

ALASKA LEGISLATURE COMMITTEE FILES 1987-1988 8672

5242 SHES SB 19 - SB 31

8/4

CHILDREN'S TRUST FUND LEGISLATION

Purpose: To create a special funding mechanism to provide child abuse prevention services through community-based agencies.

STATE	LEGISLATION/ EFFECTIVE DATE	MECHANISM	FUNDS GENERATED	ADMINISTRATION	ADVISORY COMMITTEE	PROCESS	CONTACT
Alabama	HB 56 & 57 1983	Voluntary income tax refund check-off (\$2); grants, gifts.	1984:\$134,000 expected 1985:\$400,000	Funding-Dept. of Revenue; Dept. of Pensions & Security Programs	14-member State Child Abuse & Neglect Prevention Board.	Support organizations to operate programs for direct service provisions.	Jane Nichols Legislative Fiscal Office 205/261-1067
Arizona	HB 2212 7/29/82	Voluntary income tax refund check-off (\$2); marriage license surcharge (\$2); divorce filing fee (\$10).	1982:\$100,000	Department of Economic Security	None.	Provide financial assistance to community treatment programs that offer direct services to abused children/parents.	Pat Chumbley Staff, House of Representatives 602/255-3250
California	AB 2994 1982	Fee for duplicate birth certificate (\$4); gifts, grants.	1984:\$400,000	Dept. of Social Services	County Board of Supervisors may designate a voluntary local commission.	Grants to private non-profit organizations providing direct services in prevention and intervention.	Chet Olson Assembly Select Committee on Child Abuse 916/445-7486
	AB 607 1983	Voluntary income tax refund check-off (\$3).	1984:\$430,000	Dept. of Social Services	Advisory Committee within DSS and select co-advisors.		
Connecticut	SB 2006 7/1/83	Grants/gifts	\$60,000 appropriated (\$50,000 spent; \$10,000 left in fund to accrue interest.	Dept. of Children & Youth Services	Commissioner of Dept. of Children & Youth Services can appoint advisory committee.	Commissioner adopts rules and regs. which may be approved by legislature.	Kathy Wright Leg. Commis- sioners 203/566-8410

National Conference of State Legislatures  
February 1985

*Cost 2*

Delaware	66 DE Laws 1985 C. 411, Sec 1	Voluntary income refund check-off (all or any amount); grants, gifts.	not available	Dept. of Children, Youth, and Families.	12-member Dela- ware Children's Trust Fund Board of Directors; 8 appointed by Governor; 1 shall be chair- person of Juve- nile Justice Advisory Group; 1 each appointed by Secretary of following de- partments; Chief Judge of Family Courts; Dept. of Services for Children, Youth and Families, Health & Social Services; Dept. of Public In- struction; & Family Courts.	Grants totaling no more than \$15,000 awarded to programs that provide preven- tion services and improve coordination among state agencies. (Organization agrees to match the grant, at least 25% 1st year and 50% during the second and subsequent years.)	Tom Shields Leg. Council 702/736-4114
Illinois	SIBB 537 1983	Voluntary state income tax re- fund check-off (up to \$10).	estimated 1984:\$100,000 actual 1984: \$500,000.	Dept. of Children & Family Services	Statewide citi- zen's committee on child abuse and neglect.	Grants for compre- hensive community-based services to reduce family dysfunction through child abuse and neglect.	Alex Reichl House Republican Staff 217/782-9603
Iowa *	HB 2393 1982	Marriage license surcharge (\$5)	1982:\$120,000 1983:\$116,000 1984:\$125,000	State Dept. of Social Services	5-member board attach- ed to Dept. of Social Services.	Dept. contracts with a community-based agency	Norm Ostbloom Executive Dir. Iowa Chapter Nat'l Cmte for Prevention of Child Abuse 515/281-6327

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Kansas **	SB 609 & SB 677	4/16/80	Marriage license surcharge (\$7) Fee on live birth registration (\$4) (General fund and then allocated to trust fund)	1984:\$142,000  1984:\$300,000	Div. of Services to Children & Youth	14-member Children and Youth Advisory Committee to: 1. Act as advocate for children in the Governor's office; 2. Advises Secretary & Director of Services to Children & Youth.	Grants limited to \$20,000 to community-based preventive or educational projects can be funded for 4 years; at: 100% 1st year, 80% 2nd year, 60% 3rd year, 40% 4th year,	January Scott Executive Dir. Kansas Center for Prevention of Child Abuse 913/354-7738
Kentucky	HB 486	1984	Voluntary income tax refund check off (\$2); grants, gifts.	Not available	Attorney General's office 5-exofficio to serve by virtue of office.	10 member public, 5-exofficio to serve by virtue of office. Child Sexual Abuse & Exploitation Board.	Provides financial assistance to organizations to further prevent & treat abuse.	Dianna McClure Leg. Research Commission 502/564-8100
Louisiana	Act 481	1983	Legislative Appropriation (\$45,000) income tax refund check-off (no specific amount); grants, gifts.	1984:\$45,000	Dept. of Health & Human Resources	7-member Children's Trust Fund Board; 2 from general public; 1 each from House and Senate; Secretary of Health & Human Resources; 1 each from Medical Society and Parents Anonymous.	Programs for preventing physical and sexual abuse and neglect of children.	Michael Mielke Dept. of Health & Human Resources 504/342-6784

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Michigan	HB 4664 1982	Voluntary income tax refund check-off (\$2); part of each year's receipts (1/2) go to fund programs, rest is invested & earnings are credited to trust fund; ceiling of \$20 million & programs are funded from earned interest; separate fund established in Dept. of Treasury, donations.	1983 & 1984 \$1.5 mil.	Michigan Child Abuse & Neglect Prevention Board: autonomous agency within Dept. of Management & Budget.	15-member Board; 5 appointed by major state dept. heads involved in abuse & neglect; Education, Mental Health, Police, Health & Social Services; 10 appointed by Governor with consent of Senate.	3 classes of grantees private & public organizations providing 50% match, local councils (also match).	David Mills Director Children's Trust Fund 517/373-4321
Missouri	HB 550 9/28/83	Voluntary state income tax refund check-off (\$2); grants, gifts.	1984:\$147,000	Office of Administration	15-member Children's Trust Fund, within, yet independent of Office of Admin. 11 public members appointed by Governor, 2 Senators appointed by President Pro Tem, 2 House members appointed by Speaker.	Contract with public or private agencies, schools to establish community-based educational & services prevention programs.	Kathy Ruckman House Research Staff 314/751-2979
New York	S 21047 1984	State appropriation, grants, gifts.	\$2 mil approp by Governor to Trust Fund.  \$250,000 appropriated for administrative expenses.	Commission of Social Services	17-member advisory Board.	Provide grants to public and not for profit agencies for establishing & extending programs to prevent violence or provide service to victims.	Ruth Sabo NY Assembly Staff 518/455-4371

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North Carolina	SB 921	1983	Marriage License fee (\$5); grants, gifts.	1984:\$257,000	State Board of Education	Inter-Agency Advisory Council for Community Schools.	Community-based programs.	Nan Miller Coordinator Child Abuse Prevention 919/733-4125
Ohio	HB 319	12/26/84	Birth certificate fee (\$2); divorce and dissolution decrees (\$10); death certificate (\$2); grants, gifts, federal funds.	Expected: \$2,490,000 (\$150,000 to be used for expenses.	Children's Trust Fund Board upon recommendation of Criminal Justice Services within the Dept. of Development.	Children's Trust Fund Board: 7 members appointed by Governor; Director of Health & Human Services also a member.	Provides grants to programs to prevent child abuse & neglect.	Anita Lunn Legislative Services Comm. 614/466-5939
Rhode Island	S 0577	7/1/83	Marriage license surcharge (\$2); grants, gifts, bequests.	1984:\$70,000	Dept. of Children & Their Families	State Advisory Council for Children and Their Families	Community-based programs for preventing problems of families & children; grants for education programs; evaluate projects & programs & disseminate information & techniques.	Joachim Weissfeld Attorney Member of Advisory Council 401/274-2300
South Carolina	A 3286	1984	State appropriation (\$20,000) one time start up; voluntary income tax refund, check-off (\$1+); gifts, grants.	Expected: \$150,000	Non-profit organization administered by 9-member Board of Trustees.	9-member Board of Trustees to be appointed by Governor.	Provide grants to private non-profit organizations to stimulate innovative prevention and treatment programs.	Harriet Thogersen Ex. Director Children's Trust Fund 803/256-7146
South Dakota	HB 1197	1984	Surcharge on birth certificates (\$2); gifts & grants & appropriation of \$40,000.	Expected: \$40,000	Department of Social Services	None	Grants to non-profit organizations to establish or continue community based education and prevention projects.	Mark Zickrick Leg. Research Council 605/773-3251

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State	Bill No.	Year	Voluntary private donation	Less than \$5,000	Dept. of Social Services	Div. of Family Services Board, policy making body appointed by Governor.	Not available	Bryant Howe Office of Legislative Research 801/533-5481
Virginia ***	S 279	4/9/82	Surcharge on marriage license (\$10)	\$400,000 annually	Dept. of Social Services	Established through implementation plan for Virginia Family Violence Prevention programs; has 9-11 members, advises Dept. of Welfare.	Solicits grant apps. from public & private non-profit organizations, divide evenly between child abuse & domestic violence programs.	Jane Horwood Cause Appropriation Staff 804/786-1837
Washington	HB 179	1982	Marriage license surcharge (\$5)	Estimated \$470,000/year.	Washington Council for the Prevention of Child Abuse & Neglect.	11-member Council on Child Abuse & Neglect; 5 appointed by Governor; 1 each appointed by Secretary of Dept. of Social Services, Speaker of the House, President of the Senate, Superintendent of Public Instruction.	Grants for community education or child abuse prevention--match 25%.	Jim Teverbaugh Washington Council for The Prevention of Child Abuse & Neglect 206/464-6151

Wisconsin	SB 83	7/1/83	Birth certificate fee (\$2); private contributions	\$290,000	Dept. of Health & Social Services	Child Abuse & Neglect Prevention Board; 14 members; 8 appoint at large by Governor; 1 Governor designee; 1 each from Dept. of Health & Social Services; Dept. of Public Instruction; House and Senate.	Grants limited to \$15,000 for community-based programs or crisis care, early identification of at-risk children on matching basis.	Elaine Olson Ex. Director Children's Trust Fund 608/266-6871
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\* In Iowa, funds go into general revenue and are passed through to this fund.

\*\* In Kansas, these funds may not be used for abortion and they are shared between programs for child abuse prevention and services for battered women.

\*\*\* In Virginia, money goes to general revenues and is passed on to programs. Must be passed again next session - don't actually have trust fund.

For more information, contact: Joan Smith,  
National Conference of State Legislatures  
1125 17th Street, Suite 1500  
Denver, Colorado 80202  
303/292-6600

February 1985.

MAR 9 1987

March 6, 1987

Senator Paul Fischer  
 Chairman, Health, Education &  
 Social Services Committee  
 P.O. Box V  
 Juneau, Alaska 99811

Honorable Senator Fischer:

Thank you for your thoughtful letter of February 25<sup>th</sup> about child abuse issues.

Much interest in SB 19 and HB 57 has been generated by Children's Week, March 2-6, in the House HESS Committee. Several House members have expressed interest in modifications of SB 19 and its consideration by your Committee.

Please give this Alaska Children's Trust Fund Corporation bill early scheduling and priority for its promotion of prevention of child abuse.

Sincerely,

George W. Brown

George W. Brown, MD, FAAP

cc: Senator Kerttula  
 Representative Goll  
 Representative Sund  
 Representatives Ellis & Koponen

P.O. BOX 2101

PALMER, ALASKA 99645

BILL NO: SSSB 19

DATE: April 7, 1987

TITLE: An Act relating to the Alaska Children's Trust Corporation; the Alaska children's trust fund; contributions to the trust fund from permanent fund dividends; and providing for an effective date

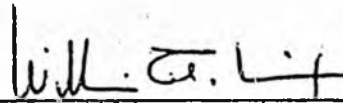
CONTACT: Barbara Miklos  
Executive Director  
Council on Domestic  
Violence and  
Sexual Assault

DEPARTMENT OF  
PUBLIC SAFETY

POSTMASTER / RETURN TO OFFICE

SSSB 19 establishes a children's trust fund which will provide a continuing source of revenue for grants to community-based programs for the prevention of child abuse and neglect. Prevention programs are crucial in protecting children and are often the first to receive budget cuts. This fund will provide a small but stable source of income that is greatly needed. Many states have established similar funds which guarantee that at least some prevention of child abuse and neglect programs will be funded even in times of economic hardship. The Council has discussed some questions and concerns about the legislation with the sponsor.

This legislation addresses an important need in Alaska; therefore, the Council on Domestic Violence and Sexual Assault supports SSSB 19.



William R. Nix  
Acting Commissioner

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SSSB 19  
Publish Date: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: An Act relating to the Alaska Children's Trust Corporation, etc.  
Sponsor: Sen. Kerttula, Josephson...  
Requestor: Senate HESS

Agency Affected: Public Safety  
BRU: Council on Domestic Violence & Sexual Assault  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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	0	0	0	0	0	0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Barbara Miklos, Executive Director  
Division: Council on Domestic Violence & Sexual Assault  
Approved by Commissioner: [Signature]  
Agency: Public Safety

Phone: 465-4356  
Date: 4-7-87  
Date: 5/8/87

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

JNR  
4/8/87

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y STATE CAPITOL  
JUNEAU, ALASKA 99811  
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

April 13, 1987

SUBJECT: Sectional analysis of Alaska Children's Trust  
Fund -- SSSB 19

TO: Senator Paul Fischer  
Chairman, Senate HESS Committee

FROM: Edward H. Hein *EHA*  
Legislative Counsel

Section 1 states that the purpose of the fund is to pay for prevention of child abuse and neglect.

Sec. 2 sets out the duties of the commissioner with respect to the fund. These are essentially the same as for the mental health fund and the public school fund (S 37.14). One difference is that both principal and income of the children's fund are to be invested, at least until there is \$500,000 in the fund. (See Sec. 9). The commissioner invests only principal of the other funds.

Sec. 3 takes out the provisions added by Sec. 2. Sec. 3 has a separate effective date; it takes effect when there is \$500,000 in the children's fund.

Sec. 4 specifies the types of investments that can be made with money in the children's fund. This section is repealed when there is \$500,000 in the fund.

Sec. 5 establishes the fund, provides for permanent fund dividend check-off contributions to the fund, requires that principal and income of the fund be retained in the fund for investment, except for reimbursement of the Department of Revenue for costs of establishing and managing the fund and changing the permanent fund dividend applications. Everything in this section is repealed when there is \$500,000 in the fund.

Sec. 6 establishes the Alaska Children's Trust Fund Corporation when there is \$500,000 in the fund. At that time the

Senator Fischer  
Page 2  
April 13, 1987

principal and income of the fund will be transferred from the Department of Revenue to the corporation. The corporation will be able to spend up to one-fourth of the unrestricted money in the fund each year to provide financial assistance to local community child abuse and neglect prevention projects. The permanent fund dividend check-off contribution program would continue under AS 47.12.170.

Sec. 7 provides that corporation employees are in the state's exempt service.

Sec. 8 provides for staggered terms for corporation board members.

Sec. 9 provides that when the principal and income in the children's fund reaches \$500,000 the commissioner of revenue is to inform the governor, lieutenant governor, the presiding officer of each house of the legislature, and the revisor of statutes; to prepare an accounting of the fund; and to transfer the principal and income to the fund as reestablished in the corporation.

Sec. 11 gives the fund in the Department of Revenue and the PFD check-off a July 1, 1987 effective date.

Secs. 10 and 12 provide for establishing the corporation, transferring the fund to it, and repealing the Department of Revenue provisions, when the fund reaches \$500,000.

EHH:mkr  
m11/012

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SS SB 19

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

REQUEST: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: Alaska Children's Trust  
Corporation  
Sponsor: Kerttula  
Requestor: Senate Finance

Agency Affected: Department of Revenue  
BRU: Treasury  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
PERSONAL SERVICES	-	-	-	-	-	-
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	-	-	-	-	-
SUPPLIES	-	-	-	-	-	-
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	-	-	-	-	-
<b>CAPITAL</b>	-	-	-	-	-	-
<b>REVENUE</b>	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: Attach a separate page for analysis.

Prepared By: Milt Barker MB

Division: Treasury

Phone: 465-2350

Date: April 2, 1987

Approved by Commissioner: H. Malone

Agency: Department of Revenue

Date: 4/2/87

Distribution (by preparer):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SSSB 19  
Publish Date: \_\_\_\_\_

REQUEST  
Revision Date: \_\_\_\_\_  
Title: Relating to the Ak Children' Trust Corp.; the Ak Children's trust fund; ...  
Sponsor: Kerttula, Josephson & Szymanski  
Requestor: HESS

Agency Affected: Revenue  
BRU: Public Services - Permanent Fund Dividend  
Components: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
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
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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	-	-	-	-	-	-
PART-TIME	-	-	-	-	-	-
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

Prepared by: Sally Smith  
Division: Public Services

Phone: 465-2392  
Date: March 31, 1987

Approved by: [Signature]  
Commissioner: \_\_\_\_\_  
Agency: Revenue

Date: 4/2/87

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

Bill Version: SB 79

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

REQUEST \_\_\_\_\_

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

Agency Affected: Revenue

Title: "An act establishing the Alaska children's trust corporation."

BRU: Administrative Services

Sponsor: Kerttula, Josephson, Szymanski

Components: \_\_\_\_\_

Requestor: Judiciary and Finance

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
OPERATING						
PERSONAL SERVICES	-	28.2	17.0	17.0	17.0	17.0
TRAVEL	-	-	-	-	-	-
CONTRACTUAL	-	11.0	11.0	11.0	11.0	11.0
SUPPLIES	-	0.2	0.2	0.2	0.2	0.2
EQUIPMENT	-	-	-	-	-	-
LANDS & STRUCTURES	-	-	-	-	-	-
GRANTS, CLAIMS	-	-	-	-	-	-
MISCELLANEOUS	-	-	-	-	-	-
TOTAL OPERATING	-	39.4	28.2	28.2	28.2	28.2
CAPITAL	-	-	-	-	-	-
REVENUE	-	-	-	-	-	-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-	39.4	28.2	28.2	28.2	28.2
FEDERAL FUNDS	-	-	-	-	-	-
OTHER	-	-	-	-	-	-
TOTAL	-	39.4	28.2	28.2	28.2	28.2

POSITIONS:

FULL-TIME	-	-	-	-	-	-
PART-TIME	-	4	3	3	3	3
TEMPORARY	-	-	-	-	-	-

ANALYSIS: Attach a separate page if necessary

(See attached)

Prepared By: Ervin B. Jones  
Division: Administrative Services

Phone: 465-2313  
Date: 3/23/87

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

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

Distribution (by Agency preparing fiscal note):

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

SB

24

Bill No. Senate Bill 24  
Title "An Act relating to physical agents."

Date January 22, 1987  
Contact: Eileen Plate  
455-2700  
Richard Arab  
465-4856

Under existing law, employers are required to provide information and training to employees on certain toxic and hazardous substances. This bill seeks to expand this "Right-to-Know" law to include physical agents.

Physical agents are defined as those listed in the "Threshold Limit Values for Chemical Substances and Physical Agents in the Work Environment" as published by the American Conference of Governmental Industrial Hygienists. The latest edition of this publication lists the following physical agents:


- Heat Stress
- Ionizing Radiation
- Lasers
- Noise
- Impulse or Impact Noise
- RF/Microwave Radiation
- Ultraviolet Radiation
- Airborne Upper Sonic and Ultrasonic Acoustic Radiation
- Cold Stress
- Hand-Arm (Segmental) Vibration

Exposure to physical agents can result in permanent disabilities, such as deafness. Often employers and employees are not aware of the harmful effects of a particular hazard present in the workplace, and the training and information requirements provided in this bill would assist in filling this void. This would, in turn, effect implementation of protective measures by the employer to safeguard employees, as well as provide employees with an understanding of the importance of following safe and healthful work practices.

As part of its Occupational Safety and Health program, the Department of Labor enforces regulations to protect employees from certain physical hazards (ionizing radiation, lasers, noise, RF/Microwave radiation, and ultraviolet radiation). The information and training requirement of this bill would, therefore, enhance the Department's efforts to protect Alaska's workers.

The Department of Labor supports Senate Bill No. 24. It will not have a fiscal impact on the Department.

APPROVED:

  
Jim Sampson, Commissioner  
Department of Labor

**POSITION PAPER/**Department of Labor

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_

Bill Version: SB 24  
Publish Date: \_\_\_\_\_

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

Agency Affected: Labor  
BRU: Occupational Safety & Health

Title: "An Act relating to  
physical agents."

Sponsor: Josephson

Components: Occupational Safety  
& Health

Requestor: HESS

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	0	0	0	0	0	0

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

Prepared by: Tom Stuart, Director  
Division: Labor Standards & Safety

Phone: 465-4870  
Date: 1/23/87

Approved by Commissioner: Jim Sampson  
Agency: Labor

Date: 1/23/87

Distribution (by preparer):

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

SB

BO

STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE

REQUEST: \_\_\_\_\_

Bill Version: SB 30

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

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

Agency Affected: Administration

Title: "An Act relating to termination of parental rights..."

BRU: Office of Public Advocacy

Sponsor: Fischer

Components: \_\_\_\_\_

Requestor: Senate Judiciary

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES		0	0	0	0	0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Brant McGee, Public Advocate

Phone: 274-1684

Division: Office of Public Advocacy

Date: 2/22/87

Approved by Commissioner: Garrey Peska

Date: 2/4/87

Agency: Department of Administration

Distribution (by preparer):

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

POSITION PAPER

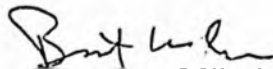
SB30

"An Act relating to termination of parental rights to perpetrators of certain sexual offenses"

This Bill allows the parental rights of a perpetrator of sexual abuse to be terminated if necessary to protect the best interests of the child.

The Bill is unlikely to generate an increase in the number of Child In Need of Aid actions because such cases are almost always the subject of such proceedings under current law. However, the Bill does mandate the appointment of an attorney from the Office of Public Advocacy where current law mandates that such appointments be from the Alaska Public Defender Agency. Because OPA now almost invariably acts as guardian ad litem for the child victim, the appointment of OPA will necessitate costly contracts with private attorneys to provide this representation.

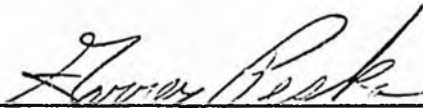
The Office of Public Advocacy supports this legislation but opposes the provisions mandating OPA appointment to represent alleged perpetrators as unnecessarily costly.



\_\_\_\_\_  
Brant McGee, Public Advocate  
Office of Public Advocacy

2/22/87

\_\_\_\_\_  
Date



\_\_\_\_\_  
Commissioner Garrey Peska  
Department of Administration

2/14/87

\_\_\_\_\_  
Date

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

Bill Version: SB 30  
Publish Date: \_\_\_\_\_

**REQUEST:** \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An Act relating to termination  
of parental rights ..."

Agency Affected: Department of Law  
BRU: Legal Services

Sponsor: Senator Fischer  
Requestor: Senator Fischer

Components: Operations

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

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>	<b>- 0 -</b>

CAPITAL						
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REVENUE						
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**FUNDING: (Thousands of Dollars)**

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

**POSITIONS:**

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

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

Please see attached analysis.

*Richard I. Pegues*  
Prepared by: Richard I. Pegues, Director Phone: 465-3672  
Division: Administrative Services Date: March 5, 1987  
*Richard I. Pegues / FOR*  
Approved by Commissioner: Grace Berg Schaible, Atty. Gen. Date: March 5, 1987  
Agency: Department of Law

Distribution (by preparer):

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

# CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. SB 30

## SENATE BILL 30

This bill amends AS 47.17 by adding new sections that provide for the termination of parental rights of perpetrators of certain sexual offenses. Upon petition to the superior court, the court would be empowered to terminate the parental rights of a perpetrator to a child conceived as the result of sexual abuse of a minor or of incest, when termination is in the best interests of the child. Petition could be made by certain private party family members of the child, and this process would not involve the state, except that the Office of Public Advocate would represent indigent respondents. Consequently, this bill will not have a fiscal impact on the Department of Law. The department does note that it would probably not be able to assist petitioners, where they lack the means to petition the court, because of the severity of the department's current and projected budget constraints.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1987

SUBJECT: Section-by-section analysis of SB 30, An Act  
Relating to Termination of Parental Rights of  
Perpetrators of Certain Sexual Offenses

TO: Senator Paul Fischer

FROM: George Utermohle *GU*  
Legislative Counsel

The following is the section-by-section analysis of SB 30,  
requested by Jack Sanderson of your staff.

A sectional analysis or summary of a bill should not be con-  
sidered an authoritative interpretation of a bill, and the  
bill itself is the best statement of its contents.

Section 1. Section 1 of the bill adds a new article to  
AS 47.17 providing for the termination of parental rights of  
certain sexual offenders.

Sec. 47.17.180 states the purpose of the article.

Sec. 47.17.190 lists who may file a petition to terminate  
the parental rights of a perpetrator of sexual abuse of a  
minor or of incest to the child conceived as a consequence  
of the sexual offense.

Sec. 47.17.200 sets out who must receive notice of the  
action to terminate parental rights.

The biological mother of the child, the biological or  
alleged biological father, and the guardian or custodian of  
the child must receive notice of the petition.

If the biological father of the child is unknown or not  
disclosed, the court must inquire of the biological mother  
as to information about the biological father unless the  
court finds that disclosure is harmful to the mother or  
child.

The court shall decide what notice should be given to  
unknown, undisclosed, or unlocated biological fathers.

The court may order blood tests to determine the biological father of the child and assess the costs on the parties to the petition.

If the court finds that notice given to a party to the action to terminate parental rights was not adequate the court may continue the hearing until the defect of notice is cured.

Sec. 47.17.210 sets out the powers of the court to terminate parental rights of a sexual offender.

The court shall terminate the parental rights of a biological parent of a child if the court finds by clear and convincing evidence that (1) required notice has been given or the person has relinquished parental rights, (2) the child was conceived by an act constituting sexual abuse of a minor or incest, and (3) the termination of parental rights is in the best interests of the child.

The court may order preparation of a new birth certificate for the child if the court terminates the parental rights of the biological father.

The court may order disclosure of the name of the biological parent only if disclosure is necessary for medical or extraordinary circumstances and the parties are given notice. Notice is not required if there is a medical emergency.

Sec. 47.17.220 states the legal effect of a termination of parental rights under these provisions. The order terminating parental rights voids all legal relationships between the biological parent and child and is a determination that parental rights never attached between the child and biological parent.

Sec. 47.17.230 provides that proceedings under these provisions are closed to non-essential persons and that court records are closed.

Sec. 47.17.240 provides the circumstances under which a biological parent may relinquish parental rights under these provisions.

Sec. 47.17.250 provides for the modification of the procedures in these provisions to comply with the requirements of the Indian Child Welfare Act of 1978. The most significant requirements of the Act include notice to the tribe to which the child is related and proof of facts beyond a reasonable doubt. An "Indian child" is defined as an unmarried person

under 18 years old who is either a member of an Indian tribe or is eligible for membership in a tribe and is a biological child of a member of a tribe.

Sec. 47.17.260 provides that an order terminating parental rights is final and not appealable after six months.

Sec. 47.17.270 provides that the respondent to a petition to terminate parental rights is entitled to representation by an attorney. The court may appoint an attorney to represent the respondent if the respondent cannot afford an attorney.

Sec. 47.17.280 provides that the court may award reasonable attorney fees and costs to a prevailing party.

Sec. 47.17.290 provides that an order terminating parental rights under these provisions does not affect the right of a victim of sexual abuse or of incest to recover civil damages for injuries and costs arising out of the conduct of a perpetrator of sexual abuse or incest.

Sec. 47.17.300 provides that a proceeding to terminate parental rights under these provisions is a child custody proceeding subject to AS 25.30.

Sec. 47.17.310 defines "child", "court", "incest", and "sexual abuse of a minor."

Section 2. Section 2 of the bill amends AS 25.23.050(a) to include references to AS 47.17.210 and 47.17.240.

Section 3. Section 3 of the bill amends AS 44.21.410(a) to allow the office of public advocacy to represent indigent respondents in proceedings to terminate parental rights under this bill.

Section 4. Section 4 of the bill amends AS 47.10.010(a), relating to a "child in need of aid," to include a reference to AS 47.17.210.

GU:mkr  
m9/049



**STATE OF ALASKA**  
**OFFICE OF THE GOVERNOR**  
**BILL ANALYSIS**

DEPARTMENT Health & Social Services	DIVISION Family & Youth Services	BILL NUMBER SB 30	SPONSOR Senator Paul Fischer
DEPARTMENT POSITION Recommend Support			
PREPARED BY Randall P. Burns	DATE 3/25/87	COMMISSIONER'S SIGNATURE <i>Margie M. Mueser</i>	DATE 3/25/87

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL Department of Law - Civil and Criminal Divisions Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL Victims of incest or the sexually abused minors
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:     NONE                       FISCAL NOTE ATTACHED

**BACKGROUND/LEGISLATIVE INTENT**

In order to protect the child conceived as the result of sexual abuse of a minor or of incest, the court may terminate the parental rights of the perpetrator to the child when the termination is in the best interests of the child.

**ANALYSIS OF BILL/PROGRAM EFFECTS**

The Department of Health and Social Services supports SB 30. This bill would allow the relationship of parent and child to be terminated on grounds that the child was conceived by an act constituting sexual abuse of a minor or incest, when the termination of the parental rights of the biological parent would be in the best interest of the child. The bill sets out that consent to adoption is not required when parental rights have been terminated by order of the court under AS 25.23.180(c) (3). Sec. 180(c) (3) is a new section providing for termination of parental rights when the child was conceived as a result of sexual abuse or incest.

The committee substitute responds well to the Department's earlier concerns and we are in full support of the legislation as it is now drafted.

**AMENDMENTS PROPOSED**

Original sponsors: Fischer and Sturgulewski

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 30 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to termination of parental rights of  
7 perpetrators of certain sexual offenses."

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

9 \* Section 1. AS 25.23.030(b) is amended to read:

10 (b) If the court finds in the interest of substantial justice,  
11 under AS 22.10.040, that the adoption proceeding [MATTER] should be  
12 heard in another judicial district, the court may transfer, stay or  
13 dismiss the proceeding in whole or in part on [ANY] conditions that  
14 are just.

15 \* Sec. 2. AS 25.23.030 is amended by adding a new subsection to read:

16 (c) Proceedings for the termination of parental rights on the  
17 grounds set out in AS 25.23.180(c)(3) shall be brought in the superior  
18 court for the district in which the child that is the subject of the  
19 action resides.

20 \* Sec. 3. AS 25.23.050(a) is amended to read:

21 (a) Consent to adoption is not required of

22 (1) for purposes of this section, a parent who has aban-  
23 doned a child for a period of at least [NOT LESS THAN] six months;

24 (2) a parent of a child in the custody of another, if the  
25 parent for a period of at least one year has failed significantly  
26 without justifiable cause, including but not limited to indigency,

27 (A) to communicate meaningfully with the child, or

28 (B) to provide for the care and support of the child

29 as required by law or judicial decree;

1 (3) the father of a minor if the father's consent is not  
2 required by AS 25.23.040(a)(2);

3 (4) a parent who has relinquished the right to consent  
4 under AS 25.23.180;

5 (5) a parent whose parental rights have been terminated by  
6 order of the court under AS 25.23.180(c)(3) or AS 47.10.080(c)(3);

7 (6) a parent judicially declared incompetent or mentally  
8 defective if the court dispenses with the parent's consent;

9 (7) a [ANY] parent of the person to be adopted, if the  
10 person is 19 or more years of age, and the court dispenses with the  
11 consent of the parent;

12 (8) a [ANY] guardian or custodian specified in AS 25.23.-  
13 040(a)(3) or (4) who has failed to respond in writing to a request for  
14 consent for a period of 60 days or who, after examination of the  
15 guardian's or custodian's written reasons for withholding consent, is  
16 found by the court to be withholding consent unreasonably; or

17 (9) the spouse of the person to be adopted, if the require-  
18 ment of consent to the adoption is waived by the court by reason of  
19 prolonged unexplained absence, unavailability, incapacity, or circum-  
20 stances constituting an unreasonable withholding of consent.

21 \* Sec. 4. AS 25.23.130 is amended by adding a new subsection to read:

22 (d) A decree terminating parental rights on the grounds set out  
23 in AS 25.23.180(c)(3) voids all legal relationships between the child  
24 and the biological parent so that the child is a stranger to the  
25 biological parent and to relatives of the biological parent for all  
26 purposes, including inheritance, unless the decree specifically pro-  
27 vides for the continuation of inheritance rights, and interpretation  
28 of documents executed before or after the termination of parental  
29 rights that do not include the child by name or by a description not

1 based on a parental or blood relationship.

2 \* Sec. 5. AS 25.23.140 is amended by adding a new subsection to read:

3 (c) Subject to the disposition of an appeal, one year after a  
4 decree is issued terminating parental rights on grounds set out in  
5 AS 25.23.180(c)(3), the order may not be challenged on any ground,  
6 including fraud, misrepresentation, failure to give notice, or lack of  
7 jurisdiction of the parties or of the subject matter.

8 \* Sec. 6. AS 25.23.150(b) is amended to read:

9 (b) The papers and records relating to an adoption or a termina-  
10 tion of parental rights under AS 25.23.180(c)(3) that are a part of  
11 the permanent record of a court are subject to inspection only upon  
12 consent of the court. The papers and records relating to an adoption  
13 or a termination of parental rights under AS 25.23.180(c)(3) on file  
14 with the department, an agency, or an individual are subject to  
15 inspection only with consent of all interested persons or by order of  
16 a court for good cause shown. Except as provided in this section,  
17 adoption records of the Bureau of Vital Statistics are subject to  
18 inspection under the provisions of AS 18.50.

19 \* Sec. 7. AS 25.23.150(c) is amended to read:

20 (c) Except as otherwise provided by law, or as authorized in  
21 writing by the adopted child, if 14 or more years of age, or by the  
22 adoptive parent, or upon order of the court for good cause shown, a  
23 person may not disclose the identity or address of [EITHER] an adop-  
24 tive parent, [OR] an adopted child, or a party to a proceeding for the  
25 termination of parental rights on grounds set out in AS 25.23.-  
26 180(c)(3).

27 \* Sec. 8. AS 25.23.150(d) is amended to read:

28 (d) The court may order the disclosure of a natural parent's  
29 identity or address only if

1 (1) the court makes an express finding that the disclosure  
2 is required because of a medical necessity or other extraordinary  
3 circumstance; and

4 (2) the natural parent unless the parent's parental rights  
5 have been terminated on grounds set out in AS 25.23.180(c)(3), the  
6 [ADOPTED] child, and the adoptive parents are afforded proper notice  
7 and a hearing; the court may waive the hearing and notice requirement  
8 if it finds there is a medical necessity that poses an immediate risk  
9 to life.

10 \* Sec. 9. AS 25.23.170 is amended to read:

11 Sec. 25.23.170. APPLICATIONS FOR BIRTH CERTIFICATES. Within 30  
12 days after an adoption decree becomes final, the clerk of the court  
13 shall, if requested by the adoptive parents, prepare an application  
14 for a birth certificate in the name of the adopted person. Upon  
15 issuing a decree terminating parental rights on grounds set out in  
16 AS 25.23.180(c)(3) the court may order the preparation of an applica-  
17 tion for a birth certificate in the name of the child without refer-  
18 ence to the parent whose parental rights have been terminated. The  
19 clerk of the court shall [AND] forward the application

20 (1) for a person born in the United States, to the appro-  
21 priate vital statistics office of the place, if known, where the  
22 adopted person was born and a copy of the decree to the department for  
23 statistical purposes; and

24 (2) for a person born outside the United States to the  
25 state registrar of vital statistics.

26 \* Sec. 10. AS 25.23.180(c) is amended to read:

27 (c) The relationship of parent and child may be terminated by a  
28 court order issued in connection with a [AN ADOPTION] proceeding under  
29 this chapter or a proceeding under AS 47.10:

1 (1) on the grounds specified in AS 47.10.080(c)(3); [OR]

2 (2) on the grounds that a parent who does not have custody  
3 is unreasonably withholding consent to adoption, contrary to the best  
4 interest of the minor child; or

5 (3) on grounds that the child was conceived by an act  
6 constituting sexual abuse of a minor or incest under the laws of this  
7 state or a comparable offense under the laws of the state where the  
8 act occurred and that termination of the parental rights of the bio-  
9 logical parent is in the best interests of the child.

10 \* Sec. 11. AS 25.23.180(e) is amended to read:

11 (e) A petition for termination of the relationship of parent and  
12 child made in connection with an adoption proceeding or in an inde-  
13 pendent proceeding for the termination of parental rights on grounds  
14 set out in (c)(3) of this section may be made by

15 (1) either parent if termination of the relationship is  
16 sought with respect to the other parent;

17 (2) the petitioner for adoption, the guardian of the per-  
18 son, the legal custodian of the child, or the individual standing in  
19 parental relationship to the child;

20 (3) an agency; or

21 (4) another [ANY OTHER] person having a legitimate interest  
22 in the matter.

23 \* Sec. 12. AS 25.23.180(g) is amended to read:

24 (g) Notwithstanding the provisions of (b) of this section, a  
25 relinquishment of parental rights with respect to a child, executed  
26 under this section, may be withdrawn by the parent, and a decree of a  
27 court terminating the parent and child relationship on grounds set out  
28 in (c)(1) and (2) of [UNDER] this section may be vacated by the court  
29 upon motion of the parent, if the child is not on placement for

1 adoption and the person having custody of the child consents in writ-  
2 ing to the withdrawal or vacation of the decree.

3 \* Sec. 13. AS 25.23.180 is amended by adding new subsections to read:

4 (h) The respondent to a petition filed for the termination of  
5 parental rights on grounds set out in (c)(3) of this section is enti-  
6 tled to representation in the proceedings by an attorney. If the  
7 respondent is financially unable to employ an attorney, the court  
8 shall appoint the office of public advocacy to represent the respon-  
9 dent in the proceedings.

10 (i) Proceedings for the termination of parental rights on the  
11 grounds set out in (c)(3) of this section do not affect the rights of  
12 a victim of sexual abuse of a minor or incest to obtain legal and  
13 equitable civil remedies for all injuries and damages arising out of  
14 the perpetrator's conduct.

15 \* Sec. 14. AS 25.23.240(5) is amended to read:

16 (5) "court" means the superior court of this state, and,  
17 when the context requires, the court of another [ANY OTHER] state  
18 empowered to grant petitions for adoption or to terminate parental  
19 rights;

20 \* Sec. 15. AS 25.23.240 is amended by adding new paragraphs to read:

21 (10) "incest" means a sexual offense defined in AS 11.41.-  
22 450;

23 (11) "sexual abuse of a minor" means a sexual offense  
24 defined in AS 11.41.434, 11.41.436, or 11.41.438.

25 \* Sec. 16. AS 44.21.410(a) is amended to read:

26 (a) The office of public advocacy shall

27 (1) perform the duties of the public guardian under AS 13.-  
28 26.360 - 13.26.410;

29 (2) provide visitors and experts in guardianship

1 proceedings under AS 13.26.131;

2 (3) provide guardian ad litem services to children in child  
3 protection actions under AS 47.17.030(e) and to wards and respondents  
4 in guardianship proceedings who will suffer financial hardship or  
5 become dependent upon a government agency or a private person or  
6 agency if the services are not provided at state expense under AS 13.-  
7 26.112;

8 (4) provide legal representation in guardianship proceed-  
9 ings to respondents who are financially unable to employ attorneys  
10 under AS 13.26.106(b), to indigent parties in cases involving child  
11 custody in which the opposing party is represented by counsel provided  
12 by a public agency, [AND] to indigent parents or guardians of a minor  
13 respondent in a commitment proceeding concerning the minor under AS  
14 47.30.775, and to indigent respondents in cases involving the termina-  
15 tion of parental rights on grounds set out in AS 25.23.180(c)(3);

16 (5) provide legal representation and guardian ad litem  
17 services under AS 25.24.310; in cases arising under the Uniform Inter-  
18 state Compact on Juveniles (AS 47.15); in cases involving petitions to  
19 adopt a minor under AS 25.23.125(b) or petitions for the termination  
20 of parental rights on grounds set out in AS 25.23.180(c)(3); in cases  
21 involving petitions to remove the disabilities of a minor under AS  
22 09.55.590; in children's proceedings under AS 47.10.050(a); and in  
23 cases involving indigent persons who are entitled to representation  
24 under AS 18.85.100 and who cannot be represented by the public defend-  
25 er agency because of a conflict of interests.

26 \* Sec. 17. AS 47.10.010(a) is amended to read:

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

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

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

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

8 (i) both parents,

9 (ii) the surviving parent, or

10 (iii) one parent if the other parent's rights and  
11 responsibilities have been terminated under AS 25.23.180(c)  
12 or AS 47.10.080 or voluntarily relinquished;

13 (B) the child being in need of medical treatment to  
14 cure, alleviate, or prevent substantial physical harm, or in need  
15 of treatment for mental harm as evidenced by failure to thrive,  
16 severe anxiety, depression, withdrawal, or untoward aggressive  
17 behavior or hostility toward others, and the child's parent,  
18 guardian, or custodian has knowingly failed to provide the treat-  
19 ment;

20 (C) the child having suffered substantial physical  
21 harm or if there is an imminent and substantial risk that the  
22 child will suffer such harm as a result of the actions done by or  
23 conditions created by the child's parent, guardian, or custodian  
24 or the failure of the parent, guardian, or custodian adequately  
25 to supervise the child;

26 (D) the child having been, or being in imminent and  
27 substantial danger of being, sexually abused either by the  
28 child's parent, guardian, or custodian, or as a result of condi-  
29 tions created by the child's parent, guardian, or custodian, or

1 by the failure of the parent, guardian, or custodian adequately  
2 to supervise the child;

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

6 (F) the child having suffered substantial physical  
7 abuse or neglect as a result of conditions created by the child's  
8 parent, guardian, or custodian.  
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# STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

## OFFICE OF PUBLIC ADVOCACY

900 W. 5TH AVENUE  
SUITE 525  
ANCHORAGE, ALASKA 99501  
PHONE: (907) 274-1684

January 23, 1987

The Honorable Paul Fischer  
Alaska State Senator  
Pouch V  
Juneau, Alaska 99811

JAN 27 1987

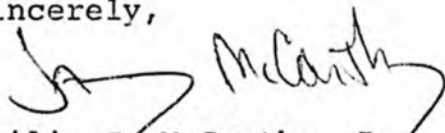
RE: SB 30

Dear Senator Fischer:

Pursuant to our telephone conversation, I have enclosed an article about the case of Faye Cruz, a client of the Office of Public Advocacy. I will be contacting Ms. Cruz to determine when she will be available to testify at future committee hearings.

Keep up the good work.

Sincerely,

  
Philip J. McCarthy, Jr.  
Assistant Public Advocate  
Attorney for Faye Cruz

PJM/jdg

Enclosure (1)

## Sex abuse conviction frees mom, daughter

By SHEILA TOOMEY  
Daily News reporter

A mother and daughter have joined hands across a generation to help jail the man who for nearly 30 years used them as sex partners.

The man is their father. He is stepfather to the older woman and father/grandfather to the younger.

He was convicted this week of many counts of child sexual abuse, and Anchorage District Attorney Victor Krumm said he hopes for a sentence that will keep the 49-year-old man behind bars for the rest of his life.

"We want people to know

about this," said Faye Cruz, the first-generation victim, after the verdict was returned. She agreed to let her name be used, but asked that the identity of her daughter, the second-generation victim, be protected. For that reason, the family name will not be mentioned.

With her help, trial testimony and court records, it is possible to go back to the beginning of the story and piece it all together.

It began in 1954 when Doretha H., a deeply religious woman with a 2-year old

See Back Page, MOTHER

6/6/85<sup>3</sup> Anchorage Daily News

Re. SB. 30

# the back page

## Mother, daughter join hands to help convict

Continued from Page A-1

daughter named Faye, married Floyd H., a laborer and fisherman. The marriage lasted 22 years and produced four children.

About two years after Doretha and Floyd were married, Floyd began having sexual intercourse with 4-year-old Faye whenever he could get her alone. To Faye, he was her dad. She didn't learn until she was 12 that he was her stepfather.

For a long time the family lived near Kenai. Floyd worked in construction and fished on Cook Inlet. From the witness stand last week, Faye told a Superior Court jury that Floyd took her on business trips so he could sleep with her.

"We stayed in a motel and we drank. He let me smoke. I wasn't allowed to smoke."

Floyd denies abusing Faye. He says the sex didn't start until she was 12 and that she was willing.

When she was 14 he took her out of school and aboard his fishing boat where for four years she functioned as his "wife."

When Doretha went to church three or four times a week and took the younger children with her — three boys and a girl — Floyd kept Faye at home for sex.

Faye was not allowed to go out alone, not allowed to have friends she might confide in. Isolation and threats kept her quiet. "He said if I told mom it would kill her," Faye said.

When she showed signs of rebellion, he got at her through her brothers and sisters. "If I didn't stay home and do what he wanted, my family couldn't do the things

families should be able to do

... My mom and the kids, they would suffer."

At 32, Faye is a small, slim woman with strawberry blond bangs that nearly cover her eyes. She sat stiffly in the witness chair, her hands clenched. She spoke hesitantly but with confidence and only once came close to tears.

"I did what I had to do to take care of my family," she said, her voice breaking — "to eat and have a roof over my head and clothes."

The years passed and, as far as Faye was concerned, sleeping with her dad was just part of ordinary life.

When Faye was 17, she got pregnant. "I was 18 by one month and one day when 'J' was born," she said. Floyd blamed the pregnancy on a rape that never happened and that lie held for a while. But slowly, the already divided family began to come apart.

Running away several times hadn't solved anything. She had no place to go. So Faye was now drinking heavily. "I was already an alcoholic."

The time came when Floyd decided to tell his wife what had been going on in her home for 14 years. The participants tell different stories about why the situation finally exploded in 1972, but when the pieces fell back to earth, Doretha divorced Floyd and Faye told the police what he had been doing to her. He was charged with impairing the morals of a minor.

"The court case was handled like a rape case," Faye said. "I was 20 years old then. The lawyer asked me, 'Why did you seduce him. What did you do that you turned him on?'"

"I came up out of the chair. I said you can't tell me a 4-year-old can dress in a way to seduce a grown man."

Floyd eventually pleaded guilty to the charge, always maintaining that the sex hadn't started until Faye was 12. Under the impression that everything was settled, Faye took baby "J," go, married and left Alaska.

Shortly afterward, Floyd took back his plea and said he wanted a trial. Prosecutors couldn't find Faye. The charge was dismissed.

Before he was arrested, Floyd told Faye that he loved her; that he wanted her and baby "J" to come live with him as his new family. He had several times tried to kidnap the baby, to use the baby to pressure her. During this time there was violence, restraining orders, police, judges.

In 1973, Faye was living in Ohio with her husband and "J" when her dad showed up, grabbed the baby and fled.

Faye didn't see "J" again for 12 years, but not for lack of trying.

She tried the law, but they never could catch up with Floyd. Faye doesn't think anyone tried very hard. He was charged with child stealing but never prosecuted. At one point the governor passed up a chance to extradite him back to Alaska.

Soon, immersed in her own self-destruction, Faye stopped fighting.

"The law was not going to do anything," Faye said. "I felt there was nowhere else to turn. I tried to commit suicide. After I got out of the hospital I still didn't want to live. I had given up on the law, on life, on myself. I was

## father who sexually abused them for years

drinking so heavily I was bleeding internally. I had a stroke. I had to learn to walk and go to the bathroom, all those things.

"I married three times, all men much older than me — one 27½ years older than me. I had another baby at 23 and gave him up for adoption."

Meanwhile, Floyd remarried in 1973 or 1974. He married Carlene. They are still married. They had four children of their own, three boys and a girl. And they had with them "J," who was now about 4 years old.

The family was living in Hawaii the day Floyd took his 4-year-old daughter/granddaughter into the bedroom and first had sexual intercourse with her.

"I just remember laying on the bed and he had his penis in me," "J" told the jury last week. "I was small then . . . I didn't think anything was wrong."

For 10 years "J" lived a mirror image of the life her mother had lived before her, as Floyd's child sex partner. And like her mother before her, she sometimes tried to rebel.

Last year "I told him that I didn't like it and that I didn't want to do it anymore. He said, 'After all these years I thought you liked it.' I said I didn't and then he said, 'Well, all right.' And for two days he didn't do anything. And the second night I was sitting in the bedroom and he said, 'You know, you're breaking my heart.' He said, 'You're doing just what your mother did.'"

So "J" agreed to a deal. Sex only every other night.

"He said when I'm 15 then I'll have a baby and he'll be

really smart and we'll start a human race."

Why didn't "J" tell anyone? "Because I didn't have nobody to tell."

Last September, Pam, a daughter from Floyd's first family — the one daughter who had fought him, the one he apparently never dared abuse, visited her father and his second family. By now, they were back in Alaska, working a gold mine at Petersburg near Talkeetna. She went to try and renew a relationship with her dad, to let bygones be bygones.

What she found at the mine was *deja vu* — Floyd paired with his teen-age daughter/granddaughter, taking her on business trips, keeping her out of school, friendless, isolated — obsessed with her the way he had been obsessed with Faye more than 20 years earlier.

She called Faye, who had by then begun to put her own life back together. They called in the authorities and Floyd was arrested.

"J," now 14, was taken into custody, bewildered by what was happening. She had no idea who her real mother was. To help her understand, Faye had sent a letter, to be handed to her when "dad" was arrested:

"I want you to be with me," Faye wrote. "My heart has been broke for so long, not knowing if you knew about me or how you were. Listen to your Aunt Pam, she's going to talk to you. Okay? Don't let Floyd touch you on your body, where you don't want him to. He did that to me when I was a little girl and he would keep secrets and I couldn't tell because I was so scared. Aunt

Pam can help get you to me. If you will trust us. Look up to the beautiful sky and say, God please help me! I want you to go to school, have friends, go to movies, go shopping and do those things a girl your age should be doing, be happy to be free. I love you from the bottom of my heart. All my love. Your Mom Faye."

This week, Floyd was convicted for what he did to "J," but he will never be convicted for what Faye went through. "I feel the time he is serving in jail is my time," she said.

In January, when "J" was taken into protective custody, police also took Floyd's youngest daughter, 9-year-old Y.H. from the home. On Tuesday, the jury also convicted Floyd of sexual abuse of Y.H.

Today Faye and "J" are together. Faye has been sober for 18 months, is happily married and adopted a child in January. She credits Alcoholics Anonymous with saving her life.

"I thought I could never have fun and be straight. I was in a cage for 20 years. I have mostly good days now because now I choose for them to be that way.

"I want people to know about this," Faye said Wednesday. Children who are being hurt must tell somebody. "If you don't trust anybody, scream it in the streets if you have to.

"If I did it, anybody can do it."

As for Floyd, he has filed a \$900 million lawsuit in federal court, accusing police and social workers of a witch hunt against him, of inflicting a nightmare upon the lives of his children.

STATE OF ALASKA  
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

February 24, 1987

SUBJECT: Section-by-section analysis of SB 30, An Act  
Relating to Termination of Parental Rights of  
Perpetrators of Certain Sexual Offenses

TO: Senator Paul Fischer

FROM: George Utermohle *GU*  
Legislative Counsel

The following is the section-by-section analysis of SB 30,  
requested by Jack Sanderson of your staff.

A sectional analysis or summary of a bill should not be con-  
sidered an authoritative interpretation of a bill, and the  
bill itself is the best statement of its contents.

Section 1. Section 1 of the bill adds a new article to  
AS 47.17 providing for the termination of parental rights of  
certain sexual offenders.

Sec. 47.17.180 states the purpose of the article.

Sec. 47.17.190 lists who may file a petition to terminate  
the parental rights of a perpetrator of sexual abuse of a  
minor or of incest to the child conceived as a consequence  
of the sexual offense.

Sec. 47.17.200 sets out who must receive notice of the  
action to terminate parental rights.

The biological mother of the child, the biological or  
alleged biological father, and the guardian or custodian of  
the child must receive notice of the petition.

If the biological father of the child is unknown or not  
disclosed, the court must inquire of the biological mother  
as to information about the biological father unless the  
court finds that disclosure is harmful to the mother or  
child.

The court shall decide what notice should be given to  
unknown, undisclosed, or unlocated biological fathers.

The court may order blood tests to determine the biological father of the child and assess the costs on the parties to the petition.

If the court finds that notice given to a party to the action to terminate parental rights was not adequate the court may continue the hearing until the defect of notice is cured.

Sec. 47.17.210 sets out the powers of the court to terminate parental rights of a sexual offender.

The court shall terminate the parental rights of a biological parent of a child if the court finds by clear and convincing evidence that (1) required notice has been given or the person has relinquished parental rights, (2) the child was conceived by an act constituting sexual abuse of a minor or incest, and (3) the termination of parental rights is in the best interests of the child.

The court may order preparation of a new birth certificate for the child if the court terminates the parental rights of the biological father.

The court may order disclosure of the name of the biological parent only if disclosure is necessary for medical or extraordinary circumstances and the parties are given notice. Notice is not required if there is a medical emergency.

Sec. 47.17.220 states the legal effect of a termination of parental rights under these provisions. The order terminating parental rights voids all legal relationships between the biological parent and child and is a determination that parental rights never attached between the child and biological parent.

Sec. 47.17.230 provides that proceedings under these provisions are closed to non-essential persons and that court records are closed.

Sec. 47.17.240 provides the circumstances under which a biological parent may relinquish parental rights under these provisions.

Sec. 47.17.250 provides for the modification of the procedures in these provisions to comply with the requirements of the Indian Child Welfare Act of 1978. The most significant requirements of the Act include notice to the tribe to which the child is related and proof of facts beyond a reasonable doubt. An "Indian child" is defined as an unmarried person

under 18 years old who is either a member of an Indian tribe or is eligible for membership in a tribe and is a biological child of a member of a tribe.

Sec. 47.17.260 provides that an order terminating parental rights is final and not appealable after six months.

Sec. 47.17.270 provides that the respondent to a petition to terminate parental rights is entitled to representation by an attorney. The court may appoint an attorney to represent the respondent if the respondent cannot afford an attorney.

Sec. 47.17.280 provides that the court may award reasonable attorney fees and costs to a prevailing party.

Sec. 47.17.290 provides that an order terminating parental rights under these provisions does not affect the right of a victim of sexual abuse or of incest to recover civil damages for injuries and costs arising out of the conduct of a perpetrator of sexual abuse or incest.

Sec. 47.17.300 provides that a proceeding to terminate parental rights under these provisions is a child custody proceeding subject to AS 25.30.

Sec. 47.17.310 defines "child", "court", "incest", and "sexual abuse of a minor."

Section 2. Section 2 of the bill amends AS 25.23.050(a) to include references to AS 47.17.210 and 47.17.240.

Section 3. Section 3 of the bill amends AS 44.21.410(a) to allow the office of public advocacy to represent indigent respondents in proceedings to terminate parental rights under this bill.

Section 4. Section 4 of the bill amends AS 47.10.010(a), relating to a "child in need of aid," to include a reference to AS 47.17.210.

GU:mkr  
m9/049



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
**BILL ANALYSIS**

DEPARTMENT Health & Soc Services	DIVISION Family & Youth Services	BILL NUMBER SB 30	SPONSOR Senator Paul Fisher
DEPARTMENT POSITION Qualified support (please see analysis below)			
PREPARED BY Myra Munson	DATE 3/13/87	COMMISSIONER'S SIGNATURE <i>Myra K. Munson</i>	DATE 3/13/87

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL Department of Law, Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL Victims of incest, perpetrators of incest
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:  NONE       FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT

In order to protect the child conceived as the result of sexual abuse of a minor or of incest, the court may terminate the parental rights of the perpetrator to the child when the termination is in the best interests of the child.

ANALYSIS OF BILL/PROGRAM EFFECTS

The Department of Health and Social Services supports the objectives of SB 30. This bill would allow termination of the parental rights of a biological parent who conceives a child as a result of sexual abuse of a minor or incest. The department believes this objective can be better accomplished, however, by amendments to AS 25.23, which relates to adoptions. This is preferable to amending AS 47.17, which relates primarily to child abuse and neglect reporting.

AMENDMENTS PROPOSED

Please see attached memo from Alaska Legal Services attorney Andrew Harrington to Randall Burns, Special Assistant, Department of Health and Social Services.

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

To: Randall Burns  
From: Andy Harrington  
Re: SB 30  
Dated: 3/11/87 Wed

In response to your request, I am sending along suggestions for how the substance of SB 30 can be accomplished by amending existing statutes rather than creating a separate chapter of statutes.

This focuses on AS 25.23.180, which already contains several of the provisions regarding termination of parental rights. This is contained in the adoption chapter.

There are two substantive matters I'd like to bring to your attention: first, inserting the the private cause of action into AS 25.23.180 will make it possible for a private individual to terminate parental rights based on the child sexual abuse/incest ground; it will enable a private individual to terminate another's parental rights if that private individual can make the same showings the State makes in terminating parental rights in child-in-need cases. (It may be that private individuals can already do so; as far as I know, the State Supreme Court hasn't ruled on that.)

Second, I noted that, in the draft of the bill I received, parental rights can be terminated based on violations of Sexual Abuse of a Child in the First, Second, and Fourth Degrees, but not in the Third (AS 11.41.434, 11.41.436, 11.41.440, but not 11.41.438). I assume this was an oversight. Sexual Abuse of a Minor in the Fourth Degree is an A Misdemeanor, committed by offenders under sixteen against children at least three years younger; Sexual Abuse of a Minor in the Third Degree is a C felony, committed by offenders over sixteen against children at least three years younger. I'm assuming the bill was meant to include SAM 3d and exclude SAM 4th, and have drafted my suggestion accordingly.

I've tried to underline new material and bracket old material being eliminated, but I don't guarantee the accuracy of that.

After the proposed changes, I've listed the sections of the current bill and how that provision is incorporated.

AS 25.23.030: Jurisdiction and venue.

(a) Proceedings for adoption shall be brought in the superior court for the district in which, at the time of filing or granting the petition, the petitioner or the person to be adopted resides or is in military service, or in which the agency having the care, custody or control of the minor is located. Proceedings for non-adoptive termination of parental rights shall be brought in the superior court in which the minor child resides.

(b) [same as original]

(c) For jurisdictional purposes, a proceeding under this chapter is a child custody proceeding subject to the Uniform Child Custody Jurisdiction Act, AS 25.30.020.

AS 25.23.050: Persons as to whom consent and notice not required.

(a) Consent to adoption is not required of

(1) [same as original]

(2) [same as original]

(3) [same as original]

(4) [same as original]

(5) a parent whose parental rights have been terminated by order of the court under AS 47.10.080(c)(3) or under AS 25.23.180;

(6) [same as original]

(7) [same as original]

(8) [same as original]

(9) [same as original]

(b) [same as original]

AS 25.23.140: Appeal and Validation of [Adoption] Decree

(a) [same as original]

(b) [same as original]

(c) Subject to the disposition of an appeal, upon the expiration of one year after a decree of non-adoptive termination of parental rights is issued, the order may not be challenged on any ground, including fraud, misrepresentation, failure to give notice, or lack of jurisdiction of the parties or of the subject matter.

AS 25.23.150: Confidential nature of hearings and records in adoption and non-adoptive termination proceedings.

(a) [same as original]

(b) All papers and records pertaining to [an adoption] proceedings under this chapter that are a part of the permanent record of a court of are subject to inspection only upon consent of the court. The papers and records relating to [an adoption] such proceedings on file with the department, an agency, or an individual are subject to inspection only with consent of all interested persons or by order of a court for good cause shown. Except as provided in this section, adoption records of the Bureau of Vital Statistics are subject to inspection under the provisions of AS 18.50.

(c) Except as authorized by law, or as authorized in writing by the adopted child, if 14 or more years of age, or by the adoptive parent, or upon order of the court for good cause shown, a person may not disclose the identity or address of [either] an

adoptive parent or an adopted child or any party to an adoption or non-adoptive termination case.

(d) The court may order the disclosure of a natural parent's identity or address only if

(1) the court makes an express finding that the disclosure is required because of a medical necessity or other extraordinary circumstance; and

(2) the natural parent, the [adopted] child, the child's other natural parent (unless that parent's rights have been terminated), and the adoptive parents are afforded proper notice and a hearing; the court may waive the hearing and notice requirement if it finds there is a medical necessity that poses an immediate risk to life.

AS 25.23.170: Applications for birth certificates.

Within 30 days after an adoption decree becomes final, the clerk of court shall, if requested by the adoptive parents, prepare an application for a birth certificate in the name of the adopted person. Upon a non-adoptive termination of parental rights under section 180 of this chapter, the court may order the preparation of an application for a birth certificate in the name of the child without reference to the parent whose rights have been terminated. Such applications shall be forwarded

(1) [same as original]

(2) [same as original]

AS 25.23.180: Relinquishment and termination of parent and child relationships.

(a) [same as original]

(b) [same as original]

(c) The relationship of parent a child may be terminated by a court order issued in connection with an adoption proceeding under this chapter, an independent proceeding under this section, or a proceeding under AS 47.10 on any of the following grounds:

(1) on the grounds specified in AS 47.10.080(c)(3);

(2) on the grounds that a parent who does not have custody is withholding consent to adoption, contrary to the best interests of the minor child; or

(3) on the grounds that (a) the child was conceived by an act constituting sexual abuse of a minor or incest under the laws of this state, or by a comparable offense under the laws of the jurisdiction where the act occurred; and (b) termination of the parental rights of the biological parent is in the best interests of the child.

(d) An order terminating parental rights issued by a court of competent jurisdiction in this or any other state voids all legal relationships between the child and the biological parent so that the child is a stranger to the biological parent, and to the relatives of the biological parent, for all purposes including but not limited to, inheritance, unless the decree specifically provides for continuation of inheritance rights; and including the interpretation or construction of documents, statutes, and instruments, whether executed before or after the termination is

decreed, which do not expressly include the person by name or by some designation not based on a parent and child or blood relationship; and including dispensing with the required

(1) consent by that parent to an adoption of that child; and

(2) notice of a proceeding to that parent unless otherwise required by this section.

(e) A petition for termination of the relationship of parent and child, whether or not made in connection with an adoption proceeding, may be made by

(1) either parent if termination of the relationship is sought with respect to the other parent;

(2) the petitioner for adoption, the guardian of the person, the legal custodian of the child, or the individual standing in parental relationship to the child;

(3) an agency; or

(4) any other person having a legitimate interest in the matter.

(f) [same as original]

(g) [same as original]

(h) Proceedings under this section are to be governed, where applicable, by the provision of the Indian Child Welfare Act, 25 U.S.C. 1901 et seq.

(i) The respondent to a petition filed for adoption or non-adoptive termination of parental rights is entitled to representation by an attorney in the proceedings. If the respondent is financially unable to employ an attorney, the court shall appoint the Office of Public Advocacy to represent the respondent.

(j) Proceedings under this section do not affect the right of a victim of sexual abuse or incest to obtain legal and equitable civil remedies for all injuries and damages arising out of the perpetrator's conduct.

AS 25.23.240 Definitions.

In this chapter, unless the context otherwise requires,

(1) [same as original]

(2) [same as original]

(3) [same as original]

(4) [same as original]

(5) "court" means the superior court of this state, and, when the context requires, the court of any other state empowered to grant petitions for adoption or terminate parental rights:

(6) [same as original]

(7) [same as original]

(8) "incest" means a sexual offense defined in AS 11.41.450:

(9) "sexual abuse of a minor" means a sexual offense defined in AS 11.41.434, 11.41.436, or 11.41.438:

(10) [renumbered subsection 8 of original]

(11) [renumbered subsection 9 of original]

AS 44.21.410 Powers and Duties of Public Advocacy Office.

(a) The office of public advocacy shall

(1) [same as original]

(2) [same as original]

(3) [same as original]

(4) provide legal representation in guardianship proceedings to respondents who are financially unable to employ attorneys under AS 13.26.106(b), to indigent parties in cases involving child custody in which the opposing party is represented by counsel provided by a public agency, to indigent respondents who are financially unable to employ attorneys in non-adoptive termination cases under AS 25.23.180, and to indigent parents or guardians of a minor respondent in a commitment proceeding concerning the minor under AS 47.30.775;

(5) provide legal representation and guardian ad litem services under AS 25.24.310; in cases arising under the Uniform Interstate Compact on Juveniles (AS 47.15); in cases involving petitions to adopt a minor under AS 25.23.125(b) or petitions for non-adoptive termination of parental rights under AS 25.23.180; in cases involving petitions to remove the disabilities of a minor under AS 09.55.590; in children's proceedings under AS 47.10.050(a); and in cases involving indigent persons who are entitled to representation under AS 18.85.100 and who cannot be represented by the public defender agency because of a conflict of interests.

The following list points out where the provision of the former bill are dealt with in the above version.

AS 47.17.180: can probably be eliminated, as the purpose of the statute seems self-evident.

AS 47.17.190: 25.23.180(e) lists the people who can bring the action and seems broad enough to include the people listed.

AS 47.17.200: AS 25.23.180(f) requires notice.

AS 47.17.210: the new grounds can be listed in an addition to AS 25.23.180(c).

AS 47.17.220: 25.23.180(d) specifies the effect of a termination decree.

AS 47.17.230: AS 25.23.150 provides for confidentiality; a small amendment can specify that this applies to non-adoptive termination cases.

AS 47.17.240: 25.23.180(a) covers relinquishments.

AS 47.17.250: A sentence added to section 180 can specify that ICWA controls where applicable.

AS 47.17.260: The finality provision can be inserted into AS 25.23.140 which deals with finality of adoptions.

AS 47.17.270: The availability of an appointed attorney can be added as a subsection to 25.23.180.

AS 47.17.280: The ability to get costs and fees need not be stated as Rule 82 would apply.

AS 47.17.290: The preservation of other victims' rights can be added as a subsection to AS 25.23.180.

AS 47.17.300: Since this clarifies that the UCCJA applies, it would be better to add this as a separate provision applicable to adoptions as well as non-adoptive terminations. I'd put it in AS 25.23.030 and re-label that section "jurisdiction and venue."



**STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
BILL ANALYSIS**

DEPARTMENT Health & Social Services	DIVISION Family & Youth Services	BILL NUMBER SB 30	SPONSOR Senator Paul Fischer
DEPARTMENT POSITION Recommend Support			
PREPARED BY Randall P. Burns	DATE 3/25/87	COMMISSIONER'S SIGNATURE <i>Margaret M. Murrain</i>	DATE 3/25/87

**SUMMARY**

OTHER AGENCIES AFFECTED BY BILL Department of Law - Civil and Criminal Divisions Alaska Court System	CONSTITUENT GROUP(S) AFFECTED BY BILL Victims of incest or the sexually abused minors
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

FISCAL IMPACT:     NONE                       FISCAL NOTE ATTACHED

BACKGROUND/LEGISLATIVE INTENT  
In order to protect the child conceived as the result of sexual abuse of a minor or of incest, the court may terminate the parental rights of the perpetrator to the child when the termination is in the best interests of the child.

ANALYSIS OF BILL/PROGRAM EFFECTS  
The Department of Health and Social Services supports SB 30. This bill would allow the relationship of parent and child to be terminated on grounds that the child was conceived by an act constituting sexual abuse of a minor or incest, when the termination of the parental rights of the biological parent would be in the best interest of the child. The bill sets out that consent to adoption is not required when parental rights have been terminated by order of the court under AS 25.23.180(c) (3). Sec. 180(c) (3) is a new section providing for termination of parental rights when the child was conceived as a result of sexual abuse or incest.

The committee substitute responds well to the Department's earlier concerns and we are in full support of the legislation as it is now drafted.

AMENDMENTS PROPOSED

PLEASE ATTACH A SEPARATE SHEET FOR ADDITIONAL COMMENTS OR ANALYSIS.

SB

31

ALASKA COURT SYSTEM  
FISCAL OPERATIONS

TELEFACSIMILE TRANSMITTAL SHEET

TO: SENATOR FISCHEL

DATE: 5/15/87

FROM: BOB FISHER

TOTAL NUMBER OF PAGES: 3  
(Not including cover sheet)

MESSAGE: PLEASE DELIVER TO SENATOR  
FISCHEL.

THANKS

FISCAL NOTE SB 31

If you do not receive the above document(s), please call 264-8215.  
Alaska Court System telecopier phone number 276-6342.

**STATE OF ALASKA 1987 LEGISLATIVE SESSION  
FISCAL NOTE**

**REQUEST:** \_\_\_\_\_ Bill Version: SB 31  
 Publish Date: \_\_\_\_\_  
 Revision Date: \_\_\_\_\_ Agency Affected: Alaska Court System  
 Title: An act authorizing capital BRU: Trial Courts  
 punishment  
 Sponsor: Fischer, Kelly, & Faiks Components:  
 Requestor: \_\_\_\_\_

<b>EXPENDITURES/REVENUES:</b> (Thousands of Dollars)						
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
<b>OPERATING</b>						
Personal Services	. . . .	107.2	107.2	107.2	107.2	107.2
Travel	. . . .	112.5	112.5	112.5	112.5	112.5
Contractual	. . . .	166.0	166.0	166.0	166.0	166.0
Supplies	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Equipment	. . . .	18.9	. . . .	. . . .	. . . .	. . . .
Land & Structures	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Grants & Claims	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>404.6</b>	<b>385.7</b>	<b>385.7</b>	<b>385.7</b>	<b>385.7</b>
<b>CAPITAL</b>	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>REVENUE</b>	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

<b>FUNDING:</b> (Thousands of Dollars)						
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
General Funds	0.0	404.6	385.7	385.7	385.7	385.7
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
<b>TOTAL</b>	<b>0.0</b>	<b>404.6</b>	<b>385.7</b>	<b>385.7</b>	<b>385.7</b>	<b>385.7</b>

<b>POSITIONS:</b>						
	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
Full-time	. . . .	3.0	3.0	3.0	3.0	3.0
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

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

See attached fiscal analysis.

Prepared by: Karla Forsythe, General Counsel Phone: 264-8228  
 Division: Alaska Court System Date: 5-15-87  
 Approved by: *Stephanie J. Cole* Date: 5-15-87  
 Agency: Alaska Court System

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 Senate Secretary

## ALASKA COURT SYSTEM

SB 31 - Capital Punishment  
Fiscal Impact

Personal Services:	Salary	Benefits	Total
Law Clerk I, Range 13A, Anchorage, PFT - 12 Months	\$26,604	\$9,128	\$35,732
Security Guard, Range 10B, Anchorage, PFT - 12 Months	22,836	8,290	31,126
Law Clerk I, Range 13A, Fairbanks, PFT - 12 Months	30,372	9,966	40,338
			-----
	Total Personal Services		107,196
			-----
Travel:			
Jury sequestration - meals and lodging			112,500
Contractual:			
Security guard services for courts outside Anchorage			10,000
Jury fees			96,000
Bailiff costs			10,000
Transcription			50,000
			-----
	Total Contractual		166,000
			-----
EQUIPMENT: (one-time items)			
Standard office equipment and reference materials for law clerks			6,498
Walk-through metal detectors for Anchorage, Fairbanks, Juneau, and Ketchikan and hand-held metal detectors for other superior courts			12,450
			-----
	Total Equipment		18,948
			-----
Total First Year Cost			\$404,644
			=====

ALASKA COURT SYSTEM

SB 31 - CAPITAL PUNISHMENT

FISCAL IMPACT

Voter approval of capital punishment will result in an estimated 10 capital punishment trials each year. These trials will result in additional costs for the following reasons:

1. Personnel Costs and Related Costs. Extensive legal research is required for capital offenses. Additional law clerks will be needed to research motions and other judicial questions. Courtroom security will have to be strengthened for these cases. Personnel funds for an additional security guard for Anchorage and contractual funds for security services in other courts will be needed.
2. Travel Costs. Since death penalty cases are often subject to intense media exposure, expenses associated with jury sequestration and with change of venue can be expected.
3. Juror Selection. Jurors must be questioned individually in capital cases and some courts have required questioning in private. More jurors must be called and the process takes longer, with more challenges for cause, all of which results in higher jury fee expenditures. Similarly, additional bailiff costs can be expected.
4. Transcription Costs. Preparation of the voluminous record which accompanies a death penalty case will result in additional transcribing costs.
5. Equipment. Courtroom security requirements will necessitate the installation metal detectors in major court locations and the use of hand-held detectors in smaller courts to screen trial spectators.

The estimated annual costs associated with these items are summarized in the attached schedule.

28 JAN 87

SENATOR FISCHER,

PER OUR CONVERSATION TODAY,  
ENCLOSED IS A COPY OF THE  
REPORT WE DID EARLIER ON  
CAPITAL PUNISHMENT. I HAD  
FORGOTTEN THAT IT WAS DONE  
FOR YOU!

I HAVE ALSO ENCLOSED  
A COPY OF THE INFORMATIONAL  
RELEASE FORM FOR YOUR  
CONSIDERATION.

WE HAVE NOT DONE ANY  
OTHER WORK ON THAT ISSUE.

JAN 30 1987



30 100  
157 400,000

File  
11-26

# Alaska State Legislature

Advisory Council Members  
Senator Bennett, Chairman  
Senator Kerttula  
Senator Abood  
Senator Sackett



Pouch V  
State Capitol  
Juneau, Alaska 99811  
Phone: (907) 465-3114

## SENATE ADVISORY COUNCIL

JAN 30 1985

### MEMORANDUM

TO: Senator Paul Fischer  
FROM: Rob Nauheim, Researcher *RCN*  
DATE: April 9, 1985  
RE: Additional information on capital punishment

Please find enclosed a copy of a news item printed in the American Bar Association Journal (April 1985). This item was mentioned in a telephone conversation I had with personnel at the A.B.A. office about a month ago. Also enclosed is a short review from the State of Michigan of some of the important aspects of the capital punishment debate.

Hope that this information is helpful.

RCN  
enclosures:

*Mitigating -*

*Aggravating -*

## Suing back

### Papers counter libel actions

Newspapers and magazines, lately targets in well-publicized libel suits, are starting to sue back.

The *Sacramento Bee* countersued Sen. Paul Laxalt, R-Nev., in October after he hit it with a \$250 million libel suit. E. W. Scripps Co., publisher of the *Cincinnati Post*, countersued ambulance driver Victor Ninio, who had sued it for libel. And the 55,160 circulation *Charleston Gazette* of West Virginia is countersuing two libel plaintiffs and planning to sue more.

"There has been a trend for the media to take a more aggressive approach in asserting counterclaims against libel suits," said Henry Kaufman, general counsel of New York's Libel Defense Resource Center. He explained that *Nemeroff v. Abelson* (704 F.2d 652), decided by the U.S. Court of Appeals for the Second Circuit in 1983, provides the precedent to recover attorney's fees from a plaintiff and his attorney if he starts or continues a suit "in bad faith" or without adequate factual basis.

In that case, financial publisher Dow Jones & Co. and two *Barron's* editors were awarded \$50,000 in attorney's fees



Chilton: Lawyers should be disciplined for "frivolous actions."

against a New York dentist and his law firm, Boston's Hale & Dorr, for their bad-faith continuance of a meritless securities fraud suit.

McClatchy Newspapers, which publishes the *Sacramento Bee*, filed a \$6 million countersuit against Sen. Laxalt in U.S. District Court for the District of Nevada alleging that the senator's action was a violation of its First Amendment rights (CV-R-84-407). Laxalt had sued



Kaufman: The media is taking a more aggressive approach.

the paper in September charging that he was libeled by articles alleging that there was "skimming" at a Carson City casino of which he was an owner in the early 1970s. Both suits are pending.

In the *Cincinnati* case, Ninio was involved in rescue operations at Riverfront Stadium when a "human stampede" occurred during a 1979 rock concert. After the tragedy, the *Post* published an article saying a Ninio ambulance was not equipped to provide oxygen and that Ninio previously had been convicted of numerous traffic violations. (Continued)

## Cheaper to kill?

### ABA eyes death penalty cost

Is it cheaper to put a felon to death or to keep that person imprisoned for life?

The question is being studied by a special committee of the American Bar Association, chaired by James Exum Jr. of Raleigh, an associate justice of the North Carolina Supreme Court.

The committee hopes to recommend whether the death penalty should be expanded to crimes besides murder. Only those convicted of murder have been executed since 1976 when the U.S. Supreme Court ruled that the death penalty is not unconstitutional in all circumstances. It could be applied provided that, in each case, the judge and jury considered mitigating factors.

"We're looking at the prosecution costs in terms of court time, multiple appeals, witness fees, anything that is a cost to the judicial system," he said. "No one has ever looked at the facts and figures.

For years, he said, "it's been thought that the death penalty is cheaper compared to the cost of keeping someone in jail. But a growing body of literature suggests that the death penalty is extremely expensive. If the sentence is appealed the courts can spend years on the same case. If the death penalty proves to be more expensive, the question becomes, Are the benefits worth the costs?"

Exum cited Florida, where 10 executions were carried out between 1979 and 1984. "Look at the Florida Supreme Court. It's been spending at least one-third of its time reviewing death cases. Is that the best use of its time?"

—Vicki Quade

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THE LEGISLATURE • STATE OF MICHIGAN

# Legislative Service Bureau



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Volume 4 No. 6

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September 1984

STATE INFORMATION CENTER  
~~CAPITAL PUNISHMENT~~

## INTRODUCTION

Capital punishment is an issue that is continually discussed, disputed, and challenged. Since the United States Supreme Court decision in 1972 striking down existing death penalty statutes, much attention has centered on capital punishment. The rise in capital crimes during the seventies (approximately 2,000 premeditated and willful killings per year) also contributed to the increase in attention to capital punishment issues. In the past three years at least twelve states have considered new death penalty legislation and federal and state courts are constantly hearing appeals concerning death sentences.

There are more than 1,400 inmates presently living under a sentence of death as a result of capital offenses in the United States. Although a great many of these residents on death row were convicted and sentenced several years ago, many are now exhausting their legal appeals. This, in turn, has led to an increase in the number of executions. A study recently released by the United States Bureau of Justice Statistics found that of twenty people to die under the death penalty since the United States Supreme Court lifted its ban on such punishment in 1976, five were executed in 1983 and nine in 1984. The nine executions this year represent the highest rate in twenty years.<sup>1</sup>

Thus, the stage has been set for much controversy and debate on the capital punishment issue. While acknowledging that any subject dealing with life and death is an emotional one, this paper will present a brief history of the subject, as well as major arguments both for and against the death penalty.

SUBJECT: *Capital Punishment*  
DATE: *9/5/84*  
STATE INFORMATION CENTER  
COPY: *1-1*

APR 08 1985

Table I'

Capital Punishment: The Method of Execution and the Number of People on Death Row.

<u>State</u>	<u>Method</u>	<u>Death Row Population</u>
Alabama	electrocution	67
Arizona	gas	52
Arkansas	lethal injection	24
California	gas	144
Colorado	gas	1
Connecticut	electrocution	0
Delaware	lethal injection	6
Florida	electrocution	112
Georgia	electrocution	112
Idaho	lethal injection or firing squad	7
Illinois	electrocution	64
Indiana	electrocution	20
Kentucky	electrocution	18
Louisiana	electrocution	38
Maryland	gas	11
Massachusetts	(pending)	0
Mississippi	gas	39
Missouri	gas	23
Montana	hanging or lethal injection	20
Nebraska	electrocution	11
Nevada	lethal injection	20
New Hampshire	hanging	0
New Jersey	lethal injection	1
New Mexico	lethal injection	5
New York	electrocution	1
North Carolina	gas or lethal injection	35
Ohio	electrocution	16
Oklahoma	electrocution	16
Pennsylvania	electrocution	50
South Carolina	electrocution	29
South Dakota	electrocution	0
Tennessee	electrocution	34
Texas	lethal injection	162

Utah	firing squad or legal injection	4
Vermont	electrocution	0
Virginia	electrocution	20
Washington	hanging or lethal injection	3
Wyoming	gas	3

While there are federal laws which carry the death penalty as punishment, most have not yet had their constitutionality tested. However, measures are presently before the United States Congress which would establish procedures for imposing the death penalty in certain federal cases involving homicide, treason, espionage, or attempts to assassinate the president. Bills have also been introduced which would abolish the death penalty entirely.

### Capital Punishment in Michigan

Since it became a state in 1837, the State of Michigan has never executed anyone. However, approximately twelve known executions have taken place in the territory that became Michigan. The last of these executions (until a federal case in 1938 when a man was convicted of treason) took place on September 24, 1830, when Stephen Simmons was hanged for murder. Public reaction to this hanging, as well as the reaction to a hanging in nearby Ontario of which the convicted murderer was later found to be innocent, are thought to be strong reasons for Michigan's early abolition movement.<sup>3</sup>

The State of Michigan became the first English-speaking jurisdiction in the world to legislate against the death penalty. The abolition of capital punishment became part of Michigan law when it was voted upon in 1846, nine years after Michigan became a state. In 1961-1962, when the constitutional convention was held, delegates voted to include the prohibition of the death penalty as part of our state constitution. As a result, Article IV, Section 46 of the Constitution of the State of Michigan of 1963 states "No law shall be enacted providing for the penalty of death."

Since 1846, there have been numerous attempts by the State Legislature to reinstate the death penalty in Michigan. The two legislative endeavors which came the closest to restoring capital punishment in Michigan occurred in 1929 and 1931. In 1929 a capital punishment bill passed both houses of the Legislature, but was vetoed by Governor Fred W. Green. In 1931 a bill providing for the death penalty passed both houses and was signed by Governor Wilber M. Brucker, with the provision that a referendum be held. The people

Cruelty of Life in Prison - Some say that life imprisonment is a more tortuous form of punishment than execution. Some prisoners prefer death.

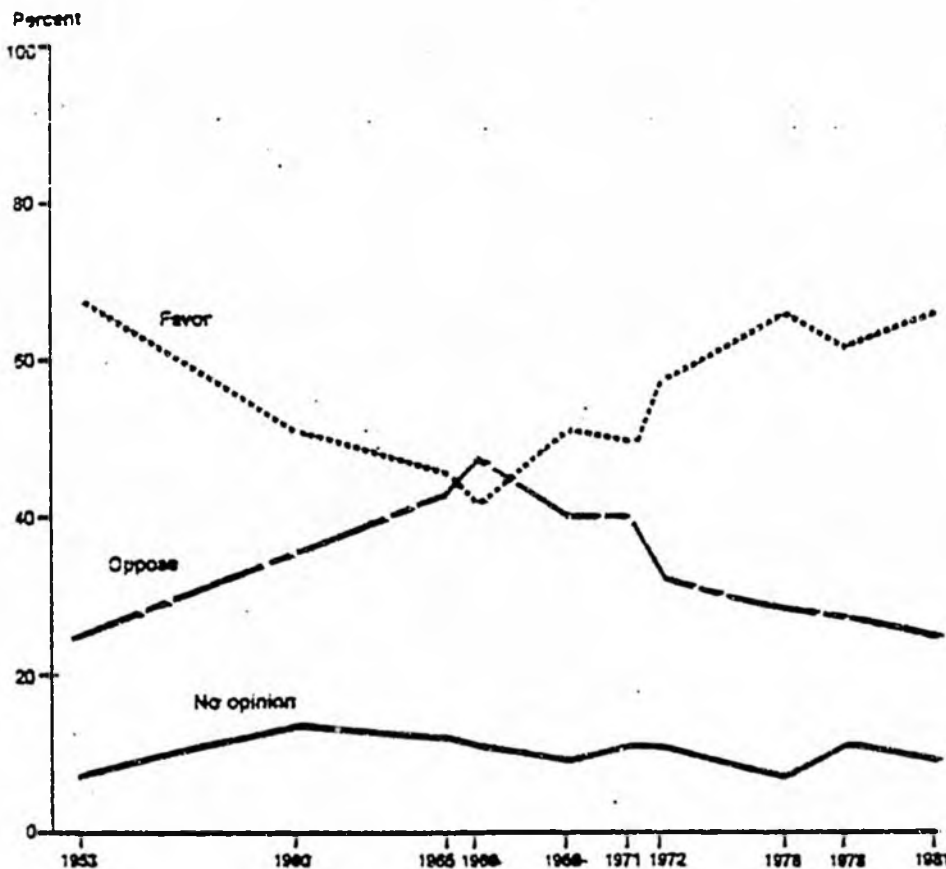
Retribution - Another argument for capital punishment is that it is morally right to be angry at criminals and to express that anger officially, publicly, and in a reciprocal manner. In this regard, the Bible speaks of "an eye for an eye, a tooth for a tooth". It is felt by many that execution is a fitting and just punishment for heinous crimes and that righteous anger is absolutely essential for a decent, just society.

Increased support - Proponents argue that most citizens do, in fact, favor capital punishment. The following table demonstrates popular public opinion in the United States.

Table II\*

Attitudes toward Capital Punishment for Persons Convicted of Murder, United States, Selected Years 1953-81.

Question: "Are you in favor of the death penalty for persons convicted of murder?"



## SUMMARY

When so much is at stake, the arguments, both for and against capital punishment, should be weighed closely and carefully. There are obviously many questions and points to consider. Is justice served by the use of the death penalty? For the most part, the answer will remain a value judgment depending upon religious and philosophical viewpoints. Strong beliefs, one way or another, will be common and there will be many who cannot decide. With the increasing number of people who are presently facing execution in our country, it is a question that will need to be addressed soon by judges, law enforcement officials, and the citizenry. As former Director of the Michigan Department of Corrections, Mr. Perry Johnson, states in a paper concerning capital punishment, "...This is a decision which the citizens of this state, each of us individually and alone, will make...".

---

1. Leslie Maitland Werner, "Federal Study Finds Rate of Executions is Rising," New York Times, July 9, 1984, p. 8.
2. National Conference of State Legislatures, "Death Penalty Laws," NCSL, Denver, Colorado, 1984.
3. Edward W. Bennett, "The Reasons for Michigan's Abolition of Capital Punishment," Michigan History, November/December 1978, pp. 42-55.
4. Isaac Ehrlich, "The Deterrent Effect of Capital Punishment: A Question of Life and Death." American Economic Review, June 1975, pp. 397-417.
5. A list is cited in the brief of the State of California in Aikens v California, No. 68-5027, October Term 1971, United States Supreme Court.
6. Criminal Justice Research Center, "The Sourcebook of Criminal Justice Statistics--1981," (constructed of figures from: George H. Gallup, "The Gallup Poll," Princeton, N.J., Mar. 1, 1981.), Bureau of Justice Statistics, Albany, New York, p. 209.
7. Thorston Sellen, Capital Punishment, New York, Harper and Row, 1967, pp. 135-138.

# Alaska State Legislature

Advisory Council Members  
Senator Bennett, Chairman  
Senator Kerttula  
Senator Abood  
Senator Sackett



Pouch V  
State Capitol  
Juneau, Alaska 99811  
Phone: (907) 465-3114

## SENATE ADVISORY COUNCIL

TO: Senator Paul Fischer  
FROM: Rob Nauheim, Researcher *RNW*  
DATE: March 14, 1985  
RE: Capital Punishment

You have requested a preliminary cost estimate of capital punishment experienced by states which have actually utilized the death penalty. You also requested that the report should include an estimate of the incremental costs associated with capital case litigation and death row maintenance.

To date, no conclusive study has been located which satisfactorily accounts for the incremental legal costs associated with the appeals process in capital cases. The reason for this lack of information appears to be twofold:

1. The complexity and variability of capital punishment cases renders a meaningful assessment of cost extremely difficult. Ten or more state and federal levels of judicial review are available in capital cases.
  - a. The guilt and penalty phase of trial;
  - b. Review by state supreme court;
  - c. Writ of certiorari to the United States Supreme Court;
  - d. Post conviction relief proceedings;
  - e. Appeal of post conviction relief proceedings in the Court of Appeals;
  - f. Petition for hearing of post-conviction relief proceedings in the state supreme court;
  - g. Petition for Writ of habeas corpus to Federal District Court;
  - h. Appeal to the Federal Court of Appeals;
  - i. Rehearing in the Federal Court of Appeals;
  - j. Writ of certiorari to the Federal Court of Appeals;
2. Few states maintain any records of the amount of time which is dedicated to capital cases by state and county legal professionals. Public defenders, prosecuting attorneys, judges, paralegal

personnel and court employees usually have a variety of responsibilities out of which time devoted to capital cases is rarely measured.

Nevertheless, in 1982, the New York State Defender's Association (NYSDA) prepared a report entitled "Capital Losses: The Death Penalty in New York State", which attempted to quantify all legal costs associated with a capital case through the first three levels of litigation (a., b. and c. from above). It should be noted that this organization formally opposes the death penalty on moral and philosophical grounds. The tone of the report tends to reflect this perspective. In addition, the NYSDA cost figures used in the report do not always appear to be representative of costs which might be experienced in Alaska. Indeed, Laurie Robinson of the Criminal Justice Division of the American Bar Association indicated to me that the defense costs, as delineated in the NYSDA report, are inordinately high. However, some of the information should prove useful in estimating costs to the State of Alaska, particularly if applicable cost figures are substituted where the NYSDA figures seem inappropriate. In view of the advocacy nature of the report, it seems reasonable to suggest that the cost figures produced by the NYSDA as modified by the substitute costs might serve only as an indication of potential costs.

The NYSDA paper was prepared in 1982 in response to the exclusion of fiscal implications by the supporters of a death penalty bill which was introduced into the New York State Legislature that year. An important feature of that bill which exerts a great deal of influence on the cost estimates in the NYSDA paper is the provision which called for the appointment and compensation of defense attorneys,

". . . at such rates and or amounts as the court determines to be appropriate in order to provide such defendant with representation by counsel and other services as nearly equivalent to those available to defendants who are financially able to obtain such representation and the services for their defense and appeal" ( N.Y. State Legislature, 1982, S7600/9379).

In other words, the cost of legal assistance, as figured in this study, is based on the notion that all defendants would acquire top rate legal council at the expense of the state. This cost is calculated at \$300.00 per hour in the trial portion of litigation and \$100.00 per hour in the appellate portion of litigation.

The NYSDA paper made an additional cost assumption that does not appear to be applicable to the situation in Alaska. In calculating those costs which are attributable to the state/county for prosecutions, the paper applies a factor to the calculated cost of defense which has the effect of rendering the costs of prosecution equal to about two and one-half times the cost of defense. This factor is used because of a reported state-wide disparity between the resources which are devoted to prosecution and defense in New York. Since this disparity does not seem to exist in Alaska (prosecution and public defense are provided by state wide agencies) a multiplier factor is not appropriate.

Investigator fees, as employed in the NYSDA paper, do not appear to be applicable to the situation in Alaska. The costs attributable to investigator fees in the NYSDA paper are based upon the contracting of professional investigators at extremely high fee rates (averaging \$1000/day). However, the State of Alaska employs investigators in the Department of Law and in the Public Defender Agency. Expert fees may be overestimated but they do not appear to play a major role in the overall cost. The overall conclusion of the NYSDA paper is that the cost of capital litigation is astronomical and that this factor should contribute positively to the argument against capital punishment.

The following table represents a comparison of the costs of capital litigation by employment of the NYSDA model and a modified version of the NYSDA model using more realistic figures. The cost figures employed in the modified version of the NYSDA model are derived using approximately the same amount of days of service in a capital case, but are less due to the pro-rating of total yearly personal costs as born by the State of Alaska.

LEGAL COSTS OF A CAPITAL MURDER CASE THROUGH  
THE FIRST THREE LEVELS OF LITIGATION

TRIAL (GUILT AND PENALTY PHASE)

<u>NYSLA Paper</u>		<u>Modified</u>	
<u>Defense</u>			
Attorneys	\$ 212,700	Attorneys	\$ 46,000
Investigators	80,000	Investigators	17,000
Experts	60,000	Experts	30,000
<u>Prosecution</u>			
Attorneys	425,500	Attorneys	46,000
Investigators	240,000	Investigators	17,000
Experts	180,000	Experts	30,000
<u>Court</u>	<u>300,000</u>		<u>100,000 - 300,000</u>
Subtotal	\$1,500,100		\$286,000 - \$386,000
<u>APPEAL TO SUPREME COURT</u>			
<u>Prosecution and Defense</u>	\$ 160,000		\$ 70,000
<u>U. S. SUPREME COURT REVIEW</u>			
<u>Prosecution and Defense</u>	<u>\$ 170,000</u>		<u>\$ 72,000</u>
<u>TOTAL Costs</u>	<u>\$1,828,100</u>		<u>\$428,000 - \$628,000</u>

NYSDA. Attorney fees are based on \$300/hr. for guilt and penalty phases (709 hours); \$100/hr. for appeal phases (800 hours); expert witnesses fees are based on individual case examples of \$500/day; investigator fees are based on fees ranging from \$500/day to \$1500/day and up; and investigator fees are based on superlative examples of rates and fees.

Modified. Attorney fees based on Alaska Attorney V total yearly personal services plus \$50,000 for travel per year all of which is pro-rated according to the time per case (709 attorney hours) as specified in the NYSDA paper for the guilt and penalty phase, 800 hours for each appeal phase. Investigator fees based on Investigator III total yearly personal services pro-rated according to the time specified in the NYSDA paper. Expert fees are based on a rather arbitrary reduction of the figures employed by the NYSDA paper by 50%. This figure represents 60 days of contractual employment of an expert witness at the rate of \$500.00 per day.

COMPARISON OF ESTIMATED COST OF CAPITAL PUNISHMENT  
AND COST OF LIFE IMPRISONMENT

Cost of Life Imprisonment In Maximum Security Prison:

\$110/day x 365 days/year x 44 years \$1,700,000

Net Cost Estimate of Capital Litigation Through First Three Stages:

	\$428,000 - \$628,000
Less the Cost of Non-Capital Trial	<u>107,000 - 157,000</u>
	<u>\$321,000 - \$471,000</u>

Prison costs are determined by multiplying the Department of Corrections system wide cost of \$85/capita/day by 1.25 to account for extra costs of maximum security incarceration (\$110/day). The length of imprisonment is calculated by subtracting the average age of execution in the U.S. (32 years) from the life expectancy (76 years) (U.S. Bureau of Justice Statistics 1983).

Non-capital murder case legal costs are extremely rough estimates which are based on the widely reported observation that capital cases require three to four times the amount of overall litigation (the Florida State Public Defender's Office reports funding for Public Defenders is based on the assumption that first degree murder cases require five times the resources of the average of other felony cases). Thus, non-capital murder cases are calculated at one-fourth of the capital case estimates.

The bottom line cost figures represent the costs associated with keeping a convicted murderer in a maximum security prison for life from the time at which he might have been executed were a death penalty in effect compared to the net costs of a hypothetical capital case carried through the first three levels of review and then executed. Costs for the incarceration of both kinds of prisoners is considered equal to the point at which one is executed.

Since actual cost of execution facility has been reported as insignificant in most states, it is not included. In the case where lethal injection is the method of execution, the cost of the construction of a death chamber could be calculated using the same cost per square foot as a maximum security prison. A death chamber could be simply a modified room with a few preparations for the administration of the injection.

While the disparity between the estimated costs of life imprisonment and capital punishment appears compelling, the following qualifications should be noted:

1. Total costs for capital litigation could be experienced on a yearly basis while the total costs of life imprisonment are incurred on a fractional basis representing 1/44th of the total cost each year. No attempt has been made to discount the cost of life imprisonment on the basis of the opportunity costs which are due to the higher initial cost of capital litigation.
2. The legal costs of a capital case are not calculated beyond the third step of a number of potential legal avenues.
3. The average amount of litigation per case should be expected to decrease after a state's lead cases answer many of the constitutional questions.
4. Certain costs are nonquantifiable. No attempt has been made to factor potential costs associated with loss of life resulting from:
  - a. Release of a prisoner under parole or commuted sentence. (commits murder following release)
  - b. Execution of an innocent person.
5. The potential legal costs due to an additional murder trial (murder committed by a person after parole or commutation of life sentence) are not considered.
6. The cost comparison employed in this paper considers the net cost of execution versus life imprisonment on a per-case basis in which it is assumed that all capital cases will produce a death sentence. No adjustment has been made to account for the additional costs per execution which arise from cases where the death penalty is pursued in court but is not imposed or never carried out. The overall cost increase would be reflected by the ratio

of unsuccessful capital cases (no death penalty is imposed or carried out) to the number of capital cases in which the death penalty is pursued, imposed and carried out.

#### OTHER APPROACHES

In a rather technical approach to the comparison of costs and benefits of the death penalty compared to life imprisonment, Hofler and Witte (1979) suggest that the benefit/cost ratio of capital punishment was nearly three times the benefit/cost ratio of life imprisonment. However, the authors make a number of assumptions which are unacceptable to many people. One of these assumptions is that the value of a human life is assessed at \$186,000. Recognizing this and other factors, the authors conclude that execution should not be preferred to a life sentence solely on grounds of economic efficiency.

#### COMMUNICATION WITH OTHER STATES

Frequently, the comments offered by the respective agency representatives seemed to reflect philosophical and moral motivations rather than fiscal concerns. Perspectives also reflected the advocacy role of the respective agencies. Corrections and prosecution personnel tended to minimize the costs of litigation. Public defenders often voiced concern for the greater responsibilities and costs involved in capital cases.

None of the states which responded could produce any definitive figures relating to legal costs. Costs for incarceration in maximum security prisons were obtained from many states but this information does not appear to be meaningful without a comparison to the costs of litigation. An inquiry into the effect of a state's death penalty statute on legal costs proved to be mostly unsuccessful. In most states, prosecution and defense costs are generated first at the county level and then at the state level. Moreover, no state contacted had approached the problem with an eye for delineating legal costs. No comprehensive approach to determining aggregate costs seemed plausible given the complexity of the problem and the limited time and resources available.

However, some public defender agencies commented that there had not been a great increase in the number of personnel employed by the agency in response to the state's death penalty statute. This may be an indication that costs of public defense may not be as acute as might be expected.

In Illinois, Bob Davison of the State Appellate Defender's Office, indicated that six attorneys and two secretaries had been hired in response to the passage of the death penalty statute in 1977. This increase in personnel represents a ten percent increase in the number of public defenders working at the appellate level. Mr. Davison speculated that the number of public defenders working statewide at the trial level had not increased significantly due to the death penalty.

In Idaho, a similar perspective was reported by Alan Trimming of the Public Defender's Office in Boise. Mr. Trimming speculated that the number of public defenders had not increased significantly statewide. However, he did emphasize that a great deal more time was required for capital cases than for non-capital murder cases.

In Connecticut, Pam Simon of the State Public Defender Services Office, reported that no increase in the number of public defenders could be attributed to the broadening of the state's death penalty statute in 1980. However, Connecticut has had only one capital case since the statute passed.

In most other states where the death penalty has existed for a long period of time, a "before and after" comparison of costs associated with public defense is not possible. The Furman vs. Georgia Supreme Court ruling which interrupted the use of the death penalty does not appear to have provided an sufficient period of time for the comparison of costs.

#### FISCAL NOTES

In response to the introduction of Senate Bill 119, several fiscal notes have been prepared by the various departments and agencies which anticipate fiscal impact. The following is a summary of the fiscal notes prepared to date (in thousands):

<u>Agency</u>	<u>FY 86</u>	<u>FY 87</u>	<u>FY 88</u>	<u>FY 89</u>	<u>FY 90</u>
Dept. of Corrections	\$1644.0	\$ 317.5	\$ 977.5	\$1026.3	\$1077.7
Public Defender Agency	1466.7	1477.0	1551.0	1628.0	1710.0
Ofc. of Public Advocacy	839.0	858.3	909.6	964.0	1021.7
Dept. Law, Prosecution			307.0	331.4	348.0
Court System (in preparation)	_____	_____	_____	_____	_____
<b>TOTALS</b>	<u>\$3949.7</u>	<u>\$2652.8</u>	<u>\$3745.1</u>	<u>\$3949.7</u>	<u>\$4157.4</u>

Upon inspection of these figures it becomes apparent that there exists a great disparity between the anticipated fiscal implications for the prosecuting and defense agencies. The Public Defender's Office and the Office of Public Advocacy have shown a combined yearly impact of approximately \$2.3 million beginning in 1987. This figure is over seven times the anticipated yearly cost to the Department of Law which does not expect its costs to begin until fiscal year 1989. Clearly, there is a difference in perspective since prosecution and defense costs should be approximately equal. At least part of this difference in perspective seems to be attributable to the application of some cost figures from the NYSDA paper by the defense agencies. Moreover, the public defense agencies base their costs on expectations of a total of fourteen capital cases per year. According to Richard Pegues, Director of Administrative Services in the Department of Law, this appears to be a generous estimation in view of the number of first degree murder cases in Alaska each year (approximately 30).

The fiscal note totals submitted by the Department of Corrections are predicated upon the necessity of building a separate addition to an existing prison facility for the purpose of incarcerating prisoners who are condemned to execution. In discussing this approach with William Ladwig, Deputy Commissioner of the Department of Corrections, I discovered that this premise is not substantiated. An alternative that has apparently not been considered is the option to modify the construction of the Seward maximum security prison which is just beginning construction at this time. Modifications would involve minor adjustments to a section of the prison to allow for segregation of death row prisoners from other maximum security prisoners. Mr. Ladwig agreed that this is a viable alternative that would probably not have significant fiscal implications. In addition, the fiscal note did not include any cost benefits (positive fiscal implications) which could be anticipated as a result of the reduction of maximum security prison populations due to execution.

The elimination of the fiscal note from the Department of Corrections and a modification of the two notes from the public defense agencies would greatly reduce the overall fiscal implications for SB 119. The reduction could be especially significant if the public defense agencies' fiscal notes are modified to the extent that their aggregate sum is equal to the amount of the fiscal note prepared by the Department of Law.

#### CONCLUSION

In view of the difficulties in determining the costs associated with capital punishment, this paper might be regarded as only an exercise for the purpose of illustration. While the cost figures for capital punishment seem favorable, the overall difference may not be significant enough to figure importantly in the arguments for or against capital punishment. It appears that the philosophical, moral and criminal justice aspects of this issue may be more germane to the ultimate dispensation of justice.

I will continue to build a resource file on this subject. If you should require additional assistance with this matter, please do not hesitate to call.

RCN  
enclosures:

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# Bureau of Justice Statistics Bulletin

## Capital Punishment 1983

Five persons were executed during 1983, bringing to 11 the total executed since the reinstatement of capital punishment in 1972 (figure 1).<sup>1</sup> This increase in the pace of executions came as many inmates on death row neared the end of a series of appeals and as the courts became increasingly reluctant to sanction a lengthy appeals process in capital punishment cases.

The executions that took place during 1983 brought to 3,870 the total conducted under civil authority in the United States since national reporting began in 1930 (figure 2).<sup>2</sup> After 1967, an unofficial moratorium on executions prevailed as legal challenges to the death penalty were pressed at various court levels. There were no executions until 1977, when one occurred. Two more followed in 1979, one in 1981, and two in 1982. Two-fifths of all execution since 1930 have taken place in five States, each with over 200 executions (figure 3).

### Capital punishment in the courts

The number of successful challenges to the constitutionality of capital punishment laws has dropped off sharply in the past several years as guidelines set down in U. S. Supreme Court cases during the 1970's became incorporated into State capital punishment laws. In the 1972 decision in *Furman v. Georgia*, the Supreme Court for the first time struck down a State capital punishment law as unconstitutional under the Eighth Amendment. Five justices, in as many opinions, found the Georgia capital punishment law objectionable for a number of reasons, most of which were

related to the arbitrary application of the death sentence. Many States responded by adopting new laws designed to answer the Court's objections.

In 1976, in five cases considered together, the Court addressed these new laws and attempted to clarify its decision in *Furman*. In *Woodson v. North Carolina* and *Roberts v. Louisiana*, the Court struck down as unconstitutional State laws that eliminated all discretion from the sentencing process by imposing a mandatory death penalty for specific crimes. However, in *Gregg v. Georgia*, *Jurek v. Texas*, and *Proffitt v. Florida*, the Court upheld laws that provided guidelines to assist the sentencing authority in exercising the required discretion as it considers aggra-

July 1984

Data on persons under sentence of death are collected annually for the Bureau of Justice Statistics as part of the National Prisoner Statistics (NPS) program. Data are obtained from the departments of corrections in each of the 50 States and the District of Columbia. The Bureau of Justice Statistics gratefully acknowledges the cooperation of State officials whose generous assistance and unfailing patience make National Prisoner Statistics possible.

Steven R. Schlesinger  
Director

Status of death penalty as of 12/31/83 and 1983 executions



Figure 1

<sup>1</sup> As of June 20, 1984, 9 more persons had been executed, bringing the new total to 20 since 1977.

<sup>2</sup> In addition to those executed under civil authority, 160 persons have been executed under military authority since 1930.

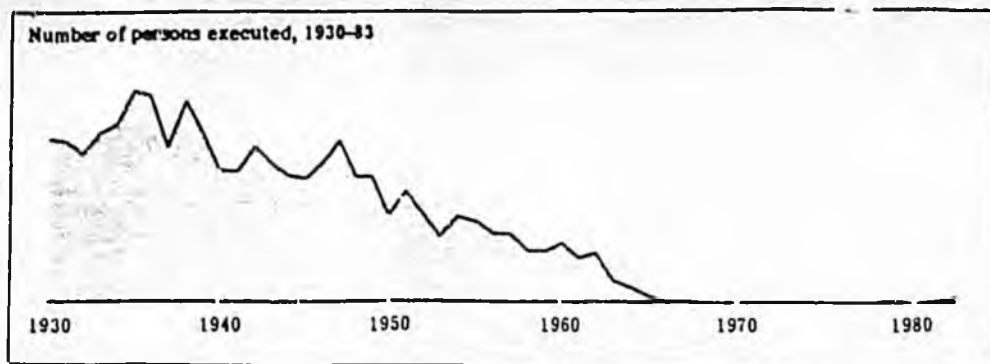


Figure 2

vating and mitigating circumstances surrounding the crime.

Further refinements were provided in a number of cases that reached the U.S. Supreme Court in the late 1970's and early 1980's. By 1982, few cases before the Court had the potential for producing the broad application of earlier decisions. In 1982, and again in 1983, no one was removed from death row because a State capital punishment law had been declared unconstitutional.

During 1983, one of the more important remaining issues in capital punishment was brought to the U. S. Supreme Court—that of proportionality. Proportionality, in the sense that capital punishment must not be excessive and disproportionate given the type of crime, had been mentioned in the plurality opinion of Justice Stewart in Gregg v. Georgia as being part of Eighth Amendment death penalty analysis. However, the concept that States must make punishment for a crime similar to sentences for similar crimes committed by offenders with similar characteristics had not yet been addressed by the Nation's highest court.

Early in 1984, the U. S. Supreme Court ruled in Pulley v. Harris that a proportionality review by a court of statewide jurisdiction is not a Constitutional requirement. Although many State death penalty laws provide for such a review, the court ruled that the Eighth Amendment does not require it as an invariable rule in every case. The Court held that California's death penalty statute and similar post-Furman laws, while perhaps "occasionally producing" aberrational outcomes, were "a far cry from the major systemic defects identified in Furman," and thus passed constitutional muster under the Eighth Amendment.

Three important cases were handed down by the U.S. Supreme Court on July 6, 1983: California v. Ramos, Barclay v. Florida, and Barefoot v. Estelle. In 1982, the California Supreme Court had ruled (in People v. Ramos) that a required instruction to the jury that a life sentence without parole could be commuted by the

Governor rendered the State's death penalty law unconstitutional under the Eighth Amendment of the Federal Constitution. However, the U. S. Supreme Court reversed that decision and held that the Federal Constitution does not prohibit such instructions to the jury. By bringing to the jury's attention the possible commutation of a life sentence, the instruction, the Court

State	Number of persons executed, by jurisdiction, 1930-83 (total 3,870)	
	Number executed since 1930	since 1977
Georgia	367	1
New York	329	
Texas	298	1
California	292	
North Carolina	263	
Ohio	172	
Florida	172	2
South Carolina	162	
Mississippi	155	1
Pennsylvania	152	
Alabama	136	1
Louisiana	134	1
Arkansas	118	
Kentucky	103	
Tennessee	93	
Virginia	93	1
Illinois	90	
New Jersey	74	
Maryland	68	
Missouri	62	
Oklahoma	60	
Washington	47	
Colorado	47	
Indiana	42	1
West Virginia	40	
District of Columbia	40	
Arizona	38	
Federal system	33	
Nevada	30	1
Massachusetts	27	
Connecticut	21	
Oregon	19	
Iowa	18	
Kansas	15	
Utah	14	1
Delaware	12	
New Mexico	8	
Wyoming	7	
Montana	6	
Vermont	4	
Nebraska	4	
Idaho	3	
South Dakota	1	
New Hampshire	1	
Wisconsin	0	
Rhode Island	0	
North Dakota	0	
Minnesota	0	
Michigan	0	
Maine	0	
Hawaii	0	
Alaska	0	

Figure 3

said, "invites the jury to assess whether the defendant is someone whose probable future behavior makes it undesirable that he be permitted to return to society..." Such considerations were approved of in Jurek v. Texas, but were emphasized as appropriate in California v. Ramos.

The Barclay case dealt with violations of State law committed during sentencing proceedings in capital punishment cases. In Barclay, the trial judge sentenced the defendant to death on the basis of several considerations. One of these, the defendant's past criminal record, was improper under the capital punishment statute. The Florida Supreme Court had upheld the sentence because under "harmless error analysis" it was clear that the judge's improper use of the defendant's record was a harmless error that did not alter the final sentence. On review, the Supreme Court upheld the Florida decision.

The Barefoot case was notable both because it upheld the admissibility of psychiatric evidence predicting future dangerousness and because the High Court approved the acceleration of the appeals process in capital cases. The Court used Barefoot to establish general guidelines for habeas appeals of capital sentences. The Court held that a strong showing that a federal right has been denied is needed to obtain a certificate of probable cause, and that even with the certificate, the court of appeals may expedite its consideration of the merits of habeas appeals. Thus, the court of appeals may deny an application for a stay of sentence if, in doing so, it determines that the defendant lacks substantial grounds on the merits; such procedures were held especially appropriate where the petition is a second or successive collateral attack.

On October 11, 1983, the U.S. Court of Military Appeals, the Nation's highest military court, ruled that sentencing procedures in the Uniform Code of Military Justice did not conform to U. S. Supreme Court guidelines set down in the 1972 and 1976 landmark decisions. As a result of this decision, U.S. v. Matthews, the death sentences of seven men condemned under court-martial procedures were removed. New regulations remedying the defects in the code were promulgated in an executive order effective January 24, 1984.

Among the issues still pending at yearend 1983 were the effectiveness of counsel in capital cases, the practice by trial judges of overriding a jury's sentence recommendation, and the admissibility of research findings of racial

discrimination in the imposition of the death penalty.

Massachusetts, which had an earlier law struck down in 1980, enacted a new law effective January 1, 1983, so that by the end of 1983, 38 States and the Federal government had laws authorizing the death penalty. This was the largest number of jurisdictions authorizing the death penalty since it was declared unconstitutional in 1972.

### Persons under sentence of death at yearend 1983

The number of persons under sentence of death at yearend 1983 was 1,202, a 13% increase over yearend 1982 (figure 4). During 1983, 252 persons received the death penalty and 113, including the 5 executed, were removed from death row. The 252 death penalties imposed during 1983 was higher than in any other year since

at least 1968 except 1982. The number removed from death row during 1983 was higher than in the four previous years.

Since 1953, when the official count of those under sentence of death began, the number under sentence at yearend has increased almost tenfold (figure 5). The buildup on the Nation's death rows initially coincided with the legal challenges to the death penalty in the 1960's. All persons under sentence of death at the time of the 1972 Supreme Court decisions were eventually removed from death row. The buildup began anew as offenders were sentenced under laws passed after the 1972 and 1976 landmark decisions, marking the sharpest rise in the number of death-row inmates since data were first compiled.

All death-row prisoners remaining under sentence at yearend had been convicted of murder. One-third of the 902 persons under sentence of death for whom the information was available were already under sentence for another crime when arrested for capital murder. Most of them (19% of those reporting) were on parole, while 6% were on probation, 4% serving time in prison, 3% on escape, and 2% on various other types of prison release. Two-thirds of all death-row prisoners had been convicted of felonies before they were charged with a capital crime.

Of the 38 States authorizing the death penalty, 33 had prisoners under sentence of death at yearend 1983, more States than in any previous year. Five States (Connecticut, Massachusetts, New Hampshire, South Dakota, and Vermont) and the Federal system had death penalty laws on their books but no one on death row. No one has been under sentence of death in Federal facilities since 1977.

The 1,202 persons on death row were concentrated, as in previous years, mainly in the South, which held almost two-thirds of all death-row prisoners. Some 21% were held in correctional facilities in the West, 11% in the North Central States, and 3% in the Northeast. The States with the largest numbers on death row were Florida (193), Texas (163), California (149), and Georgia (102) (figure 4). Nine States held between 25 and 99 inmates under sentence of death; 10 held between 10 and 24 inmates; and 10 held between 1 and 9 inmates.

About a fifth of those on death row at yearend had received sentences during 1983. The median time on death row was 28 months, but almost 3 in 10 inmates had spent at least 4 years under sentence of death by yearend,

Prisoners under sentence of death, by region and State, 1983

Region and State	Prisoners under sentence of death 12/31/82	Changes during 1983		Prisoners under sentence of death 12/31/83
		Received under death sentence	Removed from death row (including executions*)	
<b>United States</b>	<b>1,063</b>	<b>252</b>	<b>113*</b>	<b>1,202</b>
Male	1,049	249	109*	1,185
Female	14	3	4	13
Federal <sup>2</sup>	0	0	0	0
State	1,063	252	113*	1,202
<b>Northeast</b>	<b>26</b>	<b>19</b>	<b>8</b>	<b>37</b>
Connecticut	0	0	0	0
Massachusetts	0	0	0	0
New Hampshire	0	0	0	0
New Jersey	0	3	0	3
New York	0	1	0	1
Pennsylvania	26	15	8	33
Vermont	0	0	0	0
<b>North Central</b>	<b>101</b>	<b>39</b>	<b>4</b>	<b>136</b>
Illinois	50	16	2	64
Indiana	15	6	0	21
Missouri	21	2	0	23
Nebraska	12	0	2	10
Ohio	3	15	0	18
South Dakota	0	0	0	0
<b>South</b>	<b>721</b>	<b>143</b>	<b>82</b>	<b>777</b>
Alabama	38	13	2*	49
Arkansas	23	1	2	22
Delaware	6	0	0	6
Florida	186	34	27*	193
Georgia	105	7	10*	102
Kentucky	13	6	0	19
Louisiana	21	5	2*	24
Maryland	14	0	3	11
Mississippi	35	5	3*	37
North Carolina	28	11	6	33
Oklahoma	39	8	8	39
South Carolina	17	12	1	28
Tennessee	28	5	2	31
Texas	149	33	19	163
Virginia	19	3	2	20
<b>West</b>	<b>215</b>	<b>51</b>	<b>14</b>	<b>252</b>
Arizona	51	7	7	51
California	120	33	4	149
Colorado	2	0	1	1
Idaho	7	0	0	7
Montana	3	1	0	4
Nevada	18	6	1	23
New Mexico	5	1	0	6
Utah	3	1	0	4
Washington	3	2	1	4
Wyoming	3	0	0	3

NOTE: States not listed and the District of Columbia did not have the death penalty as of 12/31/83. Some of the figures shown for yearend 1982 are revised from those shown in Capital Punishment 1982 (final report), NCJ-91533. The revised figures include 23 inmates who were reported late to the NPS program or who were not in the custody of State correctional authorities by 12/31/82 (8 in Louisiana, 6 in Georgia, 2 in Alabama, and 1 each in Delaware, Illinois, Nevada, Oklahoma, Pennsylvania, Tennessee, and Texas), and exclude 10 inmates relieved of the death sentence before 12/31/82 (3 in Florida, 2 each in Mississippi and Tennessee, and 1 each in Arkansas, Georgia, and Oklahoma).

\* 1983 executions: 1 each in Alabama, Florida, Georgia, Louisiana, Mississippi.

<sup>1</sup>Includes five inmates who died of natural causes (one each in Alabama, Florida, Georgia, Louisiana, and Mississippi), three who committed suicide (one each in California, Colorado, and Texas), and one who was killed attempting to escape while on a court appearance (Texas).

<sup>2</sup>Excludes prisoners held under Armed Forces jurisdiction. Six such prisoners who were under sentence on 12/31/82 and one who was sentenced during 1983 were relieved of the death sentence on 10/11/83, leaving no one under military death sentence at yearend 1983.