

ALASKA LEGISLATURE COMMITTEE FILES 1905-1900 00/2

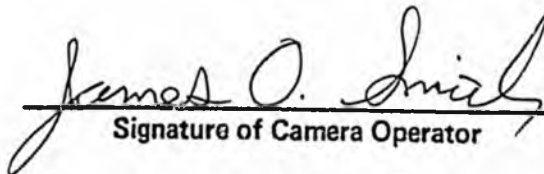
3300 HJUD HB 170 - HB 178

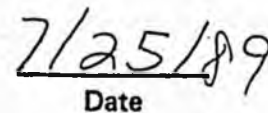
176



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Signature of Camera Operator


Date

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STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

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POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
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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

3/5/85

1:30 pm

COMMITTEE REPORT
HOUSE

3/8

(7)

FURTHER:

FINANCE
J

2/15/85

Date: 3-5-85

Mr. Speaker:

The Committee on JUDICIARY has had HB 170

"An Act relating to land surveys."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 170 (2nd) same title
 new title
- and recommends JCS HB 170 DO PASS
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ ittee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]

[Signature]
CHAIRMAN

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

K5
POUCH Y STATE CAPITOL
JUNEAU ALASKA 99811
907 465 3800

MEMORANDUM

February 21, 1985

SUBJECT: Land surveys (HB 170)
TO: Representative Niilo Koponen
FROM: Richard A. Bradley
Legislative Counsel B

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1 of the bill adds a new chapter to AS 34 (Property) relating to land surveys.

Sec. 10 states the purpose of the chapter: (1) to authorize right of entry on land for survey purposes (cf. sec. 20) and (2) establish a method for preserving evidence of land surveys (cf. secs. 30 - 70).

Sec. 20 establishes the right of a land surveyor and the employees of a surveyor to enter on land for the purposes of surveying it. When on the land, the land surveyor is responsible only for "actual damages". I believe that this rule is intended to alter the usual rule that damages to some extent are presumed to have occurred in a trespass; in this situation, damages would only be available on the showing of affirmative and actual (as opposed to legal) damages. And the section authorizes the attorney general to bring an action to "restrain and prevent an obstruction of entry" under (a) of the section.

Sec. 30 relates to "records of survey."

Sec. 30(a) provides that a land surveyor shall file a record of survey within 90 days of the completion of a survey when the survey discloses (1) "material evidence or physical change" that is not reflected on a previous "plat of record;" (2) a "material discrepancy" with a previously filed "plat of record;" or (3) evidence that by "reasonable analysis" might alter existing recorded "positions of boundaries."

Sec. 30(b) provides that a land surveyor shall file a monument record when the land surveyor "reestablishes, uses as a control, or restores a monument to make it readily identifiable or reasonably durable" unless the monument and its accessories are as described in an existing monument record or a survey plat of record.

Sec. 30(c) provides that when activities on the land, as for example construction, will "disturb or destroy a monument or its accessories", the land surveyor shall

- (1) file a monument before the monument and its accessories are disturbed or destroyed;
- (2) restore or replace the monument and its accessories after the activities have ceased; and
- (3) file a new monument record after restoring or replacing the monument and its accessories.

Sec. 30(d) provides that a land surveyor may file a monument record at any time.

Sec. 30(e) provides that when a land surveyor is required to file a monument record by this section, the monument record shall be filed within 90 days of the "completion of the survey or of the establishment, reestablishment, or rehabilitation of a monument.

Sec. 30(f) requires a land surveyor to sign and seal a monument record.

Sec. 40 deals with situations when a record of survey is not required. The section provides that a record of survey is not required for survey made by the Bureau of Land Management; to some extent, the result suggested here would be

inevitable since the legislature does not have the power to impose burdens on a Federal agency.

The section also provides that a record of survey is not required when a plat of survey either has been filed or will be filed within 18 months of the field survey.

Sec. 50 directs the commissioner of natural resources to adopt regulations to implement the chapter. It also directs the commissioner to adopt a standard form for a record of survey.

Sec. 60 relates to the duties of the district recorder.

Sec. 60(a) directs the district recorder to provide a copy of a monument record or a copy of the record of survey to the municipal clerk for the municipality in which the record or survey is located.

Sec. 60(b) provides that the district recorder is to keep a proper index of monument records and records of survey by "survey name, tract designation, subdivision designation, or United States public land designation."

Sec. 70 defines terms for the chapter, including "accessory," "monument," and "united States public land survey monument."

If I may be of further assistance, please advise.

RAB:csh
c3/014

COMMITTEE REPORT
HOUSE

2/15
L9

(7)

FURTHER: JUDICIAL

2/4/35

Date: Feb 13 1935

The Committee on LABOR & COMMERCE has had 1B 170
"An Act relating to land surveys."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for _____ same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note Sup 18
 Zero Fiscal Note Attached
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

WARR W. L. V. ...

COHEN ...

WILEY ...

...

...

...

...

...

...

...

W. L. V. ...
CHAIRMAN

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 170
Title: An act relating to land surveys

Sponsor: Koponen, Sund, Navarre
Requester: Jehling, Jenkins, Ringstad, & Pearce
Date of Request: _____

FISCAL DETAIL

Agency Affected: Natural Resources
Program Category Affected: BRNEC

BRU, Program or Subprogram(s) Affected: Information/Records Management

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

It is assumed that approximately 500 documents at \$8.00 each would be recorded each year under this proposed Bill.

Prepared By: Joseph C. Burch
Division: Technical Services

Phone: 786-2400
Date: 2/11/85

Approved by Commissioner: Thomas D. Zamper
Agency: Natural Resources

Date: 2/12/85

Distribution (by Agency preparing fiscal note):
Legislative Finance

Alaska Society of Professional Land Surveyors

AFFILIATE OF AMERICAN CONGRESS OF SURVEYING AND MAPPING
MEMBER OF WESTERN FEDERATION OF PROFESSIONAL LAND SURVEYORS



P O BOX 2106
ANCHORAGE, ALASKA 99510

January 17, 1985

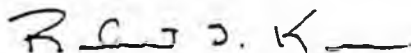
Representative Niilo Koponen
Alaska State House of Representatives
Pouch V
Room C110, State Capitol Bldg.
Juneau, Alaska 99811

Dear Representative Koponen:

The Anchorage Chapter of Alaska Society of Professional Land Surveyors at their annual dinner January 11, gave their unanimous approval to the legislation being proposed by the ASPLS Legislative committee concerning Right of Entry, Recordation, and Admendments to Title 38. We believe these bills to be of extreme importance to the efficient and orderly conduct of surveying and mapping in the State of Alaska. Many hours have gone into preparing this legislation by our State legislative committee and we respectfully request your review and support of this important legislation in the forthcomming session.

As president of the Anchorage Chapter and member of the legislative committee, I plan to be in Juneau the 23rd and 24th of January with other members of the Alaska Section American Congress of Surveying and Mapping and the Alaska Society of Prifessional Land Surveyors. At this time we would be pleased to meet with you and your staff and discuss any aspects of the proposed legislation.

Sincerely,



Robert T. Kean, President
c/o Kean & Assoc.
6510 Homer Drive
Anchorage, AK 99502
349-6431



United States Department of the Interior 9658 (920)

IN REPLY REFER TO

BUREAU OF LAND MANAGEMENT

Alaska State Office
701 C Street, Box 13
Anchorage, Alaska 99513

JAN 16 1985

Honorable Niilo Koponen
Alaska State House of Representatives
Pouch V
Room C110, State Capitol Building
Juneau, Alaska 99811

Dear Mr. Koponen:

This letter references and supports the legislation being proposed by the Alaska Society of Professional Land Surveyors (ASPLS) concerning Right of Entry, Recordation, and Amendments to Title 38 of the Alaska Statutes.

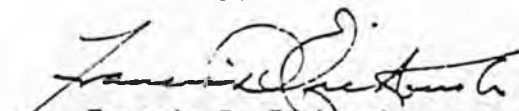
The Bureau of Land Management (BLM) fully recognizes the need for the enactments of this legislation to further the orderly conduct of surveying and mapping activities in Alaska. Significant problems are already confronting the citizens and the Federal and State governments in the establishment, administration, and management of property boundaries and their associated records.

The justification which has been written in support of this proposed legislation provides a clear picture of the needs but could have been expanded to convey the impact of the programs affected in the State. The BLM alone has a legislated workload which will require over a half billion dollars of surveying and mapping activities to identify lands for patent to the State, Native corporations and private claimants. Without this legislation the enactment of this work will be fraught with great wastes of human efforts and dollars due to the lack of required records keeping, higher costs to perform surveys and an inevitable increase in boundary legislation.

Your solid support of the enactment of the ASPLS proposed legislation is requested for the benefit of all Alaskans and the efficient use of State and Federal tax dollars.

We would be pleased to respond to any questions or comments you might have regarding this subject.

Sincerely,


Francis D. Eickbush

JUSTIFICATION
AMENDMENTS TO AS 34 (ADDITION OF CHAPTER 65)

Section Authorizing Entry On Land For Survey Purposes

Thousands of survey monuments exist in the State of Alaska identifying section corners, township corners, various property boundaries and serving as geodetic control points in remote areas where no other survey control presently exists. Taxpayers' dollars were utilized to establish these monuments, as they were intended for purposes benefiting the public. Various Federal agencies, primarily the Bureau of Land Management, Coast and Geodetic Survey, Geological Survey, Corps of Engineers and Army Mapping Service and, more recently, various State of Alaska agencies established these monuments. Utilization of this existing monumentation is mandatory if the surveyors, mappers and photogrammetrists in the State are to conduct the surveys required by the public for property boundaries, subdivisions, construction projects and mineral, oil and gas exploration programs. Traditionally, access to this survey control has been available to these professionals as required to conduct these surveys. Access is primarily by foot, air or water and utilization of the station usually involves only the temporary setting up of a theodolite, distance measuring equipment, satellite survey system, photo control panel or in some cases, leaving a small, unmanned, battery-powered transmitter on a small tower or tripod to continuously broadcast signals for offshore or airborne positioning systems. No damage to the monument or its surrounding environment is entailed.

In addition, in the course of conducting surveys, surveyors must often physically traverse adjoining property boundaries or gain access to hilltops, mountain peaks or shorelines so as to gain line of sight or for other technical reasons. Again, the occupancy is limited in nature and normally involves no damage to the environment.

With increasing transfer of lands from the public domain into private ownership, access to these survey control monuments, property boundaries and key terrain features is becoming increasingly curtailed. Owners, applicants and alleged owners of the underlying property on which the monument is located or to which access must be gained, even in extremely remote areas of the State, are now requiring advance permission and often the payment of considerable rental fees to briefly occupy the station or terrain feature. In some cases, there is outright refusal of access if the owners are not in agreement with the program for which a survey is being undertaken, regardless of the fact that the resultant program may be on State, Federal

or third party ownership. To further complicate the matter, often two or more persons or groups claim ownership to the same lands, leaving the surveyor in the position of not knowing from whom to obtain permission or alternatively, obtaining permission from the apparent owner only to be challenged by a second party claiming ownership. As survey monumentation in the remote areas of the State is extremely sparse, this allows the owner or alleged owner of the lands underlying a primary control monument to control developments over a vast area far outside their ownership. In some cases, a single monument may serve as primary control for thousands of square miles so use of alternate monuments is not feasible or even impossible.

This problem, nonexistent prior to five years or so ago, is annually becoming more critical. As much as surveyors, mappers and photogrammetrists wish to see the property rights of all individuals or groups to be properly protected, the time has come for some protection for all of the citizens of the State to utilize the survey monumentation which was established with their tax dollars, and to allow surveyors to determine citizen's property boundaries. Similar legislation has been found necessary in nearly all the other states of the union.

The Alaska Section, American Congress on Surveying and Mapping and the Alaska Society of Professional Land Surveyors and their members feel the time has now arrived that this legislation is mandatory if the rights of all individual citizens of this State are to be protected.

Section Requiring Record Of Survey And Monument Record

A present requirement exists in Alaska that subdivisional plats be recorded with the district recorder so as to be available for use by all citizens of interest. Hundreds of other land surveys are annually conducted, however, defining boundaries and rights-of-way, for which no such recording requirement exists and which presently do not become a part of any public record. Although some informal exchange of information currently takes place between the professional surveyors in the State, there is no official depository for records of this sort where a public or private surveyor can research records of previous surveys prior to undertaking a survey in the same area. This often results in repeated duplication of effort, boundary conflicts (between two surveyors utilizing totally different techniques to approach the same problem) and, at the very least, incursion of unnecessary costs by the surveyor's client if a private survey.

of the public at large if the survey is for public purposes. Similarly, as surveys are undertaken and key monumentation recovered, no current regulation or law requires the surveyor record any public document indicating the existence, lack of existence, condition of, or current status of key control monumentation in the project area. This is especially critical where monumentation will or likely will be destroyed during forthcoming construction following the initial survey. Replacement of these destroyed monuments is extremely costly unless adequate records exist prior to any disturbance, indicating the exact original position of the monument with ties to appropriate accessories.

These professional associations and their members believe it is the duty of all professional surveyors to file a record of survey and monument records for all appropriate surveys they undertake and that an appropriate procedure be established by the State to provide the mechanism for the recording of these documents.

The burden and cost of this recordation will primarily fall upon the surveyor and not the government entity. The sole cost to the State of Alaska or its subdivisions will be the cost of accepting and maintaining these records. It is estimated the total number of documents would not exceed 1000 per year. This very minor cost would be greatly offset by the value to State agencies, boroughs and municipalities that could make great use of the vast amount of information so recorded and made readily available with no cost of field acquisition whatsoever. Likewise, when individual citizens of the State require survey in the future, they will often achieve a cost saving because of the ready availability of these documents.

The majority of other states currently have statutes requiring recordation of monument and/or survey records. This is especially true in the western states where fewer surveys exist, with the resultant greater distance between monuments and longer time intervals between occasions when monuments may be inspected by professional surveyors.

Introduced: 2/5/85
Referred: Resources
and Finance

BY FAHRENKAMP
BY REQUEST

1 IN THE SENATE

2

SENATE BILL NO. 135

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 land surveys; and providing for

7

an effective date."

8

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

9

* Section 1. AS 34 is amended by adding a new chapter to read:

10

CHAPTER 65. LAND SURVEYS.

11

Sec. 34.65.010. PURPOSE. The purpose of this chapter is to authorize right of entry on land for certain survey purposes, and to provide a method for preserving evidence of land surveys by filing records of survey and monument records. *leaves out 1 sentence*

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Sec. 34.65.020. ENTRY UPON LAND BY PROFESSIONAL LAND SURVEYORS.

16

(a) After giving notice, a land surveyor or an employee of a land surveyor may enter public or private land or water in the state only to occupy, locate, relocate, install, or replace survey monuments in the process of locating real estate boundaries and determining geodetic positions.

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Adds (b) This section does not permit entry on public or private land or water to perform an engineering, design, or topographic survey.

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Adds (c) This section does not authorize any unnecessary interference with private rights.

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(d) A land surveyor or an employee of a land surveyor is liable to the landowner only for actual damages.

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(e) The attorney general may bring an action in the name of the state to restrain and prevent the obstruction of entry under (a) of this section.

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1 after the activities have ceased; and

2 (3) file a new monument record after restoring or replacing
3 the monument or its accessories.

4 (c) A land surveyor may file a monument record for any monument.

5 (d) A land surveyor who is required to file a monument record
6 under this section shall do so within 90 days of the completion of the
7 survey or of the establishment, reestablishment, or rehabilitation of
8 a monument.

9 (e) A monument record shall be signed and sealed by the land
10 surveyor responsible for the survey.

11 Sec. 34.65.050. WHEN RECORD OF SURVEY IS NOT REQUIRED. A record
12 of survey is not required when a plat of the survey has been filed or
13 will be filed within 18 months after the field survey is completed.

14 Sec. 34.65.060. DUTIES OF THE COMMISSIONER. (a) The commis-
15 sioner shall adopt regulations to implement this chapter.

16 (b) The commissioner shall provide a standard form for a
17 monument record.

18 Sec. 34.65.070. DUTIES OF THE DISTRICT RECORDER. (a) Upon
19 request the district recorder shall provide a copy of a monument
20 record or a copy of a record of survey to the municipal clerk for the
21 municipality in which the monument or survey is located.

22 (b) The district recorder shall keep a proper index of monument
23 records and records of survey.

24 (c) The commissioner may establish a fee for services provided
25 by a district recorder under this section.

26 Sec. 34.65.100. DEFINITIONS. In this chapter

27 (1) "accessory" means physical evidence adjacent to a
28 monument used for the future identification and restoration of a
29 monument;

South Dakota Codified Laws

36-18-38. Board inquiries and investigation of violations -- Report and prosecution. It shall be the duty of the board of examiners to inquire into the identity of any person alleged to be engaging in the unlawful practice of architecture, professional engineering or land surveying. It shall be the duty of the board to investigate every alleged violation of the provisions of this chapter, and report to the proper state's attorney any person or case that in the judgment of the board warrants prosecution. It shall be the duty of the attorney general and the several state's attorneys to prosecute violations of this chapter, in the name of and on behalf of the board.

36-18-39. Injunction to prevent violations of chapter -- Election of remedies. The board of examiners may proceed by injunction to restrain violations of the provisions of this chapter, as an alternate to criminal proceedings. The commencement of one proceeding by the board constitutes an election.

36-18-40. Severability of provisions. If any provision of this chapter or the application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application and to this end the provisions of this chapter are declared to be severable.

B. Powers of Surveyors, Public Utility Corporations, Other Miscellaneous

1-1-9. Map of federal acquisitions to be filed -- Recording of evidence of title. A map of any land acquired by the United States, under the provisions of this chapter, shall be filed and recorded in the office of the secretary of state and the evidence of the United States' title shall be recorded in the county wherein the land is situated as in other cases relating to the transfer of real property.

1-1-10. Land entry authorized to survey boundaries -- Consent required to enter mine -- Damage to property. For the purpose of making surveys required by or essential to the effect of any acts of the United States Congress or of the Legislature of this state or for the determination of boundaries of real estate, any of the duly authorized officers or agents of the United States or of this state, or any engineer or land surveyor duly qualified or registered under the laws of this state, and the persons necessarily and lawfully employed in making any such survey may enter upon lands within the boundaries of this state for such purposes, but this section shall not be construed as authorizing any unnecessary interference with private rights. Nothing in this section shall be construed to permit any person to enter any shaft, tunnel, stope, or underground workings of any individual person engaged in mining for precious metals without consent of the owner or person in possession of such shaft, tunnel, stope, or underground working.

Nothing herein contained shall exempt any person from payment of actual damages done by him while upon such land.

NEW MEXICO



61-23-2. Right of entry on public and private property; responsibility.

The engineers and surveyors of the United States and of the state of New Mexico and registered professional engineers and land surveyors of the state of New Mexico shall have the right to enter upon the lands and water of the state and of private persons and of private and public corporations within the state for the purpose of making surveys, inspections, examinations and maps, subject to responsibility for actual damage to crops or other property, or for injuries resulting from negligence or malice caused on account of such entry so made.

History: Laws 1922, ch. 120, § 2, 1941 Comp., § 51-2457; Laws 1947, ch. 110, § 3; 1953 Comp., § 67-21-27.

Cross-references. — For suit on county surveyor's bond, see 4-4-20 NMSA 1978. As to penalties for interfering with county surveyor, see 4-4-24 NMSA 1978. As to entry for county claim surveys, see 72-4-1 NMSA 1978.

Applies to Army Corps of Engineers. — The U.S.

Army Corps of Engineers may go upon state-owned or private land and make core drilling and surface soil explorations to determine the feasibility of certain civil flood control projects in the state of New Mexico. 1957-58 Op. Att'y Gen. No. 57-221.

Am. Jur. 2d and C.J.S. references. — 63 Am. Jur. 2d Public Lands § 56 to 74.
73 C.J.S. Public Lands § 36 to 71.

61-23-3. (Violation of reference mark and entry provisions.)

Any person violating any of the provisions of this act (61-23-1 to 61-23-3 NMSA 1978) shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not less than twenty-five (\$25.00) dollars nor more than one hundred (\$100.00) dollars for each such offense.

History: Laws 1922, ch. 120, § 3, 1941 Comp., § 51-2458, 1953 Comp., § 67-21-28.

61-23-4. Short title.

Article 23 of Chapter 61 NMSA 1978 may be cited as the "Engineering and Land Surveying Practice Act."

History: 1953 Comp., § 67-21-29, enacted by Laws 1957, ch. 211, § 1; 1973, ch. 243, § 1.

The 1973 amendment substituted the provisions of the present section for the former section which read:

This act may be cited as the "Engineering Practice Act."

61-23-5. Declaration of policy.

The legislature declares that it is a matter of public safety, interest and concern that the practice of engineering and of land surveying merit and receive the confidence of the public and that only qualified persons be permitted to engage in the practice of engineering or land surveying, and in order to safeguard life, health and property, and to promote the public welfare, any person in either public or private capacity practicing or offering to practice engineering or land surveying shall be required to submit evidence that he is qualified to so practice and shall be registered as provided; and it shall be unlawful for any person to practice or offer to practice in the state, or to use in connection with his name or otherwise assume, use or advertise any title or description tending to convey the impression that he is a professional engineer or professional land surveyor or land surveyor, unless such person is duly registered or exempt under the provisions of the Engineering and Land Surveying Practice Act. That act shall be construed in accordance with this declaration of policy.

History: 1953 Comp., § 67-21-30, enacted by Laws 1957, ch. 211, § 2; 1973, ch. 243, § 2.

The 1973 amendment substituted "engineering or land surveying" for "engineering and land surveying"

following "to engage in the practice of" near the beginning of the section, and substituted "professional engineer or professional land surveyor or land surveyor" for "professional engineer, professional engi-

NORTH
Dakota

- shall be deemed a more necessary public use than use for the same purpose by a private corporation, and whenever a right of way shall have been taken and the person, firm, or corporation taking such right of way shall fail or neglect for five years to use the same for the purpose to which it had been appropriated, the attempt by another person, firm, or corporation to appropriate such right of way shall be considered a more necessary public use;
4. Franchises for toll roads, toll bridges, ferries, and all other franchises, but such franchises shall not be taken unless for free highways, railroads, or other more necessary public use;
 5. Any system of waterworks, electric light and power plant, wells, reservoirs, pipelines, machinery, franchises, and all other property of any character whatsoever comprising a waterworks system or an electric light and power system;
 6. All rights of way for any and all the purposes mentioned in section 32-15-02 and any and all structures and improvements thereon, and the lands held or used in connection therewith, shall be subject to be connected with, crossed or intersected by any other right of way or improvement or structure thereon. They also shall be subject to a limited use in common with the owner thereof when necessary, but such uses, crossings, intersections, and connections shall be made in the manner most compatible with the greatest public benefit and the least private injury; and
 7. All classes of private property not enumerated may be taken for public use when such taking is authorized by law.

32-15-05. What must appear before property taken.--Before property can be taken it must appear:

1. That the use to which it is to be applied is a use authorized by law;
2. That the taking is necessary to such use; and
3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use.

32-15-06. Entry for making surveys.--In all cases when land is required for public use, the person or corporation, or his or its agents, in charge of such use may survey and locate the same, but it must be located in the manner which will be compatible with the greatest public benefit and the least private injury and subject to the provisions of section 32-15-21. Whoever may be in charge of such public use may enter upon the land and make examinations, surveys, and maps thereof, and such entry shall constitute no cause of action in favor of the owner of the land except for injuries resulting from negligence, wantonness, or malice.

Operation and Effect (Court Decisions) In an application for a permit to enter upon private property for the purpose of making a survey and testing soil, plaintiff was required to show only that it was in the category of persons entitled to seek eminent domain, and was not required to prove that at that stage of the proceedings eminent domain was proper, justified and necessary. Square Butte Elec. Cooperative v. Dohn, 219 NW 2d 877 (1974).

2. Arbitration

32-29-01. When arbitration authorized.--Persons capable of contracting may submit to the decision of one or more arbitrators any controversy which might be the subject of a civil action between them, except the question of title to real property in fee or for life. This qualification does not include questions relating merely to the partition or boundaries of real property.

right to install a gate in the fence so as to give the owners a farm crossing. *Hildebrand v. Chicago, B. & Q.R.R.*, 45 Wyo. 175, 17 P.2d 651 (1933).

Jury questions. — Where cattle were injured by entering railroad's property by private gate which was not protected by cattle guards and plaintiff makes out prima facie case independent of former § 37-210, question of negligence is for

jury. *Hildebrand v. Chicago, B. & Q.R.R.*, 45 Wyo. 175, 17 P.2d 651 (1933).

Where railroad has knowledge that gates along right of way are customarily left open and no steps are taken to correct the custom, question of railroad's negligence when cattle are injured is for the jury. *Hildebrand v. Chicago, B. & Q.R.R.*, 45 Wyo. 175, 17 P.2d 651 (1933).

ARTICLE 3. ROADS, DITCHES AND FLUMES; PIPE, ELECTRIC TRANSMISSION, TELEPHONE AND TELEGRAPH LINES

Cross references. — As to telegraph lines generally, see art. 10, §§ 12, 13 to 15, Wyo. Const. For provision that telegraph, telephone or electric light line shall not be constructed within the limits of any municipal organization without the consent of its local authorities, see art. 13, § 4, Wyo. Const. As to incorporation of ditch company, see § 17-12-101. As to incorporation of flume company, see § 17-12-106. As to incorporation of telegraph company, see § 17-12-107. As to mining corporations preempting right-of-way over public lands, see § 30-1-128. As to power of public service commission to direct manner of use of public highways by public utilities, see § 37-3-114.

Editor's note. — This article was not enacted as part of the original Civil Code.

Law review. — See note, "Compensation for Condemnation: Recent Wyoming Development," 17 Wyo. L.J. 245 (1963).

Am. Jur. 2d, ALR and C.J.S. references. — 26 Am. Jur. 2d Eminent Domain §§ 73, 102, 112, 126, 135.

Right to use or permit use for private telegraph or telephone line of street or highway, 34 ALR 405.

Furnishing electricity for telegraph or telephone system as a public use, 44 ALR 751, 58 ALR 757.

29A C.J.S. Eminent Domain §§ 65 to 86.

§ 1-26-301. Right-of-way along public ways granted; permission necessary for new lines.

Corporations organized under the laws of this state or of any other state or of the United States for the purpose of constructing, maintaining and operating telephone, telegraph or electric transmission and distribution lines may set their poles, piers, abutments, wires and other fixtures along, across or under any of the public roads, streets and waters of this state in such manner as not to inconvenience the public in their use. Any telegraph, telephone or other company desiring to place their wires or other fixtures underground in any city shall first obtain consent from the city through the municipal authorities. A person or firm must first obtain permission from the state highway commission or the board of county commissioners in the county where the construction is contemplated before entering upon any state highway or county road for the purpose of commencing the construction of any new telephone, telegraph, or electrical transmission or distribution lines. (Laws 1901, ch. 31, § 1; C.S. 1910, § 387; C.S. 1920, § 4934; R.S. 1931, § 38-301; Laws 1939, ch. 80, § 1; C.S. 1945, § 3-6201; W.S. 1957, § 1-791; Laws 1977, ch. 188, § 1.)

§ 1-26-301

Chicago, B. & Q.R.R., 45
Ill. (1933).
has knowledge that gates
are customarily left open and
taken to correct the custom,
and's negligence when cattle are
jury. Hildebrand v. Chicago, B.
Ill. 175, 17 P.2d 551 (1933).

FLUMES; F.L.E.
TELEPHONE
S

— This article was not enacted
original Civil Code.

— See note, "Compensation for
Recent Wyoming Development,"
1953).

— LR and C.J.S. references. —
Eminent Domain §§ 73, 102, 112.

or permit use for private
use of a line of street or highway.

Electricity for telegraph or
as a public use, 44 ALR 752.

Eminent Domain §§ 65 to 86.

granted; permission

or of any other state or
maintaining and operating
utility lines may set their
lines across or under any of
such manner as not to
interfere with telephone or other company
lines and in any city shall first
obtain the consent of the authorities. A person or firm
obtaining such consent from the commission or the board
of public utility commissioners is contemplated
for the purpose of
constructing a telegraph, or electrical
line; C.S. 1910, § 2870; C.S.
1911; C.S. 1945, § 3-6201;

§ 1-26-302

CODE OF CIVIL PROCEDURE

§ 1-26-303

§ 1-26-302. Same; right of entry upon private lands.

(a) The companies may enter upon any land whether owned by private persons or corporations in fee or in any less estate, except railroad rights-of-way, for the purpose of making preliminary surveys and examination as may be necessary to erect poles, piers, abutments, wires or other fixtures for telephone, telegraph or electric transmission or distribution lines. The companies may make such changes of location of the lines as may be deemed necessary, shall have the right of access to construct the line and, as may be required, to make repairs, and may obtain the right-of-way and condemn the land therefor in the manner provided in the Wyoming Rules of Civil Procedure.

(b) If the landowner has not consented to the entry, no entry shall be authorized until the company has deposited with the public service commission a cash or surety bond of two thousand dollars (\$2,000.00). The public service commission shall release the bond to the company upon sufficient showing that the company has reached an agreement for entry with the landowner. If the company causes any damage to a landowner's property prior to reaching an entry agreement, the bond shall be withheld for distribution as determined by a court of law or upon a settlement agreement between the company and landowner. (Laws 1901, ch. 31, § 2; C.S. 1910, § 2871; C.S. 1920, § 4935; R.S. 1931, § 36-302; Laws 1932, ch. 50, § 2; C.S. 1945, § 3-6202; W.S. 1957, § 1-792; Laws 1977, ch. 73, § 2; ch. 155, § 1.)

Cross reference. — For provision as to
condemnation of property, see Rule 71.1,
W.R.C.P.

The 1977 amendment designated the
formerly undesignated provisions of this section
as subsection (a), added subsection (b), and in
subsection (a), substituted "the Wyoming Rules
of Civil Procedure" for "section 38-303" at the
end of the subsection and made other minor
changes in style.

Editor's note. — Section 1-27-302, which was
enacted by § 1, ch. 155, Laws 1977, has been

made subsection (a) of this section and
§ 1-792(b), W.S. 1957, which was amended by
§ 2, ch. 73, Laws 1977, has been made subsection
(b) of this section. This was a Revisor's change.
This section has also been renumbered from
§ 1-27-302 to § 1-26-302 because of chapter
renumbering.

Effective dates. — Section 3, ch. 50, Laws
1932, makes the act effective from and after
passage. Approved February 15, 1932.

Section 3, ch. 73, Laws 1977, makes the act
effective May 27, 1977.

§ 1-26-303. Right of eminent domain granted.

Whenever any road, ditch, telegraph, telephone or fluming company, or any petroleum or other pipeline company, organized or to be organized under the provisions of this chapter, or any law of this state, or under the laws of any other state and legally doing business in this state, shall not have acquired by gift or purchase, any land, real estate or claim required for the construction or maintenance of their road, ditch, flume, pipe, telegraph or telephone line, or which may be affected by any operation connected with the construction or maintenance of the same, the said corporation shall have the right of eminent domain and may condemn the land, real estate, right-of-way or claim required by the corporation in the manner provided by the Wyoming Rules of Civil

OKLAHOMA

(3) Wherever in those counties the amount of Indian lands or those exempt from taxation by reason of the operation of any federal law is thirty percent (30%) or more of the total area of the county, then the Board of County Commissioners may, upon its own initiative, and if the public interests demand it, move to secure roads over, adjacent to, or for the benefit of all such exempted lands in the following manner: The Board shall call upon the Director as a disinterested party to undertake and make such surveys, plans and estimates and obtain all other essential data and records as are required to make a full and complete statement and report upon the interest involved, and to make such recommendations as in the premises may seem proper. When so prepared, the Department shall then advance the matter to the Department of the Interior of the United States, or to any other federal department concerned, through its proper local representative, if there be one, with the request that the matter be considered and disposed of as speedily as possible. If the project be so approved and authorized, then the work may proceed under the special supervision and direct administration of the Department and subject to such special regulations as the circumstances seem to require.

69 § 651. Section and quarter section corners

The provisions of Sections 1229-1233 of this Code, relating to the marking and obliteration of section and quarter section corners within rights-of-way of State highways, shall apply with full force and effect and in like manner to the Board of County Commissioners of each county, whenever section corners or quarter section corners are obliterated, or may be obliterated by the construction or resurfacing of either low type or high type paved roads of any county highway within the county.

69 § 702. Entry upon premises to make surveys and examinations for establishment or relocation of highways—Notice

The Department, through its authorized agents and employees, may enter upon any lands, waters, and premises in the State for the purpose of making surveys, soundings and drillings, and examinations as may be determined necessary or convenient for the purpose of establishing, locating, relocating, constructing, and maintaining State highways or relocations thereof and facilities necessary and incidental thereto. Such entry shall not be deemed a trespass, nor shall an entry for such purpose be deemed an entry under any condemnation proceedings which may be then pending; but notice shall be given to the owner or person residing on the premise, personally or by registered mail, at least ten (10) days prior to such entry.

69 § 703. Reimbursement for actual damages

The Department shall make reimbursement for any actual damages resulting to such lands, waters, premises and property as a result of activities pursuant to the preceding Section. In the event of disagreement as to the amount of the damage, either the person damaged or the Department may file a petition with the District Court for the appointment of commissioners to appraise the damages and proceed to have the same determined as in condemnation proceedings.

69 § 704. Commission to complete and revise maps

The Commission may complete the topographic mapping of the State of Oklahoma and revise existing United States Topographic maps of the State, so that a complete and accurate map of the entire State may be complete and obtained by State departments and agencies, the Federal Government, and all persons desiring information relative to the natural resources of the State.

69 § 705. United States Geological Survey, agreements with

The commission may enter into agreements with the Director of the United States Geological Survey, or legal successor thereof, for the purpose of making the necessary surveys and maps, and preparing data covering topographic surveys, so that they may be made available for public use.

69 § 706. Expenses

The Commission shall pay the expenses incurred under Sections 704 and 705 out of the State Highway Construction and Maintenance Fund upon proper vouchers. Provided, that any funds so expended shall be matched by the United States Government, and the total expenditures of State funds shall not exceed Fifty Thousand Dollars (\$50,000.00) in any fiscal year.

69 § 707. Surveys—Lawful to cross premises

For the purpose of carrying into effect the provisions of Sections 704 and 705, it shall be lawful for all persons employed in the making of the topographic survey to enter upon and cross all lands within the State; provided, however, that in so doing no damage shall be done to private property.

69 § 1229. Location and identification of corners within right-of-way

The Department shall, in cooperation with the County Surveyor of the county affected, locate section and quarter section corners within the right-of-way of all State highways when surveys and plans are being made for contemplated new construction or resurfacing, and re-mark such corners in the right-of-way by a suitable marker, of a design to be approved by the Department. Whenever such corners are located on a highway to be hard-surfaced, or resurfaced, the Department shall identify such corners on the roadway by bronze surface markers, of a design to be approved by the Department.

69 § 1230. Obliteration of corners by highway construction

Where any section or quarter section is obliterated, or may be obliterated, by highway construction, the Department shall witness the location of such corners by two or more well defined objects located outside of the contemplated right-of-way limits and shall note such witnesses on the highway construction plans.

69 § 1231. Re-marking of existing corners

The Department shall also re-mark existing section corners and quarter section corners on State Highways that are now paved, with markers similar to those described herein, where reliable reference ties are available.

his deputy a professional engineer; Provided, this requirement shall not apply if the county surveyor is both a professional engineer and a Registered Land Surveyor.

Source: Laws 1879, § 127, p. 386; Laws 1909, c. 50, § 1, p. 295; R S 1913, § 5000; Laws 1921, c. 111, § 1, p. 606; C S 1922, § 5016; C S 1929, § 26-1601; Laws 1939, c. 20, § 16, p. 191; C S Supp. 1911, § 26-1601; R S 1913, § 23-1901; Laws 1959, c. 150, § 1, p. 717.

23-1901.01. County surveyor; appointment from another county; when. When there is no qualified surveyor within a county who will accept the office of county surveyor, the county board of such county may appoint a competent surveyor from any other county of the State of Nebraska to such office.

Source: Laws 1951, c. 45, § 1, p. 162.

23-1902. Chainmen; employment; oath. All necessary chainmen shall be employed by the person or persons causing the survey to be made. The chainmen shall be disinterested persons, and approved of and sworn by the surveyor to measure justly and exactly, to the best of their knowledge and ability, all lines measured by them.

Source: Laws 1879, § 130, p. 386; R S 1913, § 5006; C S 1922, § 5016; C S 1929, § 26-1602.

23-1903. Witnesses; attendance and testimony; power to compel fees. The county surveyor or his deputy, in the performance of his official duties, shall have the power to summon and compel the attendance of witnesses before him, to testify respecting the location and identification of any line or corner. When any such witness testifies to any material fact, his testimony must be reduced to writing and subscribed by him and made a matter of record. The county surveyor and his deputy are hereby authorized and empowered to administer oaths and affirmations to any person appearing as a witness before them. But the testimony as provided for herein shall never be used as evidence in any action involving corners or boundary lines, except for the purpose of impeachment. Each witness shall be entitled to the same fees allowed before justices of the peace.

Source: Laws 1913, c. 43, § 1, p. 142; R S 1913, § 5007; Laws 1921, c. 130, § 1, p. 601; C S 1922, § 5017; C S 1929, § 26-1603.

23-1904. Surveyor's certificate; use as evidence; effect. The certificate of the county surveyor of any survey made by him of any lands in the county shall be presumptive evidence of the facts stated therein, unless such surveyor shall be interested in the same.

Source: Laws 1913, c. 43, § 2, p. 142; R S 1913, § 5009; C S 1922, § 5018; C S 1929, § 26-1604.

23-1905. Surveyor; interest; disqualification; who may act. Whenever a survey of any lands or lots is required, in which the county surveyor is interested, such survey may be made by the surveyor of another county in like manner and to the same effect as though such survey had been made by the surveyor of the county where the land is situated. The surveyor doing the work shall record the field notes of said survey in the official record of surveys of the county wherein the land is situated.

Source: Laws 1913, c. 43, § 3, p. 142; R S 1913, § 5009; C S 1922, § 5019; C S 1929, § 26-1605.

23-1906. Trespass; exemption from liability. The county surveyor in the performance of his official duties, shall not be liable to prosecution for trespass.

Source: Laws 1913, c. 43, § 4, p. 143; R S 1913, § 5000; C S 1922, § 5020; C S 1929, § 26-1606.

County surveyor, when he performs single v. State, 123 Neb. 650, 241 N.W. 291
of his official duties, is not liable to prosecution for trespass. R 18

23-1907. Original corners; perpetuation. It shall be the duty of the county surveyor in surveys made by him to perpetuate all original corners not at the time well marked, and all corners or angles that he may establish or reestablish, in a permanent manner by setting monuments of concrete, burned vitrified clay, iron or stone, and depositing at the base thereof, at a suitable depth to protect it from loss or destruction, a memorial of durable material upon which shall be marked the date and the initial letters of the surveyor's name, and where the corner is unmistakably a government corner, the letters G.C. (initial letters of the word Government Corner), in addition thereto; and where suitably growing trees are convenient to such corner or angle, he shall, in addition to said monument and memorial, carefully note the direction and distance to the middle of each tree, the size and kind of tree, all of which shall be carefully noted in the field notebook provided for that purpose. Where witness pits were dug at any original government corners, and they can be identified as such, the surveyor shall record their directions and distances from the corner, according to the instructions of the State Surveyor.

Source: Laws 1913, c. 43, § 5, p. 143; R S 1913, § 5001; C S 1922, § 5021; C S 1929, § 26-1607.

23-1908. Corners; establishment and restoration; rules governing. The boundaries of the public lands established by the duly appointed government surveyors, when approved by the Surveyor General and accepted by the government, are unchangeable, and the corners established thereon by them shall be held and considered as the true corners which they were intended to represent, and the restoration of lines and corners of said surveys and the division of sections into their legal subdivisions shall be in accordance with the laws of the United States, the circular of instructions of the commissioner of the general land office on the restoration of lost

.. KAUSAS

Chapter 26.—EMINENT DOMAIN

26-5. Procedure Act. 26-501 to 26-517.



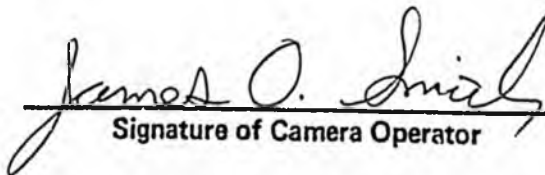
26-512. Same: making surveys and location. The prospective condemner or its agents may enter upon the land and make examinations, surveys and maps thereof, and such entry shall constitute no cause of action in favor of the owners of the land, except for actual damages thereto. [L. 1963, ch. 234, § 12; Jan. 1, 1964.]

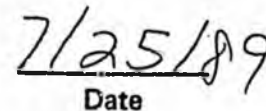


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Signature of Camera Operator


Date

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COMMITTEE REPORT

HOUSE

4/17

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(7)

FURTHER:

3/22/85

Date: _____

The Committee on JUDICIARY has had HB 172

"An Act relating to the rights of blind, hearing impaired, disabled, and physically handicapped persons."

under consideration and recommends:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HB 172 (JUD) same title
 new title
- and recommends do pass
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation Zero Fiscal Note Attached
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

(Handwritten signatures)

MEMBERS HAVING
OTHER RECOMMENDATIONS:

(Handwritten signature) no rec

(Handwritten signature)

CHAIRMAN

POSITION PAPER

CS HB 172

"An Act relating to the rights of physically and mentally disabled persons."

EFFECT OF CS HB 172:

This bill seeks to expand the rights of physically and mentally disabled persons in three areas:

1. It would amend A.S. 09.20.010 to allow persons with visual, hearing and mobility impairments to serve as jurors and require courts to pay for interpreter and/or reader services as needed for such jurors.
2. A.S. 18.06 would be amended to expand protection currently offered to blind persons using guide dogs to "physically and mentally disabled" users of "service animals".
3. Under A.S. 18.80, all areas of the Human Rights Law would be expanded to provide equal protection to "physically and mentally disabled persons" as defined.

RECOMMENDATION:

The Department of Health and Social Services supports passage of CS HB 172.

Recommended by:

Met Henry, Ph.D., M.P.A.

Date:

4-1-85

Approved by:

John Pugh, Commissioner

Date:

3/31/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CS HB 172
 Title: "An Act relating to the rights of physically & mentally disabled persons"
 Sponsor: HFESS
 Requestor: _____
 Date of Request: 3-22-85

FISCAL DETAIL

Department of Health
 Agency Affected: and Social Services
 Program Category Affected: Division of Mental Health and Developmental Disabilities
 BRU, Program or Subprogram(s) Affected: Community Developmental Disabilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME N/A						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Mel Henry, Ph.D., M.P.A. Phone: 465-3370

Division: Mental Health & Developmental Disabilities Date: 3-28-85

Approved by Commissioner: *John R. Poy* Date: 3/31/85 *JCC*

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSHB 172
 Title: An Act Relating to Rights of Deaf, Blind, and Disabled
 Sponsor: Duncan/Collins/Gruenberg
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: Due Process
 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		4.1	4.3	4.6	4.9	5.2
300 CONTRACTUAL		9.9	10.5	11.1	11.8	12.5
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES		212.3				
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		226.3	14.8	15.7	16.7	17.7
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	226.3	14.8	15.7	16.7	17.7
FEDERAL FUNDS					
OTHER					
TOTAL	226.3	14.8	15.7	16.7	17.7

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert G. Fisher Phone: 264-0561
 Division: Alaska Court System Date: 3/20/85
 Approved by Commissioner: [Signature] Date: 3/20/85
 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
CSHB 172 - RIGHTS OF DEAF, BLIND, AND DISABLED PERSONS
FISCAL IMPACT

This legislation allows deaf, blind, and disabled individuals to serve on juries. Additionally, interpreters are provided for deaf persons while on jury duty. This legislation will impact the Court's travel, contractual, and leasehold improvements budget categories.

Historically, seven percent of all eligible persons are selected for jury service, which typically averages one and one-half days in length. The Division of Vocational Rehabilitation has estimated that 250 deaf persons would be eligible for jury duty. Based on past experience, approximately 17 deaf individuals could be called for service in a year. Each deaf juror would require an interpreter for all activities in the court. Interpreter fees are calculated to cost \$9,900 per year. Depending upon availability, interpreters may have to travel to the court locations around the state. This travel is estimated to cost \$4,100.

Providing access to court facilities and restrooms for disabled individuals will require remodeling of certain courts. The remodeling will provide barrier-free access routes to court buildings, expansion of jury boxes, and enlarged toilet facilities for individuals in wheelchairs. For those locations where remodeling is feasible, the cost is estimated at \$212,300. In a few locations, such as Nome, modifications cannot be made, except at a substantial cost. Many urban courts are already equipped to handle disabled persons.

Cost estimates for subsequent fiscal years reflect inflation at the rate of six percent.

SECTIONAL ANALYSIS FOR CS FOR HB 172 (HESS) - RIGHTS OF PHYSICALLY
AND MENTALLY DISABLED PERSONS

- SECTION 1 Provides that a person cannot be denied the opportunity to serve on a jury because of a disability, and that an interpreter or reader will be provided for a sight or hearing impaired person.
- SECTION 2 Changes wording in the general rights section to read physically and mentally disabled, and changes service dog to services animal, and provides that a certified animal has the right to accompany a disabled person in a public place.
- SECTION 3 Changes language in Rights of a Pedestrian to physically and mentally disabled, and includes use of special equipment for mobility and a service animal.
- SECTION 4 Provides that the provisions in AS 18.06 are to be enforced by the Human Rights Commission.
- SECTION 5 Changes existing definitions by reference to AS 18.80.300.
- SECTION 6 Adds to the general powers section of the Human Rights Commission statute in which the commission studies discrimination, the basis of physical or mental disability.
- SECTION 7 Adds physical or mental disability to the purpose clause of the Human Rights Commission.
- SECTION 8 Adds physical or mental disability to the civil rights section of the Human Rights Commission.
- SECTION 9 Adds physical or mental disability to the section in the Human Rights Commission statute which prohibits discrimination in employment.
- SECTION 10 Adds physical and mental disability to the section in the Human Rights Commission statute which prohibits discrimination in public accomodations.
- SECTION 11 Adds physical or mental disability to the section of the Human Rights Commission statute which prohibits discrimination in the sale or rental of real property.
- SECTION 12 Adds physical and mental disability to the section of the Human Rights Commission statute which prohibits discrimination by financial institutions.
- SECTION 13 Adds physical and mental disability to the section of the Human Rights Commission statute which prohibits discrimination by the state or its political

subdivisions.

SECTION 14 DEFINITIONS

PLEASE NOTE: On Page 11, lines 17-19, the words "emotional and mental illness" which were in SB 168 were deleted from this section because of the committee's reluctance to deal with mental illness.

SECTION 15 Repeals existing definition of "physical handicap"

MEMORANDUM

State of Alaska

TO: Representative Jim Duncan
House of Representatives

FROM: P. Pat Young *3*
Deputy Director
Vocational Rehabilitation

DATE: February 12, 1985

FILE NO:

TELEPHONE NO: (907) 465-2814

SUBJECT: House Bill 172

The Division of Vocational Rehabilitation strongly supports House Bill 172 which safeguards the rights of the disabled to full use of public places, public transportation, accommodations, and the right to be accompanied by a service animal. To date, very few disabled individuals within Alaska use service animals. The division is hopeful that legislation protecting an individual's right to use and house a service animal will enhance the opportunity for individuals who desire a service animal to have one. This law would also allow these animals to be insured which is an added incentive.

We appreciate your concern for the handicapped and your continuing support of them.

RECEIVED
FEB 14 1985

MEMORANDUM

State of Alaska

TO: Jim Duncan
Representative

DATE: February 12, 1985

FILE NO:

TELEPHONE NO: (907) 465-2814

FROM: F. Pat Young ³
Deputy Director
Vocational Rehabilitation

SUBJECT: House Bill 172

In addition to the comments made previously concerning House Bill 172, we are sending a copy of the Congressional Record of January 31, 1985. The subject is the right of mentally retarded persons to live in the community. As in the Clayborne case in Texas, many Alaskan communities including Juneau have zoning ordinances which create problems of group homes for the developmentally disabled. I am mentioning this because your bill particularly addresses physically handicapped in terms of rental or purchase of property but it does not address the developmentally disabled or the mentally retarded. This is a whole other area of concern to us and I am sure that other individuals are concerned about it also.

Good luck with House Bill 172.

RECEIVED
FEB 14 1985

POSITION PAPER

HOUSE BILL 172

"An Act relating to the rights of blind, hearing impaired, disabled, and physically handicapped persons."

SUMMARY OF CURRENT LAW:

AS 18.06 entitles a visually and otherwise physically disabled person full and equal accommodations, advantages, facilities and privileges on all common carriers, airplanes, motor vehicles, trains, buses, street cars, boats or other public conveyance, hotels lodging, places of public accommodation, amusement, or resort and other places to which the general public is invited.

A.S. 18.06 also establishes that blind persons have the right to be accompanied by guide dogs in the above locations and describes rights of blind people (and their guide dogs) as pedestrians.

In addition A.S. 18.06 defines unlawful practices in the sale or rental of real property on the basis of sex, marital status, pregnancy, race, religion, color or national origin.

EFFECT OF HOUSE BILL 172:

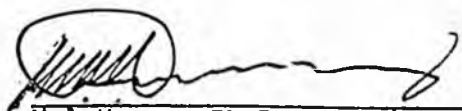
House Bill 172 extends A.S. 18.06 by allowing persons with impaired hearing, and otherwise disabled persons to be assisted by "service animals" in the same manner and with the same rights as visually impaired persons currently have in the use of guide dogs.

House Bill 172 also extends the rights of visually impaired pedestrians to include "otherwise disabled" pedestrians.

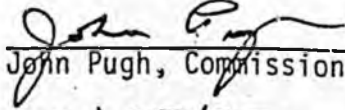
House Bill 172 also expands description of illegal practices in the sale or rental of real property to include illegal practices to a person because of physical handicaps, use of a prosthesis or service animal.

RECOMMENDATION:

The Department of Health and Social Services supports the passage of of House Bill 172.

Recommended by: 
Mel Henry, Ph.D., M.P.A.

Date: 2-15-85

Approved by: 
John Pugh, Commissioner

Date: 2/15/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 172
 Title: An Act relating to the rights blind, hearing impaired, disabled
 Sponsor: Duncan
 Requestor: _____
 Date of Request: 2-07-85

FISCAL DETAIL

Department of Health
 Agency Affected: and Social Services
 Program Category Affected: Division of Mental Health & Developmental Disabilities
 BRU, Program or Subprogram(s) Affected: Community Developmental Disabilities

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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


FUNDING: (Thousands of Dollars)

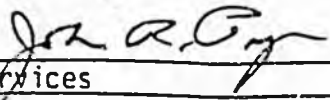
	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

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

ANALYSIS: Attach a separate page if necessary

Prepared By: Robert P. Gregovich, P.I.D.  Phone: 465-3370
 Division: Mental Health & Developmental Disabilities Date: 2-13-85

Approved by Commissioner:  Date: 2/15/85 JCC
 Agency: Health & Social Services

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



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

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Anchorage, AK 99501
(907) 274-3658

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REGIONAL OFFICE
127 S. Franklin, Suite 2
Juneau, AK 99801
(907) 586-1627

NORTHERN
REGIONAL OFFICE
763 7th Ave.
Fairbanks, AK 99701
(907) 456-1070

March 28, 1985

Ms. Nancy Bennett
Office of Rep. Max Gruenberg
Pouch V
Juneau, Alaska 99811

RE: HB 172

Dear Nancy:

As per our phone call of March 28, 1985, I am expressing in writing P.A.D.D.'s position on HB172.

First, I am disappointed that the committee chose to delete SB168's amendment to 18.06.015 requiring interpreters for the deaf seeking access to funds, services, goods, facilities, advantages or privileges from state or local governments. The deaf cannot meaningfully participate as citizens without the use of an interpreter. Interpreters are necessary in order for the deaf to have access to their government. I am aware that this provision would have some fiscal impact. However, in my opinion, this does not justify denying these basic opportunities to deaf people.

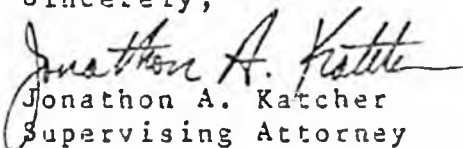
Second, HB172 changes SB 168's "Deafness, blindness, or disability" to "physical or mental disability." I agree that "physical or mental disability" has the same meaning as disability. However, in my opinion, "disability" is a cleaner, more generic word, that avoids the problem of every disabled group wanting their condition mentioned in the bill. I have no objections to "physical or mental disability", I just think "disability" is simpler. Please be forewarned that advocates for the deaf and blind community are likely to be disappointed that their particular conditions were deleted from the bill. In any event, the rights are much more important than the label. HB172 continues to vindicate those rights in much the same way as SB168.

There is however, one exception to how well the rights of the mentally disabled are protected. Subsection 18.80.255 (17)(b) of HB172 (Pg. 11 of the workdraft) deletes "emotional or mental illness" from the definition of "physical or mental impairment". I strongly disagree with this deletion of the emotionally or mentally ill from the protection of the statute. Please consider that this deletion would justify discrimination against a person who has any kind of emotional or mental illness. Consequently, if a person is seeing a psychotherapist or counselor to deal with an emotional problem, under the bill an employer could fire them, a landlord could evict them, or a bank could deny them financial services without any recourse to the Human Rights Commission. There is more to mental illness than ^{that} which is found at API. The bill's deletion of emotional and mental illness would affect middle American's as well. I feel that the biases against the mentally ill are based upon inappropriate stereotypes. The purpose of Civil Rights legislation is to force people to surrender their prejudices and to work together to come to know one another as people, rather than as labels. At the time of the Civil Rights legislation on behalf of blacks, numerous stereotypes circulated about the danger of the blacks as a race. After the passage of the legislation and the prohibition of discrimination, all races were compelled to come together. It was through this interaction that the stereotypes were proven falacious and the biases were destroyed. At present, numerous stereotypes exist about the danger of the mentally ill. These are as unjustified as those based on race. Only through prohibiting discrimination against all people can we as a society grow.

Thank you for this opportunity to give input to this very important piece of legislation. I would appreciate being informed in the future about any hearings or actions in relation to this bill.

Please feel free to contact me if you have any other questions or comments.

Sincerely,


Jonathon A. Katcher
Supervising Attorney

JAK:bk

STATE OF ALASKA

HUMAN RIGHTS COMMISSION

BILL SHEFFIELD, GOVERNOR

AGENCY HEADQUARTERS
431 W. 7th AVENUE, SUITE 105
ANCHORAGE, ALASKA 99501
(907) 276-7474

NORTHERN REGION
675 SEVENTH AVENUE, STA H
FAIRBANKS, ALASKA 99701
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SOUTHCENTRAL REGION
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SOUTHEASTERN REGION
POUCH AH
314 GOLDSTEIN BUILDING
JUNEAU, ALASKA 99811
(907) 465-3560

April 15, 1985

The Honorable M. Mike Miller
Chair
House Judiciary Committee
Juneau, AK 99811

Dear Representative Miller:

At its annual meeting on February 28 - March 1 in Juneau the Human Rights Commissioners reviewed HB 172 and SB 168 and took the following positions:

HB 172 - The Commissioners supported this bill and agreed "the more comprehensive coverage of SB 168 is preferable in terms of our statute."

SB 168 - "To support that part of the legislation which applies to our agency and the state law and express a concern that the portion which deals with jury duty be permissive but not mandatory."

More recently, we have reviewed CSHB 172 which passed out of House Health Education, and Social Services Committee with significant changes which affect the Commission's position on this bill.

The Commission now offers the following comments on CSHB 172:

1. The Commission does not support the extension of its jurisdiction in Section 18.06.202(a)-(c) and Section 18.06.030 to include streets, highways, sidewalks, walkways and the rights of the disabled as pedestrians. These areas fall outside the parameters of the agency's expertise and are not compatible with our program.

2. The Commission continues to support the extension of its jurisdiction on the basis of disability to include sale or rental of real property, places of public accommodation, financial practices, and practices by the state or its political subdivisions. The Commission presently investigates complaints filed by other protected classes alleging violations of these sections. Based on our experience in investigations of physical handicap discrimination in employment, we are prepared to offer our services giving broader protections for the disabled under the proposed legislation.

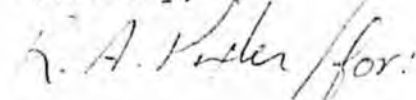
Miller
Page 2
April 15, 1985

3. The Commission supports the definition of disability as proposed in SB 168, Section 11, AS 18.80.300. The Commission recommends the substitution of SB 168's definition of disability in CSHB 172.

4. The Commission requests that the fiscal note prepared by the Office of the Governor dated 3/20/85 be reattached to this legislation. The Commission supports added protections from discrimination for the disabled in Alaska; however, the Commission's FY 85 staff is already stretched to the limits as more persons continue to file complaints of discrimination under the present statute. To extend the Commission's jurisdiction without additional resources to enforce those jurisdictions would result in larger caseloads for investigators and delays in processing cases. In 1984, the agency increased case production by 17% despite a 29% increase in the number of new filings. This increase in case resolutions was especially significant in light of the reduction of 2.5 staff investigators since FY 83; the Commission has, in fact, met the challenge to do more with less. Unfortunately, the Commission's increased productivity has now reached its maximum. Adding new protections as the filing rate continues to climb will result in decreased case production. We, therefore urge you to adopt the Office of the Governor's fiscal note dated 3/20/85.

Please do not hesitate to contact me if you or members of your Committee have questions about our position on this bill.

Sincerely,



Janet L. Bradley
Executive Director

JLB/b

Alaska Association of the Deaf

4241 B Street, Suite 201
Anchorage, Alaska 99503
907-563-4713 (V/TTY)

April 5, 1985

Representative Max Gruenberg
Pouch V
Juneau, AK 99811

RE: HB172/SB168

Dear Max:

This letter is in response to your letter dated March 15, 1985.

Thank you for this opportunity to comment on these very important pieces of legislation. I am very pleased that the House P & S Committee chose to consolidate these bills in order to expedite their passage. Both bills would afford handicapped people legal protections that have been long awaited.

However, in the process of combining these two bills, certain elements of SB168 which are very important to the deaf community have been watered down or deleted. I am disappointed that this has occurred and I hope that through my input you will be able to rectify the situation.

SB168 provided that whenever a deaf person seeks access to funds, services, goods, facilities, advantages or privileges from the state or local government, including the University of Alaska, that governmental entity must pay for and provide the deaf person with an interpreter. HB172 has eliminated this very important provision. You must try to understand what a terrible disadvantage we deaf people are at whenever we try to deal with the government. Without an interpreter any attempts on our part to receive the benefits of basic citizenship are completely frustrated. I feel it is the responsibility of the government to provide us with interpreters in order for us to have the same rights as all speaking and hearing persons. I recognize that this will end up costing the state some money. However, this expense does not justify denying deaf people access to their government. I hope you and the other members of the House will reconsider this deletion. We, in the deaf community, consider this section to be essential and we will be very disappointed if it does not become part of the law.

Both SB168 and HB172 deal with the Alaska Human Rights Commission. Both bills add the disabled to race, religion, etc. in the Human Rights Commission Statute. SB168 protects the "deaf, blind, and disabled". HB172 protects the "physically and mentally disabled". I am unhappy with the deletion of deafness and blindness from the specific wording of HB172. I feel it is very important that the deaf and the blind be specifically mentioned in the Human Rights Commission Statute. I believe that the law should make it absolutely certain that these protections apply to the deaf and blind. I do not want to leave it up to some lawyer or judge down the road to determine that the statute does not apply to the deaf or the blind. Therefore, I disagree with HB172's elimination of the

words deafness and blindness.

Finally, I am dissatisfied with the exclusion of the emotionally and mentally ill from the protection of the Human Rights Commission Statute as found in HB172. SB168 includes the emotionally and mentally ill as persons who are protected under the Human Rights Commission. I believe that these laws should apply to all disabled people, including the emotionally and mentally ill.

I was very disappointed that I was not given the opportunity to give input to your committee at the time that it was deliberating over these bills. As you know I have been very actively involved in the drafting of SB168. As a primary advocate for the deaf community, I feel that I had the right to present my position to the committee at the time it was considering the action and not subsequent to that time. Therefore, I would greatly appreciate being notified of any subsequent hearings or actions by your committee or any other House Committee as it may relate to these bills.

Thank you again for this opportunity to comment. Please feel free to contact me if you have any questions.

Sincerely,



Albert Berke,
Executive Secretary

AB:ss

Who We Are . . .

Protection and Advocacy (P.A.D.D.) is a private not-for-profit corporation that exists to protect and advocate for persons with developmental disabilities. This agency was created by a federal law 98-527 and authorized under state law AS 47.80.020 which requires the state of Alaska to have an agency for protection and advocacy purposes.

Since it is a private agency, we are not administered by federal or state government, although funding for P.A.D.D. does come through the Federal Department of Health and Human Services and the Alaska Department of Health and Social Services.

Our purpose is to see to it that governmental units at all levels respect and comply with the legal and human rights of persons with a developmental disability. We monitor activities in the private sector as well as the public.

Above all our goal is to help persons with a development disability to know their rights and to assist them in pursuing remedies on their own. Legal action may be a final recourse but we believe many other steps can and should be taken before legal remedies are sought.

The People We Serve . . .

P.A.D.D. works on behalf of any person, regardless of age, who has a developmental disability. The disability must be attributable to a mental or physical impairment or combination of mental and physical impairments, and it must be manifested before the age of twenty-two and be likely to continue indefinitely.

The disability must result in substantial functional limitations in three or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capability for independent living and economic self-sufficiency.

Finally, we serve those with a disability which reflects the need for a combination and sequence of special, inter-disciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated.

We spend our greatest amount of energy on cases in which the problem is clearly attributable to a development disability. We do serve other handicapped persons as time and resources allow.

We provide information and **ADVOCACY** in the following areas:

**SPECIAL EDUCATION / EMPLOYMENT /
VOCATIONAL REHABILITATION /
FINANCIAL ASSISTANCE / HOUSING /
GUARDIANSHIP / GENERAL LEGAL
RIGHTS / ARCHITECTURAL BARRIERS /
RIGHTS OF INSTITUTIONALIZED
DEVELOPMENTALLY DISABLED**

How We Can Help . . .

We can provide the tools needed to advocate for persons with a **DEVELOPMENTAL DISABILITY**. These tools include information, legal guidance or referral to a more appropriate agency. Armed with correct information and our back-up support, we feel people can better speak for themselves.

When direct action is called for, we may intervene on the behalf of a client to resolve a complaint. In many cases, we have acted as a liaison between service providers, governmental agencies, and a concerned parent.

We may provide legal support to lawyers working on behalf of a P.A.D.D. client, refer clients to attorneys familiar with Developmental Disabilities law and in cases affecting large numbers of our clients, provide direct representation.

P.A.D.D.'s staff can provide in-service training, workshops and presentations regarding our services, due process or legal rights of persons with a developmental disability.

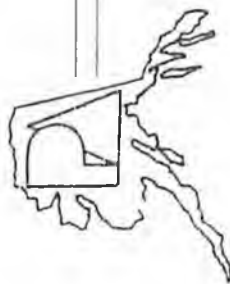
P.A.D.D. adheres to the principles enacted by the Alaska legislature Alaska Law AS 47.80.110. The law requires that the system of services and facilities shall accord with the principle that treatment, services and habilitation shall be designed to maximize individual potential, minimize institutionalization, and shall be provided in the least restrictive setting, enabling a person to live as normally as possible within the limitations of their disability.

Advocacy Demonstrated

K.D. is a 39 year old mildly mentally retarded woman from one of Alaska's small communities. She is ambulatory and possesses many self-help skills; she is a sociable, friendly woman who laughs easily and makes her needs known to others. K. had lived with her family as a child, but as the parents' circumstances changed, they were no longer able to care for her, and she entered a group home for disabled adults.

K. had progressed in her independent living and self-help skills to the point that she no longer fit into the group home, functioning at a much higher level than the other residents. This began to elicit inappropriate manipulative and dominant behaviors on K.'s part and the facility's administration made plans to discharge the client from the program. Three weeks' notice was given the client and her family, with no alternatives in view. Responsibility for placement and the kind of program that K. needs to live in the least restrictive manner possible for her, were areas of dispute between the facility and state authorities. If no other resources could be found, K. would be transferred to the state's institution for severely and profoundly retarded children and adults in Valdez. The family was at a loss for what to do and in desperation considered court action against the facility.

P.A.D.D. staff secured the services of the state's Adult Protection unit, expediting the application process for these services, as well as the application to an independent resident program in another city. K. was accepted into the independent living program and now resides in a boarding home, receiving habilitation services, the needed medical and dental attention, and is employed at a sheltered workshop. She receives mental health services to provide socialization training, and has become involved in a recreation program, where she interacts with her peers in the community. P.A.D.D. staff continue to monitor services and needs.



PROTECTION AND ADVOCACY FOR THE DEVELOPMENTALLY DISABLED

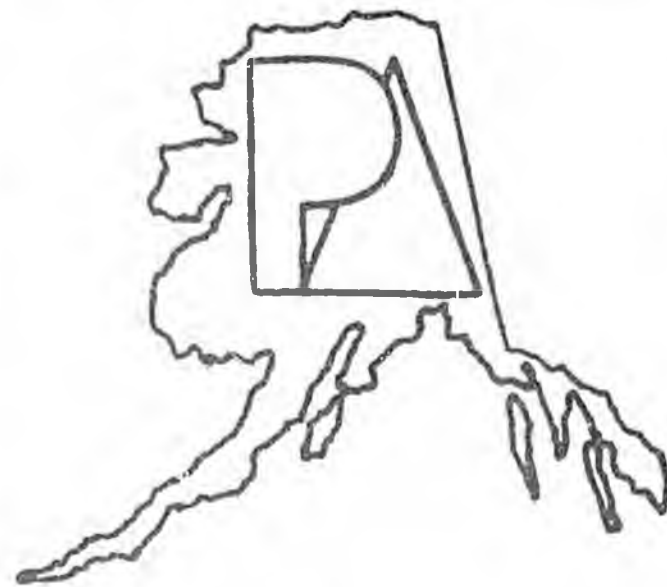
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467-1070 TDD

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Protecting the Legal and Human Rights of Persons With A Developmental Disability



**PROTECTION AND ADVOCACY
FOR THE
DEVELOPMENTALLY DISABLED**

*Protecting the
Legal and Human Rights
of Persons with
A Developmental Disability*

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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, 4/15/85 1:30 pm

Original sponsors: Duncan, Collins
and Gruenberg

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 CS FOR HOUSE BILL NO. 172 (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 the rights of physically and
7 mentally disabled persons."

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

9 * Section 1. AS 18.06.020 is amended to read:

10 Sec. 18.06.020. RIGHTS. (a) The [BLIND, THE VISUALLY HANDI-
11 CAPPED, AND THE OTHERWISE] physically or mentally disabled have the
12 same right as the able-bodied to the full and free pedestrian use of
13 the streets, highways, sidewalks, walkways, public buildings, public
14 facilities, and other public places.

15 (b) The [BLIND, THE VISUALLY HANDICAPPED, AND THE OTHERWISE]
16 physically or mentally disabled are entitled to full and equal accom-
17 modations, advantages, facilities, and privileges of all common
18 carriers, airplanes, motor vehicles, railroad trains, motor buses,
19 street cars, boats or any other public conveyances or modes of trans-
20 portation, hotels, lodging places, places of public accommodation,
21 amusement or resort, and other places to which the general public is
22 invited, subject only to the conditions and limitations established by
23 law and applicable alike to all persons.

24 (c) Persons who are physically or mentally disabled [TOTALLY OR
25 PARTIALLY BLIND PERSONS] have the right to be accompanied or assisted
26 by a service animal that is certified by a training facility for
27 service animals as being able to function in a public setting [GUIDE
28 DOG, ESPECIALLY TRAINED FOR THE PURPOSE], in any of the places listed
29 in (b) of this section without being required to pay an extra charge

1 for the service animal [GUIDE DOG]; however, the person with the
2 animal [GUIDE DOG] is liable for any damage done to the premises or
3 facilities by the animal [DOG].

4 * Sec. 2. AS 18.06.030 is amended to read:

5 Sec. 18.06.030. RIGHTS AS PEDESTRIANS. The driver of a motor
6 vehicle approaching a physically or mentally disabled [TOTALLY OR
7 PARTIALLY BLIND] pedestrian who is carrying a cane predominantly white
8 or metallic in color, with or without a red tip, using special equip-
9 ment for mobility, or using a service animal [GUIDE DOG] shall take
10 all necessary precautions to avoid injury to the pedestrian, and a
11 driver who fails to take all necessary precautions and causes injury
12 to the pedestrian is liable in damages for the injury caused. A
13 physically or mentally disabled [TOTALLY BLIND OR PARTIALLY BLIND]
14 pedestrian not carrying a cane as described in this section or using a
15 service animal [GUIDE DOG] in any of the places, accommodations or
16 conveyances set out under AS 18.06.020 has all of the rights and
17 privileges conferred by law upon other persons, and the failure of a
18 physically or mentally disabled [TOTALLY OR PARTIALLY BLIND] pedestri-
19 an to carry a cane as described in this section or to use a service
20 animal [GUIDE DOG] is not by itself evidence of [CONTRIBUTORY] negli-
21 gence.

22 * Sec. 3. AS 18.06.040 is amended to read:

23 Sec. 18.06.040. PENALTY FOR DENYING RIGHTS. A person who denies
24 or interferes with admittance to or enjoyment of the public facilities
25 set out in AS 18.06.020 or otherwise interferes with the rights of a
26 physically or mentally [TOTALLY OR PARTIALLY BLIND OR OTHERWISE]
27 disabled person is guilty of a Class B misdemeanor [AND UPON
28 CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$1,000, OR BY
29 IMPRISONMENT FOR NOT MORE THAN 60 DAYS, OR BY BOTH].

1 * Sec. 4. AS 18.06.050 is amended to read:

2 Sec. 18.06.050. DEFINITIONS. In this chapter "physically or
3 mentally disabled" has the meaning given in AS 18.80.300 [TOTALLY
4 BLIND" OR "PARTIALLY BLIND" MEANS A PERSON WHOSE VISUAL ACUITY DOES
5 NOT EXCEED 20/200 IN THE BETTER EYE WITH CORRECTING LENSES OR WHOSE
6 WIDEST DIAMETER OF VISUAL FIELD SUBTENDS AN ANGLE NO GREATER THAN 20
7 DEGREES].

8 * Sec. 5. AS 18.80.060(a) is amended to read:

9 (a) In addition to the other powers and duties prescribed by
10 this chapter the commission shall

11 (1) appoint an executive director approved by the governor;

12 (2) hire other administrative staff as may be necessary to
13 the commission's function;

14 (3) exercise general supervision and direct the activities
15 of the executive director and other administrative staff;

16 (4) accept complaints under AS 18.80.100;

17 (5) study the problems of discrimination in all or specific
18 fields of human relationships, and foster through community effort or
19 goodwill, cooperation and conciliation among the groups and elements
20 of the population of the state, and publish results of investigations
21 and research as in its judgment will tend to eliminate discrimination
22 because of race, religion, color, national ancestry, physical or
23 mental disability [HANDICAP], age, sex, marital status, changes in
24 marital status, pregnancy or parenthood;

25 (6) make an overall assessment, at least once every three
26 years, of the progress made toward equal employment opportunity by
27 every department of state government; results of the assessment shall
28 be included in the annual report made under AS 18.80.150;

29 (7) enforce AS 18.06.

1 * Sec. 6. AS 18.80.200 is amended to read:

2 Sec. 18.80.200. PURPOSE. (a) It is determined and declared as
3 a matter of legislative finding that discrimination against an inhabi-
4 tant of the state because of race, religion, color, national origin,
5 age, sex, physical or mental disability, marital status, changes in
6 marital status, pregnancy or parenthood is a matter of public concern
7 and that such discrimination not only threatens the rights and privi-
8 leges of the inhabitants of the state but also menaces the institu-
9 tions of the state and threatens peace, order, health, safety and
10 general welfare of the state and its inhabitants.

11 (b) Therefore, it is the policy of the state and the purpose of
12 this chapter to eliminate and prevent discrimination in employment, in
13 credit and financing practices, in places of public accommodation, in
14 the sale, lease, or rental of real property because of race, religion,
15 color, national origin, sex, age, physical or mental disability,
16 marital status, changes in marital status, pregnancy or parenthood.
17 It is not the purpose of this chapter to supersede laws pertaining to
18 child labor, the age of majority or other age restrictions or require-
19 ments.

20 * Sec. 7. AS 18.80.210 is amended to read:

21 Sec 18.80.210. CIVIL RIGHTS. The opportunity to obtain em-
22 ployment, credit and financing, public accommodations, housing accom-
23 modations and other property without discrimination because of sex,
24 physical or mental disability, marital status, changes in marital
25 status, pregnancy, parenthood, race, religion, color or national
26 origin is a civil right.

27 * Sec. 8. AS 18.80.220(a) is amended to read:

28 (a) It is unlawful for

29 (1) an employer to refuse employment to a person, or to bar

1 the person [HIM] from employment, or to discriminate against the
2 person [HIM] in compensation or in a term, condition, or privilege of
3 employment because of [HIS] race, religion, color or national origin,
4 or because of [HIS] age, physical or mental disability [HANDICAP],
5 sex, marital status, changes in marital status, pregnancy or parent-
6 hood when the reasonable demands of the position do not require dis-
7 tinction on the basis of age, physical or mental disability [HANDI-
8 CAP], sex, marital status, changes in marital status, pregnancy or
9 parenthood;

10 (2) a labor organization, because of a person's sex, mari-
11 tal status, changes in marital status, pregnancy, parenthood, age,
12 race, religion, color or national origin, to exclude or to expel the
13 person [HIM] from its membership, or to discriminate in any way
14 against one of its members or an employer or an employee;

15 (3) an employer or employment agency to print or circulate
16 or cause to be printed or circulated a statement, advertisement, or
17 publication, or to use a form of application for employment or to make
18 an inquiry in connection with prospective employment, which expresses,
19 directly or indirectly, a limitation, specification or discrimination
20 as to sex, physical or mental disability, marital status, changes in
21 marital status, pregnancy, parenthood, age, race, creed, color or
22 national origin, or an intent to make the limitation, unless based
23 upon a bona fide occupational qualification;

24 (4) an employer, labor organization or employment agency to
25 discharge, expel or otherwise discriminate against a person because
26 the person [HE] has opposed any practices forbidden under AS 18.80.-
27 200 - 18.80.280 or because the person [HE] has filed a complaint,
28 testified or assisted in a proceeding under this chapter;

29 (5) an employer to discriminate in the payment of wages as

1 between the sexes, or to employ a female in an occupation in this
2 state at a salary or wage rate less than that paid to a male employee
3 for work of comparable character or work in the same operation, busi-
4 ness or type of work in the same locality; or

5 (6) a person to print, publish, broadcast or otherwise
6 circulate a statement, inquiry or advertisement in connection with
7 prospective employment which expresses directly, a limitation, speci-
8 fication or discrimination as to sex, physical or mental disability,
9 marital status, changes in marital status, pregnancy, parenthood, age,
10 race, religion, color or national origin, unless based upon a bona
11 fide occupational qualification.

12 * Sec. 9. AS 18.80.230 is amended to read:

13 Sec. 18.80.230. UNLAWFUL PRACTICES IN PLACES OF PUBLIC ACCOMMO-
14 DATION. It is unlawful for the owner, lessee, manager, agent or
15 employee of a public accommodation

16 (1) to refuse, withhold from or deny to a person any of its
17 services, goods, facilities, advantages or privileges because of sex,
18 physical or mental disability, marital status, changes in marital
19 status, pregnancy, parenthood, race, religion, color or national
20 origin;

21 (2) to publish, circulate, issue, display, post or mail a
22 written or printed communication, notice or advertisement that [WHICH]
23 states or implies

24 (A) that any of the services, goods, facilities,
25 advantages or privileges of the public accommodation will be
26 refused, withheld from or denied to a person of a certain race,
27 religion, sex, physical or mental disability, marital status,
28 color or national origin or because of pregnancy, parenthood, or
29 a change in marital status, or

1 (B) that the patronage of a person belonging to a
2 particular race, creed, sex, marital status, color or national
3 origin or who, because of pregnancy, parenthood, physical or
4 mental disability, or a change in marital status, is unwelcome,
5 not desired or solicited.

6 * Sec. 10. AS 18.80.240 is amended to read:

7 Sec. 18.80.240. UNLAWFUL PRACTICES IN THE SALE OR RENTAL OF REAL
8 PROPERTY. It is unlawful for the owner, lessee, manager or other
9 person having the right to sell, lease or rent real property

10 (1) to refuse to sell, lease or rent the real property to a
11 person because of sex, marital status, changes in marital status,
12 pregnancy, race, religion, physical or mental disability, color or
13 national origin; however, nothing in this paragraph prohibits the
14 sale, lease or rental of classes of real property commonly known as
15 housing for "singles" or "married couples" only;

16 (2) to discriminate against a person because of sex, mari-
17 tal status, changes in marital status, pregnancy, race, religion,
18 physical or mental disability, color or national origin in a term,
19 condition or privilege relating to the use, sale, lease or rental of
20 real property; however, nothing in this paragraph prohibits the sale,
21 lease or rental of classes of real property commonly known as housing
22 for "singles" or "married couples" only;

23 (3) to make a written or oral inquiry or record of the sex,
24 marital status, changes in marital status, race, religion, physical or
25 mental disability, color or national origin of a person seeking to
26 buy, lease or rent real property;

27 (4) to offer, solicit, accept, use or retain a listing of
28 real property with the understanding that a person may be discrimin-
29 ated against in a real estate transaction or in the furnishing of

1 facilities or sources in connection therewith because of a person's
2 sex, marital status, changes in marital status, pregnancy, race,
3 religion, physical or mental disability, color, national origin or
4 age;

5 (5) to represent to a person that real property is not
6 available for inspection, sale, rental, or lease when in fact it is so
7 available, or to refuse a person to inspect real property because of
8 the race, religion, physical or mental disability, color, national
9 origin, age, sex, marital status, change in marital status or preg-
10 nancy of that person or of any person associated with that person;

11 (6) to engage in blockbusting;

12 (7) to make, print or publish, or cause to be made, printed
13 or published, any notice, statement or advertisement, with respect to
14 the sale or rental of real property that indicates any preference,
15 limitation, or discrimination based on race, color, religion, physical
16 or mental disability, sex, or national origin, or an intention to make
17 the preference, limitation or discrimination.

18 * Sec. 11. AS 18.80.250(a) is amended to read:

19 (a) It is unlawful for a financial institution or other commer-
20 cial institution extending secured or unsecured credit, upon receiving
21 an application for financial assistance or credit for the acquisition,
22 construction, rehabilitation, repair or maintenance of a housing
23 accommodation or other property or services, or the acquisition or
24 improvement of unimproved property, or upon receiving an application
25 for any sort of loan of money, to permit one of its officials or
26 employees during the execution of the official's or the employee's
27 [HIS] duties

28 (1) to discriminate against the applicant because of sex,
29 physical or mental disability, marital status, changes in marital

1 status, pregnancy, parenthood, race, religion, color or national
2 origin in a term, condition or privilege relating to the obtainment or
3 use of the institution's financial assistance or credit, except to the
4 extent of a federal statute or regulation applicable to a transaction
5 of the same character;

6 (2) to make or cause to be made a written or oral inquiry
7 or record of the sex, physical or mental disability, marital status,
8 changes in marital status, pregnancy, parenthood, race, religion,
9 color or national origin of a person seeking the institution's finan-
10 cial assistance or credit, unless the inquiry is for the purpose of
11 ascertaining the creditor's rights and remedies applicable to the
12 particular extension of credit and is not made or used in order to
13 discriminate in a determination of creditworthiness;

14 (3) to refuse to extend credit, issue a credit card or make
15 a loan to a married person, who is otherwise creditworthy, if so
16 requested by the person;

17 (4) to refuse to issue a credit card to a married person in
18 that person's name, if so requested by the person, provided, however,
19 that the person so requesting a card may be required to open an ac-
20 count in that name.

21 * Sec. 12. AS 18.80.300 is amended by adding new paragraphs to read:

22 (15) "major life activities" means functions such as caring
23 for one's self, performing manual tasks, walking, seeing, hearing,
24 speaking, breathing, learning, and working;

25 (16) "physical or mental disability" means

26 (A) a physical or mental impairment that substantially
27 limits one or more major life activities,

28 (B) a history of, or a misclassification as having, a
29 mental or physical impairment that substantially limits one or

1 more major life activities; or

2 (C) having

3 (i) a physical or mental impairment that does not
4 substantially limit a person's major life activities but
5 that is treated by the person as constituting such a limita-
6 tion;

7 (ii) a physical or mental impairment that sub-
8 stantially limits a person's major life activities only as a
9 result of the attitudes of others toward the impairment; or

10 (iii) none of the impairments defined in this
11 paragraph but being treated by others as having such an
12 impairment;

13 (D) a condition that may require the use of a
14 prosthesis, special equipment for mobility or service animal;

15 (17) "physical or mental impairment" means

16 (A) physiological disorder or condition, cosmetic
17 disfigurement, or anatomical loss affecting one or more of the
18 following body systems: neurological, musculoskeletal, special
19 sense organs, respiratory including speech organs, cardiovascu-
20 lar, reproductive, digestive, genito-urinary, hemic and lymph-
21 atic, skin, and endocrine; or

22 (B) mental or psychological disorder, including mental
23 retardation, organic brain syndrome, emotional or mental illness,
24 and specific learning disabilities.

25 * Sec. 13. AS 18.80.300(13) is repealed.

14-1105
Ford
4/16/85

1
2 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

3 HOUSE BILL NO. HB 393

4 IN THE LEGISLATURE OF THE STATE OF ALASKA

5 FOURTEENTH LEGISLATURE - FIRST SESSION

6 A BILL

7 For an Act entitled: "An Act relating to the rights of physically and
8 mentally disabled persons."

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

10 * Section 1. AS 09.20.010 is amended by adding new subsections to read:

11 (b) A person is not disqualified to act as a juror solely be-
12 cause of the loss of hearing or sight in any degree or a disability
13 that substantially impairs or interferes with the person's mobility.

14 (c) The court shall provide, and pay the cost of services of, an
15 interpreter or reader when necessary to enable a person with impaired
16 hearing or sight to act as a juror.

17 * Sec. 2. AS 18.06 is amended by adding a new section to read:

18 Sec. 18.06.015. INTERPRETERS FOR DEAF PERSONS. A department,
19 office, agency, or other organizational unit of the state government,
20 or a political subdivision of the state, including the University of
21 Alaska, from which a deaf person seeks access to funds, services,
22 goods, facilities, advantages, or privileges shall pay the costs of
23 and provide an interpreter for the person.

24 * Sec. 3. AS 18.80.255 is amended to read:

25 Sec. 18.80.255. UNLAWFUL PRACTICES BY THE STATE OR ITS POLITI-
26 CAL SUBDIVISIONS. It is unlawful for the state or any of its politi-
27 cal subdivisions

28 (1) to refuse, withhold from or deny to a person any local,
29 state or federal funds, services, goods, facilities, advantages or
privileges because of race, religion, sex, physical or mental

1 disability, color or national origin;

2 (2) to publish, circulate, issue, display, post or mail a
3 written or printed communication, notice or advertisement which states
4 or implies that any local, state or federal funds, services, goods,
5 facilities, advantages or privileges of the office or agency will be
6 refused, withheld from or denied to a physically or mentally disabled
7 person or a person of a certain race, religion, sex, color or national
8 origin or that the patronage of a physically or mentally disabled
9 person or a person belonging to a particular race, creed, sex, color
10 or national origin is unwelcome, not desired or solicited.

11 * Sec. 4. AS 18.80.300 is amended by adding new paragraphs to read:

12 (15) "major life activities" means functions such as caring
13 for one's self, performing manual tasks, walking, seeing, hearing,
14 speaking, breathing, learning, and working;

15 (16) "physical or mental disability" means

16 (A) a physical or mental impairment that substantially
17 limits one or more major life activities,

18 (B) a history of, or a misclassification as having, a
19 mental or physical impairment that substantially limits one or
20 more major life activities; or

21 (C) having

22 (i) a physical or mental impairment that does not
23 substantially limit a person's major life activities but
24 that is treated by the person as constituting such a limita-
25 tion;

26 (ii) a physical or mental impairment that sub-
27 stantially limits a person's major life activities only as a
28 result of the attitudes of others toward the impairment; or

29 (iii) none of the impairments defined in this

1
2 paragraph but being treated by others as having such an
3 impairment;

4 (D) a condition that may require the use of a
5 prosthesis, special equipment for mobility or service animal;

6 (17) "physical or mental impairment" means

7 (A) physiological disorder or condition, cosmetic
8 disfigurement, or anatomical loss affecting one or more of the
9 following body systems: neurological, musculoskeletal, special
10 sense organs, respiratory including speech organs, cardiovascu-
11 lar, reproductive, digestive, genito-urinary, hemic and lymph-
12 atic, skin, and endocrine; or

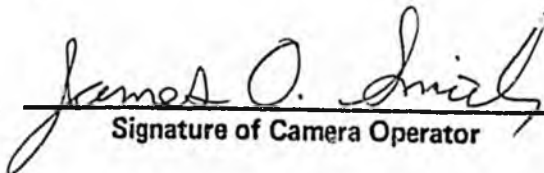
13 (B) mental or psychological disorder, including mental
14 retardation, organic brain syndrome, and specific learning dis-
15 abilities.
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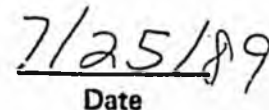


RECORDS CERTIFICATION



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Signature of Camera Operator


Date

H B

I 7 8

Alaska Association Chiefs of Police

625 C Street • Anchorage, Alaska 99501

March 29, 1985

Representative M. Mike Miller
Pouch V
Interdepartmental Mail Stop 3100
Juneau, Alaska 99811

Dear Representative Miller,

Our Association conducted its Annual Meeting on March 22, 1985 in Anchorage.

Extensive consideration was given by the group to pending legislation. Of the many Bills submitted this session we identified six (6) that we consider to be priority legislation and worthy of our Associations support.

The legislation we support is listed below along with a summation of our reasons for supporting the Bill.

(1) HB 178 Conspiracy

This legislation, if enacted, would enable law enforcement to initiate prosecution against persons planning to commit felony crimes. The ability to take action prior to the actual commission of the crime could well serve to protect property and save lives.

(2) HB 179 Hearsay

Currently some Bush felony cases are not prosecuted due to the prohibitive costs of gathering all of the required witnesses and the members of the Grand Jury together. Even in urban areas court time expenses for police witnesses appearing off duty can be substantial. In a time of rising costs and falling revenues this is an important consideration. Another concern obviously is the orderly administration of justice and the potential effect on the rights of those persons indicted.

We do not feel the right of the suspects would be abridged in any way by this legislation. Additionally, this procedure would increase the efficiency and have a positive effect on the cost of the justice system.

625 C Street
Anchorage, Alaska 99501



(3) HB 205 Juvenile Waiver

In recent years there have been several homicides involving persons under 18 as the perpetrator.

The ability to commit serious crimes without facing the same penalties as an adult is not lost on this age group. We feel that 16 and 17 year old youths committing unclassified felonies are well aware of what they are doing and should be held accountable.

(4) HB 163 Recriminalization of Marijuana

The Association feels that our states laws regarding Marijuana should be consistent with a majority of the other 49 states and federal law.

We believe that the permissive attitude reflected by the current state law on marijuana is potentially detrimental to the health and safety of the citizens of our state.

Current law allows a person to possess four (4) ounces or less in their residence. How they purchase and transport it is ignored although it is a crime to do so. The approach clearly is that if you can avoid getting caught buying or transporting you are home safe.

We feel that the mixed messages sent by this law breeds disrespect for all laws and may in fact encourage violations.

(5) HB 274 Permit for Carrying a Concealed Weapon

We do not believe it necessary nor appropriate for private citizens to carry concealed weapons. This is the primary reason for our opposing the bill. However, beyond that original premise we find problems with the bill.

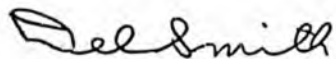
The proposed 30 day time frame prior to issuing the permit may not allow sufficient time to accomplish a thorough background investigation of the applicant.

March 29, 1985

Page Three

Additionally, a person must be adjudicated mentally incompetent or insane to be denied a permit. A person could presumably check in and out of mental institutions on a volunteer or peace officer commitment and still be issued a permit. We feel that the bill is bad public policy and as written presents a danger to the citizens of this state.

Sincerely,



Del Smith

Secretary-Treasurer

DS:vka

* DELIVER TO: JPOM

* ORIGINAL

* SENT: 04/16/85 TIME: 10:40

* FROM: BARBARA NORRELL

* SUBJECT: FOM

* PRINT DATE: 04/16/85 TIME: 10:48

TO: ALL HOUSE MEMBERS

FROM: CELIA WARRIOR, 632 N. PINE, ANCHORAGE, AK 99508,
276-7292

SUBJECT: HB 178, CREATING THE CRIME OF CONSPIRACY

WOULD YOU PLEASE GET HB 178 OUT FOR A VOTE ON THE FLOOR. SOUNDS
LIKE A VERY GOOD BILL. WE DO HAVE A PROBLEM WITH INSURANCE
COMPANIES AND LAWYERS. APPEARS THAT THEY HAVE A GOOD RACKET
GOING. YOU ARE THE PEOPLE WHO CAN PUT A STOP TO THIS. THAT'S
WHAT YOU ARE THERE FOR.

*
* DELIVERED TO JFOM *
*
* ORIGINAL *
* SENT: 04/16/95 TIME: 10:18 *
* FROM: BARBARA NORSELL *
* SUBJECT: FOX *
* PRINT DATE: 04/16/95 TIME: 10:19 *
*

9

TO: HOUSE JUDICIARY
REPS. M. M. MILLER, SUND, GRUENBERG, TAYLOR, CLOCKSIN,
PETTYJOHN, PHILLIPS
REPS. HANLEY

FROM: JOHN J. LISKA, SR BOX 421, EAGLE RIVER, AK 99577,
688-2526

SUBJECT: HB 179, CREATING THE CRIME OF CONSPIRACY

HB 179 NEEDS YOUR IMMEDIATE ATTENTION, ACT AND MOVE TO THE FLOOR
FOR A VOTE. HB 179 IS PREFERRED OVER SB 139. ALASKA MUST MUST
HAVE A LAW ADDRESSING THE CRIME OF CONSPIRACY. WE FEEL THIS IS
LONG OVER DUE. MOVE HB 179.