

ALASKA LEGISLATURE COMMITTEE FILES 1983-1988 80 / 2

3261 HJUD HB 19 - HB 26 37

# RUNAWAY YOUTH ACT

## Title III, Federal Law

### TITLE III—RUNAWAY YOUTH

#### SHORT TITLE

Runaway Youth  
Act.  
42 USC 5701  
note.  
42 USC 5701.

Sec. 301. This title may be cited as the "Runaway Youth Act".

#### Findings

Sec. 302. The Congress hereby finds that—

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

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

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

(4) the problem of locating, detaining, and returning runaway children should not be the responsibility of already overburdened police departments and juvenile justice authorities; and

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

#### RULES

42 USC 5702.

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

#### PART A—GRANTS PROGRAM

##### PURPOSES OF GRANT PROGRAM

Localities and  
nonprofit  
agencies, as-  
sistance.  
42 USC 5711.

Sec. 311. The Secretary is authorized to make grants and to provide technical assistance to localities and nonprofit private agencies in accordance with the provisions of this part. Grants under this part shall be made for the purpose of developing local facilities to deal primarily with the immediate needs of runaway youth in a manner which is outside the law enforcement structure and juvenile justice system. The size of such grant shall be determined by the number of runaway youth in the community and the existing availability of services. Among applicants priority shall be given to private organizations or institutions which have had past experience in dealing with runaway youth.

##### ELIGIBILITY

Sec. 312. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund an existing or

proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians.

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

Runaway house,  
requirements.

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

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

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

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

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

Aftercare counseling.

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

Records, information or disclosure, restriction.

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

Annual reports to Secretary.

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

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

Budget estimate.

(10) shall supply such other information as the Secretary reasonably deems necessary.

#### APPROVAL BY SECRETARY

Sec. 813. An application by a State, locality, or nonprofit private agency for a grant under this part may be approved by the Secretary only if it is consistent with the applicable provisions of this part and meets the requirements set forth in section 812. Priority shall be given to grants smaller than \$75,000. In considering grant applications under this part, priority shall be given to any applicant whose program budget is smaller than \$100,000.

42 USC 5713.

#### GRANTS TO PRIVATE AGENCIES, STAFFING

Sec. 814. Nothing in this part shall be construed to deny grants to nonprofit private agencies which are controlled by private boards or persons but which, in order to meet the requirements of this part and agree to be legally responsible for the operation of the

42 USC 5714.

proposed runaway house, a locally controlled facility providing temporary shelter, and counseling services to juveniles who have left home without permission of their parents or guardians.

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

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requirements.

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

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

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

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

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#### GRANTS TO PRIVATE AGENCIES, STAFFING

Sec. 814. Nothing in this part shall be construed to deny grants to nonprofit private agencies which are controlled by private boards or persons but which in other respects meet the requirements of this part and agree to be legally responsible for the operation of the

42 USC 5714.

runaway house. Nothing in this part shall give the Federal Government control over the staffing and personnel decisions of facilities receiving Federal funds.

#### REPORTS

Report to  
Congress.  
42 USC 5715.

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

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

#### FEDERAL SHARE

42 USC 5716.

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

Non-Federal  
share.

Payments.

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

#### PART B—STATISTICAL SURVEY

##### SURVEY: REPORT

42 USC 5731.

SEC. 321. The Secretary shall gather information and carry out a comprehensive statistical survey defining the major characteristic of the runaway youth population and determining the areas of the Nation most affected. Such survey shall include the age, sex, and socio-economic background of runaway youth, the places from which and to which children run, and the relationship between running away and other illegal behavior. The Secretary shall report the results of such information gathering and survey to the Congress not later than June 30, 1975.

Report to  
Congress.

##### RECORDS

Disclosure or  
transfer, re-  
striction.  
42 USC 5732.

SEC. 322. Records containing the identity of individual runaway youths gathered for statistical purposes pursuant to section 321 may under no circumstances be disclosed or transferred to any individual or to any public or private agency.

#### PART C—AUTHORIZATION OF APPROPRIATIONS

42 USC 5731.

SEC. 331. (a) To carry out the purposes of part A of this title there is authorized to be appropriated for each of the fiscal years ending June 30, 1975, 1976, and 1977, the sum of \$10,000,000.

(b) To carry out the purposes of part B of this title there is authorized to be appropriated the sum of \$500,000.



# RUNAWAY YOUTH ACT

## State of New York

LAWS OF NEW YORK, 1978

### CHAPTER 722

AN ACT to amend the social services law and the executive law, in relation to runaway youth, and making an appropriation therefor

Became a law August 7, 1978, with the approval of the Governor. Passed by a majority vote, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

Section 1. Legislative declaration and purpose. The legislature hereby finds and declares that juveniles are running away from home at alarming rates. Runaway youth are without protection and the ordinary means of support, exposed to unnecessary danger and become victims of various illicit businesses which prey upon their vulnerability. This act is designed to establish procedures and services to help protect runaway youth and to alleviate the personal or family situations which present a threat to the health or safety of the youth or the family.

The legislature recognizes that when a youth runs away from home it is symptomatic of some underlying personal or family conflict. The policy of this state is to provide assistance to such persons and to protect and preserve families. The legislature further recognizes that because of their age and situation, runaway youth are urgently in need of temporary shelter and counseling services. Therefore, it is not only the purpose of this act to reunite runaway youth and their parents, but also to provide appropriate services to help runaway youth cope with their problems.

§ 2. Subdivision one of section three hundred seventy-one of the social services law, as added by chapter six hundred ninety of the laws of nineteen hundred sixty-two, is hereby amended to read as follows:

1. "Child" means a person actually or apparently under the age of [sixteen] eighteen years;

§ 3. Subdivision three of section three hundred seventy-one of such law, as added by chapter six hundred ninety of the laws of nineteen hundred sixty-two, is hereby amended to read as follows:

3. "Destitute child" means a child who, through no neglect on the part of its parent, guardian or custodian, is

(a) destitute or homeless, or

(b) in a state of want or suffering due to lack of sufficient food, clothing, or shelter, or medical or surgical care[.], or

(c) a person under the age of eighteen years who is absent from his legal residence without the consent of his parent, legal guardian or custodian, or

(d) a person under the age of eighteen who is without a place of shelter where supervision and care are available.

§ 4. The executive law is hereby amended by adding a new article nineteen-H to read as follows:

#### ARTICLE 19-H

#### RUNAWAY AND HOMELESS YOUTH ACT OF NINETEEN HUNDRED SEVENTY-EIGHT

Section 532. Short title.

532-a. Definitions.

532-b. Powers and duties of approved runaway program.

532-c. Notice to parent; return of runaway youth to parent; alternative living arrangements.

532-d. Powers and duties of the division for youth.



§ 532. *Short title.* This article shall be known and may be cited as the "runaway and homeless youth act of nineteen hundred seventy-eight".

§ 532-a. *Definitions.* For the purposes of this article the term:

1. "Runaway youth" shall mean a person under the age of eighteen years who is absent from his legal residence without the consent of his parent, legal guardian or custodian.

2. "Homeless youth" shall mean a person under the age of eighteen who is in need of services and is without a place of shelter where supervision and care are available.

3. "Approved runaway program" shall mean: any non-residential program approved by the division for youth in consultation with the county youth bureau, or any residential facility which is an authorized agency pursuant to subdivision ten of section three hundred seventy-one of the social services law, and approved by the division for youth in consultation with the county youth bureau, established and operated to provide services to runaway and homeless youth in accordance with the regulations of the state department of social services and the division for youth.

4. "Runaway coordinator" shall mean any person designated by a county whose duties shall include but not be limited to answering inquiries at any time concerning transportation, shelter and other services available to a runaway or homeless youth.

§ 532-b. *Powers and duties of approved runaway program.* 1. Notwithstanding any other provision of law, pursuant to regulations of the division for youth an approved runaway program is authorized to and shall:

- (a) provide assistance to any runaway or homeless youth as defined in this article;
- (b) attempt to determine the cause for the youth's runaway or homeless status;
- (c) explain to the runaway and homeless youth his legal rights and options of service or other assistance available to the youth;
- (d) work towards reuniting such youth with his parent or guardian as soon as practicable in accordance with section five hundred thirty-two-c of this article;
- (e) assist in arranging for necessary services for runaway or homeless youth, and where appropriate, their families, including but not limited to food, shelter, clothing, medical care, and individual and family counseling. Where the approved runaway program concludes that such runaway or homeless youth would be eligible for assistance, care or services from a local social services district, it shall assist the youth in securing such assistance, care or services as the youth is entitled to; and
- (f) immediately report to the local child protective service where it has reasonable cause to suspect that the runaway or homeless youth has been abused or neglected or when such youth maintains such to be the case.

2. The runaway youth may remain in the program on a voluntary basis for a period not to exceed thirty days from the date of admission where the filing of a petition pursuant to article ten of the family court act is not contemplated, in order that arrangements can be made for the runaway youth's return home, alternative residential placement pursuant to section three hundred ninety-eight of the social services law, or any other suitable plan. If the runaway youth and the parent, guardian or custodian agree, in writing, the runaway youth may remain in the runaway program up to sixty days without the filing of a petition pursuant to article ten of the family court act, provided that in any such case the facility shall first have obtained the approval of the county runaway coordinator, who shall notify the county youth bureau of his approval together with a statement as to the reason why such additional residential stay is necessary and a description of the efforts being made to find suitable alternative living arrangements for such youth.

§ 532-c. *Notice to parent; return of runaway youth to parent; alternative living arrangements.* 1. The staff of the program shall, to the maximum extent possible, preferably within twenty-four hours but within no more than seventy-two hours following the youth's admission into the program, notify such runaway youth's parent, guardian or custodian of his or her physical and emotional condition, and the circumstances surrounding the runaway youth's presence at the program, unless there are compelling circumstances why the parent, guardian or custodian should not be so



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2. "Homeless youth" shall mean a person under the age of eighteen who is in need of services and is without a place of shelter where supervision and care are available.

3. "Approved runaway program" shall mean any residential program approved by the division for youth in consultation with the county youth bureau, or any residential facility which is an authorized agency pursuant to subdivision ten of section three hundred seventy-one of the social services law, and approved by the division for youth in consultation with the county youth bureau, established and operated to provide services to runaway and homeless youth in accordance with the regulations of the state department of social services and the division for youth.

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(b) attempt to determine the cause for the youth's runaway or homeless status;

(c) explain to the runaway and homeless youth his legal rights and options of service or other assistance available to the youth;

(d) work towards reuniting such youth with his parent or guardian as soon as practicable in accordance with section five hundred thirty-two-e of this article;

(e) assist in arranging for necessary services for runaway or homeless youth, and where appropriate, their families, including but not limited to food, shelter, clothing, medical care, and individual and family counseling. Where the approved runaway program concludes that such runaway or homeless youth would be eligible for assistance, care or services from a local social services district, it shall assist the youth in securing such assistance, care or services as the youth is entitled to; and

(f) immediately report to the local child protective service where it has reasonable cause to suspect that the runaway or homeless youth has been abused or neglected or when such youth maintains such to be the case.

2. The runaway youth may remain in the program on a voluntary basis for a period not to exceed thirty days from the date of admission where the filing of a petition pursuant to article ten of the family court act is not contemplated, in order that arrangements can be made for the runaway youth's return home, alternative residential placement pursuant to section three hundred ninety-eight of the social services law, or any other suitable plan. If the runaway youth and the parent, guardian or custodian agree, in writing, the runaway youth may remain in the runaway program up to sixty days without the filing of a petition pursuant to article ten of the family court act, provided that in any such case the facility shall first have obtained the approval of the county runaway coordinator, who shall notify the county youth bureau of his approval together with a statement as to the reason why such additional residential stay is necessary and a description of the efforts being made to find suitable alternative living arrangements for such youth.

§ 532-c. *Notice to parent; return of runaway youth to parent; alternative living arrangements.* 1. The staff of the program shall, to the maximum extent possible, preferably within twenty-four hours but within no more than seventy-two hours following the youth's admission into the program, notify such runaway youth's parent, guardian or custodian of his or her physical and emotional condition, and the circumstances surrounding the runaway youth's presence at the program, unless there are compelling circumstances why the parent, guardian or custodian should not be so

(1) A description of the current runaway and homeless population including their age, place of origin, family status, service needs and eventual disposition;

(2) A description of the public and private resources available to serve runaway and homeless youth within the county;

(3) A description of new services to be provided and current services to be expanded.

c. The director shall review such plan and may approve or disapprove such plan, or any part, program, or project within such plan, and may propose such modifications and conditions as deemed appropriate and necessary.

d. Counties having an approved runaway and homeless youth plan pursuant to this subdivision shall be entitled to reimbursement by the state for one-half of the entire amount of the expenditures for programs contained in such plan as approved by the director, after first deducting therefrom any federal or other state funds received or to be received on account thereof. A county having an approved runaway and homeless youth plan prior to January first, nineteen hundred eighty may, with the approval of the director and the director of the budget, be eligible to receive reimbursement by the state of up to seventy-five percent of the first year's expenditures for new or expanded services to runaway and homeless youth not previously provided in such county which are contained within such county's initial approved plan. Any such programs shall then be eligible for reimbursement of up to seventy-five percent of the second year's expenditures, sixty percent of the third year's expenditures and fifty percent thereafter. All reimbursement pursuant to this subdivision shall be from and limited to funds appropriated separately for such runaway and homeless youth program purposes by the state, and shall not be included under the limits set in subdivision one of this section. The county's share of the cost of such programs may be met in part by donated private funds, provided that such private funding shall not be more than fifty percent of such county's share.

§ 6. The sum of seven hundred fifty thousand dollars (\$750,000), or so much thereof as may be necessary, is hereby appropriated to the division for youth in the executive department out of any moneys in the state treasury in the general fund to the credit of the local assistance fund not otherwise appropriated, for the purpose of providing state aid pursuant to this act. Notwithstanding any other provisions of law, no expenditures shall be made from this appropriation until a certificate of approval allocating these funds has been issued by the director of the budget and copies of such certificate or any amendment thereto filed with the state comptroller, the chairman of the senate finance committee and the chairman of the assembly ways and means committee.

§ 7. This act shall take effect on the thirtieth day after it shall have become a law.



ATTACHMENT D

List of States Awarded Federal Grants for Runaway Youth Programs

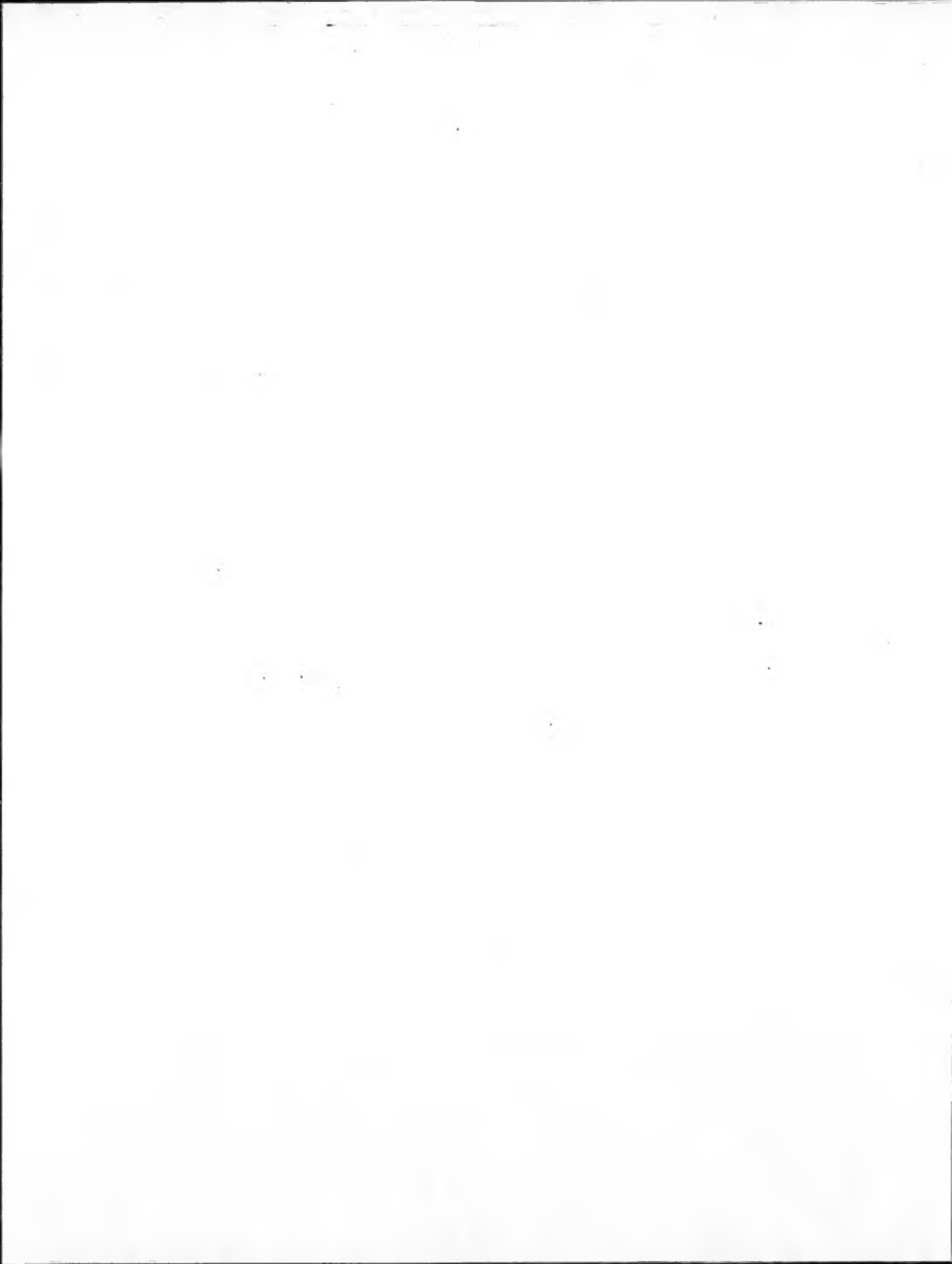


TABLE 1

RUNAWAY AND HOMELESS YOUTH CENTERS  
FY '81 ALLOCATIONS BY AREA

AREA	ALLOCATION	NUMBER OF PROGRAMS
Alabama.....	\$179,484	2
Alaska.....	23,445	1
Arizona.....	120,336	2
Arkansas.....	101,980	2
American Samoa.....	2,040	0
California.....	990,222	18
Colorado.....	127,475	6
Connecticut.....	130,534	3
Delaware.....	26,515	1
D.C.....	26,515	2
Florida.....	354,889	6
Georgia.....	247,810	4
Guam.....	9,178	0
Hawaii.....	43,851	1
Idaho.....	46,911	1
Illinois.....	514,997	5
Indiana.....	253,929	4
Iowa.....	130,534	2
Kansas.....	102,999	2
Kentucky.....	166,227	1
Louisiana.....	205,999	2
Maine.....	50,990	2
Maryland.....	182,543	4
Massachusetts.....	241,692	6
Michigan.....	435,453	6
Minnesota.....	185,603	2
Mississippi.....	128,494	1
Missouri.....	214,157	4
Montana.....	37,732	1
Nebraska.....	71,386	2
Nevada.....	32,633	1
New Hampshire.....	40,792	1
New Jersey.....	318,176	5
New Mexico.....	64,247	1
New York.....	756,689	10
North Carolina.....	256,989	3
North Dakota.....	30,594	1
Northern Marianas.....	1,020	0
Ohio.....	491,542	6
Oklahoma.....	129,514	3
Oregon.....	111,158	2
Pennsylvania.....	495,621	7
Puerto Rico.....	205,999	2
Rhode Island.....	38,752	1
South Carolina.....	143,791	1
South Dakota.....	32,633	1
Tennessee.....	198,860	3
Texas.....	651,650	12
Trust Territories.....	10,198	0
Utah.....	80,564	1
Vermont.....	22,436	1
Virginia.....	229,454	3
Virgin Islands.....	6,119	0
Washington.....	174,385	7

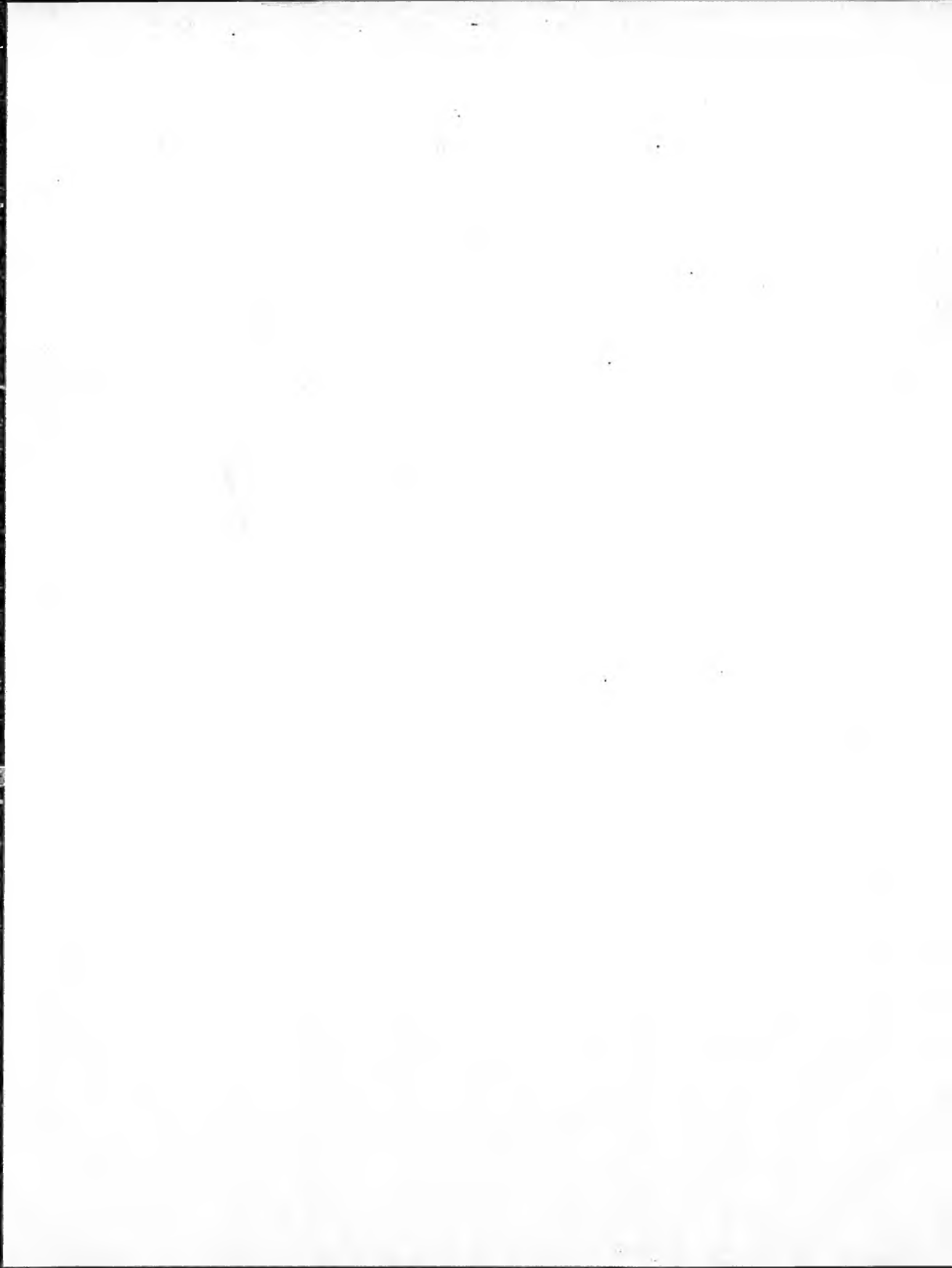
West Virginia.....	85,663	2
Wisconsin.....	214,157	4
Wyoming.....	22,436	2
	TOTALS	
57 Areas	\$10,200,000	169

SCURCE: Federal Register, Feb. 24, 1981, Part VII, Department of Health & Human Services, Office of Human Development Services, Runaway & Homeless Youth Program; Availability of Financial Assistance.



ATTACHMENT E

NCSL Draft Report on Other States' Runaway Programs & Legislation





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Executive Director  
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**DRAFT**  
February, 1983

**STATE LEGISLATIVE STRATEGIES:  
RUNAWAY AND HOMELESS YOUTH**

**I. Legislation Enacted**

**1. New York**

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

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

**II. Line-Item Appropriation**

**1. Florida**

In 1982, the Florida legislature developed a special line-item appropriation for runaway youth programs to replace lost federal dollars. The Florida Runaway Youth Services Network was instrumental in securing the \$807,000 appropriation.

**2. Vermont**

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

### III. Related Legislation

#### 1. Ohio

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

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

#### 2. Louisiana

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

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

#### 3. California

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

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

#### 4. North Carolina

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

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

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## Related Legislation (continued)

### 5. Pennsylvania

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

### 6. Wisconsin

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

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

## IV. Other State Strategies

### 1. Texas

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

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

V. States Considering Runaway and Homeless Youth Legislation

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

1. Florida

See previous contact

2. California

See previous contact

3. New Jersey

Contact: Bob Money  
Together, Inc.  
103 Ellis Street  
Glassboro, New Jersey 08028  
(609) 445-7392

For further information, including state legislation, contact:

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

We would also appreciate receiving information to update this report.



# **CORRECTION**

**THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY**

V. States Considering Runaway and Homeless Youth Legislation

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

1. Florida

See previous contact

2. California

See previous contact

3. New Jersey

Contact: Bob Maloney  
Together, Inc.  
103 Ellis Street  
Glassboro, New Jersey 08028  
(609) 445-7392

For further information, including state legislation, contact:

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Michele R. Magri  
Mary Kay Henderson  
1125 Seventeenth St., Suite 1500  
Denver, Colorado 80202  
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(303) 292-6600

We would also appreciate receiving information to update this report.



ALASKA STATE LEGISLATURE  
HOUSE OF REPRESENTATIVES  
RESEARCH AGENCY

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

April 13, 1984

MEMORANDUM

TO: The Files

FROM: Heidi Borson Paine <sup>HBP</sup>  
Legislative Analyst

RE: Research Request 84-070  
Runaway Youth

Representative Barbara Lacher requested that we research some arguments made by the Department of Health and Social Services (DHSS) in a position paper on House Bill 670. House Bill 670, sponsored by Representative Lacher, would have established autonomous runaway and homeless youth programs throughout Alaska. The bill, in essence, was a replica of a New York law which established runaway programs under county jurisdiction.

In the position paper, DHSS maintained that HB 670 proposed procedures regarding the notification and involvement of parents which were inconsistent with other State statutes concerning runaway youth. DHSS was also concerned that the bill would allow the proposed runaway programs to release youth to "other responsible adults" than parents or legal guardians without defining a responsible adult.

To verify the points made in the position paper, I contacted Ed Hein, drafter of HB 670, Russ Webb of DHSS, and Jay Noscwicz, State Director of Runaway and Homeless Youth Programs in New York.

After I explained the incompatibility of the New York law and the Alaska Statutes, Representative Lacher requested assistance in drafting a sponsor substitute for HB 670. Representative Lacher wanted the substitute to require peace officers to search for runaway minors and to mandate the involvement of the Division of Family and Youth Services (DFYS) in runaway cases. ~~First, however, I was asked to research the present practices of police officers and DFYS employees statewide concerning runaway youth.~~ In addition, I was asked to obtain comments from peace officers and DFYS representatives concerning possible changes in the runaway youth statutes. (See Attachment A for a copy of the interview questions and responses.)

I contacted police departments and DFYS offices throughout the state, including those in Anchorage, Mat-Su, Fairbanks, Ketchikan, Kenai and Nome. The telephone interviews indicated that each city handles runaways differently depending on location, size and staff resources.

3/28/84

TOPICS:

1. Adding language in the statutes to require police to search for all runaway youth:
  - It is not necessary to recriminalize running away in order to require the police to search for runaways.
  - All police departments contacted were opposed to mandating searches because of the lack of resources to conduct searches and the belief that many cases involving runaways do not necessitate police involvement.
  - All those contacted maintained that implementing a law requiring searches would be impossible without funding for additional staff persons to conduct the searches.
  - One DFYS representative expressed concern that such a requirement would dissuade parental efforts to locate runaways, and suggested including language requiring parents to search before involving the police.
  - One police chief argued that it should be a responsibility of DFYS to search for runaways since it would be the agency providing follow-up services anyway.
  
2. Changing the language in AS 47.10.142 from "A peace officer may detain a minor who is evading the person having legal custody over him..." to a police officer shall detain...":
  - A Department of Law representative stated that this requirement might pose some constitutionality questions. It could be argued that if running away is not a crime and if the minor has not committed any offenses then detaining the youth could be restricting his/her constitutional right to liberty.
  - Police departments argued that detaining runaways should not be a mandated function of the police, because running away is not a criminal offense.
  - Some police chiefs argued that detaining a runaway is often unnecessary.
  - How would detain be defined in the statutes?
  - It was argued that if this provision would require language to explain what would happen after the youth was detained (i.e. what is the purpose of detaining the youth?).

Hein  
4/3/84

IN THE HOUSE

BY LACHEM

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 670  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
THIRTEENTH LEGISLATURE - SECOND SESSION  
A BILL

For an Act entitled: "An Act relating to runaway minors."

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

\* Section 1. AS 47.10 is amended by adding a new section to read:

Sec. 47.10.141. LOCATING RUNAWAY MINORS. (a) Not later than 24 hours after receiving a written request to locate a minor who is evading the person having legal custody of the minor, a law enforcement agency shall make reasonable efforts to locate the minor. If a peace officer locates the minor and does not detain the minor, the peace officer shall immediately notify the department of the location at which and circumstances under which the minor was found.

(b) Not later than 12 hours after receiving notification under (a) of this section that a minor has been located, the department shall notify the person having legal custody of the minor that the minor has been located.

1 IN THE HOUSE

BY LACHER

2 SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 670  
3 IN THE LEGISLATURE OF THE STATE OF ALASKA  
4 THIRTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

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10 hours after receiving a written request to locate a minor who is  
11 evading the person having legal custody of the minor, a law enforce-  
12 ment agency shall make reasonable efforts to locate the minor. If a  
13 peace officer locates the minor and does not detain the minor, the  
14 peace officer shall immediately notify the department of the location  
15 at which and circumstances under which the minor was found.

16 (b) Not later than 12 hours after receiving notification under  
17 (a) of this section that a minor has been located, the department  
18 shall notify the person having legal custody of the minor that the  
19 minor has been located. As soon as practicable after receiving noti-  
20 fication under (a) of this section, and before notifying the person  
21 having legal custody of the minor that the minor has been located, the  
22 department shall

23 (1) contact the minor in person;

24 (2) determine the condition of the minor and the circum-  
25 stances under which the minor is living; and

26 (3) advise the minor in writing of services of the depart-  
27 ment available to the minor.  
28  
29



STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 19  
 Title: An Act Relating to  
Runaway Minors  
 Sponsor: Rep. Phillips  
 Requestor: House HESS  
 Date of Request: 1-29-85

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 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0
<b>CAPITAL</b>	0	0	0	0	0	0
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Francis C. Allan *F.C.A.* Phone: 269-5691  
 Division: Alaska State Troopers Date: 1/25/85

Approved by Commissioner: R. J. Sundberg *Michael Clemens* Date: 1-30-85  
 Agency: Department of Public Safety *JW*

Distribution (by Agency preparing fiscal note):

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

7/1/84

POSITION PAPER

HOUSE BILL NO. 19

"An Act relating to runaway minors."

This bill would mandate minimum levels of effort by law enforcement agencies to locate runaways. It would also require the Department of Health and Social Services to contact and investigate the circumstances of runaway youth not detained by police officers, offer them social services, and notify legal custodians of runaways that the youths have been located.

Existing Practice

Under present law police agencies are not required to take any action to locate reported runaways. Law enforcement agencies have discretion to detain runaways for the purpose of either returning them to their parents or legal custodian or taking them to an office of the Department of Health and Social Services. Under this discretionary statute, police agencies may and often do refuse to respond to parental requests unless a court issues an order for detention of a runaway youth. In most instances, parents do not know the procedures required to obtain a court order. They must either seek the aid of an attorney or the Department of Health and Social Services, to whom they are generally referred by police agencies, to obtain these orders. This causes frustration on the part of parents, needless preparation of formal court documents, and unfortunate delays in actions of law enforcement in seeking to locate runaways.

The Department of Health and Social Services is presently mandated to assess the circumstances of runaway minors who request services and those of runaways who are detained by law enforcement, and to provide appropriate services to protect the youths and reunite them with their families. The department may assume emergency custody of runaways who request services or who are detained by police officers, if custody is necessary to protect the youth.

Problems Solved by HB 19

By requiring minimum levels of police response to requests to locate runaways this bill eliminates the discretion of police agencies to refuse such requests or wait until court orders are issued before making attempts to locate the youth. Police are required to act only in response to written requests, a process which may eliminate some nuisance requests and insure that police agencies have at least minimal information before attempting to locate a youth. This provision will also provide clear guidance to parents on initiating efforts to locate runaways.

Although the approach embodied in HB 19 and the suggested amendments to the bill will help to address some aspects of the runaway problem, they must not be viewed as a panacea. The problem is a complex one which requires a range of services such as shelter care for runaways, family counseling and mediation to reunite and strengthen families, and other community-based programs to protect runaways (who are often particularly vulnerable to victimization). It is extremely important to divert non-criminal runaway youth from the justice system and inappropriate institutionalization.

The department recommends that if HB 19 is passed, it be amended as follows:

Sec. 1. AS 47.10.140(f) is amended to read:

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

Sec. 2. AS 47.10.140(g) is amended to read:

(g) A minor who is detained under (f) of this section may not be detained in a jail or juvenile detention facility. [unless kept out of contact with adult persons convicted or accused of a crime. A minor may not be detained in a jail or other detention facility which has not been approved by the Department of Health and Social Services before detention of the minor].

Sec. 3. AS 47.10 is amended by adding a new section to read:

Section 47.10.141. LOCATING RUNAWAY MINORS. Not later than 24 hours after receiving a written request to locate a minor who is evading the person having legal custody of the minor, a law enforcement agency shall make reasonable efforts to locate the minor and shall provide pertinent information about the minor to the Department of Public Safety and other law enforcement agencies within the state when appropriate. If a peace officer locates the minor the peace officer must detain the minor in accordance with 47.10.140(f).

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HR No 19  
 Title: An Act relating to runaway  
minors  
 Sponsor: Rep. Phillips  
 Requestor: \_\_\_\_\_  
 Date of Request: 1/28/85

FISCAL DETAIL

Agency Affected: Health and Social Services  
 Program Category Affected: \_\_\_\_\_  
Social Services  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Social Services BRU, Purchased Services BRU,  
Juvenile Custody BRU, Northern, Southcentral and  
Southeastern Regions.

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES	-0-	182.8	190.1	197.7	205.6	213.8
200 TRAVEL	-0-	7.2	7.5	7.8	8.1	8.4
300 CONTRACTUAL	-0-	23.5	24.4	25.4	26.4	27.5
400 SUPPLIES	-0-	2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT	-0-	7.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS	-0-	100.0	104.0	108.2	112.5	117.0
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>-0-</b>	<b>323.0</b>	<b>328.1</b>	<b>341.3</b>	<b>354.9</b>	<b>369.1</b>
<b>CAPITAL</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>
<b>REVENUE</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>	<b>-0-</b>

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-0-	323.0	328.1	341.1	354.9	369.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>	<b>-0-</b>	<b>323.0</b>	<b>328.1</b>	<b>341.1</b>	<b>354.9</b>	<b>369.1</b>

POSITIONS:

FULL-TIME	-0-	3	3	3	3	3
PART-TIME	-0-	2	2	2	2	2
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Michael L. Price *Michael L. Price* Phone: 465-3170  
 Division: Family and Youth Services Date: 1/28/85

Approved by Commissioner: *J. R. G.* Date: 1/30/85 *JCC*  
 Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget

1.	POSITION TITLE Social Worker III				GRADE/STEP 1GA	DEPT. UNIT CXU	PAGE/LINE	COV.	APPROV.	DISPT.
2.	TYPE OF POSITION 1111	STAFF MONTHS 12	RP NUMBER	PCN NUMBER	DRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	CCG.		

3.	CONTINUATION LEVEL		ADDITION	
4.	TYPE OF EXPENDITURE			Amount
	1	2	3	
	PERSONAL SERVICES			
5.	Salary	37.4		
6.	Benefits	11.4		
7.	Supplemental Benefits			
8.	Fixed Benefits			
9.	TOTAL PERSONAL SERVICES	01	48.8	
	Travel	02	1.9	
	Contractual	03	5.5	
	Commodities	04	.4	
12.	Equipment	05	1.5	
14.	Other			
15.	TOTAL COST		58.0	

JUSTIFICATION

Personal Services calculations based on PAC's Calculations for Contractual, Supplies and Equipment based on FY 86 budget submission.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		C.F. Match 1003	
18.		General Funds 1004	58.0
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR DRU USE ONLY  
KEY NUMBER \_\_\_\_\_

REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population  
DRU Social Services  
COMPONENT Northern Region

Page 1 of 5  
Revised Date \_\_\_\_\_

FY 86

1.	POSITION TITLE Social Worker III				RANGE/STEP 16A	ORG. UNIT CGU	PAGE/LINE	COV.	APPROV.	DISAP.
2.	TYPE OF POSITION EMP	STAFF MONTHS 12	RP NUMBER	PER NUMBER	ORG PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LCC.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE				Personal Services calculations based on PAC's Calculations for Contractual, Supplies and Equipment based on FY 86 budget submission.					
	PERSONAL SERVICES		Amount							
5.	Salary	32.4								
6.	Benefits	10.3								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	42.7							
	Travel	02	1.8							
	Contractual	03	5.5							
	Commodities	04	.4							
13.	Equipment	05	1.5							
14.	Other									
15.	TOTAL COST		51.9							
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1007								
18.		G.F. Match 1003								
19.		General Funds 1004		51.9						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR O&M USE ONLY										
KEY NUMBER _____										

REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
 Social and Economic Assistance  
 PROGRAM for the General Population  
 BRU Social Services  
 COMPONENT Southcentral Region

Page 3 of 5  
 Revised Date \_\_\_\_\_

FY 86

1.	POSITION TITLE Social Worker III				RANGE/STEP 16A	ORG. UNIT CGU	PAGE/LINE	COV.	APPROV.	DISAP.						
2.	TYPE OF POSITION PPP	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Ketchikan	ELECTION DISTRICT	LEG.								
3.	CONTINUATION LEVEL				JUSTIFICATION											
4.	TYPE OF EXPENDITURE				<p>Personal Services calculations based on PAC's.</p> <p>Calculations for Contractual, Travel, Supplies and Equipment based on FY 86 Budget submission.</p>											
	PERSONAL SERVICES															
5.	Salary		17.5													
6.	Benefits		6.8													
7.	Supplemental Benefits															
8.	Fixed Benefits															
9.	TOTAL PERSONAL SERVICES	01		24.3												
10.	Travel	02		.9												
11.	Contractual	03		3.5												
12.	Commodities	04		.1												
13.	Equipment	05		1.5												
14.	Other															
15.	TOTAL COST			30.6												
16.	RECEIPT CODE	FUNDING SOURCE														
17.		Federal Receipts 1002														
18.		C.F. Hatch 1003														
19.		General Funds 1004		30.6												
20.		I-A Receipts 1005														
21.		Program Receipts 1028														
		Other														
FOR B&H USE ONLY KEY NUMBER _____																

REQUEST FOR  
NEW POSITION

AGENCY Health and Social Services  
Social and Economic Assistance  
PROGRAM for the General Population  
BRU Social Services  
COMPONENT Southeastern Region

Page 5 of 5  
Revised Date \_\_\_\_\_

**FY 86**



RETYPE FROM BARBARA STALEY'S TELECOPY SINCE IT WAS ILLEGIBLE.

January 29th, 1985

Representative  
Néilo Koponen  
Pouch V  
Juneau, AK 99811

I strongly support HB 19 and it's speedy adoption. This bill will allow distraught parents to effect immediate search for their missing children. Under current legislation - Public Safety Officials are not required to effect a search for a missing child until 72 hours have passed. This is a dangerous precedent which could lead to loss of life. While we know that the greater percentage of missing children are runaways, we simply cannot assume that is the circumstance in every case. The loss of one child is too large a price to pay for this kind of blanket assumption.

Another price is paid, under current law, which is extremely detrimental to the overall goal of Health and Social Services Division of Family and Youth, in Alaska - that of assisting in the support and maintenance of strong family units. When a youth leaves home - in many instances - it may be attributed to communication breakdown. The family of this missing youth goes through untold agony until that child is located and is known to be safe. This kind of pain -if unduly prolonged- may preclude the chance of ever healing the breach in family relations. The quicker a youngster is located - the sooner dialogue may begin between parents/guardians and child.

Thirdly - it is imperative Section 1 (b) 3 be enforced, so that careful assessment of current circumstances under which a minor is living may be ascertained. Many of the calls we, at Crisis Line or our family and youth hotline "Roundtable", receive from runaways indicate they are living in questionable surroundings, i.e., with young adults who have just reached majority and are exerting a detrimental influence, or, going from home to home among their friends without the knowledge or consent of friends parents.

Lastly - there young people are extremely vulnerable when out of the home and open to many kinds of victimization. It is imperative that someone be responsible for these minors - since under current law they cannot be forced back into their own homes - (which in some cases would not be appropriate). These minors out of their home currently reside in a grey area - and are without protection or guidance. They are in fact expected (required) to make life decisions that would be difficult for an adult.

I support and urge the speedy adoption of HB 19.

Sincerely,

Barbara Staley, Executive Director  
Fairbanks Crisis Center Foundation

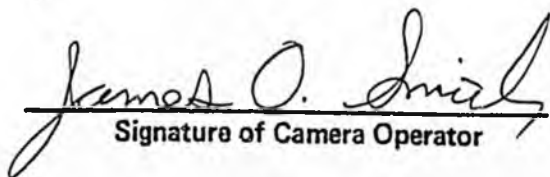


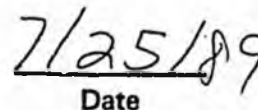


# RECORDS CERTIFICATION



I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this State to microfilm its records and to dispose of the original records after microfilm reproductions have been made.

  
Signature of Camera Operator

  
Date

H

B

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6

STATE OF ALASKA  
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3900

May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

House Judiciary

3-13-85

3:00 pm

COMMITTEE REPORT  
HOUSE

1/14/35

FURTHER: Judicial

Date: 1/14/35

The Committee on State Affairs has had 77-21

"An act relating to the verification of residence of candidates for certain public offices."

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 2-4-35
- reports it back without recommendation  Zero Fiscal Note Attached
- referred to the \_\_\_\_\_ Committee

MEMBERS SIGNING  
DO PASS

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

MEMBERS HAVING  
OTHER RECOMMENDATIONS:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

[Signature]

CHAIRMAN

REP. TERRY MARTIN

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
NUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE



HOME  
3960 REKA DRIVE B6  
ANCHORAGE, AK 99508  
PHONE 333 6990

DURING SESSION  
POUCH V  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

Alaska House of Representatives

MEMORANDUM

To: Representative Mike Miller, Chairman  
House Judiciary Committee

From: Representative Terry Martin *TMM*

Date: January 31, 1986

Subject: H.R. 26

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 26 is necessary in order to give the Division of Elections (the agency which receives declarations of candidacy) the statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claim of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division of Elections, the Division usually states that certification is based only on the face value of the candidate's declaration of candidacy. Neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued.

I refer you to the attached Memorandum from Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980:

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity . . . .

. . . The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed . . . .



On page 2 of that same memorandum, paragraph 2, Mr. Pegues goes on to say that, even if a candidate states that he is not sure he does meet residency requirements, but later "repudiates" that statement, the Division of Elections has no authority to question residency, because an admission of disqualification could be "dead wrong", and because "proof of residence consists of both objective facts and subjective feelings" (page 2, paragraph 1). In fact, the last sentence of page 2 states:

And, indeed, if they [election officials] are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

So in the same paragraph, the Attorney General states that Division of Elections has no duty to question or determine residency, yet the Division can and should make a determination of residency if it thinks a candidate is mistaken in admitting disqualification.

The Division of Elections has suggested that the Alaska Public Offices Commission already has investigative powers, and so this function should lie with APOC. However, AS 15.13.030(8), which does give APOC investigative powers, limits those powers to AS 15.13, AS 24.45 or AS 39.50. None of these chapters covers a candidate's declaration of candidacy.

I cannot find any agency which has specific or implied authority to investigate a candidate's residency. This is inconsistent with state policy in other residency-based programs, such as the permanent fund dividend distribution. If a permanent fund applicant does not appear to meet residency requirements, the state not only has the authority, but has an obligation to question the applicant's legal residence. If we can question every permanent fund applicant, every longevity bonus recipient, every student loan applicant to determine legal Alaskan residency, then surely we should empower our election officials to determine whether a candidate meets the Constitutional residency requirements to run for office.

Your careful consideration of this legislation and its passage will be a great step toward protecting the voter in choosing a candidate who has fulfilled the legal requirements of residency for elective office.

## OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues  
Assistant Attorney General  
Dept. of Law

January 18, 1980

Terry Miller  
Lieutenant Governor

Constitutional Residency  
Requirements for Filing  
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

RECEIVED  
STATE OF ALASKA  
JAN 25 1980  
LIEUTENANT GOVERNOR

TO: [ Honorable Terry Miller  
Lieutenant Governor

DATE January 23 1980

FILE NO. J-66-412-80

TELEPHONE NO.

FROM AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: Constitutional resi-  
dency requirements  
for elective state  
office

By: Rodger W. Peggs  
Assistant Attorney General

You have asked what you, as Lieutenant Governor and the state's chief election officer, should do with respect to the application of the constitution's residency requirements to those who file for elective state office.

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. \*/ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed. Under AS 15.25.040, an untimely filed declaration of candidacy clearly must be rejected. But there is no similar provision for rejecting a declaration which substantially complies with the prescribed requirements for filing for office. With respect to residency, those requirements are that, in substance, the candidate states that he meets "the specific residency requirements of the office for which he is a candidate." AS 15.25.030(8). Given substantial compliance by the candidate, his name must

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\*/ For the legislature, three years in the State and one in the district is required. Alaska Const., art. II, § 2. For governor and lieutenant governor, seven years in the State is required. Alaska Const., art. III, §§ 2, 7.



Honorable Terry Miller  
January 22, 1980  
Page #2

be placed on the ballot. AS 15.25.060

For the most part, the Alaska Election Code, like many others, depends upon the adversarial nature of the election process for enforcement. The law reasonably assumes that a candidate's opponents will be the first to raise complaints against any false or fraudulent filing. Residence (domicile) is an elusive legal concept. Proof of residence consists of both objective facts and subjective feelings. A determination requires a full blown hearing and an independent, nonpartisan decision maker. The Election Code quite wisely does not provide for the election officials to make such determinations.

Of course, if a declared or would-be candidate states to the election officials that in his own mind he does not believe he is a resident of the state or of the election district or that he believes that he no longer meets the constitution's residency requirements, then the officials -- on the basis of that admission -- may reject a declaration of candidacy from that person unless it is preceded or accompanied by a withdrawal or repudiation of the admission of disqualification. While election officials have no duty to question or determine residency, they are not compelled to ignore admissions of disqualification. However, whether one is qualified or not is a legal question and an admission of disqualification could be dead wrong. Therefore, the election officials must honor any subsequent withdrawal or repudiation of such an admission. And, indeed, if they are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

RWP/pjg

LAY S. HAMMOND, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 463-3500

July 8, 1982

The Honorable Terry Martin  
3960 Reka Drive-B6  
Anchorage, Alaska 99504

Re: ██████████'s candidacy  
Our file 366-029-83

Dear Representative Martin:

In a letter dated June 24, 1982 (received in this office on June 28, 1982), you requested that we review certain aspects of ██████████'s candidacy for the office of Representative from Election District 13, Seat B. Although you pose a number of specific questions, you appear to have two primary concerns: (1) was ██████████ a resident of Election District 13 for one year, as required by Article II, Section 2 of the Alaska Constitution, at the time she refiled her declaration of candidacy on June 1, 1982; and (2) because she was not properly a candidate before June 1, 1982, having not been a resident for a full year in Election District 13, must her campaign committee (or, in the alternative, contributors to that committee) repay to the state any campaign contribution refunds under AS 43.20.013(a)?

In brief, the Attorney General's office cannot make the residency determination you desire. We are the attorney for the Division of Elections, and as such have no greater powers than the division possesses to make such inquiries. As you note in your letter, the division cannot go beyond the statements in the declaration of candidacy. If you have a disagreement with the statements in that declaration of candidacy, one remedy which you may pursue is to file a lawsuit in the Superior Court. The answer to your question regarding repayment to the state for refunds given to campaign contributors is not as clear. However, on the basis of our research and consideration of the facts presented, we believe it is extremely unlikely that a court would require contributors to repay the refunds, and even more unlikely that the court would require the campaign committee to do so. A more detailed analysis of these issues follows.

ELECTIVE DISTRICT 13  
MOUNTAIN VIEW  
RUSSIAN JACK SPRINGS  
YUNAKA VALLEY  
ELMENDORF A.F.B.  
CREEKSIDE  
EAST ANCHORAGE

## REP. TERRY MARTIN



HOME  
3960 REKA DRIVE 26  
ANCHORAGE, AK 99508  
PHONE 333-6990

DURING SESSION  
POUCH 7  
STATE CAPITOL BUILDING  
JUNEAU, AK 99811  
PHONE 465-3783

### Alaska House of Representatives

#### MEMORANDUM

To: Representative Katie Hurley, Chairman  
House State Affairs Committee

From: Representative Terry Martin *T.M.*

Date: April 23, 1985

Subject: HB 26

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 26 is necessary in order to give the Division of Elections (the agency which receives declarations of candidacy) the statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claim of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division of Elections, the Division usually states that certification is only based on the face value of the candidate's declaration of candidacy. Neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued.

I refer you to the attached Memorandum from Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980:

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity . . . .



. . . The Election Code makes no provision for the election officials to reject an application which is valid on its face and timely filed . . . .

On page 2 of that same memorandum, paragraph 2, Mr. Pegues goes on to say that, even if a candidate states that he is not sure he does meet residency requirements, but later "repudiates" that statement, the Division of Elections has no authority to question residency, because an admission of disqualification could be "dead wrong", and because "proof of residence consists of both objective facts and subjective feelings" (page 2, paragraph 1). In fact, the last sentence of page 2 states:

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The Division of Elections has suggested that the Alaska Public Offices Commission already has investigative powers, and so this function should lie with APOC. However, AS 15.13.030(8), which does give APOC investigative powers, limits those powers to AS 15.13, AS 24.45 or AS 39.50. None of these chapters covers a candidate's declaration of candidacy.

I cannot find any agency which has specific or implied authority to investigate a candidate's residency. This is inconsistent with state policy in other residency-based programs, such as the permanent fund dividend distribution. If a permanent fund applicant does not appear to meet residency requirements, the state not only has the authority, but has an obligation to question the applicant's legal residence. If we can question every permanent fund applicant, every longevity bonus recipient, every student loan applicant to determine legal Alaskan residency, then surely we should empower our election officials to determine whether a candidate meets the Constitutional residency requirements to run for office.

Your careful consideration of this legislation and its passage will be a great step toward protecting the voter in choosing a candidate who has fulfilled the legal requirements of residency for elective office.

OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues  
Assistant Attorney General  
Dept. of Law

January 18, 1980

Terry Miller  
Lieutenant Governor

Constitutional Residency  
Requirements for Filing  
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

STATE  
of ALASKA

## MEMORANDUM

LIEUTENANT GOVERNOR

TO:  Honorable Terry Miller  
Lieutenant Governor

DATE January 27 1980

FILE NO. J-66-412-80

TELEPHONE NO.

FROM: AVRUM M. GROSS  
ATTORNEY GENERALSUBJECT: Constitutional resi-  
dency requirements  
for elective state  
officeBy:  
Rodger W. Pegg  
Assistant Attorney General

You have asked what you, as Lieutenant Governor and the state's chief election officer, should do with respect to the application of the constitution's residency requirements to those who file for elective state office.

As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. \*/ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

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Honorable Terry Miller  
January 22, 1980  
Page #2

be placed on the ballot. AS 15.25.060.

For the most part, the Alaska Election Code, like many others, depends upon the adversarial nature of the election process for enforcement. The law reasonably assumes that a candidate's opponents will be the first to raise complaints against any false or fraudulent filing. Residence (domicile) is an elusive legal concept. Proof of residence consists of both objective facts and subjective feelings. A determination requires a full blown hearing and an independent, nonpartisan decision maker. The Election Code quite wisely does not provide for the election officials to make such determinations.

Of course, if a declared or would-be candidate states to the election officials that in his own mind he does not believe he is a resident of the state or of the election district or that he believes that he no longer meets the constitution's residency requirements, then the officials -- on the basis of that admission -- may reject a declaration of candidacy from that person unless it is preceded or accompanied by a withdrawal or repudiation of the admission of disqualification. While election officials have no duty to question or determine residency, they are not compelled to ignore admissions of disqualification. However, whether one is qualified or not is a legal question and an admission of disqualification could be dead wrong. Therefore, the election officials must honor any subsequent withdrawal or repudiation of such an admission. And, indeed, if they are convinced at the outset that a candidate's admission of disqualification is in error, they can and should disregard it and accept a timely and properly filed declaration of candidacy from the candidate.

RWP/pjg



LAY S. HANCOCK, GOVERNOR

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

POUCH K - STATE CAPITOL  
JUNEAU, ALASKA 99811  
PHONE: (907) 463-3500

July 8, 1982

The Honorable Terry Martin  
3960 Reka Drive-B6  
Anchorage, Alaska 99504

Re: ██████████'s candidacy  
Our file 366-029-83

Dear Representative Martin:

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# Alaska State Legislature

POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4453/4530  
  
2201 ROOSEVELT DRIVE  
ANCHORAGE, ALASKA 99503  
(907) 248-4234



MEMBER  
HOUSE RESOURCES COMMITTEE  
MEMBER  
HOUSE STATE AFFAIRS COMMITTEE

## Representative Roger Jenkins

DISTRICT 11

April 22, 1985

### MEMORANDUM

TO : Representative Katie Hurley, Chairman, State Affairs  
Representative Mike Navarre, Vice Chairman  
Representative Bette Cato  
Representative Virginia Collins  
Representative Red Boucher  
Representative M. M. Miller

FROM : Representative Roger Jenkins 

SUBJECT: HB 26 - Verification of Residency of Candidates for Certain  
Public Offices

Under current law no state agency is authorized to check a candidate's eligibility to seek office. The Constitution of the State of Alaska clearly lists the requirements that a person must meet in order to be a member of the legislature. However, it does not address who will verify the statements made by a candidate on the filing affidavit upon filing for office and before certification for the election ballot.

This problem has never been addressed by the legislature although the courts have time and time again said the legislature must define residency and determine who will check the information provided by candidates. Please note the attached memorandums which outline the problems and opinions expressed in January, 1980.

I am aware that the question of residency does not come up in small communities where the general population is much more aware of a person's resident status but it is a problem in Anchorage. This is an area of election law that has been abused on at least 5 different occasions that may have altered the outcome of an election.

The first instance of problem with residency that I am aware of occurred in the 1970 election. I believe the time has come for the legislature to address this issue and provide the necessary guidance to potential candidates.

sla

Introduced: 1/14/85  
Referred: State Affairs and  
Judiciary

1 IN THE HOUSE

BY MARTIN AND JENKINS

2

HOUSE BILL NO. 26

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to the verification of residency of  
7 candidates for certain public offices."

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

9 \* Section 1. AS 15.25 is amended by adding a new section to read:

10 Sec. 15.25.031. VERIFICATION OF RESIDENCY OF CANDIDATE. (a)

11 The director shall verify that each candidate who files a declaration  
12 of candidacy under AS 15.25.030 meets the specific residency require-  
13 ments for the office for which the declaration is filed.

14 (b) The director shall adopt regulations establishing procedures  
15 for the verification of residency under this section.

16 \* Sec. 2. AS 15.25 is amended by adding a new section to read:

17 Sec. 15.25.181. VERIFICATION OF RESIDENCY OF CANDIDATE. (a)

18 The director shall verify that each candidate who files a petition for  
19 nomination under AS 15.25.180 meets the specific residency require-  
20 ments for the office for which the petition is filed.

21 (b) The director shall adopt regulations that establish the  
22 procedures for the verification of residency.

OFFICE OF THE LIEUTENANT GOVERNOR

Rod Pegues  
Assistant Attorney General  
Dept. of Law

January 18, 1980

Terry Miller  
Lieutenant Governor

Constitutional Residency  
Requirements for Filing  
for Office

Rod, as you already know, my office has had many requests for the necessary forms for filing for office for the 1980 elections. Along with these requests have been several questions regarding the residency requirements outlined in the State Constitution. For example, one gentleman has lived in California since 1977; however, he has maintained a permanent residence address in Alaska and has voted by absentee ballot. According to the constitution, he qualifies as being a resident of the state for three years and a resident of the district for one year although in reality he no longer lives here.

I am requesting an opinion from the Department of Law on the residency requirement, what my position is in accepting an individual's declaration base on these requirements, and what the appropriate response may be to individuals in this situation.

I would appreciate your prompt attention to this matter.

Thanks!

# MEMORANDUM

RECEIVED  
STATE OF ALASKA  
JAN 25 1980  
08:50  
LIEUTENANT GOVERNOR

TO: [ Honorable Terry Miller  
Lieutenant Governor

DATE January 20, 1980

FILE NO J-66-412-80

TELEPHONE NO.

FROM: AVRUM M. GROSS  
ATTORNEY GENERAL

SUBJECT: Constitutional resi-  
dency requirements  
for elective state  
office

By: *[Signature]*  
Rodger W. Pegg  
Assistant Attorney General

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As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity.

Under the Alaska Constitution, one who files for elective public office must have been a resident of the State (and, for legislators, of the election district) for a prescribed period. \*/ A candidate's eligibility for filing is determined "immediately preceding his filing for office." Alaska Const., art. II, § 2, art. III, § 2. The requisite information is entered on the declaration of candidacy which is filed by the candidate. AS 15.25.030(8).

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Honorable Terry Miller  
January 22, 1980  
Page #2

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RWP/pjg

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 26  
 Title: Relating to verification of  
residency of candidates for . . .  
 Sponsor: Martin & Jenkins  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
Independent Operations  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
Alaska Public Offices Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>	-	-	-	-	-	-	-	-
100 PERSONAL SERVICES	-	-	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:                    -0-                    -0-                    -0-                    -0-                    -0-                    -0-

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

ANALYSIS: Attach a separate page if necessary

No effect on the Alaska Public Offices Commission, Department of Administration.

Prepared By: Theda S. Pittman Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/11/85  
 Approved by Commissioner: Lisa Rudd Date: 2-21-85  
 Agency: Department of Administration

Distribution (by Agency preparing fiscal note):

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

7/1/84

Alaska State Legislature

REPRESENTATIVE  
TERRY MARTIN

2 DISTRICT  
FINANCIAL AND COMMERCE COMMITTEE  
PHONE 463-2873



3750 REKA DRIVE—58  
ANCHORAGE, AK 99554  
PHONE 333-6900

DURING LEGISLATURE  
POUCH #  
STATE CAPITOL  
JUNEAU, AK 99801  
PHONE 463-3734

MEMORANDUM

To: Senator Vic Fischer, Chairman  
Senate State Affairs Committee

From: Representative Terry Martin *TMM*

Date: February 3, 1984

Subject: HB 29

"An Act relating to the verification of residency of candidates for certain public offices."

The Constitution of the State of Alaska, Article II, Section 2, requires that "a member of the legislature shall be a qualified voter who has been a resident of Alaska for at least three years and of the district from which elected for at least one year, immediately preceding his filing for office." HB 29 is necessary in order to give the Division of Elections statutory authority to investigate a declared candidate's eligibility to seek office.

Under current law, no state agency is authorized to check a candidate's claims of residency when a citizen of Alaska questions the matter. If a complaint is lodged with the Division, the Division asks the candidate to verify the statements made at the time of filing for office. If the candidate says that the statements made are true, then neither the Alaska Public Offices Commission nor the Division of Elections has authority to investigate further. The party questioning the candidate's filing must take the issue to court if the matter is to be pursued. I refer you to the attached Memorandum from Rodger Pegues, Assistant Attorney General, to Terry Miller, Lieutenant Governor, dated January 22, 1980:

"As a general rule, you should accept filings which are valid on their face, and it is neither your duty nor your function to question their validity....

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On page 2 of that same memorandum, paragraph 2, Mr. Pegues goes on to say that, even if a candidate states that he is not sure he does meet residency requirements, but later "repudiates" that statement, the Division of Elections has no authority to question residency, because an admission of disqualification could be "dead wrong", and because "proof of residence consists of both objective facts and subjective feelings" (page 2, para. 1).

This is inconsistent with state policy in other residency-based programs, such as the permanent fund dividend distribution. If a permanent fund applicant does not appear to meet residency requirements, the state not only has the authority, but has an obligation to question the applicant's legal residence. If we can question every permanent fund applicant's right to a permanent fund dividend based on that applicant's legal Alaskan residency, then we surely should enable our election officials to determine whether a candidate meets the Constitutional residency requirements to run for office.

Your careful consideration of this legislation is greatly appreciated. Please contact me if I can offer any assistance to you with regard to HB 29. It is most important to expedite hearing on this bill so that implementation can be assured before the upcoming election.



# STATE OF ALASKA

DIVISION OF ELECTIONS  
POUCH AF  
JUNEAU, ALASKA 99811-9974

## OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

### POSITION PAPER HB 26

Prepared by  
Division of Elections  
April 23, 1985

The Division of Elections has reviewed House Bill 26, and raises certain concerns for consideration by the committee in its deliberations. The division offers no opinion as to the circumstances or specific concerns which prompted the introduction of this bill, however, poses its concerns on the basis of critically important legal and philosophic issues.

Our first concern is that this bill offers no guidelines as to what would constitute adequate "verification" of residency. The state's experience with the residency issue has left us with definitions as nebulous and vague as "intent to return". Because of the legal complexities of the residency question, it does not lend itself to resolution through rote application of uniform rules implemented through regulation, as this bill proposes. We could anticipate that virtually any determination made by the division would be open to legal challenge, especially where individuals were denied access to the ballot on the basis of such a determination.

Our major concern regarding this bill is rooted in a critically important philosophic point. Under our current structure, the Division of Elections serves strictly as an administering agency responsible for the conduct of the election itself. In that role, the division remains totally impartial with no discretionary influence as to any candidate's access to the ballot, or the final outcome of the election. We believe that our impartiality is crucial to the conduct of fair and open elections, and critical in maintaining public confidence in the election process. We feel this bill would erode that confidence by jeopardizing the integrity of our neutral status.

Under the current procedures, the division accepts the sworn affidavit of the candidate on its face value. Because of the adversarial nature of the campaign process, any claims made by one candidate are occasionally challenged by an opposing

candidate. Under Title 15 candidates or 10 qualified voters may contest the nomination or election of a person on various grounds, including issues of their qualification. AS 15.20.550 places the jurisdiction for such contests with the superior court. While these challenges usually occur following certification, there is nothing to preempt a candidate from filing a declaratory action with the court prior to the election.

Because of the legal complexities of the residency issue, the courts are better able to interpret the validity of a candidate's residency claim on a case by case basis.

We believe that the authority given to the division under the provisions of this bill are misplaced. The division must be left free to fulfill the responsibility with which we are charged; that is, the impartial administration of the election process. We would hope that the committee places equal value to our neutrality in the performance of this critical function.



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Sandra J. Stout, Director  
Division of Elections

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/resolution No.: HB 26  
 Title: An Act relating to verification of residency/candidates  
 Sponsor: Martin  
 Requestor: Martin  
 Date of Request: 4/23/85

FISCAL DETAIL

Agency Affected: Office of Governor  
 Program Category Affected: Elections  
 BRU, Program or Subprogram(s) Affected: Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 83	FI 84	FI 85	FI 86	FI 87	FI 88
<b>OPERATING</b>						
100 PERSONAL SERVICES	0	0	176.6	145.1	194.2	159.6
200 TRAVEL	0	0	39.6	15.8	43.6	17.4
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>			<b>216.2</b>	<b>160.9</b>	<b>237.8</b>	<b>177.0</b>

<b>CAPITAL</b>						
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<b>REVENUE</b>						
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FUNDING: (Thousands of Dollars)

	FI 83	FI 84	FI 85	FI 86	FI 87	FI 88
GENERAL FUND			216.2	160.9	237.8	177.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

	FI 83	FI 84	FI 85	FI 86	FI 87	FI 88
FULL-TIME			1	1	1	1
PART-TIME						
TEMPORARY			5	3	5	3

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED

Prepared By: Linda Edgeworth Phone: 65-4611  
 Division: Division of Elections Date: 4-24-85

Approved by Commissioner: [Signature] Date: 4-24-85  
 Agency: Office of the Governor

Distribution (by Agency preparing fiscal note):

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

Fiscal Note Detail

House Bill 26

The accompanying fiscal note for House Bill 26 includes costs for staffing which would be required to create an investigative arm for the Division of Elections. The staffing anticipated is described as follows:

MAJOR ELECTION YEARS

- 1 Full Time Investigator  
Range 18
- 1 Temporary Investigator, 6 months  
Range 16, Juneau
- 2 Temporary Investigator, 6 months  
Range 16, Anchorage
- 1 Temporary Investigator, 6 months  
Range 16, Fairbanks
- 1 Temporary Investigator, 6 months  
Range 16, Nome

Travel is calculated at 10 trips per person @ \$500 ea. plus \$80 per diem x 2 days.

INTERIM YEARS

- 1 Full Time Investigator  
Range 18
- 1 Temporary Investigator, 6 months  
Range 16, Juneau
- 1 Temporary Investigator, 6 months  
Range 16, Fairbanks
- 1 Temporary Investigator, 6 months  
Range 16, Nome

Travel is calculated at 6 trips per person @ \$500 ea. plus \$80 per diem x 2 days.

In addition, the Department of Law informs us that there would be extensive legal fees anticipated to be charged back to the division based on challenges to our determinations as to residency qualifications.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: HB 26  
 Title: Relating to verification of  
residency of candidates for . . .  
 Sponsor: Martin & Jenkins  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Administration  
 Program Category Affected: \_\_\_\_\_  
Independent Operations  
 BRU, Program or Subprogram(s) Affected:  
Alaska Public Offices Commission

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>	-	-	-	-	-	-
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LAND & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUNDS	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
<b>POSITIONS:</b>	-0-	-0-	-0-	-0-	-0-	-0-
FULL-TIME	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

No affect on the Alaska Public Offices Commission, Department of Administration.

Prepared By: Theda S. Pittman Phone: 276-4176  
 Division: Alaska Public Offices Commission Date: 2/11/85  
 Approved by Commissioner: Lisa Rudd Date: 2-21-85  
 Agency: Department of Administration/

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: 4/29/85

REQUEST

Bill/resolution No.: HB 26  
 Title: An act relating to  
verification of residency/Candidates  
 Sponsor: Martin  
 Requestor: House State Affairs  
 Date of Request: 4/26/85

FISCAL DETAIL

Agency affected: Office of the Governor  
 Program Category Affected: Elections  
 BRU, Program or Subprogram(s) Affected: Elections

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FI 83	FI 84	FI 85	FI 86	FI 89	FI 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		-0-	16.6	8.3	18.2	9.1
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES			1.5			
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS			4.2			
<b>TOTAL OPERATING</b>			<b>22.3</b>	<b>8.3</b>	<b>18.2</b>	<b>9.1</b>

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND			22.3	8.3	18.2	9.1
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Linda Aguirre  
 Division: Division of Elections

Phone: 465-4611

Date: 4/29/85

Approved by Commissioner: [Signature]  
 Agency: Office of the Governor

Date: 4/29/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

HOUSE BILL 26

Amended Fiscal Note

Division of Elections

This fiscal note has been amended to reflect reduced costs based on the restricted level of responsibility as described in the letter of intent which accompanies this bill. Because the realm of responsibility is to be restricted to those levels of verification which can be handled through normal administrative channels, the division has anticipated that this function can be handled by one seasonal Range 13 assistant. During fiscal years covering major election cycles this individual would be utilized over a 6 month period. During even fiscal years these services would be covered for a 3 month period.

Other costs included in FY87 include costs of reprinting "Running for Office" books to include new residency verification requirements and procedures, as well as new filing forms which include revised residency data. During the first year in which the new procedures would be implemented an allowance is made for advertising the regulatory changes statewide.

This fiscal note does not cover legal costs charged back to the division to cover legal review and representation which the Department of Law anticipates will be necessary as candidates challenge the determinations made by the division on the basis of the verification process mandated by this bill.

# STATE OF ALASKA

DIVISION OF ELECTIONS  
POUCH AF  
JUNEAU, ALASKA 99811-9974

## OFFICE OF THE GOVERNOR

PHONE: (907) 586-6181

### POSITION PAPER HB 26

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April 23, 1985

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Our first concern is that this bill offers no guidelines as to what would constitute adequate "verification" of residency. The state's experience with the residency issue has left us with definitions as nebulous and vague as "intent to return". Because of the legal complexities of the residency question, it does not lend itself to resolution through rote application of uniform rules implemented through regulation, as this bill proposes. We could anticipate that virtually any determination made by the division would be open to legal challenge, especially where individuals were denied access to the ballot on the basis of such a determination.

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candidate. Under Title 15 candidates or 10 qualified voters may contest the nomination or election of a person on various grounds, including issues of their qualification. AS 15.20.550 places the jurisdiction for such contests with the superior court. While these challenges usually occur following certification, there is nothing to preempt a candidate from filing a declaratory action with the court prior to the election.

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Division of Elections

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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 Title: An Act relating to verification of residency/candidates  
 Sponsor: Martin  
 Requestor: Martin  
 Date of Request: 4/23/85

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 Program Category Affected: Elections  
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<b>TOTAL OPERATING</b>			<b>216.2</b>	<b>160.9</b>	<b>237.8</b>	<b>177.0</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND			216.2	160.9	237.8	177.0
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

FULL-TIME			1	1	1	1
PART-TIME						
TEMPORARY			5	3	5	3

ANALYSIS: Attach a separate page if necessary

SEE ATTACHED

Prepared By: Linda Edgeworth Phone: 465-4611  
 Division: Division of Elections Date: 4-24-85

Approved by Commissioner: Linda Edgeworth Date: 4-24-85  
 Agency: Office of the Governor

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

7/1/84

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