ALASKA LEGISLATURE COMMITTEE FILES 1983-1984 8612

2492 HJ SB 504 - SJR 19

2/92

SB

513

COMMITTEE REPORT

HOUSE

(7) FURTHER:

Date: 4/10/84

The Committee on JUDICIARY has had SB 513

"An Act relating to renunciation of rights in decedents' estates."

under consideration and recommends:

[ ] do pass [ ] do not pass

[ ] do pass with attached amendments(s)

[ ] replace with CS for _____ [ ] same title [ ] new title

and recommends _____

[ ] AND attaches a "Letter of Intent" [ ] New Fiscal Note [ ] Zero Fiscal Note Attached

[ ] reports it back without recommendation

[ ] referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984 No. 21

ALASKA CODE REVISION COMMISSION

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878

March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

RE: (1) a bill relating to principal and income of trusts; (HB 693/SB 511)
(2) a bill relating to administration of decedents' estates; (HB 694/SB 512)
(3) a bill relating to renunciation of of rights in decedents' estates; (HB 695/SB 513)
(4) a bill relating to married persons' rights in a family home; and (HB 696/SB 514)
(5) a bill relating to the uniform disposition of certain property rights at death (HB 697/SB 515)

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,

John W. Abbott

John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HB 695 & SB 513 --

ALASKA CODE REVISION COMMISSION COMMENTARY TO ACCOMPANY BILL ON RENUNCIATION OF RIGHTS IN DECEDENTS' ESTATES

This bill deals with refusal to accept property or an interest in property from a decedent's estate. Referred to as "renunciation" or "disclaimer", it is a valuable option for estate planning to avoid a taxable transfer.

The right to renounce is provided for in AS 13.11.295 (Section 2-801 of the Uniform Probate Code). This bill would make three changes to facilitate estate planning:

(1) The right to renounce would survive the death of the person having it;

(2) The permissible disclaimer period would be extended from six to nine months after a death; and

(3) Accepting one interest in property would not prevent renouncing another interest in the same property.

The concept of the changes proposed by this bill is in the Uniform Disclaimer of Transfers by Will, Intestacy or Appointment Act (1978). Because Alaska has already adopted the Uniform Probate Code contained in AS 13, minimal changes to AS 13.11.295 will give Alaska the main benefits of the uniform disclaimer statute. The bill does not extend beyond disclaimer of transfers resulting from death. Disclaimer of other kinds of transfers could be the subject of another bill.

The changes in (b) extend the time for renunciation to the nine months period in which renunciation is permitted under the Internal Revenue Code, 26 U.S.C., Sec. 2518. The current version of the Uniform Probate Code recommends that states conform their laws to the nine month period. Failure to do so may deny to Alaskans the full period the federal law permits for taking advantage of a tax planning tool.

Sometimes an heir with a right to disclaim will die within this nine month period. For example, an elderly husband and wife may not outlive each other by nine months. In that situation, a disclaimer would avoid an extra taxable transfer before property is inherited by their children. The changes in (a) would allow a personal representative (executor of the estate

of the second to die) to exercise the right of disclaimer. However, the period for disclaimer would not be extended: the personal representative of the second to die would have ot act within nine months of the first death.

The changes in (d) would permit disclaiming one interest in property without forfeiting the right to accept another interest in the same property. Under federal Internal Revenue law, it is possible for a beneficiary to refuse to accept an income interest in property while accepting transfer of the principal asset, or to refuse a transfer of a principal asset while accepting an income interest in the asset. The change in (d) would delete language that infers that the acceptance of any interest in property would totally bar a renunciation of any other interest in the same property.

AS 13.11.295(f) is deleted as obsolete law. A similar section is not needed as temporary law in this bill because the changes in AS 13.11.295 liberalize renunciation, do not restrict it.

FISCAL NOTE

Revision Date:

REQUEST
Bill/Resolution No.: SB 513
Title: "...renunciation of rights in decedents' estates."
Sponsor: House Rules/Code Rev. Comm.
Requestor: House Judiciary
Date of Request: 3/13/84

FISCAL DETAIL
Agency Affected: Department of Law
Program Category Affected: General Government
Program or Subprogram(s) Affected: Legal Services

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	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard I. Pegues, Director (Richard I. Pegues) Phone: 465-3672
Division: Administrative Services Division Date: 3-13-84

Approved by Commissioner: Norman C. Gorsuch (Richard I. Pegues for) Date: 3-13-84
Agency: Department of Law

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

12/1/83

Fiscal Note
Analysis

March 13, 1984

SB 513

This bill was requested by the Code Revision Commission to amend the Uniform Probate Code to provide that:

(1) the right to renounce would survive the death of the person having it;

(2) the permissible disclaimer period would be extended from six to nine months after a death; and

(3) accepting one interest in property would not prevent renouncing another interest in the same property.

Renunciation of rights in decedents' estates is a valuable option for estate planning to avoid the taxable transfer of estates. Because this measure deals only with an individual's right to renounce an estate interest, it will not have a fiscal impact on state government operations.

SB

514

FISCAL NOTE

Revision Date:

REQUEST

Bill/Resolution No.: HB 696
Title: "...married persons' rights in a family home."
Sponsor: House Rules/Code Rev. Comm.
Requestor: House Judiciary
Date of Request: 3/13/84

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Richard T. Pegues, Director (Richard R. Pegues) Phone: 465-3672
Division: Administrative Services Division Date: 3-13-84
Approved by Commissioner: Norman C. Gorsuch (Richard R. Pegues/for) Date: 3-13-84
Agency: Department of Law

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

12/1/83

Fiscal Note
Analysis
HB 696

March 13, 1984

This bill was requested by the Code Revision Commission to remove certain anachronisms and would repeal certain statutory provisions that cause uncertainty in titles to Alaska real property. The protections afforded a widow by the right of dower are now afforded by various options under the Uniform Probate Code, as are the protections afforded a widower under the related "curtesy" right. This bill would repeal some of the protections once afforded a married person under common law dower and curtesy. Because the bill only deals with private property rights, it will not have a fiscal impact on state government operations.

HOUSE AND SENATE JOINT
JOURNAL SUPPLEMENT

March 1, 1984 No. 21

ALASKA CODE REVISION COMMISSION

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4678

EXECUTIVE SECRETARY
BILLY G. BERRIER

March 1, 1984

Senator Bill Ray, Chairman
Alaska Legislative Council
Pouch V, State Capitol
Juneau, Alaska 99811

RE: (1) a bill relating to principal and income of trusts; (HB 693/SB 511)
(2) a bill relating to administration of decedents' estates; (HB 694/SB 512)
(3) a bill relating to renunciation of of rights in decedents' estates; (HB 695/SB 513)
(4) a bill relating to married persons' rights in a family home; and (HB 696/SB 514)
(5) a bill relating to the uniform disposition of certain property rights at death (HB 697/SB 515)

Dear Senator Ray:

Pursuant to AS 24.20, the Alaska Code Revision Commission has prepared the enclosed bills and respectfully asks that they be introduced in the legislature.

They are technical bills the commission has been working on with the probate committee of the Alaska Bar Association. They relate generally to rights at death and to property arrangements that usually have their inception in death.

At its last meeting, the Legislative Council agreed to introduce the bills.

One of the bills, the bill on disposition of certain property rights at death, was previously in the legislature but received little notice. It is revived at the request of the probate committee of the Alaska Bar Association, and that

committee has advised the commission that it will actively support the bill.

A commentary on each bill is enclosed.

Very truly yours,

John W. Abbott

John W. Abbott, Chairman
Alaska Code Revision Commission

JWA:chw

Enclosures

cc: Hon. Bill Sheffield
Hon. Edmond W. Burke, Chief Justice
Myrton R. Charney, Executive Director
Legislative Affairs Agency

-- COVERS IDENTICAL BILLS: HB 696 & SB 514 --

ALASKA CODE REVISION COMMISSION COMMENTARY TO ACCOMPANY BILL RELATING TO MARRIED PERSONS' RIGHTS IN A FAMILY HOME

This bill would remove certain anachronisms and would repeal certain statutory provisions that cause uncertainty in titles to Alaska real property. The principal provisions to be repealed are AS 34.15.010(b), (c) and (d), subsections that deal with conveyances of "the family home or homestead".

The other two sections to be repealed by the bill deal with dower, a common law concept that has not been recognized in Alaska in its pure form since 1900 (Bechtol v. Bechtol, 2 Alaska 397 (1905)). Its altered, statutory form was removed from Alaska law in 1963 (sec. 30, ch. 38, SLA 1963). The protections once afforded a widow by the right of dower are now afforded by various options under the Uniform Probate Code adopted in Alaska in 1972, as are the protections afforded a widower under the related "curtesy" right. The official comment to the Uniform Probate Code includes:

> "The provisions of this Code replace the common law concepts of dower and curtesy and their statutory counterparts."

The main subjects of this bill, AS 34.15.010(b), (c) and (d), are subsections enacted over a period of time, apparently in a patchwork effort to approach some of the protections once afforded a married person under common law dower and curtesy.

Common law dower was a life estate given a widow in one-third of the lands her husband owned at any time during the marriage. Her husband could not transfer away her right. But Alaska's statutory dower only applied to real property owned by the husband at the husband's death. Common law curtesy was similar to dower but was a right given a husband in lands of his wife. In its statutory form (sec. 482, Compiled Laws of Alaska 1913, since repealed) it applied only to lands owned by the wife at the wife's death.

To compensate for the lesser protection afforded in the statutory forms of dower and curtesy, the legislature required the signature of both spouses on every deed to "a family home or homestead" (ch. 107, SLA 1933; now AS 34.15.010(b)).

Unless both spouses' names appear on the title

documents, a purchaser down the chain of title usually will have no way of knowing whether a precedessor was married and usually will have no way of knowing whether real property was a married couple's "home or homestead". Therefore, the 1953 legislature (ch. 145, SLA 1953) engrafted further provisions on the statute in an effort to clear titles clouded by what now is AS 34.15.010(b).

The confused and contradictory state of these subsections of AS 34.15.010 can best be shown by setting them out in full:

> (b) In a deed or conveyance of the family home or homestead by a married man or a married woman, the husband and wife shall join in the deed or conveyance.
>
> (c) The requirement that a spouse of a married person join in a deed or conveyance of the family home or homestead does not create a proprietary right, title or interest in the spouse not otherwise vested in the spouse.
>
> (d) Failure of the spouse to join in the deed or conveyance does not affect the validity of the deed or conveyance, unless the spouse appears on the title. The deed or conveyance is sufficient in law to convey the legal title to the premises described in it from the grantor to the grantee when the deed or conveyance is otherwise sufficient, and (1) no suit is filed in a court of record in the judicial district in which the land is located within one year from the date of recording of the deed or conveyance by the spouse who failed to join in the deed or conveyance to have the deed or conveyance set aside, altered, changed, or reformed, or (2) the spouse whose interest in the property is affected does not file, within one year in the office of the recorder for the recording district where the property is situated, a notice of his interest in the property.

Inconsistencies in the subsections make them extremely difficult to interpret. All that is clear is that there are title problems whenever only one person is record owner of real property, and that person conveys an interest in the property by a document that does not show whether he or she is a single person. At best, the title is clouded during the year of limbo provided under AS 34.15.010(c) and (d).

By proposing this bill, the code revision commission is suggesting (1) that any worthwhile purpose there may be in retaining AS 34.15.010(b), (c) and (d) in the law is far outweighed by the uncertainty in land titles the subsections cause, and (2) that the options afforded a married person under the Uniform Probate Code provide adequate protection.

AS 09.45.480(a)(1) relates to determining value of an "estate in dower". AS 09.45.720 relates to "actions to recover possession by a tenant in dower". The sections should be repealed because the dower right no longer exists in Alaska, as noted above.

ALASKA CODE REVISION COMMISSION

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878
OFFICE LOCATION:
ROOMS 5 AND 8
110 SEWARD ST.
JUNEAU, ALASKA 99801

MEMORANDUM

TO: Representative Charlie Bussell, Chairman
House Judiciary Committee

FROM: Dick Regan, Research Director
Alaska Code Revision Commission

DATE: April 30, 1984

RE: SB 514 on married persons' rights in a family home (identical to HB 696)

As you know SB 514 which passed the Senate and was referred to House Judiciary today is an identical bill to HB 696 which was passed out of the House Judiciary Committee on April 4, 1984. I trust it can go through House Judiciary promptly (or that the referral can be waived).

SB 514 passed the Senate with no dissenting vote. However, I thought there should be more background on the bill in the hands of Senator Fritz Pettyjohn who was scheduled to carry the bill on the floor, so I prepared a memorandum on the policy reasoning that went into the bill. It is enclosed.

Also enclosed is a miniature summary of the bill in case you would like to have it in hand when the bill comes up in the House.

DR:chw

Attachments: 1. Miniature summary
2. Memorandum to Sen. Pettyjohn dated 4/27/84

HB 514 ON

MARRIED PERSONS' RIGHTS IN A FAMILY HOME

Alaska's statutory form of dower, the right of a widow to use real property owned by her husband at the time of his death, was removed from state law in 1963. Compensating rights are in our Uniform Probate Code.

This bill repeals procedural sections that are based on the dower right that no longer exists in Alaska law.

One of the repealers concerns the names of husband and wife on conveyances. Repeal is desirable because (1) the remedy for failure to comply with the statute is based upon the dower right and therefore is obsolete and unusable; and (2) the section creates clouds on title to property that it was never intended to affect.

ALASKA CODE REVISION COMMISSION

ALASKA STATE LEGISLATURE
POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-4878
OFFICE LOCATION:
ROOMS 5 AND 8
110 SEWARD ST.
JUNEAU, ALASKA 99801

MEMORANDUM

TO: Senator Fritz Pettyjohn
Alaska State Legislature

FROM: Dick Regan, Research Director
Alaska Code Revision Commission

DATE: April 27, 1984

RE: SB 514 on married persons' rights in a family home

I see SB 514 is scheduled for second reading in the Senate today.

House and Senate Joint Journal Supplement No. 21, dated March 1, 1984, explains the bill. A copy is attached.

In Senate HESS Senator Josephson raised some questions about repeal of AS 34.15.010(b), (c) and (d). I leave to your discretion whether, after reading this further discussion of the bill, you wish to pass a copy on to Senator Josephson. Perhaps it would answer his questions.

SB 514 was developed by the code revision commission with representatives of the bar's probate committee. It originated with a request from the Attorney General's representative on the commission.

The journal supplement explains the background of the bill. Here I set out more on the pro and con practical questions that come up in deciding whether AS 34.15.010(b), (c) and (d) should be repealed. In committee hearings we pointed out that repeal of AS 34.15.010(b), (c) and (d) involves a policy choice. In the Judiciary Committee the legal flaws in (b), (c) and (d) were discussed, but we did not dwell on policy. This, therefore, can supplement that discussion.

The subsections cause clouds on title to vacant land, business property and residential property that has never been the home of the owner or the owner's spouse. They cause clouds on title transferred by persons who have never been married but neglect to provide on their deeds that they are single persons.

The problem is that the documents in the recorder's office don't show much. A property description on a conveyance looks the same whether property is an ancestral home or a gas station.

Title to most family homes of married persons has been transferred to them as tenants by the entirety. Their names appear on the conveyance. AS 34.15.010(b), (c) and (d) have no meaning for tenants by the entirety. Whether or not (b), (c) and (d) are repealed, when persons are named in the conveyance by which they receive title, the same persons will have to sign any document that transfers an interest in the property (a deed, mortgage, lease, option, etc.).

AS 34.15.010(b), (c) and (d) must be read together. In spite of confusing language, it is clear that a spouse who did not join in a conveyance of the family home is given apparent remedies in (d) that must be employed within one year after the conveyance. No one the code revision commission could locate had seen anyone even try to use the remedies since dower was removed from Alaska law in 1963. The commission believes there is no longer a legal basis for either of the remedies in (d). Since dower and curtesy rights no longer exist in Alaska, we know of no clear interest that could be claimed in a suit filed under (d)(1) or that could be claimed in an affidavit under (d)(2).

Even though the remedies in (d) probably have no life as remedies, they do have a continuing effect: Title companies will not certify clear title during the year in which there is a remote possibility that a conveyance could be defeated under (d).

The result is that financing or resale of property is delayed or stopped when only one name is on a conveyance as grantor, unless the conveyance shows on its face that the grantor is a single person. (The term "grantor" is used here to include the person who is selling, mortgaging, lease, contracting to sell, or giving an option or any other interest in real property.)

Because the title company's report will list an exception to clear title, the parties involved must find the original grantor to get a corrected conveyance showing on its face that the grantor is single, or, if the grantor is married, getting the other spouse included in the conveyance.

There may be times when the statute causes second thoughts by the grantor and when it has a desirable effect of permitting each spouse to stop a transaction that affects the family home. This, even though the legal remedies in the statute are obsolete and unworkable.

Most of the time, though, when the statute comes into play it is only an impediment to legitimate transactions. It can defeat a transaction because of the delay it causes, or it can block development of land that has been purchased because the original grantor cannot be located or is reluctant to sign more papers to correct title defects. It can be used as a basis for harassment when husband and wife are feuding or separated and the property involved has never been a family home. And it can be an annoyance in the relatively common situation where one party to a marriage owns a home before the marriage, and the parties wish the marriage to have no effect on that ownership.

On balance, the code revision commission saw many reasons for repealing the subsections and few for retaining them, especially since the remedy for violation of the subsections is now no more than a fiction.

DR:chw

Attachment

SB

539

STATE OF ALASKA 1984 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date:

REQUEST:
Bill/Resolution No.: SB 539
Title: "An Act relating to community work.."

Sponsor: Judiciary Committee
Requestor: Judiciary Committee
Date of Request: April 6, 1984

FISCAL DETAIL:
Agency Affected: DEPARTMENT OF CORRECTION
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected: Northern, Southcentral & Southeastern Regional Corrections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS, ETC.						
800 MISCELLANEOUS						
TOTAL OPERATING	-0-	*	*	*	*	*
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER (Specify Source)						
TOTAL	-0-	*	*	*	*	*

* See Analysis - Program Summary.

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						
TOTAL						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

The source of funds to offset the impact of this bill has not been identified by the bill sponsor.

ANALYSIS: Attach a separate page for any Analysis.

Prepared By: Roger C. Lange
Division: Administrative Services
Phone: 465-3376
Date: April 9, 1984

Approved by Commissioner: Roger V. Endell Lt. Col
Department: DEPARTMENT OF CORRECTIONS
Date: April 9 1984

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

12/1

ANALYSIS

I. Assumptions:

Enactment of Senate Bill No. 539 would expand authority for requiring persons guilty of crimes to perform community work, and would standardize the upper and lower limits of hours of community work to which a defendant could be sentenced according to the classification of the offense. The bill also specifies that the work be performed for and under the supervision of the State, a political subdividion of the State, or a non-profit organization.

It is assumed that enactment of this bill would:

A. Increase the number of persons required to perform community work over that which now exists;

B. Require effort by either the Department of Law or the Department of Corrections to develop/coordinate community work programs; and

C. Increase the time-accounting activities required as a result of increased number of participants.

Therefore, it is assumed that there will be incremental costs generated as a result of this legislation, if passed.

II. Program Summary:

With the information available at this time, it is not possible to predict the extent of fiscal impact on the Department of Corrections. Community Counselors may be required to work with political subdivisions or non-profit organizations to develop and/or expand meaningful work projects. Depending on the time during the sentence of an incarcerated person, additional supervision may be necessary to accomplish the community work program. An adequate record keeping system must be kept to assure that all hours required for community work are performed (recording of hours worked; running balance of hours of work remaining, etc.).

It is the considered opinion of the Department of Corrections that it will take a year of tracking to measure the fiscal impact of this bill. There will be a fiscal impact, but the magnitude cannot be estimated at this time.

III Economic Impact:

Enactment of this bill would not have any significant impact on the State's economy.

IV. Impact on Local Governments:

Enactment of this bill may have a slight impact on local governmental units supervising community work programs, but this impact should be offset by the product of the work program.

Office Location All Southeast Offices Year 1983

Felony Clients:

Referred This Year	72
Active This Year	152
Terminated Favorably This Year	24
Terminated Unfavorably This Year	12
Total # Hours Performed	7,844

Misdemeanor Clients:

Referred This Year	276
Active This Year	364
Terminated Favorably This Year	20
Terminated Unfavorably This Year	12
Total # Hours Performed	3,332

Juvenile Clients:

Referred This Year	208
Active This Year	292
Terminated Favorably This Year	76
Terminated Unfavorably This Year	16
Total # Hours Performed	2,452

Diversion Clients:

Referred This Year	
Active This Year	67
Terminated Favorably This Year	43
Terminated Unfavorably This Year	13
Total # Hours Performed	2,022

Grand Total Hours Performed This Year 15,650

-3-

5

18,250

Rev. 12/83-#0969

DEPARTMENT OF CORRECTIONS
Pouch T
Juneau, Alaska 99811

POSITION PAPER
Senate Bill No. 539

"An Act relating to community work as a part of a criminal sentence."

Senate Bill No. 539 would expand authority for the community work program for sentenced offenders and establish the minimum/maximum numbers of hours a defendant could be sentenced to community work in the various classes of criminal offenses.

The general public would benefit as a result of the performance of the community work projects at little or no cost. It could also result in a slight reduction in the number of inmate days of care when performance of community work is done in lieu of incarceration.

The Department of Corrections agrees in concept with this proposed legislation and supports its passage.

Prepared by: Roger C. Lange
Roger C. Lange
Internal Management Administrator

Date: April 5, 1984

Approved by: William W. Ladwig
William W. Ladwig
Assistant Commissioner
for Administration
Department of Corrections

Date: April 9, 1984

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION
PRETRIAL DIVERSION PROGRAM

BILL SHEFFIELD, GOVERNOR

REPLY TO:

☒ *POUCH KT*
JUNEAU, ALASKA 99811
PHONE: (907) 465-3578

☐ *941 W 4th ST.*
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3505

☐ *733 7th AVE.*
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-7713

March 27, 1984

The Honorable Thomas E. Schulz
Presiding Judge
First Judicial District
415 Main St.
Ketchikan, AK 99901

Re: Community Work Service Guidelines

Dear Judge Schulz:

I want to thank you for your time when I was in Ketchikan on February 16. Our discussion on the community work service program renewed my hope that some of the problems we are experiencing can be rectified and that this program will achieve its full potential as an alternative disposition for offenders. I apologize for not getting back to you earlier on this matter, however, with the Legislature in session it seems as though some of my normal responsibilities get relegated to the back burner.

As you are aware, the Pretrial Services Section of the Criminal Division, Department of Law is responsible for the placement and monitoring of offenders in community work service. As an adjunct to employment of community work service for diverted offenders, we contracted with the Adult Corrections Agency to provide a similar service for sentenced felons. At the time we entered into this agreement, we sought a consolidation of work under this program in order to promote uniformity in its application. As we undertook to perform these contracted duties, we likewise decided to offer our services to the district courts for sentenced misdemeanants. As we were under no duty to offer this service, it became our lowest priority, and we would undertake it to the extent of our available resources. We believed that this would offer a greater range of constructive alternatives to the courts at sentencing while, likewise continuing the uniform standards that are necessary to an efficient and successful program. Until recently we have been very satisfied with the cooperation between the community work service staff and the judiciary, and we feel that, at least in the First Judicial District, the program

is working well. However, as of lately, we are beginning to experience some difficulties, particularly with the service offered to District Court. I am disinclined to discontinue this service, however, unless the problems are rectified, I will find it necessary to do so. As you suggested, I have reviewed the problems we are experiencing, and offer the following standards for your consideration. I feel if these standards are utilized throughout the First Judicial District, the community work service program will continue to be an efficient and successful alternative program.

The nature of the problems we are encountering is wide. District court judges are ordering the performance of community work service in lieu of the payment of fines. While not an objectionable practice, obvious abuses are coming to light. For example, performance of a single hour of community work service in lieu of a $10 fine amounts to a significant waste of my staff's time, not to mention the difficulty I have in believing that an offender didn't have $10, and had no prospects of procuring $10 within the foreseeable future.

It is becoming evident that the inquiry and examination of offenders sentenced to pay fines under AS 12.55.035 is not being conducted. Routinely, offenders are ordered to pay fines and immediately upon denial of the ability to pay the fine, they are given community work service in lieu thereof. AS 12.55.035(d) provides a procedure whereby the court can permit an offender to pay a fine over a period of time. Awareness and employment of this provision would vest some integrity in AS 12.55.035, and foreclose obvious abuses. Additionally, I believe the court has the inherent power to bring an offender who is "unable" to pay a fine back before it and have that offender voluntarily execute an assignment of a permanent fund dividend to satisfy an outstanding fine. Finally, on this issue, I believe that it is implicit in the Court of Appeals decision in Brezenoff v. State, 658 P.2d 1359 (Alaska 1983) that the court needs to fully explore an offender's claimed inability to pay before it makes that determination.

Another problematic area is the failure of the courts to follow through on those individuals who fail to perform community work service. While it may be somewhat inconvenient for some judges to do so, the fact that an

offender has ignored the court's judgment to perform community work service should not be dismissed. Time and again, my staff has attempted to put some teeth into the court's orders by unfavorably terminating offenders who fail to perform community work service. To our knowledge, in Ketchikan, nothing ever happens to these offenders (In Sitka and Juneau, Orders to Show Cause are issued, and offenders are held to answer for failure to comply). Rather, offenders in Ketchikan are either rereferred for community work service or the court merely dismisses the judgements without satisfaction. Needless to say, in smaller communities such as Ketchikan, word of the court's disinclination to back up its judgments becomes common knowledge within the community and operates to destroy the effectiveness of programs such as community work service.

Consistent with your request, I have discussed the operation of the community work service here in Southeast with my staff. We offer for your consideration the following minimum standards which need to be met to ensure a successful program:

1. Minimum Number of Hours. Considering there is a certain amount of time which we must invest in each referral for screening, placement and monitoring functions, as well as paperwork for each referral which we require of placement agencies, it is not cost-effective to work with any offender who has less than eight hours of community work service to perform.

2. Community Work Service in Lieu of Fines. C.W.S. should not be allowed as an alternative to a fine except (a) when a thorough examination of the offender is made to ascertain the inability to pay the fine; (b) the offender is unlikely to be able to pay the fine in the future under AS 12.55.-035(d); and (c) there is a substantial reason why the offender is unable to assign his permanent fund dividend to satisfy the fine. Only if this procedure is followed will community work service in lieu of fines be a legitimate alternative. Once an offender is found to be unable to satisfy a fine and community work service is ordered, the offender should not be permitted to "buy" his way out of Community Work Service by suddenly

"finding" sufficient funds to satisfy the fine. Realistically, if a thorough examination of the offender occurs before ordering performance of community work service in lieu of a fine, then this should not be a problem. It is problematic in terms of monitoring offenders to have them change from community work service to payment of the fine, especially when my staff is rarely notified of this occurrence.

3. Time Limits. When an offender is ordered to perform community work service, a time limit in which the work must be performed should be set. This reinforces in the offender the connection between community work service and the offense. Usually for misdemeanants or violators, a time period of three months, is sufficient although an extension of that period under legitimate circumstances should be allowed. For most minor offenders who rarely receive more that fifty hours, this amounts to one day per week for no more than half the thirteen week period. It is quite inconceivable that an offender cannot schedule that type of available time. And, as I preciously stated, when the offender does have other legitimate activities which preclude performance within this period, adjustments in the time period can be arranged.

4. Unfavorable Terminations and Enforcement of the Court's Order. The major problem administering this program occurs with offenders who fail to perform. On numerous occasions, offenders ordered to perform community work service either fail to ever appear, or having appeared and been placed, fail to follow through. For example, a recent placement in Ketchikan was so unreliable and unsatisfactory in his performance that the referral agency has discontinued using Community Work Service offenders.

This type of offender is regularly terminated from the program with the cases being referred back to the court for further action. In Juneau and Sitka, these unfavorable terminations result in the offender being brought back before the court;

and additional consequences normally ensue. This is generally in the form of either jail time or additional community work service hours for contempt of court. In Ketchikan, there are generally no additional consequences, and the offender is rereferred to my staff for another chance. This type of offender is not any more responsive than previously. There has even been a case brought to my attention wherein the court just vacated its previous sentence. Needless to say, the credibility and integrity of the program are severely damaged. Absent consequences, especially in a community the size of Ketchikan, our ability to instill responsibility or otherwise motivate the more obdurate offender is strictly limited. Even a "You'll perform, or else" approach won't work when the offender knows the "or else" is meaningless. Only if the "or else" truly results in more severe consequences can this program be successfully and properly administered.

5. Referral of Municipal Cases. Although we generally do not make the distinction between the original source of a case referred for community work service, there is an exception. In that we are constantly in need of referral agencies which can absorb a large number of offenders and which will provide the greatest benefit to the largest number of people, we have utilized municipal governments for placements. However, there have been a few municipalities that have refused to accept referrals, not out of a lack of need for additional help, but only because they disagree with State policy regarding sharing any financial liability that may result from placement of these offenders. As a result of this position, we have likewise assumed the policy of not accepting cases involving municipal offenses in these communities. In the First Judicial District, only Ketchikan is affected by this policy, therefore we do not accept Ketchikan municipal cases.

6. Uniformity. In administering this program statewide, I have noted a large disparity in the ordering of community work service. In your role as head of the sentencing guidelines committee, I

know you'll understand the offensiveness of disuniformity in sentencing practices. While this issue is not a "bottom line," it is one that needs to be addressed, and I would welcome any suggestions you might offer in seeing that some consistency occurs in ordering community work service.

The first problem in this area concerns the number of hours of community work service ordered as a reflection of the severity of the offense. I am enclosing a copy of the standards we employ within the diversion program when requiring community work service, as well as a copy of legislation I worked on a number of years ago on the same subject. If these numbers are agreeable to you, perhaps their implementation here would be the first step in instituting uniform guidelines for community work service.

The second area of concern involves the rate of exchange when an offender performs community work service in lieu of a fine. In Fairbanks, Anchorage, Juneau and Sitka, conversion is at the rate of $5.00 per hour. In Ketchikan, the rate is $10.00 per hour. The biggest anomaly occurs in Saxman, where community work service is performed at a rate of $10.00 per hour, with our major referral agency being the City of Saxman. That municipality allows other residents to work off utility debts, performing the same work as the community work service referrals, but at a rate of $7.00 per hour. Needless to say, this creates some problems.

I'm not sure of the resolution to these problems, but any assistance you can offer would be appreciated.

In conclusion, I again want to thank you for your time and your efforts. Imposition of these standards throughout the First Judicial District will ensure a legitimate community work service program.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: Patrick W. Conheady
Patrick W. Conheady
Assistant Attorney General

Enclosures
Copies to: Kelly Richards, Juneau
Sue White, Sitka
Kathey Saporito, Anchorage
Patty Moss, Fairbanks

SJR

/

We the undersigned would like to go on record as opposing the passage of Senate Joint Resolution #1 "Relating to the proposal by Congress of an Equal Rights Amendment." because:

1. The wording is too vague.
2. This resolution gives an inaccurate picture of support of ERA to the Federal Legislature.
3. It is unnecessary because these rights are already guaranteed in the United States Consitution.

Date	Name	Address		Telephone
3/13/83	[illegible] ANDERSON	BOX 2234	JNU 99803	789-7310
3-13-83	FORD HORST	9350 TURN	99801	789-0752
3-13-83	[illegible] Horst	9350 Turn	99801	789-0782
3-13-83	Carrie Field	P.O Box 370	Juneau 99802	
~~3/13/83~~	[illegible]			
3-13-83	Carol A. Halegen	4449 Julep St.	Juneau 99801	789-3570
3-13-83	Donald E. Halegen	4449 Julep St.	Juneau 99801	789-3570
3-13-83	[illegible]	2465 Mendenhall Loop #32	99801	789-4004
3-13-83	[illegible]	P.O. Box 2885	Juneau 99803	789-7564
3-13-83	[illegible]	9325 NORTHLAND	Juneau, 99801	789-9332
3-13-83	Debra A Cathcart	Box 2914	Juneau, Alaska	789-7611
3-13-83	HIRAM J. Cathcart II	"	"	"
3-13-83	[illegible]	Box 2882	Juneau AK 99803	789-7564

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Date	Name	Address	Telephone	VOTING NUMBER
3/13/83	Timothy Evans	P.O. Box 2714	789-2520	
3/13/83	Allen Mayford	c/o Box 6 Juneau	586-6839	
3/13/83	Shirl Stevens		789-7008	
3/13/83	Wesley D. Karan		364-3427	
3/13/83	Dorothea T. Schmidt		789-2874	
3/13/83	Edith Wright		789-8477	
3/13/83	Lee R. Baran	P.O. Box 330 Juneau	789.3693	
3-13-83	Alan Backford	6590 Glacier Hwy #143	789-0566	
3/13/83	Ethel M. Dybdahl	6590 Glacier Hwy #143	789-0566	
3-13-83	Carol Stine	P.O. Box 2306 Juneau	789-3681	
3-13-83	Ann Burton	3555 Mendenhall Loop Rd #32	789-0014	
3-13-83	Mary Ellingson	Box 69 Juneau	789-2770	
3-13-83	Jeanie Anderson	593 Seattle St.	586-2182-00206342	
3-13-83	Michael R. Middleton	PO Box 294 Juneau, Ak.	789-0838	
3-13-83	Donald E. Anderson	592 Seattle St.	586-2182-00206151	
3-13-83	Victoria McAven	3663 Burgoss	789-0587	
3-13-83	Cecilia Hansen	Box 1535	364-3427	01596709

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Date	Name	Address	Telephone
3/13/83	Earl W. Ford	4066 Deborah Dr.	
3-13-83	Chris Jacobsen	9344 Tam St	789-9382
3-13-83	Jeff Jacobsen		
3-13-83	Robert W. Rose	%Box 1017	364-3427(H)
3-13-83	Herbert Wyer	Senate Chief	SEC. 1710
3/13/83	Kathy Evans	P.O. Box 2714	789-2520
3/13/83	Richard Blanke	Box 521 Douglas Ak	364-2312
3-13-83	Hazel J. Nowlin	Box 283 Juneau	6-2448
3-13-83	Daryle L. Jack	Box 478 Juneau	581-1745
3-13-83	Donna L. DeLan	8908 Glacier St., Juneau	789-3702
3-13-83	Hazel Bobinski	RR2 Box 910 Soldotna AK	789-0782
3-13-83	Joyce Sikorski		789-0782
3-13-83	Gary Ann	P.O. Box 2134	789-0589
3-13-83	Gary Rohrmoser	15845 Glacier Hwy Juneau, AK 99801	789-9037
3-13-83	Kelly E. Fagerstrom		586-6697
3-13-83	Terry A. Mooney	Box 171 Skagway,	983-2514
3-13-83	Charles E Nowlin	Box 283 Juneau	5862448
3-13-83	Donna Fagerstrom	Box 6 Juneau 99802	586-2849
3-13-83	Darla Morford	c/o Box 6 Juneau, AK 99802	586-6839

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Date	Name	Address	Telephone
3/13/83	Denita White	3090 Riverwood Dr. Juneau ak.	789-3729
3/13/83	Ross A Write	3090 Riverwood Dr., Juneau, Alaska	789-3729
3/13/83	Roger Buck	6014 Lund St. Juneau ak	586-1721
3/13/83	Paula M Buck	6014 Lund St. Juneau	586-1721
3/13/83	Ron D. [illegible]	9335 Steph Richards	789-3917
3/13/83	Julie DeGan	8908 Lee St. Juneau	789-3702
3/13/83	Joy deGan	8908 Lee St. Juneau ak.	789-3702
3/13/83	Rhonda Williams	151 London Ave. Juneau ak.	6-1095
3/13/83	Lisa Lloyd	[illegible] Box 370 Juneau AK. [illegible]	789-3651
3/13/83	Heather Hanson	PO Box 396 Juneau, AK. 99802	586-2106
~~3/13/83~~	~~Kathi Dunn~~		
3/13/83	James DeGan	8908 Lee St. Juneau ak.	789-3702
3/13/83	Matt Bowen	9116 Aurora Drive. ak.	789-4017
3/13/83	[illegible]	1080 Dock St Auke Cove Rd AK	789-2411
3/13/83	[illegible]	Ro. Box 2719 [illegible]	789-2520
3/13/83	[illegible]	[illegible]	[illegible]
3/13/83	[illegible]	4412 [illegible]	789-[illegible]

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Date	Name	Address	Telephone
3/13/83	Evangeline Lech	6590 Glacier Hwy #130 Juneau AK 99801	789-0035
3/13/83	Mary Hunter	3800 Portage Blvd	789-2040
3/13/83	Doris D Ward	P.O. Box 473 Juneau AK	789-0363
3/13/83	Mari K Gray	9353 Turn St. Jun. 99801	9-0134
3/13/83	Larry O. Gray	9353 Turn St Juneau 99801	70134
3/13/83	Mary C. John	4447, Eyelet St Juneau. Ak.	99801
3/13/83	Julie A Ward	Box 473 Juneau, AK.	99802
3/13/83	Jane L. Schmidt	Box 3037 Juneau AK	99803
3/13/83	Mary O Arvola	PO 856 Juneau, AK	99802
3/13/83	Louise Johns	3800 Portage, Juneau Ak	99801
3/13/83	Dennis H. Johns	3800 Portage Blvd. Juneau, Ak.	99801
3-13-83	Wm J. John J.	4447 Eyelet st - Juneau, AK	99801
3-13-83	Beverly M. Jones	PO Box 2066 Juneau, AK	99803
3-13-83	Donald E Dawson	Box 2266 Juneau, AK	99803
3-13-83	Amanda L Hanson	Box 2266 Juneau, AK	99803
3-13-83	Wayne T Hanson	Box 396 Juneau, AK.	99802
3-13-83	Florence M Hanson	Box 396 - Juneau	99802
3-13-83	John Crawford	Box 2324 Juneau, AK.	99803- 789-0838

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Date	Name	Address	Telephone
3-13-83	Rev. Wm. Nichols	8497 Thunder Mtn. Rd.	789-3605
3-13-83	Cathy Nichols	8497 Thunder Mtn. Rd.	784-3605
3-13-83	Lorene Warren	8725 Gail Ave	789-5046
3-12-83	Frances Cropley	4104 Birch Lane	789-0838
3/12/83	Tommy Jiminez Jr	9521 Eagle St	789-2358
3-13-83	Lecia Bennett	8209 Cedar Drive	789-9618
3-13-83	Walter Bennett	8209 Cedar Drive	9-9618
3-13-82	Gerald Horning	1700 Valley Ct. #86	586-1292
3-13-82	Wilma J Baines	8497 Thunder Mtn Rd	789-4334
3-13-83	Dorothy J. Horning	1700 Valley Ct. #86	586-1292
5-15-83	Carol S. Clay	~~#32~~/3865 Mendenhall Loop Rd.	789-4004
5-15-83	Fred L Clay	32-2865 Mendenhall Loop Road	789-4004

MEMORANDUM
LEAGUE OF WOMEN VOTERS OF ALASKA

TO: House Judiciary Committee DATE: May 20, 1983

FROM: Paula Ziegler, President, League of Women Voters of Alaska

SUBJECT: SJR 1

The League of Women Voters of Alaska is appreciative of the House Judiciary committee's hearing SJR 1. The League strongly supports passage of this resolution.

The Equal Rights Amendment will provide a constitutional guarantee of equal protection under the law to women and men. This means that any protection extended to one sex under the law must be extended to both sexes. The basic principle is that gender should not be a factor in determining the legal rights and responsibilities of people.

The economic facts are indisputable:

* 43% of the American work force is comprised of women.
* Women earn only 59¢ for every $1.00 earned by men.
* Women work for the same reason as men: economic necessity.
* 66% of all women work at low-paying, traditionally "female" jobs.
* 33% of all female-headed families live in poverty.

The Equal Rights Amendment will not automatically erase the centuries of discriminatory attitudes and practices that have kept women economically dependent, nor will it automatically make jobs and opportunities available. But it will provide the constitutional foundation and public mandate necessary to the effective enforcement of laws already on the books as well as to future legislation addressing economic equity for women.

Reports from states with equal rights amendments (such as Alaska) refute the claims of opponents that dire things will come to pass with ERA. The terrible perils of coed bathrooms, rampant homosexual marriages, massive family instability and interference in the privacy of family relationships have simply not materialized.

We are all proud of the Alaskan tradition of individualism and opportunity. Remembering that "individuals" means men and women, help maintain opportunity for both by passing SJR 1.

Thank you.

Paula Ziegler

Testimony on SJR #1 and HJR #6 May 20, 1983

I urge you to oppose the passage of SJR #1 and HJR #6 relating to the proposal by Congress of an Equal Rights Amendment.

Do you know that sex discrimination is already constitutional prohibited? Discrimination is a matter of enforcement, not a lack of laws.

Do you know that negative effects have resulted from the State ERA? It has disrupted families and recently a study showed that women develop a housewife depression sydrome because feminists have told them they are deprived!

Do we want more loss of freedom for state's rights? ERA would take away the law making function of the State and give the Supreme Court the power to interpret and decide on this issue. After 100 years, the Supreme Court is still finding meanings in the 14th Amendment never imagined by its drafters.

Is this as simple as it appears?

Alice Bergdoll
1506 Lund Street
Juneau, Alaska 99801

P.O. Box 376
Douglas, Ak. 99824
Sue Miller, President
Eagle Forum
Juneau Douglas Chapter

Testimony, May 20th, House Judidiary

We are opposed to SJR#1 because it will send an inaccurate message to Congress.

You may not have received all of the messages from across the state opposing SJR 1 because many of the people thought you were considering HJR #6 today, which is the identical resolution as SJR 1 without the traditional family statement. Therefore, I ask you to consider the opposition to HJR#6 as the same as to SJR#1.

What we all object to is the wrong message you would be giving Congress. Even though lines 1 and 2 of page 2 state "Whereas adoption of this resolution does not minimize the state's support of and belief in traditional family values.", the whole resolution would negate this statement as experience has already nullified that statement.

<u>There is no way, you can have ERA without affecting the traditional family.</u>

In the Senate House Judiciary, many of us gave testimony showing negative effects from the State ERA, all of which affected the values of the traditional family, whether so=stated or not. Our testimony also made a lie out of lines 17-24, page 1 of this resolution. For example:

We gave testimony which proved that rather than enhancing the ability of all citizens to achieve their full potential, it hindered the ability of many to achieve that potential. (lines 17-19)

We gave testimony that proved negative results of the state ERA that affect us today to such an extent that there are now seven organizations in the State that we know of and many individuals fighting this resolution and the reintroduction of this subject into Congress.(lines 20-22)

We gave testimony that proved not only has the 1972 amendment created difficulties but it has also created discrimination and harassment of women by women. (lines 21-24)

On the attached page you will find a partial listing of some of the negative results we testified to in the senate.

One Senator stated that because his wife and children hadn't suffered any negative effects, therefore there were none. Naturally, if a family holds feminist views, they will not feel any negative effects. Being married, with children at home, does not automatically make your family traditional. It is your convictions and lifetstyle that count.

We also have many single, divorced, widowed and elderly people who hold our views - they are the views of our great Judeo-Christian heritage for which we are fighting.

Kindly consider all the messages you have heard against HJR#6 and SJR #1 and reject this resolution since it does not send a true picture of the feelings of the people of Alaska to Washington

Partial Listing of Negative Results

(a) Break-up of homes from counseling, by tax-payer funded counseling groups, dedicated to anti-/traditional family views.
(b) Creation of a network of tax-payer funded organizations, all dedicated to political advocacy of anti-traditional family views.
(c) Invasion of privacy and religious conviction and on-the-job harassment as in the O'Brien case.
(d) The invasion into education of committees which took out of school textbooks teachings showing traditional men-women roles, religion and patriotism, substituting or leaving in only views which reflect the BBA philosophy.
(e) The creation of the ailment, "housewife syndrone", a major mental health problem documented by Dr. Harold Voth, a prominent psychiatrist and psychoanalyst at the Menninger Foundation in Topeka, Kansas, and Dr. Herbert Freudenberger, co-author of Situational Anxiety.
(f) Taxpayer supported day-care facilities which remove parents farther from their responsibilites and creates an ever growing dependency upon govt. to resolve all needs.
(g) Taxpayer funding of abortions because of their equalization principle, a corner-stone principle of socialism.
(h) Tax-payer funding of family planning services, which interfere between parent and child relationships.
(i) Affirmative action in job-hiring practices, a form of discrimination itself.
(j) Attempts to reduce womens(preferential car insurance rates.
(k) Advocacy for homosexual/lesbian activities, trying to call these preferences rights.
(l) The insistence in use of unwieldy non-sexist terms as "chairperson", due to their inflexible attitude against terms which mean all mankind.
(m) The extreme expense the State has had to bear to promote the views of one group of women over another.
(n) The pitting of women against women and causing a major division and disruption in society.

Kindly review tertimony given before Senate House Judiciary for testimony of personal negative results.

Lee Miller

My name is Barbara Tyndall. I am a wife and the mother of five children, ges three to thirteen.

I am here today in opposition to Senate Joint Resolution #1, the Equal Rights Amendment. I see no reason for this bill. It's purpose and intent cannot be to protect women in the working world. I have before me over twenty pages of laws and listed agencies that protect women from everything from equal pay for equal work to sexual harrassment on the job. These agencies are both state and federal.

Because of the vague language of the Equal Rights Amendment, many of us fear it could be interpreted to give rights to homosexuals and lesbians, work toward creating a unisex society, and force our daughters into military service. This fear is particularly real to us since many feminist organizations, such as Now, have proclaimed these very things as their goals and desires for the future and look to the Equal Rights Amendment as a tool to acheive these goals.

I have heard many verbal promises that these things will never happen and the Equal Rights Amendment will never be interpreted in this negative way. Will these verbal agreements stand up in court? Will they protect me and my family from the negative aspects of the ERA? No, they will not. I have looked for some qualifying statements to be added to this bill to protect the traditional family from the possible harmful aspects ~~of this bill~~. Senator Bill Bay attempted to alleviate some of these fears and attach an amendment that would guarantee us protection in these areas. The fact that this amendment was all but eliminated has increased my fears even further. Is it possible that "gay" rights, a unisex society and the death of the traditional family are really the goals and purposes behind this bill? I believe they are.

I am tired of this issue. For ten years we have been squabbling as a nation over the Equal Right s Amendment. It has been defeated. Why are we resurrecting it again? It can only hurt and divide us.

Please seriously cast your vote against SJR 1 and see that this bill is defeated in the House. Thank you very much.

Barbara T. Tyndall

Barbara B. Tyndall

Good afternoon ladies and gentlemen. My name is Betsy Swartz. I am speaking on behalf of myself and future generations.

Section 1 of the Equal Rights Amendment states that equality of rights shall not be denied or abridged on account of sex. I think this will be interpreted to mean that what is required of men will also be required of women and what is provided for men will likewise be provided for women. Clearly, we want equal pay for equal work. But ERA will also mean equality in the draft for women including Mother, the loss of protective laws for women such as weight ~~restrictions~~ lifting requirements on the job, not provide, separate toilet and living quarters. I think ERA will actually remove of protective laws + rights that we have today.

On April 15, 1975 Judy Wilson in Pennsylvania denied unemployment compensation + time she refused to apply for a job which required lifting 40 + 150 lbs.

On Wards and Pa. Law under state ERA, whether they have children to care for or not, are legally responsible for family support.

The Dow Jones Times Report has already acknowledged the necessity for more child care centers as women are faced by ERA to work outside the home.

ERA will eliminate a wife's right to draw S.S. on her husband's earnings.

It will be illegal, under ERA, to give lower auto and life insurance rates to women simply because they are women, even tho they statistically have a lower risk factor.

~~It will be illegal to give lower auto and life~~

The crime laws which protect the fabric of our society, such as seduction laws, statutory rape laws and manifest danger laws would not be permitted under ERA

The "separate but equal" doctrine would not be permissible for the male and female, married or not, under ERA. This means public bathrooms in schools for our children, universities, colleges, hospitals, all government subsidized operations. This is already evident in the Alaska Native Claims Act where employee shall bathrooms and stations.

These are all realities admitted by both pro-ERA and anti-ERA proponents. Representative Edith Green, the author and sponsor of Title IX has admitted that it has been used for ridiculous rulings never ~~intended~~ intended by Congress.

The Supreme Court is still finding new meanings in the 14th Amendment, ratified 100 years ago. The implications and possibilities for ERA are staggering and endless.

If you think these concerns are invalid and extreme, I would like to ask you this:

When the abortion amendment was ratified in 1973, do you think the proponents intended that babies would be aborted thru the 9th month of pregnancy; skin, breathing, and crying and left in a bucket to die? Ladies and gentlemen, this is happening today, all across America..

Thank you.

SJR

19

MSG 83-00016289 PRTY 1 05/10/83 12:11:43 ORIG: LD00 IN= 0004 OUT= 0068
FROM: LINDA/DELTA TO: JNU
TARGET: LJHL SUBJ: POM'S

TO: ALL LEGISLATORS

FROM: JACQUELINE S. REICHERT
BOX 1138
DELTA JUNCTION, ALASKA 99737

RE: SJR 19

WOULD YOU PLEASE CONSIDER SENATOR MOS. RESOLUTION SJR 19 IN SUPPORT OF DR. GOODMAN. HE HAS BEEN OUR DENTIST FOR MANY YEARS AND WE FEEL THAT IE WOULD BE A GREAT LOSS TO US AND OTHER DELTA PEOPLE. WE HOPE HE IS ALLOWED TO CONTINUE PRACTICING IN DELTA.

**** DELTA INFO OFFICE ***
TO: ALL LEGISLATORS

FROM: WANDA GERRY
BOX 1044
DELTA JUNCTION, ALASKA 99737

REL SJR 19

PLEASE ALLOW DR. GOODMAN TO CONTINUE HIS DENTAL PRACTICE IN DELTA, AS THE WHOLE COMMUNITY WOULD SUFFER FROM THE LOSS OF IT. THIS MAN HAS BEEN THOUGH ENOUGH, WHERE AND WHEN WILL IT ALL STOP.
**** DELTA INFO OFFICE ***

TO: ALL LEGISLATORS

FROM: ALLEN R. CHAFFIN
BOX 712
DELTA JUNCTION, ALASKA 99737

RE: SJR 19

I BELIEVE THAT JIM GOODMAN SHOULD BE ALLOWED TO CONTINUE HIS PRACTICE HERE IN DELTA. THE COMMUNITY NEED'S HIM VERY MUCH.

DOC 83-900020214 PRTY 4 05/24/83 15:28:25 ORIG: LD00 IN= 0005 OUT= 0163
FROM: LIZ IN DELTA TO: JUNEAU
TARGET LJNL SUBJ: POM

TO: ALL LEGISLATORS

FROM: DAVID JOHNSON, P.O. BOX 421, DELTA JCT., AK 99737

RE: SJR 19

I SUPPORT SJR 19 AS I WANT DR. GOODMAN TO CONTINUE TO PRACTICE DENTISTRY IN DELTA.

DR

DELTA POM, [illegible]

TO: ALL LEGISLATORS

FROM: ANDREW JERRY TAYLOR, P.O. BOX 37, TOK, AK 99780 883-2761

RE: SJR 19

MY FAMILY OF FIVE HAS BEEN SEEING DR. GOODMAN FOR FIVE YEARS AND HAVE ALWAYS BEEN VERY PLEASED WITH ALL TREATMENT. IN MY OPINION IT IS OBJECTIFIED AND WOULD BE GREAT HARM FOR HIM TO BE UNABLE TO PRACTICE DENTISTRY. PLEASE PASS SJR 19 FOR THE BENEFIT OF THOSE IN THE AREA.

EOM

LEWIS AND ROCA
LAWYERS
A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

FIRST INTERSTATE BANK PLAZA
ONE HUNDRED WEST WASHINGTON STREET
PHOENIX, ARIZONA 85003-1899
602/262-5311
TWX 910-951-1178
TELECOPIER 602-262-5747

PAUL F. ROCA
1891-1978

WALTER LINTON
OF COUNSEL

OUR FILE NUMBER

WRITER'S DIRECT LINE
262-0873

April 12, 1983

The Honorable Fritz Pettyjohn
The Honorable Pappy Moss
Alaska State Senate
Pouch V -- State Capitol
Juneau, AK 99811

Re: James Goodman adv. United States

Gentlemen:

We are co-counsel with Kay, Christie, Fuld and Saville of Anchorage, Alaska for Dr. James Goodman. We have been asked to respond to a letter dated March 23, 1983 addressed to Senator Pettyjohn from Ms. Sue Ellen Tatter concerning Senate Resolution No. 19. Before responding to Ms. Tatter's letter, we believe it helpful to analyze the issue.

As we understand it, Senate Resolution 19 would, among other matters, commend Goodman for pardon to the President of the United States. We urge adoption of the resolution. Analysis of Ms. Tatter's letter, in light of the issue pending before you, illuminates its predominately irrelevant remarks.

There can be no question but that Goodman was indeed convicted by a jury. There would, of course, be no need for pardon in the absence of such a conviction. Therefore, it is unpersuasive on the question whether to adopt the resolution to suggest that Goodman has been convicted.

However, if the question is whether to commend Goodman for pardon because he did not receive a fair trail, then examination of some of the pretrial and trial events may be of assistance. Ms. Tatter relies heavily in her letter upon the notion that a jury rejected Goodman's defense. Of the men and women chosen for jury service, one individual was Mr. Geczy. Prior to selection as a trial juror, Geczy had been sued by Goodman's trial counsel, Mr. Kalamarides of Anchorage, Alaska. Imagine, if you will, Goodman's consternation when he learned that one of the people who determined his guilt had been a party adverse to Goodman's own lawyer, Kalamarides. How it came to pass that Geczy was permitted to remain on the jury without Goodman's knowledge is quite beside the point. If the jury verdict is advanced as a rationale for opposing Senate Resolution 19, one need only examine the membership of that jury to decide that the verdict is not all that it is made out to be.

Similarly, assuming Geczy had not been a juror, it is not likely that Goodman would have been acquitted in any event. This is so because critical evidence demonstrating billing errors in favor of the Government, as opposed to billing errors in favor of Goodman, were not presented. This failure of proof arose from two dichotomous problems. The dental work subject of dispute was predominately rendered to children. Their mouths change quickly by reason of maturation and dental care by others. Goodman received no notice that the Government intended to seek an indictment against him alleging false claims before the indictment was returned. While the Government was spending thousands and tens of thousands of dollars travelling about the State of Alaska looking for proof that Goodman filed false claims, Goodman continued to render dental care. He did not seek evidence supporting the notion that billing errors had been made in favor of the Government. By the time the indictment was returned, the Government had obtained its evidence and, by and large, it was too late for Goodman to gather his. The children's mouths had, by that time, changed and dental care had been rendered the children by other dentists.

Furthermore, in the post-indictment setting, no significant effort was made by Goodman's defense team to find billing errors in favor of the Government. In fact, it was not until after the jury verdict of guilty was returned and new counsel employed that anyone suggested to Goodman that evidence of billing errors in favor of the Government would have been relevant and material defense evidence in the trial of the case. Having been shown errors exclusively in favor of Goodman, it was doubtful that any could have acquitted Goodman of all counts. Therefore, suggesting that the Government's case was strong and the defendant's case was weak as a rationale for rejecting Senate Resolution 19 misses the mark.

It is indeed true that Goodman dismissed his appeal from the judgment and sentence of the Court. That decision was based on two facts -- economics and emotions. The trial of this case significantly drained Goodman and his family of their economic and emotional stores. The best result which could be achieved on appeal was reversal of the conviction with a remand for new trial. Goodman would then again be in a position of having to pay -- financially and emotionally -- for a second round. In light of the fact that the trial judge granted probation and recommended that his license to practice dentistry not be revoked, we pushed Goodman very hard toward abandoning an emotionally and financially expensive appellate process in favor of an end to Government litigation and a rebuilding of his emotional and financial condition. With great reluctance, he accepted our advice.

Almost immediately, the Government brought its civil action seeking $100,000, or thereabouts, from Goodman. That civil action called into question the same issues raised in the criminal proceeding. The Government had already obtained its facts and was in a position simply to move forward. Goodman would be faced with the obligation of producing the contrary evidence needed to persuade the trier of fact not to impose civil liability. Once again, out of economic and emotional necessity, Goodman accepted our advice to settle. He and his family could not and cannot afford, financially or emotionally, a further war with the Government. The Government apparently has unlimited resources and unlimited time to litigate with one of its citizens. I dare say there isn't

a member of your august body who can financially and emotionally afford a war of attrition with the United States Government. Therefore, the civil case was settled. However, to suggest that settlement of the civil case is somehow relevant to the decision that you must make with respect to Resolution 19 is simply irrelevant. The settlement documents disclose Goodman's continuing denial of wrongdoing and a payment by him to settle litigation. They show nothing else.

Ms. Tatter's letter suggests that, contrary to Goodman's position, the prosecution in this case was not instituted vindictively, in retribution for Goodman's dispute with the Public Health Service. Unfortunately, Goodman's position on this basic issue was not presented to the trial court for resolution by Goodman's defense team before trial. There is, of course, much precedent for the view that the Government may not institute a criminal prosecution out of vindictiveness or retribution. See, for example, United States v. Gallegos-Curiel, 681 F.2d 1164 (9th Cir. 1982). In fact, no significant effort was made during trial to establish the motive of the Public Health Service dentists for testifying as they did in terms of Goodman's dispute with them. We note that Ms. Tatter does not deny in her letter to you that a serious dispute occurred before the investigation began between Goodman and the Public Health Service.

Salted throughout Ms. Tatter's letter is the notion that this was a serious fraud case. The seriousness of white collar offenses is ordinarily measured by the extent of the damage incurred. The amount in controversy with respect to the counts on which Goodman was convicted totalled $1393. Ms. Tatter suggests that with respect to the claims for relief in the civil lawsuit, there was approximately $2600 of overpayments to Goodman. The Government admits to having spent, in costs alone, $28,000. In fact, the Government sought considerably more -- a sum in excess of $40,000 as costs in the criminal case. If one compares the amount in controversy with the amount spent in pursuing the criminal litigation, that is, $30-40,000 for costs, plus the salary of the Public Health Service doctors, FBI agents, and prosecutors, with the amount claimed to have been lost by the Government -- a number between $1500 and $3000, it is not hard to understand Goodman's assertion that the prosecution was undertaken vindictively. Moreover, it is truly difficult to give credence to the assertion that this was a serious fraud case in light of the dollars involved.

Apparently recognizing this problem, Ms. Tatter has suggested that native American children did not receive dental care because of Goodman's false claims. One wonders whether the lack of care arose from Goodman's false claims or from the months of time that Public Health Service dentists were out in the bush looking for another 25 or 50 dollar error in a billing statement. In any event, the children are getting free care now. Without any order of a court, but out of a sense of responsibility to see to it that his innocent errors are corrected, Goodman has, on almost every Friday since his conviction, rendered free dental care to native Americans. We again note that Ms. Tatter ignores this fact in her letter.

We perceive the Government--Goodman litigation, both criminal and civil, as wholly unnecessary. Regardless of one's view of Goodman's intent, the sums involved are literally insignificant in terms of the overall scheme of things. If the Government truly wanted justice, as opposed to Goodman's hide, this dispute would have followed an entirely different scenario. For example, when the Government's investigation showed that Goodman had over-billed the Government, demand could have been made for immediate repayment and a termination of Goodman's Public Health Service contract. In addition, other forms of relief beyond money damages could have been obtained -- the Government could easily have requested that Goodman render free care for a period of time to even the scales of justice a bit.

Instead, the Government has spent more than $250,000 prosecuting a case in which it lost a maximum of $2500. Now, to advance its cause of "justice" to its ultimate conclusion, the Government seeks to deny Goodman a pardon and threatens to seek further relief before the Dental Board in terms of a license revocation. The history of the litigation between Goodman and the Government, along with Ms. Tatter's letter on behalf of the Government,

demonstrate to the reasonable mind that the Government has had enough and more than enough from Goodman, whatever his misdeeds. We urge adoption of the resolution.

Sincerely,

JORDAN GREEN

JG/st

U.S. Department of Justice

United States Attorney
District of Alaska at Anchorage

Federal Building & United States Courthouse *907/271-5071*
Room C-252, Mail Box 9
701 'C' Street
Anchorage, Alaska 99513

March 23, 1983

The Honorable Fritz Pettyjohn
The State Senate
Pouch V - State Capitol
Juneau, Alaska 99811

Dear Sir:

In response to your letter to Michael Spaan, United States Attorney, I am outlining the position of this office with respect to proposed Senate Joint Resolution No. 19 concerning Dr. Goodman. Many of the assertions in Senate Resolution No. 19, are not factually correct; they involve assertions of Dr. Goodman which were presented to the trial jury and rejected.

1. Criminal Charges - Summary

Dr. Goodman was indicted for 33 felony counts of presenting false claims to the Public Health Service. Under this charge, the United States is required to prove deliberate fraud for each count. The judge instructed the jury that the government had to prove Goodman intended to defraud. Mistakes, bookkeeping errors or unintentional overbilling were legitimate defenses, as described to the jury by the trial judge.

At trial, Dr. Goodman presented a defense of "mistake" or unintentional error. The jury heard the evidence and convicted him of 22 felony counts. The judge refused to grant Dr. Goodman a new trial. Dr. Goodman voluntarily dismissed his appeal to the Ninth Circuit Court of Appeals prior to any briefing.

2. Evidence at Trial

a. Discovery of the Fraud

The charges for which Dr. Goodman stands convicted involve serious fraud. The Senate resolution alleges the prosecution was initiated because of a "heated discussion" between Dr. Goodman and a Public Health Service dentist. This allegation is false. The charges arose because a

private dentist, Dr. Richard Siry of Wasilla, discovered Dr. Goodman had billed for major procedures in children's mouths which had not been performed when Dr. Siry treated them. Dr. Siry checked the children's mouths against copies of Dr. Goodman's bills. Dr. Siry informed the Public Health Service dentist, Dr. H. Douglas Smole, that the Public Health Service should investigate Dr. Goodman's billing.

Dr. Siry testified at trial that Dr. Goodman's false claims were for major procedures. Dr. Goodman's false claims had a high frequency. Dr. Siry checked for mere transpositions and other clerical[1/] or minor errors. In his opinion, the absent procedures for which Dr. Goodman billed were not the result of "mistakes."

b. The Government's Evidence

Dr. Smole and Dr. Robin Lenaker, another dentist now in private practice, audited the work of Dr. Goodman and three other dentists who contracted for "bush" work. They found a high percentage of serious errors in Dr. Goodman's case and only one or two clerical-type errors per other dentist. They checked for lost fillings or lost teeth.

The government presented testimony of Public Health Service dentists, two private dentists and a government dentist who privately consults for the Dental Health Plan as an auditor. None of these persons exhibited any personal animosity toward Dr. Goodman. In fact, they had never met him. They described only professional concern that a dentist was billing for procedures clearly not performed, such as repeated billings for repeat visits for the same unperformed work, in circumstances which make unintentional mistakes unlikely. In addition, the government

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1/ "Clerical" errors would be mere transpositions of work done to another side of the mouth, or mis-numbered teeth where restorative work was done on another tooth. In contrast, Dr. Goodman's fraudulent claims included the bill for Lorita Paul, a four year old, whose mouth, including all of her baby teeth, were intact, with no dental work and no fillings, at the time of trial. Dr. Goodman billed for three baby tooth fillings for Lorita Paul. For numerous children, Dr. Goodman billed for stainless steel crowns, an elaborate procedure requiring preparation of the tooth, when the childrens' mouths contained no such crowns nor preparations. In one case, the patient testified that Dr. Goodman did the work after Goodman was indicted, and not when the bill was submitted.

presented slides and X-rays of the children's teeth, so that even a lay person could understand the nature of the false claims. Further, the government's charge of deliberate falsity were supported in some cases by Dr. Goodman's own X-rays and charts. Dr. Goodman, working in an isolated situation in the "bush," where detection was unlikely, billed for major procedures which he did not perform in the mouths of small Native children.

c. Dr. Goodman's Defense and the Government Rebuttal

Dr. Goodman did not testify at trial to any vendetta or "heated discussion" as described in the Senate resolution. He did not dispute at trial that many of his claims were false. He and his expert at trial recognized that many of these procedures were absent. Dr. Goodman and his staff alleged, in certain cases, that these procedures were performed on patients other than the ones named in the bills. In one case, the government introduced evidence to show that the "other patient" did not exist. In another case, the government showed that the "other patient" was in continual court-ordered custody in a state children's home when Dr. Goodman was supposed to have treated her and that Dr. Goodman did not treated her as claimed.

In some cases the defense alleged that the false claims occurred because of Dr. Goodman's frantic office pace or poor bookkeeping. However, as the government pointed out, Dr. Goodman saw many of these patients repeatedly and never corrected his "errors." Nor did he testify to one instance where he made an "error" against his own interest.

Some patients testified personally that they either did not receive any fillings from Dr. Goodman or that Dr. Goodman did the work he billed for after he was indicted for false billing. There was testimony that these were memorable, traumatic procedures, even from Dr. Goodman's own witnesses.

The Senate resolution indicates Dr. Goodman was convicted because of arguably corroded fillings whose age could have been disputed by experts. This is not true. Dr. Goodman presented several experts at trial. He was not convicted of the counts where his experts disputed the Public Health Service opinions. Where he disputed the interpretation of the bills, such as the corroded fillings cases, the jury gave him the benefit of the doubt and did not convict him.

The trial testimony has been described and is available if the Committee is concerned with factual accuracy. I am certain the facts described in the Senate

resolution are not accurate reflections of the testimony under oath at trial.

3. The Sentence

The United States feels that the judge gave a fair sentence. Dr. Goodman was placed on probation and received a fine in lieu of jail time. This fine was punitive. It did not serve to reimburse the government or the defrauded health program.

The children in the villages served by the Public Health Service are entitled by Act of Congress to receive health care from the United States. The Public Health Service dental program has limited funds. There are children in the village who cannot have cavities or absesses treated because the money was used up, partially to pay for Dr. Goodman's false claims.

4. Public Interest

It was important for the United States to bring this case against a public contractor, paid by the taxpayers, for deterrent purposes. The government in Alaska is forced to rely on many professionals who contract with the government. Many of these persons do work in the "bush" where false billing is difficult to detect. It is very expensive for the government to examine every single patient or every single contract performed by a government contractor. In this case, only a dentist could detect the falsities. In fact, the falsities were discovered not by Public Health Service dentists, but by a private dentist who worked on the children's teeth in the village of Mentasta. In such circumstances, the government believes it must occasionally undertake a thorough investigation to root out fraud.

We sincerely hope no legislator takes the position that the government should prosecute crimes that are easy to detect, and let clever professionals escape liability because they possess special knowledge and a special trust relationship with the patient. Violation of the special trust relationship here between patient and dentist makes the fraud especially serious.

Dr. Goodman's case was not easy to prosecute, but it certainly did not involve a disproportionate amount of government expense. It was only one of several other criminal fraud trials I handled in 1982, in addition to many civil and appellate cases. Dr. Goodman's case was one of numerous criminal cases prosecuted by this office: it was not singled out for unusual treatment by this office or the FBI.

The government did bear the cost of transporting all the patients to the trial because Dr. Goodman refused to stipulate concerning what was in the childrens' mouths. Once the children appeared at court, Dr. Goodman's attorney changed his mind in many cases and did not dispute the patient's mouth configurations. The cost of bringing the witnesses was approximately $28,000. The expense was due solely to Dr. Goodman's initial evidentiary position.

5. The Civil Fraud Suit

The federal government sued Dr. Goodman for presenting false claims to a government agency under the Civil Fraud Statute. This is a permissible method of proceeding, approved by our elected representatives in Congress. Its purpose is to make the government whole. The civil concept allows recovery for cases where the burden of proof is less strict than in a criminal case where many rights are given to the accused.

The civil fraud suit involved claims in addition to those presented to the criminal trial jury. Further, in the course of preparing for this civil lawsuit, the Public Health Service dentists are discovering even more false claims made by Dr. Goodman.

Dr. Goodman has, at present counting, submitted false claims for 26 patients totaling approximately $2600 or an average of $100/patient. He treated about 150 Public Health Service patients. Thus, it is likely there are still more false claims that are difficult and expensive to detect.

One of the purposes of the civil fraud statute is to permit recovery where there have been numerous fraudulent claims -- and the likelihood of many more -- but where the fraud is difficult or expensive to detect.

Mr. Spaan believes we would be remiss in our duties to the taxpayers and to the general treasury if we did not pursue all avenues to reimburse the government for false claims and their attendant cost, particularly, the cost of detection. If we pursue collection remedies against those who default on student loans, VA loans or SBA loans, even where the borrower is in difficult circumstances, it is unfair to exempt a wealthy dentist from his statutory duties described by Congress.

The civil suit is in the final stages of settlement negotiations. The government is considering a substantial settlement offer proposed by Dr. Goodman's attorneys. If Dr. Goodman believes the suit is unjust, his proper avenue is in the courts.

We believe it will be prejudicial to both parties to discuss the case more at this point, but the results will become a matter of public record soon.

6. Conclusion

The jury was convinced beyond a reasonable doubt that Dr. Goodman was guilty of 22 counts of intentional fraud. The jury thus did not accept his explanations of "mistake," "professional disagreement" or "bookkeeping errors." Dr. Goodman has elected not to pursue his appeal. Thus any claim of innocence is not supported by the record.

The United States has taken no position on any State Dental Board proceedings. However, if any doubt remains about the fraudulent nature of Dr. Goodman's intent, after the jury verdict, after Dr. Goodman dismissed his appeal and after compromise of the civil suit then perhaps presentation to the Dental Board will resolve any lingering doubts.

The transcript of the criminal trial, as well as all pleadings in both the civil and criminal cases, are a matter of public record and available for you or your Committee to examine. We believe that if the matter is investigated by yourselves or the Dental Board, impartial persons will see, as did the jurors, that indefensible fraud was perpetrated upon the Public Health Service, the American taxpayers and upon the children whom Dr. Goodman was paid for treating.

Thank you for your attention.

Very truly yours,

MICHAEL R. SPAAN
United States Attorney

Sue Ellen Tatter

SUE ELLEN TATTER
Assistant U.S. Attorney

ANCHORAGE, ALASKA 99503
(907) 279-0688

Dental Emphasis:
Dentures and Partial Dentures

April 4, 1983

Senator Bill Ray
Chairman Senate Judiciary Committee
C/O Alaska State Legislature
Pouch V (MS 3100)
Juneau, Alaska 99811

Dear Senator Ray:

I am appalled by Senate Joint Resolution Number 19 which represents a presidential pardon for Dr. Goodman. I am appalled not by the appeal but by what it is based on. Several very important aspects of it are absolutely incorrect! I find it difficult to believe that a legislator could print erroneous information in a document that is to be presented before the state legislature.

First of all, and least of all, the amount of falsified claims totalled $1800.00 not $900.00 as alleged in the resolution. Secondly, no prosecution of these claims was ever initiated until a thorough quality review had been performed on five contract dentists, all working in the TOK area, Dr. Goodman being one of them.

Finally, the reason that an inquiry was performed was that another private contract dentist had noted a discrepancy with work Dr. Goodman had claimed to have performed and alerted the chief of Dental Services of the USPHS, Dr. Smole of this. At that point an investigation ensued which uncovered numerous billings for work never performed that had been paid for by US. tax dollars.

The most abusive portion of this resolution is the part that states that Dr. Smole has or had a personal vendetta against Dr. Goodman. I not only assisted Dr. Smole in the five day assessment in the TOK area that uncovered the discrepencies, but worked along side him for over two years at the Alaska Native Medical Center in Anchorage. He has always dealt fairly with individuals whether they be fellow PHS officers or private contact dentists. Dr. Smole has always adhered to honorable cognitive approaches to all problems requiring reasonable judgments.

I feel, and have told him so, that court action should be pursued for the defamation of character remark made in this resolution as well as other degrading statements made in papers in the last few months.

PHIL W. WRIGHT, JR., D.D.S.
ROBIN P. LENAKER, JR., D.D.S.
502 E. Fireweed Lane, Suite B
ANCHORAGE, ALASKA 99503
(907) 279-0688

Dental Emphasis:
Dentures and Partial Dentures

Senator Ray, I only ask that your committee be fully aware of the court transcripts prior to acting on this resolution.

Sincerely,

Robin P. Lenaker Jr

Robin P. Lenaker; D.D.S.

RPL/jl
cc: Senator Tim Kelly
C/O Alaska State Legislature
Room 208 - B
Pouch V (MS 3100)
Juneau, Alaska 99811

Delta dentist settles suit with government

BY SHEILA TOOMEY
Daily News reporter

Delta Junction dentist James Goodman, convicted of defrauding the federal government by charging for dental work he didn't do, has settled a civil suit filed against him by the federal government with a $20,751.60 check.

The sum will partially repay the government for the cost of detecting Goodman's fraud, said Assistant U.S. Attorney Sue Ellen Tatter. Tatter originally had sought to recover $87,000 from Goodman to cover the cost of the investigation and trial that led to his arrest and conviction.

The amount of the check, received at the U.S. Attorney's office on Tuesday, was arrived at by Goodman's attorneys through a series of calculations, Tatter said. Neither Goodman nor the government admits any liability in the settlement.

Goodman was convicted by a jury on June 16 of 22 fraudulent billings to the U.S. Public Health Service. The jury acquitted him on 10 similar charges, and one charge was dismissed by the judge during the trial.

In reaching their decision, jurors rejected Goodman's defense that the fraudulent billings were inadvertent and due to sloppy bookkeeping by himself, his wife, Jane, and his staff.

Goodman was sentenced to five years probation and fined $31,500.

The state board that licenses dentists has asked for the transcript of Goodman's trial. The board is expected to discuss at its June meeting whether or not his license to practice in Alaska should be revoked, said Harry Treager, director of the Division of Occupational Licensing.

Tatter said Tuesday's settlement closes the government's case against him and will end a continuing investigation into other billing claims raised against the dentist since the filing of the original charges.

"We could keep investigating more and more of these claims," Tatter said, "but it's very expensive and it ties up the dentists from the Native Health Center."

Goodman treated about 150 Public Health Service patients between 1979 and 1981, according to Tatter. Investigators uncovered 26 patients charged for work not done totaling $2,600 in billings, she said.

The government agreed to settle with Goodman to avoid incurring any further costs and because they think the sum is a reasonable compromise, Tatter said. "We're very glad to get it," she said. "To date the civil case has cost us very little to pursue. It would cost us more to go further."

Goodman said he agreed to settle not because he felt he did anything wrong, but to save his family and friends the ordeal of another trial.

The Goodman prosecution — especially Tatter's decision to file a civil suit after the criminal trial — has angered some people in the Delta Junction area where the dentist lives and practices.

Three hundred people contributed $3,400 at a Feb. 25 pro-Goodman rally to lobby Congress and President Reagan to pardon Goodman. And a local group has written a song picturing Goodman as a victim of overzealous law enforcement.