

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

4619 HHS SB 315 - SB 339

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315

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

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May, 1988

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

Mary Van Nimwegen

H HESS

4-7-88

8:30 a.m.

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/24/88

FURTHER REFERRALS: Judiciary

DATE: April 7, 1988

The Health, Education and Social Services Committee has considered SB 315

"An Act relating to third party reimbursement for advanced nurse practitioner services."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTED: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

Walter Kopson
W. Ellis
Clyde Stanley
Bill Hanks
Dave
W. H. Murphy

Walter F. Kopson
 Co-Chairman's signature
W. Ellis

Alaska State Legislature



SENATOR
ARLISS STURGULEWSKI

Chairman, Senate Community and Regional Affairs Committee
Vice-Chairman, Senate Judiciary Committee
Member, Senate Resources Committee

2937 SHELDON JACKSON STREET
ANCHORAGE, ALASKA 99508

While in Juneau
P. O. BOX V
JUNEAU, ALASKA 99811
(907) 465-3818

Senate

M E M O R A N D U M

01 March 1988

TO: Representative Niilo Koponen
Co-Chairman, House HESS Committee

FROM: Senator Arliss Sturgulewski

RE: Senate Bill 315 *aw*

As you know, Senate Bill 315 has been referred to your committee as its first committee of referral in the House. I would greatly appreciate your scheduling this bill for a hearing as soon as is practicable.

In 1982 the nurse practice act was substantially revised. That revision took regulation of the practice of nursing away from the state medical board and put it under a separate board of nursing. Two years later, in 1984, the regulation requiring a collaborative relationship between a nurse and a physician was repealed. That meant that nurses could practice (according to their certifications) independently of physicians.

The changes made in the 1982 revision of the nurse practice act and allowing nurses to practice independently reflect changes in health care policy occurring nationwide and in Alaska. Nurses are now considered professionals in their own right and are moving into more advanced types of health care. There is a feeling that by allowing nurses to practice independently the cost of health care can be kept down and that it is more efficient to refer up from nurses than down from doctors.

This legislation adds advanced nurse practitioners to the list of health care providers in AS 29.36.090 (d) which are to be paid directly by third party payers (insurance companies) for services provided within the scope of the providers' occupational license.

I am enclosing charts showing the types and practice settings of Alaskan nurse practitioners, a position statement by the organization of Alaskan Nurse Practitioners, and a statement from the American Academy of Nurse Practitioners summarizing findings of studies of nurse practitioners performances. In addition, I am attaching copies of the statutes and regulations pertaining to the practice of nursing.

Senate Bill 315 was heard before the Senate HESS Committee on 25 January 1988 and before the Senate Labor & Commerce Committee on 03 February 1988. There was testimony in support of this legislation at both hearings; the Department of Commerce and Economic Development and the Department of Health and Social Services have both testified and written position papers in support of this legislation and both departments have submitted zero fiscal notes.

Representatives of the nurses' organization have testified for this bill. The lobbyist for the doctors and the lobbyist for Blue Cross have indicated their respective clients have no objection to Senate Bill 315.

If there are any questions, please contact me or Melissa Fouse of my staff at 465-3818.

Table 1

Type of Nurse Practitioner Licensed and Residing in Alaska,
July, 1987*

Type of Practitioner	Number
Family Nurse Practitioner (includes 3 with other NP designations)	48
Certified Nurse Midwife (includes 7 with other NP designations)	25
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Pediatric Nurse Practitioner	13
Adult Nurse Practitioner	9
Neonatal Nurse Practitioner	5
School Nurse Practitioner	5
Geriatric Nurse Practitioner	1
Psychiatric Nurse Practitioner	1
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*Each NP was given a single designation, although some were certified in several areas. If an NP was a CNM, this was considered her primary designation. If an FNP was also an ANP, the practitioner was included in the FNP group (since the FNP designation covers a broader age-range in clients).

Table 2

Practice Settings of Alaskan Nurse Practitioners

Type of Setting	Number
Currently unemployed	2
Retired	1
Independent Practice (whole or part-time)	11
Clinic Setting	
Private Sector (MD on site)	31
Governmental or Native Corporation funded (MD may or may not be on site)	40
Hospital Setting	18
Faculty/Primary Teaching	9
School Nursing	6
Public Health Nursing	3
Corrections	2
Health Care Administration/Consulting	4
Infectious Disease Control Programs	2
	129

Table 3

Highest Nursing Degree of Licensed Nurse Practitioners, 1987

Type of Degree	Number
Diploma or Associate Degree	43
Bachelor's	38
Master's	48

AMERICAN ACADEMY OF NURSE PRACTITIONERS
179 PRINCETON BLVD. LOWELL, MA 01851 617 937-7343

Summarizing the findings of the numerous studies of nurse practitioner's performance in a variety of settings, the Congressional Budget Office concluded: Nurse practitioners have performed as well as physicians with respect to patient outcomes, proper diagnosis, management of specified medical conditions, and frequency of patient satisfaction.¹

Studies have shown that nurse practitioners rate high in consumer satisfaction.²

In a program initiated by the Pittsburgh Veterans Administration, before hiring a Pulmonary Clinical Nurse Specialist, they had 150 patients at home on oxygen. After evaluation by the Clinical Nurse Specialist, 50% of those patients were able to come off the oxygen. Of the remaining 50%, more up-to-date equipment was issued allowing better patient mobility and breathing.³

Review of studies comparing nurse practitioners and physicians led the Congressional Office of Technology Assessment to conclude: "NPs appear to have better communication, counseling, and interviewing skills than physicians have."⁴

The OTA study also states: "Malpractice insurance premiums and the incidence of malpractice claims indicate that patients are satisfied with NP care. Although insurance premiums for nurse practitioners are increasing, successful malpractice suits against them remain extremely rare."⁵

In a review of 26 studies comparing nurse practitioner performance to that of physicians, Prescott and Driscoll reported that nurse practitioners received higher scores than physicians on several variables. These included such areas as amount/depth of discussion regarding child health care, preventative health, & wellness; amount of advice, therapeutic listening, and support offered to patients; completeness of history and followup on history findings; completeness of physical examination and interviewing skills; and patient knowledge about the management plan given to them by the provider.⁶

In a review of 15 studies, Record concluded that between 75% and 80% of adult primary care services and up to 90% of pediatric primary care services could be performed by nurse practitioners.⁷

Productivity studies show that if a nurse practitioner is utilized efficiently, s/he could increase the productivity of a solo practice physician by approximately 70%.⁸

A review of several studies shows that the quality of care provided by NPs is as high as the care rendered by physicians for that range of skills which the NPs are trained to use. The quality of care comparison was measured by diagnosis, treatment, and patient outcomes.⁹

Robyn and Hadley report, ". . . it appears that patients respond favorably to the quality of treatment itself, as well as the tendency of nurse practitioners . . . to spend more time with them, to create a more relaxed atmosphere in which they (the patient) feel more comfortable asking questions which they might regard as too trivial for a physician."¹⁰

The Burlington Randomized Trial Study found that nurse practitioners made appropriate referrals when medical intervention was necessary.¹¹

Estimates of increases in the productivity of physician practices that include nurse practitioners range from 20 to 90 percent. The greatest increase in productivity results when the nurse practitioner has primary responsibilities for a subset of patients and refers complicated cases "up" to the physician rather than having the physician delegate routine problems "down" to the nurse practitioner.¹²

In the Burlington Randomized Trial Study, it was found that nurse practitioners were able to provide primary care services as safely and effectively as physicians.¹³

In a federal physician extender reimbursement experiment, it was found that physician/nurse practitioner teams provided a higher quality of care than physicians alone.¹⁴

References

- ¹ Congressional Budget Office, US Congress. **Physician Extenders: Their Current and Future Role in Medical Care Delivery.** Washington, D.C.: US Government Printing Office, April 1979.
- ² Kulal, Stephanie, Clever, Linda. "Acceptance of the Nurse Practitioner" **AM.J.Nursing** 1974 March pp 251-256.
- ³ Openbrier, Diana. **Cost Effectiveness and Quality Report with the use of a Pulmonary Clinical Nurse Practitioner in The Pittsburgh Veterans Administration.** Accepted for publication in the *Clinical Nurse Specialist* magazine. 1985.
- ⁴ Office of Technology Assessment, US Congress. **Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: A Policy Analysis.** Washington, D.C.: US Government Printing Office, December 1986, pp. 19.
- ⁵ Ibid. pp 20.
- ⁶ Prescott, P.A. and Driscoll, L. "Evaluating Nurse Practitioner Performance". **Nurse Practitioner** 1980, Vol. 5, PP. 28-32.
- ⁷ Record, J. C. (ed.) **Provided Requirements, Cost Savings and The New Health Practitioner in Primary Care: National Estimate for 1990 Contract 231-77-0077.** Washington, D.C.: DEHEW, 1979
- ⁸ Robyn, Dorothy; Hadley, Jack. "National Health Insurance and the New Health Occupations: Nurse Practitioners and Physicians Assistants" **Journal of Health Politics, Policy and Law** Vol. 5, No. 3, Fall 1980. pp 451.
- ⁹ Ibid. pp 459.
- ¹⁰ Ibid. pp 450.
- ¹¹ Sackett, D.L. et al. "The Burlington Randomized Trial of the Nurse Practitioners: Health Outcomes of Patients. **Annals of Internal Medicine.** 80:137, 1974.
- ¹² Smith, K.R., **Health Practitioners: Efficient Utilization and Cost of Health Care.**
- ¹³ Spitzer, W. O. et al "The Burlington Randomized Trial of the Nurse Practitioner" **N.ENG.J.MED.** 290:251-256, Jan. 31, 1975
- ¹⁴ System Sciences, Inc. **Nurse Practitioners and the Physicians Assistant Training and Deployment Study: Final Report Contract: No. HRA 230-75-0198.** Bethesda, MD: System Sciences, Inc., September, 1975.

NURSE PRACTITIONERS

PROVIDERS OF QUALITY PRIMARY HEALTH CARE

DOCUMENTATION ON QUALITY OF SERVICE

POSITION STATEMENT ON
THIRD PARTY REIMBURSEMENT FOR NURSE PRACTITIONERS
Prepared by P.E.E.R., the Organization
of Alaskan Nurse Practitioners
August, 1987

P.E.E.R.'s Position

P.E.E.R. strongly supports the policy of issuing direct third party payment as reimbursement for professional services rendered by all licensed Nurse Practitioners (NPs) in Alaska. The services offered by NPs are legally recognized by the State of Alaska in specific Nurse Practice Acts, and are equivalent, and in some cases, more holistic in approach, than services provided by physicians in primary care. Reimbursement for NP services would benefit the public by:

1. enabling NPs to establish independent practices and clinics by providing a mechanism to finance their businesses. Currently, most NPs are employed by physicians or other entities, in part because they CANNOT receive direct third party payment.
2. offering more freedom of choice to the public in their selection of competent health care providers.
3. potential reduction in health care costs through competition for provision of services.
4. potential expansion of health care services of NPs in the private sector in under-served areas.

The Significant Contribution of Nurse Practitioners in Alaska

Licensed NPs in Alaska are in sufficient numbers to deserve recognition as an important group of health care providers: as of July, 1987, 129 NPs were licensed and claimed residence in the state. Another 40 NPs are estimated to work in federal governmental agencies (such as Elmendorf Hospital or the Indian Health Service); they are not required to apply for state licences in order to practice. This section describes only the licensed NPs.

Family nurse practitioners outnumber the other eight types of nurse practitioners in Alaska (Table 1). Nurse practitioners impact health care services in Alaska in a variety of work settings (Table 2). Only eleven are in independent practice; of those, six practice in rural settings. Independent practice became an option in December, 1984, with the passing of the new regulations that included placement of NPs under the sole jurisdiction of the Alaska Board of Nursing. Five of the independent practitioners are nurse midwives, who may collect fees from third party payers as stipulated in Alaska Statutes, Sec. 47.07.030--others may not, or do so with difficulty.

The majority of Alaskan NPs hold a Bachelor's or Master's

degree in nursing (36) in addition to their specialized nurse practitioner training, and certification through national certifying bodies (Table 3). In contrast to R.N. degree status for entry into NP training programs in the 1960s, the current national trend is for that training to take place in conjunction with Master's degree preparation, illustrated by the Family Nurse Practitioner program at the University of Alaska's College of Nursing and Health Sciences.

No studies have been conducted in Alaska to assess the quality of care provided by nurse practitioners, nor how their care might differ from that of a physician. Numerous studies in the lower 48, however, have shown that . . . "within their areas of competence, nurse practitioners provide care whose quality is equivalent to that of care provided by physicians", and that patients are generally satisfied with their care (US Congress, Office of Technology Assessment, 1986, pages 5-6). The American Academy of Nurse Practitioners provides a summary of the recent studies documenting the quality of services provided by NPs (addendum 1; also cites the OTA study mentioned above).

Alaskan NPs have demonstrated their willingness to work in under-served rural areas in Alaska: 51 of the currently employed 125 state-licensed NPs work in settings other than in Anchorage, Fairbanks, or Juneau. Their jobs entail multiple responsibilities and require high levels of expertise (see addendum 2 for an example of the rural practice of one NP).

The National Trends

Congress continues to consider a variety of proposals to mandate third party reimbursement for NPs. So far, federally mandated payments are limited to a few State Medicaid programs, Champus, and some programs in the Federal Employees Health Benefit Program (refer to Appendix B, US Congress, Office of Technology Assessment, 1986). At least 13 states currently permit direct payment for NP services, including Washington and Oregon, states also supporting the independent practice of NPs.

Conclusion and Our Recommendations

We contend that without direct reimbursement to NPs in the State of Alaska, the practice settings of NPs are limited, which in turn, effectively limits competition among providers, patient choices of providers, and ultimately, adversely impacts upon health care costs. We therefore recommend that:

1. third party insurers voluntarily offer to provide direct reimbursement for NP services, and/or that
2. the state legislature amend the statutes to mandate such reimbursement to all licensed NPs, not just to nurse midwives as is now the case.

Thanks is extended to Gail McGuill, Executive Director, Alaska Board of Nursing, for her assistance in obtaining the NP data.

Position Paper

SB 315

For an Act entitled: "An Act relating to third party reimbursement for advanced nurse practitioner services."

This Act amends Section 1. AS 21.36.090(d) to include the advanced nurse practitioner as a provider eligible for third-party reimbursement for services provided within the scope of the occupational license.

Background

The professional nurse practitioner provides direct patient care to individuals, families, and other groups in a variety of public health settings. In some cases, the nurse practitioner engages in independent decision making about the needs of clients and collaborates with other health professionals such as the physician, psychologist, social worker, and nutritionist in making decisions about other health needs. The nurse practitioner working in an expanded role practices in primary, acute, and chronic health care settings. As a member of the health care team, the nurse practitioner plans and institutes health care programs.

In the past two decades, the number of nurse practitioners and their responsibilities for providing care to patients have increased. Today approximately 15,400 nurse practitioners are practicing in the United States; 170 are certified to practice in Alaska. The use of nurse practitioners affects the quality of care, access to care, productivity of providers, and the costs of care.

The weight of evidence indicates that within their areas of competencies, nurse practitioners provide care comparable in quality to that provided by physicians. This determination is made by examining patient satisfaction with care provided by nurse practitioners and assessing physicians' acceptance of such care.

In addition to improving access to care in underserved populations and areas, nurse practitioners provide care in certain institutional settings, such as jails, and to specific populations, such the elderly and poor women and their infants. Nurse practitioners also affect access (as well as quality) by providing person-oriented services, such as communicating thoroughly with patients, counseling, promoting self-help, and attending to patients' emotional needs. Nurse practitioners reduce financial barriers to access by providing care at relatively low cost. Productivity studies indicate that nurse practitioners working under physicians' supervision can increase the total practice output by some 20-50 percent.

Although the evidence indicates that nurse practitioners have made positive contributions to the delivery of health care, these practitioners have not been used to their fullest potential. Major obstacles to the greater employment and appropriate use of nurse practitioners have been that

POSITION PAPER/Department of Health & Social Services

most third-party payers do not cover many services that are typically and characteristically provided by physicians. In these instances, payments are often indirect (i.e., to the employing physician or institution rather than direct to the nurse practitioner).

Impact of Bill

Third-party payment to nurse practitioners for providing services typically and characteristically performed by physicians will dramatically increase the nurse practitioner's ability to establish fee-for-service practices as autonomous providers independent from physicians. Advanced nurse practitioners could provide the full range of services for which they are trained and licensed. Passage of this bill would encourage the employment of advanced nurse practitioners within community mental health centers, particularly in areas of the state in which recruitment of other mental health professionals has been difficult.

The effects of third-party reimbursement of nurse practitioners and paying directly for their services would undoubtedly be influenced by the markets for their services. For example, some third-party payers are paying prospectively for hospital in-patient services (e.g., Medicare is paying on the basis of diagnosis related groups), and capitation is a growing mode of payment. These changes, along with the fact that an increasing proportion of the population is age 65 or older and thus in need of a significant amount of health care services, have major implications for the employment of nurse practitioners and health care costs.

Position

The Department of Health and Social Services supports this bill. Third-party reimbursement for services of advanced nurse practitioners could benefit the health status of certain segments of the population currently not receiving adequate care.

Recommended by: Elizabeth Ward
Elizabeth Ward, Director
Division of Public Health

Date: January 22, 1988

Approved by: Myra M. Munson
Myra M. Munson, Commissioner
Department of Health and
Social Services

Date: Jan 22, 1988

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to third party reimbursement...
Sponsor: Strugulewski
Requestor: _____

Agency Affected: Health & Social Services
BRU: State Health Services
Components: Nursing

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

The enactment of SB 315 would have no direct fiscal impact on the Department of Health and Social Services.

Prepared by: Elizabeth Ward, Director Phone: 465-3090
Division: Public Health Date: 1-13-88

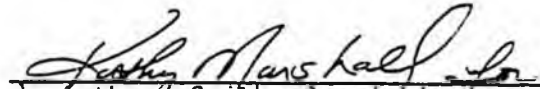
Approved by Commissioner: Kam Purdue Date: 1/22/88
Agency: Department of Health & Social Services

Distribution (by preparer):

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

SB 315: "An Act relating to third party reimbursement for advanced nurse practitioner services."

The Administration supports this bill. This bill is aimed at allowing advanced nurse practitioners the ability to bill and receive third party reimbursement for their services. This generally means a disability insurer or a hospital/medical service corporation. The aim is accomplished with a simple modification of AS 21.36.090(d). It is appropriate for a medical practitioner to have access to reimbursement by an insurance company if the coverage provided by the insurer can be performed within the scope of that practitioner's occupational license.



J. Anthony Smith, Commissioner
Department of Commerce & Economic
Development

Date: 1/25/88



John L. Georgey, Director of Insurance

Date: 1/25/88

FISCAL NOTE

REQUEST:

Revision Date: 01/11/88 Agency Affected: Commerce & Econ. Dev.
 Title: Third party reimbursement for BRU: Insurance
advanced nurse practitioners services
 Sponsor: Sturqulewski Components: Public Protection
 Requester: _____

EXPENDITURES / REVENUES : (Thousands of Dollars)

OPERATING	FY 88	FY 99	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE	0.0	0.0	0.0	0.0	0.0	0.0
---------	-----	-----	-----	-----	-----	-----

FUNDING: (Thousands of dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: John L. George, Director Phone: 465-2515
 Division: Division of Insurance Date: January 25, 1988

Approved by Commissioner: J. Anthony Smith Date: January 25, 1988
 Agency: Department of Commerce and Economic Development

Distribution (by preparer):

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



**Alaska
Nurses
Association**

237 East Third Avenue
Anchorage, Alaska 99501
(907) 274-0827

... a constituent of American Nurses' Association

April 6, 1988

Dear Legislators:

The Alaska Nurses Association supports passage of Senate Bill 315 "An Act Relating to Third Party Reimbursement for Advanced Nurse Practitioner Services". Reimbursement for advanced nurse practitioner (ANP) services would benefit the public in the following ways:

- 1) Health care costs will be reduced through competition for provision of services. Lack of competition exists today in the health care marketplace and this lack is an anomaly in an otherwise competitive economy. Cost-containment will result from lower rates charged by ANPs and from reduction in hospitalizations and medical care attributable to ANP foci on self-care, health promotion and disease prevention.
- 2) Increased accessibility and availability of health care by consumers in under-served areas, especially in rural Alaska. ANPs will be able to establish independent nursing practices and community nursing centers throughout Alaska to render much-needed, affordable health care.

(OVER)

POSITION STATEMENT ON
THIRD PARTY REIMBURSEMENT FOR NURSE PRACTITIONERS
Prepared by P.E.E.R., the Organization
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August, 1987

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2. offering more freedom of choice to the public in their selection of competent health care providers.
3. potential reduction in health care costs through competition for provision of services.
4. potential expansion of health care services of NPs in the private sector in under-served areas.

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Licensed NPs in Alaska are in sufficient numbers to deserve recognition as an important group of health care providers: as of July, 1987, 129 NPs were licensed and claimed residence in the state. Another 40 NPs are estimated to work in federal governmental agencies (such as Elmendorf Hospital or the Indian Health Service); they are not required to apply for state licences in order to practice. This section describes only the licensed NPs.

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ADDENDUM 1

AMERICAN ACADEMY OF NURSE PRACTITIONERS

179 PRINCETON BLVD. LOWELL, MA 01851 617 937-7343

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ADDENDUM 2

Description of Clinical Practice
submitted by N.S. as part of her application for NP status, 1984.
(with permission granted by the nurse practitioner)

I work in the Galena Health Center which is located 270 miles northwest of Fairbanks. This is an isolated Primary Care Facility staffed by two "midlevel" practitioners, a Public Health Nurse, a community health practitioner, a dentist, a psychologist, a health administrator and supportive personnel. I also travel to the villages of Kaltag, Koyukuk, Nulato, Huslia, Hughes, and Ruby in the function of coordinator-instructor for the community health practitioners. Primary health care is also given in conjunction with the CHP's. Off site services also include home visits, response to emergencies; and occasional educational activities.

The practice would be considered family-oriented including primary health care for all ages. Well care, monitoring of chronic health problems and initial assessment and treatment of acute problems is included. Pediatric, OB-GYN, geriatric, and the ambulatory or emergent adult population is seen. Ancillary activities for immediate diagnostic purposes include x-rays and minor labor procedures, and ekg's.

CORRECTION

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



Alaska Nurses Association

237 East Third Avenue
Anchorage, Alaska 99501
(907) 274-0827

... a constituent of American Nurses' Association

April 6, 1988

Dear Legislators:

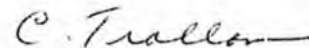
The Alaska Nurses Association supports passage of Senate Bill 315 "An Act Relating to Third Party Reimbursement for Advanced Nurse Practitioner Services". Reimbursement for advanced nurse practitioner (ANP) services would benefit the public in the following ways:

- 1) Health care costs will be reduced through competition for provision of services. Lack of competition exists today in the health care marketplace and this lack is an anomaly in an otherwise competitive economy. Cost-containment will result from lower rates charged by ANPs and from reduction in hospitalizations and medical care attributable to ANP foci on self-care, health promotion and disease prevention.
- 2) Increased accessibility and availability of health care by consumers in under-served areas, especially in rural Alaska. ANPs will be able to establish independent nursing practices and community nursing centers throughout Alaska to render much-needed, affordable health care.

(OVER)

As the largest nursing organization in Alaska, the Alaska Nurses Association wholeheartedly urges support of Senate Bill 315. Our objectives are your objectives: healthier Alaskans and cost-containment. Passage of this legislation will accomplish our goals.

Sincerely,

A handwritten signature in cursive script, appearing to read "C. Trollan".

Constance Trollan, MAT, ANP, RNC
President

POSITION STATEMENT ON
THIRD PARTY REIMBURSEMENT FOR NURSE PRACTITIONERS
Prepared by P.E.E.R., the Organization
of Alaskan Nurse Practitioners
August, 1987

P.E.E.R.'s Position

P.E.E.R. strongly supports the policy of issuing direct third party payment as reimbursement for professional services rendered by all licensed Nurse Practitioners (NPs) in Alaska. The services offered by NPs are legally recognized by the State of Alaska in specific Nurse Practice Acts, and are equivalent, and in some cases, more holistic in approach, than services provided by physicians in primary care. Reimbursement for NP services would benefit the public by:

1. enabling NPs to establish independent practices and clinics by providing a mechanism to finance their businesses. Currently, most NPs are employed by physicians or other entities, in part because they CANNOT receive direct third party payment.
2. offering more freedom of choice to the public in their selection of competent health care providers.
3. potential reduction in health care costs through competition for provision of services.
4. potential expansion of health care services of NPs in the private sector in under-served areas.

The Significant Contribution of Nurse Practitioners in Alaska

Licensed NPs in Alaska are in sufficient numbers to deserve recognition as an important group of health care providers: as of July, 1987, 129 NPs were licensed and claimed residence in the state. Another 40 NPs are estimated to work in federal governmental agencies (such as Elmendorf Hospital or the Indian Health Service); they are not required to apply for state licences in order to practice. This section describes only the licensed NPs.

Family nurse practitioners outnumber the other eight types of nurse practitioners in Alaska (Table 1). Nurse practitioners impact health care services in Alaska in a variety of work settings (Table 2). Only eleven are in independent practice; of those, six practice in rural settings. Independent practice became an option in December, 1984, with the passing of the new regulations that included placement of NPs under the sole jurisdiction of the Alaska Board of Nursing. Five of the independent practitioners are nurse midwives, who may collect fees from third party payers as stipulated in Alaska Statutes, Sec. 47.07.030--others may not, or do so with difficulty.

The majority of Alaskan NPs hold a Bachelor's or Master's

degree in nursing (86) in addition to their specialized nurse practitioner training, and certification through national certifying bodies (Table 3). In contrast to R.N. degree status for entry into NP training programs in the 1960s, the current national trend is for that training to take place in conjunction with Master's degree preparation, illustrated by the Family Nurse Practitioner program at the University of Alaska's College of Nursing and Health Sciences.

No studies have been conducted in Alaska to assess the quality of care provided by nurse practitioners, nor how their care might differ from that of a physician. Numerous studies in the lower 48, however, have shown that . . . "within their areas of competence, nurse practitioners provide care whose quality is equivalent to that of care provided by physicians", and that patients are generally satisfied with their care (US Congress, Office of Technology Assessment, 1986, pages 5-6). The American Academy of Nurse Practitioners provides a summary of the recent studies documenting the quality of services provided by NPs (addendum 1; also cites the OTA study mentioned above).

Alaskan NPs have demonstrated their willingness to work in under-served rural areas in Alaska: 51 of the currently employed 126 state-licensed NPs work in settings other than in Anchorage, Fairbanks, or Juneau. Their jobs entail multiple responsibilities and require high levels of expertise (see addendum 2 for an example of a rural practice).

The National Trends

Congress continues to consider a variety of proposals to mandate third party reimbursement for NPs. So far, federally mandated payments are limited to a few State Medicaid programs, Champus, and some programs in the Federal Employees Health Benefit Program (refer to Appendix B, US Congress, Office of Technology Assessment, 1986). At least 13 states currently permit direct payment for NP services, including Oregon, a state that also supports the independent practice of NPs.

Conclusion and Our Recommendations

We contend that without direct reimbursement to NPs in the State of Alaska, the practice settings of NPs are limited, which in turn, effectively limits competition among providers, patient choices of providers, and ultimately, adversely impacts upon health care costs. We therefore recommend that:

1. third party insurers voluntarily offer to provide direct reimbursement for NP services, and/or that
2. the state legislature amend the statutes to mandate such reimbursement to all licensed NPs, not just to nurse midwives as is now the case.

Thanks is extended to Gail McGuill, Executive Director, Alaska Board of Nursing, for her assistance in obtaining the NP data.

Table 1

Type of Nurse Practitioner Licensed and Residing in Alaska,
July, 1987*

Type of Practitioner	Number
Family Nurse Practitioner (includes 3 with other NP designations)	48
Certified Nurse Midwife (includes 7 with other NP designations)	25
Women's Health Care Practitioner (includes 3 with other NP designations)	22
Pediatric Nurse Practitioner	13
Adult Nurse Practitioner	9
Neonatal Nurse Practitioner	5
School Nurse Practitioner	5
Geriatric Nurse Practitioner	1
Psychiatric Nurse Practitioner	1
	129

*Each NP was given a single designation, although some were certified in several areas. If an NP was a CNM, this was considered her primary designation. If an FNP was also an ANP, the practitioner was included in the FNP group (since the FNP designation covers a broader age-range in clients).

Table 2

Practice Settings of Alaskan Nurse Practitioners

Type of Setting	Number
Currently unemployed	2
Retired	1
Independent Practice (whole or partial)	11
Clinic Setting	
Private Sector (MD on site)	31
Governmental or Native Corporation funded (MD may or may not be on site)	40
Hospital Setting	18
Faculty/Primary Teaching	9
School Nursing	6
Public Health Nursing	3
Corrections	2
Health Care Administration/Consulting	4
Infectious Disease Control Programs	2
	129

Table 3

Highest Nursing Degree of Licensed Nurse Practitioners, 1987

Type of Degree	Number
Diploma or Associate Degree	43
Bachelor's	38
Master's	48

ADDENDUM 1

AMERICAN ACADEMY OF NURSE PRACTITIONERS

179 PRINCETON BLVD. LOWELL, MA 01851 617 937-7343

Summarizing the findings of the numerous studies of nurse practitioner's performance in a variety of settings, the Congressional Budget Office concluded: Nurse practitioners have performed as well as physicians with respect to patient outcomes, proper diagnosis, management of specified medical conditions, and frequency of patient satisfaction.¹

Studies have shown that nurse practitioners rate high in consumer satisfaction.²

In a program initiated by the Pittsburgh Veterans Administration, before hiring a Pulmonary Clinical Nurse Specialist, they had 150 patients at home on oxygen. After evaluation by the Clinical Nurse Specialist, 50% of those patients were able to come off the oxygen. Of the remaining 50%, more up-to-date equipment was issued allowing better patient mobility and breathing.³

Review of studies comparing nurse practitioners and physicians led the Congressional Office of Technology Assessment to conclude: "NPs appear to have better communication, counseling, and interviewing skills than physicians have."⁴

The OTA study also states: "Malpractice insurance premiums and the incidence of malpractice claims indicate that patients are satisfied with NP care. Although insurance premiums for nurse practitioners are increasing, successful malpractice suits against them remain extremely rare."⁵

In a review of 26 studies comparing nurse practitioner performance to that of physicians, Prescott and Driscoll reported that nurse practitioners received higher scores than physicians on several variables. These included such areas as amount/depth of discussion regarding child health care, preventative health, & wellness; amount of advice, therapeutic listening, and support offered to patients; completeness of history and followup on history findings; completeness of physical examination and interviewing skills, and patient knowledge about the management plan given to them by the provider.⁶

In a review of 17 studies, Record concluded that between 75% and 80% of adult primary care services and up to 90% of pediatric primary care services could be performed by nurse practitioners.⁷

Productivity studies show that if a nurse practitioner is utilized efficiently, s/he could increase the productivity of a solo practice physician by approximately 70%.⁸

A review of several studies shows that the quality of care provided by NPs is as high as the care rendered by physicians for that range of skills which the NPs are trained to use. The quality of care comparison was measured by diagnosis, treatment, and patient outcomes.⁹

Robyn and Hadley report, ". . . it appears that patients respond favorably to the quality of treatment itself, as well as the tendency of nurse practitioners . . . to spend more time with them, to create a more relaxed atmosphere in which they (the patient) feel more comfortable asking questions which they might regard as too trivial for a physician."¹⁰

The Burlington Randomized Trial Study found that nurse practitioners made appropriate referrals when medical intervention was necessary.¹¹

Estimates of increases in the productivity of physician practices that include nurse practitioners range from 20 to 90 percent. The greatest increase in productivity results when the nurse practitioner has primary responsibilities for a subset of patients and refers complicated cases "up" to the physician rather than having the physician delegate routine problems "down" to the nurse practitioner.¹²

In the Burlington Randomized Trial Study, it was found that nurse practitioners were able to provide primary care services as safely and effectively as physicians.¹³

In a federal physician extender reimbursement experiment, it was found that physician/nurse practitioner teams provided a higher quality of care than physicians alone.¹⁴

References

- ¹ Congressional Budget Office, US Congress. **Physician Extenders: Their Current and Future Role in Medical Care Delivery.** Washington, D.C.: US Government Printing Office, April 1979.
- ² Kulal, Stephanie, Clever, Linda, "Acceptance of the Nurse Practitioner" *AM.J.Nursing* 1974 March pp 251-256.
- ³ Openbrier, Diana. **Cost Effectiveness and Quality Report with the use of a Pulmonary Clinical Nurse Practitioner in The Pittsburgh Veterans Administration.** Accepted for publication in the *Clinical Nurse Specialist* magazine. 1985.
- ⁴ Office of Technology Assessment, US Congress. **Nurse Practitioners, Physician Assistants, and Certified Nurse Midwives: A Policy Analysis.** Washington, D.C.: US Government Printing Office, December 1986, pp. 19.
- ⁵ *Ibid.* pp 20.
- ⁶ Prescott, P.A. and Driscoll, L. "Evaluating Nurse Practitioner Performance". *Nurse Practitioner* 1980, Vol. 5, PP. 28-32.
- ⁷ Record, J. C. (ed.) **Provided Requirements, Cost Savings and The New Health Practitioner in Primary Care: National Estimate for 1990 Contract 231-77-0077.** Washington, D.C.: DEHEW, 1979
- ⁸ Robyn, Dorothy; Hadley, Jack, "National Health Insurance and the New Health Occupations: Nurse Practitioners and Physicians Assistants" *Journal of Health Politics, Policy and Law* Vol. 5, No. 3, Fall 1980. pp 451.
- ⁹ *Ibid.* pp 459.
- ¹⁰ *Ibid.* pp 450.
- ¹¹ Sackett, D.L. et al. "The Burlington Randomized Trial of the Nurse Practitioners: Health Outcomes of Patients. *Annals of Internal Medicine.* 80:137, 1974.
- ¹² Smith, K.R., **Health Practitioners: Efficient Utilization and Cost of Health Care.**
- ¹³ Spitzer, W. O. et al "The Burlington Randomized Trial of the Nurse Practitioner" *N.ENG.J.MED.* 290:251-256, Jan. 31, 1976.
- ¹⁴ System Sciences, Inc. **Nurse Practitioners and the Physicians Assistant Training and Deployment Study: Final Report Contract No. HRA 230-75-0198.** Bethesda, MD: System Sciences, Inc., September, 1975.

NURSE PRACTITIONERS

PROVIDERS OF QUALITY PRIMARY HEALTH CARE

DOCUMENTATION ON QUALITY OF SERVICE

ADDENDUM 2

Description of Clinical Practice
submitted by N.S. as part of her application for NP status, 1984.
(with permission granted by the nurse practitioner)

I work in the Galena Health Center which is located 270 miles northwest of Fairbanks. This is an isolated Primary Care Facility staffed by two "midlevel" practitioners, a Public Health Nurse, a community health practitioner, a dentist, a psychologist, a health administrator and supportive personnel. I also travel to the villages of Kaltag, Koyukuk, Nulato, Huslia, Hughes, and Ruby in the function of coordinator-instructor for the community health practitioners. Primary health care is also given in conjunction with the CHP's. Off site services also include home visits, response to emergencies; and occasional educational activities.

The practice would be considered family-oriented including primary health care for all ages. Well care, monitoring of chronic health problems and initial assessment and treatment of acute problems is included. Pediatric, OB-GYN, geriatric, and the ambulatory or emergent adult population is seen. Ancillary activities for immediate diagnostic purposes include x-rays and minor labor procedures, and ekg's.

S B

320

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/24/88

FURTHER REFERRALS:

Judiciary

4/26
○

DATE: 4-26-88

The Health, Education and Social Services Committee has considered CSSB 320(Jud)

"An Act relating to damages for death of a minor and the distribution of a minor's estate."

RECOMMENDS:

- replace with HCS CSSB 320 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

W. F. Kopona
Bill G. Hurd
W. H. Hunsberger
J. Ellis
Clayton H. Kelley
Ross E. Hagg

SIGNING OTHER RECOMMENDATIONS:

J. Ellis
 C. Chairman's signature
W. F. Kopona

STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE

rth 4 1988

REQUEST: _____

Bill Version:
Publish Date:

CSB320(JUDICIARY)

Revision Date:
Title: An act relating to damages for
death of a minor...

Agency Affected: SENATE (2/12/88)
BRU: Alaska Court System
Trial Courts

Sponsor: Duncan
Requestor: Senate Judiciary

Components:

EXPENDITURES/REVENUES:		(Thousands of Dollars)					
OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93	
Personal Services	
Travel	
Contractual	
Supplies	
Equipment	
Land & Structures	
Grants & Claims	
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	
<hr/>							
CAPITAL	
<hr/>							
REVENUE	

FUNDING:		(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0	
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0	

POSITIONS:							
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg*
Jan Strandberg, General Counsel
Division: Alaska Court System

Phone: 264-8228
Date: 2-1-88

Approved by: *Stephanie Cole, for*
Arthur H. Snowden, II, Administrative Director
Agency: Alaska Court System

Date: 2-1-88

- Distribution (by preparer):
- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management & Budget
- Impacted Agency(ies)
- Senate Secretary

4/21/88

SENATOR JIM DUNCAN

T E S T I M O N Y

CS SENATE BILL 320 (JUD)
DAMAGES FOR DEATH OF A MINOR AND DISTRIBUTION OF A
MINOR'S ESTATE

CS SENATE BILL 320 WILL PROHIBIT A PARENT OR OTHER HEIR OF A CHILD WHO CAUSED THEIR CHILD'S DEATH THROUGH A CRIMINAL ACT FROM RECOVERING DAMAGES FOR THAT DEATH THROUGH THE ESTATE OF THE CHILD. THE EXISTING LAWS OF INHERITANCE SOMETIMES PROVIDE A BIZARRE RESULT BECAUSE PARENTS ARE REWARDED FOR THEIR CRIMINAL ACTS WHICH RESULT IN THE DEATH OF THEIR CHILD.

AT PRESENT, EVEN IF A PARENT CAUSES THE DEATH OF THEIR CHILD THROUGH MANSLAUGHTER OR CRIMINAL NEGLIGENCE, THE LAWS OF INHERITANCE ALLOW THEM TO RECEIVE THE PROCEEDS OF THAT CHILD'S ESTATE. THIS RESULTS IN ESPECIALLY DISTRESSING OUTCOMES WHEN THIRD PARTY LAWSUITS, SUCH AS THOSE AGAINST THE STATE, ARE INVOLVED. THIS BILL WOULD REMOVE SUCH A PARENT OR PARENTS FROM THE LINE OF INHERITANCE AS IF THEY HAD PREDECEASED THE CHILD. THE PROCEEDS OF THE ESTATE WOULD THEN GO TO OTHER CHILDREN OR RELATIVES OF THE DECEASED. SECTION 2 MAKES THIS CHANGE TO THE CODE OF CIVIL PROCEDURES AND SECTION 3 CHANGES THE PORTION OF THE STATUTE DEALING WITH DECEDENT'S ESTATES.

THIS BILL DOES NOT ADDRESS AN IMAGINARY SITUATION, THERE
HAVE BEEN A NUMBER OF CASES IN ALASKA AND A RECENT CASE IN JUNEAU
WHICH WOULD BE AFFECTED BY THIS CHANGE TO THE STATUTES. THE BILL
IS SUPPORTED BY THE ATTORNEY GENERAL AND THE LOCAL DISTRICT
ATTORNEY.

I URGE YOU TO APPROVE THIS LEGISLATION AND CLOSE THIS
LOOPHOLE IN THE LAW.

*Rick Soborny, local DistAtt.
Bill Mellow, Asst. Att. Gen'l.*

Original sponsor: Duncan

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 320 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to damages for the death of a person
7 and the distribution of that person's estate."

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

9 * Section 1. AS 09.55.580(a) is amended to read:

10 (a) Except as provided under (f) of this section, when [WHEN]
11 the death of a person is caused by the wrongful act or omission of
12 another, the personal representatives of the former may maintain an
13 action therefor against the latter, if the former might have main-
14 tained an action, had the person lived, against the latter for an
15 injury done by the same act or omission. The action shall be com-
16 menced within two years after the death, and the damages therein shall
17 be the damages the court or jury may consider fair and just. The
18 amount recovered, if any, shall be exclusively for the benefit of the
19 decedent's spouse and children when the decedent is survived by a
20 spouse or children, or other dependents. When the decedent is surviv-
21 ed by no spouse or children or other dependents, the amount recovered
22 shall be administered as other personal property of the decedent but
23 shall be limited to pecuniary loss. When the plaintiff prevails, the
24 trial court shall determine the allowable costs and expenses of the
25 action and may, in its discretion, require notice and hearing thereon.
26 The amount recovered shall be distributed only after payment of all
27 costs and expenses of suit and debts and expenses of administration.

28 * Sec. 2. AS 09.55.580 is amended by adding a new subsection to read:

29 (f) A person whose act or omission constitutes the felonious

1 killing of another person may not recover damages for the death of
2 that person either directly or as a personal representative of that
3 person's estate. In this subsection, a "felonious killing" means a
4 crime defined by AS 11.41.100 - 11.41.140.

5 * Sec. 3. AS 13.11.305(a) is amended to read:

6 Sec. 13.11.305. EFFECT OF FELONIOUS KILLING [HOMICIDE] ON INTES-
7 TATE SUCCESSION, WILLS, JOINT ASSETS, LIFE INSURANCE, AND BENEFICIARY
8 DESIGNATIONS. (a) A surviving spouse, heir, or devisee who felon-
9 iously [AND INTENTIONALLY] kills the decedent is not entitled to any
10 benefits under the will or under this chapter, and the estate of the
11 decedent passes as if the killer had predeceased the decedent. Prop-
12 erty appointed by the will of the decedent to or for the benefit of
13 the killer passes as if the killer had predeceased the decedent.

14 * Sec. 4. AS 13.11.305(b) is amended to read:

15 (b) A joint tenant who feloniously [AND INTENTIONALLY] kills
16 another joint tenant thereby effects a severance of the interest of
17 the decedent so that the share of the decedent passes as the dece-
18 dent's property and the killer has no rights by survivorship. This
19 provision applies to joint tenancies and tenancies by the entirety in
20 real and personal property, joint and multiple-party accounts in
21 banks, savings and loan associations, credit unions and other insti-
22 tutions, and any other form of co-ownership with survivorship inci-
23 dents.

24 * Sec. 5. AS 13.11.305(c) is amended to read:

25 (c) A named beneficiary of a bond, life insurance policy, or
26 other contractual arrangement who feloniously [AND INTENTIONALLY]
27 kills the principal obligee or the person upon whose life the policy
28 is issued is not entitled to any benefit under the bond, policy, or
29 other contractual arrangement, and it becomes payable as though the

1 killer had predeceased the decedent.

2 * Sec. 6. AS 13.11.305(e) is amended to read:

3 (e) A final judgment of conviction of felonious [AND INTEN-
4 TIONAL] killing is conclusive for purposes of this section. In the
5 absence of a conviction of felonious [AND INTENTIONAL] killing the
6 court may determine by a preponderance of evidence whether the killing
7 was felonious [AND INTENTIONAL] for purposes of this section.

8 * Sec. 7. AS 13.11.305(f) is amended to read:

9 (f) This section does not affect the rights of a [ANY] person
10 who, before rights under this section have been adjudicated, purchases
11 from the killer for value and without notice property that [WHICH] the
12 killer would have acquired except for this section, but the killer is
13 liable for the amount of the proceeds or the value of the property.
14 An [ANY] insurance company, bank, or other obligor making payment
15 according to the terms of its policy or obligation is not liable by
16 reason of this section unless before payment it has received at its
17 home office or principal address written notice of a claim under this
18 section.

19 * Sec. 8. AS 13.11.305 is amended by adding a new subsection to read:

20 (g) In this section, a "felonious killing" means a crime defined
21 under AS 11.41.100 - 11.41.140.
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1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CONCURRENT RESOLUTION NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 Suspending Uniform Rules 41(b), 24(c),
6 and 35 of the Alaska State Legislature
7 concerning Senate Bill 320.

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

9 That under Rule 54 of the Uniform Rules of the Alaska State Legisla-
10 ture the provisions of Rule 41(b), rule 24(c), and Rule 35 of the Uniform
11 Rules, regarding changes to the title of a bill, are suspended in consid-
12 eration of Senate Bill 320, relating to damages for the death of a minor
13 and the distribution of a minor's estate.
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STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H HESS	4-21-88	8:30 a.m.
H HESS	4-26-88	8:30 a.m.

S B

324

HOUSE COMMITTEE REPORT

(7)

Date referred: 4/7/88

FURTHER REFERRALS: Judiciary

DATE: 4-27-88

The Health, Education and Social Services Committee has considered CSSB 324(Jud)

"An Act relating to eligibility to serve time in a correctional restitution center."

RECOMMENDS:

- replace with _____ the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published 3-25-88
- zero with analysis

SIGNING DO PASS:

[Signature]
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature] - No Rec

[Signature]
 Co Chairman's signature
[Signature]

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the eligibility of prisoners for placement in a correctional restitution center.

The bill makes a minor change in existing law which will expand the pool of prisoners who are eligible for placement in a correctional restitution center, thereby facilitating both the rehabilitation process and the repayment of restitution to victims of crimes.

Presently AS 33.30.161(b)(2) precludes placement of a prisoner in a correctional restitution center if the prisoner has ever been convicted of an offense involving violence or the use of force. This bill would amend that paragraph to allow placement in a restitution center of a prisoner who has a criminal history of misdemeanor violence, but not a prisoner who has ever been convicted of a felony offense involving violence. Of course, the Department of Corrections would still make a classification decision that the prisoner does not otherwise present a risk to the community before placement in a restitution center.

This bill is a responsible way to promote rehabilitation of low-risk prisoners, assist victims of crimes, and help address the problem of prison crowding.

Sincerely,

A handwritten signature in black ink, appearing to read "Steve Cowper".

Steve Cowper
Governor

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act relating to eligibility
to serve time in a correctional
Sponsor: RULES restitution center."
Requestor: GOVERNOR

Agency Affected: Department of Corrections
BRU: _____
Components: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
---------	-----	-----	-----	-----	-----	-----

REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Susan E. Knighton

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Administrative Services Date: 3-24-88
Approved by Commissioner: *Susan Humphrey-Barnett* Date: 3-24-88
Agency: Department of Corrections

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

S B

325

STATE OF ALASKA
THE LEGISLATURE

POUCHY - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

HHESS

4-28-88

8:30 a.m.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1988

The Honorable Jan Faiks
President of the Senate
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

Dear Senator Faiks:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill that would delete the statutory definition of "respite care" found in AS 47.10.-230(d). Currently, respite care, for which the state will pay, is defined in a very limiting manner. Respite care is defined as child care not to exceed 12 hours in any one 30-day period. It also means child care for a period not to exceed seven days in a year for the purpose of providing emergency protection for the child when the foster parent is away from the home because of an emergency and no other care is available for the child or when the foster parent is on vacation and the child, because of age or infirmity, cannot be placed in any other type of temporary care facility.

The very limited amount of respite care that can be paid for by the Department of Health and Social Services prevents the department from placing severely emotionally disturbed or physically disabled children in foster care settings. Often the foster parents will not be able to provide continuous care without some respite from their responsibilities. When treatment planning reasonably includes more than the statutorily limited amount of respite care the child may need to be placed in a residential care institution when it is in the best interest of the child to use foster parents rather than an institution for his or her care.

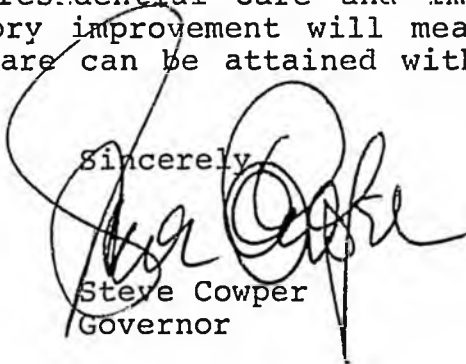
The deletion of the restriction on the amount of respite care will not present an increase in the amount of money needed for foster care and may result in a saving when residential care can be avoided. Respite care is a key component for specialized foster care and may be claimed under Title IV-E of the Social Security Act. Using specialized

The Honorable Jan Faiks

Page 2

foster care rather than residential care and implementing other policy and regulatory improvement will mean that an expanded use of respite care can be attained without additional cost.

Sincerely,



Steve Cowper
Governor

**STATE OF ALASKA 198 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST: _____

Bill Version : CSB 325 (Health)
Publish Date : 4/12/88 SENATE

Revision Date: _____
Title : An Act relating to
respite care in foster homes
Sponsor : Rules Committee
Requestor : Governor

Agency Affected : Division of Family & Youth Svcs
BRU : _____
Components : _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by : Yvonne M. Chase, ACSW, Director
Division : Division of Family and Youth Services
Approved by Commissioner : Myra M. Munson, Commissioner
Agency : Department of Health and Social Services

Phone : 465-3170
Date : 1/8/88
Date : 1/8/88

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

FISCAL NOTE ANALYSIS

An Act relating to respite care in foster homes.

At this time, the division cannot estimate a cost increase or a savings as a result of removing the respite restrictions in AS 47.10.230(d). As the amount of respite care increases, the cost of purchasing that care rises. However, the division believes that this increase will eventually be offset by containing the cost of institutional care.

Additionally, social services regulations will allow the department to claim, under Title IV-E of the Social Security Act, 50 percent of the specialized and respite cost from the federal government. The division estimates that 50 percent of the children receiving out-of-home care will be eligible for Title IV-E monies, partially offsetting any cost increases that may occur. Because of permanent fund monies and other resources, some children will exceed the federal resource limitation and hence be ineligible.

As the availability of respite care increases, more foster home care should be available, resulting in the placement of fewer children in more costly and restrictive settings. Many of the emotionally and physically handicapped children in state custody would need institutional placement if specialized foster care were not available. Increasing the amount of respite care will allow the division to keep more children in licensed specialized foster care homes.

As previously noted, the increased cost resulting from the demand for additional respite care may initially exceed savings from more expensive placements. The demand for respite care will, however, be monitored through a process of prior division approval and through division regulations pertaining to the purchase of foster care.

go0278sX

Utermohle

4/27/88

Original sponsor: Rules/Governor

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 325 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to respite care in foster homes."

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

8 * Section 1. AS 47.10.230(d) is amended to read:

9 (d) In addition to funds paid for the maintenance of foster
10 children under (b) of this section, the department

11 (1) shall pay the costs of caring for physically or mental-
12 ly handicapped foster children, including the additional costs of
13 medical care, habilitative and rehabilitative treatment, services and
14 equipment, special clothing, and the indirect costs of medical care,
15 including child care and [,] transportation expenses; [,] and

16 (2) may pay for respite care; in [. IN] this paragraph
17 [SUBSECTION] "respite care" means child care for the purpose of pro-
18 viding

19 (A) temporary relief from the stresses of caring for a
20 foster child who has a physical or mental disability or a physi-
21 cal or mental impairment; in this subparagraph

22 (i) "physical or mental disability" has the
23 meaning given in AS 18.80.300(12)(A), (B), and (D); and

24 (ii) "physical or mental impairment" has the
25 meaning given in AS 18.80.300; and

26 (B) [NOT TO EXCEED 12 HOURS IN ANY 30-DAY PERIOD; IT
27 ALSO MEANS CHILD CARE FOR A PERIOD NOT TO EXCEED SEVEN DAYS IN A
28 YEAR FOR THE PURPOSE OF PROVIDING EMERGENCY] protection for the
29 child when the foster parent is

1 (i) away from the home because of an emergency
2 and [NO] other care is not available for the child; or [WHEN
3 THE FOSTER PARENT IS]

4 (ii) on vacation and the child, because of age or
5 infirmity, cannot be placed in any other type of temporary
6 care facility.
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S B

330

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

May, 1988

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

Mary Van Nimwegen

H H E S S

2-9-88

8:30 a.m.



OFFICIAL BUSINESS

Alaska State Legislature
House of Representatives
COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

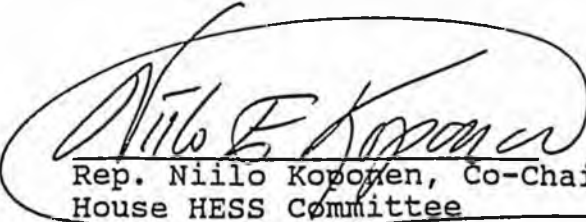
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JUNEAU, AK 99811
465-3759

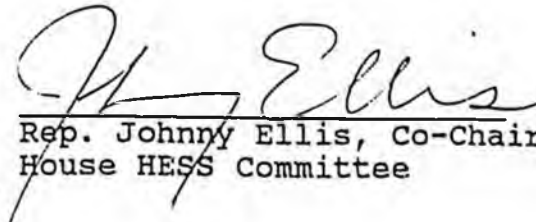
LETTER OF INTENT
TO
HOUSE CS FOR CSSB 330 (HESS)
BY THE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

It is the intent of the House Health, Education and Social Services Committee that this bill be enacted by March 1, 1988 to give the Department of Education and school districts adequate notice of their FY 89 funding levels prior to their April 1 budgeting deadlines.

It is also the intent of the House HESS Committee that the Foundation Program, school debt reimbursement and pupil transportation accounts remain fully funded and that the appropriation in House CS for CSSB 330 (HESS) be adjusted upward if additional testimony and research by subsequent committees demonstrates the need to do so in order to provide full funding for public education.

It is also the intent of the House HESS Committee that any funds distributed to mitigate against possible funding inequities to small single site school districts be distributed in a manner that does not violate the disparity test required for the receipt of Federal PL-874 funds.


Rep. Niilo Koponen, Co-Chair
House HESS Committee


Rep. Johnny Ellis, Co-Chair
House HESS Committee



Official Business

COMMITTEE:

HOUSE HESS

DATE: 2-9-88

SIGN-IN

Subject of meeting:

CSSB 330 - Approp: DOE for K-12
 HB 372 - Suspended Imposition of Sentence
 CSSB 67 - Health ins. for Mental Conditions

NAME	ADDRESS	PHONE	REPRESENTING	DO YOU WANT TO TESTIFY? if yes, which one?
Sharon Young	316 W 11 th St	6-1083	AASB	No
Guy Gills	"	"	"	"
BBS Manners	105 Municipal Way #302	586-3090	NEA	Yes 330
Joanne Clark	Div. of Mental Health + D.D.	465-3070	Div. of Mental Health + D.D.	yes
DAVE WILLIAMS	Div. of Budget & Finance	465-3015	PHS	no
Nina Keele Kinney	DEPT of Public Safety PO Box N, 99811	465-4356	Council on Domestic Violence + Sexual Assault	HB 372
Gordon Evans	318 4 th St.	586-3210	HIAA	CSSB 67 YES 1
Mike Miller				CSSB 67 YES 2
Clark Lawrence	328 Coleman St	586-5110	APIT	CSSB 67 YES 3
Karna Rehteld		3795	Leg Finance	NO

Stephanie Joanneles P.O. Box KC
 JUN 99811

5-3428

Dept of Law

only if these are first choice - HB37.

HOUSE COMMITTEE REPORT

(7)

Date referred: 2/3/88

FURTHER REFERRALS: Finance

DATE: 2-9-88

The Health, Education and Social Services Committee has considered CSSB 330 (Fin)

"An Act making appropriations to the Department of Education for K - 12 support; and providing for an effective date."

RECOMMENDS:

- replace with HCSCSSB 330 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: H-HESS letter of intent

ATTACHES NEW FISCAL NOTE(s):

- fiscal impact same as previous fiscal note published _____
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

SIGNING OTHER RECOMMENDATIONS:

ROD E. BECK

George Kinley

H. Ellis

Nicholas...

Bill...

Mr. J. Luntz... NO REC

David Donly NO REC

Nicholas...

CO-Chairman's signature

H. Ellis

LETTER OF INTENT

for

CS for SB 330 (Finance)

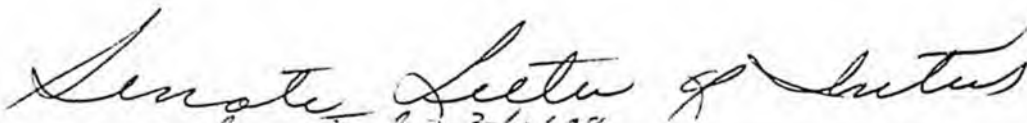
It is the intent of the Senate that this bill be enacted by March 1, 1988, to give the Department of Education and school districts adequate notice of their FY 89 funding levels prior to their April 1, 1988, budgeting deadlines.

It is also the intent of the Senate that the foundation program and the pupil transportation accounts be funded at 100 per cent entitlement and that the appropriation in CS 330 (Finance) be adjusted upward if additional testimony and research indicates the need to make this increase to provide full funding for public education.

It is also the intent of the Senate that \$3,500,000 in Foundation Support be used as an Interim Differential Equalization account to mitigate the adverse consequences for REAA's and small single site school districts which arose as a result of employing the McDowell personal-cost-of-living study of 1985 as a cost-of-education formula. Mitigation funds shall be used to correct inequities which can be traced to low differentials caused by local census district poverty and to equalize differentials between demographically similar adjacent districts.



Senator Richard I. Eliason,
Chairman, Rules Committee,
February 1, 1988



Senate Secretary



Alaska State Legislature

House of Representatives

COMMITTEE ON HEALTH, EDUCATION
AND SOCIAL SERVICES

OFFICIAL BUSINESS

POUCH V
JUNEAU, AK 99811
465-3759

DRAFT

DRAFT

DRAFT

LETTER OF INTENT
TO
HOUSE CS FOR CSSB 330 (HESS)
BY THE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

It is the intent of the House Health, Education and Social Services Committee that this bill be enacted by March 1, 1988 to give the Department of Education and school districts adequate notice of their FY 89 funding levels prior to their April 1 budgeting deadlines.

It is also the intent of the House HESS Committee that the Foundation Program, school debt reimbursement and pupil transportation accounts remain fully funded and that the appropriation in House CS for CSSB 330 (HESS) be adjusted upward if additional testimony and research by subsequent committees demonstrates the need to do so in order to provide full funding for public education.

It is also the intent of the House HESS Committee that any funds distributed to mitigate against possible funding inequities to small single site school districts be distributed in a manner that does not violate the disparity test required for the receipt of Federal PL-874 funds.

Rep. Niilo Koponen, Co-Chair
House HESS Committee

Rep. Johnny Ellis, Co-Chair
House HESS Committee

Alaska State Legislature



Session Address:
STATE CAPITOL BUILDING
BOX V
JUNEAU, ALASKA 99811
(907) 485-3727

Interim Address:
BOX 53
PALMER, ALASKA 99645
(907) 745-3828 - Palmer
(907) 378-8828 - Wasilla

Representative Ronald L. Larson
District 16B

To: Representative Niilo Koponen
Representative Johnny Ellis
Co-Chair House HESS

From: Representative Ron L. Larson, Chair
House Finance Subcommittee on Education

Re: Hearing on CSSB 330 (Fin)

Date: February 8, 1988

At the same time of your hearing on the above named bill, I will be holding an Education Budget Subcommittee meeting and unable to attend your hearing.

CSSB 330 addresses the issue of letting school districts know early what they may expect for operating funds in FY89. This concept I wholly support. The Senate bill does not include an appropriation for school debt retirement reimbursement; however, they have included an additional 1.5 million in the foundation funding appropriation to be used as an "interim differential equalization account". This brings to 3.5 million an account available to only small single site districts and REAAs, at the same time omitting funding of the school debt retirement reimbursement.

I believe the question of an additional 1.5 million for an interim differential equalization account and the school debt retirement reimbursement should be addressed either both separately or both together. We must address both the concerns of the small city school sites and the REAA districts at the same time as we address the debt retirement reimbursement. Although the debt retirement reimbursement is for capital expenditures as opposed to the operating expenditures, it does indeed affect the operating budget in districts where municipalities do not appropriate the maximum local contribution as they are impacted by a lesser reimbursement from the state for school construction. In other words the municipalities have only so much and if they use it to cover construction debt, they don't have it left for operating.

If I can be of assistance to you or your committee as you consider CSSB 330 (Fin), please let me know.

Original sponsors: Halford, Faiks,
Coghill, et al.

Funding Information

General Fund	\$579,394,876
Other Funds	47,177,500
	<u>\$626,572,376</u>

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

1 IN THE SENATE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 330 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act making appropriations to the Department of
7 Education for K - 12 support; and providing for an
8 effective date."

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

10 * Section 1. The sum of \$508,862,400 is appropriated from the general
11 fund and from other funds in the amount listed to the Department of Educa-
12 tion for the purposes expressed and allocated in the amounts listed for
13 operating expenditures for the fiscal year ending June 30, 1989:

14 FUND SOURCE	AMOUNT
15 General fund	\$461,684,900
16 Public school fund (AS 37.14.110)	8,830,900
17 School fund (AS 43.50.140)	3,500,000
18 Federal receipts	34,846,600
19 PURPOSE	ALLOCATION AMOUNT
20 Foundation program	\$447,500,900
21 Student lunch program	13,500,500
22 Cigarette tax distribution	3,500,000
23 Tuition students	14,609,000
24 Boarding home grants	450,000
25 Youth in detention	1,307,700
26 Schools for the handicapped	2,872,600
27 Pupil transportation	25,121,700

28 * Sec. 2. The sum of \$117,709,976 is appropriated from the general fund
29 to the Department of Education for the school construction account

1 (AS 14.11.100(c)) for the fiscal year ending June 30, 1989.

2 * Sec. 3. This Act takes effect July 1, 1988.
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Alaska State Legislature

SENATE

Office of the President

P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3755

MEMORANDUM

March 31, 1988

TO: Representative Niilo Koponen, Co-Chair
Representative Johnny Ellis, Co-Chair
House HESS Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: CSSB 339 (Jud) am "An Act relating to tobacco products."

Senate Bill 339 has been referred to the House HESS Committee for consideration. This bill proposes changes to the laws regulating the sale of tobacco products to minors.

Under current law, a person 19 years of age or older commits a violation if the person sells or gives cigars, cigarettes or tobacco to a person under 16 years of age.

There are several problems with current law. First, it only covers cigars, cigarettes and tobacco. It does not clearly prohibit adults from providing tobacco products such as snuff or certain other types of smokeless tobacco to underage individuals. As you know, these products are increasingly popular with our youth, and they pose clear health risks, such as cancer of the mouth, tongue and throat, as well as gum disease.

Second, while current law prohibits adults from providing tobacco to underage persons, it allows vending machines to dispense tobacco products. The predictable result of this is that most teenagers who smoke cigarettes obtain them from vending machines.

Third, current law allows the sale of tobacco to minors 16, 17 and 18 years of age. The problem with this is that fully 90% of all adults who smoke began smoking before the age of 19. If a person can make it to age 19 without acquiring the smoking habit, probably he or she never will.

Fourth, while current law prohibits adults from providing tobacco to underage persons, it does not prohibit minors from purchasing tobacco. Minors know that they can use vending machines and deceive store clerks about their age with impunity, since there is no penalty if they are

caught.

CSSB 339 (Jud) am proposes to correct this situation.

Section 1. Repeals AS 11.76.100, and reenacts it as follows:

AS 11.76.100(a)(1): A person commits the offense of selling tobacco to a minor if the person knowingly sells, exchanges or gives a cigarette, a cigar, tobacco or a product containing tobacco to a person under 19 years of age.

AS 11.76.100(a)(2): A person commits the offense of selling tobacco to a minor if the person maintains a vending machine that dispenses cigarettes, cigars, tobacco or tobacco products and that is accessible to persons under the age of 19.

AS 11.76.100(b)(1): A person who maintains a vending machine is not in violation of this statute if the machine is in a location that is generally supervised by a person who maintains the machine, during the hours the machine is accessible. As an example, a vending machine in the lobby of a hotel within sight of the desk clerk, or a vending machine in the entrance of a restaurant within sight of the cashier, would be lawful. However, a completely unsupervised machine, such as the one in the Capitol Building, would be prohibited.

AS 11.76.100(b)(2): A person who maintains a vending machine is not in violation of this statute if the machine is located in a bar.

AS 11.76.100(b)(3): A person who maintains a vending machine is not in violation of this statute if the machine is located in a place where a person under the age of 19 is not allowed entry by policy of the owner of the premises unless accompanied by a person 19 years of age or older. This will allow canneries and other businesses to place vending machines in smoking rooms which are off limits to underage employees.

AS 11.76.100(c): A person "maintains" a vending machine if the person owns the machine, or owns or controls the premises in which the machine is located.

AS 11.76.100(d): Selling or giving tobacco to a minor is a violation.

Section 2. Adds a new section to AS 11.76 as follows:

AS 11.76.105: A person under 19 years of age commits a violation if the person purchases cigarettes, cigars, tobacco or a product containing tobacco.

As with any drug, there are hard-core users and marginal users of tobacco. Easy access to tobacco increases use among young people, many of whom are marginal users. Any barriers we can erect to easy access will strip off a layer of these marginal users. By raising the age of persons to whom stores can sell tobacco, and by eliminating the completely unsupervised vending machine, this bill will make it more difficult for

minors to obtain tobacco, and will thus ensure that many marginal users will give up smoking, or will never start.

Please feel free to contact my office if you have any comments or questions.

Thank you.

Elementary Education

Lay Public Ignorant of Drug Prevention Success

by Mark S. Gold, M.D.

Everyone has an opinion about drug prevention. Some experts and journalists declare that prevention is impossible. Parents, acting on this theory, "look the other way" when their children "borrow" their liquor or return home smelling of alcohol or obviously having smoked marijuana.

Other parents, believing drug use to be inevitable and part of "normal" adolescence, try to procure the best, "clean" marijuana for their children, or they use drugs with their children. When drug use is considered by some experts to be normal, primary prevention becomes all the more difficult.

Primary prevention means prevention of drug use. To understand how primary prevention can work, we should study how it is already working. Lost in the shuffle of drug abuse statistics is the fact that 49 percent of United States high school seniors do not use, and have never used, marijuana. Eighty-three percent of high school seniors have never tried cocaine, even once, and 99 percent have never tried heroin!

Illicit drugs break down primary prevention efforts by pretending to be normative, but the use of them by the nation's young people is a real problem; it is neither normative nor normal.

A simple equation for conceptualization of prevention is: drug use/abuse/addiction = exposure X predisposition. Predisposition is the vulnerability to use and/or develop abnormal patterns of use when exposed to a particular drug. Predisposition is comprised of complex psychosocial and biological factors.

The vulnerability to develop alcoholism and abnormal use is inherited. The genetic predisposition is a biological (physical) vulnerability that is transmitted from parents to offspring. Evidence is growing

that the genetic predisposition for alcohol extends to other drugs such as cocaine and marijuana.

The majority of alcoholics under the age of 30 are addicted to at least one other drug, most often marijuana and followed by cocaine. Cigarettes also may be included in this vulnerability since nicotine is a drug and cigarettes are commonly used by alcohol/drug users. The biological vulnerability most likely resides in the brain, and drug

To prevent marijuana use we must prevent cigarette and alcohol use.

(and/or alcohol) addiction is in part a neurological disease.

To prevent marijuana use we must prevent cigarette and alcohol use. To prevent cocaine use we must prevent cigarette, alcohol, and marijuana use. With 91 percent of high school seniors having tried alcohol—85 percent using in the past year, 65 percent using in the past month, and 4.8 percent using every day—it is obvious where secondary prevention efforts should be focused.

Prevention efforts have been somewhat successful in reducing cigarette smoking among adults and new adolescent smokers. From a peak in 1976 of 76 percent of high school seniors having ever tried a cigarette in their lifetime, currently 68 percent have ever tried smoking. Daily cigarette smoking among high school seniors has dropped during this decade from 28.8 percent to 18.7 percent.

Secondary prevention requires early identification and interven-



tion. Early identification can be made by a pediatrician at an annual physical, or it can be made during a sports physical by the use of urinalysis.

Education with outpatient recovery programs can quickly help a drug-using adolescent and co-dependents when the diagnosis is made at an early phase of the illness.

Prevention programs in the schools should begin early in elementary schools with discussions of the body, the difference between medicine and drugs, and the proper way to fill, use, and discard prescription drugs. Shortly thereafter, the health effects of cigarette smoking and alcohol consumption should be stressed; this should include a discussion of the reasons why people start drinking or smoking. Children should be encouraged to help their parents stop smoking.

Educational prevention is the most effective when focusing elementary education first on cigarettes, then alcohol, then marijuana. Antidrug messages should be reinforced in biology and other subjects. The drug curricula should continue through senior high school, with an increase in experiential learning and exposure to real-life victims of addiction.

Children at risk (e.g. children with a family history of addiction, etc.) should be identified and receive additional individual and family prevention information. While drug prevention is not as precise a science as we would like, it is a lot more effective than professionals or the lay public recognize.

Mark S. Gold, M.D., is the author of the new "Facts About Drugs and Alcohol," Bantam Books, 1987.



SMOKING AND HEALTH

A NATIONAL STATUS REPORT

A Report to Congress

U.S. DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control

Center for Health Promotion and Education

Office on Smoking and Health

Rockville, Maryland 20857

HHS/PHS/CDC - 87-8396

the program. Connecticut law dictates that universities that train teachers must provide instruction on the effects of nicotine and tobacco use on health, character, citizenship, and personality development and the best methods for instructing students on these topics. Connecticut will not grant a certificate to teach or supervise in any public school to any person who has not passed an examination on the effects of nicotine and tobacco use.

California and Florida have no specific statutory provisions for mandatory instruction on the effects of tobacco use in elementary and secondary schools. Both states, however, require that upon adoption of instructional materials for use in the schools, school boards shall include only instructional materials that portray accurately the physical effects of tobacco use.

Florida's Cancer Control and Research Act provides that proven causes of cancer, including smoking, should be publicized and made the subject of educational programs for the prevention of cancer. These programs will be made available to all citizens of the state.

The Iowa and Louisiana legislatures have taken a hard line on the use of tobacco products by students in public schools. In Iowa, the school board may suspend or expel any student who violates the rule prohibiting the use of tobacco. In Louisiana, school principals are authorized to suspend any student who uses tobacco in school buildings, on school grounds, or in school buses.

Regulation of Sale to and Use of Tobacco Products by Minors

The sale or distribution of cigarettes or tobacco products to minors is regulated by 39 jurisdictions. Missouri and South Dakota impose no restrictions at the state level, but permit cities, towns, and municipalities to enact ordinances prohibiting the sale to or use of cigarettes by minors or both. The only states that do not regulate the sale or distribution of tobacco products to minors are Colorado, Georgia, Kentucky, Louisiana, Montana, New Hampshire, New Mexico, Virginia, Wisconsin, and Wyoming.

Indiana, Kansas, New York, and Oregon prohibit only the sale of cigarettes to minors. The other state statutes have much broader prohibitive language and randomly outlaw the sale or furnishing (or both) of cigars, cigarettes, snuff, chewing tobacco, smoking material, and tobacco in any form to minors. (See Table 5.)

Twenty-one states also prohibit the sale or furnishing of cigarette wrapping papers and other smoking paraphernalia to minors.

The majority of states prohibiting the sale of cigarettes or other tobacco products to minors define a minor as anyone under the age of 18 years. Ten jurisdictions define a minor as anyone under the age of 16 years, and four define a minor as 17 years of age or younger. At the two extremes are Hawaii, which prohibits the sale of tobacco products to anyone under the age of 15 years, and Alabama and Utah, which prohibit such sales to anyone under the age of 19 years. (See Table 6.)

Table 5. Restrictions on Sale or Distribution of Cigarettes or Other Tobacco Products to Minors

State	TYPES OF DISTRIBUTION				
	Sell	Give	Distribute/ Furnish	Deliver	Provide
Alabama	X	X			
Alaska	X	X			
Arizona	X	X	X		
Arkansas	X	X			
California	X	X	X		
Connecticut	X	X		X	
Delaware	X	X	X		X
District of Columbia	X	X	X		
Florida	X	X	X	X	
Hawaii	X		X		
Idaho	X	X	X		
Illinois	X	X	X	X	
Indiana	X				X
Iowa	X	X	X		
Kansas	X				
Maine	X	X	X		
Maryland	X	X			
Massachusetts	X	X			X
Michigan	X	X	X		
Minnesota	X		X		
Mississippi	X	X		X	
Nebraska	X	X	X		
Nevada	X	X			
New Jersey	X	X	X		
New York	X				
North Carolina	X	X	X		
North Dakota	X		X		
Ohio	X	X	X		X
Oklahoma	X	X	X		
Oregon	X				
Pennsylvania	X	X	X		
Rhode Island	X	X		X	
South Carolina	X	X	X		
Tennessee	X	X	X	X	X
Texas	X	X			
Utah	X	X	X		
Vermont	X	X			
Washington	X	X			
West Virginia	X	X	X		
TOTAL	39	32	23	6	5

(Continued)

Table 5. (Continued)
Restrictions on Sale or Distribution of Cigarettes or Other Tobacco Products to Minors

State	PRODUCTS AFFECTED						
	Cigarettes	Cigars	Smoking Tobacco	Chewing Tobacco	Any Tobacco	Snuff	Smoking Herbs
Alabama	X			X			
Alaska	X	X			X		
Arizona	X	X					
Arkansas			X	X	X		
California	X				X		
Connecticut					X		
Delaware					X		
District of Columbia	X	X			X		
Florida					X		
Hawaii					X		
Idaho	X	X			X		
Illinois	X	X			X		X
Indiana					X		
Iowa	X				X		
Kansas	X						
Maine	X				X		
Maryland	X		X	X			
Massachusetts	X			X	X	X	
Michigan	X	X	X	X	X		
Minnesota					X		
Mississippi	X	X	X			X	
Nebraska	X				X		
Nevada	X				X		
New Jersey	X				X		
New York	X	X		X	X	X	
North Carolina	X				X		
North Dakota	X	X			X		X
Ohio	X				X		
Oklahoma	X						
Oregon		X			X		
Pennsylvania	X					X	
Rhode Island	X						
South Carolina	X				X		
Tennessee	X	X					X
Texas	X				X		
Utah	X	X			X		
Vermont		X			X	X	
Washington	X	X			X		
West Virginia	X	X			X		
TOTAL	30	15	4	6	29	3	5

IV. REGULATION OF SALE/USE OF TOBACCO PRODUCTS BY MINORS

	Age of Minor/ Less than () yrs.	Restrictions on Use/Possession of Cigarettes by Minors	Restrictions on Use/Possession of any Tobacco Products by Minors	Restrictions on Furnishing Cigarettes to To Minors	Restrictions on Furnishing any Tobacco Products To Minors	Restrictions on Furnishing Smoking Paraphernalia	Distributors/ Vendors Must Post Notice	Fine (F)/ Jail (J)/ Both (B) for Violation	Other
AL	19			X	X	X		B	
AK	16			X	X			B	
AZ	18	X	X	X	X	X		F	
AR	18				X	X		B	
CA	18			X	X	X		B	
CO									
CT	16				X			F	
DE	17				X			B	
DC	16			X	X			B	
FL	18			X	X			B	X ¹
GA									
HI	15				X			F	
ID	18	X	X	X	X	X		B	X ²
IL	18	X	X	X	X	X		B	
IN	16				X		X	F	
IA	18			X	X			B	X ³
KS	18	X		X				B	
KY									
LA									
ME	18			X	X			F	
MD	16			X	X			B	
MA	16			X	X		X	F	
MI	17	X		X	X			B	X ⁴
MN	18	X	X	X	X	X	X	B	
MS	18			X	X			B	
MO	18								X ⁵

¹ In Florida, sheriffs, deputies, and police officers may summon any minor who may have or have had in his possession any cigarettes or cigarette materials and compel him to testify in court as to where and from whom he obtained such cigarettes or cigarette materials. Fla. Stat. Ann. Section 859.07 (West 1976).

² Idaho law provides that any person who maintains in his place of business a tobacco vending machine accessible to minors under 18 is guilty of a misdemeanor. Idaho Code Section 18-1503 (1977).

³ Iowa law provides that any minor under 18 who is in the possession of a cigarette or cigarette papers in a place other than his parents' home shall be required at the request of any peace officer, juvenile court officer, truant officer or teacher to give information as to where the articles were obtained. Failure to provide such information constitutes a misdemeanor. Iowa Code Ann. Sections 98.4, 98.5 (West 1984).

⁴ In Michigan, anyone who knowingly harbors a person under 18 or grants to him the privilege of gathering upon property held by him for the purpose of indulging in the use of cigarettes in any form is punishable by fine or imprisonment. This provision is not meant to interfere with the rights of parents or legal guardians in the rearing or management of their minor children within bounds of their own private premises. Mich. Comp. Laws Ann. Section 72.643 (Supp. 1984-1985).

⁵ Missouri law provides that any city, town or village may by ordinance or act prohibit the sale of cigarettes or cigarette wrappers to minors. Mo. Ann. Stat. Section 71.740 (Vernon 1952).

continued on next page

IV. REGULATION OF SALE/USE OF TOBACCO PRODUCTS BY MINORS *continued*

	Age of Minor/ Less than () yrs.	Restrictions on Use/Possession of Cigarettes by Minors	Restrictions on Use/Possession of any Tobacco Products by Minors	Restrictions on Furnishing Cigarettes to To Minors	Restrictions on Furnishing any Tobacco Products To Minors	Restrictions on Furnishing Smoking Paraphernalia	Distributors/ Vendors Must Post Notice	Fine (F)/ Jail (J)/ Both (B) for Violation	Other
MT									
NE	18	X	X	X	X	X		B	X ⁶
NV	18			X	X	X		F	
NH									
NJ	16			X	X	X		F	
NM									
NY	18			X	X		X	B	
NC	17			X	X			B	
ND	18	X	X	X	X	X		B	
OH	18			X	X		X	B	
OK	18			X	X	X		B	X ⁷
OR	18				X	X		B	
PA	16			X	X	X		B	
RI	16		X	X				F	
SC	18			X	X	X		B	
SD	18								X ⁸
TN	18	X	X	X	X	X	X	B	
TX	16			X	X			F	
UT	19	X	X	X	X	X	X	B	X ⁹
VT	17			X	X		X	F	
VA									
WA	18			X	X	X		B	
WV	18	X		X	X	X		F	X ¹⁰
WI									
WY									

⁶Nebraska law provides that any minor charged with violation of the law prohibiting smoking of cigarettes or cigars or use of tobacco in any form by minors may be free from prosecution when he furnishes evidence for the conviction of the person selling or giving him the cigarettes, cigars or tobacco. Neb. Rev. Stat. Section 28-1418 (1981).

⁷In Oklahoma, any minor who is in possession of cigarettes or cigarette papers and who refuses to divulge where and from whom such cigarettes or cigarette papers were obtained when asked by any police officer, constable, juvenile court officer, truant officer or teacher, is guilty of a misdemeanor. Okla. Stat. Ann. Title 21, Section 1242 (West 1983).

⁸South Dakota law provides that every municipality shall have the power to prohibit the sale or gift of cigarettes to and use thereof by minors. S.D. Codified Laws Ann. Section 9-29-8 (1981).

⁹In Utah, it is a misdemeanor for the proprietor of any place of business to knowingly permit persons under 19 to frequent such place of business while they are using tobacco. Utah Ann. Code Section 76-10-103 (1978). In addition, any person who maintains in his place of business a tobacco vending machine accessible to persons under 19 is guilty of a misdemeanor. Utah Code Ann. Section 59-18-18 (1974).

¹⁰West Virginia law provides that any minor under 18 who violates the law prohibiting smoking or possession of any cigarette or cigarette paper by minors shall be punishable by fine. However, if such person discloses the name or the person, firm or corporation from whom he obtained the cigarettes or cigarette papers, he shall be immune from further prosecution or punishment. W. Va. Code Section 16-9-5 (1985).

STATES ACCORDING TO AGE OF MINORS

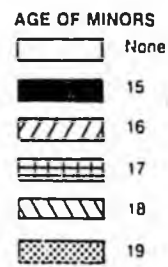
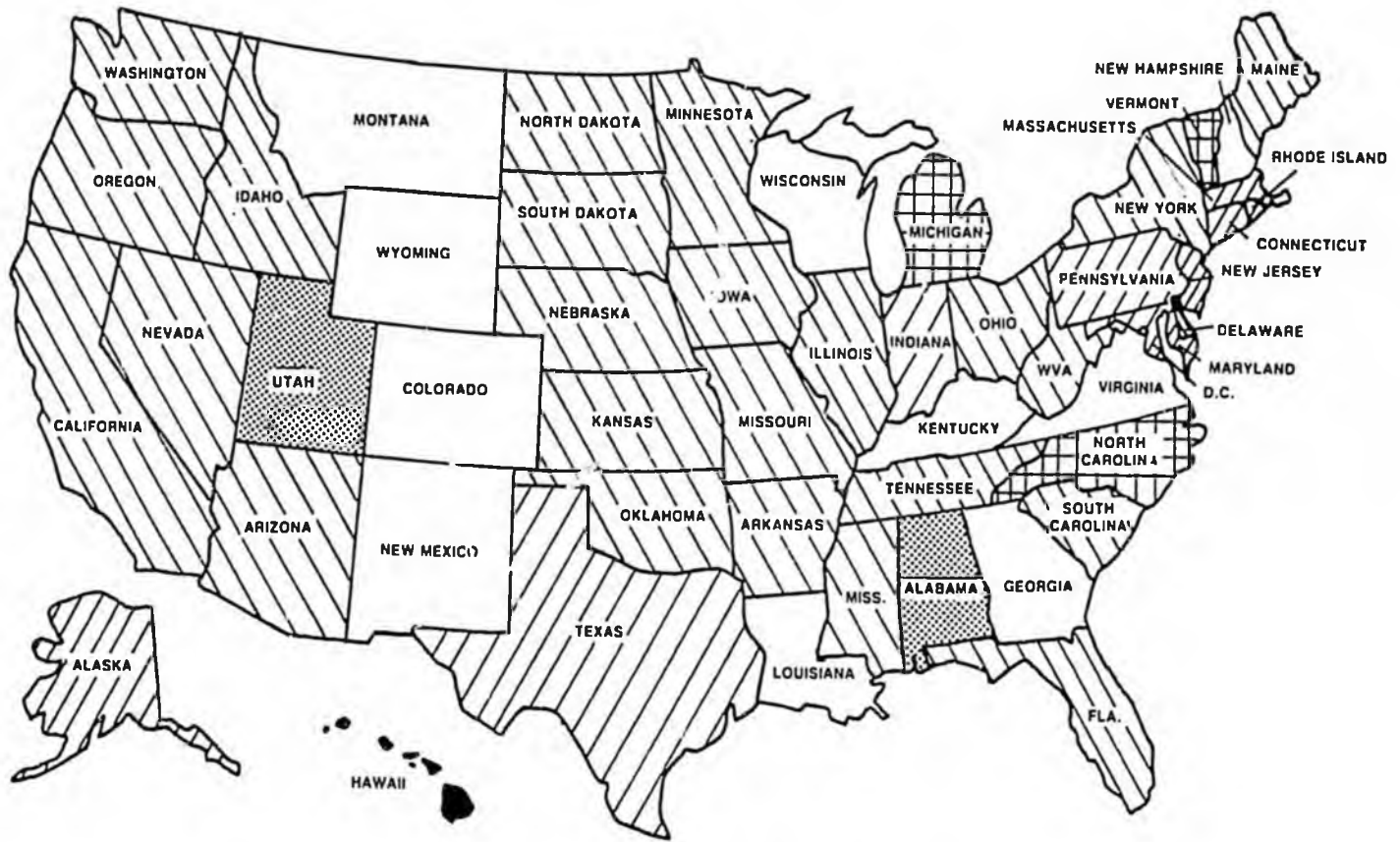


Table 6. Age of Minors

Alabama	19	Montana	*
Alaska	16	Nebraska	18
Arizona	18	Nevada	18
Arkansas	18	New Hampshire	*
California	18	New Jersey	16
Colorado	*	New Mexico	*
Connecticut	16	New York	18
Delaware	17	North Carolina	17
District of Columbia	16	North Dakota	18
Florida	18	Ohio	18
Georgia	*	Oklahoma	18
Hawaii	15	Oregon	18
Idaho	18	Pennsylvania	16
Illinois	18	Rhode Island	16
Indiana	16	South Carolina	18
Iowa	18	South Dakota	18
Kansas	18	Tennessee	18
Kentucky	*	Texas	16
Louisiana	*	Utah	19
Maine	18	Vermont	17
Maryland	16	Virginia	*
Massachusetts	16	Washington	18
Michigan	17	West Virginia	18
Minnesota	18	Wisconsin	*
Mississippi	18	Wyoming	*
Missouri	18		

*Age of minors is not specified for cigarette or tobacco use.

The penalties for violation of the laws relating to selling or furnishing tobacco products to minors vary from state to state. In 12 states, such offenses are punishable only by a fine. In the remaining jurisdictions, such offenses are punishable by fine, imprisonment or both. The heaviest penalties are imposed by Kansas: anyone convicted of the offense of selling cigarettes to a person under 18 years in Kansas is subject to a fine of not more than \$1000 or imprisonment for not more than one year (or both).

In addition to prohibiting the sale or furnishing of cigarettes or other tobacco products to minors, 12 states prohibit the use or possession (or both) of such products by minors. Minors found guilty of using or possessing tobacco are punishable by fine in Idaho, Illinois, Rhode Island, and West Virginia, and by fine or imprisonment (or both) in Kansas, Michigan, and Tennessee. Louisiana does not specifically prohibit the use of tobacco by minors, but does authorize public school principals to suspend any student who uses tobacco in school buildings, on school property, or in school buses. In the remaining five states, the offense is classified as either a misdemeanor or petty offense with no specific penalty described in the statute.

Neither Iowa nor Oklahoma make possession of cigarettes by a minor a punishable offense. However, any minor under 18 years who has cigarettes or cigarette papers in his possession and who refuses to give information at the request of any peace officer, juvenile court officer, truant officer, or teacher as to

where the articles were obtained is guilty of a misdemeanor. Florida does not make possession of cigarettes or cigarette materials by a minor a punishable offense. Nonetheless, minors who have or have had cigarettes in their possession may be summoned by sheriffs, deputies, and police officers and compelled to testify in court as to where and from whom they obtained such articles.

Minors charged with violation of the law prohibiting smoking or possession of cigarettes or other tobacco products in Nebraska and West Virginia may obtain immunity from prosecution or punishment upon disclosure of the identity of the person or firm from whom they obtained the cigarettes or tobacco products.

Nine states require dealers, distributors, or vendors of cigarettes or other tobacco products to post notice at the point of sale that the sale to or purchase of such products by minors is prohibited by law. Idaho and Utah go further by forbidding any person to maintain a tobacco vending machine accessible to minors. Violation of this restriction is a misdemeanor.

Utah and Michigan also make liable any persons who permit minors to smoke on their property. In Utah, it is a misdemeanor for the proprietor of any place of business to knowingly permit minors to use tobacco on his or her premises. In Michigan, anyone who knowingly harbors or grants a minor the privilege of gathering on his or her property for the purpose of indulging in the use of cigarettes is subject to punishment by fine or imprisonment.

Public Safety and Occupational Regulations

In an effort to protect the public from negligent activity that could result in fires, explosions, or the contamination of food, several states have enacted legislation relating to smoking and the discarding of smoking materials under potentially unsafe and unsanitary conditions. The most common legislation of this nature prohibits the discarding of cigarettes or other smoking materials in or near forest areas. Sixteen states outlaw such activity. New Jersey, Oregon, and Virginia have compensatory provisions that make any person who negligently causes a forest fire liable for the costs of confining, extinguishing, or suppressing the fire. A smaller number of jurisdictions also seek to control behavior that may cause a fire on public or private property by prohibiting persons from discarding lighted cigarettes, cigars, matches, or other materials from moving vehicles.

Seventeen states outlaw smoking in the vicinity of flammable materials such as fire works, explosives, and petroleum products. Restrictions on smoking in or near the surface structure of mines and upon taking smoking materials, such as matches, pipes, cigars or cigarettes, into underground mines are imposed by 14 states. Colorado, Illinois, Kentucky, and New Mexico permit the person in charge of an underground mine to search anyone entering the mine to prevent him or her from taking, carrying, or using any smoking materials therein.

Only nine states prohibit persons from indiscriminately disposing cigarettes or other smoking materials on public or private property. These laws are designed to control potential fire hazards and litter.



Alaska State Legislature

SENATE

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MEMORANDUM

March 31, 1988

TO: Representative Niilo Koponen, Co-Chair
Representative Johnny Ellis, Co-Chair
House HESS Committee

FROM: Senator Jan Faiks
President of the Senate

SUBJECT: CSSB 339 (Jud) am "An Act relating to tobacco products."

Senate Bill 339 has been referred to the House HESS Committee for consideration. This bill proposes changes to the laws regulating the sale of tobacco products to minors.

Under current law, a person 19 years of age or older commits a violation if the person sells or gives cigars, cigarettes or tobacco to a person under 16 years of age.

There are several problems with current law. First, it only covers cigars, cigarettes and tobacco. It does not clearly prohibit adults from providing tobacco products such as snuff or certain other types of smokeless tobacco to underage individuals. As you know, these products are increasingly popular with our youth, and they pose clear health risks, such as cancer of the mouth, tongue and throat, as well as gum disease.

Second, while current law prohibits adults from providing tobacco to underage persons, it allows vending machines to dispense tobacco products. The predictable result of this is that most teenagers who smoke cigarettes obtain them from vending machines.

Third, current law allows the sale of tobacco to minors 16, 17 and 18 years of age. The problem with this is that fully 90% of all adults who smoke began smoking before the age of 19. If a person can make it to age 19 without acquiring the smoking habit, probably he or she never will.

Fourth, while current law prohibits adults from providing tobacco to underage persons, it does not prohibit minors from purchasing tobacco. Minors know that they can use vending machines and deceive store clerks about their age with impunity, since there is no penalty if they are