

ALASKA LEGISLATURE COMMITTEE FILES 1983-1986 80/2

4135 SJUD HB 72 - HB 104

1015

✓ Page 31, line 6, delete "unincorporated community or for an"

✓ Page 31, line 11, delete "unincorporated community or in an"

✓ Page 31, lines 12 and 13, delete "municipality" and insert "borough"

*this word is wrong*  
→ Page 31, lines 13 and 14, delete "municipality" and insert "borough"

✓ Page 32, line 18, delete "municipality" and insert "borough"

✓ Page 32, line 19, delete "unincorporated community or"

Page 55, lines 15 - 19, after "PROHIBITIONS.":

Delete all material and reletter the following subsections accordingly.

*This was rejected  
in S. Jud. - see  
attached amendment  
to this section*

*Riley*

2

A M E N D M E N T

Offered in the SENATE

TO: CSHB 72(C&RA) am

✓ Page 34, after line 4 insert the following new paragraph:

"(29) AS 29.35.145 (regulation of firearms):

Renumber the following paragraphs accordingly.

✓ Page 81, after line 7 insert the following new section:

"Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may not restrict the right to own, possess, or transport firearms except by ordinance ratified by the voters.

(b) This section applies to home rule and general law municipalities."

*SEE p 81 Line 7*

Sec. 29.35.145. REGULATION OF FIREARMS. (a) A municipality may not, except by ordinance ratified by the voters, restrict the right to <sup>own</sup> or possess firearms or transport unloaded firearms.

(b) This section applies to home rule and general law municipalities.

1 in the executive branch of state government.

2 Sec. 29.35.140. REGULATION OF TRANSPORTATION CARRIERS. A  
3 municipality may not regulate an activity regarding transportation of  
4 passengers or freight for hire if the regulation conflicts with the  
5 regulation of that activity by the Alaska Transportation Commission as  
6 the regulation existed on April 1, 1983 under former AS 02.05, former  
7 AS 42.07, or former AS 42.10.

8 ARTICLE 2. MANDATORY AREAWIDE POWERS.

9 Sec. 29.35.150. SCOPE OF AREAWIDE POWERS. A borough shall  
10 exercise the powers as specified and in the manner specified in  
11 AS 29.35.150 - 29.35.180 on an areawide basis.

12 Sec. 29.35.160. EDUCATION. (a) Each borough constitutes a  
13 borough school district and establishes, maintains, and operates a  
14 system of public schools on an areawide basis as provided in AS 14.-  
15 14.060. A military reservation in a borough is not part of the bor-  
16 ough school district until the military mission is terminated or until  
17 inclusion in the borough school district is approved by the Department  
18 of Education. However, operation of the military reservation schools  
19 by the borough school district may be required by the Department of  
20 Education under AS 14.14.110. If the military mission of a military  
21 reservation terminates or continued management and control by a re-  
22 gional educational attendance area is disapproved by the Department of  
23 Education, operation, management, and control of schools on the mili-  
24 tary reservation transfers to the borough school district in which the  
25 military reservation is located.

26 (b) This section applies to home rule and general law municipal-  
27 ities.

28 Sec. 29.35.170. ASSESSMENT AND COLLECTION OF TAXES. (a) A  
29 borough shall assess and collect property, sales, and use taxes that

(3)

the municipality. Per diem payments or reimbursements for expenses are not compensation under this section. (§ 2 ch 118 SLA 1972; am § 1 ch 43 SLA 1979)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 258 et seq. 62 C.J.S., Municipal Corporations, §§ 522, 541. Effect of illegality of appointment or compensation, 7 AL

Mandamus to compel appropriation for payment of salaries of public officers, 81 ALR 1253. Actions for compensation by de facto officers, 93 ALR 258; 151 ALR 952.

*OR employment*

Sec. 29.23.540. *29.55* **Conditions.** (a) A person may not be appointed to or removed from a municipal office or in any way favored or discriminated against with respect to a municipal position because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

(b) This section applies to home rule and general law municipalities.

(c) A state employee or school district employee may not be denied the right to serve as an elected municipal official because of employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, a school district employee may not serve on a school district board in the school district where employed. Provisions of this section do not apply to term of office in effect on August 24, 1976.

(d) For purposes of this section a school district employee is not a municipal employee. (§ 2 ch 118 SLA 1972; am § 1 ch 93 SLA 1976)

NOTES TO DECISIONS

Applied in *Acevedo v. City of North Pole*, Sup. Ct. Op. No. 2748 (File Nos. 7120, 7251), 672 P.2d 130 (1983).

Sec. 29.23.550. **Personnel system.** All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system. (§ 2 ch 118 SLA 1972)

Sec. 29.23.555. **Conflict of interests.** Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee may not participate in any official action in which the officer or employee has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically

In new manager. In assembly or council shall be vacant, the assembly ch 118 SLA 1972) appeal the manager first meeting after provisions for the administrator. (§ 2

ons.

tem  
erests

lic

ers, before taking ly, faithfully, and with the municipal

icers and Public

ly or council may ffices. (§ 2 ch 118

the other munic- cil may designate prescribed by the the municipality.

icers and Public

the assembly or icers. The salary erm of office. An on for service to

§ 29.23.530

r new manager. In  
bly or council shall  
s vacant, the assem-  
ch 118 SLA 1972)

peal the manager  
s first meeting after  
provisions for the  
administrator. (§ 2

ons.

-tem  
terests

lic

ers, before taking  
tly, faithfully, and  
with the municipal

fficers and Public

ly or council may  
ffices. (§ 2 ch 118

the other munic-  
cil may designate  
prescribed by the  
the municipality.

fficers and Public

he assembly or  
fficers. The salary  
term of office. An  
ion for service to

§ 29.23.540

MUNICIPAL GOVERNMENT

§ 29.23.555

the municipality. Per diem payments or reimbursements for expenses are not compensation under this section. (§ 2 ch 118 SLA 1972; am § 1 ch 43 SLA 1979)

Collateral references. — 56 Am. Jur. 2d, Municipal Corporations, Counties, and Other Political Subdivisions, § 258 et seq. 62 C.J.S., Municipal Corporations, §§ 522, 541.

Effect of illegality of appointment or compensation, 7 ALR 1682.

Mandamus to compel appropriation for payment of salaries of public officers, 81 ALR 1253.

Actions for compensation by de facto officers, 93 ALR 258; 151 ALR 952.

*Re: [unclear]*  
**Sec. 29.23.540. Prohibitions.** (a) A person may not be appointed to or removed from municipal office or in any way favored or discriminated against with respect to a municipal position because of the person's race, color, sex, creed, national origin or, unless otherwise contrary to law, because of the person's political opinions or affiliations.

(b) This section applies to home rule and general law municipalities.

(c) A state employee or school district employee may not be denied the right to serve as an elected municipal official because of employment by the state or a school district unless specifically prohibited by charter or ordinance of a municipality, adopted at a special or general election. However, a school district employee may not serve on a school district board in the school district where employed. Provisions of this section do not apply to term of office in effect on August 24, 1976.

(d) For purposes of this section a school district employee is not a municipal employee. (§ 2 ch 118 SLA 1972; am § 1 ch 93 SLA 1976)

#### NOTES TO DECISIONS

Applied in *Acevedo v. City of North Pole*, Sup. Ct. Op. No. 2748 (File Nos. 7120, 7251), 672 P.2d 130 (1983).

**Sec. 29.23.550. Personnel system.** All appointments and promotions of municipal officers and employees are made on the basis of merit. The assembly or council may provide for a personnel system. (§ 2 ch 118 SLA 1972)

**Sec. 29.23.555. Conflict of interests.** Each home rule and general law municipality shall adopt a conflict-of-interests ordinance which, other provisions of this chapter notwithstanding, includes provision that an officer or employee may not participate in any official action in which the officer or employee has a substantial financial interest. If a home rule or general law municipality fails to adopt such a conflict-of-interests ordinance within 90 days from September 10, 1972, the conflict-of-interests provision of this section is automatically

BY ARECA

AMENDMENT

④

Amend p. 78, lines 1 through 4

after the word "utility" on line 1

Delete "to the extent" and delete all language on lines 2 through 4, and in its place insert the following:

"that is not subject to regulation under AS 42.05 unless that utility is exempted from regulation under AS 42.05.711(a) or (d)-(k)."

Amend p. 74, line 25

After the word "disposal,"

Delete "utility service,"

⑤

Amend p. 75, after line 7, insert:

"(c) A municipality owning or operating utilities may extend service to adjacent areas outside its municipal limits. For that purpose the municipality may acquire, maintain and operate utility facilities together with necessary real property interests in real property outside its limits.

Redesignate existing subsection (c) as subsection (d).

6

P. 77 L. 23 + 24 AFTER THE World Commission

Delete: or by the Alaska Transportation Commission

every place it appears, it is to be deleted



Official Business

# Alaska State Legislature

## Senate

### Committee on Judiciary

Pouch V  
State Capitol  
Juneau, Alaska 99811

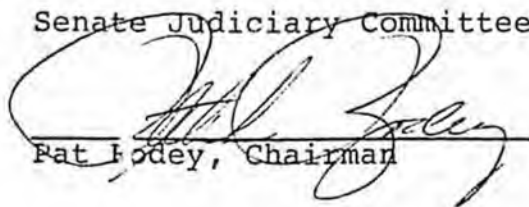
April 30, 1985

Letter of Intent to Accompany Senate Committee Substitute  
for Committee Substitute for House Bill 72 (Judiciary)

It is not the intent of the Legislature through the passage of HB72 to change the taxing provisions for electric and telephone cooperatives as set forth by AS 10.25.540-560; nor is it the intent of the Legislature to change present statute provisions covering public utility access to municipal rights of way as set forth by AS 42.05.251.

It is not the intent of the Legislature in adopting Sec. 29.35.020, which permits a municipality to extend utility service adjacent to its' boundaries, to thereby prevent a municipality from extending utility service to areas that are not contiguous with its' municipal boundaries.

Senate Judiciary Committee

  
Pat Fodey, Chairman



# RECORDS CERTIFICATION

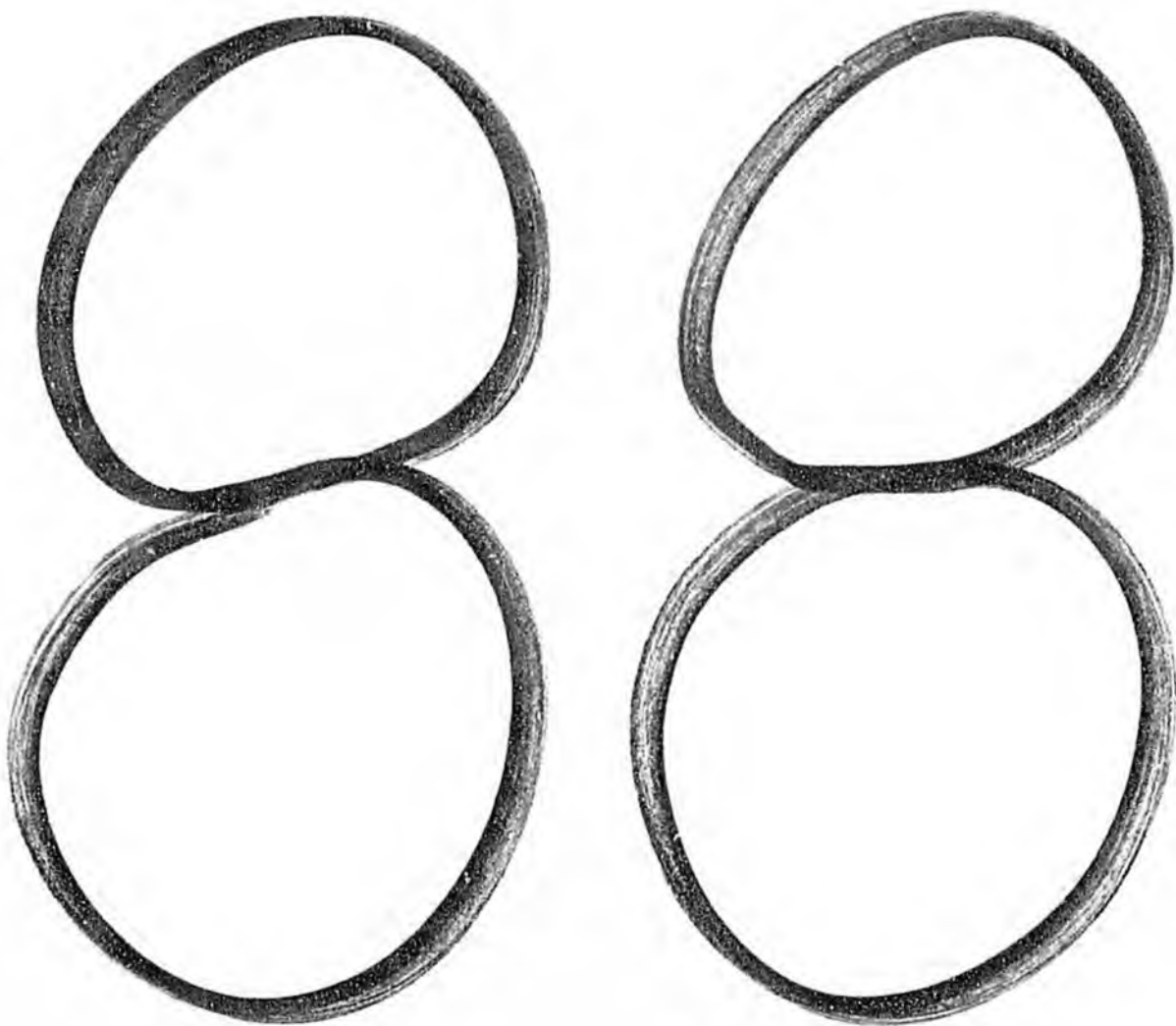


I, the undersigned, an employee of the State of Alaska, do hereby certify that the microfilm images on this microform are accurate reproductions of the original records of the State of Alaska as accumulated during the regular course of business, and that it is the established policy and practice of this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

James O. Smith  
Signature of Camera Operator

11/7/89  
Date

H B



Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE JUDICIARY COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 88 (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 protection of children,  
7 family members, and dependent adults; and providing  
8 for an effective date."

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

10 \* Section 1. AS 11.61.125(a) is amended to read:

11 (a) A person commits the crime of distribution of child pornog-  
12 raphy if the person brings or causes to be brought into the state for  
13 [SALE OR] distribution, or in the state distributes, or in the state  
14 possesses, prepares, publishes, or prints with intent to distribute,  
15 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-  
16 ial that visually depicts conduct described in [UNDER] AS 11.41.-  
17 455(a), knowing that the production of the material involved the use  
18 of a child under 18 years of age who engaged in the conduct.

19 \* Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:

20 (d) In this section, "distribution" includes delivering, sell-  
21 ing, renting, leasing, lending, giving, circulating, exhibiting,  
22 presenting, providing, and exchanging, whether or not for monetary or  
23 other consideration.

24 \* Sec. 3. AS 12.10.020(c) is amended to read:

25 (c) Even if the general time limitation has expired, a prose-  
26 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,  
27 former AS 11.41.430, or former AS 11.51.130.(4), for an offense  
28 committed against a person under the age of 16 may be commenced within  
29 one year after the crime is reported to a peace officer or the person

1 reaches the age of 16, whichever occurs first. This subsection does  
2 not extend the period of limitation by more than five years.

3 \* Sec. 4. AS 12.45.045(a) is repealed and reenacted to read:

4 (a) In prosecutions for the crimes of sexual assault in any de-  
5 gree, sexual abuse of a minor in any degree, or unlawful exploitation  
6 of a minor, or an attempt to commit any of these crimes, evidence of  
7 the complaining witness' previous sexual conduct may not be admitted  
8 nor reference made to it in the presence of the jury except as pro-  
9 vided in this section. A defendant who seeks to admit the evidence  
10 for any purpose shall apply for an order of the court before the trial  
11 if the evidence is sought to be introduced at trial or before the  
12 preliminary hearing if the evidence is sought to be introduced at the  
13 preliminary hearing, unless the defendant demonstrates that the defen-  
14 dant, despite exercising due diligence, was unable to apply before the  
15 trial or preliminary hearing. After the application is made, the  
16 court shall conduct a hearing in camera to determine the admissibility  
17 of the evidence. If the court finds that evidence offered by the  
18 defendant regarding the sexual conduct of the complaining witness is  
19 relevant, and that the probative value of the evidence offered is not  
20 outweighed by the probability that its admission will create undue  
21 prejudice, confusion of the issues, or unwarranted invasion of the  
22 privacy of the complaining witness, the court shall issue a written  
23 order stating what evidence may be introduced and the nature of the  
24 questions that may be permitted. The defendant may then offer evi-  
25 dence under the order of the court.

26 \* Sec. 5. AS 25.35.010(a) is repealed and reenacted to read:

27 (a) A person who is subjected to domestic violence may petition  
28 a superior court for injunctive relief restraining the infliction of  
29 further domestic violence against the petitioner by the respondent.

1 The court may appoint a guardian ad litem or attorney to represent a  
2 minor who is subject to this chapter in the same manner as an attorney  
3 may be appointed under AS 25.24.310.

4 \* Sec. 6. AS 25.35.060 is amended to read:

5 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-  
6 lence" means a crime under AS 11.41 when the victim is a spouse or a  
7 former spouse of the respondent; a parent, grandparent, child, or  
8 grandchild of the respondent; [,] a member of the social unit compos  
9 [COMPRISED] of those living together in the same dwelling as the  
10 respondent; [,] or a person who is not a spouse or former spouse of  
11 the respondent but who previously lived in a spousal relationship with  
12 the respondent.

13 \* Sec. 7. AS 47.10.010(a) is amended to read:

14 (a) Proceedings relating to a minor under 18 years of age resid-  
15 ing or found in the state are governed by this chapter, except as  
16 otherwise provided in this chapter, when the court finds the minor

17 (1) to be a delinquent minor as a result of violating a  
18 criminal law of the state or of a municipality of the state; or

19 (2) to be a child in need of aid as a result of

20 (A) the child being habitually absent from home or  
21 refusing to accept available care, or having no parent, guardian,  
22 custodian or relative caring or willing to provide care, includ-  
23 ing physical abandonment by

24 (i) both parents,

25 (ii) the surviving parent, or

26 (iii) one parent if the other parent's rights and  
27 responsibilities have been terminated under AS 47.10.080 or  
28 voluntarily relinquished;

29 (B) the child being in need of medical treatment to

1 cure, alleviate, or prevent substantial physical harm, or in need  
2 of treatment for mental harm as evidenced by failure to thrive,  
3 severe anxiety, depression, withdrawal, or untoward aggressive  
4 behavior or hostility toward others, and the child's parent,  
5 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-  
6 ING] to provide the [MEDICAL] treatment;

7 (C) the child having suffered substantial physical  
8 harm or if there is an imminent and substantial risk that the  
9 child will suffer such harm as a result of the actions done by or  
10 conditions created by the child's parent, guardian or custodian  
11 or the failure of the parent, guardian or custodian adequately to  
12 supervise the child;

13 (D) the child having been, or being in imminent and  
14 substantial danger of being, sexually abused either by the  
15 child's parent, guardian or custodian, or as a result of con-  
16 ditions created by the child's parent, guardian or custodian, or  
17 by the failure of the parent, guardian or custodian adequately to  
18 supervise the child;

19 (E) the child committing delinquent acts as a result  
20 of pressure, guidance, or approval from the child's parents,  
21 guardian or custodian;

22 (F) the child having suffered substantial physical  
23 abuse or neglect as a result of conditions created by the child's  
24 parent, guardian or custodian.

25 \* Sec. 8. AS 47.10.142(a) is repealed and reenacted to read:

26 (a) The Department of Health and Social Services may take emer-  
27 gency custody of a minor upon discovering any of the following circum-  
28 stances:

29 (1) the minor has been abandoned;

1 (2) the minor has been grossly neglected by the minor's  
2 parents or guardian as "neglect" is defined in AS 47.17.070(5), and  
3 the department determines that immediate removal from the minor's  
4 surroundings is necessary to protect the minor's life or provide  
5 immediate necessary medical attention;

6 (3) the minor has been subjected to child abuse or neglect  
7 by a person responsible for the minor's welfare, as "child abuse or  
8 neglect" is defined in AS 47.17.070(1), and the department determines  
9 that immediate removal from the minor's surroundings is necessary to  
10 protect the minor's life or that immediate medical attention is neces-  
11 sary; or

12 (4) the minor has been sexually abused under circumstances  
13 listed in AS 47.10.010(a)(2)(D).

14 \* Sec. 9. AS 47.10.142(c) is amended to read:

15 (c) When a child is taken into custody under (a) or (b) of this  
16 section, the department shall immediately, and in no event more than  
17 12 hours later unless prevented by lack of communication facilities,  
18 notify the parents or the person or persons having custody of the  
19 child. If the department determines that continued custody is neces-  
20 sary to protect the child, the department shall notify the court of  
21 the emergency custody by filing, within 24 hours after custody was  
22 assumed, [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-  
23 tion alleging that the child is a child in need of aid. If the de-  
24 partment releases the child within 24 hours after taking the child  
25 into custody and does not file a child in need of aid petition the  
26 department shall, within 24 hours after releasing the child, file with  
27 the court a report explaining why the child was taken into custody.

28 \* Sec. 10. AS 47.17.020(a) is amended to read:

29 (a) The following persons who, in the performance of their

1 occupational [PROFESSIONAL] duties, have cause to believe that a child  
2 has suffered harm as a result of child abuse or neglect shall immedi-  
3 ately report the harm to the nearest office of the department:

4 (1) practitioners of the healing arts;

5 (2) school teachers and school administrative staff members  
6 of public and private schools;

7 (3) social workers;

8 (4) peace officers, and officers of the Department of  
9 Corrections;

10 (5) administrative officers of institutions;

11 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

12 (7) paid employees of domestic violence and sexual assault  
13 programs, and crisis intervention and prevention programs as defined  
14 in AS 18.56.900 [LICENSED FOSTER CARE PROVIDERS].

15 \* Sec. 11. AS 47.17.020(b) is amended to read:

16 (b) This section does not prohibit the named persons from re-  
17 porting cases that [WHICH] have come to their attention in their  
18 nonoccupational [NONPROFESSIONAL] capacities, nor does it prohibit any  
19 other person from reporting a child's harm that [WHICH] the person has  
20 cause to believe is a result of child abuse or neglect. These reports  
21 shall be made to the nearest office of the department.

22 \* Sec. 12. AS 47.17.020 is amended by adding a new subsection to read:

23 (d) This section does not require a religious healing practi-  
24 tioner to report as neglect of a child the failure to provide medical  
25 attention to the child if the child is provided treatment solely by  
26 spiritual means through prayer in accordance with the tenets and  
27 practices of a recognized church or religious denomination by an  
28 accredited practitioner of the church or denomination.

29 \* Sec. 13. AS 47.17 is amended by adding a new section to read:

1           Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person  
2 who, in the course of processing or producing visual or printed  
3 matter, either privately or commercially, has reason to believe that  
4 the matter visually depicts a child engaged in conduct described in  
5 AS 11.41.455(a) shall promptly report this to the nearest law enforce-  
6 ment agency, and provide the law enforcement agency with all  
7 information known about the nature and origin of the matter.

8 \* Sec. 14. AS 47.17.064 is repealed and reenacted to read:

9           Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. (a) The department or  
10 a practitioner of the healing arts may, without the permission of the  
11 parents, guardian, or custodian, take the following actions with  
12 regard to a child believed to have suffered physical harm as a result  
13 of child abuse or neglect:

14                 (1) take or have taken photographs of the areas of trauma  
15 visible on the child; and

16                 (2) if medically indicated, have a radiological examination  
17 of the child performed by a person who is licensed to administer a  
18 radiological examination.

19           (b) The department or a practitioner of the healing arts shall  
20 notify the parents, guardian, or custodian of a child as soon as  
21 possible after taking action under (a) of this section with regard to  
22 the child.

23 \* Sec. 15. AS 47.17.068 is repealed and reenacted to read:

24           Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who  
25 knowingly fails or refuses to report as required under AS 47.17.020 or  
26 47.17.023 is guilty of a class B misdemeanor.

27 \* Sec. 16. AS 47.17 is amended by adding a new section to read:

28           Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin  
29 or limit a person from contact with a child if the attorney general

1 establishes by a preponderance of the evidence that the person

2 (1) has sexually abused a child,

3 (2) has physically abused a child; or

4 (3) has engaged in conduct that constitutes a clear and  
5 present danger to the mental, emotional, or physical welfare of a  
6 child.

7 (b) This section does not limit the authority of the attorney  
8 general or the court to act to protect a child.

9 \* Sec. 17. AS 47.17.070(6) is amended to read:

10 (6) "practitioner of the healing arts" includes chiroprac-  
11 tors, dental hygienists, dentists, health aides, nurses, nurse practi-  
12 tioners, optometrists, osteopaths, physical therapists, physicians,  
13 physician's assistants, psychiatrists, psychologists, psychological  
14 associates, religious healing practitioners, and surgeons;

15 \* Sec. 18. AS 47.17.070 is amended by adding new paragraphs to read:

16 (8) "child care provider" means an adult individual, or an  
17 employee of an organization, who provides care and supervision to a  
18 child for compensation;

19 (9) "organization" means a group or entity that provides  
20 care and supervision for compensation to a child not related to the  
21 caregiver, and includes a child care facility, pre-elementary school,  
22 head start center, child foster home, residential child care facility,  
23 recreation program, children's camp, and children's club;

24 (10) "person responsible for the child's welfare" means the  
25 child's parent, guardian, foster parent, a person responsible for the  
26 child's care at the time of the alleged child abuse or neglect, or a  
27 person responsible for the child's welfare in a public or private  
28 residential agency or institution.

29 \* Sec. 19. AS 47.35.070 is amended to read:

1           Sec. 47.35.070. VIOLATIONS. A person who violates a provision  
2 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted  
3 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B  
4 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE  
5 THAN \$200].

6 \* Sec. 20. AS 47.35.070 is amended by adding a new subsection to read:

7           (b) The department may by regulation devise a system of civil  
8 enforcement. The system may employ civil penalties not to exceed \$200  
9 for each day during which one or more violations of a licensing stat-  
10 ute or licensing regulation occurs. The imposition of a civil penalty  
11 does not prevent prosecution and sentence for a criminal offense.

12 \* Sec. 21. Section 5 of this Act takes effect September 30, 1985.  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
29

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

May 6, 1985

Senator Pat Rodey  
Chairman, Senate Judiciary Committee  
Pouch V  
Juneau, AK 99811

RE: HB 88 (child abuse)

Dear Senator Rodey:

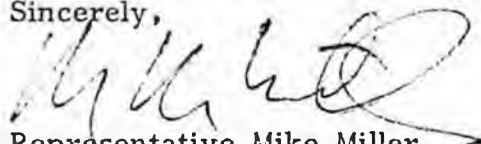
The House Judiciary Committee adopted an amendment to HB 88 offered by Representative Max Gruenberg. This amendment added "grandchildren" to the class of people protected by the domestic violence statutes and related statutes. It had originally been prepared as an amendment to SB 29, as a result of testimony on that bill. Senator Faiks had said she had no objection to the amendment. However, in order to expedite passage of SB 29 (so that it did not have to be returned to the House for concurrence) the amendment was not added. It was accepted by the House Judiciary Committee as an amendment to HB 88, without objection.

Hearings on HB 88 were very lengthy, and apparently due to a secretarial error, part of the amendment was omitted from the final printed committee substitute. Nobody caught the error until the bill was in third reading on the House floor, just before the final vote was taken on final passage. To expedite passage of the bill, Representative Gruenberg agreed not to offer the amendment, with the understanding we would request the Senate to insert the amendment into the bill in committee.

Section 6 of the bill (part of the Gruenberg amendment) now adds "grandchild" to AS 25.35.060. The omitted parts of the amendment added "grandchild" to AS 12.25.030(b) and AS 18.66.900(3). These amendments to AS 12.25.030(b) and AS 18.66.900(3) were omitted inadvertently.

We would be grateful if you could amend HB 88 to include these two amendments. Suggested amendments are enclosed.

Sincerely,

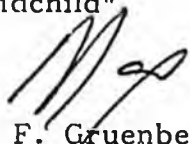
  
Representative Mike Miller  
Chairman, House Judiciary

  
Representative Max Gruenberg

Encls.

Senator Pat Rodey  
May 6, 1985

P.S. The underlined language also contains the other language added to the two sections by SB 29 because, technically, SB 29 is not yet law. SB 29, as you know, is in the House Rules Committee. Assuming SB 29 is passed, the only language which would be added would be "or grandchild"



Max F. Gruenberg

A M E N D M E N T

Offered in the SENATE

TO: CSHB 88 (Finance)

Page 2, after line 2, insert a new bill section to read:

"\* Sec. 4. AS 12.25.030(b) is amended to read:

(b) In addition to the authority granted under (a) of this section, a peace officer without a warrant may arrest a person when the peace officer has reasonable cause for believing that the person has committed a crime under AS 11.41, AS 11.46.330, or AS 11.61.120 when the victim is a spouse or former spouse of the person who committed the crime; a parent, grandparent, child or grandchild of the person who committed the crime; [,] a member of the social unit comprised of those living together in the same dwelling as the person who committed the crime; [,] or another person who is not a spouse or former spouse of the person who committed the crime but who previously lived in a spousal relationship with the person who committed the crime."

Renumber remaining bill sections accordingly.

Page 2, after line 24, insert a new bill section to read:

"\* Sec. 4. AS 18.66.900(3) is amended to read:

(3) "domestic violence" means a crime specified in AS 11.41 when the victim is a spouse or a former spouse of the defendant; a parent, grandparent, child or grandchild of the defendant; [, OR] a

member of the social unit comprised of those living together in the same dwelling as the defendant; or a person who is not a spouse or former spouse of the defendant but who previously lived in a spousal relationship with the defendant;"

Renumber remaining bill sections accordingly.

5/28/64

SUMMARY OF FISCAL NOTES FOR CS HB 88 (FINANCE)

<u>Agency</u> DHSS	<u>Original Request</u> \$1992.7	<u>HFC Figure</u> \$1582.1
Law	\$1160.6 gen. funds 145.2 IARs	\$ 515.8 gen. funds 108.9 IARs
Public Defender	\$ 437.2	\$ 317.4
Public Advocate	\$ 296.1	\$ 218.3
Dom. Vic. Council	\$ 200.0	\$ 20.0
Court System	\$ 145.9	\$ 51.3
Troopers	\$ 0	\$ 0
TOTALS	\$4232.5 gen. funds 145.2 IARs	\$2704.9 gen. funds 108.9 IARs

SUMMARY OF 7 FY.

SUMMARY OF H.F.C. REDUCTIONS TO CS HB 88 (FIN) FISCAL NOTES

1. DHSS

Personal services is funded for 10 months instead of 12, and all other lines are reduced by a maximum of 25%.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	1360.0	1133.0
Travel	122.2	91.6
Contractual	404.3	303.2
Supplies	19.0	14.3
Equipment	87.2	40.0
Total	1992.7	1582.0
Full Time	31.0	31.0
Part Time	8.0	8.0

2. Law

The following positions were eliminated or changed: 2 part time legal secretaries for the civil sections in Bethel and Fairbanks were eliminated. Prosecution reductions are as follows: one attorney IV in Anchorage, one secretary in Anchorage and the other attorney IV in Anchorage was reduced to an attorney II; one paralegal in Kenai and one attorney IV reduced to an attorney II in Kenai; one attorney in Fairbanks and the legal secretary in Fairbanks was reduced to part time; one paralegal in Kotzebue; one attorney III and one secretary in Barrow; one attorney III in Juneau; and one paralegal in Ketchikan. Also adjusted personal services as follows: two attorneys in the civil section are only partially funded with interagency receipts, the rest of their funding is from the general fund.

Miscellaneous other reductions taken as shown on the chart.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	938.2	441.0
Travel	77.5	42.5
Contractual	144.6	92.2
Supplies	70.5	30.0
Equipment	75.0	19.0
Total	1305.8	624.7
General Fund	1160.6	515.8
IARs	145.2	108.9
Full Time	19.0	9.0
Part Time	3.0	2.0

3. Public Defender

Eliminated one paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	347.7	252.9
Travel	30.0	20.0
Contractual	43.5	36.5
Commodities	6.5	4.5
Equipment	9.5	3.5
Total	437.2	317.4
Full Time	6.0	5.0

#### 4. Public Advocate

Positions funded at 10 months instead of 12. Miscellaneous reductions taken in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	155.1	129.3
Travel	15.0	0
Contractual	100.0	75.0
Supplies	2.0	0
Equipment	24.0	14.0
Total	296.1	218.3
Full Time	4.0	4.0

#### 5. Council on Domestic Violence and Sexual Assault

No additional funds were provided for grants since the FY 86 budget includes a maintenance grant amount of \$4414.9M. Instead, \$20,000 is provided to upgrade the existing data clerk to a research analyst. It is important that program data be analyzed in order for the legislature to adequately judge funding needs from year to year. This funding recommendation comes from the most recent legislative audit of the program.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	0	20.0
Grants	200.0	0
Total	200.0	20.0
Full Time	.5	.5

#### 6. Court System

Funds provided are for 10 months of retired judge time in Anchorage and 10 months for a part time in court clerk in Anchorage. Other funds are eliminated because of cuts in funding to other agencies.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	123.9	51.3
Travel	22.0	0
Total	145.9	51.3
Full Time	3.0	1.0
Part Time	0	1.0

#### 7. Troopers

No funds were requested and no funds were provided.

CSHB 88 (FIN): Personal Services By Community  
(does not include the Court System)

	FBKS	ANCH	PALMER	KETCH	JUNEAU	BETHEL	KOTZEBUE	KENAI	BARROW
DHSS	1 clk typ 1 A.A. 1 Acct Clk 2 SW	4 SW 2 DCL 1 A.A. 1 Act clk 2 Clk Typ	-0-	1 SW 1 DCL 1 Clk Typ 1 A.A.	2 SW	-0-	-0-	2 SW	1 clk typ
CIVIL	1 Atty 1 PPT Sec	1 Atty 1 PPT Sec	-0-	-0-	-0-	1 PPT Sec 1 Atty	-0-	-0-	-0-
PROS	1 Atty 1 P/L 1 Sec part-time	1 Atty 1 P/L 1 Sec 1 Atty reduced to Atty II	1 P/L 1 Sec	1 P/L	1 Atty	-0-	1 P/L reduced to ATTY II 1 Atty 1 P/L	1 Atty 1 Sec	
P.D.	1 P/L	1 Atty	1 P/L	-0-	-0-	1 P/L	1 Atty	1 P/L	-0-
P.A.	1 A. Atty 1 Sec	1 A. Atty 1 Clk Typ	-0-	-0-	-0-	-0-	-0-	-0-	-0-

Health & Social services

Addez	1 Clk
Copper Center	1 Clk
Asilla	1 Clk
Analaska	1 Clk
Ordova	1 Clk
Billingham	1 Clk
omer	1 SW and 1 Clk Typ
elta	1 SW and 1 Clk Typ
elena	1 SW and 1 Clk Typ
enana	1 SS Assoc.
t. Yukon	1 Clk
raig	1 Clk Typ

Original

	T	PFT	PPT
DHSS	39	31	8
LAW	22	19	3
PD	6	6	0
PA	4	4	0
	71	60	11

Reduced

	T	PFT	PPT
DHSS	39	31	8
LAW	11	9	2
PD	5	5	0
PD	4	4	0
	59	49	10

= eliminated in Adams' proposed.

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST No.1  
Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of children

FISCAL DETAIL  
Agency Affected: Dept. Health & Social Serv.  
Program Category Affected: Social Services

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:  
\_\_\_\_\_

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		1133.0				
200 TRAVEL		91.6				
300 CONTRACTUAL		303.2				
400 SUPPLIES		14.3				
500 EQUIPMENT		40.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>1582.1</b>				

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		1582.1				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>1582.1</b>				

**POSITIONS:**

FULL-TIME		31				
PART-TIME		8				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Personal Services funded for 10 months instead of 12. All other lines funded at a maximum of 75% of original request.

*APA*

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

7/1/84  
SOCIAL SERV

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST No. 2  
Bill/Resolution No.: CSIB 88 (Fin)  
Title: Child Protection

FISCAL DETAIL  
Agency Affected: Dept. Law  
Program Category Affected: General Government  
BRU, Program or Subprogram(s) Affected: Prosecution

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		441.0				
200 TRAVEL		42.5				
300 CONTRACTUAL		92.2				
400 SUPPLIES		30.0				
500 EQUIPMENT		19.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>624.7</b>				

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

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		515.8				
FEDERAL FUNDS						
OTHER		108.9				
<b>TOTAL</b>		<b>624.7</b>				

POSITIONS:

FULL-TIME		9				
PART-TIME		2				
TEMPORARY						

ANALYSIS: - PERSONAL SERVICES

Eliminated the following positions: 2 PPT legal secretaries in Bethel and Fairbanks which were requested by the Civil Section. Prosecution reductions are: 1 Attorney IV in Anchorage, one secretary in Anchorage, and reduce the other Attorney IV to an Attorney II; 1 Paralegal in Kenai, and reduce Attorney IV to an Attorney II in Kenai; 1 Attorney in Fairbanks and reduce 1 Legal Secretary in Fairbanks to PPT; one paralegal in Kotzebue; one Attorney III and one Secretary in Barrow; one Attorney III in Juneau; and one paralegal in Ketchikan.

Also Adjusted personal services as follows: In the original fiscal note, two attorneys in the Civil Section were funded with interagency receipts from the Department of Health and Social Services. In this proposal, those attorneys would be funded 75% by interagency receipts and 25% by general funds. The Personal Services line has changed accordingly.

OTHER LINES

Miscellaneous reductions applied.

Prepared By: Representative Adams - Chairman  
Division: House Finance Committee

Phone: 465-3706

Date: 5/3/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST No. 3

Bill/Resolution No.: CS HB 88 (Fin)  
Title: Protection of Children

FISCAL DETAIL

Agency Affected: Administration  
Program Category Affected: Due Process

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:  
Public Defender Agency

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		252.9				
200 TRAVEL		20.0				
300 CONTRACTUAL		36.5				
400 SUPPLIES		4.5				
500 EQUIPMENT		3.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>317.4</b>				

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		317.4				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>317.4</b>				

**POSITIONS:**

FULL-TIME		5				
PART-TIME						
TEMPORARY						

**ANALYSIS:** Attach a separate page if necessary

Eliminated 1 paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

Prepared By: Representative Adams - Chairman  
Division: House Finance Committee

Phone: 465-3706  
Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

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 No. 4  
Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of Children

FISCAL DETAIL  
Agency Affected: Administration  
Program Category Affected: Due Process

Sponsor: Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:  
Office of Public Advocacy

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		129.3				
200 TRAVEL		-0-				
300 CONTRACTUAL		75.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		14.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		<b>218.3</b>				

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		218.3				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		<b>218.3</b>				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Positions funded for 10 months instead of 12. Miscellaneous cuts applied to other lines.

Prepared By: Representative Adams - Chairman Phone: 465-3706  
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
Agency: \_\_\_\_\_

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 No. 5  
Bill/Resolution No.: CSHB 88 (Fin)  
Title: Protection of Children  
Sponsor: Rules/Governor  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL  
Agency Affected: Public Safety  
Program Category Affected: Administration of Justice  
BRU, Program or Subprogram(s) Affected: Council on Domestic Violence and Sexual Assault

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		20.0				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		20.0				

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

**FUNDING: (Thousands of Dollars)**

GENERAL FUND		20.0				
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>		20.0				

**POSITIONS:**

FULL-TIME		1/2				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary. The personal services funds are to be used to upgrade the existing data clerk position to a research analyst position. This position will analyze as well as record data. This function is important to proper legislative analysis of the Council and appropriate funding needs.

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706  
 Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_  
 Agency: \_\_\_\_\_

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 No. 6  
 Bill/Resolution No.: CSHB 88 (Fin)  
 Title: Protection of Children  
 Sponsor: Governor  
 Requestor: House Finance Committee  
 Date of Request: 5/3/85

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<b>OPERATING</b>						
100 PERSONAL SERVICES		51.3				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
<b>TOTAL OPERATING</b>		51.3				
<b>CAPITAL</b>						
<b>REVENUE</b>						

FUNDING: (Thousands of Dollars)

GENERAL FUND	51.3				
FEDERAL FUNDS					
OTHER					
<b>TOTAL</b>	51.3				

POSITIONS:

FULL-TIME	1				
PART-TIME	1				
TEMPORARY					

ANALYSIS:

<u>PERSONAL SERVICES:</u>	<u>SALARY</u>	<u>BENEFITS</u>	<u>TOTAL COST</u>
Pro Tem Superior Court Judge Anchorage 10 Months	15,338	22,363	37,701
In-Court Clerk (Range 23 B) Anchorage 10 Months, Part Time	10,215	3,382	-----
		<u>TOTAL PERSONAL SERVICES:</u>	\$51,298

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706  
 Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_ Date: \_\_\_\_\_ PART

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST No. 7

Bill/Resolution No.: CS HB 88 (Fin)  
Title: Protection of Children

Sponsor: Rules Committee  
Requestor: House Finance Committee  
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety  
Program Category Affected: Administration of Justice  
BRU, Program or Subprogram(s) Affected:  
1) Alaska State Troopers &  
2) Administration (Records & Identification)

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Representative Adams - Chairman  
Division: House Finance Committee

Phone: 465-3706

Date: 5/3/85

Approved by Commissioner: \_\_\_\_\_  
Agency: \_\_\_\_\_

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

Distribution (by Agency preparing fiscal note):

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

7/1/84



# RECORDS CERTIFICATION

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

*James O. Smith*  
Signature of Camera Operator

*11/7/89*  
Date

H B

Q R

BILL SUMMARY CSHB92 (JUD)

The U.S. Department of Health and Human Services' Child Support Enforcement Program was created in 1975 to help collect court-ordered support from absent parents. The program in Alaska is operated through the Child Support Enforcement Agency (CSEA), which was established in the Department of Revenue in 1976. Recent amendments to the federal law have placed the state program out of compliance and \$1.1 million of our federal funding for the Aid to Families with Dependent Children program is at risk.

CSHB92 (JUD) would bring the state program into compliance by:

- 1) providing for an income withholding order to be part of any order of child support,
- 2) changing the current time frame of 45 days in arrears to 30 days as the trigger to invoke an income withholding order,
- 3) increasing the limit of income withholding from 50% to 55%.
- 4) providing for withholding income in interstate cases,
- 5) providing for the enforcement of spousal support orders when child support is being enforced.
- 6) requiring the court to issue a medical support order as part of a child support order under certain conditions, and
- 7) imposing a \$1000 civil penalty on employers who retaliate against an obligor.

The bill makes two additional changes not required by federal law:

- 1) provides for service of a withholding order by first class mail (rather than certified mail) if the obligor was notified of the withholding law at the time the support order was obtained, and
- 2) requires employers to provide an obligor's employment information to CSEA upon request, and imposes a \$1000 fine for noncompliance.

## SECTIONAL ANALYSIS CSHB 92 JUD

### Income Withholding (Required by Federal Law)

Section 1: Subsection (a) provides for an income withholding order to be part of any order of child support. The prior language refers to an income assignment order rather than withholding order. The language change keeps us consistent with Federal Law. In addition, service has been changed to provide service by first class mail if the obligor had knowledge of the income withholding at the time the support order was obtained. If the obligor did not have notice because the case is older than 1983, when the income withholding law went into effect, service is to be by certified mail or by personal service.

Subsection (b) requires employers or any other person owing money to the obligor to withhold such funds and pay the money to the Child Support Enforcement Division.

Subsection (c) changes the current time frame of 45 days in arrears to one month in arrears as the triggering mechanism to invoke an income withholding order.

Subsection (d) changes the manner of service to first class mail and tightens the time frames for court hearings brought by obligors to dispute the income withholding. It also limits the defenses allowed to be raised at the hearing to mistakes of fact and specifically provides that it is not a defense to pay some amount of money prior to the hearing to dip below the threshold of one month owed.

Subsection (e) requires the Division to send notice of the relevant withholding statutes and an explanation of the effect of the statutes to any person who owes money to the obligor. It also requires withholding to begin either fourteen days after the notice of withholding or the next pay period, whichever is earlier.

Subsection (f) imposes a penalty of not more than \$1000.00 to any employer who retaliates against an obligor solely on the basis of income withholding.

Subsection (g) makes language changes to be consistent with the remaining sections.

Subsection (h) allows the payment of court costs to either party successful in the outcome of the withholding hearing.

### Income Withholding (Required by Federal Law)

Section 2: Subsection (i) sets the maximum limits of income withholding to the Federal level: 55% for obligors who have second spouses or families; 65% for obligors with no other dependants. Alaska Law had been at 50%.

Subsection (j) provides convenience to the employer who has more than one employee on income withholding orders by allowing

payments to the Division to be made in one lump sum as long as specific employees' payments are identified.

Subsection (k) provides notice of termination to the Division by the employer and includes a requirement to include with the notice the obligor's last known address and addresses of other known employers.

Subsection (l) allows the obligor to petition the court to set aside income withholding upon good cause.

#### Cost of Living Increases/Decreases (Not Required by Federal Law)

Section 3: This section was added by the HESS Committee and amends AS 25.24.150 to allow the court to include cost of living adjustments in support orders.

#### Amendments to Duties of the Division (Required by Federal Law)

Section 4: Subsection (a)(1) adds to the Division's responsibilities the obtaining and enforcement of interstate orders.

Subsection (a)(7) provides the same intent as (a)(1) and in addition allows the Division to use the laws of the State of Alaska to obtain and enforce interstate orders.

Subsection (a)(8) provides for the enforcement of spousal support orders when child support is also being enforced by the Division.

Subsection (a)(9) requires the Division to obtain medical insurance as part of a support order if the costs to the obligor are reasonable.

#### Interstate Cases (Required by Federal Law)

Section 5: Subsections (a and b) provide for the process to obtain and enforce interstate orders from other Child Support Enforcement programs.

#### Rates of Penalty and Interest (Partially Required by Federal Law)

Section 6: This section eliminates the imposition of penalties for non-payment or late payment of child support. The new federal law only allows a maximum rate of 6% penalty provisions while Alaska had set a rate of 12%. The HESS and Judiciary Committees chose to eliminate all penalties since the recovery rate is minimal and the administrative burden outweighs the results.

#### Determination of Support Obligation (Required by Federal Law)

Section 7: This section adds language regarding the enforcement of spousal support if child support is also being administered by the Division.

#### Medical Support (Required by Federal Law)

Section 8: This section adds language regarding obtaining medical insurance in support orders when the cost to the obligor is reasonable.

Employment Information (Not Required by Federal Law)

Section 9: This section was added by the Judiciary Committee. It requires employers and labor unions to provide obligor's employment information to the Division upon request and imposes a \$1000.00 maximum penalty for knowingly violating the section.

Service (Not Required by Federal Law)

Section 10: This section rectifies an oversight in HB 688 of the Thirteenth Legislature to eliminate service provisions in this section in light of enactment of AS 47.23.265(a) which provides specific service provisions for all of AS 47.23.

Collection of Child Support (Not Required by Federal Law)

Section 11: This section amends AS 47.23.265 to modify service provisions to conform to changes in section 1.

Exemptions (Required by Federal Law)

Section 12: This section amends AS 47.250(i) to be consistent with exemptions in Section 2.

Income Withholding (Required by Federal Law)

Section 13: This section changes language to be consistent with section 1.

Civil Liability (Required by Federal Law)

Section 14: This section changes language to be consistent with Section 1.

Service (Not Required by Federal Law)

Section 15: This section provides general service provisions for all of AS 47.23 enforcement of child support order sections to allow service by first class mail in accordance with case law.

Payments Not Disbursed (Not Required by Federal Law)

Section 16: This section was added by the HESS Committee to provide for return of payments not disbursed to the obligor after seven years rather than to the State.

Effective Date (Required by Federal Law)

Section 17: October 1, 1985 is the effective date of the new Federal Law.

# Alaska State Legislature



## House of Representatives House Judiciary Committee

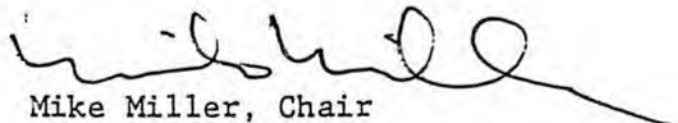
Pouch V  
State Capitol  
Juneau, Alaska 99811  
(907) 465-4990

### LETTER OF INTENT FOR CSHB 92 (JUD)

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

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

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

  
Mike Miller, Chair

*House Letter of Intent Amended Mike*

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date

REQUEST

Bill/Resolution No: CSHB 92 JUD  
 Title: An Act relating to child  
       - support enforcement  
 Sponsor: Governor  
 Requestor: Governor  
 Date of Request: 4-2-85

FISCAL DETAIL

Agency Affected: Revenue  
 Program Category Affected: Revenue  
Collection and Management  
 BRU, Program of Subprogram(s) Affected:  
Child Support Enforcement Division

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
<u>OPERATING</u>						
100 PERSONAL SERVICES	-	-	-	-	-	-
200 TRAVEL	-	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-	-
800 MISCELLANEOUS	-	-	-	-	-	-
<u>TOTAL OPERATING</u>	-	-	-	-	-	-
<u>CAPITAL</u>	-	-	-	-	-	-
<u>REVENUE</u>	*(69.5)	(69.6)	(69.6)	(69.6)	(69.6)	(69.6)

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	-	-	-	-	-
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
<u>TOTAL</u>	-	-	-	-	-	-

POSITIONS:

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

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

not applicable

\* Due to the immediate effective date of the bill, the FY 85 fiscal impact is unknown at this time. However, in no event will it exceed the 69.6 figure shown above.

ANALYSIS: See attached.

Prepared By: Holli Ilene Ploog  
 Division: Child Support Enforcement

Phone: 276-3441  
 Date: 4-2-85

Approved by Commissioner: [Signature]  
 Agency: Revenue

Date: 4/4/85

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST

Bill/Resolution No.: CS 1092 (and)  
 Title: "An Act relating to child  
 and sponsal support;..."  
 Sponsor: House Rules/Governor  
 Requestor: Governor's Ofc./OMB  
 Date of Request: 1/18/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

<b>CAPITAL</b>						
----------------	--	--	--	--	--	--

<b>REVENUE</b>						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
<b>TOTAL</b>						

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary. This bill is a housekeeping measure that is intended to streamline existing child support laws. The bill brings Alaska's child support statutes into conformance with PL 98-378, and it simplifies interstate child support enforcement actions. Because of this simplification, it is expected that interstate transactions will increase. Any impact caused by this increase should, however, be offset by the efficiencies that will be realized through streamlining the state's existing child support statutes. Consequently, there will not be a fiscal impact for the Department of Law.

Prepared By: Richard I. Pagano, Director Phone: 465-3672  
 Division: Administrative Services Date: 1/22/85

Approved by Commissioner: Richard I. Pagano/for Date: 1/22/85  
 Agency: Department of Law

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

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

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

REQUEST  
 Bill/Resolution No.: PS HB 92 (Am)  
 Title: An Act relating to child and spousal support  
 Sponsor: Rules, by request  
 Requestor: Revenue  
 Date of Request: 1/18/85

FISCAL DETAIL  
 Agency Affected: Health & Social Services  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: Assistance Payments, AFDC Component

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

HB 92 has a potential cost-avoidance impact upon Aid to Families with Dependent Children (AFDC) utilization and expenditures. If enacted, it should result in some single parent families being supported sufficiently to eliminate their need to apply for AFDC. It should also slightly increase the numbers of current AFDC recipient families leaving the AFDC rolls. Finally, enactment helps to ensure compliance with federal program requirements, thereby avoiding federal

Prepared By: John R. Taber, Director *JRT* Phone: 455-3347  
 Division: Public Assistance Date: \_\_\_\_\_

Approved by Commissioner: John R. Taber *JRT* Date: 1/30/85 *JCC*  
 Agency: \_\_\_\_\_

Distribution (by Agency preparing fiscal note):

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

ANALYSIS CONT.

fiscal penalties, which would be taken against the 50% federal AFDC funding. However, no data exists by which the total potential amount of cost-avoidance might be estimated.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 18, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to child support enforcement. This bill is intended to ensure that Alaska Statutes are in compliance with the federal Child Support Enforcement Amendments of 1984, PL 98-378, which strengthens enforcement techniques of state agencies. It is essential that these provisions be in effect by October 1, 1985, in order for the state to continue to obtain federal funding of 70 percent for support enforcement. Other provisions of the bill strengthen the remedies presently available by amending AS 47.23 and AS 09.65.132.

Sections 1 and 3 of the bill are necessitated by Sec. 466 of PL 98-378, which mandates that each state must have in effect a law that will permit the establishment of the parentage of a child at any time before the child's 18th birthday. Section 1 adds new AS 09.10.095, which acts as a statute of limitation. Section 3 amends AS 25.20.050, relating to establishment of paternity, to specify that such an action must be permitted until the child is 18. As a statute of limitation, a child's right to bring such an action would toll during his minority, so an action could still be maintained until age 20. AS 25.20.050 would not prohibit an action at that time, but simply reflects the federal mandate that parentage actions be permitted at least until the child reaches age 18.

Section 2 amends AS 09.65.132 to conform to federal requirements relating to income withholding orders. The use of the term "income withholding order" in substitution for "income assignment order" will provide for consistency in state and federal statutes. PL 98-378 requires that collections be deposited and distributed by a public agency designated by the state. In this case, the agency is the child support enforcement division of the Department of

Revenue (referred to as the "agency"). Since the agency will be required to administer any income withheld, and will be accountable for collection and distribution, the bill also requires that all applications for income withholding orders be filed through the agency. The effectiveness of AS 09.65.132 as an enforcement tool is strengthened by requiring an automatic procedure to trigger withholding without court intervention if an obligor does not request a hearing, and an expedited decision if a hearing is requested. The service requirement is also amended so that no more restrictive service provision is necessary than would be required under normal motion practice in a typical lawsuit. PL 98-378 also requires that employers who discharge an employee, discipline an employee, or refuse to hire a person, because of an income withholding order, be fined; therefore the bill adds a provision making commission of any of those acts a misdemeanor punishable by a fine of not more than \$1,000. This misdemeanor is not classified; thus the imprisonment provisions of AS 12.55.135 do not apply.

Section 2 of the bill also amends AS 09.65.132(g) to remove the income exemption for collections from income under an income withholding order, because new subsection (h) requires that at least the amount of the support obligation be withheld, subject to the limits of 15 U.S.C. sec. 1673(b). 15 U.S.C. sec. 1673(b) allows withholding of 50 percent of an individual's disposable earnings, or 60 percent if the individual does not support a spouse or dependent child. The maximum amount allowed to be withheld is raised to 55 and 65 percent, respectively, if collection is for arrearages over 12 weeks old. Section 11 of the bill modifies AS 47.23.250(i) to also remove the income exemptions set out in that subsection.

Section 4 of the bill contains a new chapter, AS 25.26, the Interstate Income Withholding Act, which is also required by PL 98-378. This chapter draws heavily upon a Model Interstate Income Withholding Act, drafted by the Child Support Projects section of the American Bar Association and the National Conference of State Legislatures. The Model Act was prepared to assist states to meet the deadline of October 1, 1985 for implementation of the interstate withholding requirements. The Model Act enables states that enact similar provisions to order income withholding in another state in the same manner as they would impose intrastate withholding, without the necessity of filing a new action in the other state, as is necessary under the

existing Uniform Reciprocal Enforcement of Support Act (AS 25.25) or other enforcement statutes.

Sections 5, 7, and 8 of the bill amend several sections of AS 47.23 to reflect other requirements of PL 98-378. The child support enforcement agency will be responsible for enforcing existing spousal support orders where it is also enforcing a child support order. It must also attempt to obtain medical support orders as a part of a child support order if health care coverage is available to the obligor at a reasonable cost.

Section 6 of the bill reflects a change in the percentage of penalty that must be assessed, if any is imposed, to comport with PL 98-378. Under the federal law, the penalty rate must be between three and six percent; the bill imposes the highest penalty possible. Even at the six percent penalty rate, the present penalty is reduced by one-half from the 12 percent penalty now assessed.

Section 9 of the bill corrects an oversight. Section 11, ch. 144, SLA 1984, enacted AS 47.23.265, which currently sets out specific service provisions for all of AS 47.23. Service provisions contained in AS 47.23.150 should have been deleted at the same time, but were not. The amendment to AS 47.23.150 in sec. 9 of the bill accomplishes the deletion.

Section 10 of the bill amends AS 47.23.226 to refer to the general service provision in AS 47.23.265. Section 14 of the bill then modifies that general service provision so that no more restrictive service requirements are necessary than are appropriate under Rule 5 of the Alaska Rules of Civil Procedure. Civil Rule 5 allows service either upon a party or his attorney by first class mail. It has been perceived as a problem to some of the individuals handling child support cases on behalf of the agency that the previous requirement of service by registered or certified mail often set up a barrier to the receipt of the notice. Since the affected sections only relate to the enforcement of previously established support orders, the court has continuing jurisdiction to enforce those orders. Balchen v. Balchen, 566 P.2d 324 (Alaska 1977). In that case, the Alaska Supreme Court acknowledged that the proper service provision in enforcement actions is Civil Rule 5(b), and not Civil Rule 4 which requires personal or restricted delivery service. The court even commented that there would be merit to providing, in matters of support enforcement, that service could be made directly upon the party rather than

upon the attorney for the party from the earlier divorce proceeding.

Sections 12 and 13 of the bill simply change language in statutes pertaining to income assignment orders to reflect the new term, "income withholding" orders.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the printed name and title.

Bill Sheffield  
Governor

ALASKA

The federal Child Support Amendments of 1984 mandate certain legislative modifications of the Alaska Child Support program. The following provisions in Alaska law contain many of the features mandated by P.L. 98-378:

- o Sections 47.23.110-47.23.280, which create an administrative process for the enforcement of child support obligations;
- o Section 47.23.230, which provides for the imposition of liens against real and personal property;
- o Section 47.23.253, which provides for the intercept-of any refund or disbursement by the Department of Revenue for the satisfaction of child support obligations;
- o Section 47.23.273, which approves the dissemination of information on the obligor's child support debts to any consumer credit bureau;
- o Section 47.23.060, the provision by which a court may require a parent to post a bond or security to insure collection of child support obligations;
- o Section 47.23.100, which provides equal treatment of non-AFDC and AFDC clients;
- o 15 Alaska Administrative Code 147.010(c), which provides guidelines to be used in the setting of support orders.

Modifications of Alaska law to meet the Child Support Enforcement Amendments of 1984 would include:

- o <sup>not necessary - see 09.65.132</sup> Altering Sections 47.23.070 and .250 to create a mandatory rather than a discretionary income withholding statute and to include:
  - ✓--recognition of income withholding order as top priority; 09.65.132(g)
  - ✓--provision limiting obligor's defenses to mistakes of fact in contested withholding cases; 09.65.132(d)
  - ✓--designation by state of publicly accountable agency to administer the withholding system; (Child Support Enforcement Agency, Dept. Revenue)
  - \*--simplification of the process by the state, such as allowing employer to send in withheld amounts in one check; 09.65.132(j)
  - ✓--provision for withholding income in interstate cases; 47.23.020(a)(1)
  - ✓--provision to terminate withholding; 09.65.132(i)
  - ✓--provision in contested cases for state to notify obligor within 45 days whether withholding will occur; 09.65.132(d)
- o ✓ Altering Sections 47.23.020 and .025 to reduce the optional late payment fee to meet the federal 3% to 5% standard. 47.23.025

The adoption of new provisions to Alaska law would include:

- ✓o Provision for withholding to be part of all support orders issued or modified after 10-1-85. 04.05.132

The following are areas not currently addressed by state statutes and may be implemented by statutory enactment, administrative plan, judicial procedure, or executive action:

- o The enforcement of spousal support when it is part of the support order; 47.23.020(a)(8)
- o<sub>no</sub> Notification to AFDC recipients of the amount collected on their behalf in the past year;
- o Inclusion of medical insurance in the support order; (47.23.020(a)(9))
- o<sub>no</sub> Continuation of medicaid benefits;
- o<sub>no</sub> Provision to expand services to all children receiving foster care through federal-state assistance programs;
- o<sub>no</sub> Publication of the availability of child support enforcement services through public service announcements;
- o<sub>no</sub> Provision for continuation of child support services when AFDC is terminated;
- o<sub>no</sub> Implementation of a fee for non-AFDC services.

Drafters of state law may wish to be aware of federal regulations affecting their state child support programs. Two pertinent examples are:

- ✗ o Procedure for employer to notify the state or local withholding agency of the termination of the obligor's employment and of the obligor's last known address as well as the name and address of the new employer, if known; 47.23.075
- ✓o Procedure to implement the withholding no later than the first pay period that occurs after 14 days from the mailing date on the notice. 09.05.132(e)

#### FOR MORE INFORMATION

For more information contact Deborah Dale or Charles Brackney, National Conference of State Legislatures, 1125 17th Street, Suite 1500, Denver, Colorado 80202, 303/292-6600.



# RECORDS



# CERTIFICATION

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

*James O. Smith*  
\_\_\_\_\_  
Signature of Camera Operator

*11/7/89*  
\_\_\_\_\_  
Date

HPB

104

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
5/1/85	1st hearing - held over pending completion of
	presumptive sentencing study.
11/23/86	Doug Abbott - 780-4777 (w) or 789-2095 (H)
	wants to notify of hearing
2/27	Hayden notified - Suzanne 4990
2/27/86	SENATOR FISCHER NOTIFIED bill up 3/4 - Suzanne
2/27/86	AG HUI BROWN NOTIFIED - Suzanne
3/3/86	NOTIFIED: ROGER ENDRELL 3376
	MIKE SPAVE - DOL/CUM DIV. 34128
3/5	NOTIFIED of 3rd MEETINGS
	ROGER ENDRELL, MIKE SPAVE, AG, HAYDEN,
	DOUG ABBOTT & SENATOR FISCHER

# Alaska State Legislature



## House of Representatives House Judiciary Committee

Hon. Pat Rodey, Chairman  
Senate Judiciary Committee  
Anchorage Legislative Information Office #308  
1024 W. Sixth  
Anchorage, Ak. 99501

Sept. 15, 1985

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

ATTN: Ann Plunkett

RE. HB 104

Dear Sen. Rodey:

You requested backup from the House Judiciary Committee regarding HB 104, having to do with statutory good time.

Enclosed you will find the contents of the House Judiciary Committee file on HB 104.

In addition, I am sending you a copy of a letter recently sent to us by Rep. Max Gruenberg as an informational copy, regarding an unpublished appellate court opinion in the case of Suiter v. Benson.

For further information on that correspondence, you may want to contact Rep. Gruenberg.

Sincerely,

A handwritten signature in cursive script that reads "Bob Speed".

Bob Speed, A.A.  
for Rep. Mike Miller, Chairman  
House Judiciary Committee

cc: Rep. Max Gruenberg

# STATE OF ALASKA THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

## LEGISLATIVE AFFAIRS AGENCY

### LEGISLATIVE REFERENCE LIBRARY

May, 1986

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

Jeanie Henry

House Judiciary Committee	2/21/85	1:30
" " "	2/26/85	1:00
" " "	3/20/85	3:30
House Health Education and Social Services	3/7/85	4:30
House Judiciary Committee	2/27/85	1:30
" " "	2/25/85	1:30
" " "	2/27/85	1:30
" " "	2/28/85	1:30

A. SNEFFIELD  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 23, 1985

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
Pouch V  
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the computation, forfeiture, and restoration of statutory good time for state prisoners.

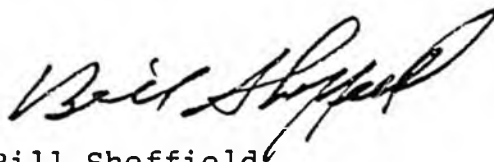
Good time accounting for state prisoners is currently being computed under three different systems dependent upon when a prisoner committed a criminal offense. Because of the complexities, an inordinate amount of staff time and frequent computational errors.

This bill will greatly simplify basic time accounting, and bring all Alaskan prisons under one time accounting system. For those prisoners already incarcerated on the date this bill becomes law, this bill will have the effect of changing the time accounting method from one of accruing good time at a set rate per month to one of a grant of good time in a block, the amount of which is dependent on the time remaining to be served on their sentences.

Additionally, although the primary purpose of the bill is to simplify the good time computation process, it will result in a minor reduction in the time prisoners will serve (one-twelfth of the sentence), if they observe all the rules of the institution while incarcerated.

Finally, the bill will assist in the statewide uniform application of restoration of forfeited good time for prisoners who demonstrate good conduct during their incarceration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bill Sheffield".

Bill Sheffield  
Governor

STATE OF ALASKA 1985 LEGISLATIVE SESSION  
FISCAL NOTE

Page 1 of 2

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

**REQUEST:**

Bill/Resolution No.: HB 104  
 Title: "An Act relating to computation, forfeiture and restoration of statutory good time."  
 Sponsor: Governor  
 Requestor: Governor  
 Date of Request: 12-11-84

**FISCAL DETAIL:**

Agency Affected: DEPARTMENT OF CORRECTIONS  
 Program Category Affected: \_\_\_\_\_  
 Administration of Justice  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_  
 Offender Confinement, Reformation and Supervision

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-
----------------	-----	-----	-----	-----	-----	-----

**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:**

separate page

See Attachment.

Prepared By: Cynthia Nelson  
 Special Assistant: Cynthia Nelson

Phone: 465-3376  
 Date: 1-3-85

Approved by Commissioner: William W. Lewis for Roger V. Enell  
 Agency: DEPARTMENT OF CORRECTIONS

Date: 1-3-85

**Distribution (by Agency preparing fiscal note):**

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

Attachment

This change in the award of statutory good time from one-fourth to one-third would affect only those prisoners sentenced since 1980. Prisoners sentenced prior to 1980 are currently eligible to receive one-third of their sentence awarded as good time.

Projections indicate that this legislation would create a gain of 22 beds per month over the next five years. This has been calculated by applying the revised amount of good time towards the portion of the current population having five years or less remaining to serve.

Projecting from the 640 prisoners meeting this criteria, a gain of 56,000 man days of good time over a five year period were identified. Calculated below this would average a gain of 31.1 beds per month if all inmates were to earn the maximum amount of statutory good time. Approximately 72% of prisoners serve their sentences without any loss of statutory good time, which results in a total projected gain of 22 beds per month.

56,000 man days over five years  
 $56,000 \div 5 = 11,200$  man days per year  
 $11,200 \div 12 = 933$  man days per month  
 $933 \div 30 = 31.1$  beds per month  
 $72\% \times 31.1 = 22$  beds per month

Assuming that 22 additional beds per month become available over the next five years, the inmate population which is consistently raising at the rate of 25 per month would begin to stabilize.

# STATE OF ALASKA

## DEPARTMENT OF CORRECTIONS

BILL SHEFFIELD, GOVERNOR

REPLY TO:

POUCH T  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3376

May 10, 1985

The Honorable Pat Rodey  
Chairman  
Senate Judiciary Committee  
Pouch V  
Juneau, Alaska 99811

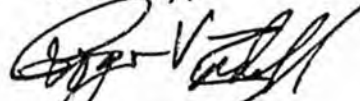
SUBJECT: HB 104

Dear Senator Rodey:

I urgently need your assistance on the corrections good time bill, HB 104. I hope that the attached summary sheet will help you. The eight summary facts are the essential ingredients critical to sound correctional management, and will help us to rectify the current administrative nightmare.

This bill has come a long way. I would sincerely appreciate your affirmative assistance in working toward the passage of this bill this session.

Sincerely,



Roger V. Endell  
Commissioner

enclosure

cc: Senate Judiciary Members

DEPARTMENT OF CORRECTIONS  
COMPARISON OF GOOD TIME SYSTEMS  
SUMMARY SHEET

IMPORTANT CHARACTERISTICS	Pre-1971	1971-1979	1980-Present	HB 104
A. Kinds of Good Time Can Earn	1) Statutory (S.G.T.) 2) Meritorious (M.G.T.) 3) Extra Meritorious (E.M.G.T.)	S.G.T. (Good Behavior) M.G.T. (Work &/or Program) E.M.G.T. (Exceptional Act-Rare)	S.G.T.	S.G.T.
B. Block or Accrual System	Block/Accrual	Accrual	Accrual	Block
C. Rates of Good Time	25% - 41%	21% - 33%	25%	33%
D. When G.T. Earned	Date Sentenced/ Once a Month	Once a Month	Every 4th Day	Date Sentenced
E. Amount G.T. available for Removal if Disciplinary Action	17% - 33%	0% - 23%	0% - 25%	33%
F. Monthly Calculations/ Entries w/out Disciplinary	Usually	Always	No	No
G. Avg. Number Calculations if Disciplinary	1	1	3	1
H. Avg. Number Written Entries if Disciplinary	1	1	2	1
I. Avg. # Calculations if G.T. Restored	1	1	2	1
J. Avg. # Written Entries if G.T. Restored	1	1	2	1
Total Calculations/Entries	4	4	9	4
K. Relative Simplicity of System	Simple	Complex	Very Complex	Very Simple

SUMMARY FACTS

- 1) Prisoners serve similar months, no matter which system is used (only 8% difference).
- 2) HB 104 falls in the middle of the four systems in good time rate.
- 3) HB 104 uses the lowest possible rate to be able to convert pre-1980 cases and therefore one system.
- 4) Most prisoners serve their good time earned on supervision, so not roaming around free when released.
- 5) Would allow staff time to supervise prisoners rather than spending time bookkeeping.
- 6) Expected to significantly reduce error rate.
- 7) Would treat city prisoners the same as state prisoners.
- 8) HB 104 would promote more equity in disciplinary matters and be a better management tool for prison administrators.

DEPARTMENT OF CORRECTIONS  
COMPARISON OF GOOD TIME SYSTEMS

SENTENCE LENGTH

MONTHS WOULD SERVE

	Pre-1971*	1971-1979*	1980-Present	HB 104
1 Year	9 Months	9 Months	9 Months	8 Months
5 Years	38 Months	43 Months	45 Months	40 Months
10 Years	71 Months	81 Months	90 Months	80 Months
20 Years	141 Months	160 Months	180 Months	160 Months

\* Assumes no E.M.G.T. earned.

# STATE OF ALASKA

## DEPARTMENT OF LAW

### CRIMINAL DIVISION

March 21, 1985

The Honorable Don Clocksin  
Majority Leader of the House of Representatives  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

Re: CS for HB 104 (Jud)  
Good Time for Prisoners

Dear Representative Clocksin:

This letter is a response to some concerns raised at the hearing before the House Judiciary Committee on March 20, 1985, to the effect that section 1 of CS for HB 104 (Jud) would result in the wholesale amnesty and general release of a large number of prisoners upon its effective date.

These concerns are groundless as the bill will not be applied retrospectively. AS 01.10.090 precludes the retrospective application of a statute unless expressly declared therein. What will occur to the sentences of prisoners incarcerated on the effective date of this bill (assuming it is enacted into law) is that the portion of the sentences remaining to be served will be reduced by one third rather than reducing them by one day for each three served on an accrual basis. No prisoners will be released on the effective date of this bill who would not otherwise have been released for other reasons.

If you have any questions regarding the information provided above, please contact me at your convenience.

Very truly yours,

NORMAN C. GORSUCH  
ATTORNEY GENERAL

By: Michael J. Stark  
Michael J. Stark  
Assistant Attorney General

MJS/gb-52  
cc: Mike Miller, Chairman ✓  
House Judiciary Committee

Roger Endell, Commissioner  
Department of Corrections

BILL SHEFFIELD, GOVERNOR

REPLY TO:

- OFFICE OF THE CHIEF PROSECUTOR  
POUCH KC  
JUNEAU, ALASKA 99811  
PHONE: (907) 465-3428
- OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
1031 WEST 4TH AVENUE, SUITE 318  
ANCHORAGE, ALASKA 99501-5993  
PHONE: (907) 279-7424

# MEMORANDUM

State of Alaska

TO: Roger Endell  
Commissioner  
Department of Corrections

DATE: April 12, 1954

FILE NO: 366-496-84

TELEPHONE NO: 465-3428

FROM: NORMAN C. GORSUCH  
ATTORNEY GENERAL

SUBJECT: Forfeiture of good time  
during consecutive -  
sentences

By: Michael J. Stark *MJS*  
Assistant Attorney General

You have asked our opinion<sup>1/</sup> whether it is legally permissible for a disciplinary committee to forfeit a prisoner's statutory good time for a disciplinary infraction when at least part of the good time was earned during the first of two consecutive sentences and the infraction was committed during the second sentence.

As long as the amount of forfeited statutory good time does not exceed that set out in 7 AAC 60.470(a)(5), it is legally permissible to forfeit statutory good time earned during the first of two consecutive sentences for a disciplinary infraction committed during the second sentence.

### Legal Analysis

The purpose of statutory good time is to provide an incentive for good behavior by prisoners and to concomitantly aid in the rehabilitative process. See, e.g. DeSimone v. Norton, 404 F. Supp. 964, 967 (D. Conn. 1975). This is accomplished by mitigating the severity of punishment by rewarding a prisoner for good conduct.

This principle is embodied in Alaska in AS 33.20.010, which provides:

Computation of good time. Notwithstanding AS 12.55.125(f)(3) and (g)(3), each prisoner convicted of an offense against the state and sentenced to imprisonment, whose record of conduct shows that the prisoner has faithfully observed the rules of the institution in which

---

1/ The request for advice came from a superintendent; however, the question and our response has application systemwide.

the prisoner is confined, is entitled to a deduction from the term of imprisonment of one day for every three days of good conduct served.

Before this statute was adopted in its present form in 1978, former AS 33.20.010 provided for an award of statutory good time based on the length of the term of imprisonment.<sup>2/</sup>

Because the amount of good time awarded was dependent on the length of sentence, former AS 33.20.010(b) provided that consecutive sentences should be aggregated for purposes of computing the amount of good time a prisoner was entitled to receive. When AS 33.20.010 was amended, this subsection was dropped as it would have been superfluous given the fact that "good time" is earned at a rate of one day for every three days served, irrespective of sentence length.

Former AS 33.20.010 was substantially similar to 18 U.S.C. § 4161, the federal statute relating to the award of good time for federal prisoners. Cases interpreting that statute have consistently held that the expiration of the first of two consecutive sentences does not prevent the subsequent forfeiture of good time earned during that sentence. See e.g., Williams v. Lazgett, 377 F. Supp. 1110, 1112 (D. Kansas 1974); Hoover v. Taylor, 334 F.2d 281 (10th Cir. 1964). The basis for these rulings has been that no authority exists for the proposition that consecutive sentences "expire" independently of one another. Rather, consecutive sentences are treated as a single term, the expiration of which, less the time deducted for good conduct, results in the prisoner's release.<sup>3/</sup> E.g., McCray v. United States Board of Parole, 542 F.2d 558, 560 (10th Cir. 1976) and cases cited therein.

It is our understanding that the Department of Corrections has continued as a policy the mandate of former

---

2/ The amount of statutory good time a prisoner was entitled to receive ranged from five days per month for a sentence of six months to one year to 10 days per month for a sentence of 10 years or longer.

3/ In Alaska, a prisoner earning more than 180 days of good time is mandatorily released as if on parole and remains in the custody of the parole board. AS 33.20.040; AS 33.15.190.

AS 33.20.010 to aggregate consecutive sentences for purposes of time accounting and calculation of earned statutory good time.

The question thus becomes whether the 1978 amendments to AS 33.20.010 have the effect of precluding the department from forfeiting statutory good time earned during the first of two consecutive sentences when the disciplinary infraction triggering this sanction occurred during the second sentence.

As indicated earlier in this memorandum, the answer to this question is no. Both AS 33.20.050, which authorizes the forfeiture of a prisoner's earned statutory good time "during the term of imprisonment" and AS 33.20.030, which provides that "[A] prisoner shall be released at the expiration of the term of sentence less the time deducted for good conduct," are nearly identical to their federal counterparts (18 U.S.C. §§ 4165, 4163) and have not been amended since their original adoption in 1960. In addition, there has been no indication given by the legislature, either in its amendments to AS 33.20.010 or elsewhere, that the well-settled rule that consecutive sentences are to be treated as a single term for purposes of awarding and forfeiting statutory good time, should be abandoned.<sup>4/</sup>

---

4/ See Lambert v. U.S. Penitentiary, 591 F.2d 4, 8 (5th Cir. 1979), where the court, in an analogous situation dealing with a parole violator's loss of good time and credit for time spent on conditional release, stated:

Under the pre-1976 law, it is clear that a parole violator could lose both good time credit and credit for time spent on conditional release. 18 U.S.C. §§ 4205, 4207 (1970) [citations omitted]. Under the Parole Commission and Reorganization Act, sections 4205 and 4207 were substantially changed and include no similar forfeiture provisions. Nonetheless, absent some legislative indication to the contrary, we will not upset the well-settled rule that once the appellant's release was revoked because of his violation of its conditions, the U.S.P.C. had the authority to forfeit the appellant's good-time credit as well as credit for time spent on conditional release. [Citations omitted.]

Roger Endell, Commissioner  
Department of Corrections  
366-496-84

April 12, 1984  
Page 4

If you have any questions regarding this memorandum of advice, please contact us at your convenience.

MJS/so-03

cc: Kevin Bruce  
Deputy Commissioner for Operations

Art Schmidt  
Superintendent, Palmer Correctional Center

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

30 July 1985

David Lampen  
Clerk of the Appellate Courts  
303 K Street  
Anchorage, Alaska 99501

Re: Suiter v. Benson, MO&J #734 (Alaska, App. 1984)  
(Unpublished opinion)

Dear Mr. Lampen,

I would like to request that the above opinion be published. The portion at pages 3 and 4 stating that the trial court has no authority to restrict the prisoner's ability to receive credit for good time because the awarding of good time is automatic under AS 33.20.010 is of considerable importance statewide. This portion of the opinion appears to be a decision on an issue of first impression in this state as no previous opinion is cited and my brief research through the Michie statutes annotation reveals none.

HB 104, revising the good time statutes, has passed the state House and now reposes in the state Senate.

I am presently considering whether to amend HB 104 to include a provision allowing trial courts the discretion to reduce or eliminate a prisoner's eligibility for good time. It will thus be important to the legislature to have a published opinion on the issue definitively setting forth that under present law the trial courts possess no such authority.

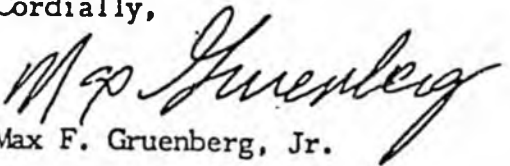
I would be most grateful if you would transmit this communication to the judges of the Court of Appeals as an official request to publish the opinion.

If you have any additional questions or if you or the judges have any comments on this or any other aspect of HB 104, please let me know.

For the record, this law office, through my partner, Joan Clover, represented appellee Cynthia Benson in the underlying divorce. As far as I know, we had no involvement in the appeal, however. I have not spoken with my partner directly on this as she is presently out of the state. I came across the opinion when reviewing this Benson's file on an unrelated matter

and this letter was written strictly from my point of view as a legislator, not in any matter as Ms. Benson's counsel. It is not intended to be utilized in any matter in the underlying litigation between the parties nor is my request intended to have any effect on the actual case of Suiter v. Benson.

Cordially,

  
Max F. Gruenberg, Jr.

cc: The Honorable Mike M. Miller, Chairman  
House Judiciary Committee

The Honorable Victor Carlson  
Superior Court Justice

Mary Ann Foley  
Carla Huntington

E. HEAD  
BOX 603  
ER, AK 99577

File

FEBRUARY 11, 1986

The Honorable Pat Rodey  
Chairman  
Senate Judiciary Committee  
POUCH V  
JUNEAU, ALASKA 99811

SUBJECT: H.B. 104

Dear Senator Rodey:

This is the third letter that we, The Concerned Inmates of the Department of Corrections, have sent encouraging you and your committee to act affirmatively on the passage of H.B. 104. We feel it is important that such frequent letters be sent impressing on you and your colleagues the need for legislation to curb prison over crowding. This problem is acute, for within the last two weeks the Governor has again begun the process of exercising his emergency release power due to over crowding. This over crowding is evidenced by the Department of Corrections having to place misdemeanor criminals with felons, which is not good. We, the inmates, feel these condition and seek to bring it to your attention, as Commissioner Endell has been doing.

We again state that we do not want to be soft on crime. But with the continued decline in the State's oil revenues, which Governor Sheffield has indicated could total close to a one billion dollar short fall for fiscal 1987, we would urge you to consider closely the implication this loss of revenue will have on funding the ballooning correctional system. Since we, the inmates, are wards of the state, we must make you aware of this over crowding and ask you to help us correct it. The time to act is now in legislating relief for the penal system.

If there is anything we, the inmates, can do to help you solve this problem Senator Rodey, it will be done. Again we, "would sincerely appreciate your affirmative assistance in working toward the passage of this bill this session".

Sincerely,

The Concerned Inmates of the Department of Corrections  
(Greg Head Spokesman)

GREG HEAD

cc: Senate Judiciary Members; Commissioner Roger Endell

GAH

JANUARY 28, 1986

The Honorable Pat Rodey  
Chairman  
Senate Judiciary Committee  
POUCH V  
JUNEAU, ALASKA 99811

SUBJECT: H.B. 104

Dear Senator Rodey:

We, The Concerned Inmates of the Department of Corrections, are writing to again encourage you and your committee to pass H.B. 104 which is still awaiting action in the Senate Judiciary Committee. As our previous letter of January 6, 1986 to you indicated, this bill has the Sheffield administration's support in addressing the growing problem of over crowding in the Alaska penal system.

With a continued decrease of state oil revenues due to the falling world oil prices, it is imperative that the Legislature take the necessary action to insure that Alaska doesn't have the same problems associated with over crowding in their penal system as the rest of the United States is experiencing. A recent study conducted by the University of Alaska at Anchorage has indicated that, at the present rate of growth, the rise in prison population in Alaska will quadruple by the year 2000. This is a situation that we must address now to avoid problems in the future.

The Sheffield administration, through Commissioner Endell, has continued to wave the "RED FLAG" by encouraging the Senate to pass H.B. 104 in its retroactive form. The Concerned Inmates again, "would sincerely appreciate your affirmative assistance in working toward the passage of this bill this session".

Sincerely,

The Concerned Inmates of the Department of Corrections  
(Greg Head Spokesman)

cc: Senate Judiciary Members; Commissioner Roger Endell

GAH

# State of Alaska

## COMMITTEES

HOUSE HEALTH, EDUCATION  
AND SOCIAL SERVICES  
(Co-Chairman)  
HOUSE JUDICIARY  
HOUSE COMMUNITY AND  
REGIONAL AFFAIRS



POUCH V  
JUNEAU, ALASKA 99811  
(907) 465-4968

914 CLAY COURT  
ANCHORAGE, ALASKA 99503  
(907) 276-6844

Representative Max F. Gruenberg, Jr.  
District 11  
Spenard, Upper Midtown Anchorage

30 July 1985

David Lampen  
Clerk of the Appellate Courts  
303 K Street  
Anchorage, Alaska 99501

Re: Suiter v. Benson, MO&J #734 (Alaska, App. 1984)  
(Unpublished opinion)

Dear Mr. Lampen,

I would like to request that the above opinion be published. The portion at pages 3 and 4 stating that the trial court has no authority to restrict the prisoner's ability to receive credit for good time because the awarding of good time is automatic under AS 33.20.010 is of considerable importance statewide. This portion of the opinion appears to be a decision on an issue of first impression in this state as no previous opinion is cited and my brief research through the Michie statutes annotation reveals none.

HB 104, revising the good time statutes, has passed the state House and now reposes in the state Senate.

I am presently considering whether to amend HB 104 to include a provision allowing trial courts the discretion to reduce or eliminate a prisoner's eligibility for good time. It will thus be important to the legislature to have a published opinion on the issue definitively setting forth that under present law the trial courts possess no such authority.

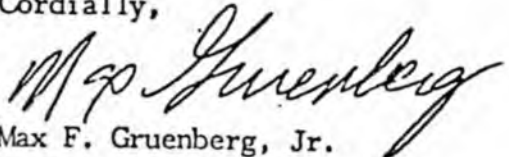
I would be most grateful if you would transmit this communication to the judges of the Court of Appeals as an official request to publish the opinion.

If you have any additional questions or if you or the judges have any comments on this or any other aspect of HB 104, please let me know.

For the record, this law office, through my partner, Joan Clover, represented appellee Cynthia Benson in the underlying divorce. As far as I know, we had no involvement in the appeal, however. I have not spoken with my partner directly on this as she is presently out of the state. I came across the opinion when reviewing this Benson's file on an unrelated matter

and this letter was written strictly from my point of view as a legislator, not in any matter as Ms. Benson s counsel. It is not intended to be utilized in any matter in the underlying litigation between the parties nor is my request intended to have any effect on the actual case of Suiter v. Benson.

Cordially,

  
Max F. Gruenberg, Jr.

cc: The Honorable Mike M. Miller, Chairman  
House Judiciary Committee

The Honorable Victor Carlson  
Superior Court Justice

Mary Ann Foley  
Carla Huntington

\* \* \* \* \*  
\* DELIVER TO: [unclear] \*  
\* \* \* \* \*  
\* ORIGINAL \*  
\* SENT: 08/04/84 TIME: 12:22 \*  
\* FROM: BARBARA JRRELL \*  
\* SUBJECT: YOU \*  
\* PRINT DATE: 08/04/84 TIME: 12:23 \*  
\* \* \* \* \*

6

TO: SENATE JUDICIARY COMMITTEE  
SENS. RODEY, KELLY, FATKS, HALFORD, ZIEGLER

FROM: LORRYNE TOLMAN, 2940 O'HALLY ROAD, ANCHORAGE, AK  
99516, 344-1674

SUBJECT: HR 104, COMPUTING "GOOD TIME" FOR PRISONERS

PLEASE PASS THIS BILL AND MAKE IT RETROACTIVE TO 1980. PLEASE  
PASS.

# Alaska State Legislature

CO-CHAIRMAN  
FINANCE COMMITTEE

907-465-3740

JAN FAIKS  
POUCH V  
CAPITOL BUILDING  
JUNEAU, ALASKA 99811

## Senate

March 6, 1986

Commissioner Roger Endell  
Department of Corrections  
Pouch Y  
Juneau, Alaska 99811

Dear Commissioner Endell:

Thank you so much for the letter clarifying your statements as reported in the March 2nd news article. My apologies to both you and Attorney General Brown for my reaction at the Senate Judiciary meeting.

After further reflection and based on our years of working together, I should have realized your quote did not sound right and I regret I didn't take the time to clarify it with you prior to the Judiciary Committee meeting. As a result, I am especially pleased you took the time to set the record straight.

I really do appreciate the tough job you have dealing with the not very popular, but extremely critical, issue of meeting the state's correctional needs. I do, however, look forward to our working together to cooperatively address your department's needs.

Sincerely,



Jan Faiks  
Senator

JF:cf

cc: Attorney General Brown  
Senate Finance Members  
Senate Judiciary Members

OUT OF SESSION

1024 WEST SIXTH AVENUE, SUITE 302 ANCHORAGE, ALASKA 99501 907-274-6611

FEBRUARY 25, 1986

The Honorable Pat Rodey  
Chairman  
Senate Judiciary Committee  
POUCH V  
JUNEAU, ALASKA 99811

Box 600  
EADIP WJRL

SUBJECT: H.B. 104

Senator Rodey:

The Concerned Inmates of The Department of Corrections implore you and your committee to consider the problems which are developing in the Alaska penal system. Because of over crowding, Governor Sheffield has again used his emergency power to commute the sentences of fifty-seven inmates to bring the prison population back within the court ordered ceiling. But no sooner after he had taken this action was the emergency count-down begun again. This is a real problem that must be addressed by the Legislature.

H.B. 104, with a retroactive date of 1980, was introduced to help ease the over crowding which we are now facing. The House addressed this matter by passing H.B. 104 and it is now up to the Senate to complete this legislation. Commissioner Endell, in his statement to the Finance committee last week, made it clear that the Legislature must either appropriate over \$140 million dollars to construct the necessary facilities to accommodate the increasing inmate population or else they must enact legislation to correct it. With the dramatic decline in the State's oil revenues due to the continued fall of world oil prices, which this week dipped below \$14 a barrel, it is becoming obvious that the Senate must act on this and other reform measures. The red flag Commissioner Endell has waved is real!

We, the inmates, are dependent upon the Legislature to correct this problem and offer our complete assistance in the passage of this bill.

Sincerely,

GREG HEAD

The Concerned Inmates of the Department of Corrections  
(Greg Head Spokesman)

cc: Senate Judiciary Members; Commissioner Roger Endell

GAH

JANUARY 06, 1986

The Honorable Pat Rodey  
Chairman  
Senate Judiciary Committee  
POUCH V  
JUNEAU, ALASKA 99811

SUBJECT: H.B. 104

Dear Senator Rodey:

We, the Concerned Inmates of the Department of Corrections, add our support to the passage of H.B. 104 which is currently in your committee awaiting action. Due to the rising number of inmates presently incarcerated there is a need to legislate relief for this over crowding before it becomes critical. The Commissioner of Corrections, Roger Endell, in the administration's attempt to address this problem has waved the "red flag" by stating that there needs to be an adjustment to statutory good time, and has continued to support H.B. 104 as it was originally written and passed by the House. (See enclosure)

We are not advocating a soft policy on crime, as those in opposition to this bill have suggested. But we do feel that an inmate who abides by the correctional rules and policies should be rewarded for his meritorious conduct.

We also urge you and your committee to retain this bill in its retroactive form in the accruing of all statutory good time, back to 1980 when the good time law was changed. This would put all inmates on a more equal basis and would simplify the confusing and difficult process of calculating good time.

As Roger Endell stated, "This bill has come a long way". We, a long with our families and friends, "would sincerely appreciate your affirmative assistance in working toward the passage of this bill this session".

Sincerely,

The Concerned Inmates of the Department of Corrections

enclosures

cc: Senate Judiciary Members; Commissioner Roger Endell

GAH

- 1) Ming Head
- 2) Paul Fink
- 3) Ewan Sabon
- 4) John Sabon
- 5) Dennis Murphy
- 6) William T. Jackson
- 7) Arnold Gene Eps
- 8) Dennis A. Shamayri
- 9) Waldo E. Cook
- 10) Russell D. Cook
- 11) Larry Hedrick
- 12) Jimmy A. Kinsman
- 13) David E. Jacobs
- 14) William Ortega
- 15) Paul Katongun
- 16) James Merritt
- 17) Eric O. Enclewski
- 18) Howard Gabriel
- 19) Francis Douglas
- 20) Vernon Childers
- 21) Kurt C. Corda

- 22) David Fletcher
- 23) Frank B. Stokes
- 24) Charlie Wingfield
- 25) Greg W. Blake Jr.
- 26) Charlie Comstock
- 27) Calvin Scola
- 28) John B. Cramer
- 29) Gregory J. Zeller
- 30) Father Ed Hall
- 31) Paul
- 32) Joe Kauer
- 33) J. Chuck Shewey
- 34) Norbert K. Marshall
- 35) Diane Butz
- 36) James Rector
- 37) Patricia D. Drenth
- 38) Charles H. Stokes
- 39) Kalvin Boyd
- 40) Manuel Kuyal
- 41) Michael R. Dodge
- 42) Tony L. Ford