisor's notes. — Formerly AS 09.55.600. Renumbered in 1983.

Cross references. — For release before trial in cases involving domestic violence, see AS 12.30.025; for related provisions concerning criminal trespass, see AS 11.46.320 — 11.46.350; for related provisions concerning harassment, see AS 11.61.120(a)(6).

Effect of amendments. — The 1982 amendment added paragraphs (7) and (8)

to subsection (b), and in subsection (c), substituted "90 days" for "45 days" at the end of the first sentence, substituted "an extension" for "extensions" and "(b)(1), (b)(2), (b)(3), (b)(7) or (b)(8) of this section" for "(b)(1), (b)(2) or (b)(3) of this section" in the second sentence, inserted "or a minor child in the care of the petitioner" in the third sentence, and added the last sentence.

DRAFT

THE BILL WILL TRANSFER PRIMARY RESPONSIBILITY FOR THE SERVICE OF PROCESS FOR DOMESTIC VIOLENCE INJUNCTIONS FROM THE STATE TROOPERS TO LOCAL POLICE DEPARTMENTS. CURRENT LAW PLACES PRIMARY RESPONSIBILITY FOR SERVICE OF THESE COURT ORDERS ON THE STATE TROOPERS, BUT PROVIDES THAT A COURT MAY ORDER ANY OTHER PLACE OFFICER TO SERVE THEM IF A STATE TROOPER IS NOT AVAILABLE. AS 25.35.040. THIS BILL WOULD REQUIRE LOCAL OFFICERS TO SERVE THE ORDERS IF THE PERSON TO BE SERVED IS PRESENT OR RESIDES WITHIN THE LOCAL DEPARTMENT'S JURISDICTION. IF A LOCAL OFFICER IS NOT AVAILABLE, THE COURT MAY DIRECT A STATE TROOPER TO SERVE THE COURT ORDER.

THIS CHANGE IN THE LAW IS NEEDED BECAUSE THE NUMBER OF DOMESTIC VIOLENCE ORDERS ISSUED BY COURTS EACH YEAR HAS INCREASED DRAMATICALLY SINCE AS 25.35.010 -- 25.35.060 (FORMERLY AS 09.55.600 -- 09.55.640) TOOK EFFECT IN SEPTEMBER OF 1980. IN ANCHORAGE ALONE, THE NUMBER OF DOMESTIC VIOLENCE ORDERS THAT MUST BE SERVED HAS CLIMBED FROM AN AVERAGE OF 15 TO AN AVERAGE OF 80 A MONTH. THE VAST MAJORITY OF THESE ORDERS (APPROXIMATELY 90 PERCENT) IS DIRECTED TO PERSONS WHO RESIDE WITHIN MUNICIPALITIES THAT HAVE LOCAL POLICE DEPARTMENTS.

IN MANY CASES, A LOCAL POLICE OFFICER WAS CALLED TO THE DOMESTIC DISTURBANCE WHICH GAVE RISE TO THE NEED TO OBTAIN A DOMESTIC VIOLENCE INJUNCTION. THE OFFICER MAY EVEN HAVE TRANSPORTED THE VICTIM OF THE ASSAULT TO THE LOCAL MAGISTRATE OR JUDGE TO OBTAIN THE ORDER. TO

REQUIRE THAT THE RESULTING COURT ORDER BE SERVED BY A STATE TROOPER WHOSE PRIMARY PATROL AREA IS OFTEN OUTSIDE OF THE CITY OR BOROUGH AND WHO HAS HAD NO PREVIOUS CONTACT WITH THE VICTIM OR THE CASE IS NOT AN EFFICIENT USE OF LAW ENFORCEMENT RESOURCES, AND MAY CAUSE A DELAY IN THE SERVICE OF THE ORDER. IN THE LARGER CITIES, SERVICE OF THESE INJUNCTIONS IS MADE BY OFFICERS IN THE JUDICIAL SERVICES SECTION OF THE STATE TROOPERS. THE NEED TO ENSURE ADEQUATE SECURITY IN COURTROOMS, TRANSPORT PRISONERS, AND SERVE CRIMINAL ARREST WARRANTS AND SUBPOENAS SEVERELY LIMITS THE AMOUNT OF TIME AND EFFORT A JUDICIAL SERVICES OFFICER MAY DEVOTE TO SERVICE OF DOMESTIC VIOLENCE INJUNCTIONS.

IN THE INTERESTS OF PROVIDING THE QUICKEST AND BEST POSSIBLE PROTECTION FOR VICTIMS OF DOMESTIC VIOLENCE, AND OF MAKING THE WISEST POSSIBLE USE OF AVAILABLE LAW ENFORCEMENT RESOURCES, I URGE YOUR PROMPT PASSAGE OF THIS BILL.

DEPARTMENT OF PUBLIC SAFETY


POSITION PAPER - HB 562

Support

During the last two years the tremendous increase in the number of domestic violence orders to be served has placed a severe drain upon the manpower of the Alaska State Troopers and has caused some delay in the services of these orders. This legislation transfers the primary responsibility for the service of these injunctions from the State Troopers to local police departments. State Troopers would continue to serve these orders when local officers are not available.

Domestic violence injunctions are served by Troopers assigned to the Judicial Services section of the Alaska State Troopers. This section is also responsible for courtroom security, prisoner transportation and the service of subpoenas and warrants. The Alaska State Troopers have never received funding to cover the costs associated with the service of domestic violence orders. Thus this increased work load falls on an already overloaded unit and the service of these orders must sometimes be subordinated to other law enforcement demands.

The majority of domestic violence orders are served within the boundaries of political subdivisions which have their own police agencies. The local police are often more familiar with the locations and individuals involved in domestic violence situations and therefore can more safely and efficiently serve orders.


Robert J. Sundberg
Commissioner

H B

5 7 1

FISCAL NOTE

Revision Date: March 8, 1984

REQUEST
 Bill/Resolution No.: HB 571
 Title: "...number of superior
 and district court judges.."
 Sponsor: Repr. Abood
 Requestor: OMB - Gov.'s Off.
 Date of Request: 2-28-84

FISCAL DETAIL
 Agency Affected: Department of Law
 Program Category Affected: "Administration of Justice"
 BRU, Program or Subprogram(s) Affected: Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		197.0	208.8	221.3	234.6	248.7
200 TRAVEL		15.0	15.9	16.9	17.9	19.0
300 CONTRACTUAL		47.2	50.0	53.0	56.2	59.6
400 SUPPLIES		15.6	11.4	12.1	12.8	13.6
500 EQUIPMENT		18.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	292.8	286.1	303.3	321.5	340.9

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	292.8	286.1	303.3	321.5	340.9
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME	-0-	4	4	4	4	4
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard J. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 3-8-84

Approved by Commissioner: Norman C. Gorsuch Date: 3-8-84
 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

The net effect of HB 571 is to increase the number of judges in the Third Judicial District by one superior court judge and two district court judges, at Anchorage. This increase has been requested by the courts because of substantial increases in both felony and misdemeanor cases and because of a growing backlog of both criminal and civil cases. During the last 15 months, the Anchorage area has grown by approximately 30,000 residents. This increase in itself exceeds the total population served by the criminal justice system in Juneau which is made up of 2 superior court judges, 1 district court judge and a District Attorney's Office consisting of three attorneys, one paralegal assistant and three legal secretaries. By comparison, no additional judicial or prosecution positions have been authorized to handle the increased caseload in Anchorage during this period.

Included in this population growth is a disproportionate number of young, highly transient males who tend to account for a considerable portion of the increase in serious criminal cases in the Anchorage area. Although many of the presently backlogged cases consist of minor offenses, there has also been a disturbing increase in the number of sexual assault cases involving children and in the number of complex homicide cases which require substantial additional judicial and prosecution resources in order to ensure that they are properly handled.

Historically, there has been a direct correlation between the number of judges in a particular district and the number of prosecutors required in order to meet court calendars. This correlation has in the past and should equal one prosecutor for each full-time judge. This balance is required in order to ensure that cases are effectively and efficiently processed. Over the past few years the balance between judges and prosecutors in the Third Judicial District has tipped towards the judicial side of the scales. There are currently 14 authorized superior court judges and 9 district court judges in the Third Judicial District. In addition, there are 4 full-time magistrates in the district who also have authority to serve as district judges, thus bringing the number of full-time judges to 27, as opposed to 23 prosecuting attorneys. The number of prosecutors has not kept pace with the number of judges due to legislative authorized increases in the last five to six years which have not included additional prosecuting attorney resources. To an extent, the Department of Law has been able to handle most case settings as a result of economies of scale realized over the past several years. However, we are rapidly falling behind in our ability to adequately cover present court calendars, particularly in the rural areas. This problem will become particularly severe if these additional judicial positions are added without an increase in prosecuting attorney positions.

The Criminal Division of the department will not be able to continue to handle all of the cases and court calendars, particularly with the addition of these new judges, without additional prosecution resources. This imbalance between judges and prosecutors will be particularly severe at the district court level because of the higher volume of cases, although there will also be substantial impact at the superior court level because of the need to assign the new superior court judge in Anchorage to criminal cases.

In his State of Judiciary message to the Legislature on February 28, 1984, Chief Justice Burke anticipated that the new superior court judge would be assigned to the criminal division. See Senate and House Joint Journal Supplement No. 20 at pages 7-8. The administrative office of the Court System has indicated, however, that the new superior court judge will be expected to devote half of his time to criminal cases and half to civil cases. Regardless of the actual breakdown of the duties assigned to the new judge, in order to meet the speedy trial requirements of Criminal Rule 45 in the face of the increased number and complexity of felony criminal trials, it is certain that civil division judges will continue to handle a substantial percentage of the criminal case load.

Recognizing that the three new judges will devote some proportion of their time to civil cases, we are requesting that the District Attorney's Office at Anchorage be increased by two (rather than three) attorneys, one paralegal assistant and one legal secretary. One attorney will be assigned to the superior court to handle major felony prosecutions with emphasis on sexual assault and homicide cases. The second attorney will be assigned to district court cases and handle misdemeanor cases exclusively. The Criminal Division believes that it can, for the present, adequately cover the caseload through the addition of two attorneys, rather than three, through an additional paralegal assistant at substantially lesser cost to assist in case preparation and the coordination of witnesses. A single legal secretary position will be needed to provide support services in the processing of these cases and to handle the work that will be generated by the two attorneys and the paralegal. The total costs associated with these positions is \$292,800. Attached is a summary sheet which breaks this cost down by each position and relevant budgetary object code.

Fiscal Note Analysis
HB 571

FY 85
Cost Schedule

<u>Object</u>	<u>Atty IV</u>	<u>Atty III</u>	<u>Paralegal Asst II</u>	<u>Leg. Sec I</u>	<u>Total</u>
Personal Services	67.5	59.7	40.6	29.2	197.0
Travel - Witness travel subsistence, staff travel	5.0	5.0	5.0	-0-	15.0
Contractual Services					
Office commo., equip. repair	4.8	4.8	4.8	2.4	16.8
Copy - postage				1.8	1.8
WP Maintenance				4.1	4.1
Space Rental	5.2	5.2	4.1		18.6
Expert Witness/ Witness Costs	5.0	5.0			10.0
					<u>47.2</u>
Commodities - ongoing					
Office consumables	1.8	1.8	1.8	1.8	7.2
Law Library	1.2	1.2	1.2	-0-	3.6
Commodities - one time					
New position materials	1.2	1.2	1.2	1.2	4.8
					<u>15.6</u>
Equipment - one time					
New position equip.	1.5	1.5	1.5	1.5	6.0
Word Processor				12.0	12.0
					<u>18.0</u>
TOTALS	<u>93.2</u>	<u>85.4</u>	<u>60.2</u>	<u>54.0</u>	<u>292.8</u>

Costs beyond FY 85 include a 6% annual inflation factor.

1.	POSITION TITLE ATTORNEY IV			RANGE/STEP 24A	DEPT. UNIT PX	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.	

3.	CONTINUATION LEVEL			ADDITION	
4.	TYPE OF EXPENDITURE			AMOUNT	
	1	2	3		
	PERSONAL SERVICES				
5.	Salary	4,464	53,568		
6.	Benefits		8,785		
7.	Supplemental Benefits		2,550		
8.	Fixed Benefits		2,630		
9.	TOTAL PERSONAL SERVICES		01	67,533	
10.	Travel		02	5,000	
11.	Contractual		03	15,000	
12.	Commodities		04	4,200	
13.	Equipment		05	1,500	
14.	Other				
15.	TOTAL COST			93,233	

JUSTIFICATION

This is one of two attorney positions that are being requested to provide the additional prosecution services that will be needed to handle an expanded court calendar when the number of judgeships in Anchorage is increased. This position will handle sexual assault cases in the superior court, particularly those involving children, and the position will also handle misdemeanor cases in the district court. Allocation to the full working level of Attorney IV is recommended because of the requirement to handle sensitive crimes independently.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Hatch 1003	
18.		General Funds 1004	93,233
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

FOR O&M USE ONLY
 4A KEY NUMBER _____

AGENCY DEPARTMENT OF LAW
 PROGRAM DUE PROCESS
 DRU PROSECUTION

13 REQUEST FOR
 NEW POSITION

FY 81

1.	POSITION TITLE ATTORNEY III			RANGE/STEP 22A	BANG. UNIT PX	FORM 12 PAGE/LINE	COV.	APPROV.	DISA
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.	
3.	CONTINUATION LEVEL			ADDITION	JUSTIFICATION				
4.	TYPE OF EXPENDITURE			AMOUNT	<p>This is the second of two attorney positions being requested to handle the expanded court calendar that will occur when three new judges are added in the Third Judicial District at Anchorage. This position will be assigned to district court matters and handle the growing backlog of misdemeanor cases that has been caused by a rapidly growing population. Allocation to the Attorney III grade is recommended because of the level of criminal violations to be prosecuted by the position.</p>				
	1	2	3						
	PERSONAL SERVICES								
5.	Salary	3,900	46,800						
6.	Benefits		7,675						
7.	Supplemental Benefits		2,550						
8.	Fixed Benefits		2,630						
9.	TOTAL PERSONAL SERVICES		01	59,655					
10.	Travel		02	5,000					
11.	Contractual		03	15,000					
12.	Commodities		04	4,200					
13.	Equipment		05	1,500					
14.	Other								
15.	TOTAL COST			85,355					
	RECEIPT CODE	FUNDING SOURCE							
16.		Federal Receipts 1002							
17.		G.F. Match 1003							
18.		General Funds 1004		85,355					
19.		I-A Receipts 1005							
20.		Program Receipts 1020							
21.		Other							
	FOR D&H USE ONLY								
	4A KEY NUMBER _____								

13 REQUEST FOR
NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
BRU PROSECUTION

Page 1 of 1

FY 8!

1.	POSITION TITLE PARALEGAL ASSISTANT II				RANGE/STEP 16A	ORG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISA
2.	TYPE OF POSITION PFI	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE									
	1		2		3					
	PERSONAL SERVICES									
5.	Salary	2,573	30,876							
6.	Benefits		5,064							
7.	Supplemental Benefits		1,893							
8.	Fixed Benefits		2,730							
9.	TOTAL PERSONAL SERVICES		01		40,563					
10.	Travel		02		5,000					
11.	Contractual		03		8,900					
12.	Commodities		04		4,200					
13.	Equipment		05		1,500					
14.	Other									
15.	TOTAL COST				60,163					
RECEIPT CODE FUNDING SOURCE										
16.		Federal Receipts		1002						
17.		G.F. Match		1003						
18.		General Funds		1004	60,163					
19.		I-A Receipts		1005						
20.		Program Receipts		1020						
21.		Other								
FOR DAN USE ONLY										
4A KEY NUMBER										

This paralegal position is requested to provide victim/witness assistance services to the victims of child sexual abuse. A part of the growing case backlog that caused by the courts to seek additional judges at Anchorage has been a disturbing increase in the number of child sexual abuse cases. The victims of this abuse often have the additional ordeal of appearing in court as witnesses against the persons who have abused them. Paralegal assistants have proven invaluable in interviewing and assisting these victims in a manner that assures their well-being as witnesses.

13 REQUEST FOR NEW POSITION

AGENCY DEPARTMENT OF LAW
PROGRAM DUE PROCESS
DRU PROSECUTION

Page 1 of 1

FY 85

1.	POSITION TITLE LEGAL SECRETARY I			RANGE/STEP 10B	DIARG. UNIT GGU	FORM 12 PAGE/LINE	GOV.	APPROV.	DISAP.
2.	TYPE OF POSITION PFT	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT 8	LEG.	

3.	CONTINUATION LEVEL	ADDITION	
4.	TYPE OF EXPENDITURE		AMOUNT
	1	2	3
	PERSONAL SERVICES		
5.	Salary	1,803	21,636
6.	Benefits		3,548
7.	Supplemental Benefits		1,326
8.	Fixed Benefits		2,730
9.	TOTAL PERSONAL SERVICES		01 29,240
10.	Travel		02 -0-
11.	Contractual		03 8,300
12.	Commodities		04 3,000
13.	Equipment		05 13,500
14.	Other		
15.	TOTAL COST		54,040

JUSTIFICATION

This position is requested to provide the clerical support required to handle the paperwork that will be generated by the two attorneys and the paralegal who are being added in response to the three judges being added at Anchorage. This position will provide communications, staff scheduling, filing and produce the court documents generated by the new legal positions. Allocation of the position to Legal Secretary I level is therefore recommended.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		G.F. Match 1003	
18.		General Funds 1004	54,040
19.		I-A Receipts 1005	
20.		Program Receipts 1020	
21.		Other	

FOR I&M USE ONLY
 4A KEY NUMBER _____

AGENCY DEPARTMENT OF LAW
 PROGRAM DUE PROCESS
 BRU PROSECUTION

13 REQUEST FOR
 NEW POSITION

FY 85

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 571
 Title: Number of Superior and District Court Judges
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Administration of Justice
 BRU, Program or Subprogram(s) Affected: Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES		1,033.4	1,446.7	1,519.0	1,595.0	1,674.8
200 TRAVEL						
300 CONTRACTUAL		308.8	432.4	454.0	476.7	500.5
400 SUPPLIES		4.4	4.6	4.8	5.0	5.3
500 EQUIPMENT		59.7				
600 LAND & STRUCTURES		200.0				
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		1,606.3	1,883.7	1,977.8	2,076.7	2,180.6
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1,606.3	1,883.7	1,977.8	2,076.7	2,180.6
FEDERAL FUNDS						
OTHER						
TOTAL		1,606.3	1,883.7	1,977.8	2,076.7	2,180.6

POSITIONS:

FULL-TIME		22	22	22	22	22
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: [Signature] Phone: _____
 Division: Alaska Court System Date: 3/28/84

Approved by Commissioner: [Signature] Date: _____
 Agency: Alaska Court System 3/28/84

Distribution (by Agency preparing fiscal note):

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

12/1/83

(Committee Substitute for House Bill 571, establishing 2 new superior court and 4 new district court positions in Anchorage).

FISCAL NOTE ANALYSIS

FISCAL IMPACT:

Personnel

<u>Position</u>	<u>Salary</u>	<u>Benefits</u>	<u>Total Cost</u>
2 Superior Court Judges	\$147,240	\$174,948	\$ 322,188
2 Law Clerks (Range 13A)	50,664	16,696	67,360
2 Secretaries (Range 12B)	49,032	16,328	65,360
2 In-Court Clerks (Range 12B)	49,032	16,328	65,360
4 District Court Judges	254,544	305,256	559,800
4 In-Court Clerks (Range 12B)	98,064	32,656	130,720
1 Secretary (Range 8B)	24,516	8,164	32,680
4 File Clerks (Range 8B)	77,136	27,932	105,068
1 Criminal Clerk (Range 10B)	21,744	7,538	<u>29,282</u>
			\$1,377,818
Adjustment for First Year Hiring Period Vacancy - 3 month vacancy			(<u>344,454</u>)
Total First Year Personnel Costs			1,033,364
Contractual			
Word Processing Equipment		6,750	
Office Space (15,000 sf at \$2.25/foot/month)		<u>405,000</u>	
		411,750	
Adjustment for First Year Hiring Period Vacancy - 3 month vacancy		(<u>102,939</u>)	
Total First Year Contractual Costs			308,811
Commodities			4,400
Equipment (one-time item)			59,704
Leasehold Improvements - remodeling (one-time item)			<u>\$ 200,000</u>
TOTAL FY 85 COST			<u>\$1,606,279</u>

CSHB 571

FISCAL NOTE ANALYSIS (Cont'd)

In his State of the Judiciary message, Chief Justice Burke pointed out a need for an additional two district court and two superior court judges. In the original version of HB 571, the Court System had asked for only one superior court judge and two district court judges, with the assumption that an additional superior court judge could be requested next year or at least in the near future. Since the State of the Judiciary message, the caseloads of the Anchorage Court System have continued to grow and this growth strongly supports the need for two district court and two superior court judges. If two district court and two superior court judges were authorized, the cost in fiscal year '85 would be approximately \$890,000.

The Court System takes no position regarding the Committee Substitute which increases the district court level by four additional judges.



Trial Courts

State of Alaska

THIRD JUDICIAL DISTRICT
303 K STREET
ANCHORAGE, ALASKA
99501

264-0415

ALBERT H. SZAL
Area Court Administrator

March 22, 1984



Hon. Charlie Bussell, Chairman
Hon. Donald Clocksin, Member
Committee on the Judiciary
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Chairman Bussell and Rep. Clocksin:

At your hearing on Saturday, March 17, 1984, regarding House Bill 571, Representative Clocksin asked if the number of cases superior court judges were taking under advisement had changed over the past two to three years.

In reviewing the data compiled by the technical operations division of the administrative director's office, it appears the number of cases taken under advisement for FY 82 compared with FY 83 were relatively constant, 125 and 114 respectively.

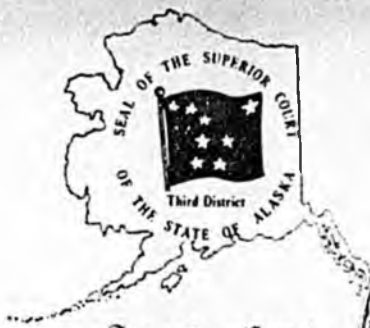
If you have any questions regarding the above, please feel free to contact my office.

Sincerely,

Albert H. Szal
Area Court Administrator

AHS pb

cc Judge Rowland
Goldeen Goodfellow



Superior Court
State of Alaska

THIRD JUDICIAL DISTRICT

303 K Street
Anchorage, Alaska 99501



CHAMBERS OF
DOUGLAS J. SERDAHELY

March 15, 1984

The Honorable Charlie Bussell
Chairman, House Judiciary Committee
Alaska State Legislature
State Capitol Building, Room 124
Juneau, Alaska 99811

Re: House Bill 571

Dear Chairman Bussell:

I regret that I am unable to personally attend and testify at the hearing regarding the pending legislation seeking authorization for additional District Court and Superior Court judges (House Bill 571). With this letter, I wish to summarize the comments and testimony I would have provided at the hearing in Anchorage on March 17, 1984.

By way of background, I have been serving as a Superior Court Judge in Anchorage for over three years. I am, and have been, assigned to the Civil Division of the Court during all of this time.

I earnestly support the Alaska Court System's application for at least one additional Superior Court position -- and ideally more than one -- for the Anchorage Superior Court Bench.

Since coming to the Bench three years ago, I have seen my civil case load (meaning non-domestic, non-criminal cases) increase from approximately 600 cases in April of 1981 to approximately 1100 cases at the present time.

In addition to an absolute increase in the number of cases, it is also my impression that there is an increase in the complexity, length, and expense of the civil

The Honorable Charlie Bussell

March 15, 1984

Page 2

cases that are now being litigated. Thus, for example, I have spent the last four months trying two cases: a prisoners' class action case that lasted 7 weeks, and a securities litigation case that lasted 11-12 weeks. In the latter case alone, the parties filed 50-60 volumes of pleadings (exclusive of certain discovery documents), presented in excess of 3,000 documentary exhibits at trial, filed innumerable motions before and during trial, and took at least 15 petitions for review (interlocutory appellate review attempts) to the Alaska Supreme Court. Although this latter case may be an extreme example, it is my impression that in the last year or so, the Court System has experienced a relative increase in complex civil litigation.

Besides, the cases mentioned above, during the last year I have also tried a class action civil rights case that lasted 5-6 weeks and a wrongful death action that lasted 4-5 weeks. During the next 12-14 months, I have currently scheduled for trial 4 cases which are expected to last one month or more in duration, including a condemnation action of approximately 4 weeks; a personal injury action of approximately 4-5 weeks; a wrongful death action of approximately 5 weeks; and a commercial insurance litigation case of approximately 8 weeks.

The impact of larger case loads, as well as lengthier and more complex civil litigation on the trial calendar is obvious. The four months of trial time I spent on the two cases mentioned above consumed nearly 40% of the total available trial time on this year's calendar, thereby making it impossible for other cases to be tried during that period. Further, delays in obtaining trial setting conferences, and trial dates, are increasing at a substantial rate. Currently, a trial which would require more than 2 weeks could not be set on my trial calendar until mid-April, 1985 -- a 12-14 month delay. I am informed that most of the other civil judges' calendars are in approximately the same circumstance.

Additionally, it is my impression that more cases, including the complex cases, are proceeding to trial, rather than settling, or being disposed of by some other means. This means that the judges will tend to "overset" fewer cases per week. Several years ago, when fewer cases were proceeding to trial, I was oversetting 3-4 cases per week. Now that more cases appear to be going through trial, I am oversetting only 1-2 cases a week -- and in some instances, not oversetting at all. This, of course, means still further delays between the commencement of an action and the trial date in the action.

The Honorable Charlie Bussell

March 15, 1984

Page 3

The increase in cases and trials also impacts adversely on the Court's time and resources available for non-trial matters which require judicial attention. Thus, for example, during a typical day, a civil judge would hold trial from 8:30 a.m. through 1:30 p.m. During the "luncheon" break (1:30 - 2:30), the judge will typically meet with his or her law clerk and review emergency matters which must be considered that day. Then, for the remainder of the afternoon, the judge typically would have scheduled settlement conferences, trial setting conferences, oral argument hearings on motions, oral argument hearings on agency appeals, evidentiary hearings on injunctions, hearings on domestic violence petitions, and other emergency matters. In view of the foregoing hearings, it is not uncommon for a judge to run well into the early evening before completing the day's activities.

In addition to trial matters, hearings and conferences scheduled during the typical day, the judge must also deal with numerous matters submitted to the Court on motions or briefs, without requests for oral argument or hearing. A rough estimate of a typical day in my chambers is that we receive, and are required to give attention to, as many as 2-3 dozen matters per day. These matters would include motions on the briefs (including discovery motions, dispositive motions, motions for sanctions, motions to amend pleadings, and the like), stipulations, emergency motions, and appeals on the briefs from administrative agencies or entities. The Court must also deal with, as a matter of priority, domestic violence petitions. Such petitions are typically being handled through hearing time in the Courtroom, although the judges are on call 24 hours a day.

Given the increase in cases, and increase in complex cases, the number of matters submitted to the Court on the briefs has also dramatically increased. And, consistently, the delays in issuing rulings on such matters have likewise increased. For example, it may take months to issue rulings on summary judgment motions or agency appeals that have been submitted to the Court on the briefs, without oral argument.

In order to perform all of the foregoing tasks, the Court has an extremely limited staff, consisting of one full-time law clerk, one secretary, and the judge. In my view, substantially additional assistance is, and will be, absolutely necessary in order to process the increased work load in a prompt and professional manner. At a minimum, it seems to me that additional Superior Court judges are immediately required. Ideally, additional support staff,

The Honorable Charlie Bussell
March 15, 1984
Page 4

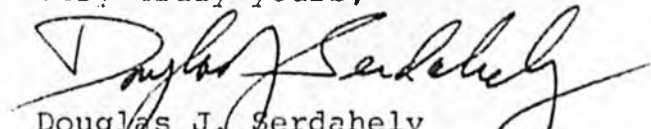
including further law clerk positions and/or externship positions would be extremely useful.

In the absence of additional judicial manpower, it seems to me quite realistic to expect that the already substantial delays in processing cases through trial will become even greater. Ultimately, I suppose, it becomes a policy question of how much delay is too much delay? I respectfully submit that for Alaska's population, and particularly for the population of the Southcentral area embodied in the Third Judicial District, delays of $\frac{1}{2}$ to 2 years to get cases to and through trials are unacceptable. Longer delays are, obviously, more unacceptable.

Accordingly, the thoughtful attention of you and your Committee to the pressing need for additional judicial manpower will be greatly appreciated.

Thank you sincerely for your consideration of these remarks.

Very truly yours,



Douglas J. Serdahely
Judge of the Superior Court

DJS:lge

H

B

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POUCH V
JUNEAU, ALASKA 99811
(907) 465-4990

Alaska State Legislature
HOUSE OF REPRESENTATIVES

REPRESENTATIVE
CHARLIE BUSSELL
CHAIRMAN

Committee on Judiciary

HB 575
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- A. Proposed Committee Substitute for House Bill No. 575
- B. House Bill No. 575
"An act relating to permanent fund dividends; and providing for an effective date."
- C. Fiscal Note/Analysis
Ervin B. Jones, Director, Administrative Services, Department of Revenue.
- D. Analysis
Tom Williams, Director, Enforcement Division, Department of Revenue.
- E. Letter of Opinion
Diane T. Colvin, Assistant Attorney General, Department of Law.
- F. Pertinent News Clipping

MEMBERS:
REP. JOHN LISKA, VICE CHAIRMAN; REP. RAMONA BARNES, EMERITUS;
REP. JOE HAYES; REP. HUGH MALONE; REP. DON CLACKSIN; REP. RON WENDE

FISCAL NOTE

Revision Date _____

REQUEST

Bill/Resolution No: HB 575
 Title: An act relating to permanent fund dividends.
 Sponsor: Barnes
 Requestor: Judiciary
 Date of Request: 02/06/84

FISCAL DETAIL

Agency Affected: Revenue
 Program Category Affected: General Government
 BRU, Program of Subprogram(s) Affected: Permanent Fund Dividend

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES	-	33,600	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	4,502	-	-	-	-
400 SUPPLIES	-	200	-	-	-	-
500 EQUIPMENT	-	3,225	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	41,527	-	-	-	-
CAPITAL	-	-0-	-	-	-	-
REVENUE	-	-0-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	-0-	-	-	-	-

POSITIONS:

FULL-TIME	-	-1-	-	-	-	-
PART-TIME	-	-0-	-	-	-	-
TEMPORARY	-	-0-	-	-	-	-

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: See attached analysis.

Prepared By: Ervin B. Jones
 Division: Administrative Services

Phone: 465-2313
 Date: 02/10/84

Approved by Commissioner: George Annello
 Agency: Revenue

Date: 2/15/84

Distribution (by Agency preparing fiscal note):

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

Analysis:

Section 1 of the bill provides for two changes to the current law. First, it provides that convicted felons are ineligible for a permanent fund dividend for any year, when during all or part of that year as a result of their felony conviction, the individual was:

- a. incarcerated
- b. on probation
- c. on parole
- d. under a suspended imposition of sentence.

Secondly, it provides that an amount equal to the foregone dividend would be transferred to the crime victim compensation fund.

There are several major factors which make the provisions of this section, as written, difficult to administer:

1. The permanent fund dividend program is designed by statute to make payments for the same given year for which applications are filed. For example, the 1983 dividend was declared on September 1, 1983, and largely paid by December 31, 1983, based on applications received during the filing period April 1 - June 30, 1983. Assuming the Department of Revenue was able to sort out applications filed by convicted felons who meet the requirements of Section 1, we would have to hold all payments until the end of the dividend year, in order to review all applications for "felon status" through the whole year including December. This would not necessarily change the filing period or the declaration date, but would mandate payments being made no sooner than January or February of the year following the dividend year. After the department makes one last massive cross examination of all applications filed, probably in January following the dividend year. The department would still attempt to make all payments by April 30 of the year following the dividend year.
2. The second problem is determining which PFD applicants are convicted felons who meet the statutory test (i.e. incarcerated, on probation, etc.). For the department to identify those persons would require a one-time matching of the PFD master file for a given year against a currently non-existent data base of all Alaskans who met the prescribed condition during the preceding dividend year. This cross match is the one described above as taking place in January following the dividend year. Creating the needed data base would involve two steps:
 - a) Using the OPSIS data base recently established by the Corrections Department, Health & Social Services would need to build a file of all convicted felons who as a result of their felony conviction were, at any time during the dividend year:
 - 1) incarcerated (in or out of Alaska)
 - 2) on probation (in or out of Alaska)
 - 3) on parole (in or out of Alaska).

It should be noted that Corrections has no control over, or records of, convicted felons under suspended imposition of sentence, nor does Corrections have any record of, or knowledge of, Alaska residents who

Analysis (cont.)

are convicted of felonies outside Alaska and are still outside Alaska imprisoned, on parole, on probation, or under suspended sentence. Roger Lang, Deputy Commissioner of Administration for Corrections expressed the opinion that the incidences of the latter would be negligible.

- b) Literally building a tracking system of those felons under suspended sentence. Apparently, individual courts keep these records separately, in a non-computerized fashion. If it is the Legislature's final decision that such a system be created, I think a great deal of study and research, probably by a consultant, would be needed before even an estimate of cost could be arrived at. Deputy Commissioner Lang suggests that the number of convicted felons under suspended sentence in Alaska might be so low as to render the search cost-ineffective.
3. Transferring an amount equivalent to the dividend that is denied the felon applicant to the crime victim compensation fund indirectly funds the crime victim compensation fund (previously strictly a general fund appropriation) from the earnings of the Permanent Fund. Since the number of felons filing will very shortly drop off sharply (when they realize they won't be paid), a more direct appropriation to the crime victims compensation fund would appear to be more beneficial.

In summary, to the extent that a data base is available which identifies the subject felons, and to the extent that they file applications, the Department of Revenue will be able to deny their applications. The cost of doing so, with the exception of suspended sentences, will be very low. The Enforcement Division will need one full-time investigator as reflected on the attached analysis. The postponment of all payments by several months will obviously irritate the general public. For this reason, the department recommends that lines 13, 14 and 15 of the bill be changed to read " . . . permanent fund dividend for a year when, during all or part of the eligibility period for that year's dividend, [that year] as a result of the conviction the individual is incarcerated, on probation, on parole or under a suspended imposition of sentence." This would enable the department to process applications against a fixed file of subject felons and to make payments as soon as the dividend amount is declared.

Enforcement Division Analysis of HB 575
February 10, 1984

A. Assumptions

1. The PFD program is retained and there are no other substantive changes to the program.
2. It would be possible and practical to obtain information on individuals convicted of a felony. (Please see the discussion under C.)

B. Program Summary

This bill would require one full time PFD Investigator who would be assigned felons on a project basis. In addition, there would be associated contractual services, supply costs, and equipment costs.

	<u>FY '84</u>
<u>Personal Services (100)</u>	
PFD Investigator II (R13) 12 months @ \$2,800/mo.	<u>\$33,600 (1)</u>
<u>Contractual Services (300)</u>	
Telephone	
Telephone purchase 1 phone @ \$60	60 (2)
Installation 1 phone @ \$90	90 (2)
Local Centrex 12 months @ \$46/mo.	552
Long Distance 12 months @ \$150/mo.	1,800
Computer Terminal	
Installation 1 terminal @ \$2,000	<u>2,000 (2)</u>
<u>Total Contractual Services (300)</u>	<u>4,502</u>
<u>Supplies (400)</u>	
General Office Supplies	<u>200</u>
<u>Equipment (500)</u>	
Computer Terminal	1,600 (2)
Desk	575 (2)
Chair	175 (2)
File	275 (2)
Partitions 2 @ \$300/ea.	<u>600 (2)</u>
<u>Total Equipment (500)</u>	<u>3,225</u>
<u>Total Enforcement</u>	<u>\$41,527</u>

- (1) In FY '85 the cost of the salary and benefits for the investigator is estimated to increase by the negotiated 3.8% salary increase. Accordingly, the FY '85 and subsequent year costs are projected to be \$34,877.
- (2) Several items in contractual services and all equipment items are one time and are not included in FY '85 and subsequent year cost projections.

C. Additional Comments on the Legislation

This legislation is likely to be difficult to administer. The preceding cost analysis was based on the assumption that we would be able to obtain information from several federal, state, and local law enforcement agencies, court systems, and corrections agencies which would have information on the status of felons. Because the bill declares a convicted felon ineligible if at any time during the year he/she was incarcerated, on probation, on parole, or under a suspended sentence the number of ineligibles would grow with each passing day. Since there is not one comprehensive criminal justice system within the United States, it would be a difficult task, at best, to try to obtain and keep that information updated.

Under current law PFD payments could be made in calendar year 1984 for the 1984 program. If subsequent to receiving a PFD payment an applicant became ineligible due to felony conviction, Enforcement would be faced with the task of trying to recover from the felon.

The appeals process may also be impacted as any person who applies and is denied has the right to appeal. It is conceivable that some incarcerated convicted felons, although ineligible by law, may file appeals for the lack of anything else better to do.

TCW/dlr

MEMORANDUM

State of Alaska

TO: Bruce Botelho
Deputy Commissioner
Department of Revenue

DATE: February 15, 1984

FILE NO: 366-424-84

TELEPHONE NO: 465-3600

FROM: Norman C. Gorsuch
Attorney General

SUBJECT: Review of HB 575,
relating to PFD pay-
ments to prisoners

By: Diane T. Colvin *DTC*
Assistant Attorney General
Commercial-Juneau

You asked us to review House Bill 575, relating to payment of permanent fund dividends to convicted felons, for possible legal problems. Based on our review, we conclude that the bill, if enacted, could be challenged on a number of grounds. The provisions most vulnerable to legal challenge are summarized below.

HB 575 makes a convicted felon ineligible for a permanent fund dividend. The prohibition is applied not only to a felon who is in prison, but also to one who is on probation, on parole, or under a suspended imposition of sentence (Sec. 1).

There are other state laws that impose similar disabilities on convicted felons. Art. V, § 2, Alaska Constitution, implemented by AS 15.05.030, suspends the right to vote of a person convicted of a felony of moral turpitude. The disability continues until the individual's civil rights are restored by unconditional discharge. Unconditional discharge covers conviction and sentence, including, by definition (AS 15.60.010(32), probation and parole, and, according to an opinion of this office, suspended imposition of sentence. 1980 Inf. Op. Att'y. Gen. (Nov. 7).

Statutes imposing disabilities relating to suffrage have traditionally been upheld as necessary to preserve the purity of elections. The presumption is that one rendered infamous by conviction of a felony is not fit to exercise the privilege of voting. State ex rel. Barrett v. Sartorius, 351 Mo. 1237, 175 S.W.2d 787 (1943). See, also Annot., 36 A.L.R.2d 1238 (1954).

Other statutory provisions affect prisoners' civil rights. AS 33.30.310 provides as follows:

A judgment of imprisonment in the penitentiary for a term less than for life suspends the civil rights of the person sentenced, and forfeits all public offices and all private trusts, authority, or power during the term or duration of imprisonment.

AS 33.30.320 relates to the civil rights of a person sentenced for life.

AS 33.30.310 was found unconstitutional by the Alaska Supreme Court to the extent the statute denied a parolee the right to initiate a civil suit in court. Bush v. Reid, 516 P.2d 1215 (1973). The court held that the statute denied the parolee the right to due process and equal protection. In its equal protection analysis, the court recognized that the state may have a reasonable basis for denying convicts while imprisoned access to the civil courts. Id. 1221. But, the court found, the administration of a parole system differs substantially from the administration of a prison. The reasons that support imposition of disabilities on prisoners cannot logically support the same restrictions on parolees. Id. Thus, the court concluded that although the state has a legitimate interest in restricting some activities of parolees, prohibiting a parolee from initiating a civil action has no logical connection with that interest. Therefore, the court held parolees were denied the right to equal protection.

We believe the court would make a similar finding in regard to the right to a permanent fund dividend while on parole. There may be a legitimate state interest in precluding a person incarcerated from receiving a permanent fund dividend. 1/ It is difficult, however, to construct a logical basis for denying a dividend to a parolee. The purpose of parole, recognized by the court in Bush v. Reid, is the parolee's constructive development and restoration into normal society. Cutting a parolee off from receipt of a permanent fund dividend does not further that purpose, but rather restricts it. We believe the same argument would apply to persons given a suspended imposition of sentence and placed on probation. The broad objectives sought by

1/ HB 575 does not indicate what the legitimate state purpose is. It would be advisable for the legislature to make that determination, and to embody the purpose or purposes in a letter of intent to accompany the bill.

Bruce Botelho, Deputy Commissioner
Department of Revenue
Our file no.: 366-424-84

February 15, 1984
Page 3

probation are education and rehabilitation. These objectives are not furthered by restricting the right to receive a permanent fund dividend. Therefore, we believe that revising the bill to restrict receipt of a dividend only to convicted felons who are incarcerated would make the bill much less vulnerable to attack on equal protection grounds.

Another point on which the bill is vulnerable is the period of time for determination of ineligibility. Section 1 of the bill now makes a convicted felon ineligible for a dividend for a particular year if, during all or part of that year, the person is incarcerated, on probation, etc. AS 43.23.005 requires only six months of residency to qualify for a permanent fund dividend. We believe in order to be legally supportable the period of incarceration must coincide with at least some portion of the period of eligibility. 2/

Finally, section 1 of the bill provides that the money that would have been paid to persons made ineligible by the bill be transferred from the dividend fund to the crime victim compensation fund. This may raise problems under Art. IX, § 13, of the Alaska Constitution, relating to expenditures of state funds. A better approach would be for the bill to provide that the legislature may appropriate the amount that would have been paid to the crime victim's compensation fund. In order to effect the transfer, the amount that would otherwise have been paid must be set out in an appropriation bill to the crime victim's compensation fund.

We hope this information is helpful to you. If you have further questions, please contact us.

NCG:DTC:eja

cc: The Honorable Charlie Bussell
Alaska State House of Representatives

2/ 15 AAC 23.615(a) establishes for 1983 dividends an eligibility period from October 3, 1982 through March 31, 1983. This period will probably differ in 1984 and subsequent years because of changes in the statute.

Legislature '84

Barnes' bill would put stop to inmates' dividend checks

Associated Press

Juneau — Although bars do a prison make, prisoners are not barred from receiving Permanent Fund dividend checks, a situation that House Majority Leader Ramona Barnes wants to correct with a bill she will introduce Monday.

Barnes, R-Anchorage, said Thursday she has readied a measure that should put a stop to dividend money going to Alaska prison inmates.

Although she said she wasn't sure how many prisoners were receiving the checks, a number of constituents told her that "felons were getting Permanent Fund dividend checks while behind bars.

"I was told that one of them was playing the stock market with his (money)," she said. "And one inmate a year ago got a \$6,000 student loan for a real estate course that no longer existed. The course only cost \$225,

but luckily he didn't get ahold of the check.

"The intent of the bill is not to compensate inmates while they're paying their debt in prison," Barnes said, indicating that the Department of Law believed the measure was constitutional. "We have a victim's compensation fund and that (dividend) money would be better spent on victims than criminals."

Kerry Romesburg, executive director of the Postsecondary Education Commission, confirmed the report about an inmate getting a loan approved for a real estate course.

That person was in minimum security and cleared to take classes, Romesburg said, adding that he "had signed up for a course that didn't exist.

"We will not grant a loan to a person who is incarcerated," he said. "In fact, one of the first things we do to people who process loans is make sure they know the addresses of our correctional institutions," he said. "We get a lot of them (requests) — around 10 a year."

The Alaska Permanent Fund, the state's oil wealth savings account, was established by constitutional amendment in 1976.

It requires that at least 25 percent of all mineral lease rentals, royalties, royalty sale proceeds, federal mineral revenue sharing payments and bonuses received by the state shall be placed in a permanent fund.

H

B

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STATE OF ALASKA

JAY S. PALMORO, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

515 Willoughby Avenue
Juneau, Alaska 99801
(907) 586-1861

December 1, 1982

Bernie and Mary Holland
Box 67
Juneau, Alaska 99802

Dear Mr. and Mrs. Holland

RE: Holland Foster Home

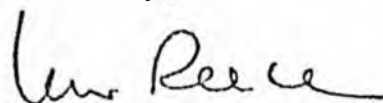
You are hereby notified that the enclosed Accusation has been filed with the Department of Health and Social Services, Division of Family and Youth Services. The Division of Family and Youth Services will conduct a hearing, if requested, to decide the issues presented in the Accusation.

Notice of Defense and Request for a Hearing

The enclosed accusation was prepared pursuant to AS 44.62.360 and sets forth the issues that will be decided by the Department of Health and Social Services, Division of Family and Youth Services. This letter constitutes notice as required by AS 44.62.380 that you may request a hearing on the issues set forth in the Accusation.

Unless a written request for a hearing signed by you or on your behalf is delivered or mailed to the Division of Family and Youth Services within 15 days after receipt of the enclosed Accusation, the Division of Family and Youth Services pursuant to AS 44.62.530 will decide in your absence the issues presented in the Accusation. The request for a hearing may be made by delivering or mailing the enclosed Notice of Defense to the Division of Family and Youth Services in the enclosed envelope, postage prepaid. Mailing of the Notice of Defense signed by you or on your behalf and returned to the Division of Family and Youth Services within 15 days in the enclosed addressed envelope, postage prepaid, acknowledges receipt of the enclosed Accusation and constitutes a notice of defense pursuant to AS 44.62.390.

Sincerely,


Lew Reece
Regional Administrator

Enclosures

Accusation
Notice of Defense
Envelope (postage prepaid)

103

LFW:JRP:PM:kew

Bruce M. Botelho
Assistant Attorney General
Office of the Attorney General
Pouch K
Juneau, Alaska 99811
(907) 465-3603

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the matter of Bernie and)
Mary Holland, a Licensed)
Child Foster Home,)
Respondent.)

Facility No. 4190

ACCUSATION
(AS 47.35.040, AS 44.62.360)

Petitioner Lew Reece, Regional Administrator, Division of Family and Youth Services, Alaska Department of Health and Social Services, alleges:

1. This is a proceeding authorized by AS 47.35.040(b) and AS 44.62.360 to condition child foster home license 4190, held by Bernie and Mary Holland, hereinafter "respondents."

2. The respondents were issued License No. 4190 on May 23, 1982 authorizing them to operate a child foster home at 707 West 10th Street, Juneau, Alaska.

3. On or about July 15, 1982 the Division of Family and Youth Services received complaints from two youths who had been placed in the respondents' home. The allegations consisted for the most part of charges that respondents had been physically or verbally abusive, had taken inappropriate disciplinary measures, had failed to exercise restraint over their own children, had provided day care services, and had adult boarders in the home without division approval.

4. The division immediately initiated an investigation. The investigation included interviews with respondents and several youths who had been in respondent's care. Respondents refused to discuss most allegations with the division, claiming that the division had harassed them and declaring:

"In regard to your expectations of receiving a telephone call from me . . . to discuss those "allegations;" As I expressed during our meeting on July 23, 1982, these "allegations" will not be addressed by me . . ."

5. On July 27, 1982 the division again urged respondents to reply to the allegations. No reply was received.

6. In the succeeding weeks the division, through the Department of Law, attempted to conciliate with respondents, to no avail.

7. On September 27, 1982 the division finally closed its investigation and, because of the summary failure of respondents to address the complaints, concluded that most allegations were uncontradicted. (Accordingly, the division referred the matter to the Department of Law for further action.) *Lie! They recommended revocation.*

8. The Department of Law again initiated steps to reconcile the differences between respondents and the division, including scheduling of a meeting with Helen Beirne, Commissioner of Health and Social Services.

9. Respondent Bernie Holland has consistently refused to formally respond to the allegations, making it difficult, if not impossible, for the development of on-going professional relationships between the division and the licensed home, a prerequisite to determinations of compliance with state law.

10. Respondents' failure to cooperate, as set forth above, is a basis for conditioning of respondents' license under AS 44.62.360.

ACCORDINGLY, Accuser requests that

1. Foster Home Care License No. 4190 be amended to include the following conditions:

- a. licensees will notify the department of all non-related adults living in the home for more than 21 days;
- b. licensees will seek department approval of all day care services provided in the home;
- c. licensees will provide the department a written description of their behavior management and discipline techniques (including any planned use of corporal punishment or family trials) within 30 days of issuance of the license with conditions; and
- d. licensees will cooperate with all department requests for information related to the operation of their child foster home, license 4190.

DATE: 12/1/82

Lew Reece
Lew Reece

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the Matter of:

Bernie and Mary Holland
Child Foster Home

Respondent

Facility No. 4190

NOTICE OF DEFENSE

The respondent, pursuant to AS 44.62.390, hereby acknowledges service of the Accusation or Statement of Issues and gives notice of defense on the following grounds:

A hearing on the matters set forth in the Accusation or Statement of Issues is requested.

DATE: _____

Respondent _____

Mailing Address: _____

NOTE: This Notice of Defense must be signed by or on behalf of respondent, must set forth respondent's mailing address and must be filed with the Division of Family and Youth Services within 15 days of receipt.

STATE OF ALASKA

JAY S. HALKEMA, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

515 Willoughby Avenue
Juneau, Alaska 99801
Phone: (907) 586-1861

September 27, 1982

Bernie and Mary Holland
P.O. Box 67
Juneau, Alaska 99802

Dear Mr. and Mrs. Holland:

This is to inform you that the Division's investigation of complaints regarding your foster home has been concluded. You have responded to allegation #10 that foster children have been relocated from the basement to the upstairs bedroom. With that exception, no response or corrective action plan to the allegations which were delivered to you on July 23, 1982 has been received by the Division. You have continued to be unwilling to discuss the allegations, therefore the findings in this letter are based solely on the Division's investigation without any information provided by either of you.

INVESTIGATION FINDINGS

1. Allegation: Bernie and Mary Holland yell and direct vulgar and abuse language towards foster children.

Findings: 75 percent of the foster children interviewed stated that verbal and vulgar language had been directed at them, or other foster children, in the home.

Required: "..... in no event may any child in care be subjected to verbal abuse...." 7 AAC 50.450,(2).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

2. Allegation: Bernie Holland frequently hits foster children with a stick, ruler, yard stick and his hands.

Findings: 87 percent of foster children interviewed stated they had been hit by Mr. Bernie Holland with either a stick or his hand. A majority of foster children interviewed stated that they witnessed Mr. Holland hitting other foster children.

Required: ".....in no event may a child in care be disciplined by shaking or by delivering a forceful blow with hand or weapon..." 7 AAC 50.450,(5).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

3. Allegation: Mr. Bernie Holland squirted lemon juice into a resident's mouth as punishment, and in the process of the resident resisting, used force to open the resident's mouth by holding the jaw and applying pressure.

Findings: Although this allegation is an isolated incident with the alleged victim graphically describing what happened, there is no corroborating evidence to support the allegation.

Required: "... in no event may a child in care be subjected to unusual, severe, cruel, capricious, humiliating, or unnecessary punishment;" 7 AAC 50.450,(1).

Conclusion: This allegation is found to be unsubstantiated. This means that the violation could have occurred as alleged, but the evidence is not conclusive, or sufficient evidence is not available to make a determination.

4. Allegation: Mr. Bernie and Mrs. Mary Holland are providing day care in their home for 2-5 children.

Findings: 100 percent of the foster children interviewed stated that they observed day care being provided in the Holland home.

Required: Number of foster children permitted in home, "... no more than eight children in all are permitted in any one home..." "... no more than five children of any age who are unrelated to the foster parents are permitted." 7 AAC 50.430(b)(d).

Day care of children and commercial care for the aged, or maternity, or convalescent patients may not be combined with foster care of children without prior approval of the Division representative. 7 AAC 50.440(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

5. Allegation: There is not sufficient space for each foster child to have specific place to keep his/her own personal possessions.

Findings: This allegation deals specifically with the female residents who lived in the basement and shared a room with an alleged boarder. All female residents interviewed stated that they did not

have enough room for their possessions due to the alleged boarder using up most of the available space.

Required: "..... there must be a sufficient space and a specific place for each child to keep his own clothing and personal possessions." 7 AAC 50.450(c).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

6. Allegation: The Holland children have played with, destroyed, broken or lost the foster children's personal possessions.

Findings: 85 percent of the foster children interviewed stated that they had either had lost, or had destroyed or had broken personal possessions due to the Holland children. They also stated that even though they complained to the Holland's about the situation, it was never corrected.

Required: ".....foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

7. Allegation: The Holland children are allowed to annoy and "bug" the foster children. When a conflict arises over this issue, that the foster children are verbally abused, and the "foster children are always wrong, and the Holland children are always right."

Findings: 80 percent of the foster children interviewed stated that they felt "bugged" at times by the Holland children, and when the issue was confronted the foster children were yelled at for causing a disturbance.

Required: "..... in no event may a child in care be denied treatment equal to that of the foster parents' own children as a method of discipline;..." 7 AAC 50.450(7).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

8. Allegation: Adult boarders are living in the Holland foster home and they are sharing sleeping quarters with foster children.

Findings: That there are two additional adults living in the Holland foster home without proper knowledge of the Division.

Required: "Foster parents shall report to the Division representative any significant changes in the household...that would affect the ability to care for foster children." 7 AAC 50.420(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

9. Allegation: Adult boarders participate in the family meetings and trials and are allowed to vote on foster children's punishment.

Findings: A majority of foster children interviewed stated they had been subject to or observed alleged boarders participating in family meetings or trials.

Required: "Foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410,(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

10. Allegation: Three foster children and one adult boarder sleep in a bedroom with no windows.

Findings: By personal observation from myself, Carolyn Touvinen, CCS II, and personnel admission from Mr. Holland, this was found to be true.

Required: ".....each foster home must have one or more windows which are large enough for emergency exit and rescue in each sleeping room."

Conclusion: This allegation was found to be valid upon inspection. However, Mr. Holland agreed to move the foster children to another room, which was accomplished within a 24-hour period. Therefore, at this date, the allegation is found to be invalid as long as that particular room is not used for foster children, or until the room is brought up to standards.

11. Allegation: Family meetings are held late at night and often last from 11:00 p.m. to 2:00 a.m., and that foster children do not get enough sleep because of this and that one foster child fell asleep at a meeting and was punished for ...

Findings: A majority of foster children interviewed stated that family meetings and trials could and would last until all hours of the night, and also stated punishment was dealt out for falling asleep.

Required: "Foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410,(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

12. Allegation: Bernie Holland has belittled and used cruel and derogatory remarks when describing a foster child to other foster children, and to other persons who have entered the foster home.

Findings: All foster children interviewed in regard to the allegation stated they had been subject to or witnessed another foster child be subjected to belittlement or derogatory remarks.

Required: ".....in no event may a child in care be subjected to verbal abuse, derogatory remarks about himself or members of his family...." 7 AAC 40.450,(2).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows that the standard was violated.

13. Allegation: Bernie Holland patted a female resident on the bottom, grabbed a female resident around the waist and while "wrestling, grabbed her legs to get a cheap feel".

Findings: A female foster child made this complaint (patting on bottom) in writing. She stated that it happened and that she did not like it. The wrestling incident was observed by another foster child, who thought that Mr. Holland's behavior was inappropriate. This incident (wrestling) is also in a written statement.

Required: "The foster parents must show evidence of being responsible, mature individuals of reputable character who exercise sound judgement and display the capacity to provide good care for children." 7 AAC 50.410,(a).

Conclusion: This allegation is found to be valid. Valid means that the evidence shows the standard was violated.

In addition to the July 23, 1982 allegations, the Division became aware of additional non-compliance items when a standard-by-standard evaluation was conducted on your home from August 4, 1982 to August 6, 1982 for consideration of your application to operate a residential child care facility. The following areas would be in non-compliance under 7 AAC 50.310 to 7 AAC 50.620:

1. 7 AAC 50.410(1) - "An annual license may not be issued without written evidence that all members of the household 16 years of age or older are free from active tuberculosis;"

According to the standard-by-standard evaluation there was no record of written evidence that this requirement has been met. On September 21, 1982 tuberculin clearances dated September 16, 1982 were received for both of you. If there are any other adult members of the household, additional tuberculin clearances are required.

2. 7 AAC 50.560(b) - "A 5-lb ABS dry chemical fire extinguisher or its equivalent must be charged at all times and strategically located; more than one is required for multi-level homes."

The standard-by-standard states that there is only a 2 1/2 lb. ABC extinguisher in the basement area which has been previously used as living space for foster children. While the Division has interpreted and implemented the above requirement as meaning that there must be a 5lb. extinguisher on every level of a multi-level home, the Division concedes that your home has two acceptable extinguishers and therefore, meets the requirement for more than one for multi-level homes. Correction is advised, but not required.

3. 7 AAC 50.570(f) - "Firearms must be unloaded and stored in a place inaccessible to young children. Ammunition must be stored separately in a place inaccessible to children."

It was reported in the standard-by-standard that one hand gun was accessible to children while loaded and that the gun was unloaded in front of the licensing worker. There is no issue with compliance at this time as the gun was unloaded. However, in the future all guns must remain unloaded and ammunition stored separately and inaccessible to children.

EVALUATION AND RECOMMENDATION

All of the above allegations are of a serious nature and all except #3 were found valid upon investigation. The three additional findings in the recent standard-by-standard evaluation are also serious. You have demonstrated a total lack of cooperation with the Division in dealing with the allegations. If corrections have occurred, you have failed to inform the Division. For example, at least six telephone calls to your attorney were necessary to obtain the tuberculin clearances.


Mr. and Mrs. Holland

-7-

September 27, 1982

Given the pattern of violations, and your refusal to respond or to formulate a corrective action plan, the Division is referring your case to the Department of Law for consideration of license modification, license suspension, or revocation. You will be informed of the Department of Law's recommendation to this Department.

Sincerely,



Lew Reece
Regional Administrator
SERO - Juneau

Enclosure

LR:JRP:PM:pvk

1772h
Gregory F. Cook
Faulkner, Banfield, Doogan & Holmes
P.O. Box 1150
Juneau, AK 99802-1150
(907) 586-2210

STATE OF ALASKA
DEPARTMENT OF HEALTH AND SOCIAL SERVICES
DIVISION OF FAMILY AND YOUTH SERVICES

In the matter of Bernie and)
Mary Holland, a Licensed Child)
Foster Home,)
Respondents.) NO. 4190

CHRONOLOGICAL SUMMARY

1972 Mary and Bernie Holland begin accepting foster children into their home in Juneau, Alaska

1972-1981 H&SS consistently evaluates Holland foster home as one of the best in Alaska.

October 1978 H&SS/DFYS adopts regulations governing foster child care

September 16, 1981 Artie J, a foster child placed by the State at the Holland's home, sexually molests the Holland's 8 year old son. Hollands request State remove AJ from their home and obtain psychological counseling for him.

Mid-October, 1981 Rumors circulate at DFYS that BG Holland will complain to Ombudsman about State's "mishandling" of AJ case. Rumors circulate at DFYS that Bernie Holland uses drugs, beats his wife, molests female employees.

October 31, 1981 AJ, placed in Gisel foster home, rapes and sodomizes young daughter of foster parents. State had obtained no psychological counseling for AJ. H&SS' worries escalate regarding possible complaint to Ombudsman by Mr. Holland.

October 23 - November 9, 1981 Dr. Lobo investigates Holland House, finds rumors unsubstantiated. H&SS Pugh telephones BG Holland and states: "You won't get a license for your group foster home; no money in the budget this year, or next year."

1 November 1, 1981 H&SS employee Danneker tells Father
2 Lobo "If it wasn't for those goddam
3 Hollands this would never have
4 happened." (AJ's rape incident of
5 10/81 at Gisel home)

6 November 13, 1981 BG Holland makes formal complaint to
7 Ombudsman re H&SS failures on AJ
8 case.

9 November-December, 1981 Alaska Foster Parent Association
10 tells BG Holland "If you file a
11 complaint, DFYS will lay formal
12 allegations against you. That's
13 their standard operating procedure
14 in Anchorage."

15 December, 1981 All foster children removed from BG
16 Holland home. H&SS explains this as
17 merely coincidental and "natural
18 attrition."

19 June 4, 1982 Holland House group home provisional
20 license signed by Kay Smith, H&SS
21 (license # 235005)

22 June 4, 1982 Highly laudatory personnel
23 evaluation for Father Lobo received.

24 June 8, 1982 Father Lobo attends H&SS meeting to
25 discuss Holland group home
26 application. Lobo speaks favorably
27 of Hollands. All administrators
28 opposed to granting Hollands a group
29 home license.

30 June 10, 1982 H&SS, Mr. Pugh, calls meeting with
31 BG Holland, Reece, Hansen, Monroe, &
32 Walker to reject Holland group home
application.

June, 1982 H&SS, Mrs. Borkowski hears Mr. Reece
at Regional Office, call BG Holland
("that son of a bitch...").

July, 1982 H&SS, Mrs. Borkowski, hears Reece
and Smith say about BG Holland
"We'll shut him up and he'll never
get his hearing..." (to appeal
denial of group foster home license).

July 13 (or 16?), 1982 DFYS decides to suspend Father Lobo

July 14, 1982 Danny H. and Mickey H. accuse BG
Holland of bad actions.

July 15, 1982 Evening meeting: H&SS Olson, BG
Holland, Dr. Brandaman, Dr.
Horchover, Mickey H. Mickey H.

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admits allegations against BG Holland were lies by her and Danny H; only an attempt to show anger, frustration.

July 16, 1982

H&SS, Mr. Reece, receives written and oral reports from Probation Officers Olson and Anderson clearing BG Holland. Reece orders Danneker to investigate and "get Holland, I've got my orders."

July 16, 1982

DFYS orders highly unusual investigative procedure: Holland file removed from "Family" side of DFYS (Father Lobo) and permanently given over to "Youth Services" side of DFYS (Danneker, Reece and AJ's Probation Officer, Mr. Wild).

July 23, 1982

H&SS, Danneker and Tuovinen arrive unannounced at BG Holland home, make allegations against BG Holland of child molestation; call BG Holland "asshole"; threaten to remove all foster children from Hollands. Danneker and Tuovinen present a formal written document accusing the Hollands of thirteen allegations, including child molesting/sexual abuse.

July 28, 1982

smoking clope

Danneker receives phone call tipping him off that BG Holland is aware of Danneker's misbehavior in Wrangell (sleeping with foster mother, smoking marijuana in ^{State Vehicle} ~~State Vehicle~~ while on duty; being caught smoking marijuana in ^{State Vehicle} ~~State Vehicle~~ by child he was assigned to supervise as the child's probation officer).

August 5, 1982

Laurie Vaughn conducts Standard by Standard evaluation of Holland House. Hollands cooperate fully.

August 6, 1982

H&SS, Mr. Reece, asks Alaska State Troopers to investigate BG Holland to see if BG Holland had access to AJIS system. AST later reports Holland has no access to AJIS.

August 11, 1982

Alaska State Troopers respond to H&SS Monroe's request for criminal history information on Mary and BG Holland. AST later reports no criminal history exists.

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1 August 17, 1982

Investigator Danneker makes final report directly to Mr. Pugh. Report was approved by Reece and finds all allegations uncontradicted. Recommends license revocation.

2
3
4 August 20, 1982

Danny H files affidavit with H&SS stating all charges made 7/15/82 against BG Holland false

5
6 September 27, 1982

DFYS officially closes its "investigation" of Hollands. DFYS concludes "most allegations were uncontradicted." Notifies Hollands of conclusions.

7
8
9 November 11, 1982

BG Holland requests and receives meeting with Commissioner Beirne, H&SS to seek settlement. Botelho tells Holland "Danneker bungled the investigation." Botelho tells Holland "Reece doesn't think you have been punished enough."

JAN meetii

Dec. meetii

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11
12
13 December 1, 1982

H&SS, Mr. Reece, files formal accusation of BG Holland incorporating by reference thirteen allegations of 7/23/82.

14
15 December 2, 1982

H&SS, Mr. Reece, receives letter from Danny H. admitting falsity of charges against Hollands; DH explains reasons for making false charges.

16
17
18 December 3, 1982

BG Holland requests meeting with Mr. Reece to discuss settlement.

19
20 December 15, 1982

H&SS, Mr. Reece, receives letters from Mickey H. and Kathy S. admitting falsity of charges against BG Holland.

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22
23
24 Dec 20, 1982.

AST investigates BG Holland upon insistence of Lew Reece for interfering with an investigation and divulging ^{confidential} information to another foster parent.

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27
28
29 JAN 19, 83

Botelho a Pugh ask Holland to meet with them.

This paper is a "Chrono" of events that have happened since September 1981

1. In September 1981 we put in an application for a group home license for teenagers.
2. On September 23, 1981 we had a fourteen year old child removed from our home as my wife caught him trying to molest our eight year old son.
3. Mid-October 1981--- Rumors began to spread around the Regional office about our over-reacting towards having that child removed from our home that was trying to molest our son. The P.O. Bob Wild wrote a report to Dr. Tony Mander and called us over-reactors for having the child removed when we did.
4. Further rumors were spreading in the division-- I beat my wife, drink excessively, use drugs, and molest my female children.
5. Dr Alinio Lobo "informally checked" on these rumors from Oct 1981 through November 1981 and found no wrong doing, in fact just the oposite.
6. October 30, 1981---m there was a meeting in the Regional office that was called by Ms. Kay Smith. The meeting was about my proposed group home proposal. In attendance was Dr. Lobo, Ms Kay Smith, Mr. Lew Reece and Myself. During the meeting, my proposal was rejected for group home application and an improved version was asked for.
7. October 31, 1981---m The same 14 year old boy who we had removed from our home was arrested by the Alaska State Troopers for rape and sodomy on a 6 year old girl who was a member of the household the boy was placed in by his P.O. Wild.
8. November 12, 1981-- I recieved a telephone call from Mr. John Hugh the Director of Family & Youth Services while I was at work at the Alaskan Coin connection located at 723 West 10th Street. He called to tell me that no funds existed in the budget to support my group home. I informed him that I have never asked the department for money and he stated that the department suffered a huge budget cut and that funds would not be available for the next year for my group home. His conversation than got around to Art Johnson and the incident in our home and he said to me " We've had staff meetings concerning that incident and we've got our asses covered."
9. November 13, 1981-- I filed a written complaint with the State Ombudsman's office of Gross Negligence against the P.O. Bob Wild. I also stated in that same corresspondance that I was told about the no funds for the group home.
- 6-82 10. When Ms. Smith learned of my filing a complaint she stated to Helen Borkowski that " His name is shit in my book" And when Ms. Borkowski asked her who she was talking about she said "That Bernie Holland""He filed a complaint with the Ombudsman's office and now he a can't be trusted, he'll probably go running to the Ombudsman every chance he gets".

Investigated by Lobo.

11. Between the dates of November 13, 1981 and December 15, 1981 all the children were removed from our home. Ms Smith testified under oath that this was due to "natral attrition".
12. December 11, 1981--- Mr. Lew Reece wrote a confidential memo to Mr Dave ARnold with a copy to Mr John Pugh telling him of my meeting with them on October 30, 1981 and my group home proposal.
13. January 13, 1982 --- Submitted my new group home proposal and when Ms Smith saw this she stated in from of Ms Helen Borkowski " The nerve--- he'll get his license ~~xxx~~ over my dead body.
14. In March 1982 the division began sending hard core cases to our home as they were then under investigation by the Ombudsman's office.
15. In May 1982 the Ombudsman sent a copy of his findings to Mr. John Pugh and on June 7, 1982 Mr Pugh acknowledged the Ombudsman's report with a letter dated June 7, 1982. By this acknowledgement he was aware of my group home plans.
16. June 4, 1982 Ms Kay Smith signed the license approval form and then went to Central Office and had a meeting with Ms Yvonne Walker concerning my group home license, and in fact gave her a copy of my Program Evaluation & Licensing Recommendation. A meeting was held in the C.O. and my license was denied that day. The same day as approval. Everyone denied this meeting except the secretary Ms Helen Borkowski who stated she recieved a telephone call from Ms Smith who stated she was in Walkers office.
17. June 8, 1982-- a meeting was held in Central Office with John Pugh, Yvonne Walker, Connie Hansen, Alinio Lobo and Pat Monroe. My License was discussed and denied at that meeting. Connie Hansen stated under oath that it was denied at this meeting and Dr Lobo left this meeting with the same feeling. At 11:30 am that same date I was in Dr Lobo's office when he recieved a phone call from Yvonne Walker telling him of the meeting and to bring the important documents for this case. Dr Lobo had my file at that time as it was on his desk because he copied my Standard-By-Standard Evaluation, Program Evaluation & Licensing Recommendation as well as the CWS 80A for me. Pugh stated he read my file and program evaluation before that June 8, 1982 meeting and had questions for Dr Lobo and Connie Hansen. It's impossible because my file never left the Regional Office until the 9th of June 1982. Pat Monroe called me the afternoon of June 8th and wanted a meeting with me on the morning of the ninth to discuss my license. I set up a meeting for the 10th of June and during that meeting John Pugh denied my license three times. Pat Monroe stated she took my file home the night before to study it upon orders from John Pugh and found too

18. June 8, 1982--- at approx. 7:30 pm I saw Dr Lobo at the Juncau Airport and he stated to me that he thought my license was going to be denied from what went on at the meeting he was at earlier that day in C.O. He further stated my license was pulled from the clerks desk.
19. Dr Lobo testified he had possession of my file untill 5:00 pm on June 8, 1982 because he put pertinent documents back into my file upon his return from C.O.
20. June 7, 1982 John Pugh wrote a letter to the Ombudsman acknowledging receipt of his report.
21. June 14, 1982--- I telephoned Ms. Pat Monroe in the C.O. and asked her for a written denial based upon her office's verbal denial on June 10, 1982.
~~XXXXXXXXXX~~
22. Written denial done by Pat Monroe on June 15, 1982--- Signed by Ms Walker.
23. Late June 1982--- The secretary Ms Helen Borkowski overheard a talk between Mr. Lew Reece and Ms Kay Smith, once it was learned I filed for a hearing concerning this denial of licensure,---- to thwart my hearing by counteracting made up allegations that would silence me once and for all.
24. July 14, 1982-- Danny Joe Harrison was sent back to jail for violation of his probation. He was contacted by Robert Danneker and then ~~made~~ ^{was helped to make} allegations against us. ^{w/ Danneker}
25. July 15, 1982-- Mickey Horschover made complaints against us to her P.O. Marilyn Olson--- A meeting was held that evening with her father Dr. Robert Horschover, her psychologist Dr Sonya Brandaman, myself and P.O. Olson. At that meeting she stated that the only reason she was complaining was because she was tired of being punished by the state. And that "Being at Bernie & Mary Holland's house was probably the best thing that ever happened to her because she would probably be dead from drugs or something else". Mr Olson stated he would write his report reflecting we were clear from any wrong doing.
26. During that week the probation department interviewed all residents in my home and on the 16th of July 1982 Mr. Norm Anderson and Mr Marlyn Olson's report to their superior Mr Lew Reece showed no wrong doing in my household and that collusion existed between Mr Danny Harrison and Ms Mickey Horschover. Mr Reece told his P.C.'s that these reports were bullshit and that he had his orders from upstairs and he was going to get that bastard meaning me.

27. I received a telephone call from an individual telling me even tho I was cleared of any wrong doing, Reece had his orders to get me and that allegations, and this individual told me what they were, would be laided upon me within two weeks.

28. July 23, 1982--- Mr Robert Danneker and Ms Carolyn Touvenen came to my residence and served my wife and I with thirteen allegations. For 1 1/2 hours they harrassed us into trying to answer them with thrates of removing the children and at one point Danneker said to me "Just answer the allegations asshole.

29. At 10:42 p m Robert Danneker (friday night) called my house to tell me they had completed part of there investigation and that he would be serving them on me the next morning at 9:00 am . That evening at 6:00 pm two of my foster children walked down to the office at 515 willoughby ave and Danneker told them they had new homes for them.

30/ On Junly 24, 1982 I wrote a letter to Mr Danneker telling him I would not answer his allegations.

31. On July 27, 1982 Mr. Danneker wrote me a letter telling me I was impeding his investigation and thereby violated three statutes and that I had ten days to answer him in regards to these allegations..

AUG 17
letter

32. On September 27, 1982 the Division found that all these allegations except one was true. It was referred to the Attorney General's office.

33. On September 23, 1982 the Asst A G informed me that no evidence exists confirming these allegations and that he would take no action on my license when the regional office sent it to him and he called Fred Baxter to tell him of this.

34. I attended a meeting with the Commisioner Helen Beirne with the Asst A G and all she wanted me to do was answer the allegations. She stated that Pugh had really trying to get ahold of me. I refused to sit down with him as he lied at the Oct 4-7 hearing about not knowing about my license application and reading the files, on June 8, 1982.

35. On Oct 11, 1982 I filed purjury charges against Pugh and Monroe with the D A's office with documentation against Fugh.

Ombuds
Fingings

36. Nov Met w/Beirne

37. JAN 83 Settlement + comprimise Agreement

38. Apr Notice of Hearing

39.

MEMORANDUM

State of Alaska

TO: Mr. Lew Reece
Regional Administrator
Southeast Region
Youth Services

DATE: July 16, 1982

FILE NO:

TELEPHONE NO:

FROM: N.L. Anderson
Probation Officer II
Youth Services
Juneau

SUBJECT: Abuse Allegations

On July 14, 1982, I received a phone call from Bernie Holland, foster parent, about Danny Harrison, one of my clients placed in the Holland home. Mr. Holland said he was about have Harrison removed. Harrison was: (1) lying; (2) failing to perform chores; (3) associating with people he had been restricted from; (4) ripping off other foster children in the house; (5) trying to "scam" Mr. Holland on an unemployment check ploy. I asked Mr. Holland to have Harrison report to me at 11:00 a.m.

Harrison called me at 9:30 a.m. to say he could not come at 11:00, that he had a State Office Skills test scheduled at that time. I instructed Harrison to report at 1:00 p.m. instead.

Upon returning to the office after lunch break, there was a note in my box that Harrison had come in at 12:25 p.m. to see me. At 1:15 p.m. Mr. Holland called to ask if I had seen Harrison. I told him of the test conflict and that Harrison was a no-show for the new time. Mr. Holland said Harrison was in his room playing his guitar.

I drove to the Holland residence to take Harrison for a urine sample, per court order. One of the people he had been associating with is a rather well known (to this office) cocaine user.

On the way to the testing center, Harrison denied allegations Mr. Holland had made earlier of violating the foster home rules and/or Conditions of Release. Upon arriving at the urine testing center, Harrison would not produce a urine sample, saying the timing was bad and he could not urinate. After 15 minutes, I took him to the Johnson Center. Upon threat of being detained, Harrison produced a more than ample urine sample within 5 minutes. Returning to the Holland residence Harrison continued to deny any wrong doing on his part. I decided to have a meeting with Mr. Holland, Harrison and myself to resolve the matter.

I explained to Mr. Holland that Harrison was denying any wrong doing. Mr. Holland, in Harrison's presence, outlined the problems he was having with Harrison. Harrison then admitted to most of the charges, but tried putting the blame on other foster children in the home or saying "I'm trying to be good, you can't expect me to change overnight". He continued to deny the unemployment check "scam". Mr. Holland then called Officer McCracken, JPD, to whom Harrison had boasted of the "scam". With the three of us listening, McCracken outlined the conversation he had with Harrison: