

ALASKA LEGISLATURE COMMITTEE FILES 1985-1986 86/2

3279 HJUD HB 88 (FILE 2) - HB 92 55

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=04255 TIME=115624

NEW POSITION JUSTIFICATION HAS BEEN UPDATED
NEW POSITION JUSTIFICATION

SYSTEM ASSIGNED PCN: 06N213

COMPONENT: 062103310300

NEW POSITION JUSTIFICATION:

1: THIS POSITION IS NEEDED TO RESPOND TO GRWOING DEMAND FOR DIV
2: ISION CHILD PROTECTION SERVICES; INTAKES IN JUNEAU HAVE BEEN
3: AVERAGING 30 A MONTH, AND RURAL INTAKES HAVE BEEN INCREASIN
4: G BECAUSE OF CP NETWORKING TRAINING. THE SOCIAL WORKER III
5: WOULD PROVIDE MANDATED INVESTIGATIVE AND CASEWORK DUTIES; TH
6: E WORKLOAD STANDARD OF ONE LINE STAFF FOR EVERY FIFTY CASES
7: WOULD BE MET WITH THE ADDITION OF THIS POSITION.

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PRESS ENTER TO UPDATE NEW POSITION JUSTIFICATION;

OR ENTER '1' OR PF1 FOR MORE TEXT ENTRY;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=04255, TIME=125941

RECORD HAS BEEN UPDATED

NEW POSITION REQUESTS

SYSTEM ASSIGNED PCN: 06N214	SALARY COSTS/POSITION:	9783.90
UNAUTHORIZED PCN:	BENEFITS COSTS/POSITION:	3645.26
COMPONENT: 062103310300	TOTAL PERS. SERV. COSTS/POS.:	13426.16
SCENARIO: 1	ASSOCIATED COSTS/POSITION:	5500.00
	TOTAL COSTS/POSITION:	18926.16

JOB CLASS CODE: 1123	CLASS TITLE: CLERK TYPIST III
LOCATION CODE: AEA	LOCATION NAME: CRAIG

RF NUMBER:	NUMBER OF POSITIONS: 1
BRU PRIORITY: 0	MONTHS/POSITION: 6.0
SEASONAL INDICATOR: P	BARGAINING UNIT: G-

ASSOCIATED COSTS: (IN THOUSANDS OF \$)

TRAVEL COSTS	0.0	SCHEDULE: A
CONTRACTUAL COSTS:	2.5	RANGE: 08 STEP: A
SUPPLIES COSTS:	0.4	RETIREMENT CODE: A
EQUIPMENT COSTS:	2.6	MONTHLY RATE: 0.00
OTHER COSTS:	0.0	HOURLY RATE: 0.00

PRESS ENTER TO UPDATE RECORD;

OR ENTER '1' OR PF1 FOR PREMIUM PAY SCREEN;
OR ENTER '2' OR PF2 TO UPDATE SAME REQUEST, NEXT SCENARIO;
OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=125358

NEW POSITION JUSTIFICATION HAS BEEN UPDATED
NEW POSITION JUSTIFICATION

SYSTEM ASSIGNED PCN: 06N214

COMPONENT: 062103310300

NEW POSITION JUSTIFICATION:

- 1: THERE IS PRESENTLY A SOCIAL WORKER III ASSIGNED TO THE CRAIG
- 2: OFFICE AND THERE IS NO CLERICAL SUPPORT. THIS POSITION TRAVE
- 3: LS EXTENSIVELY AS IT SERVES THE ENTIRE PRINCE OF WALES ISLAN
- 4: D, AND A HALF-TIME CLERICAL POSITION IS NEEDED TO PERFORM RE
- 5: QUIRED CLERICAL DUTIES, AND TO PERMIT THE SOCIAL WORKER TO I
- 6: NCREASE THE LEVEL OF DIRECT SERVICES.
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PRESS ENTER TO UPDATE NEW POSITION JUSTIFICATION;

OR ENTER '1' OR PF1 FOR MORE TEXT ENTRY;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJHS; DATE=84255, TIME=130515

RECORD HAS BEEN UPDATED

NEW POSITION REQUESTS

SYSTEM ASSIGNED PCN: 06N215	SALARY COSTS/POSITION:	24859.80
UNAUTHORIZED PCN:	BENEFITS COSTS/POSITION:	8515.62
COMPONENT: 062103310300	TOTAL PERS. SERV. COSTS/POS.:	33375.42
SCENARIO: 1	ASSOCIATED COSTS/POSITION:	9500.00
	TOTAL COSTS/POSITION:	42875.42

JOB CLASS CODE: 1912 CLASS TITLE: ADMINISTRATIVE ASST I

LOCATION CODE: ACA LOCATION NAME: KETCHIKAN

RF NUMBER: NUMBER OF POSITIONS: 1

BRU PRIORITY: 0 MONTHS/POSITION: 12.0

SEASONAL INDICATOR: F BARGAINING UNIT: G.

ASSOCIATED COSTS: (IN THOUSANDS OF \$) SCHEDULE: A

TRAVEL COSTS: 1.5 RANGE: 12 STEP: A

CONTRACTUAL COSTS: 4.6 RETIREMENT CODE: A

SUPPLIES COSTS: 0.4

EQUIPMENT COSTS: 3.0 MONTHLY RATE: 0.00

OTHER COSTS: 0.0 HOURLY RATE: 0.00

PRESS ENTER TO UPDATE RECORD;

OR ENTER '1' OR PF1 FOR PREMIUM PAY SCREEN;

OR ENTER '2' OR PF2 TO UPDATE SOME REQUEST, NEXT SCENARIO;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=130219

NEW POSITION JUSTIFICATION HAS BEEN UPDATED
NEW POSITION JUSTIFICATION

SYSTEM ASSIGNED PCN: 06N215

COMPONENT: 062103310300

NEW POSITION JUSTIFICATION:

- 1: DECENTRALIZATION OF MANGEMENT FOR DAY-TO-DAY OPERATIONAL FUN
- 2: CTIONS NECESSITATES AN ADMINISTRATIVE ASSISTANT I TO PERFORM
- 3: A WIDE VARIETY OF ADMINISTRATIVE AND FINANCIAL DUTIES WHICH
- 4: HAVE BEEN TRANSFERRED TO THE REGION.

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PRESS ENTER TO UPDATE NEW POSITION JUSTIFICATION;

OR ENTER '1' OR PF1 FOR MORE TEXT ENTRY;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJSS ON PRINTER HJH5; DATE=84255, TIME=130937

RECORD HAS BEEN UPDATED

NEW POSITION REQUESTS

SYSTEM ASSIGNED PCN: 06N216	SALARY COSTS/POSITION:	32419.80
UNAUTHORIZED PCN:	BENEFITS COSTS/POSITION:	10274.33
COMPONENT: 062103310300	TOTAL PERS. SERV. COSTS/POS.:	42694.13
SCENARIO: 1	ASSOCIATED COSTS/POSITION:	9500.00
	TOTAL COSTS/POSITION:	52194.13

JOB CLASS CODE: 4275	CLASS TITLE: COMMUNITY CARE LIC SP I
LOCATION CODE: ACA	LOCATION NAME: KETCHIKAN
RP NUMBER:	NUMBER OF POSITIONS: 1
BRU PRIORITY: 0	MONTHS/POSITION: 12.0
SEASONAL INDICATOR: F	BARGAINING UNIT: G
ASSOCIATED COSTS: (IN THOUSANDS OF \$)	SCHEDULE: A
TRAVEL COSTS: 2.0	RANGE: 16 STEP: A
CONTRACTUAL COSTS: 5.6	RETIREMENT CODE: A
SUPPLIES COSTS: 0.4	
EQUIPMENT COSTS: 1.5	MONTHLY RATE: 0.00
OTHER COSTS: 0.0	HOURLY RATE: 0.00

PRESS ENTER TO UPDATE RECORD;

OR ENTER '1' OR PF1 FOR PREMIUM PAY SCREEN;

OR ENTER '2' OR PF2 TO UPDATE SAME REQUEST, NEXT SCENARIO;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=130759

NEW POSITION JUSTIFICATION HAS BEEN UPDATED
NEW POSITION JUSTIFICATION

SYSTEM ASSIGNED PCN: 06N216

COMPONENT: 062103310300

NEW POSITION JUSTIFICATION:

- 1: POPULATION INCREASES TOGETHER WITH A 70% STATEWIDE INCREASE
- 2: IN COMMUNITY CARE FACILITIES LICENSED THE PAST 6 YEARS NECES
- 3: SITATE ADDITIONAL LICENSING STAFF. THIS POSITION WOULD FUNC
- 4: TION ON AN REGION-WIDE BASIS WITH SPECIFIC DUTIES TO INCLUDE
- 5: LICENSING AND SUPPORTING FOSTER HOMES, DAY CARE HOMES AND C
- 6: ENTERS, OUT-OF-TOWN INQUIRIES, AND ADOPTIONS.

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PRESS ENTER TO UPDATE NEW POSITION JUSTIFICATION;
OR ENTER '1' OR PF1 FOR MORE TEXT ENTRY;
OR ENTER '12' OR PF12 TO 'EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=131522

RECORD HAS BEEN UPDATED

NEW POSITION REQUESTS

SYSTEM ASSIGNED PCN: 06H217	SALARY COSTS/POSITION:	32419.80
UNAUTHORIZED PCN:	BENEFITS COSTS/POSITION:	10274.33
COMPONENT: 062103310300	TOTAL PERS. SERV. COSTS/POS.:	42694.13
SCENARIO: 1	ASSOCIATED COSTS/POSITION:	9000.00
	TOTAL COSTS/POSITION:	51694.13

JOB CLASS CODE: 4113	CLASS TITLE: SOCIAL WORKER III
LOCATION CODE: ACA	LOCATION NAME: KETCHIKAN

RF NUMBER:	NUMBER OF POSITIONS: 1
BRU PRIORITY: 0	MONTHS/POSITION: 12.0
SEASONAL INDICATOR: F	BARGAINING UNIT: G
ASSOCIATED COSTS: (IN THOUSANDS OF \$)	SCHEDULE: A

TRAVEL COSTS: 1.5	RANGE: 16 STEP: A
CONTRACTUAL COSTS: 5.6	RETIREMENT CODE: A
SUPPLIES COSTS: 0.4	
EQUIPMENT COSTS: 1.5	MONTHLY RATE: 0.00
OTHER COSTS: 0.0	HOURLY RATE: 0.00

PRESS ENTER TO UPDATE RECORD;

OR ENTER '1' OR PF1 FOR PREMIUM PAY SCREEN;

OR ENTER '2' OR PF2 TO UPDATE SAME REQUEST, NEXT SCENARIO;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=131404

NEW POSITION JUSTIFICATION HAS BEEN UPDATED
NEW POSITION JUSTIFICATION

SYSTEM ASSIGNED PCN: 06N217

COMPONENT: 062103310300

NEW POSITION JUSTIFICATION:

1: THIS POSITION IS NEEDED TO RESPOND TO GROWING DEMAND FOR MAND
2: ATED CHILD PROTECTION SERVICES, INTAKES IN KETCHIKAN HAVE BE
3: EN AVERAGING 30 A MONTH, AND RURAL INTAKES HAVE GROWN DRAMAT
4: ICALLY BECAUSE OF CP NETWORKING TRAINING. THE SOCIAL WORKER
5: III WOULD PROVIDE MANDATED INVESTIGATIVE AND NETWORK DUTIE
6: S; THE WORKLOAD STANDARD OF ONE LINE STAFF FOR EVERY FIFTY C
7: ASES WOULD BE MET WITH THE ADDITION OF THIS POSITION.

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PRESS ENTER TO UPDATE NEW POSITION JUSTIFICATION;

OR ENTER '4' OR PF1 FOR MORE TEXT ENTRY;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=131955

RECORD HAS BEEN UPDATED

NEW POSITION REQUESTS

SYSTEM ASSIGNED PCN: 06N218	SALARY COSTS/POSITION:	19567.80
UNAUTHORIZED PCN:	BENEFITS COSTS/POSITION:	7284.52
COMPONENT: 062103310300	TOTAL PERS. SERV. COSTS/POS.:	26852.32
SCENARIO: 1	ASSOCIATED COSTS/POSITION:	5800.00
	TOTAL COSTS/POSITION:	32652.32

JOB CLASS CODE: 1123	CLASS TITLE: CLERK TYPIST III
LOCATION CODE: ACA	LOCATION NAME: KETCHIKAN
RF NUMBER:	NUMBER OF POSITIONS: 1
BRU PRIORITY: 0	MONTHS/POSITION: 12.0
SEASONAL INDICATOR: F	BARGAINING UNIT: G.
ASSOCIATED COSTS: (IN THOUSANDS OF \$)	SCHEDULE: A
TRAVEL COSTS: 0.0	RANGE: 00 STEP: A
CONTRACTUAL COSTS: 2.8	RETIREMENT CODE: A
SUPPLIES COSTS: 0.4	
EQUIPMENT COSTS: 2.6	MONTHLY RATE: 0.00
OTHER COSTS: 0.0	HOURLY RATE: 0.00

PRESS ENTER TO UPDATE RECORD;

OR ENTER '1' OR PF1 FOR PREMIUM PAY SCREEN;

OR ENTER '2' OR PF2 TO UPDATE SAME REQUEST, NEXT SCENARIO;

OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0

FROM TERMINAL HJ55 ON PRINTER HJH5; DATE=84255, TIME=131800

NEW POSITION JUSTIFICATION HAS BEEN UPDATED
NEW POSITION JUSTIFICATION

SYSTEM ASSIGNED PCN: 06N218

COMPONENT: 062103310300

NEW POSITION JUSTIFICATION:

1: THERE ARE ELEVEN LINE AND SUPERVISORY STAFF ASSIGNED TO THE
2: KETCHIKAN OFFICE, AND THERE ARE TWO CLERK-TYPISTS. THIS POSI
3: TION WOULD PERFORM REQUIRED CLERICAL DUTIES RESULTING FROM I
4: NCREASED DEMAND FOR PROTECTIVE SERVICES AND DECENTRALIZATION
5: , AND PERMIT SOCIAL WORKERS TO INCREASE THE LEVEL OF DIRECT
6: SERVICES.

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PRESS ENTER TO UPDATE NEW POSITION JUSTIFICATION;
OR ENTER '4' OR PF1 FOR MORE TEXT ENTRY;
OR ENTER '12' OR PF12 TO EXIT THIS SCREEN WITHOUT UPDATE 0



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 9, 1985

Representative Max Gruenberg, Co-Chair
Representative Niilo Koponen, Co-Chair
House HESS Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Representatives Gruenberg and Koponen:

I am writing with regard to a work draft of CSHB 88, relating to the protection of children, which is before the committee for hearing today. My comments are specifically directed to proposed section 13 (page 6), which includes "court personnel" within the group of persons required to report abuse or neglect of a child.

The court system is opposed to this provision. Court personnel should not be held to a higher duty than ordinary citizens in reporting incidents of this nature, especially given the court's adjudicatory role. This requirement could create the appearance that the court is taking sides in any legal disputes which may later arise. The court system believes its role should be limited to adjudication of cases, and should not be expanded to include a nonadjudicatory reporting function.

This legislation is complemented by CSSB 28, which provides that a person employed by the state who is required to report abuse or neglect shall receive training. Departments are required to develop curriculum for employees including training about laws relating to child abuse and neglect, techniques for recognition and detection, information about agencies and organizations that offer aid, and procedures for notification.

If both CSSB 28 and CSHB 88 are enacted, court system personnel would be required to report abuse, the court system would be required to provide training. The court system would not independently develop training materials, but instead would rely upon materials developed by the executive branch. However, the court system would still have to reproduce and disseminate these materials, as well as provide some minimal training, in the

form of one visit by administrative staff to each judicial district to train supervisors. The total cost of this limited training program is estimated at \$4,000. A copy of the court system's fiscal note is attached.

Thank you for this opportunity to provide comments. I will be glad to answer any questions.

Sincerely,

Karla L. Forsythe
Karla L. Forsythe
General Counsel

KLF:amh

cc: Representative Mike Miller
Chair, House Judiciary Committee

Representative Al Adams
Chair, House Finance Committee

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 28
 Title: AN ACT RELATING TO
REPORTING CHILD ABUSE
 Sponsor: FATKS
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: ALASKA COURT SYSTEM
 Program Category Affected: _____
ADMINISTRATION OF JUSTICE
 BRU, Program or Subprogram(s) Affected: _____
TRIAL COURTS

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		2.5	2.7	2.9	3.1	3.3
300 CONTRACTUAL		.5	.5	.6	.6	.6
400 SUPPLIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		4.0	4.3	4.7	5.0	5.3

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		4.0	4.3	4.7	5.0	5.3
FEDERAL FUNDS						
OTHER						
TOTAL		4.0	4.3	4.7	5.0	5.3

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ROBERT G. FISHER, FISCAL OFFICE Phone: 264-0561
 Division: ALASKA COURT SYSTEM Date: 4/9/85

Approved by Commissioner: Arthur H. Swarden III Date: 4/9/85
 Agency: ALASKA COURT SYSTEM

Distribution (by Agency preparing fiscal note):

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

7/1/84

ALASKA COURT SYSTEM

CSSB 28 - REPORTING OF CHILD ABUSE
FISCAL IMPACT

The committee substitute for Senate Bill 28 requires training certain court employees to recognize and report child abuse situations. To implement this bill, the Court System will have to develop and disseminate training materials to employees. Additional travel, postage, and supply expenses will be incurred in fulfilling this responsibility. Travel funds will be needed for trainers to visit major court sites around the state. Postage costs will increase from mailing training materials to other courts. The preparation of training packets for employees will increase supply costs. The following is an estimate of these costs:

TRAVEL - visits to major courts for training	\$2,500
CONTRACTUAL - postage costs for mailing training materials	500
SUPPLIES - printshop time and materials for training packets	1,000

Total	\$4,000

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 67
 Title: An Act Relating to Hearsay Evidence
 Sponsor: _____
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		255.2	270.5	286.7	303.9	322.1
200 TRAVEL		9.0	9.5	10.1	10.7	11.3
300 CONTRACTUAL		6.0	6.4	6.8	7.2	7.6
400 SUPPLIES		2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT		16.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		288.7	288.5	305.8	324.1	343.4

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		288.7	288.5	305.8	324.1	343.4
FEDERAL FUNDS						
OTHER						
TOTAL		288.7	288.5	305.8	324.1	343.4

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert G. Fisher / Karla Forsythe
 Division: Alaska Court System

Phone: 264-0561/264-0634
 Date: 4/5/85

Approved by Commissioner: Archie H. Inoué III
 Agency: Alaska Court System

Date: 4/11/85

Distribution (by Agency preparing fiscal note):

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

7/1/84

ALASKA COURT SYSTEM

HB 67 - HEARSAY EVIDENCE IN CHILD ABUSE CASES
FISCAL IMPACT

PERSONAL SERVICES:

	SALARY	BENEFITS	TOTAL COST
Superior Court Judge - Anchorage	\$73,620	\$82,718	\$156,338
In-Court Clerk - Anchorage (Range 12B)	24,512	8,116	32,628
Law Clerk - Anchorage (Range 13A)	25,332	8,299	33,631
Secretary - Anchorage (Range 12B)	24,512	8,116	32,628

Total Personal Services			255,225

TRAVEL (Judicial travel to outlying courts)			9,000
CONTRACTUAL (Word processing equipment, telephone, postage, etc.)			6,000
SUPPLIES			2,000
EQUIPMENT: (one-time items)			
Standard office equipment for all employees and legal reference materials for judge and law clerk.			16,534

TOTAL FY 86 COST			\$288,759

Subsequent fiscal years adjusted to reflect 6% inflation.

NARRATIVE

CSHB 67 (HESS)

According to information provided verbally by the Department of Law, the department projects 250 child sexual assault cases during FY 85 (up from 120 in FY 83). The department also estimates that 80 - 90% of these cases would involve the testimony of a minor, and would require the hearing contemplated in paragraph (d). It is further estimated by the department that the majority of these hearings will require one-half day of court time.

Based on these estimates, 225 half-day hearings would require 112 days of judicial time. The department indicates that approximately two-thirds of these cases are heard in Anchorage. Thus, judicial resources would be needed to cover 78 days of judicial time in Anchorage, and 34 days elsewhere in the state.

These hearings would require an additional superior court judge to sit in Anchorage and to cover other court locations. The cost of this position and related court staff are detailed on the previous page, along with the cost of travel to court locations outside of Anchorage.

Robert M. Arvidson, Ph.D.
Box 258
Cordova, Alaska 99574

MAP E 1005

March 2, 1985

House Hess Committee
Alaska State Legislature
Fouch V
Juneau, Alaska 99811

Re: House Bill No. 88, "An Act relating to the protection of children;"

Dear Committee Members,

This is a letter of support for House Bill No. 88. I urge passage of this Bill and in the meantime offer the following comments in three areas for your consideration.

Area 1. I suggest that psychological associates should be inserted between "psychologists" and "religious" in line 1, page 12. Psychological associates are not considered psychologists per se, and are licensed separately under AS 08.86. A distinction is made between psychologists and associates elsewhere in the statutes, namely AS 47.30.915 (11).

Area 2. I support Sec. 20 on page 10, but I am concerned that the term "psychotherapist" lacks statutory definition (the concern here is with the definition of psychotherapist as it relates to psychology, not psychiatry). As I understand it, Sec. 20 is a result of issues raised in Alaska v. R. H. and Wetherhorn, 683 P. 2d 269 (Alaska App. 1984). In the decision, Dr. Wetherhorn, a clinical psychologist is acknowledged as a psychotherapist, but this may be problematic for future reference since the psychology statutes (AS 08.86) do not specifically address the issue of specialty designations, such as clinical or counseling psychologist.

Reference is made in the above decision to Allred v. State, 554 P 2d⁴¹¹ (Alaska 1976), where psychotherapy and the practice thereof are defined, but this does not solve all conflicts. The Allred court did not extend evidentiary privilege "... to all manner of counselors, social workers, and psychological associates," 554 P 2d. at 418 (the particular focus concerned psychiatric social workers). The problem that I have here is that AS 08.86. 180 (d) recognizes the right of clinical social workers to hold out to the public as psychotherapists. Does this mean that clinical social workers, who are neither statutorily defined nor licensed under Title 8 are included in the exception stated in proposed Sec. 47.17.060 (2) ?

Clinical Social Workers would not typically meet the criteria established by the Allred court for psychotherapist, yet due to the nature of their training and occupational specialty, it is highly probable that these very individuals would be involved in sensitive child abuse consultations and proceedings.

Another area of concern is the exemption granted to qualified members of other professions in AS 08.86.180 (b) (3) where use of the terms psychotherapy and psychotherapeutic is not restricted.

My purpose here is to seek clarity rather than to be critical . The intent of the section is to clarify existing law, yet application of the "plain meaning rule" might indicate that "..." of psychotherapists will be granted evidentiary

House Hess
Page 2
March 2, 1985

privilege (due to the recency of various amendments to AS 08.86.180; 1980 and 1983 for AS 08.86.180 (b) (3) and (d) respectively v. 1976 for Allred). Is this the intent of Sec. 20?

As a note , psychotherapy is briefly defined in the Standards cited in 12 AAC 60.185 and the term is used in reference to the practice of psychology in AS 08.86.230. This, however, does not mean that all psychologists licensed under AS 08.86 are qualified as psychotherapists. Specialty guidelines (based on the generic Standards) which shed light on the definition of professional clinical psychologist have not been formally adopted in 12 AAC 60 (see, American Psychological Association, Committee on Professional Standards, *Specialty guidelines for the delivery of services by clinical psychologists." American Psychologist , 36, 640-651; also available in booklet form).

Area 3. I request an amendment be made to HB 88 to the effect AS 08.86.200 include the provision that those licensed under AS 08.86 must report knowledge of child abuse or neglect as required by AS 47.17.020 (a) (1). My interpretation is that as it now reads, AS 08.86.200 (Confidentiality of Communication) is in conflict with AS 47.17.020 (Persons required to report). The amendment would bring AS 08.86.200 in line with existing law and with Principle 5 of "Ethical Principles of Psychologists;" (see 12 AAC 60.185). I have called this to the psychology boards attention in a letter dated Feb. 27, 198[4] (which should have read Feb. 27, 1985).

Sincerely yours,


Robert M. Arvidson

cc: House Judiciary ✓
House Finance
Gov. Sheffield
Rep. Cato
Senate HESS
Sen. Kertula
Sen. DeVries
Board of Psychologists ... Examiners

* Insert (1981)

TELECOPY COVER SHEET

TO: Rep M. Mike Miller PHONE 465-4990

FROM: Constance Britz PHONE 325-5068

INSTRUCTIONS: Copy to Rep Taylor + Sund

RECEIVED: DATE: 4/10/85 TIME: pm

SENT: .DATE: 4/11/85 TIME: 9:35 am

BY: (YOUR OFFICE & PHONE NUMBER) 325-9675

DISPOSAL OF ORIGINAL: THROW AWAY: _____

HOLD FOR PICK UP: _____

NUMBER OF PAGES 1 (NOT COUNTING THIS COVER SHEET)

RE: CS for HB #88 (HESS) In the House Judiciary Committee

DA: 10 April 1985

FR: C. Griffith, Ketchikan

Sec. 47.17.050. IMMUNITY. A person ~~who~~ other than the perpetrator who, in good faith, makes a report under this chapter, or who participates in civil or criminal (JUDICIAL) proceedings related to the submission of reports under this chapter, is immune from any civil or criminal liability that (WHICH) might otherwise be incurred or imposed.

DISCUSSION: Even though this ~~xxx~~ section of the bill is obviously designed to protect those who report instances of child abuse, and even though the phrase "in good faith" implies that the defendant may not use this section to gain immunity from his/her own criminal liability, still, to make this quite impossible, I am suggesting adding the phrase "other than the perpetrator" to the wording. It seems redundant, and yet a clever lawyer before a judge who is not keen on punishing someone for this sort of misbehavior might find the loophole and use it. Then the appeal process would have to be used.

I like Sec. 10, a re-write of AS 47.10.142(c), in this draft. There were all sorts of loopholes in the original draft.

Sec. 14 adding a section to AS 47.17 (adding .023) is good in ferreting out abuse of children for pornography.

DELIVER TO JPOK
ORIGINAL
SENT: 04/13/85 TIME: 16:30
FROM: LIOSOL
SUBJECT: PCH
PRINT DATE: 04/13/85 TIME: 16:31

12

P.O.N.

TO: REPRESENTATIVES CLOCKSIN, GRUENBERG, HANLEY, HURLEY, KOPONEN,
M. M. MILLER, PETTYJOHN, PHILLIPS, SUND, TAYLOR, THOMPSON

FROM: MARGUERITE LUPORI
529 HAIN
KENAI
203-2479

MESSAGE REGARDING: NB 08 -- CHILD ABUSE

I HAVE A GREAT CONCERN OVER THE DELETION OF THE CLERGY WHEN IN A
COUNSELLING ROLE AND THEIR BEING PROTECTED BY AN AT 47.7.030. IN
MY WORK WITH VICTIMS OF INCEST A HIGH MAJORITY OF THE FAMILIES
(PERPETRATORS) HAD BEEN IN RELIGIOUS COUNSELLING FOR AN EXTENDED
PERIOD OF TIME; YET REPEATEDLY OFFENDED.

ELO.M.

James F. Harper, Ph. D.

*Clinical Psychology
550 West Seventh Avenue, Suite 1310
Anchorage, Alaska 99501*

Telephone (907) 276-7004

April 16, 1985

Honorable Max Gruenberg
HESS/Judiciary
Pouch V
Juneau Alaska 99581

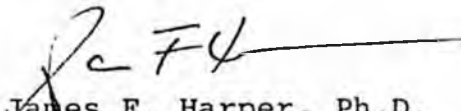
Dear Representative Gruenberg:

I am writing you on behalf of the Alaska State Psychological Association as well as myself regarding S.B. 88 which would exempt psychiatrists, psychologists and psychological associates from reporting child sexual abuse at their own discretion. I was informed, just prior to our most recent meeting of the State Association, that such a bill existed. None of the officers present were aware of the bill, nor had any of them been consulted as to the advisability of such legislation. The opinion of the Executive Committee was unanimous that such legislation was undesirable and possibly injurious to the public.

I have attached the concluding pages from an article by Steven Wolf, Director of Northwest Treatment Associates in Seattle pointing to the significant degree of educational and professional experience needed even to assess the degree of risk posed by a sexual offender, including an incestuous parent. The skills required for treatment are even more exacting. In my own experience from five years of extensive work in this area, including the evaluation of more than 300 offenders, and three years as the founder and co-director at the Treatment Program for Sex Offenders at Hiland Mountain, that there are no more than seven to ten mental health practitioners in the State of Alaska who could even approximate the expertise required to know when to report, who to treat outpatient and when treatment is successful.

Please do not hesitate to call should you have any questions.

Yours truly,



James F. Harper, Ph.D.
Legislative Affairs Officer and
President Elect, Alaska Psychological Association

JFH:jn

CC: Paul Turner, Ph.D.
Representative, Mike Miler
Margo Dick

At all points along the fantasy continuum, the offender is justifying and rationalizing his behavior, thereby desensitizing himself to whatever social inhibitions might otherwise interfere with his carrying out his plan of action. This pattern has shown itself, in our clinical experience to be the same regardless of the offense type or the history of the offender. Again, it is not so much how the offenders are different in the style and structure of their fantasies, but rather how they are the same. In any case, once a continuing pattern of sexual acting out is established, the sexual preference cannot be "talked out of" the offender. Other more direct means must be found to alter the deviant patterns of arousal. This is true for virtually all repeat sexual offenders, including incestuous offenders. They share the same general historical and behavioral characteristics that child molesters manifest including a clear pattern of arousal to children. (Wolf, Conte, 1984). They, for example, will begin to recognize their child as a possible sex partner, begin to justify and reinforce their attraction with fantasy, frequently of themselves as the unwitting victim of the child's sexual aggression or their wife's rejection. As their interest in and sexual arousal for the child increases, they increase their interaction with the child, thus beginning to isolate the child from the rest of the family, and increase the probability that the offender will be able to be sexual with the child without the child's having anyone else to turn to.

CLINICAL IMPLICATIONS

Research and clinical experience suggests that individuals identified as sexual offenders are individuals who are acting on a clear pattern of sexual preference in their deviance. This pattern of behavior, once established, is chronic in nature and incorporated both as a result of and as part of the person's personality structure. With the development of one pattern of deviance, others are likely to develop. These qualities point to the need for thorough and comprehensive assessment of the sexually deviant individual along very specific lines. It should also be clear that the sexual offender's self-report is not adequate for this task. It is highly unlikely that any person identified as a sexual offender will, without some outside pressure, reveal the true nature of their sexually

deviant, illegal and inappropriate behaviors to a therapist who is a stranger to them and frequently seen as a potential threat to their freedom. As such, any form of comprehensive assessment of this individual has to include a review of all data available including victim statements, witness statements, attendant assessments of the offender by their therapist or by family members or friends or co-workers, etc. Increasingly it also includes psychophysiological assessment involving instruments such as the penile plethysmograph (Zucherman, 19) and a clinical polygraph. It means assessing the person's developmental history for clues to the development of the person's personality as examined using instruments such as the MMPI. This also means assessing their past and present environment and behavioral response patterns in order to understand the problem as it exists now.

When one has completed this kind of comprehensive assessment of the sexual offender and understands the historical perspective as it applies to personality and environment, one then has a structure from which one can plan for treating the specific patterns of the offender's sexual arousal/addiction. For example, working with the offender to recognize the existence of distortions in his attitudes, beliefs and values (personality) and the role they play in creating and justifying his deviant behavior. Also working with him to recognize the role of his own childhood experiences (Potentiators) in creating these attitudes, beliefs and values. Next, working with the offender to recognize the cyclical/addictive nature of his deviant behavior including recognizing it and understanding the role of his personal disinhibitors in the maintenance of his sexual deviance. Then working with the offender to recognize and inhibit his deviant sexual behavioral preferences.

The above represents a number of different areas of therapeutic concerns, each with its own therapeutic approach. At our agency we use a combination of confrontive group therapy, "traditional" insight talk therapy, family therapy, couples therapy and cognitive behavioral counterconditioning and aversion therapies to address these needs. In each case we work to establish the developmental sequence of the deviance, work to inhibit or make aversive the deviant arousal and to strengthen the offender's

interpersonal skills and values. This comprehensive approach has shown itself very effective in lowering our clients' levels of deviant arousal, as measured by the penile plethysmograph and polygraph. It has also shown a good level of success in limiting their return to sexual aggression. However, this is still an experimental approach. Long term results (beyond ten years) have not been observed.

Based on this model, treatment of this population is neither easy nor rapid. it means in a very real sense oftentimes extensive reparenting of the individual offender to ameliorate the influences of Potentiating Factors. It means working with him and his family or extended family in restructuring their attitudes and beliefs about men and women, about adults and children, and about sexuality to provide a more appropriate/nonabusive atmosphere in which they can live.

It is my hope that my presentation of this theoretical model will be of some utility to the treatment community in assessing and working with this difficult and dangerous population. At the very least I hope that some of it has made enough sense to generate further research to either corroborate or disprove my offerings. From my own point of view, additional research is certainly needed in the area of personality assessment as well as psychophysiological assessment of identified offenders and identified "normals". It also seems important that we begin to look more closely at victims in terms of the impact of this behavior on nonoffended as well as offended family members. This is especially true in terms of the impact of this kind of experience on male children since statistically they are the most likely to grow up and become offenders themselves. Further exploration in the area of values and attitudes acquisition of children and adolescents would also seem to be a fruitful area of research. Finally, I would most like to see an increased effort made by all clinicians to keep and share data, through published articles, their experience and data gathered from their work with clients. It is my hope that the model I have presented will be of some assistance in generating that kind of cooperation and further research.

- Abel, Mittelman, Becker, Cunningham-Rather, Lucas.
1983 "The Characteristics of Men Who Molest Young Children" Presented at the World Congress of Behavior Therapy.
- Burt, M.R.
1983 "Justifying Personal Violence: A comparison of Rapists and the General Public." Victimology.
- Groth, N., Longo, R.
1982 "The Sexual Assault of Males = Victim and Offender Issues". Fourth National Conference and Workshop on Sexual Aggression.
- Nichols, H.
1971 "Effect of Treatment as Measured by the Minnesota Multiphasic Personality Inventory", Western State Hospital, Ft. Steilac Washington.
- McGuire, R.J., Carlisle, J.M. and Young, B.A.
1965 "Sexual Deviation as Conditioned Behavior: A Hypothesis. Behavior Research and Therapy 2, 1985-90.
- Quinsey, V.
1979 "Sexual Preferences Among Incestuous and Nonincestuous Child Molesters", Behavior Therapy, 10, 562-65.
- Silver, S.
1978 "Partner Alert List", Northwest Treatment Associates.
- Skinner, B.F.
1953 "Science and Human Behavior", Macmillan Co.
- Smith, T. A.
1980 "Weak Membrane Theory". Northwest Treatment Associates.
- Wolf, S., Conte, J.
1984 "Characteristics of Sexual Offenders in a Community Treatment Program", Unpublished.
- Wolpe, J.
1958 "Psychotherapy by Reciprocal Inhibition". Stanford University Press.
- Yates, E., Barbaree, H.E., and Marshall, W.L.
1984 "Anger and Deviant Sexual Arousal." Behavior Therapy.
- Zuckerman, M.
1971 "Physiological Measures of Sexual Arousal in the Human." Psychological Bulletin, 75, 297-339.

Although I am in favor of house bill 88 being completely rewritten, the following is to me the things that should be immediately changed. I am going to list the 7 things that really bother me and then I am going to offer solutions to you that would still meet the goals of the legislature as mentioned in HB 88, that is: ① protect children & ② preserve family life.

- 1) incest is not separated from sexual assault
- 2) preservation of families is mentioned but not provided for (you ignore it)
- 3) no treatment or rehabilitative programs are mentioned for incest offenders.
- 4) no diversion program is offered
- 5) incest is not considered an illness as is drug abuse or alcoholism. Victims of the latter two can walk into a treatment center/hospital & get help; incest offenders are jailed.
- 6) Ministers, social workers & professional counselors should be able to help families of ~~incest~~ ^{child abuse} receive proper treatment instead of having to report them.
- ⑦ Background checks is going to create problems for fathers who may have been guilty of incest, reformed, & are now seeking jobs to support their families.

After I wrote the following solutions I went to the law library in Anchorage and looked through the Arizona and California statutes. I would like to ask you to consider the Arizona statutes Volume 2 # 8-248 pages 1050, 1051 and 1052 titled "Article 5 Family Counseling Programs". Also on page 1050 please note the historical note. I had never used the law

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library before or the statutes and was not aware that A had to check the addendums for the most current laws, so A do not know if this program is still in effect. However A do know that you have all the states statutes available to you and that you can find out this information before I am able to return to Anchorage. Also in the California ^{statutes,} pilot programs were started ~~in~~ for treatment of offenders. Volume 14200 - End pages 339 - 348. In the Child and Family Protection legislative package put together by Betty Fahrenkamp and others, it says that there are 400 cases of ~~use~~ sexual assault a year. According to Parents United, a counseling organization in Anchorage, 85% of all sexual assaults are incest. That means that 340 offenders are jailed for incest. As you know it costs about \$100⁰⁰ a day to house these offenders in the state's jails or \$30,000.00 a year per inmate. For a year that would amount to approximately \$10,200,000.00. Would it cost that much to set up and operate a treatment program for incest offenders? I refer you to paragraph 5 of the legislative freedom petition which is enclosed; also to previous testimony sent to the house less committee which is also enclosed.

If you find the following solutions too simplistic ~~A would ask if~~ or with too many loopholes A would ask that you write to me as A am not as well educated as you are but A would welcome

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the opportunity to continue to do research and help you or work with you so that pro-family solutions could be put into effect that would ~~still~~ insure that families were preserved BUT that children would be protected!

Solutions

1) Separate incest from sexual assault

1. For those who are pending trial, ask them if they want counseling. If they are willing to attend counseling, put them on strict probation: must see a probation officer at least once or twice a week. Counseling sessions should be at least once weekly; perhaps twice weekly. Such as a diversion program such as a 2. provided in the Oregon statutes page 1400: ORS 135.891, 135.896 and 135.901.

2. For those who are presently serving sentences for incest. Review their sentences by reading the presentence reports, court records etc., then interview the family. If the family wants the offender released, he should be released according to the conditions mentioned in #1 (above); however, counseling should be MANDATORY instead of voluntary. BUT the offender should have the right to decide if he wants individual or group counseling. A simple form such as is used now to determine if a person qualifies financially for a public defender could also be used to determine if the family or the state should pay for the counselor. The offender of course should be on strict probation as also mentioned above (#1). These offenders should be released under

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Suspended Imposition of Sentence; the conditions being that if probation is violated or if remodeling occurs, the remainder of the sentence is served presumptively. Possible interviews by licensed social workers with the victim (AND WITH the presence of the non-offending parent) could be conducted monthly to make sure that no molest occurred.

3. If incest and sexual assault were separated, and as incest is a non-violent crime, these offenders could then qualify for the correctional restitution centers provided for in House bill 85. As the review process as suggested in #2 could take a long time, these offenders could be in the restitution centers and on work release programs, ~~thus~~ until their release as also mentioned in #2 was granted. This of course would reduce the amount of money being spent to house these ~~less~~ offenders as well as the welfare payments being made to the families of these molesters.

4. ^{Juvenile} Gail (I don't know her last name) at the Alaska Crime Commission says that they are also anxious to have sexual assault & incest separated because it is hard to get a conviction of molesting outside of the family. A woman came to one of our VOCAL meetings and told us that they had proof that her granddaughter was molested but because ~~of~~ ~~the~~ this group has not molested any other children the prosecutor won't take the case to court. As the testimony of one 3 1/2 year old

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enough for a conviction? Yet incest is easy to get a conviction on. If you can't consider the needs of the families, at least do it (separate them) for the benefit of the Juvenile Crim. Commission.

2) Treatment or rehabilitation programs

The judge who ruled in the Cleary suit has ordered the defendants, one of whom is Commissioner Endell to make a study of the jail overcrowding and what he is going to do about it. Because the legislature cut the funds to build and expand jail facilities and because it costs \$100⁰⁰ plus a day to house an inmate, the legislature should be considering rehabilitative programs which would save the state millions of dollars.

Dana Fake, public defender, mentioned the Child Sexual Abuse Treatment Program established by Henry Sharetto in California, and Al Sharp sent you a fact sheet published Nov. 1984 that said that less than 1% of the incest offenders ever repeat the molesting. A training manual written by Mr. Sharetto is mentioned on the fact sheet and available for \$26.00. You should study this; have Mr. Sharetto speak to your committee or the whole Congress if possible, and then, if appropriate, the program should be adopted as ① a solution to jail overcrowding ② a cost effective alternative to the millions you are paying to house an inmate in jail and ③ an effective method for protecting children and Preserving families. You should also contact Oregon and find out what kind of treatment program is offered through their mental health division as outlined in their statutes:

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135.930, 135.935, 135.940, 135.945, 135.950,
pages 1400-1402.

3) Preservation of families is mentioned but Ignored

on house bill 88 and the Child & Family protection legislative package, preservation of families is totally ignored. Families are secondary. Families can be preserved, the bill says, if it is in the best interest of the child. Why does the government get to decide what is in the best interest of the child? And why isn't the child asked what she wants? After the father is jailed, the child is never asked what she wants. Arrest is an illness and a family problem. If early help is available, the offender and the whole family can be helped. Henry Harett's program treats the entire family. This is why you should seriously consider it; because it will provide that children are protected, and will teach parents to be caring and effective. Read the fact sheet and order the training manual.

4) No diversion program is offered

Although not much detail is given in the Oregon statutes, having a diversion program is a good idea because it gives families an opportunity to get help if they sincerely want it. According to the Oregon statutes, if the offender violates the diversion agreement, criminal proceedings resume. As you will read paragraph 2 of the legislative freedom petition, you will notice that we had a similar idea in mind. We suggest that

(7)
probation and counseling should be considered before a jail sentence; that a court room should be considered as a last resort in many cases.

As I interpret the Oregon statute on diversion (ORS 135.881, 135.886, 135.891, 135.896 & 135.901) correctly, the diversion program is a form of probation and for incest offenders would be most appropriate. Also I recently heard that Colorado has a very good diversion program but have not been able to get a copy of it yet. Please don't pass house bill 88 until you get a chance to study these diversion programs.

5) ~~Ancest~~ ^{Ancest} SHOULD be considered as an illness as is Alcoholism or Drug abuse

At least 5 or 6 times a day, the radio plays commercials for drug addicts and alcoholics so that these people can go and receive help. These people can admit to having a problem, go to a hospital, get cured and their families are pulled together and blessed. If an offender admits that he committed incest he will go to jail and perhaps never receive treatment or counseling because it isn't offered in all the jails. If incest was viewed as morally or ethnically wrong and legally as an illness instead of a crime, then treatment centers could be established to help these families. ALSO, instead of forcing them apart. Because of the great rush the legislature has to pass house bill 88, I don't have time to compare Mr. Maretti's program with anyone else's, but certainly that program is better than nothing. Besides that it works and in fact its effective rate should be very impressive to you. Until

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you have had a chance to revise house bill 88 & include some of these things in it, Please don't pass it.

b) Provided information

Ministers, social workers and professional counselors should be able to help families of child abuse receive proper treatment, instead of having to ~~report~~ ^{support} them.

During the first teleconference that the hess committee held on house bill 88, a man by the name of Monty Shusher testified about clergy having to report cases of abuse. He basically stated that if you can't trust a preacher, who can you trust? I think the vast majority of people feel that way. A person faced with the problem of incest or any accusation of child abuse may go to a minister for a number of reasons: ① trust ② advice ③ help. When I say help I mean for a specific problem. If someone has an outrageous temper and they abuse their kids, they may know it but not how to control their temper. Surely a minister who reads & studies the scriptures could help a person who may recognize himself as abusive but doesn't know what to do about it. If the minister could help, he has helped the whole family but if he reports it, he has destroyed not only the trust of that person but anyone else who may find out that he turned that person in. Professional counselors and therapists also may be a great aid in teaching potentially abusive parents how to deal with themselves. If people are unafraid,

They are more willing to admit that they have a problem and more willing to seek help. In this way more children could be protected. There are MANY children who are abused but as the laws get more & more published, less parents will come forward. An order to preserve their families, more & more people will hide it. Ministers, professional counselors and social services should not be required to report child abuse cases, but instead should help the entire family including the offender receive the necessary treatment.

7) Background checks

Although I really appall sexual assault and view incest as a totally separate and distinct offense, I worry about the background checks legislation that has been added to house bill 88. I don't have a solution to offer. Perhaps I just would like you to consider another alternative. Because if a father has been convicted of incest and he is on probation, he is going to find it virtually impossible to get a job. Almost all jobs in some way deal indirectly at least, with children. I think that someone on probation should have a fair chance for employment. Perhaps you could require a letter from a probation officer and a counselor but I definitely think that even a convicted father needs to be able to be responsible for his family. Not being able to find a job is going to cause marital problems and possibly considerable depression. As most men naturally feel a responsibility

to be the breadwinners for their wives and families.

I look forward to finding out if you feel my solutions are reasonable and your willingness to consider rewriting house Bill 88 instead of passing it, as is.

A thank you for reading this.

Sincerely
Mrs. Lynette Drumbarger

Previously sent to House Hesse committee during the 1st teleconference they had in February:
(house bill 88, hb 67 + her 2)

A noticed that none of these bills separate incest from sexual assault and I urge you to please consider that for the sake of the family and also because they are different. "Incest is a psychological (behaviorial) disorder and can be treated. It may be necessary to remove the perpetrator from the home for a period of time but the perpetrator is generally no danger to society. He should in all ways possible be allowed and required to support the family financially. Incest occurs between two relatives who have known one another for a long time. There is a strong 'bonding' relationship between the victim and the perpetrator. This is due because of love & dependency for the incestuous perpetrator. Generally in most incest cases there is no violent physical attack. Whereas in sexual assault the act is almost always violent. Because of this 'bond' incest happens many times and the victim is reluctant to report it. Whereas in sexual assault or rape there is no bonding relationship and in most cases it is reported immediately. Therefore the victim is only (usually) assaulted one time. Most incest victims only want the act to stop and stay with the family. Whereas most sexual assault (rape) victims want the perpetrator to receive a long jail term."

Once the molestor is jailed, if he was the financial support for the family, the family now becomes destitute. If they qualify for

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welfare and not all do, they become an additional burden to the taxpayers who are already supporting the ~~small~~ molester at sum of \$100⁰⁰ plus a day.

But the worse part is emotionally. With the physical splitting up of the family, the children are left with either one parent or in foster homes, thus creating what an article in the Plain Truth magazine terms as latch key children. Latch key children are defined as children who are left alone at home for long periods of time or deprived of at least one parent. "Because they carry their own house key, they've been given the name latch key children, a name acquired from the common word used years ago for house key..."

On the other hand, some experts feel being a latchkey child may not necessarily be so bad. According to them the experience encourages "independence, responsibility, street savvy and pride." But let's look at the big picture.

Problems a Natural Result

Worldwide, young people in droves, most lacking proper, needed parental guidance and supervision, have plunged into the drug culture. As many as 75 percent of high school and secondary school students experiment with or regularly use drugs. It is not at all uncommon for grade school children to pop pills, take various kinds of drug trips or smoke marijuana.

Penal institutions are filled with errant youths. For the most part, they've gotten into trouble because they've lacked proper parental guidance and supervision. They've been latchkey children during major portions of their growing years.

Teenagers' ability to be confident and trusting, to have affection for their families and be able to master inner feelings and impulses, has been on a steady decline since the 1960s. That's made clear in a U.S. survey of two groups of teenagers by psychiatrist Daniel Offer and psychologists Eric Ostrov and Kenneth I. Howard.

Their published survey, *The Adolescent: A Psychological Self-portrait*, compared a group of 1960 teenagers to a group growing up in the 1970s and 1980s. About 20 percent of the latter group reported feeling empty emotionally, being confused most of the time and feeling they would rather die than continue living.

These children clearly lack needed parental supervision and guidance. That's not to say all latchkey children get into trouble, and those with adequate parental guidance and supervision do not. But common sense should tell us that the chances of latchkey children getting into trouble or having

difficulty in society would be significantly higher.

Basically Negative

Reality is, our modern latchkey child-rearing trend, no matter what the cause, is unhealthy. Vance Packard in his book *Our Endangered Children: Growing up in a Changing World* goes as far as to label this latchkey age "anti-child."

Some would say this label is too harsh. But today's downplay of family importance and family togetherness has led to "latchkey thinking," and it is a definite negative in child rearing.

Researchers confirm how negative latchkey child rearing is. A recent study found that, depending on the age of the child, latchkey children often suffer deep loneliness, terrible scare-filled anxieties, as well as periods of boredom.

It is reported that some small children experience recurring nightmares and obsessive concern for their safety because they've been left home alone for long periods of time.

Analysts say latchkey children are more likely to be involved in accidents, fires, drug abuse and juvenile delinquency. These same researchers say latchkey children, when left home without parental supervision and protection, are more likely to do poorly in school and be sexually abused by older siblings and children, or even adults.

Father's Importance

Fathers should especially consider their relationship with their children.

Dads must go out of their way and make a concentrated effort to spend time with children. Work and busi-

ness concerns, as well as a barrage of outside-the-home activities, usually leave fathers with insufficient time to spend with children.

It can be a major irony. A father can think he himself needs to work

long hours to give his family and children the best. In reality he may be denying his family and children what they need most—Dad.

Children need Dad's time, his concern, teaching, guiding, giving, loving, playing and correction. Money alone cannot buy or give family and children what they need most from a father—father himself.

A father's presence is important. This is true during crucial pre-school years when a child's sex-role identification, personality, motor skills, creativity and ability to achieve are being formed. It is also true when children are older, a time when they may need firm guidance and advice. Tests show that boys deprived of a father's presence on average have more limited chances of growing up to become well-adjusted, happy, productive young men. According to studies, father-deprived boys tend to exercise less self-control and lack somewhat in social responsibility.

Father-deprived girls also suffer in similar ways and especially suffer in their ability to relate appropriately to males as they grow into adulthood.

④

What are you doing by jailing these incest offenders and thus creating latchkey children when you clearly have another good alternative which even better meets your objective to protect the children and yet preserve family life?

Page 8 line 23-27 of HB 88 states that your intent is to preserve family life whenever possible. If this is truly your goal, consider these alternatives to incarceration:

1. Work release program
2. Live away from home for a period of time
3. Probation (either regular or 1/2 time to be served)
4. Treatment for the entire family through Parents United and/or private counseling
5. Physical or chemical castration (can only be used on a voluntary basis)
6. Suspended imposition of sentence with a condition that any time served must be served as a condition of probation
7. Halfway house
8. Visitations with the family on a controlled basis
9. Community service.

Last week I sent a suggestion to Katie Hurley regarding the problem of overcrowding in the jails and how the problem could be solved by releasing those incest molesters whose families want them released and who upon being released could then be placed on strict probation and into a treatment program.

I would like to elaborate on strict

probation. Ideally A thinks the molester should be required to report to a probation officer 3 times a week; however, depending on how many were released this could put a great strain on the probation officers, so A am proposes that a probation officer should be seen at least once weekly and that the molester should be involved in a counseling/treatment program also at least once weekly. Regular interviewing of the victim (possibly once weekly also) should also be conducted as a means to ensure that the molesting is never repeated and that if it does, the molester should then be immediately jailed until the child is fully grown and out of the home. Length of time for continuing strict probation should be determined once yearly, by a complete psychological evaluation to determine if a behavior change has taken place and if the molester is now "cured".

Some molesters could well be off probation and through treatment within a very few years; while others would be on strict probation and treatment until the children were grown and out of the home. But even this would not disrupt the family or create latchkey children as threatening these molesters in jail does.

The last of alternatives to incarceration suggests in addition to probation that the molesters live out of home for a period of time and/or that visits with the family be on a controlled basis. A would suggest that this is a more extreme solution.

than strict probation but certainly a valid proposal. I believe that in cases of often and repeated molesting, rape or real physical abuse and trauma that in addition to strict probation and treatment, the molestor should have to live away from home and only be able to visit the family on a controlled basis such as chaperoned.

Who decides severity of cases? We at least agree that incest varies in degree of severity. We are being legislated to death. Allow the spouse and the victim freedom to decide if they want the molestor removed from the home (he should still be required to support the family financially) or if strict probation and counseling/treatment is enough. The victim and the spouse may need counseling to help decide this, but the decision should be theirs; not the governments' or the courts'.

The law defines severity of cases by the age of the child. I disagree with that. I think severity should be dependent on what actually occurred, extent of physical & emotional harm & the attitude of the molestor. If the molestor recognizes that he needs help and is willing to submit to a treatment program, he should be granted that and not just slapped into jail. But to protect the child as well as to preserve the family unit, seriously consider and allow the wishes of just the victim and then the spouse whether those wishes be to press charges or to place a just offender on probation & treatment.

Repeated offenses should require mandatory jail until the children are grown & out of the home.

(7)

Now: those that are in jail because of the present law. The present law says that sexual assault in the 1st degree is a class A felony but page 1 of hb 88 makes it a class C felony + 2nd degree a class A misdemeanor. You have people who are in jail serving 15-20 years because sexual assault in the 1st degree is a class A felony; mandatory 15 years per count. If this house bill 88 becomes law & sexual assault in the 1st degree was made retroactive & considered a class C felony, these people could serve 4 years in Eagle River in a treatment program & then released.

I would like to end my statements with a quote from a friend who has done a lot of research into this problem: "The treatment program for incest offenders takes about 2 years to complete. Placing an offender in incarceration longer than is NECESSARILY may worsen him & therefore he may never be capable of rehabilitation. It appears that the presumptive sentence could be good if there was parole to go with it. The offender may have a chance to complete a program for his incestuous crime and could become a productive citizen again. These are just a few of the things we must consider."

We the undersigned citizens and voters want to see incest and sexual assault separated from each other. In cases of sexual assault there is usually one victim and that victim is harmed once but in cases of incest the whole family becomes the victim of the state and the victim is harmed twice: once by the molester and then again by the state. In cases of sexual assault, not of incest, the victim's and the family's rights are not taken away and they are not forced to testify. In cases of incest it is most common that the victim's rights and that of the family are taken away and it is common also that the victim is forced to testify against a family member, and any other family member also, to the state's satisfaction, are forced to testify than are separated.

We further believe that incest should be regared as an illness such as alcoholism or drug abuse. In cases of incest there should be a maximum two year sentence and mandatory counseling, and that repeat ofenders of incest may then be considered to fall under the presumptive sentence. And considering the severity of individual cases, that probation with the appropriate counseling should be considered before a jail sentence. A courtroom should be considered a last resort in many cases.

Additionally, the family's rights or freedoms should never be violated. Family members should have the right to press charges and testify if they so desire, and to be protected when they request it. However those who don't want to press charges should not be forced to. Contrary to the opinion of the existing laws, individuals are intelligent enough to make wise decisions by themselves concerning their family. Families that seek counseling should be able to receive such without the threat of jail.

Sexual assault, child abuse or molestation are not being condoned here; it is the family unit that is condoned. The family unit is the most important part of society but the most vulnerable and abused. The family unit must not be forced to destroy itself by the state forcing the family members to testify against each other. The seriousness of incest should not be overlooked, but neigher should the family unit in such cases, and their vulnerability to actions taken by the state.

We would also request that all those presently serving sentences for incest have their cases reviewed, that family members be interviewed, the victim's statements be more seriously considered; the molesters afterwards to be interviewed to decide whether a release should be considered or denied. Qualified counselors should have the deciding factor in whether the sentence is reduced or if release on probation is appropriate.

There are equal rights for blacks, women, and even dogs; victims have equal rights and so do their families except in cases of incest. Should not the family unit have equal rights in this society or is it all going to the dogs?

NAME	ADDRESS AND PHONE	OCCUPATION	AGE
Debra Davis	500 Gold Key Ln General Delivery	House Wife	27
Janette Dumbarger	Wasilla, AK 99687 SR 5439-K	homemaker	35
Charleen Jones	Wasilla	sales clerk	30
Ray [unclear]	GEN DEL WASILLA, AK	WORKER	32

LEGISLATE FREEDOM

We the undersigned citizens and voters want to see incest and sexual assault separated from each other. In cases of sexual assault there is usually one victim and that victim is harmed once but in cases of incest the whole family becomes the victim of the state and the victim is harmed twice: once by the molester and then again by the state. In cases of sexual assault, not of incest, the victim's and the family's rights are not taken away and they are not forced to testify. In cases of incest it is most common that the victim's rights and that of the family are taken away and it is common also that the victim is forced to testify against a family member, and any other family member also, to the state's satisfaction, are forced to testify than are separated.

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NAME	ADDRESS AND PHONE	OCCUPATION	AGE
<i>Stephen R. Beals</i> STEPHEN R. BEALS	P.O. Box 770769, Eagle River 99577	Ordained Minister	51
<i>Carole Beals</i> CAROLE BEALS	P.O. Box 770769 Eagle River 99577	Housewife	51
<i>Jeannette Lenhart</i>	2610 TOKOSITNA DR E.R. 99577	Homemaker	42
<i>Robin K. Smith</i> ROSEMARY KNAPPEK	Cross Creek P.O. Box 772693 E.R. 99577	Inspector	29
<i>Rosemary Knapper</i> ROSEMARY KNAPPEK	P.O. Box 670157 Chugiak AK 99567	Housewife	41
<i>Eleanor Corey</i> PATRICIA M. SWENSON	SE1 Box 1012 Chugiak AK 99567	Homemaker	36
<i>Patricia M. Swenson</i> PATRICIA M. SWENSON	P.O. Box 771243 Eagle River AK 99577	Real Estate Agent Reg. No. 32	
<i>Carol J. Herbick</i>	1011 Fernside Lane # B Anch AK 99504	College Student Homemaker	38
<i>Margaret Thompson</i>	Box 770767 Eagle River AK 99577		39

LEGISLATE FREEDOM

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NAME	ADDRESS AND PHONE	OCCUPATION	AGE
<i>Maria Gonzalez</i>	<i>3033 ...</i>	<i>Victorail</i>	<i>28</i>
<i>Juan Gonzalez</i>	<i>SRA Box 6229H Palmer, AK</i>	<i>Resp. Therapy</i>	<i>35</i>
<i>Marcelo J. Gonzalez</i>	<i>SR 5385 Waukena, AK 99687</i>	<i>Computer</i>	<i>33</i>
<i>Thomas D. Glenn</i>	<i>Box 771522 694-3180 Eagle River, AK 99577</i>	<i>Aircraft Mech</i>	<i>36</i>
<i>Patricia J. Brown</i>	<i>8427 E. 16th Ave. Apt. 1 Anch. AK. 99504</i>	<i>Housewife</i>	<i>28</i>
<i>Carol S. Steih</i>	<i>2621 N. Sahiti Ln. 23A Anch. AK. 99507</i>	<i>Home Maker</i>	<i>37</i>
<i>C. E. With</i>	<i>Box 3583 Palmer</i>	<i>CONTRACTOR</i>	<i>40</i>
<i>Chuck</i>	<i>Box 17-064 BIG LAKE</i>	<i>CONSTRUCTION</i>	<i>30</i>
<i>Joe D. ...</i>	<i>Box ...</i>	<i>...</i>	<i>11/3</i>

Talkeetna Christian Center

Box 282, Talkeetna, Alaska 99676 • 907-733-2360

Preaching JESUS CHRIST the same yesterday, today and for ever



Rep. Mike Miller HESS
Alaska State Legislature

3/13/85

Dear Mike,

I am writing as a Pastor in regard to H.B. 88. " An Act Relating To The Protection of Children" requested by the Governor.

The Bill as it is now written would have the immediate effect of stopping all Pastoral Counseling regarding child abuse. No member of any congregation would come to seek help from a Pastor, as they should, if they knew he would immediately report them to the State Authorities. I as a Pastor, given the charge by God to counsel these people do not feel that it is proper or correct that I must at pain of imprisonment give up that responsibility to the State.

If someone comes to me, or as has happened in the past I receive a report of abuse in my congregation, I immediately check it out. Upon determining the facts I begin whatever counseling is appropriate. Rest assured that I, or any other Pastor watching over his people would report any case immediately when the people involved would not be willing to counsel and deal with the problem. That is the proper time to do so, not at the initial report to me.

As someone submits to Biblical Counsel, they must be allowed to deal with the problem without outside interference. The Bill recognises that a psychotherapist may have that privilege, how much more should the State recognise the sanctity of the Pastor-Counselor relationship?

Line 26 and 27 of Sec 47.17.060 Should be deleted.

Also., I am very concerned about the term "Mental Injury. It is far too vague to be included in Law.

In a church, we must maintain the right to deal within the limits of our faith, with the people willing to do so. Please do not take the responsibility from us through this legislation.

Yours Sincerely,

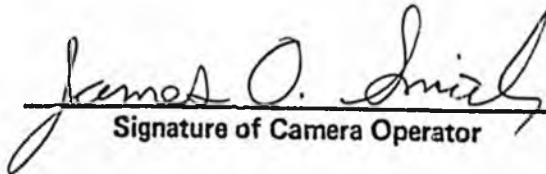
Jim Hale

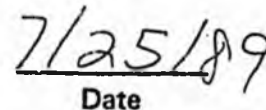
CC. Katie Harley
Governors Office



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

Q

R

STATE OF ALASKA THE LEGISLATURE

POUCH Y. STATE CAPITOL
JUNEAU, ALASKA 99811
907.465.3800

LEGISLATIVE AFFAIRS AGENCY LEGISLATIVE REFERENCE LIBRARY

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	3/6/85	1:30 pm
" "	3/8/85	1:30 pm
" "	3/15/85	1:30 pm
" "	3/21/85	1:30 pm
" "	3/26/85	1:30 pm

COMMITTEE REPORT
HOUSE

(7)

FURTHER FINANCE

2/18/85

Date: _____

Mr. Speaker:

The Committee on JUDICIARY has had HB 92

"An Act relating to child and spousal support; and providing for an effective date."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 92 (JUD) same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

Alaska State Legislature



House of Representatives House Judiciary Committee

Pouch V
State Capitol
Juneau, Alaska 99811
(907) 465-4990

LETTER OF INTENT FOR CSHB 92 (JUD)

It is the intent of the House Judiciary Committee, in amending AS 09.65.132(h) in sec. 1 of CSHB 92 (JUD), that either party in an income withholding proceeding may be ordered by the court to pay all court costs and that payment of attorney's fees will continue to fall under Civil Rule 82, Alaska Rules of Civil Procedure.

It is the further intent of the Committee that the term "alimony", as used in a number of other states, is included in the meaning of the term "spousal support".

It is also the recommendation of the Committee that the Revisor of Statutes consider placing all of the statutes relating to child and spousal support, presently found in Titles 9 and 47, in Title 35 of the Alaska Statutes, Marital and Domestic Relations.

Introduced: 1/18/85
Referred: Health, Education & Social
Services, Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

HOUSE BILL NO. 92

2

IN THE LEGISLATURE OF THE STATE OF ALASKA

3

FOURTEENTH LEGISLATURE - FIRST SESSION

4

A BILL

5

6 For an Act entitled: "An Act relating to child and spousal support; and
7 providing for an effective date."

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

* Section 1. AS 09.10 is amended by adding a new section to read:

Sec. 09.10.095. ACTIONS FOR ESTABLISHMENT OF PARENTAGE. A
11 person may bring an action to adjudicate parentage only if it is com-
12 menced before the child whose parentage is at issue reaches the age of
13 18.

* Sec. 2. AS 09.65.132 is amended to read:

Sec. 09.65.132. INCOME WITHHOLDING [ASSIGNMENT] ORDER FOR CHILD
16 SUPPORT. (a) A judgment, court order, or order of the child support
17 enforcement agency (AS 47.23) providing for the support of a minor
18 child must [SHALL] contain an income withholding [ASSIGNMENT] order.

(b) An income withholding [ASSIGNMENT] order must [SHALL] direct
19 the obligor, the obligor's employer, future employer, and any person,
20 political subdivision, or department of the state to withhold [ASSIGN]
21 money due or to be due the obligor and pay the money to the [OBLIGEE
22 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
23 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
24 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
25 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
26 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
27 140].

(c) The agency, on behalf of an [AN] obligee or person or public

*Sec. 466 of PL 98-378
mandates each state
must permit the establishment
of parentage at any time
before child's 18th
birthday*

*PL 98-378 requires
income withholding--
collections be deposited &
distributed by a public
agency designated by state.
withholding must occur
without amendment of
support order, must
comply with Consumer
Credit Reporting Act (15 USC 1673b),
must occur when support
overdue one month,
obligation must have
priority over other legal
liabilities, amount withheld
must be current support
and arrears, requires
notice and opportunity
to contest action for
mistakes of fact, must
inform its dispatcher
whether sent whether
when withholding will
begin, must give
employer notice of amount
to be withheld, subject employer
to fine for discharging (refusing to hire/
disciplining employee, employer liable
for amount not withheld, effort for
employer minimal*

and

req'd.

1 order made under this section is binding upon a person, employer,
2 political subdivision, or department of the state immediately upon
3 receipt of a copy of the income withholding [ASSIGNMENT] order. The
4 employer must begin withholding the specified amount from the employ-
5 ee's wages no later than the first pay period that occurs 14 days
6 after the mailing date on the notice. The amount withheld must be
7 sent to the agency.

8 (f) An employer may not discharge, discipline, or refuse to
9 employ an obligor on the basis of an income withholding order [ASSIGN-
10 MENT] under this section. If an employer discharges, disciplines, or
11 refuses to employ an obligor because of an income withholding obliga-
12 tion, the court, after notice and hearing, may order reinstatement or
13 restitution to the obligor, or both. A person who violates this
14 subsection or a regulation adopted to implement it, is guilty of a
15 misdemeanor and, upon conviction, is punishable by a fine of not more
16 than \$1,000.

17 (g) An income withholding order [ASSIGNMENT] under this section
18 has priority over all other attachments, executions, garnishments, or
19 other legal process brought under state law against the same wages
20 [ASSIGNMENTS UNLESS OTHERWISE ORDERED BY THE COURT]. An income with-
21 holding order [ASSIGNMENT] is not limited to the wages of an obligor
22 but may include all money owed to the obligor not otherwise exempt by
23 law. Exemptions under AS 09.38 do not apply to income assignments
24 under this section[; HOWEVER, 50 PERCENT OF THE OBLIGOR'S NET DISPOS-
25 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
26 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN
27 15 U.S.C. 1672].

28 (h) The amount withheld from the obligor's wages must be equal
29 to the current support obligation, up to the limits of 15 U.S.C. sec.

CORRECTION

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

Introduced: 1/18/85
Referred: Health, Education & Social
Services, Judiciary and Finance

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

1 IN THE HOUSE

2 HOUSE BILL NO. 92

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 child and spousal support; and
7 providing for an effective date."

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9 Sec. 09.10.095. ACTIONS FOR ESTABLISHMENT OF PARENTAGE. A
10 person may bring an action to adjudicate parentage only if it is com-
11 menced before the child whose parentage is at issue reaches the age of
12 18.

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18 (b) An income withholding [ASSIGNMENT] order must [SHALL] direct
19 the obligor, the obligor's employer, future employer, and any person,
20 political subdivision, or department of the state to withhold [ASSIGN]
21 money due or to be due the obligor and pay the money to the [OBLIGEE
22 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
23 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
24 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
25 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
26 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
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28 (c) The agency, on behalf of an [AN] obligee or person or public
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must occur when support
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obligation must have
priority over other legal
liabilities. Amount withheld
must be current support
and arrears, requires
notice and opportunity
to contest action for
withholding, must
inform debtor after
notice sent whether
when withholders will
again, must give
employer notice of amount
to be withheld, subject employer
to fine for discharging/ignoring to hire/
disciplining employees, employer liable
for amount not withheld, effort for
employer minimal*

1 agency designated to receive support payments, may request an income
2 withholding [ASSIGNMENT] order to take effect by alleging in a sworn
3 statement that the obligor is in arrears in an amount at least equal
4 to the support payable for one month [HAS FAILED TO MAKE A SUPPORT
5 PAYMENT IN FULL WITHIN 45 DAYS OF THE DATE THE PAYMENT WAS DUE] and by
6 filing that statement with the court.

7 (d) If an application is [HAS BEEN] filed with the clerk of
8 court, the obligor must be served with notice, in the manner provided
9 by Rule 5 of the Rules of Civil Procedure, on [SHALL BE SENT BY CER-
10 TIFIED MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF
11 THE OBLIGOR. THE NOTICE SHALL BE POSTMARKED NO LATER THAN 10 DAYS
12 AFTER] the date on which the application is [WAS] filed. The notice
13 must [AND SHALL] inform the obligor that the income withholding order
14 [ASSIGNMENT] will take effect 15 days after the date on which the
15 notice was served [RECEIVED] unless the obligor requests a hearing
16 within 15 days after the notice was served [SENT]. If the obligor
17 requests a hearing, an income withholding order [ASSIGNMENT] may not
18 take effect until the conclusion of the hearing. The court shall hold
19 a hearing requested under this section within 15 days after the date
20 the obligor requests the hearing, to determine if there are any mis-
21 takes of fact which would make the withholding order improper or if
22 the amount to be withheld is incorrect. Notice of the withholding
23 decision must be sent to the obligor within 45 days after the notice
24 of proposed withholding. [IF THE OBLIGOR PAYS ALL SUPPORT PAYMENTS DUE
25 BEFORE THE HEARING, AN INCOME ASSIGNMENT ORDER MAY NOT TAKE EFFECT.]

26 (e) The obligee or person or public agency that requested the
27 income withholding [ASSIGNMENT] order shall immediately send a copy of
28 the income withholding [ASSIGNMENT] order by certified mail to persons
29 who may owe money to an obligor. An income withholding [ASSIGNMENT]

1 order made under this section is binding upon a person, employer,
2 political subdivision, or department of the state immediately upon
3 receipt of a copy of the income withholding [ASSIGNMENT] order. The
4 employer must begin withholding the specified amount from the employ-
5 ee's wages no later than the first pay period that occurs 14 days
6 after the mailing date on the notice. The amount withheld must be
7 sent to the agency.

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9 employ an obligor on the basis of an income withholding order [ASSIGN-
10 MENT] under this section. If an employer discharges, disciplines, or

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14 subsection or a regulation adopted to implement it, is guilty of a
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19 other legal process brought under state law against the same wages
20 [ASSIGNMENTS UNLESS OTHERWISE ORDERED BY THE COURT]. An income with-
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25 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
26 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN
27 15 U.S.C. 1672].

28 (h) The amount withheld from the obligor's wages must be equal
29 to the current support obligation, up to the limits of 15 U.S.C. sec.

1 1673(b). If the current support payment does not equal the limits of
2 15 U.S.C. sec. 1673(b), an additional amount may be withheld toward
3 *and* any arrearages. The combined total amount withheld for current sup-
4 port and arrearages may not exceed the limits of 15 U.S.C. sec.
5 1673(b).

6 (i) An obligor may petition the court to terminate the with-
7 *and* holding of income upon good cause shown, such as the emancipation of a
8 child for whom support is paid, the lack of contact by the agency with
9 the obligee, or the timely payment history of an obligor for a three-
10 year period.

11 (j) The court may order an obligor to pay all court [COURTS]
12 costs involved in an income withholding [ASSIGNMENT] proceeding under
13 this section.

14 * Sec. 3. AS 25.20.050 is amended by adding a new subsection to read:

15 *See section 1* (e) An action to adjudicate parentage must be permitted to be
16 initiated until the child whose parentage is at issue reaches age 18.

17 * Sec. 4. AS 25 is amended by adding a new chapter to read:

18 *must have withholding* Chapter 26. INTERSTATE INCOME WITHHOLDING ACT.

19 *for interstate cases -* Sec. 25.26.010. PURPOSE. The purpose of this chapter is to
20 *this chapter modeled* enhance the enforcement of support obligations (1) by providing a
21 *after ABA legislation* quick and effective procedure for the withholding of income derived in
22 this jurisdiction to enforce support orders of other jurisdictions,
23 and (2) by requiring that income withholding, to enforce the support
24 orders of this jurisdiction, be sought in other jurisdictions. This
25 chapter must be construed liberally to effect that purpose.

26 Sec. 25.26.020. INITIATION OF INCOME WITHHOLDING AND COOPERATION
27 WITH OTHER JURISDICTIONS. On behalf of a client, or on application of
28 a resident obligee or obligor of a support order issued by this state,
29 or by an agency to whom the obligee has assigned support rights, the

1 Alaska child support enforcement agency shall request the agency of
2 another jurisdiction in which the obligor derives income to obtain an
3 income withholding order. The Alaska agency shall compile and trans-
4 mit to the agency of the other jurisdiction all documentation required
5 to enter a support order for this purpose. The Alaska agency also
6 shall transmit to the agency of the other jurisdiction a certified
7 copy of any subsequent modifications of the support order. If the
8 Alaska agency receives notice that the obligor is contesting income
9 withholding in another jurisdiction, it shall promptly notify the
10 individual obligee of the date, time, and place of the hearings and of
11 the obligee's right to attend.

12 Sec. 25.26.030. RESPONSIBILITIES FOR ENTERING A SUPPORT ORDER OF
13 ANOTHER JURISDICTION FOR PURPOSES OF INCOME WITHHOLDING. (a) Upon
14 receiving from an agency of another jurisdiction a support order of
15 another jurisdiction, along with the documentation specified in (b) of
16 this section, the Alaska agency shall file the documents with the
17 clerk of the court in which withholding is being sought. The clerk of
18 the court shall accept the documents filed. The acceptance consti-
19 tutes entry of the support order under this chapter.

20 (b) The following documentation is required for the entry of a
21 support order of another jurisdiction:

22 (1) a certified copy of the support order with all modi-
23 fications;

24 (2) a certified copy of an income withholding order, if
25 any, still in effect;

26 (3) a copy of the portion of the income withholding statute
27 of the jurisdiction which issued the support order, which states the
28 requirements for obtaining income withholding under the laws of that
29 jurisdiction;

1 (4) a sworn statement of the obligee or certified statement
2 of the agency of the arrearages and the assignment of support rights,
3 if any;

4 (5) a statement of

5 (A) the name, address, and social security number of
6 the obligor, if known;

7 (B) the name and address of the obligor's employer or
8 of any other source of income of the obligor derived in this
9 state against which income withholding is sought;

10 (C) the name and address of the agency or person to
11 whom support payments collected by income withholding must be
12 transmitted.

13 (c) If the documentation received by the agency under (a) of
14 this section does not conform to the requirements of (b) of this
15 section, the agency shall remedy any defect that it can without the
16 assistance of the requesting agency or person. If the agency is
17 unable to make such corrections, the requesting agency or person must
18 immediately be notified of the necessary additions or corrections. In
19 neither case may the documentation be returned. The agency shall file
20 with the court the documentation required by (a) and (b) of this
21 section even if it is not in the usual form required by the laws or
22 court rules of this state, so long as the substantive requirements of
23 this section are met.

24 (d) A support order entered under (a) of this section is en-
25 forceable by an income withholding order against income derived in
26 this state, in the manner and with the effect set out in AS 25.26.040
27 -- 25.26.100 and AS 09.65.132. Entry of the order does not confer
28 jurisdiction on the courts or agencies of this state for any purpose
29 other than income withholding.

1 Sec. 25.26.040. NOTICE. (a) On the date that a support order
2 is entered under AS 25.26.030, the agency shall serve upon the
3 obligor, in accordance with AS 09.65.132(d), notice of a proposed
4 income withholding. That notice must contain the same information
5 required by AS 09.65.132(d). The notice must also advise the obligor
6 that the income withholding was requested on the basis of a support
7 order of another jurisdiction.

8 (b) If the obligor seeks a hearing to contest the proposed
9 income withholding, the agency shall immediately notify the requesting
10 agency, the obligee, and the obligor, or an attorney for either, of
11 the date, time, and place of the hearing, and of the obligee's right
12 to attend the hearing.

13 Sec. 25.26.050. INCOME WITHHOLDING HEARING. (a) At a hearing
14 contesting proposed income withholding based on a support order en-
15 tered under AS 25.26.030, the entered order, accompanying sworn or
16 certified statement, and a certified copy of an income withholding
17 order, if any, still in effect, constitute prima facie proof, without
18 further proof or foundation, that (1) the support order is valid; (2)
19 the amount of current support payments and arrearages is as stated;
20 and (3) the obligee would be entitled to income withholding under the
21 laws of the jurisdiction that issued the support order.

22 (b) Once a prima facie case has been established, the obligor
23 may raise only the following, with the burden on the obligor to estab-
24 lish the defenses:

25 (1) that withholding is not proper because of a mistake of
26 fact that is not res judicata concerning such matters as an error in
27 the amount of current support owed or arrearage that had accrued;
28 mistaken identity of the obligor; or error in the amount of income to
29 be withheld;

1 (2) that the court or agency that issued the support order
2 entered under this chapter lacked personal jurisdiction over the
3 obligor;

4 (3) that the support order entered under this chapter was
5 obtained by fraud; or

6 (4) that the statute of limitations excludes enforcement
7 of all or part of the arrearages.

8 (c) If the obligor presents evidence that constitutes a full or
9 partial defense, the court shall, on the request of the obligee,
10 continue the case to permit further evidence relative to the defense
11 to be adduced by either party. However, if the obligor acknowledges
12 liability sufficient to entitle the obligee to income withholding, the
13 court shall require income withholding for the payment of the current
14 support obligation under the support order and of so much of any
15 arrearages as is not in dispute, while continuing the case with re-
16 spect to those matters still in dispute. The court shall determine
17 those matters still in dispute as soon as possible, and, if appropri-
18 ate, shall modify the withholding order to conform to that resolution.

19 (d) In addition to other procedural devices available to a
20 party, any party to the proceeding, or a guardian ad litem or other
21 representative of the child, may adduce testimony of witnesses in
22 another state, including the parties, and of any of the children, by
23 deposition, written discovery, photographic discovery such as vid-
24 eotaped depositions, or personal appearance before the court by tele-
25 phone or photographic means. The court, on its own motion, may direct
26 that the testimony of a person be taken in another state and may
27 prescribe the manner in which and the terms upon which the testimony
28 is to be taken.

29 (e) A court of this state may request the appropriate court or

1 agency of another state to hold a hearing to adduce evidence, to
2 permit a deposition to be taken to order a party to produce or give
3 evidence under other procedures of that state, and to forward to the
4 court of this state certified copies of the evidence adduced in com-
5 pliance with the request.

6 (f) Upon request of a court or agency of another state the
7 courts of this state, which are competent to hear support matters, may
8 order a person in this state to appear at a hearing or deposition
9 before the court to adduce evidence or to produce or give evidence
10 under other procedures available in this state. A certified copy of
11 the evidence adduced, such as a transcript or videotape, must be
12 forwarded by the clerk of the court to the requesting court or agency.

13 (g) A person within this state may voluntarily testify by state-
14 ment or affidavit in this state for use in a proceeding to obtain
15 income withholding outside this state.

16 Sec. 25.26.060. INCOME WITHHOLDING ORDER. If the obligor does
17 not request a hearing in the time provided, or if a hearing is held
18 and it is determined that the obligee has or is entitled to income
19 withholding under the local law of the jurisdiction that issued the
20 support order, the court shall issue an income withholding order under
21 AS 09.65.132. The agency shall notify the requesting agency or person
22 of the date upon which withholding will begin.

23 Sec. 25.26.070. NOTICE TO EMPLOYER AND OTHER PROVISIONS. The
24 provisions of AS 09.65.132 apply to income withholding based on a
25 support order of another jurisdiction entered under this chapter.

26 Sec. 25.26.080. DISTRIBUTION OF COLLECTED SUPPORT PAYMENTS. (a)
27 The income withholding order must direct payment to be made to the
28 agency. The agency shall transmit to the agency or person designated
29 in AS 25.26.030(b)(5)(C) payments received under an income withholding

1 order that is based on a support order of another jurisdiction entered
2 under this chapter.

3 (b) A support order entered under AS 25.26.030 does not nullify,
4 and is not nullified by, a support order made by a court of this state
5 under any other law, or a support order made by a court of any other
6 state. Amounts collected by withholding of income must be credited
7 against the amounts accruing or accrued for any period under a support
8 order issued by either this state or another state.

9 Sec. 25.26.090. CHANGES IN ORIGINAL ORDER. The agency, upon
10 receiving a certified copy of an amendment or modification to a sup-
11 port order entered under AS 25.26.030, shall initiate, as though the
12 order were a support order of this state, necessary procedures to
13 amend or modify the income withholding order of this state which was
14 based upon the entered support order. The court shall amend or modify
15 the income withholding order to conform to the modified support order.

16 Sec. 25.26.100. CHANGES IN JURISDICTION. If the agency deter-
17 mines that the obligor has obtained employment in another state or has
18 a new or additional source of income in another state, it shall
19 promptly notify the agency that requested the income withholding of
20 the changes, and shall forward to that agency all information it has
21 or can obtain with respect to the obligor's new address and the name
22 and address of the obligor's new employer or other source of income.
23 The agency shall include with the notice a certified copy of the
24 income withholding order in effect in this state.

25 Sec. 25.26.110. VOLUNTARY INCOME WITHHOLDING. A person who is
26 the obligor on a support order of another jurisdiction may obtain
27 voluntary income withholding by filing with the agency a request for
28 the withholding and a certified copy of the support order of the other
29 jurisdiction. The court shall issue an income withholding order under

1 AS 09.65.132. Payment must be made to the agency.

2 Sec. 25.26.120. CHOICE OF LAW. (a) The law of this state
3 applies in all actions and proceedings concerning the issuance, en-
4 forcement, and duration of income withholding orders issued by a court
5 of this state, based upon a support order of another jurisdiction
6 entered under AS 25.26.030, except as provided in (b) of this section.

7 (b) The law of the jurisdiction that issued the support order
8 governs the following:

9 (1) the interpretation of the support order entered under
10 AS 25.26.030, including amount, form of payment, and the duration of
11 support;

12 (2) the amount of support arrearages necessary to require
13 the issuance of an income withholding order.

14 Sec. 25.26.130. ADDITIONAL REMEDIES. The remedy provided in
15 this chapter is in addition to, and not in substitution for, any other
16 remedy otherwise available to enforce a support order of another
17 jurisdiction. Relief under this chapter may not be denied, delayed,
18 or otherwise affected because of the availability of other remedies,
19 nor may relief under any other statute be delayed or denied because of
20 the availability of the remedy in this chapter.

21 Sec. 25.26.200. DEFINITIONS. In this chapter,

22 (1) "agency" means the child support enforcement agency of
23 the Alaska Department of Revenue (AS 47.23) and, when the context
24 requires, means either a court or an administrative unit of another
25 jurisdiction with functions similar to those described in this chap-
26 ter, including the issuance and enforcement of support orders;

27 (2) "child" means a person, whether above or below the age
28 of majority, with respect to whom a support order exists;

29 (3) "court" means the superior court of this state and,

1 when the context requires, means either a court or an agency of another
2 jurisdiction with functions similar to those described in this
3 chapter, including the issuance and enforcement of support orders;

4 (4) "employer" means a payor of income;

5 (5) "income" means all money owed to an obligor, including
6 wages, that is not otherwise exempt by law;

7 (6) "income derived in this jurisdiction" means income, the
8 payor of which is subject to the jurisdiction of this state for the
9 purpose of imposing and enforcing income withholding under AS 09.-
10 65.132;

11 (7) "jurisdiction" means a state or political subdivision,
12 territory, or possession of the United States, the District of
13 Columbia, and the Commonwealth of Puerto Rico;

14 (8) "obligee" means a person or entity entitled to receive
15 support under an order of support; the term includes an agency of
16 another jurisdiction to which a person has assigned his or her right
17 of support;

18 (9) "obligor" means a person required to make payments
19 under the terms of a support order for a child, spouse, or former
20 spouse;

21 (10) "support order" means an order, decree, or judgment
22 for the support, or for the payment of arrearages on the support, of a
23 child, spouse, or former spouse, issued by a court or agency of another
24 jurisdiction, whether interlocutory or final, whether prospectively
25 or retroactively modifiable, and whether incidental to a proceeding
26 for divorce, judicial or legal separation, separate maintenance,
27 paternity, guardianship, civil protection, or other proceeding.

28 PL 98-375* Sec. 5. AS 47.23.020(a) is amended to read:

29 ^{must enforce} (a) The agency shall

^{Approved Support}
^{when child support administered,}
HB 92 ^{not obtain medical support order}
^{where reasonable costs, must enforce}
^{withholding interstate}

- 1 (1) obtain, enforce, and administer child support orders of
2 the superior courts of the state;
- 3 (2) adopt regulations to carry out the purpose of this
4 chapter, including regulations that [WHICH] establish
- 5 (A) schedules for determining the amount an obligor is
6 liable to contribute toward the support of an obligee under this
7 chapter and under 42 U.S.C. 651 -- 665 (Title IV-D, Social Secu-
8 rity Act);
- 9 (B) procedures for hearings conducted under AS 47.23.-
10 170; and
- 11 (C) subject to AS 47.23.025 and to federal law, a
12 uniform schedule of penalties and a rate of interest on arrear-
13 ages of support that must [SHALL] be charged the obligor upon
14 notice if child support payments are 10 or more days overdue or
15 if payment is made by a check backed by insufficient funds;
- 16 (3) administer and enforce the Uniform Reciprocal Enforce-
17 ment of Support Act (AS 25.25);
- 18 (4) establish, enforce, and administer child support obli-
19 gations administratively in accordance with this chapter;
- 20 (5) administer the state plan required under 42 U.S.C. 651
21 -- 665 (Title IV-D, Social Security Act) as amended;
- 22 (6) disburse child support payments collected by the agency
23 to the obligee together with interest charged under (2)(C) of this
24 subsection; [AND]
- 25 (7) deposit penalties charged under (2)(C) of this sub-
26 section in the general fund;
- 27 (8) administer and enforce the Interstate Income Withhold-
28 ing Act (AS 25.26);
- 29 (9) enforce and administer spousal support orders only if a

1 spousal support obligation has been established with respect to the
2 spouse and if the support obligation established with respect to the
3 child of that spouse is also being administered; and

4 (10) obtain medical support orders as part of a child sup-
5 port order if health care coverage is available to the obligor at a
6 reasonable cost.

7 * Sec. 6. AS 47.23.025 is amended to read:

8 *PL 98-378:* Sec. 47.23.025. RATES OF PENALTY AND INTEREST. A penalty im-
9 *may impose* posed under AS 47.23.020(a)(2)(C) must be 6 percent [MAY NOT BE AT A
10 *penalty, not to* RATE THAT EXCEEDS THE RATE OF INTEREST IMPOSED ON DELINQUENT TAXES
11 *exceed* UNDER AS 43.05.225]. The rate of interest imposed under AS 47.23.-
12 020(a)(2)(C) must [SHALL] equal the rate imposed under AS 43.05.225 or
13 a lesser rate that is the maximum rate of interest permitted to be
14 imposed under federal law.

15 * Sec. 7. AS 47.23.045 is amended to read:

16 *Am'd PL 98-378* Sec. 47.23.045. DETERMINATION OF SUPPORT OBLIGATION. The agency
17 may appear in an action seeking an award of support on [IN] behalf of
18 a child owed a duty of support, or to enforce a spousal support order
19 if a spousal support obligation has been established and if the sup-
20 port obligation, established with respect to a child of that spouse,
21 is also being administered, and may also appear in an action seeking
22 modification of a support order, decree or judgment already entered.
23 Action under this section may be undertaken upon application of an
24 obligee, or at the agency's own discretion if the obligor is liable to
25 the state under AS 47.23.120(a) or (b).

26 * Sec. 8. AS 47.23.060(c) is amended to read:

27 *Am'd PL 98-378* (c) In a court proceeding where the support of a minor child is
28 at issue, the court may order either or both parents to pay the amount
29 necessary for support, maintenance, nurture, and education of the

spousal

1 child. The court shall issue a medical support order as part of a
2 child support order if health care coverage is available to the
3 obligor at a reasonable cost. Upon a showing of good cause the court
4 may order the parents required to pay support to give reasonable
5 security for payments. An order for prospective child support may be
6 modified or revoked as the court considers necessary.

7 * Sec. 9. AS 47.23.150(a) is amended to read:

8 *corrects oversight in* (a) Action to enforce a support order administratively under
9 *ch. 144* AS 47.23.230 -- 47.23.270 is initiated by the agency serving a notice
10 *SLA 1984* on the obligor of the obligor's liability under the support order.
11 *when* [NOTICE UNDER THIS SUBSECTION SHALL BE SERVED PERSONALLY OR BY REGIS-
12 *AS 47.23.265* TERED, CERTIFIED, OR INSURED MAIL, RETURN RECEIPT REQUESTED, FOR
13 *which acts out general notice provisions of all of* 144.23 OR TO THE PERSON AUTHORIZED UNDER FEDERAL REGULATION TO RECEIVE THAT
14 PERSON'S RESTRICTED DELIVERY MAIL.]
15

16 * Section 10. AS 47.23.226 is amended to read:
17 *notice changes not* Sec. 47.23.226. ACTION TO COLLECT CHILD SUPPORT. *Collectory Child* To commence an
18 *PL 96-378* ~~action to collect the payment due~~, the custodian of a child, or the *collecting program*
19 agency on behalf of that person, shall file with the court (1) a
20 petition requesting establishment of a judgment; (2) an affidavit that
21 states that one or more payments of child support are 30 or more days
22 past due and that specifies the amounts past due and the dates they
23 became past due; and (3) notice of the obligor's right to respond.
24 Service on the obligor must [SHALL] be in the manner provided in
25 AS 47.23.265 [BY THE RULES OF CIVIL PROCEDURE FOR SERVICE OF SUMMONS
26 IN A CIVIL ACTION]. The child's custodian, or the agency on behalf of
27 the custodian, shall file with the court proof of service of the
28 petition, affidavit, and notice. The obligor shall respond no later
29 than 15 days after service by filing an affidavit with the court. If

1 the obligor's affidavit states that the obligor has paid any of the
2 amounts claimed to be delinquent, describes in detail the method of
3 payment or offers any other defense to the petition, then the obligor
4 is entitled to a hearing. After the hearing, if any, the court shall
5 enter a judgment for the amount of money owed. If the obligor does
6 not file an affidavit under this section, the court shall enter a
7 default judgment against the obligor.

8 * Sec. 11. AS 47.23.250(i) is amended to read:
9 *repealed by PL 98-378* (i) Exemptions under AS 09.38 do not apply to proceedings to
10 *enforce* the payment of child support under AS 47.23.230 -- 47.23.270;
11 *sections* however, 50 percent of the obligor's net disposable earnings is exempt
12 *from* execution under AS 47.23.230 -- 47.23.253 [47.23.270]. In this
13 *will now be* subsection, "net disposable earnings" has the meaning given in 15
14 *U.S.C. 1673(b)* U.S.C. 1672.

15 * Sec. 12. AS 47.23.255 is amended to read:
16 *Simply changes* Sec. 47.23.255. INCOME WITHHOLDING [ASSIGNMENT] ORDERS. (a) The
17 *language of* agency shall pay the obligee all money recovered by the agency under
18 *to withhold* an income withholding [ASSIGNMENT] order except for costs that are
19 *other* recovered from the obligor.
20 *shall be* (b) Notwithstanding AS 47.23.250, an income withholding [ASSIGN-
21 MENT] order contained in a decision of the agency that has not been
22 set aside by the superior court under AS 47.23.220 must [SHALL] be
23 enforced under the procedure established in AS 09.65.132.

24 * Sec. 13. AS 47.23.260 is amended to read:
25 *also simpler* Sec. 47.23.260. CIVIL LIABILITY UPON FAILURE TO COMPLY WITH AN
26 *language* ORDER OR LIEN. If any person, political subdivision, or department of
27 *change* the state (1) fails to make an answer to an order to withhold and
28 deliver within the time prescribed in AS 47.23.250; (2) fails or
29 refuses to deliver property in accordance with an order issued under

1 AS 47.23.250; (3) pays over, releases, sells, transfers, or conveys
2 real property subject to a lien filed under AS 47.23.230 to or for the
3 benefit of the obligor or any other person; (4) fails or refuses to
4 surrender upon demand property attached; (5) fails or refuses to honor
5 an assignment of wages or an income withholding [ASSIGNMENT] order
6 under AS 09.65.132 presented by the agency, the person, political
7 subdivision, or department of the state is liable to the agency in an
8 amount equal to 100 percent of the amount constituting the basis of
9 the lien, order to withhold and deliver, attachment, or withholding
10 [ASSIGNMENT] of wages or income, together with costs, interest, and
11 reasonable attorney fees.

12 * Sec. 14. AS 47.23.265(a) is amended to read:

13 *notice* (a) Except as otherwise provided under this chapter, when a
14 *changes not* notice, paper, or other document is required by this chapter to be
15 *PL 98-378* given or served upon a person by the agency, the notice, paper, or
16 other document may be served as required by Rule 5, Alaska Rules of
17 Civil Procedure [SENT BY REGISTERED OR CERTIFIED MAIL TO THE LAST
18 KNOWN ADDRESS OF THAT PERSON]. [SERVICE BY MAIL UNDER THIS CHAPTER IS
19 EFFECTED WHEN THE NOTICE, PAPER, OR OTHER DOCUMENT IS PROPERLY AD-
20 DRESSED REGISTERED OR CERTIFIED, AND MAILED.]

21 * Sec. 15. This Act takes effect immediately in accordance with AS 01.-
22 10.070(c).

STATE OF ALASKA
THE LEGISLATURE

POUCHET STATE CAPITOL
JUNEAU ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 22, 1985

SUBJECT: The effect of CSHB 92(Jud) on Civil Rule 77

TO: Representative M. Mike Miller
Chairman, House Judiciary Committee

FROM: George W. Edwards *GWE*
Legislative Counsel

This is in response to your request for an analysis of the effect of section 1 of CSHB 92(Jud) on Civil Rule 77.

The portion of section 1 in question is the 15-day time period allowed for a response to notice of an application for an income withholding order set out in AS 09.65.132(d). Civil Rule 77 provides that a response is required within 10 days of the notice.

The time conflict is not significant to your bill since the bill language in question is unchanged from that adopted in 1981 and found in section 1 of Chapter 96, SLA 1981. The necessary Rule 77 change was passed at that time in section 12 of Chapter 96. The change is incorporated into Civil Rule 77 by an editor's note to the rule.

GWE:csh
c3/058

Offered: 3/27/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR HOUSE BILL NO. 92 (Judiciary)
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 child and spousal support; and
7 providing for an effective date."

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

9 * Section 1. AS 09.65.132 is amended to read:

10 Sec. 09.65.132. INCOME WITHHOLDING [ASSIGNMENT] ORDER FOR CHILD
11 SUPPORT. (a) A judgment, court order, or order of the child support
12 enforcement agency under AS 47.23 [(AS 47.23)] providing for the
13 support of a minor child must [SHALL] contain an income withholding
14 [ASSIGNMENT] order. An income withholding order under this section
15 may not be enforced unless the obligor had notice of the order when it
16 was made or an application for the order was served on the obligor in
17 the manner provided for service of a summons under Rule 4, Alaska
18 Rules of Civil Procedure.

19 (b) An income withholding [ASSIGNMENT] order must [SHALL] direct
20 the obligor, the obligor's employer, future employer, and any person,
21 political subdivision, or department of the state to withhold [ASSIGN]
22 money due or to be due the obligor and pay the money to the [OBLIGEE
23 OR, WHERE THE ORDER IS ISSUED TO THE CHILD SUPPORT ENFORCEMENT AGENCY
24 (AS 47.23) OR COLLECTIONS ARE BEING MADE THROUGH THE CHILD SUPPORT EN-
25 FORCEMENT AGENCY, TO THAT] agency, in an amount determined under (h)
26 of this section [SUFFICIENT TO MEET THE SUPPORT PAYMENTS IMPOSED BY
27 THE COURT OR BY THE CHILD SUPPORT ENFORCEMENT AGENCY UNDER AS 47.23.-
28 140].

29 (c) If support payments are in arrears in an amount at least

1 equal to support payable for one month, the agency, on behalf of an
2 [AN] obligee or person or public agency designated to receive support
3 payments, shall [MAY] request an income withholding [ASSIGNMENT] order
4 against the obligor to take effect by filing a sworn statement with
5 the court that alleges [ALLEGING IN A SWORN STATEMENT] that the obli-
6 gor is in arrears in an amount at least equal to the support payable
7 for one month [HAS FAILED TO MAKE A SUPPORT PAYMENT IN FULL WITHIN 45
8 DAYS OF THE DATE THE PAYMENT WAS DUE AND BY FILING THAT STATEMENT WITH
9 THE COURT].

10 (d) If an application is [HAS BEEN] filed with the clerk of
11 court, notice shall be served upon the obligor by the agency in the
12 manner provided by Rule 5, Alaska Rules of Civil Procedure or any
13 other method permitted by law. The notice shall [BE SENT BY CERTIFIED
14 MAIL, RETURN RECEIPT REQUESTED, TO THE LAST KNOWN ADDRESS OF THE
15 OBLIGOR. THE NOTICE SHALL BE POSTMARKED NO LATER THAN 10 DAYS AFTER
16 THE DATE ON WHICH THE APPLICATION WAS FILED AND SHALL] inform the
17 obligor that the income withholding order [ASSIGNMENT] will take
18 effect 15 days after the date on which the notice is served [WAS
19 RECEIVED] unless the obligor requests a hearing within the 15 days
20 after the notice is served [WAS SENT]. If the obligor requests a
21 hearing, an income withholding order [ASSIGNMENT] may not take effect
22 until the conclusion of the hearing. The court shall hold a hearing
23 requested under this section within 15 days after the date the obligor
24 requests the hearing, to determine if there are any mistakes of fact
25 that make the withholding order improper, if the amount to be withheld
26 is incorrect, or if there are any other legal defenses. The court
27 shall inform the obligor, either at the hearing or within 15 days
28 after the hearing, whether or not the withholding will occur and of
29 the date on which it is to commence. It is not a defense under this

1 section that less than one full month's payment is due if at least one
2 full month's payment was due on the date notice was served under this
3 section [. IF THE OBLIGOR PAYS ALL SUPPORT PAYMENTS DUE BEFORE THE
4 HEARING, AN INCOME ASSIGNMENT ORDER MAY NOT TAKE EFFECT].

5 (e) The obligee or person or public agency that requested the
6 income withholding [ASSIGNMENT] order shall immediately send a copy of
7 the income withholding [ASSIGNMENT] order , a copy of AS 47.23.260 and
8 AS 09.65.132, and an explanation of the effect of the statutes by
9 certified mail to persons who may owe money to an obligor. An income
10 withholding [ASSIGNMENT] order made under this section is binding upon
11 a person, employer, political subdivision, or department of the state
12 immediately upon receipt of a copy of the income withholding [ASSIGN-
13 MENT] order. An employer shall begin withholding the specified amount
14 from the employee's wages 14 days after the mailing date on the notice
15 of withholding or on the first day of the next pay period, if earlier.
16 The amount withheld shall be sent to the agency.

17 (f) An employer may not discharge, discipline, or refuse to em-
18 ploy an obligor on the basis of an income withholding order issued
19 [ASSIGNMENT] under this section. If an employer discharges, disci-
20 plines, or refuses to employ an obligor because of an income withhold-
21 ing obligation, the court, after notice and hearing, may order rein-
22 statement or restitution to the obligor, or both. A person who vio-
23 lates this subsection or a regulation adopted to implement it, is
24 liable for a civil penalty of not more than \$1,000.

25 (g) An income withholding order [ASSIGNMENT] under this section
26 has priority over all other attachments, executions, garnishments, or
27 other legal process brought under state law against the same money
28 [ASSIGNMENTS] unless otherwise ordered by the court. An income with-
29 holding order [ASSIGNMENT] is not limited to the wages of an obligor

1 but may include all money owed to the obligor not otherwise exempt by
2 law. Exemptions under AS 09.38 do not apply to income assignments
3 under this section [; HOWEVER, 50 PERCENT OF THE OBLIGOR'S NET DISPOS-
4 ABLE EARNINGS IS EXEMPT FROM EXECUTION UNDER THIS SECTION. IN THIS
5 SUBSECTION, "NET DISPOSABLE EARNINGS" HAS THE MEANING GIVEN IN 15
6 U.S.C. 1672].

7 (h) The court may order payment of [AN OBLIGOR TO PAY] all court
8 [COURTS] costs that resulted from [INVOLVED IN] an income withholding
9 [ASSIGNMENT] proceeding under this section.

10 * Sec. 2. AS 09.65.132 is amended by adding new subsections to read:

11 (i) An employer shall, to the extent permitted under 15 U.S.C.
12 1673(b), withhold the current support obligation from an obligor's
13 wages. An employer shall withhold additional income, to the extent
14 permitted under 15 U.S.C. 1673(b), from an obligor's wages for any
15 support arrearage.

16 (j) An employer may combine into a single payment to the agency
17 amounts withheld from more than one obligor if the employer specifies
18 the portion of the payment attributable to each obligor.

19 (k) At the time an obligor terminates employment with an em-
20 ployer then in receipt of an unsatisfied income withholding order
21 regarding the obligor, the employer shall immediately inform the
22 agency of the obligor's name and last known address and the name and
23 address of all other known employers of the obligor.

24 (l) A petition by the obligor to the court to terminate or
25 reduce the withholding of income may be granted upon good cause shown.

26 * Sec. 3. AS 25.24.160 is amended to read:

27 Sec. 25.24.160. JUDGMENT. In a judgment in an action for di-
28 vorce or action declaring a marriage void or at any time after judg-
29 ment, the court may provide

1 (1) [Repealed

2 (2)] for the payment by either or both parties of an amount
3 of money or goods, in gross or installments that may include cost-of-
4 living adjustments, as may be just and proper for the parties to
5 contribute toward the nurture and education of their children, and the
6 court may order the parties to arrange with their employers for an
7 automatic payroll deduction each month or each pay period, if the
8 period is other than monthly, of the amount of the installment; if the
9 employer agrees, the installment shall be forwarded by the employer to
10 the clerk of the superior court which entered the judgment or to the
11 court trustee, and the amount of the installment is exempt from execu-
12 tion;

13 (2) [(3)] for the recovery by one party from the other of
14 an amount of money for maintenance, in gross or in installments, as
15 may be just and necessary without regard to which of the parties is in
16 fault;

17 (3) [(4)] for the delivery to either party of that party's
18 personal property in the possession or control of the other party at
19 the time of giving the judgment;

20 [(5) Repealed]

21 (4) [(6)] for the division between the parties of their
22 property, whether joint or separate, acquired only during coverture,
23 in the manner as may be just, and without regard to which of the
24 parties is in fault; however, the court, in making the division, may
25 invade the property of either spouse acquired before marriage when the
26 balancing of the equities between the parties requires it; and to
27 accomplish this end the judgment may require that one or both of the
28 parties assign, deliver, or convey any of their real or personal
29 property to the other party;