

ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672

5635 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

39

Testimony for House HESS Committee  
re: HB 19

Douglas Gregg  
Secretary, Alaska Association of Homes for Children  
President, Board of Directors, Ketchikan Children's Home

Mr. Chairman:

I appreciate the work your committee has done on HB 19.

Our organization feels that MB 19 has a broader scope than just reviewing foster care placements. The mandate of these review panels will be to review the cases of all children in need of aid. Many of the residents of our facilities come to us through this process. The review panels will also monitor each child's placement and progress. Many of the residents of our facilities come to us as a further placement from foster homes.

We have been very concerned about the lack of permanency planning with respect to children in the custody of the state. Usually there is no plan, or when one exists, it is not adhered to.

We support the formation of review panels to assist in planning, placement, and assessment, on an ongoing basis. HB 19 moves toward this goal which is necessary to insure continuity and appropriate placements to children in state custody.

The review panels membership should be made up of persons with "experience in child welfare and a demonstrated interest in children." This would include treatment staff and directors of facilities such as those in our organization. We would like to see lines 19-21 of page 2 reflect these possibilities.

The review panel consisting of three members would seem to be an ideal number. A small group would allow: a) easy communication between members, b) easy communication between the panel and parties to the placement planning process, c) easy scheduling of necessary meetings, d) timely completion of necessary decisions, and e) keeping to the schedule for necessary reviews to assess progress, appropriateness, and actual services provided. We encourage the committee to retain three member panels and, if needed, create additional panels rather than expand the size of each panel.

*Douglas Gregg*

# **CORRECTION**

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



## Alaska Foster Parent Training Center

1550 Gillam Way, Fairbanks, Alaska 99701-6046 (907) 451-7307 FAX (907) 452-3724

### BACKGROUND INFORMATION FOR TESTIMONY OF JEANNE GONZALEZ, COORDINATOR OF THE ALASKA FOSTER PARENT TRAINING CENTER

#### TRAINING CONTRACT

In October, 1988, the Division of Family and Youth Services awarded a contract to Northwest Resource Associates, a private non-profit organization, to establish the Alaska Foster Parent Training Center in its Fairbanks office. During the first nine months of operation, services provided by the Center will be free and available to all foster parents and will include:

- A confidential questionnaire which all foster parents will be requested to complete, which will gather their opinions about foster parenting and training, as well as the kinds of training they are most interested in.
- Statewide training of the DFYS courses "Issues in Foster Parenting" and "Discipline." The first offerings of these trainings will be in Barrow and Bethel.
- The development of seven new courses, "The Impact of Physical Abuse," "The Impact of Sexual Abuse," "Child Development Specific to Foster Parenting," (two courses) "Preparing Youth for Emancipation," and a self-instructional orientation course. We will be pilot testing these courses in April, May and June and will begin offering them statewide in July or August.
- The researching and cataloging of alternative training resources which will be available for training credit, and the implementation of a data system which will record information about the training opportunities foster parents take advantage of.
- The establishment of a circulating library of books, articles, videos and periodicals specifically for foster parents.
- The publishing of the Alaska Foster Parent Bulletin, which will let foster parents know about training events and new resources.
- A toll-free 1-800 number for foster parents to use to reach us to find out about training opportunities. The number is 1-800-478-7307. In Fairbanks, please call 451-7307.

## ALASKA FOSTER PARENT TRAINING CENTER

## Advisory Committee Members

Sue White  
DFYS, Sitka

Josephine Anagiak  
DFYS, Bethel

Sharon Lattery  
Rural CAP, Anch.

Susan LaBelle  
Cook Inlet Tribal  
Council, Anchorage

Lana Morgan  
Foster Parent  
Fairbanks

Liz Taylor  
Specialized  
Foster Care, Fbks.

Don Shirael  
Tanana Chief's  
Conference  
Fairbanks

Diana Worley  
Resource Center  
For Parents &  
Children, Fairbanks

Miriam Sumner  
Ak. Foster Parent  
Association  
Anchorage

Agnes Sweetair  
Community Member  
Fairbanks

Margaret Krause  
Fairbanks Youth  
Facility, Fairbanks

Steve Wilson  
Ex Officio  
DFYS, Fairbanks

## Alaska Foster Parent Training Center Staff:

Robert Hunner  
Barbara Pearson

Jeanne Gonzales  
Lola Hodges

Julie Smith  
Diane Bibb

## FOSTER PARENT TRAINING SCHEDULE

|       |        |            |
|-------|--------|------------|
| March | 3, 4   | Bethel     |
|       | 31, 1  | Barrow     |
| April | 7, 8   | Galena     |
|       | 14, 15 | Dillingham |
|       | 21, 22 | Kodiak     |
| May   | 2, 3   | Kotzebue   |
|       | 5, 6   | Nome       |
|       | 12, 13 | Juneau     |
|       | 16, 17 | Ketchikan  |
|       | 19, 20 | Wrangell   |

The March - May training schedule will provide 300 hours of training in the two courses of "Issues in Foster Parenting" and "Discipline" and will be followed by additional trainings in Tok, Anchorage, the Mat-Su Valley, Kenai and Fairbanks.

Testimony for House HESS Committee  
re: HB 19

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Secretary, Alaska Association of Homes for Children  
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*Douglas Gregg*

## General Statements

70% of prostitutes report childhood incest or rape.  
(The Common Secret - Sexual Abuse of Children and Adolescents by C. Henry Kempe)

Research studies consistently show that as few as 5% to 7% of male juvenile offenders commit as much as 60% of all juvenile crime. Wolfgang 1983, [SHO/DI, SHO/CAP, Office of Juvenile Justice and Delinquency Prevention, U.S. Dept. of Justice]

Various studies have shown that as many as 85% of inmates in the general prison population were physically or sexually abused as children. Of the population of inmates incarcerated for crimes of violence against people, the majority, particularly of male offenders were sexually abused as children. (U.S. Dept. of Justice)

Close to half of serious crimes committed in the United States involve youths under the age of 18 and a large percentage of the re-occurring crimes are committed by youthful offenders age 19 to 24 with multiple juvenile arrests. (Running Toward Prison, a study commissioned by the Alaska State Senate, 1986)

The major runaway population reported a very high level of physical abuse (73%) and sexual abuse (51%) and identified both "unhappy life" and physical and verbal abuse as key reasons for leaving. (Running Toward Prison)

In a study of the male offenders incarcerated at McLaughlin Youth Center, it was found that:

80% of the juveniles responding reported multiple incidents of physical abuse.

40% of McLaughlin residents responding reported the same kind of physical abuse against others. One-fourth of those who were sexually abused admitted committing such acts later.

68% reported sexual abuse and 25% has been "extremely sexually abused."

It should be noted that this study did not include females who are typically higher in most categories of abuse. (Running Toward Prison, 1986)

"The profiling of serial murderers and rapists reveals psychological abnormalities stemming from negative life factors rooted in child and teen years as one of the predictors of serial murderers, arsonists and rapists." (Agent Ken Fanning, Federal Bureau of Investigation, Behavioral Sciences Unit)

Number of Juvenile Offenses as Related to Family Situation

Number of Offenses

---

|  | 1   | 2   | 3   | 4   | 5   | 6    | 7    |
|--|-----|-----|-----|-----|-----|------|------|
| Offenders from families with severe problems | 30% | 45% | 43% | 57% | 67% | 100% | 100% |

(Juvenile records research in Alaska C 1972)

John Walsh of the National Center for Missing and Exploited Children stated before the Joint Judiciary and Health and Social Services Committees on February 15, 1985:

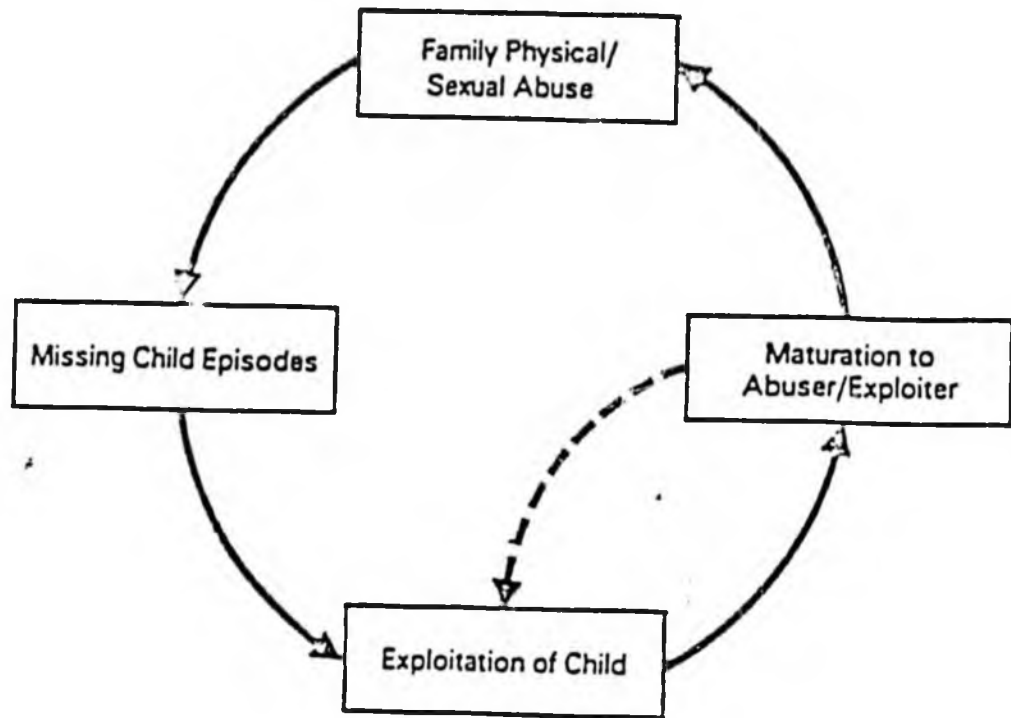
"Those of you who are parents who love children have a vested interest. Those of you that don't have children and really aren't concerned with children but won't admit it publicly, consider this: 80% of the convicted felons that are in federal prisons, by an FBI survey, were physically or sexually abused as children. 75% of the violently mental ill in state institutions were physically or sexually assaulted as children. If you want to deal with the problem now, you won't have to pay later. Because the 12 year old on the streets of Anchorage tonight, or the sexually or physically abused child in your schools today, may become the rapist or murderer in Alaska's future and you'll have to deal with a larger, much larger appropriation and much bigger jail cells. So there is a way to break the chain and that's by protecting children now and stopping and helping the victim. We must stop them from becoming future criminals."

It will cost an average of \$45,000.00 per year for each inmate. (Alaska Dept. of Corrections, 1987)

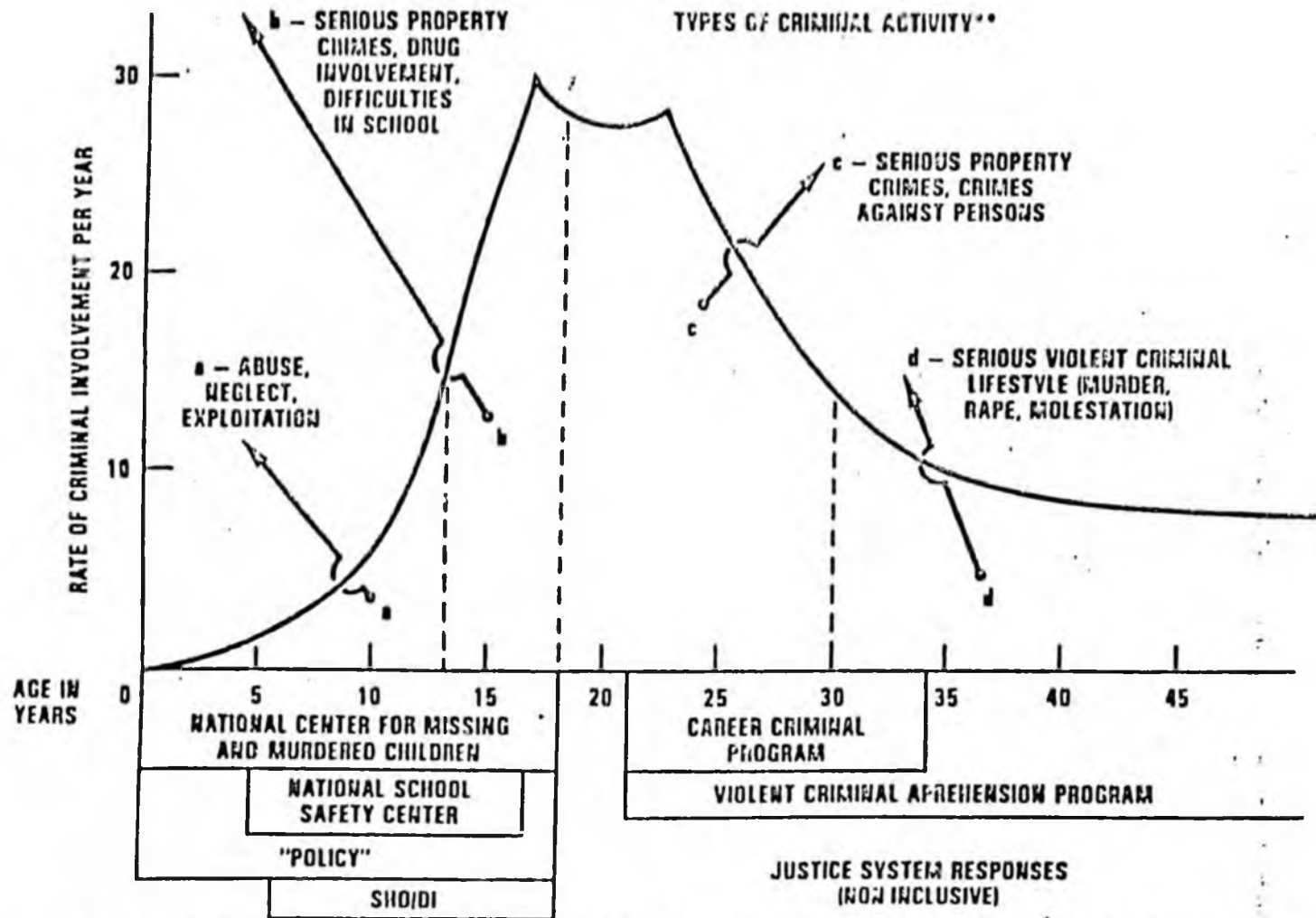
These are but a few references to the connection between abused children and serious juvenile and adult offenders. If we can make significant progress toward treatment and recovery of children who are the products of dysfunctional families, it is glaringly obvious that there will be an accompanying reduction in criminal behavior. We can pay now, or pay later, but pay we will. It seems to me that the cost of waiting is, in terms of human suffering and public resources, more than I wish to accept.

Frank H. Wasmer

## Cycle of Violence



# CONCEPTUAL MODEL: SERIOUS HABITUAL CRIMINAL EVOLUTION\*



\*IT IS IMPORTANT TO REMEMBER THAT ALTHOUGH THIS TYPE OF INDIVIDUAL REPRESENTS A VERY SMALL PERCENTAGE OF THE OFFENDER POPULATION, HE IS RESPONSIBLE FOR A LARGE PERCENTAGE OF CRIMINAL OFFENSES.

\*\*ALTHOUGH THE TYPES OF CRIMINAL ACTIVITY ARE IDENTIFIED ACCORDING TO AGE GROUP, THIS DIVISION IS FOR GENERAL PURPOSES. OBVIOUSLY THERE IS ACTIVITY OVERLAP BETWEEN AGE GROUPS.

**CONCEPTUAL MODEL:  
SERIOUS HABITUAL CRIMINAL EVOLUTION\***  
(Continued)

| AGES               | ACTIVITY   |
|--------------------|--|
| BIRTH TO 16 YEARS: | <u>VICTIM</u> OF PHYSICAL, PSYCHOLOGICAL, EMOTIONAL ABUSE;<br>NEGLECT; EXPLOITATION  |
| 8 TO 16 YEARS:     | SCHOOL PROBLEMS (EXCESSIVE TRUANCY, DISRUPTIVE<br>BEHAVIOR, LEARNING DIFFICULTIES, VANDALISM); DAYTIME<br>BURGLARY; DRUG INVOLVEMENT |
| 12 TO 18 YEARS:    | <u>PERPETRATOR</u> OF SERIOUS PROPERTY CRIME   |
| 16 TO 30 YEARS:    | <u>PERPETRATOR</u> OF SERIOUS PROPERTY CRIME, CRIMES<br>AGAINST PERSONS  |
| 22 AND OLDER:      | SERIOUS, VIOLENT CRIMINAL LIFESTYLE  |

\*IT IS IMPORTANT TO REMEMBER THAT ALTHOUGH THIS TYPE OF INDIVIDUAL REPRESENTS A VERY SMALL PERCENTAGE OF THE OFFENDER POPULATION, HE IS RESPONSIBLE FOR A LARGE PERCENTAGE OF CRIMINAL OFFENSES.

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- SERIOUS CRIME ARRESTS ARE HIGHEST IN YOUNG AGE GROUPS.
- PARTICIPATION IN CRIME DECLINES WITH AGE.
- GANG MEMBERSHIP IS A MAJOR DIFFERENCE BETWEEN YOUTH AND ADULT CRIMINALS.
- THERE IS A STRONG POSSIBILITY OF PROGRESSION FROM SERIOUS JUVENILE TO SERIOUS ADULT CRIMINAL CAREERS.
- SERIOUS JUVENILE OFFENDERS:
  - ARE PREDOMINANTLY MALE:
  - ARE DISPROPORTIONALLY BLACK AND HISPANIC AS COMPARED TO THEIR PROPORTION OF THE POPULATION:
  - ARE TYPICALLY DISADVANTAGED ECONOMICALLY:
  - ARE LIKELY TO EXHIBIT INTERPERSONAL DIFFICULTIES AND BEHAVIORAL PROBLEMS BOTH IN SCHOOL AND ON THE JOB:
  - OFTEN COME FROM ONE PARENT FAMILIES OR FAMILIES WITH A HIGH DEGREE OF CONFLICT, INSTABILITY, AND INADEQUATE SUPERVISION.

*Report to the Nation on Crime and Justice, BJS, NCJ 87068, October, 1983*

PERSONS ARRESTED  
UNDER 18 YEARS OF AGE

1987 STATEWIDE TOTALS

| OFFENSE       | SEX | 12/<br>Und | 13<br>14 | 15  | ****RACE**** |     |      | TOT<br>under<br>18 | Wht | ****RACE**** |     |     |
|---------------|-----|------------|----------|-----|--------------|-----|------|--------------------|-----|--------------|-----|-----|
|               |     |            |          |     | 16           | 17  |      |                    |     | Blk          | Ind | Asi |
| CLASS         |     |            |          |     |              |     |      |                    |     |              |     |     |
| Murder        | M   |            |          |     |              |     | 2    | 2                  | 1   |              | 1   |     |
|               | F   |            |          |     |              |     |      |                    |     |              |     |     |
| Manslaught.   | M   |            |          |     |              |     | 1    | 1                  | 1   |              |     |     |
|               | F   |            |          |     |              |     |      |                    |     |              |     |     |
| Rape          | M   |            | 1        |     |              |     | 2    | 3                  | 3   |              |     |     |
|               | F   |            |          |     |              |     |      |                    |     |              |     |     |
| Robbery       | M   |            |          | 4   | 3            | 1   | 8    | 9                  |     |              | 1   |     |
|               | F   |            |          |     | 1            | 1   | 2    |                    |     |              |     |     |
| Agg. Assault  | M   | 3          | 12       | 8   | 15           | 27  | 65   | 54                 | 5   | 21           |     |     |
|               | F   | 1          | 1        | 4   | 5            | 4   | 15   |                    |     |              |     |     |
| Burglary      | M   | 91         | 90       | 49  | 129          | 86  | 445  | 345                | 14  | 115          | 1   |     |
|               | F   | 14         | 10       | 5   | 1            |     | 30   |                    |     |              |     |     |
| Larceny       | M   | 230        | 321      | 182 | 215          | 189 | 1137 | 1322               | 145 | 247          | 40  |     |
|               | F   | 127        | 204      | 115 | 85           | 86  | 617  |                    |     |              |     |     |
| MV Theft      | M   | 14         | 21       | 19  | 46           | 34  | 134  | 112                | 10  | 41           | 3   |     |
|               | F   | 1          | 8        | 7   | 8            | 8   | 32   |                    |     |              |     |     |
| Other Asslts. | M   | 14         | 23       | 20  | 24           | 30  | 111  | 92                 | 20  | 43           | 2   |     |
|               | F   | 3          | 17       | 5   | 10           | 11  | 46   |                    |     |              |     |     |
| Arson         | M   | 2          | 3        | 3   |              | 3   | 11   | 10                 | 1   | 2            |     |     |
|               | F   | 1          |          |     |              | 1   | 2    |                    |     |              |     |     |
| Forgery       | M   | 1          | 1        |     | 4            | 2   | 8    | 9                  | 1   |              |     |     |
|               | F   |            | 1        |     | 1            |     | 2    |                    |     |              |     |     |
| Fraud         | M   |            | 1        | 1   | 2            | 2   | 6    | 7                  | 1   |              |     |     |
|               | F   |            |          |     | 2            |     | 2    |                    |     |              |     |     |

PERSONS ARRESTED  
18 YEARS OF AGE AND OVER

1987 STATEWIDE TOTALS

| OFFENSE CLASS       | SEX | 18  | 19  | 20  | 21 | 22 | **AGE** |     |     |     |     |     |    |    |    |    | Tot | **RACE** |      |     |     |     |
|---------------------|-----|-----|-----|-----|----|----|---------|-----|-----|-----|-----|-----|----|----|----|----|-----|----------|------|-----|-----|-----|
|                     |     |     |     |     |    |    | 23      | 24  | 25  | 30  | 35  | 40  | 45 | 50 | 55 | 60 |     | 65       | Wht  | Blk | Ind | Asn |
|                     |     |     |     |     |    |    |         | 29  | 34  | 39  | 44  | 49  | 54 | 59 | 64 | 65 |     |          |      |     |     |     |
| Murder<br>01A       | M   | 1   |     |     | 4  | 1  | 3       | 2   | 4   | 2   | 3   | 2   | 1  | 1  | 1  |    |     | 25       | 12   | 4   | 13  |     |
|                     | F   |     |     |     |    | 1  |         |     | 1   |     |     | 2   |    |    |    |    |     | 4        |      |     |     |     |
| Manslaughter<br>01B | M   | 1   |     | 3   |    |    | 1       |     | 3   | 3   | 5   |     |    |    |    |    |     | 16       | 11   | 1   | 5   |     |
|                     | F   |     |     |     |    |    |         | 1   |     |     |     |     |    |    |    |    |     | 1        |      |     |     |     |
| Rape<br>02          | M   | 2   | 6   | 3   | 6  | 2  | 7       | 3   | 27  | 11  | 10  | 5   |    | 1  | 1  |    |     | 84       | 27   | 14  | 43  |     |
|                     | F   |     |     |     |    |    |         |     |     |     |     |     |    |    |    |    |     |          |      |     |     |     |
| Robbery<br>03       | M   | 1   | 5   | 5   | 6  | 6  | 6       | 3   | 9   | 9   | 3   | 1   | 1  |    |    |    |     | 55       | 36   | 13  | 7   |     |
|                     | F   |     |     |     |    |    |         |     |     | 1   |     |     |    |    |    |    |     | 1        |      |     |     |     |
| Agg. Assault<br>04  | M   | 12  | 21  | 20  | 25 | 25 | 35      | 36  | 147 | 135 | 65  | 50  | 23 | 19 | 12 | 10 | 4   | 639      | 398  | 62  | 236 | 12  |
|                     | F   | 4   | 1   | 1   | 3  | 3  | 1       | 3   | 24  | 12  | 10  | 4   | 1  | 1  |    | 1  |     | 69       |      |     |     |     |
| Burglary<br>05      | M   | 53  | 66  | 48  | 31 | 65 | 27      | 38  | 162 | 31  | 21  | 9   | 1  | 5  |    |    |     | 557      | 402  | 24  | 136 | 4   |
|                     | F   | 1   |     |     | 2  | 1  | 1       | 1   | 3   |     |     |     |    |    |    |    |     | 9        |      |     |     |     |
| Larceny<br>06       | M   | 190 | 151 | 118 | 99 | 93 | 99      | 108 | 438 | 338 | 246 | 121 | 55 | 48 | 31 | 24 | 21  | 2180     | 1961 | 456 | 689 | 74  |
|                     | F   | 69  | 46  | 46  | 45 | 50 | 64      | 59  | 195 | 184 | 105 | 50  | 31 | 18 | 19 | 9  | 10  | 1000     |      |     |     |     |
| MV Theft<br>07      | M   | 29  | 20  | 15  | 8  | 13 | 10      | 9   | 18  | 16  | 6   | 5   |    | 1  |    |    |     | 150      | 103  | 10  | 51  | 1   |
|                     | F   |     |     | 1   | 1  |    | 1       | 1   | 3   | 3   | 5   |     |    |    |    |    |     | 15       |      |     |     |     |
| Other Asslts<br>08  | M   | 37  | 39  | 50  | 87 | 82 | 77      | 93  | 488 | 347 | 220 | 152 | 71 | 35 | 13 | 10 | 9   | 1810     | 1027 | 217 | 791 | 28  |
|                     | F   | 12  | 7   | 11  | 17 | 14 | 9       | 14  | 65  | 52  | 24  | 11  | 8  | 3  | 3  | 1  | 2   | 253      |      |     |     |     |
| Arson<br>09         | M   | 1   | 1   |     | 2  | 4  | 2       | 1   | 1   | 2   | 4   | 1   | 1  |    | 1  |    |     | 21       | 13   | 1   | 8   |     |
|                     | F   |     |     |     |    |    |         |     |     | 1   |     |     |    |    |    |    |     | 1        |      |     |     |     |

STATE OF ALASKA  
THE LEGISLATURE

POUCH V - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907.465.3800

LEGISLATIVE AFFAIRS AGENCY  
LEGISLATIVE REFERENCE LIBRARY

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

Mary Van Nimwegen

H. HESS 3-9-89  
" " 4-27-89



JIM

## Alaska Court System

HAND DELIVERED

State of Alaska

303 "K" STREET  
ANCHORAGE, ALASKA  
99501

ARTHUR H. SNOWDEN II  
ADMINISTRATIVE DIRECTOR

(907) 274-8611

April 6, 1989

Representative Johnny Ellis  
Chairman, House HESS  
Alaska State Legislature  
P.O. Box V  
Juneau, Alaska 99811

Re: HB 19

Dear Representative Ellis:

Thank you for the opportunity to present the court's position on HB 19 to the HESS subcommittee yesterday. As the Chief Justice pointed out in his March 13 letter, foster care review panels are not a judicial function as they perform oversight to employees of the Department of Health and Social Services.

Under the current committee substitute, the panels would not only present an appearance of impropriety, they would also be in a conflict position with DHSS because both are given the authority to request court review of the panel's recommendation under Section 47.10.450. Thus, judicial employees may be adversarial to DHSS employees before the court. The fact that the court must review its own panel's recommendations lends an appearance of impropriety and may easily lead to a charge that the court acts only as a "rubber stamp" of the panel's work. For these reasons, the foster care review panels need to be independent of the judiciary.

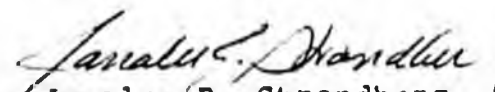
A mechanism by which this may be accomplished is by a statewide board. I have enclosed foster care review panel legislation from two of several states that have set up independent statewide boards charged with the selection, training, and oversight of local foster care review panels. Their functions and responsibilities are specifically set out in the statutes. These state boards also have the authority to hire directors and staff to implement training, collect data, and assist the local boards with their review functions. We strongly urge the committee to incorporate similar provisions in its proposed legislation.

Other specific problems that we have with the current committee substitute are:

- Section 47.10.400(b): (1) panel selection should not be made by the presiding judge (who in many cases will be the reviewing court), but should be appointed by the state board.  
(2) panel membership should include racial, ethnic, economic and national origin variety. A frequent complaint about panel composition in other states is that they tend to be comprised of upper middle class white persons. The professional requirements in this committee substitute almost guarantee this result.
- Section 47.10.400(c): panel membership should be for a definite (preferably two year) term. Panel members should not serve at the pleasure of the presiding judge.
- Section 47.10.420: The court system should provide meeting space and recording equipment for the panels and their staff. The court system does not have the ability to otherwise equip them.
- Section 47.10.440(d): The panels should not be required by statute to interview anyone. Their training should give them the ability to determine when and whom to interview in given cases.
- Section 47.10.440(e): The panels should submit their reports directly to the court and to the parties.
- Section 47.10.470(c): This section should be deleted. If another judicial district is more convenient to the parties, the court can have the case transferred by change of venue.
- Section 47.10.790: Reports to the legislature should be made by the state board or its staff. The administrative director of the court system has no mechanism by which to collect the data requested nor does he have any expertise to determine potential savings or costs to the state.

I would be glad to discuss these comments with you and to answer any questions about them.

Very truly yours,

  
Janalee R. Strandberg  
Staff Counsel

Enclosures - 2

cc: Rep. Max. F. Gruenberg, Jr.  
Rep. Ann M. Spohnholz  
Rep. Virginia M. Collins

TO: REVA JONATHAN COLLINS

ATTN: MARVREN

P. 1  
For Conference 4/5/91  
4:30 P.M.

From:

BILL HITCHCOCK

~~CHIEF CLERK~~, ANCHORAGE 264-0420

HB 19 - Proposed amendment to AS 47.10.080:

(f) A minor found to be delinquent or a child in need of aid is a ward of the state while committed to the department or the department has the power to supervise the minor's actions. The court shall review an order made under (b) or (c)(1) or (2) of this section annually, and may review the order more frequently to determine if continued placement, probation or supervision, as it is being provided, is in the best interest of the minor and the public. If annual review would arise within 90 days of the hearing required by (g) of this section, the court may postpone such review until the time set for the hearing. The department, the minor, the minor's parents, guardian, or custodian are entitled to a review on application. If the application is granted, the court shall afford these parties and their counsel reasonable notice in advance of the review and hold a hearing where these parties and their counsel shall be afforded an opportunity to be heard. The minor shall be afforded the opportunity to be present at the review.

Add a new section (g) as follows:

(g) Within 18 months of the date a minor is initially committed to the department under AS 47.10.142(e), the court shall hold a hearing to review the placement and services provided and to determine the future status of the minor.

P. 2

The court shall make written findings including but not limited to the following:

(1) whether the child should be returned to the parent, or;

(2) whether the child should continue in foster care for a specified period, or;

(3) whether the child should be placed for adoption, or;

(4) whether the child should be continued in foster care on a permanent or long term basis because of special needs.

OFFICE OF PUBLIC ADVOCACY  
POSITION PAPER  
WORK DRAFT FOR CS FOR HOUSE BILL NO. 19 (HESS)  
DATED 4/3/87

This legislation concerns "An Act relating to children's proceedings; establishing review panels for children in the custody of the state; amending Rule 19 of the Child in Need of Aid Rules; and providing for an effective date."

The Office of Public Advocacy strongly supports the concept of citizen review of children in foster care. House Bill 19 is supported, in general, with the additions and corrections that appear in this position paper.

We believe that the citizen review panels, as suggested in HB 19, need to have the guidance of an oversight or governing body. To this end, we recommend that the following be added to the legislation:

(a) There is created the Alaska Citizen Review Board. The board consists of seven members, appointed by the Governor from among past or present members of local foster care review panels as established under AS 47.10.400. The governor shall appoint at least one board member from each judicial district.

(b) Members of the board serve for terms of three years.

(c) The board shall elect from its members a chair who shall serve for two years. Five members of the board constitute a quorum for the transaction of business.

(d) Members of the board serve without compensation but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180 while engaged in the work of the board.

(e) The board shall meet at least quarterly and upon the call of the chair.

(f) The board shall employ a director. The director shall employ staff as necessary to carry out the work of the foster care review panels.

(g) Duties of the Alaska Citizen Review Board shall include:

(1) create policies and procedures for the operation of the local foster care review panels;

(2) with the director, make a report and recommendations to the legislature annually regarding statute, policy, procedure and regulations that effect the care of children who are in the custody of the Department of Health and Social Services;

(3) with the director, coordinate and review the activities of the local foster care review panels.

We suggest that Sec. 47.10.400 (2) (b) be changed to the following: A panel consists of five members and two alternate members who must reside in the district for which the panel is appointed. Members must have special knowledge or interest in child welfare. The director shall recruit and screen applicants for the foster care review panel. Screening shall include, at a

→ AS 39.20.180, etc.

minimum, criminal and child protection record checks. From a pool of screened applicants, the [presiding judge in each judicial district] shall select and appoint the panel members. The director shall provide initial and ongoing training to the panel members. A person presently employed by the court, the Division of Family and Youth Services, the Department of Law, the Office of Public Advocacy or the Public Defenders Office shall not serve as a member or alternate member of the panel. *General*

Current literature in volunteerism indicates that a large number of potential volunteers are disinclined to apply for activities which involve a time commitment of more than two years. Consequently, we suggest that Sec. 47.10.400 (2) (c) be amended to require two year, rather than three year terms.

To make the language of Sec. 47.10.440 (a) consistent with the practices of the Division of Family and Youth Services, the use of the term "case plan" rather than "placement plan" is more appropriate. This acknowledges that the panels will need to explore not only the placement needs of the child, but also the needs of the child and parents to receive services to remedy the family problems.

Sec. 47.10.440 (b) is somewhat unclear. We believe that the intent of the bill sponsor is that children be reviewed within 90 to 120 days after they are placed in foster homes. This section might be revised to indicate that the "clock" begins when the child is first placed in the temporary custody of the Department under as 47.10.142 (d),

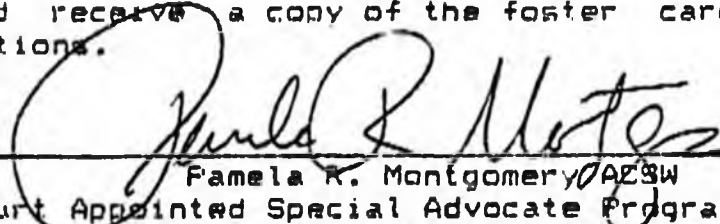
To streamline the distribution of the foster care review panel's recommendations, we suggest that Sec. 47.10.440 (e) be amended to read: Except as provided in (f) of this section, the panel shall submit a written report to the court and the parties within 30 days after reviewing the case. The report must make recommendations based on the best interests of the child in accordance with AS 47.10.082. If the court has scheduled the case for review, the panel shall submit its report at least 10 days prior to the hearing.

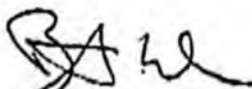
Sec. 47.10.440 (f) adequately addresses the legal concerns of a pre-adjudication review. However, we suggest that not only the Department receive the panel's recommendations but that the other parties receive the recommendations as also. The court would NOT receive the panel's recommendations prior to an adjudication of the child in need of aid petition.

In Sec. 47.10.450 there is an appearance that the foster care review panels are granted party status as they are given the ability to request a review hearing of a case by the court. This is beyond the advisory capacity of a foster care review panel. We recommend that this section be deleted, and the following be substituted: The Department of Health and Social Services, the Office of Public Advocacy, the Public Defenders Office and the ~~General's~~ *General's* Office shall cooperate with the process of

foster care review as defined in AS 47.10.400 to AS 47.10.500. Any of the parties, as defined in Child in Need of Aid Rule 2(m), shall have the right to request a judicial review of the foster care review panel's recommendations.

Finally, we suggest that the definition of "party" as proposed in Sec. 47.10.500 be consistent with the present definition as found in Child in Need of Aid Rule 2(m). This states: "Party" means the child, the parents, the guardian, the guardian ad litem, the Department, an Indian custodian who has intervened, an Indian child's tribe which has intervened, and any other person who has been allowed to intervene by the court." Of course, legal counsel for any of these parties should also be advised of the review and receive a copy of the foster care review panel's recommendations.

  
Pamela R. Montgomery, A.C.S.W.  
Court Appointed Special Advocate Program Director  
Office of Public Advocacy

  
Brant McGee  
Public Advocate  
Office of Public Advocacy

MEMORANDUM

4-6-89

TO: House HESS Subcommittee

FROM: William D. Hitchcock *WDH*  
Master, Children's Court  
Alaska Court System/Anchorage (264-0419)

SUBJ: CS HB 19

In reference to the subcommittee hearing of April 5, 1989, this is a synopsis of some of my remarks and concerns relative to the above bill:

1. The provisions of Public Law 96-272 regarding the requirement of the 18 month review hearing need to be spelled out in further detail. Please refer to my proposed amendments to AS 47.10.080 previously transmitted to Rep. Collins' staff, ~~and attached hereto for reference.~~

2. The lack of a state advisory board framework in the current draft is a significant concern to me. Even though certain details of policy and procedure can be left to later determination, I believe that the statutes need to establish this basic governing mechanism to insure that there is a stable governing organization for the development of foster care review panels. I fully concur in the remarks of Pam Montgomery and her suggestions for implementation of this requirement.

3. The bill needs to clearly define who will provide staff support for this enterprise, although I assume that the intent is to place this responsibility in the Alaska Court System (ref. Sec. 47.10.420, p. 3, line 8-10). As to the placement of the administrative responsibility for foster care review within the Court System, I have no direct comment. As I have stated in previous remarks to the subcommittee, my main concern is that this function be placed wherever it can achieve the most permanency and independence.

4. I have serious concerns about the attitude being expressed by the Alaska Foster Parents' Association that the recommendations of the review panels should somehow be mandatory on the Department of Health and Social Services. The recommendations are at best advisory only, although the decision to not follow a particular recommendation may certainly trigger a court review if the issue is raised by an aggrieved party. I do not concur with giving the panels the status of a party to bring such actions before the court.

by motion or otherwise (ref. Sec. 47.10.450, p.4, line 28 through p.5, line 2.)

5. If the proposed legislation according party status to foster parents is limited only to the context of foster care review panels, then I would have no problem with such a provision. However, I do not agree that foster parents should be accorded the status of parties for purposes of proceedings under the general provisions of AS 47.10.

6. The mandate of screening provisions such as criminal records checks should not be left to the policies and procedures process but rather should be mandated by the statutes.

7. I would also agree with the additional suggestions made by Pam Montgomery related to the following matters:

(a) substituting the words "special knowledge or interest" for "training or experience" in page 2, Article 6, line 11 of the bill;

(b) substituting the words "case plan" for "placement plan" in page 3, Article 6, line 17 of the bill;

(c) revising the procedure set forth on p. 4, line 13-16 having the court responsible for distribution of the report, to requiring that copies of the report be distributed to the court and all parties of record by the review panel

8. Finally, I believe that the listing of professional specialties is not per se objectionable on page 2, lines 13-14, but I would suggest changing the category of "child psychologist" to "psychologists."

*Tanana Chiefs Conference, Inc.*

201 First Avenue  
Fairbanks, Alaska 99701-4897  
(907) 452-8251  
Fax (907) 451-8963

REC'D APR 13 1989

April 11, 1989

Honorable Johnny Ellis, Chairman  
House Health, Education and Social Services Committee  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

*Jim*

RE: House Bill No. 19 [Foster Care Review Boards]

Dear Rep. Ellis:

Thank you for your invitation to comment upon H.B. 19, dealing with foster care review panels. I understand that there have been several committee drafts of the bill and I have made an attempt to address our comments to the 4/3/89 Work Draft of the bill. As I indicated in my earlier testimony, Tanana Chiefs Conference, Inc. (TCC) favors a comprehensive rewrite of the CINA statutes to deal with a number of problems which have crept into the statutes on a piecemeal basis. We would suggest that the HESS committee undertake this effort during the interim and would gladly work with the committee to identify and address problems in the statutes. We intend to address these concerns in a subsequent letter. However, at this time we will confine our remarks to the specific concerns and observations raised by H.B. 19.

As we indicated earlier, TCC supports the creation of community foster care review panels where the goals of the panels are intended to provide community review of the foster care system. We would not support the creation of yet another level of bureaucratic infrastructure in our foster care system. As we will note below, there are many unanticipated consequences of our current statutory scheme which can be detrimental to the welfare of children within the system. One problem we observe daily is the bureaucratic demands of the "system" which often gets in the way of good social work. While foster care review is important, we

would hope that this may be accomplished in a manner which streamlines the bureaucratic system, and interjects relevant community values in the review process, while at the same time improving the quality of social work.

In this regard, we are greatly concerned about the structure, composition and selection of the panels. On a statewide basis, over 1/2 of the children in foster care are Native. This varies from region to region, however, in some rural areas of the State, this ratio is above 95% Native. There is great cultural distance between Native and non-Native child rearing practices. These differences often play a significant role in foster care placement. For example, the role of extended family differs greatly between Native and non-Native child care. Often, Native uncles and grandparents have defined roles which should be observed. The vast majority of tribal interventions in which TCC provides tribal representation involve questions of placement in which the Division proposed placements which conflict with the Native cultural values. Many of these controversies could be avoided by directly involving tribal representatives into the placement process.

DFYS has attempted to recognize this problem and has established an ICWA review panel composed of Native people. However, the tribes - who have the legal rights under ICWA - are not involved in the selection process of this panel. Consequently, the problem over placement and review have not been abated. We would hope that the State would learn from the failure of the ICWA review committee.

We would suggest redrafting Sec. 47.10.400(a)(2) to read:

(2) may appoint additional panels if the volume [or] complexity, or demographics of cases involving a child placed in State custody under A.S. 47.10.080(c) or 47.10.142 in the judicial district warrants.

This would allow a judicial district to have more than one panel if the level of Native cases in the district warranted a special panel.

Since 1/2 of all children in State custody are Native, and the Indian Child Welfare Act raises special legal standards, we would suggest that where a judicial district has more than one panel, that the second panel be specialized to address Native child foster care. This may be accomplished by adding to 47.10.400(a) (2) the following sentence:

where additional panels are established within a judicial district, at least one panel shall specialize in conducting reviews of cases governed by the Indian Child Welfare Act [25 USC 1901 et seq]

In reviewing the entities which submit nominations for the review panels, it is highly unlikely that Native involvement will be provided for in either the 1st, 3rd or 4th Judicial Districts. We would suggest that each regional nonprofit Native corporation located within the judicial district also be allowed to submit nominations.

The legislation requires each entity to nominate at least ten (10) names. This could result in submission of a minimum of at least 50 people for each panel. This could present a bureaucratic burden to submitting agencies. We would suggest deleting the requirement of submitting a minimum number of names.

The duties of the panel include the submission of reports [A.S. 47.10.440(e)&(f)] which includes recommendations based upon the best interest of the child. The "best interest" standard is often culturally sensitive. For example, the preservation of a child's "Nativity" is often viewed as "in the best interest" of a Native child by the Native community. Within the legal system, which is dominated by non-Natives, this need is often viewed as not significant relative to the best interest of a Native child. The legislation should define best interest "as including

Preservation of cultural identity, religious affiliation, progress toward family reunification and progress toward rehabilitation of the family unit".

Federal Law. - Title IV-E of the Social Security Act - requires periodic reviews to be conducted by the State. This function should be integrated into the reviews in order to avoid unnecessary bureaucratic duplication. We would also hope that the ICWA review committees operating in some districts would be replaced by these review panels to again avoid unnecessary duplication.

Finally, the A.S. 47.10.490 should be rewritten to provide for sunseting of the legislation subject to legislative review after a three-year period. The panels may or may not reflect citizen input, depending upon how the program is implemented. If the composition of the panels becomes a mere rubber stamp of the Division, then the experiment should be abandoned. Hopefully, three years would be enough time to determine the effectiveness of the panels at providing actual review of the Division.

We hope these comments are helpful in developing this legislation. Thank you for this opportunity to comment on the legislation.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.

*Will Mays*

Michael J. Walleri  
Village Government Services/Attorney

cc: Rep. Boyer  
Rep. Wallis  
Rep. Hoffman  
Sen. Binkley  
Sen. Adams

ELLIS-SAN,  
Just a note to  
say hello! Hope  
your having fun  
this session.  
Your friend,  
-Will



REC'D APR 24 1989

ALASKA CHAPTER  
NATIONAL ASSOCIATION OF  
SOCIAL WORKERS

8923 Tantis Drive  
Juneau, Alaska 99801  
(907) 789-7099

Executive Director  
William Diebels, ACSW

April 22, 1989

Representative Johnny Ellis, Chair  
House HESS  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

Jim  
short note  
thanking them.

Dear Representative Collins:

On behalf of the Alaska Chapter of the National Association of Social Workers, I would like to thank you and your committee for the time and energy you have invested in improving conditions for foster children. As you reviewed House Bill 19, it is evident that you share our support for review panels experienced in and concerned with child welfare.

It appears that other legislative imperatives may mean that action to establish foster care review boards is deferred until next session. As this legislation is reexamined we consider the following factors important to address:

- 1) It is vital that any proposed review panels conform to Title IV-E requirements in order to minimize: a) duplication of reviews (from the case worker's perspective) and b) subjecting children and families to multiple panel reviews.
- 2) The intentional inclusion of Native input is essential to the professional and functional operations of the foster care system. The fact that nearly half of all foster care cases involve Native children points out the importance of this issue. Requirements of the Indian Child Welfare Act must be taken into consideration in order to assist all concerned in performance of their duties as well as providing avenues for cultural sensitivity to tribal dynamics. The involvement of tribal councils in the review process, including Native representatives on the panel itself, would prove most helpful.
- 3) Since there are three types of review panels currently in operation, it is important to consider the issues that have surfaced with these panels, incorporate the good elements, and avoid the problem areas. For example, the Fairbanks internal review panel has worked out extremely effective procedures for involving bush communities. The Anchorage internal review panel has encountered some legal problems due to the timing of the reviews at two weeks.

4) It is imperative that panel members receive training conducted by professionals from a variety of disciplines, including experts in the Indian Child Welfare Act (ICWA), social service professionals who have had experience with review boards, and professionals with knowledge of developmental stages as they relate to the needs of children for stability in their lives and the harmful effects of frequent placements on their emotional development.

5) The intended function of the third party review ought to be stated clearly in the bill. It is suggested that the review panel system fulfill an advisory role, reviewing and making recommendations regarding: a) individual cases and b) systemic policies, regulations, and laws.

6) The preferred structural location of a review board is critical to its success. Independence from all parties is extremely important.

These six points make up the major concerns of the Alaska NASW in reference to foster care review board legislation. We thank you for your consideration of our concerns and look forward to working with you in the future toward the goal of improved care for foster children.

Sincerely,



William Diebels, ACSW  
Executive Director

660 Wilcox #3  
Fairbanks, AK 99709  
(907) 456-7767 ext. 330  
March 10, 1989

Representative Johnny Ellis  
Chairman, H.E.S.S. Committee  
P.O. Box V  
Juneau, AK 99811

REC'D MAR 15 1989

Dear Representative Ellis:

I would like to express numerous concerns regarding HB 19, relating to review panels for children in foster care. Since you share my goal of improved conditions for foster children, I would like you to know that I am opposed to this proposed piece of legislation.

In general, I view HB 19 as unnecessary, duplicative, potentially time-consuming, and very costly. In Fairbanks, the current system of review panels for foster care works very well. The Division of Family and Youth Services is responsible for implementing the Federal law (P.L. 96-272) which mandates six-month review panels. The current panel system includes social workers who will be carrying out the plan, members of the community at large, and representatives of the Office of Public Advocacy. The system is sensitive to Native issues and is cost effective.

HB 19 would result in two panel review systems being in place which serve the same purpose: to review the foster care placement plan in the interest of the child's welfare. HB 19 may actually work against the well-being of the child for whom it is intended to serve. Some ways in which this would come about include the following:

--Since social workers are currently required to comply with Public Law 96-272, should HB 19 pass, they would be required to implement duplicate reviews on a number of children within any six-month time frame. Not only would the workload of workers increase, but to put children and families through duplicate panels would be inhumane.

--Panel members under HB 19 would serve only two years, whereas many cases go beyond two years. Lack of continuity and familiarity with the laws, communities, cases, etc. would be a problem.

--HB 19 does not make provisions for Indian Child Welfare Act concerns. The current system is sensitive to tribal dynamics and helps the social worker to comply with the Federally-mandated Act. This is essential since forty-nine percent of the children in foster care in Alaska are Native. The current system includes tribes (village councils) by phone.

--Recruiting competent panel members will most likely be difficult since, for the Northern Region alone, five or more working days per month would be required. The reimbursement needed to attract such persons would be costly to the State. Chances of finding rural panel members that meet the qualifications listed in HB 19 are slim, leaving rural areas without representation.

--There have been horror stories from other states with systems similar to those proposed by HB 19 which relate to lack of professionalism; for the system to work effectively, it is imperative that the training and professional judgement of those social service professionals who are responsible for carrying out the placement plan is not lost in the recommendations.

--Case workers might have to contend with conflicting recommendations under two sets of review panels. For example, the Indian Child Welfare Act contains tribal placement preference provisions whereas the HB 19 panel may propose a non-Native placement situation.

--The costs of the new review panel system are not specified in the bill. In addition to reimbursement to panel members for travel and per diem, HB 19 mentions written notices, panel progress reports, court records, formal review reports and so forth which would involve photocopying and mailing costs. Telephone communications and travel for the child and his/her relatives would involve substantial costs. It is extremely doubtful that the proposed system would save the State any money. Considering the current state of the budget, it would be reasonable to demand that a fiscal note be attached to the bill.

As you can see, there are many varied and logical reasons for opposing HB 19. While I question the necessity for such legislation, I understand that citizens in other parts of the state, particularly Anchorage, sense a need for such a bill. I hope you will take my concerns into serious consideration when evaluating future drafts of the bill. Thank you for your special concern regarding improved care for foster children.

Sincerely,

*Marianne Mills*

Marianne Mills, M.S.W.

Original sponsors: Collins, Gruenberg,  
Ulmer, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 19 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to children's proceedings; estab-  
7 lishing review panels for children in the custody of  
8 the state; amending Rule 19 of the Child in Need of  
9 Aid Rules; and providing for an effective date."

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

11 \* Section 1. AS 47.10.080 is amended by adding a new subsection to  
12 read:

13 (1) When the court orders a child committed to the department  
14 under (c) of this section and at an annual review under (f) of this  
15 section, the court shall inform the parties about the foster care  
16 review panel established under AS 47.10.400.

17 \* Sec. 2. AS 47.10.142 is amended by adding new subsections to read:

18 (g) When a court orders a child committed to the department  
19 under this section, the court shall inform the following persons about  
20 the foster review panel established under AS 47.10.400:

21 (1) the child and the child's guardian ad litem;

22 (2) the parents or guardian of the child;

23 (3) the leaders of the child's tribe if the child's case is  
24 subject to 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act).

25 (h) Within 18 months after a minor is committed to the depart-  
26 ment under this section, the court shall review the placement plan and  
27 actual placement of the minor and assess their appropriateness for the  
28 minor.

29 \* Sec. 3. AS 47.10 is amended by adding new sections to read:

## 1 ARTICLE 6. FOSTER CARE REVIEW PANELS.

2 Sec. 47.10.400. CREATION AND MEMBERSHIP OF PANELS. (a) Subject  
3 to (b) of this section, the presiding judge for each judicial district

4 (1) shall appoint a foster care review panel for the judi-  
5 cial district; and

6 (2) may appoint additional panels if the volume or complex-  
7 ity of cases involving a child placed in state custody under AS 47.-  
8 10.080(c) or 47.10.142 in the judicial district warrants.

9 (b) A panel consists of five members and two alternate members  
10 who must reside in the district for which their panel is appointed.  
11 Members must have training or experience in child welfare and a demon-  
12 strated interest in children. Members may include a parent from the  
13 district, foster parents or former foster parents, child psycholo-  
14 gists, teachers, professionally trained social workers, and lawyers  
15 with experience in children's matters. The presiding judge of the  
16 judicial district shall appoint panel members from lists of at least  
17 10 names submitted by the following entities for each judicial dis-  
18 trict: the department, the director of the office of public advocacy,  
19 the administrative director of the court system, the Alaska Foster  
20 Parents Association, and the mayor of the most populous municipality  
21 in the judicial district. The presiding judge shall appoint one  
22 member from each list to each panel. The presiding judge is not  
23 restricted to the lists when appointing alternate members. A person  
24 employed by the court system or by the department may not serve as a  
25 member or alternate member of a panel.

26 (c) A member of a panel serves at the pleasure of the presiding  
27 judge of the judicial district for a term of three years except that  
28 when a panel is initially appointed, two members shall be appointed to  
29 two-year terms.

1 (d) The panel shall elect one of its members to serve as chair.

2 (e) When a person is appointed to serve on a panel, the person  
3 shall swear or affirm to keep confidential all information that comes  
4 before the panel.

5 Sec. 47.10.410. QUORUM. A majority of the members of a panel  
6 constitutes a quorum. A majority of the members of the panel may  
7 decide an issue before the panel.

8 Sec. 47.10.420. SUPPORT SERVICES. The administrative director  
9 for the court system shall provide meeting space and equipment for the  
10 panels and staff.

11 Sec. 47.10.430. REIMBURSEMENT FOR EXPENSES. Panel members are  
12 entitled to reimbursement for actual expenses necessary to perform  
13 their duties as panel members. The reimbursement may not exceed the  
14 amount of per diem and expenses authorized for boards and commissions  
15 under AS 39.20.180

16 Sec. 47.10.440. DUTIES OF PANEL. (a) A panel shall review  
17 the placement plan and the actual placement of each child placed  
18 in the custody of the department under AS 47.10.080(c) or 47.10.-  
19 142 residing within its jurisdictional area. The review shall  
20 assess the progress toward achievement of a permanent placement  
21 plan, the appropriateness of the placement setting, services actual-  
22 ly provided to achieve the selected goals, and previous decisions  
23 in the case.

24 (b) The panel shall review a case during the time period that is  
25 between 90 and 120 days after the child is placed in the custody of  
26 the department and every six months thereafter.

27 (c) At least two weeks before it begins a review, the panel  
28 shall provide written notice to each party that a review will be  
29 conducted and that each party may participate in the review.

1 (d) In reviewing a case, the panel shall consider the placement  
2 plan and any progress report of the department, court records, and  
3 other information about the child and the child's family. The panel  
4 shall provide to the following persons an opportunity to be inter-  
5 viewed by the panel: foster parents, natural parents, other relatives  
6 of the child, guardian, guardian ad litem, the case worker or social  
7 worker assigned to the case, tribal representative, and other persons  
8 with a close personal knowledge of the case. At the discretion of the  
9 child's guardian ad litem, the child may be present at interviews or  
10 may be interviewed. The panel may conduct interviews in person or by  
11 telephone.

12 (e) Except as provided in (f) of this section, the panel shall  
13 submit a written report to the court within 30 days after reviewing a  
14 case. The report must make recommendations based on the best inter-  
15 ests of the child in accordance with AS 47.10.082. The court shall  
16 make the report available to the parties immediately. If the court  
17 has scheduled the case for review, the panel shall submit its report  
18 at least 10 days before the hearing.

19 (f) If the panel review relates to a child who is in temporary  
20 custody under AS 47.10.142 but who has not been found to be a child in  
21 need of aid under AS 47.10.080(c), the panel shall submit a written  
22 report to the department within 30 days after reviewing the case. The  
23 report must make recommendations based on the best interests of the  
24 child in accordance with AS 47.10.082. A report under this subsection  
25 is confidential.

26 (g) A party to a case reviewed under this section may request  
27 the panel to reconsider its recommendations.

28 Sec. 47.10.450. COOPERATION BY DEPARTMENT. The department shall  
29 cooperate with a panel during the panel's review. If the department

1 fails to implement a recommendation of a panel, the panel or the  
2 department may request court review of the recommendation.

3 Sec. 47.10.460. RECORDS; COMMUNICATIONS. (a) At the request of  
4 a panel, the department and the court shall furnish to the panel  
5 records concerning a child who is the subject of a panel review or the  
6 child's family maintained by the court under AS 47.10.090 or by the  
7 department. A public or private agency or institution that provides  
8 care or services for the child shall furnish the panel with the re-  
9 cords and other information the panel requests. Records and reports  
10 of the panel, testimony before the panel, and deliberations of the  
11 panel are confidential under AS 47.10.090.

12 (b) A panel member may not reveal to another person a communica-  
13 tion made to the member while performing the member's duties under  
14 AS 47.10.400 - 47.10.500 except as required under AS 47.17 or as  
15 required by court order for good cause shown.

16 Sec. 47.10.470. COURT REVIEW OF REPORT. (a) The court shall  
17 consider the report of the foster care review panel in its review  
18 under AS 47.10.080(f) of the placement of a child in need of aid under  
19 AS 47.10.080(c)(1) or when it considers the report of the department  
20 or guardian of a child in need of aid under AS 47.10.080(c)(3).

21 (b) The court may refer to the panel a case called for a special  
22 review under AS 47.10.080(f).

23 (c) The court may request a panel in another jurisdiction to  
24 conduct a review and submit a report if that panel is more convenient  
25 for the child and other persons involved.

26 Sec. 47.10.480. INDEMNIFICATION OF PANEL MEMBERS. A panel  
27 member shall be indemnified by the state for civil liability for a  
28 negligent act or omission of the panel member that occurs in the  
29 performance of the member's duties under AS 47.10.400 - 47.10.500

1 unless the civil liability results from the panel member's violation  
2 of

3 (1) AS 47.10.460(b); or

4 (2) the oath or affirmation required under AS 47.10.400(e).

5 Sec. 47.10.490. REPORT TO LEGISLATURE. The administrative  
6 director of the court system shall report to the legislature each year  
7 on the activities of the foster care review panels. The report must  
8 include the number of cases reviewed by each panel, the changes in the  
9 plan or placement of a child in foster care made by the department as  
10 a result of recommendations of the panel, and the savings to the state  
11 that result from the implementation of recommendations made by the  
12 panel and adopted by the department. The report may contain other  
13 information on the experience of the panels and recommendations for  
14 change in the review panel system.

15 Sec. 47.10.500. DEFINITIONS. In AS 47.10.400 - 47.10.500,

16 (1) "panel" means a foster care review panel established  
17 under AS 47.10.400;

18 (2) "party" means the child or the child's legal represen-  
19 tative, the child's foster parents, the child's natural parents, and  
20 if the child's case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
21 Welfare Act) the leaders of the child's Indian tribe.

22 \* Sec. 4. AS 47.10.470, enacted by sec. 3 of this Act, has the effect  
23 of amending Rule 19 of the Child in Need of Aid Rules by requiring a court  
24 to consider recommendations from a foster care review panel when conducting  
25 a review of the placement of a child in foster care.

26 \* Sec. 5. This Act takes effect January 1, 1990.  
27  
28  
29

Original sponsors: Collins, Gruenberg,  
Ulmer, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 19 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to citizen review panels for certain  
7 children in state custody; court review of cases  
8 relating to children; establishing the State Chil-  
9 dren's Citizen Review Panel; amending Rule 19 of the  
10 Child in Need of Aid Rules; and providing for an  
11 effective date."

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

13 \* Section 1. FINDINGS AND PURPOSE. The legislature finds that there is  
14 a need in the state for a citizen review process for the cases of children  
15 who are in state custody, either in foster care or in other out-of-home  
16 placement. The purpose of this Act is to establish a citizen review pro-  
17 cess in order to ensure that children do not linger unnecessarily in foster  
18 care or other out-of-home placements, but rather that they receive the  
19 support and benefits of a permanent home. The goal of this Act is to  
20 reunite the children with their families by ensuring that services are  
21 available and appropriate for reunification, and if reunification is not in  
22 the best interests of the child, to expeditiously place the child in a  
23 secure, permanent home.

24 \* Sec. 2. AS 47.10 is amended by adding new sections to read:

25 ARTICLE 6. STATE CHILDREN'S CITIZEN REVIEW PANEL..

26 Sec. 47.10.400. STATE CHILDREN'S CITIZEN REVIEW PANEL. (a)

27 There is created in the Office of the Governor the State Children's  
28 Citizen Review Panel. The state panel consists of five members ap-  
29 pointed by the governor from among past or present members of local

1 citizen review panels established under AS 47.10.420. The governor  
2 shall appoint at least one state panel member from each judicial  
3 district. At least one member must be knowledgeable about 25 U.S.C.  
4 1901 - 1963 (Indian Child Welfare Act). The governor may not appoint  
5 a person who has committed a felony or violated AS 11.51.130 or a law  
6 with substantially similar elements.

7 (b) Members of the state panel serve at the pleasure of the  
8 governor for staggered terms of three years or until their successors  
9 are appointed.

10 (c) The state panel shall elect from its members a chair who  
11 shall serve for two years. Three members of the state panel consti-  
12 tute a quorum for the transaction of business.

13 (d) Members of the state panel are entitled to reimbursement for  
14 actual expenses necessary to perform their duties as state panel  
15 members. The reimbursement may not exceed the amount of per diem and  
16 expenses authorized for boards and commissions under AS 39.20.180.

17 (e) The state panel shall meet twice annually. Meetings may  
18 take place telephonically.

19 (f) The state panel may employ a director who shall serve at the  
20 pleasure of the state panel. The director shall employ staff as  
21 necessary to carry out the director's duties under state panel direc-  
22 tives.

23 (g) Meetings during which the state panel discusses confidential  
24 material provided by a local panel are confidential. When a person is  
25 appointed to serve on the state panel, the person shall swear or  
26 affirm to keep confidential all confidential material provided by a  
27 local panel.

28 Sec. 47.10.410. DUTIES OF THE STATE PANEL. The state panel  
29 shall

1 (1) adopt policies and procedures to carry out its duties  
2 and to govern the performance of the duties of the local panels estab-  
3 lished under AS 47.10.420;

4 (2) establish a program of training for state and local  
5 panel members;

6 (3) coordinate and review the activities of the local  
7 panels and make recommendations to the governor on appointments to the  
8 local panels;

9 (4) report annually to the legislature by the 10th day of  
10 each regular session, concerning the activities of the state and local  
11 panels; the report must include the number of cases reviewed by each  
12 local panel, the changes in the plan or placement of a child in foster  
13 care made by the department as a result of recommendations of a local  
14 panel, gaps in services that could prevent out-of-home placement, and  
15 the benefits to the state that result from the implementation of  
16 recommendations made by a local panel and adopted by the department;  
17 the report may contain other information on the experience of the  
18 local panels and recommendations for change in the review panel sys-  
19 tem.

20 Sec. 47.10.420. APPOINTMENT OF LOCAL PANELS. (a) The governor  
21 shall appoint for each judicial district a local citizen foster care  
22 review panel composed of five members and two alternates who are  
23 residents of the judicial district. Members shall serve three-year  
24 terms except that when a local panel is initially appointed, two  
25 members shall be appointed for three-year terms, two members for  
26 two-year terms, and one member for a one-year term. Alternates shall  
27 be appointed to three-year terms.

28 (b) The governor shall appoint to a local panel persons who have  
29 training, experience, special knowledge, or a demonstrated interest in

1 the welfare of children. A licensed foster parent or a person employ-  
2 ed by the court system, the department, the Office of Public Advocacy,  
3 or the Department of Law may not serve as a member or alternate member  
4 of a local panel. The governor may not appoint a person who has  
5 committed a felony or violated AS 11.51.130 or a law with substan-  
6 tially similar elements.

7 (c) The composition of a local panel must be reasonably repre-  
8 sentative of the various social, economic, racial, ethnic, and cul-  
9 tural groups of the region from which the members may be appointed.

10 (d) If the state panel determines that additional local panels  
11 are necessary in a judicial district because of excessively large or  
12 complex caseloads for review or because of the demographics of cases,  
13 or determines that a local panel is not necessary because of a reduced  
14 caseload, the governor may create or dissolve a local panel. The  
15 governor may not reduce the number of panels in a judicial district to  
16 fewer than one. Appointments to a panel established under this sub-  
17 section are governed by (a) - (c) of this section.

18 (e) A local panel shall conduct its meetings in the judicial  
19 district in which its members reside.

20 (f) The local panel shall elect one of its members to serve as  
21 chair.

22 (g) When a person is appointed to serve on a local panel, the  
23 person shall swear or affirm to keep confidential all information that  
24 comes before the local panel except for information shared with the  
25 state panel, reports required under AS 47.17, or as required by court  
26 order for good cause shown.

27 Sec. 47.10.430. QUORUM. A majority of the members of a local  
28 panel constitutes a quorum. A majority of the members of the local  
29 panel may decide an issue before the local panel.

1           Sec. 47.10.450. REIMBURSEMENT FOR EXPENSES. Local panel member  
2 are entitled to reimbursement for actual expenses necessary to perform  
3 their duties as local panel members. The reimbursement may not exceed  
4 the amount of per diem and expenses authorized for boards and com-  
5 missions under AS 39.20.180.

6           Sec. 47.10.460. DUTIES OF LOCAL PANEL. (a) A local panel shall  
7 review the case plan and the actual placement of each child placed in  
8 the custody of the department under AS 47.10.080(b)(3), (c)(1), or  
9 (c)(3), 47.10.142, or 47.10.230(c), residing within its jurisdictional  
10 area. The state panel may request a local panel in another jurisdic-  
11 tion to conduct a review and submit a report if that local panel is  
12 more convenient for the child and other persons involved.

13           (b) The local panel shall review a case as required under 42  
14 U.S.C. 671 - 675 (P.L. 96-272) and according to the timing and content  
15 requirements of federal law and regulations during the time period  
16 that is between 90 and 120 days after the child is in the custody of  
17 the department and every six months thereafter. A court review may be  
18 substituted for a review required under this subsection if the court  
19 review meets the requirements of this subsection.

20           (c) At least two weeks before it begins a review, the local  
21 panel shall provide written notice to the department and to each party  
22 that a review will be conducted and that each party may participate in  
23 the review. A copy of the notice sent to the child's parents shall  
24 also be sent to the department.

25           (d) The review shall assess the progress toward achievement of  
26 family reunification or an alternative permanent placement plan, the  
27 appropriateness of the placement setting, availability of services and  
28 services actually provided to achieve the selected goals, the extent  
29 of compliance with applicable provisions of 25 U.S.C. 1901 - 1963

1 (Indian Child Welfare Act), and previous decisions made in the case.  
2 In reviewing a case, the local panel shall consider the case plan and  
3 any progress report of the department, court records, and other infor-  
4 mation about the child and the child's family. The local panel shall  
5 provide to the following persons an opportunity to be interviewed by  
6 or provide written material to the panel: foster parents, parents,  
7 custodians, other relatives of the child, guardian, guardian ad litem,  
8 the case worker or social worker assigned to the case, the designated  
9 representative of the child's tribal organization, and other persons  
10 with a close personal knowledge of the case. At the discretion of the  
11 child's guardian ad litem, the child may be present at interviews or  
12 may be interviewed. The local panel may conduct interviews in person  
13 or by telephone.

14 (e) During a review under (a) of this section, a local panel  
15 shall

16 (1) encourage the return of the child to the child's par-  
17 ents or recommend to the department that maximum efforts be exerted to  
18 reunite the family unless there is a determination by the local panel  
19 that return to the family is not in the best interests of the child;

20 (2) promote and encourage the department to place or keep  
21 children with persons suitable and eligible as adoptive parents;

22 (3) recommend that the department exert maximum efforts to  
23 place the child for adoption, or to make arrangements for permanent  
24 foster care or guardianship for children, if return to the child's  
25 parents is not possible or is contrary to the child's best interests.

26 (f) Except as provided in (g) of this section, the local panel  
27 shall submit a written report to the court, the department, and the  
28 parties within 30 days after reviewing a case. The report must make  
29 recommendations based on the best interests of the child in accordance

1 with AS 47.10.082. If the court has scheduled the case for review  
2 the local panel shall submit its report at least 10 days before the  
3 hearing.

4 (g) If the local panel review relates to a child who is in  
5 temporary custody under AS 47.10.142 but who has not been found to be  
6 a child in need of aid under AS 47.10.080(c), the local panel shall  
7 submit a written report to the department within 30 days after review-  
8 ing the case. The report must make recommendations based on the best  
9 interests of the child in accordance with AS 47.10.082. A report  
10 under this subsection is confidential.

11 Sec. 47.10.470. COOPERATION WITH THE DEPARTMENT. The department  
12 shall cooperate with the state panel and the local panel. If the  
13 department is unable or unwilling to implement the recommendations of  
14 a local panel, the department shall submit to the local panel, within  
15 15 working days after receipt of the findings and recommendations, an  
16 implementation report setting out the reasons why the department is  
17 unable or unwilling to implement the local panel's recommendations.  
18 The report must also set out the case plan that the department intends  
19 to implement.

20 Sec. 47.10.480. RECORDS; COMMUNICATIONS. (a) At the request of  
21 a local panel, the department and the court shall furnish to the local  
22 panel records concerning a child who is the subject of a local panel  
23 review or the child's family maintained by the court under AS 47.10.-  
24 090 or by the department. A public or private agency or institution  
25 that provides care or services for the child shall furnish the local  
26 panel with the records and other information the local panel requests.  
27 Notwithstanding AS 44.62.310, records and reports of the local panel,  
28 testimony before the local panel, and deliberations of the local panel  
29 are confidential under AS 47.10.090.

1 (b) A local panel member may not reveal to another person, other  
2 than the state panel, a communication made to the member while per-  
3 forming the member's duties under AS 47.10.400 - 47.10.590 except as  
4 required under AS 47.17 or as required by court order for good cause  
5 shown.

6 (c) A local panel proceeding is not governed by AS 44.62.310.

7 Sec. 47.10.490. COURT REVIEW OF REPORT. (a) The court shall  
8 consider the report of the local panel in its review under AS 47.10.-  
9 080(f) of the placement of a child in need of aid under AS 47.10.-  
10 080(c)(1) or when it considers the report of the department or guard-  
11 ian of a child in need of aid under AS 47.10.080(c)(3).

12 (b) The court may refer to the local panel a case called for a  
13 special review under AS 47.10.080(f).

14 Sec. 47.10.500. INDEMNIFICATION OF PANEL MEMBERS. A state panel  
15 member and a local panel member shall be indemnified by the state for  
16 civil liability for a negligent act or omission of the panel member  
17 that occurs in the performance of the member's duties under AS 47.10.-  
18 400 - 47.10.590 unless the civil liability results from the panel  
19 member's violation of

20 (1) AS 47.10.480(b); or

21 (2) the oath or affirmation required under AS 47.10.400(g)  
22 or 47.10.420(g).

23 Sec. 47.10.590. DEFINITIONS. In AS 47.10.400 - 47.10.590

24 (1) "local panel" means a local citizen review panel ap-  
25 pointed under AS 47.10.420;

26 (2) "party" means the child or the child's legal represen-  
27 tative, the child's foster parents, the child's natural parents, and  
28 if the child's case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
29 Welfare Act) the leaders of the child's Indian tribe or an Indian

1           custodian who has intervened, and any other person who has been al  
2           lowed to intervene by the court;

3                       (3) "state panel" means the State Children's Citizen Review  
4           Panel established under AS 47.10.400.

5 \* Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read  
6                       (17) State Children's Citizen Review Panel under AS 47.10.  
7           400 -- June 30, 1994.

8 \* Sec. 4. AS 47.10.080(f) is amended to read:

9                       (f) A minor found to be delinquent or a child in need of aid is  
10           a ward of the state while committed to the department or the depart-  
11           ment has the power to supervise the minor's actions. The court shall  
12           review an order made under (b) or (c)(1) or (2) of this section an-  
13           nually, and may review the order more frequently to determine if  
14           continued placement, probation, or supervision, as it is being pro-  
15           vided, is in the best interest of the minor and the public. If annual  
16           review under this subsection would arise within 90 days of the hearing  
17           required under (1) of this section, the court may postpone review  
18           under this subsection until the time set for the hearing. The depart-  
19           ment, the minor, the minor's parents, guardian, or custodian are  
20           entitled, when good cause is shown, to a review on application. If  
21           the application is granted, the court shall afford these parties and  
22           their counsel reasonable notice in advance of the review and hold a  
23           hearing where these parties and their counsel shall be afforded an  
24           opportunity to be heard. The minor shall be afforded the opportunity  
25           to be present at the review.

26 \* Sec. 5. AS 47.10.080 is amended by adding new subsections to read:

27                       (1) Within 18 months of the date a minor is initially taken into  
28           custody by the department under AS 47.10.142(c), the court shall hold  
29           a hearing to review the placement and services provided and to

1 determine the future status of the minor. The court shall make appro-  
2 priate written findings, including findings related to the following:

- 3 (1) whether the child should be returned to the parent;  
4 (2) whether the child should remain in foster care for  
5 specified period;  
6 (3) whether the child should be placed for adoption;  
7 (4) whether the child should remain in foster care on a  
8 permanent or long-term basis because of special needs.

9 (m) When the court orders a child committed to the department  
10 under (c) of this section and at a review under (f) or (l) of this  
11 section, the court shall inform the parties about the local foster  
12 care review panel established under AS 47.10.420.

13 \* Sec. 6. AS 47.10.142 is amended by adding new subsections to read:

14 (g) When a court orders a child committed to the department  
15 under this section, the court shall inform the following persons about  
16 the local foster care review panel established under AS 47.10.420:

- 17 (1) the child and the child's guardian ad litem;  
18 (2) the parents or guardian of the child;  
19 (3) the leaders of the child's tribe if the child's case is  
20 subject to 25 U.S.C. 1901 - 1963 (Indian Child-Welfare Act).

21 (h) Within 18 months after a minor is committed to the depart-  
22 ment under this section, the court shall review the placement plan and  
23 actual placement of the minor under AS 47.10.080(1).

24 \* Sec. 7. Notwithstanding AS 47.10.400(b), enacted by sec. 2 of this  
25 Act, the governor shall appoint the initial members of the State Children's  
26 Citizen Review Panel so that one serves a one-year term, two serve two-year  
27 terms, and two serve three-year terms. The initial members must be persons  
28 who have training, experience, special knowledge, or a demonstrated inter-  
29 est in the welfare of children. A licensed foster parent or a person

1 employed by the court system, the Department of Health and Social Services  
2 the Office of Public Advocacy, or the Department of Law may not serve as  
3 member of the panel.

4 \* Sec. 8. AS 47.10.490, enacted by sec. 2 of this Act, has the effect  
5 of amending Rule 19 of the Child in Need of Aid Rules by requiring a court  
6 to consider recommendations from a foster care review panel when conducting  
7 a review of the placement of a child in foster care.

8 \* Sec. 9. This Act takes effect July 1, 1990.  
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6-0133H  
Lauterbach  
3/7/89

Original sponsors: Collins, Gruenberg,  
Ulmer, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 19 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to children's proceedings; estab-  
7 lishing review panels for children in the custody of  
8 the state; and amending Rule 19 of the Child in Need  
9 of Aid Rules."

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

11 \* Section 1. AS 47.10.080 is amended by adding a new subsection to  
12 read:

13 (1) When the court orders a child committed to the department  
14 under (c) of this section and at an annual review under (f) of this  
15 section, the court shall inform the parties about the foster care  
16 review panel established under AS 47.10.400.

17 \* Sec. 2. AS 47.10.142 is amended by adding a new subsection to read:

18 (g) When a court orders a child committed to the department  
19 under this section, the court shall inform the following persons about  
20 the foster review panel established under AS 47.10.400:

- 21 (1) the child and the child's guardian ad litem;
- 22 (2) the parents or guardian of the child;
- 23 (3) the leaders of the child's tribe if the child's case is
- 24 subject to 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act).

25 \* Sec. 3. AS 47.10.080(c) is amended to read:

26 (c) If the court finds that the minor is a child in need of aid,  
27 it shall

28 (1) order the minor committed to the department for place-  
29 ment in an appropriate setting for a period of time not to exceed 18

1 (3) by order, upon a showing in the adjudication by clear  
2 and convincing evidence that there is a child in need of aid under  
3 AS 47.10.010(a)(2) as a result of parental conduct and upon a showing  
4 in the disposition by clear and convincing evidence that the parental  
5 conduct is likely to continue to exist if there is no termination of  
6 parental rights, terminate parental rights and responsibilities of one  
7 or both parents and commit the child to the department or to a legally  
8 appointed guardian of the person of the child, and the department or  
9 guardian shall report [ANNUALLY] to the court every 18 months on  
10 efforts being made to find a permanent placement for the child.

11 \* Sec. 4. AS 47.10.080(f) is amended to read:

12 (f) A minor found to be delinquent or a child in need of aid is  
13 a ward of the state while committed to the department or the depart-  
14 ment has the power to supervise the minor's actions. The court shall  
15 review an order made under (b) or (c)(1) or (2) of this section every  
16 18 months [ANNUALLY], and may review the order more frequently to  
17 determine if continued placement, probation, or supervision, as it is  
18 being provided, is in the best interest of the minor and the public.  
19 The department, the minor, the minor's parents, guardian, or custodian  
20 are entitled, when good cause is shown, to a review on application.  
21 If the application is granted, the court shall afford these parties  
22 and their counsel reasonable notice in advance of the review and hold  
23 a hearing where these parties and their counsel shall be afforded an  
24 opportunity to be heard. The minor shall be afforded the opportunity  
25 to be present at the review.

26 \* Sec. 5. AS 47.10 is amended by adding new sections to read:

27 ARTICLE 6. FOSTER CARE REVIEW PANELS.

28 Sec. 47.10.400. CREATION AND MEMBERSHIP OF PANELS. (a) Subject  
29 to (b) of this section, the governor

# **CORRECTION**

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

6-0133H  
Lauterbach  
3/7/89

Original sponsors: Collins, Gruenberg,  
Ulmer, et al.

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 19 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to children's proceedings; estab-  
7 lishing review panels for children in the custody of  
8 the state; and amending Rule 19 of the Child in Need  
9 of Aid Rules."

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

11 \* Section 1. AS 47.10.080 is amended by adding a new subsection to  
12 read:

13 (1) When the court orders a child committed to the department  
14 under (c) of this section and at an annual review under (f) of this  
15 section, the court shall inform the parties about the foster care  
16 review panel established under AS 47.10.400.

17 \* Sec. 2. AS 47.10.142 is amended by adding a new subsection to read:

18 (g) When a court orders a child committed to the department  
19 under this section, the court shall inform the following persons about  
20 the foster review panel established under AS 47.10.400:

21 (1) the child and the child's guardian ad litem;

22 (2) the parents or guardian of the child;

23 (3) the leaders of the child's tribe if the child's case is  
24 subject to 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act).

25 \* Sec. 3. AS 47.10.080(c) is amended to read:

26 (c) If the court finds that the minor is a child in need of aid,  
27 it shall

28 (1) order the minor committed to the department for place-  
29 ment in an appropriate setting for a period of time not to exceed 18

1 months [TWO YEARS] or in any event past the date the minor becomes 19  
2 years of age, except that the department may petition for and the  
3 court may grant in a hearing (A) 18-month [TWO-YEAR] extensions of  
4 commitment which do not extend beyond the minor's 19th birthday if the  
5 extension is in the best interests of the minor and the public; and  
6 (B) an additional one-year period of supervision past age 19 if the  
7 continued supervision is in the best interests of the person and the  
8 person consents to it; the department may transfer the minor, in the  
9 minor's best interests, from one placement setting to another, and the  
10 minor, the minor's parents or guardian, and the minor's attorney are  
11 entitled to reasonable notice of the transfer;

12 (2) order the minor released to the minor's parents, guard-  
13 ian, or some other suitable person, and, in appropriate cases, order  
14 the parents, guardian, or other person to provide medical or other  
15 care and treatment; if the court releases the minor, it shall direct  
16 the department to supervise the care and treatment given to the minor,  
17 but the court may dispense with the department's supervision if the  
18 court finds that the adult to whom the minor is released will ade-  
19 quately care for the minor without supervision; the department's  
20 supervision may not exceed 18 months [TWO YEARS] or in any event  
21 extend past the date the minor reaches age 19, except that the depart-  
22 ment may petition for and the court may grant in a hearing

23 (A) 18-month [TWO-YEAR] extensions of supervision  
24 which do not extend beyond the minor's 19th birthday if the  
25 extension is in the best interests of the minor and the public;  
26 and

27 (B) an additional one-year period of supervision past  
28 age 19 if the continued supervision is in the best interests of  
29 the person and the person consents to it; or

1 (3) by order, upon a showing in the adjudication by clear  
2 and convincing evidence that there is a child in need of aid under  
3 AS 47.10.010(a)(2) as a result of parental conduct and upon a showing  
4 in the disposition by clear and convincing evidence that the parental  
5 conduct is likely to continue to exist if there is no termination of  
6 parental rights, terminate parental rights and responsibilities of one  
7 or both parents and commit the child to the department or to a legally  
8 appointed guardian of the person of the child, and the department or  
9 guardian shall report [ANNUALLY] to the court every 18 months on  
10 efforts being made to find a permanent placement for the child.

11 \* Sec. 4. AS 47.10.080(f) is amended to read:

12 (f) A minor found to be delinquent or a child in need of aid is  
13 a ward of the state while committed to the department or the depart-  
14 ment has the power to supervise the minor's actions. The court shall  
15 review an order made under (b) or (c)(1) or (2) of this section every  
16 18 months [ANNUALLY], and may review the order more frequently to  
17 determine if continued placement, probation, or supervision, as it is  
18 being provided, is in the best interest of the minor and the public.  
19 The department, the minor, the minor's parents, guardian, or custodian  
20 are entitled, when good cause is shown, to a review on application.  
21 If the application is granted, the court shall afford these parties  
22 and their counsel reasonable notice in advance of the review and hold  
23 a hearing where these parties and their counsel shall be afforded an  
24 opportunity to be heard. The minor shall be afforded the opportunity  
25 to be present at the review.

26 \* Sec. 5. AS 47.10 is amended by adding new sections to read:

27 ARTICLE 6. FOSTER CARE REVIEW PANELS.

28 Sec. 47.10.400. CREATION AND MEMBERSHIP OF PANELS. (a) Subject  
29 to (b) of this section, the governor

1 (1) shall appoint a foster care review panel for each judi-  
2 cial district; and

3 (2) may appoint additional panels if the volume or complex-  
4 ity of cases involving a child placed in state custody under AS 47.-  
5 10.080(c) or 47.10.142 in a judicial district warrants.

6 (b) A panel consists of five members and two alternate members.  
7 Members must have training or experience in child welfare and a demon-  
8 strated interest in children. Members may include a parent from the  
9 community, foster parents or former foster parents, child psycholo-  
10 gists, teachers, professionally trained social workers, and lawyers  
11 with experience in children's matters. The governor shall appoint  
12 panel members from lists of at least 10 names submitted by the follow-  
13 ing entities for each judicial district: the department, the director  
14 of the office of public advocacy, the administrative director of the  
15 court system, the Alaska Foster Parents Association, and the mayor of  
16 the most populous municipality in the judicial district. The governor  
17 shall appoint one member from each list to each panel. The governor  
18 is not restricted to the lists when appointing alternate members. A  
19 person employed by the court system or by the department may not serve  
20 as a member or alternate member of a panel.

21 (c) A member of a panel serves at the pleasure of the governor  
22 for a term of two years.

23 (d) The panel shall elect one of its members to serve as chair.

24 (e) When a person is appointed to serve on a panel, the person  
25 shall swear or affirm to keep confidential all information that comes  
26 before the panel.

27 Sec. 47.10.410. QUORUM. A majority of the members of a panel  
28 constitutes a quorum. A majority of the members of the panel may  
29 decide an issue before the panel.

1           Sec. 47.10.420. STAFF AND SUPPORT SERVICES. The governor's  
2 office shall provide staff for the panels. The office of public  
3 advocacy in the Department of Administration shall provide training  
4 and training staff for panel members. The administrative director for  
5 the court system shall provide meeting space and equipment for the  
6 panels.

7           Sec. 47.10.430. REIMBURSEMENT FOR EXPENSES. Panel members are  
8 entitled to reimbursement from funds appropriated to the Office of the  
9 Governor for actual and necessary expenses for per diem and travel.  
10 The reimbursement may not exceed the amount of the per diem and travel  
11 expenses authorized for boards and commissions under AS 39.20.180.

12           Sec. 47.10.440. DUTIES OF PANEL. (a) A panel shall review the  
13 placement plan and the actual placement of each child placed in the  
14 custody of the department under AS 47.10.080(c) or 47.10.142 residing  
15 within its jurisdictional area. The review shall assess the progress  
16 toward achievement of a permanent placement plan, the appropriateness  
17 of the placement setting, services actually provided to achieve the  
18 selected goals, and previous decisions in the case.

19           (b) The panel shall review a case during the time period that is  
20 between 90 and 120 days after the child is placed in the custody of  
21 the department and every six months thereafter.

22           (c) At least two weeks before it begins a review, the panel  
23 shall provide written notice to each party that a review will be  
24 conducted and that each party may participate in the review.

25           (d) In reviewing a case, the panel shall consider the placement  
26 plan and any progress report of the department, court records, and  
27 other information about the child and the child's family. The panel  
28 shall provide to the following persons an opportunity to be inter-  
29 viewed by the panel: foster parents, natural parents, other relatives

1 of the child, guardian, guardian ad litem, the case worker or social  
2 worker assigned to the case, and other persons with a close personal  
3 knowledge of the case. At the discretion of the child's guardian ad  
4 litem, the child may be present at interviews or may be interviewed.  
5 The panel may conduct interviews in person or by telephone.

6 (e) Except as provided in (f) of this section, the panel shall  
7 submit a written report to the court within 30 days after reviewing a  
8 case. The report must make recommendations based on the best inter-  
9 ests of the child in accordance with AS 47.10.082. The court shall  
10 make the report available to the parties immediately. If the court  
11 has scheduled the case for review, the panel shall submit its report  
12 at least 10 days before the hearing.

13 (f) If the panel review relates to a child who is in temporary  
14 custody under AS 47.10.142 but who has not been found to be a child in  
15 need of aid under AS 47.10.080(c), the panel shall submit a written  
16 report to the department within 30 days after reviewing the case. The  
17 report must make recommendations based on the best interests of the  
18 child in accordance with AS 47.10.082. A report under this subsection  
19 is confidential.

20 (g) A party to a case reviewed under this section may request  
21 the panel to reconsider its recommendations.

22 Sec. 47.10.450. COOPERATION BY DEPARTMENT. The department shall  
23 cooperate with a panel during the panel's review. If the department  
24 fails to implement a recommendation of a panel, the panel or the  
25 department may request court review of the recommendation.

26 Sec. 47.10.460. RECORDS; COMMUNICATIONS. (a) At the request of  
27 a panel, the department and the court shall furnish to the panel  
28 records concerning a child who is the subject of a panel review or the  
29 child's family maintained by the court under AS 47.10.090 or by the

1 department. A public or private agency or institution that provides  
2 care or services for the child shall furnish the panel with the re-  
3 cords and other information the panel requests. Records and reports  
4 of the panel, testimony before the panel, and deliberations of the  
5 panel are confidential under AS 47.10.090.

6 (b) A panel member may not reveal to another person a communica-  
7 tion made to the member while performing the member's duties under  
8 AS 47.10.400 - 47.10.500 except as required under AS 47.17 or as  
9 required by court order for good cause shown.

10 Sec. 47.10.470. COURT REVIEW OF REPORT. (a) The court shall  
11 consider the report of the foster care review panel in its review  
12 under AS 47.10.080(f) of the placement of a child in need of aid under  
13 AS 47.10.080(c)(1) or when it considers the report of the department  
14 or guardian of a child in need of aid under AS 47.10.080(c)(3).

15 (b) The court may refer to the panel a case called for special  
16 review under AS 47.10.080(f).

17 (c) The court may request a panel in another jurisdiction to  
18 conduct a review and submit a report if that panel is more convenient  
19 for the child and other persons involved.

20 Sec. 47.10.480. LIABILITY OF PANEL MEMBERS. (a) A panel member  
21 is immune from civil liability for an act or omission of the panel  
22 member that occurs in the performance of the member's duties under  
23 AS 47.10.400 - 47.10.500.

24 (b) This section does not apply to acts or omissions that con-  
25 stitute gross negligence, recklessness, or intentional misconduct.

26 Sec. 47.10.490. REPORT TO LEGISLATURE. The Office of the Gover-  
27 nor shall report to the legislature each year on the activities of the  
28 foster care review panels. The report must include the number of  
29 cases reviewed by each panel, the changes in the plan or placement of

1 a child in foster care made by the department as a result of recommen-  
2 dations of the panel, and the savings to the state that result from  
3 the implementation of recommendations made by the panel and adopted by  
4 the department. The report may contain other information on the  
5 experience of the panels and recommendations for change in the review  
6 panel system.

7 Sec. 47.10.500. DEFINITIONS. In AS 47.10.400 - 47.10.500,

8 (1) "panel" means a foster care review panel established  
9 under AS 47.10.400;

10 (2) "party" means the child or the child's legal represen-  
11 tative, the child's foster parents, the child's natural parents, and  
12 if the child's case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
13 Welfare Act) the leaders of the child's Indian tribe.

14 \* Sec. 6. AS 47.10.470, enacted by sec. 5 of this Act, has the effect  
15 of amending Rule 19 of the Child in Need of Aid Rules by requiring a court  
16 to consider recommendations from a foster care review panel when conducting  
17 a review of the placement of a child in foster care.

Original sponsors: Collins, Gruenberg,  
Ulmer, et al.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND  
SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 19 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 an Act entitled: "An Act relating to citizen review panels for chil-  
7 dren under state supervision; court review of cases  
8 relating to children; establishing the State Chil-  
9 dren's Citizen Review Panel; amending Rule 19 of the  
10 Child in Need of Aid Rules; and providing for an  
11 effective date."

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

13 \* Section 1. FINDINGS AND PURPOSE. The legislature finds that there is  
14 a need in the state for a citizen review process for the cases of children  
15 who are under the supervision of the state, including children who have  
16 been determined to be in need of aid, who are in temporary or emergency  
17 custody, or who have been voluntarily placed under state supervision. The  
18 purpose of this Act is to establish a citizen review process with the  
19 ultimate goals of encouraging continuity of services to families, reducing  
20 the number of out-of-home placements of children and the duration of those  
21 placements, and encouraging permanency planning for children, which may  
22 include adoption.

23 \* Sec. 2. AS 47.10 is amended by adding new sections to read:

24 ARTICLE 6. STATE CHILDREN'S CITIZEN REVIEW PANEL.

25 Sec. 47.10.400. STATE CHILDREN'S CITIZEN REVIEW PANEL. (a)

26 There is created the State Children's Citizen Review Panel. The state  
27 panel consists of five members appointed by the governor from among  
28 past or present members of local citizen review panels established  
29 under AS 47.10.420. The governor shall appoint at least one state

1 panel member from each judicial district.

2 (b) Members of the state panel serve at the pleasure of the  
3 governor for staggered terms of three years or until their successors  
4 are appointed.

5 (c) The state panel shall elect from its members a chair who  
6 shall serve for two years. Three members of the state panel consti-  
7 tute a quorum for the transaction of business.

8 (d) Members of the state panel are entitled to reimbursement for  
9 actual expenses necessary to perform their duties as state panel  
10 members. The reimbursement may not exceed the amount of per diem and  
11 expenses authorized for boards and commissions under AS 39.20.180.

12 (e) The state panel shall meet twice annually. Meetings may  
13 take place telephonically.

14 (f) The state panel may employ a director who shall serve at the  
15 pleasure of the state panel. The director shall employ staff as  
16 necessary to carry out the director's duties under state panel direc-  
17 tives.

18 Sec. 47.10.410. DUTIES OF THE STATE PANEL. The state panel  
19 shall

20 (1) adopt policies and procedures to carry out its duties  
21 and to govern the performance of the duties of the local panels estab-  
22 lished under AS 47.10.420;

23 (2) coordinate and review the activities of the local  
24 panels and make recommendations to the governor on appointments to the  
25 local panels;

26 (3) report annually to the legislature by the 10th day of  
27 each regular session, concerning the activities of the state and local  
28 panels; the report must include the number of cases reviewed by each  
29 local panel, the changes in the plan or placement of a child in foster

1 care made by the department as a result of recommendations of a local  
2 panel, and the savings to the state that result from the implementa-  
3 tion of recommendations made by a local panel and adopted by the  
4 department; the report may contain other information on the experience  
5 of the local panels and recommendations for change in the review panel  
6 system;

7 (4) establish a program of training for state and local  
8 panel members.

9 Sec. 47.10.420. APPOINTMENT OF LOCAL PANELS. (a) The governor  
10 shall appoint for each judicial district a local citizen review panel  
11 composed of five members and two alternates who are residents of the  
12 judicial district. Members shall serve three-year terms except that  
13 when a local panel is initially appointed, two members shall be ap-  
14 pointed for three-year terms, two members for two-year terms, and one  
15 member for a one-year term. Alternates shall be appointed to three-  
16 year terms.

17 (b) The governor shall appoint to a local panel persons who have  
18 training, experience, special knowledge, or a demonstrated interest in  
19 the welfare of children. A person employed by the court system, the  
20 department, the Office of Public Advocacy, or the Department of Law  
21 may not serve as a member or alternate member of a local panel.

22 (c) The composition of a local panel must be reasonably repre-  
23 sentative of the various social, economic, racial, ethnic, and cul-  
24 tural groups of the region from which the members may be appointed.

25 (d) If the state panel determines that additional local panels  
26 are necessary in a judicial district because of excessively large or  
27 complex caseloads for review or because of the demographics of cases,  
28 or determines that a local panel is not necessary because of a reduced  
29 caseload, the governor may create or dissolve a local panel. The

1 governor may not reduce the number of panels in a judicial district to  
2 fewer than one. Appointments to a panel established under this sub-  
3 section are governed by (a) - (c) of this section.

4 (e) A local panel shall conduct its meetings in the judicial  
5 district in which its members reside.

6 (f) The local panel shall elect one of its members to serve as  
7 chair.

8 (g) When a person is appointed to serve on a local panel, the  
9 person shall swear or affirm to keep confidential all information that  
10 comes before the local panel except for reports required under AS 47.-  
11 17 or as required by court order for good cause shown.

12 Sec. 47.10.430. QUORUM. A majority of the members of a local  
13 panel constitutes a quorum. A majority of the members of the local  
14 panel may decide an issue before the local panel.

15 Sec. 47.10.440. SUPPORT SERVICES. The state panel shall provide  
16 meeting space and recording equipment for the local panels and staff.

17 Sec. 47.10.450. REIMBURSEMENT FOR EXPENSES. Local panel members  
18 are entitled to reimbursement for actual expenses necessary to perform  
19 their duties as local panel members. The reimbursement may not exceed  
20 the amount of per diem and expenses authorized for boards and com-  
21 missions under AS 39.20.180.

22 Sec. 47.10.460. DUTIES OF LOCAL PANEL. (a) A local panel shall  
23 review the case plan and the actual placement of each child voluntar-  
24 ily placed under state supervision or placed in the custody of the  
25 department under AS 47.10.080(c) or 47.10.142 residing within its  
26 jurisdictional area. The state panel may request a local panel in  
27 another jurisdiction to conduct a review and submit a report if that  
28 local panel is more convenient for the child and other persons invol-  
29 ved. The review shall assess the progress toward achievement of a

1 permanent placement plan, the appropriateness of the placement set-  
2 ting, services actually provided to achieve the selected goals, the  
3 extent of compliance with applicable provisions of 25 U.S.C. 1901 -  
4 1963 (Indian Child Welfare Act), and previous decisions made in the  
5 case.

6 (b) The local panel shall review a case during the time period  
7 that is between 90 and 120 days after the child is voluntarily placed  
8 under state supervision or placed in the custody of the department  
under AS 47.10.142 and every six months thereafter.

10 (c) The local panel shall review the cases of children for which  
11 state review is required under 42 U.S.C. 671 - 675 (P.L. 96 - 272).  
12 The timing and content of these reviews must meet federal require-  
13 ments.

14 (d) At least two weeks before it begins a review, the local  
15 panel shall provide written notice to each party that a review will be  
16 conducted and that each party may participate in the review.

17 (e) In reviewing a case, the local panel shall consider the  
18 placement plan and any progress report of the department, court re-  
19 cords, and other information about the child and the child's family.  
20 The local panel shall provide to the following persons an opportunity  
21 to be interviewed by the panel: foster parents, natural parents,  
22 other relatives of the child, guardian, guardian ad litem, the case  
23 worker or social worker assigned to the case, tribal representative,  
24 and other persons with a close personal knowledge of the case. At the  
25 discretion of the child's guardian ad litem, the child may be present  
26 at interviews or may be interviewed. The local panel may conduct  
27 interviews in person or by telephone.

28 (f) During a review under (a) of this section, a local panel  
29 shall

1 (1) encourage the return of children to their natural  
2 parents unless there is a determination by the local panel during a  
3 case review that this return is not in the best interests of the  
4 child, in which case the local panel shall recommend to the appropri-  
5 ate agency that maximum efforts be exerted to place the child for  
6 adoption;

7 (2) promote and encourage all agencies involved in placing  
8 children in foster care or other temporary custody to place or keep  
9 children with persons suitable and eligible as adoptive parents;

10 (3) recommend that a child care institution exert all  
11 possible efforts to make arrangements for permanent foster care or  
12 guardianship for children for whom return to natural parents or adop-  
13 tion is not feasible, as determined during case review.

14 (g) Except as provided in (h) of this section, the local panel  
15 shall submit a written report to the court and the parties within 30  
16 days after reviewing a case. The report must make recommendations  
17 based on the best interests of the child in accordance with AS 47.10.-  
18 082. If the court has scheduled the case for review, the local panel  
19 shall submit its report at least 10 days before the hearing.

20 (h) If the local panel review relates to a child who has been  
21 voluntarily placed under state supervision or who is in temporary  
22 custody under AS 47.10.142 but who has not been found to be a child in  
23 need of aid under AS 47.10.080(c), the local panel shall submit a  
24 written report to the department within 30 days after reviewing the  
25 case. The report must make recommendations based on the best inter-  
26 ests of the child in accordance with AS 47.10.082. A report under  
27 this subsection is confidential.

28 (i) A local panel shall report to the department, the state  
29 panel, and the applicable private agency any deficiencies in the

1 private agency's efforts to secure permanent homes for children in the  
2 agency's care, as determined by the local panel during case review  
3 under this section.

4 (j) A party to a case reviewed under this section may request  
5 the local panel to reconsider its recommendations.

6 Sec. 47.10.470. COOPERATION WITH OTHER ENTITIES. (a) All  
7 public and private agencies that provide for or arrange for the care  
8 of children whose cases are within the jurisdiction of a local panel  
9 shall cooperate with the state panel and the local panel.

10 (b) If the department is unable or unwilling to implement the  
11 recommendations of a local panel, the department shall submit to the  
12 local panel, within 10 working days after receipt of the findings and  
13 recommendations, an implementation report setting out the reasons why  
14 the department is unable or unwilling to implement the local panel's  
15 recommendations. The report must also set out the case plan that the  
16 department intends to implement.

17 Sec. 47.10.480. RECORDS; COMMUNICATIONS. (a) At the request of  
18 a local panel, the department and the court shall furnish to the local  
19 panel records concerning a child who is the subject of a local panel  
20 review or the child's family maintained by the court under AS 47.10.-  
21 090 or by the department. A public or private agency or institution  
22 that provides care or services for the child shall furnish the local  
23 panel with the records and other information the local panel requests.  
24 Notwithstanding AS 44.62.310, records and reports of the local panel,  
25 testimony before the local panel, and deliberations of the local panel  
26 are confidential under AS 47.10.090.

27 (b) A local panel member may not reveal to another person a  
28 communication made to the member while performing the member's duties  
29 under AS 47.10.400 - 47.10.590 except as required under AS 47.17 or as

1 required by court order for good cause shown.

2 Sec. 47.10.490. COURT REVIEW OF REPORT. (a) The court shall  
3 consider the report of the local panel in its review under AS 47.10.-  
4 080(f) of the placement of a child in need of aid under AS 47.10.-  
5 080(c)(1) or when it considers the report of the department or guard-  
6 ian of a child in need of aid under AS 47.10.080(c)(3).

7 (b) The court may refer to the local panel a case called for a  
special review under AS 47.10.080(f).

8 Sec. 47.10.500. INDEMNIFICATION OF PANEL MEMBERS. A state panel  
9 member and a local panel member shall be indemnified by the state for  
10 civil liability for a negligent act or omission of the panel member  
11 that occurs in the performance of the member's duties under AS 47.10.-  
12 400 - 47.10.590 unless the civil liability results from the panel  
13 member's violation of  
14

15 (1) AS 47.10.480(b); or

16 (2) the oath or affirmation required under AS 47.10.420(g).

17 Sec. 47.10.590. DEFINITIONS. In AS 47.10.400 - 47.10.590

18 (1) "child care institution" has the meaning given "insti-  
19 tution" in AS 47.35.900;

20 (2) "local panel" means a local citizen review panel ap-  
21 pointed under AS 47.10.420;

22 (3) "party" means the child or the child's legal represen-  
23 tative, the child's foster parents, the child's natural parents, and  
24 if the child's case is governed by 25 U.S.C. 1901 - 1963 (Indian Child  
25 Welfare Act) the leaders of the child's Indian tribe or an Indian  
26 custodian who has intervened, and any other person who has been al-  
27 lowed to intervene by the court;

28 (4) "state panel" means the State Children's Citizen Review  
29 Panel established under AS 47.10.400.

1 \* Sec. 3. AS 44.66.010(a) is amended by adding a new paragraph to read:

2 (17) State Children's Citizen Review Panel under AS 47.10.-  
3 400 -- June 30, 1994.

4 \* Sec. 4. AS 47.10.080(f) is amended to read:

5 (f) A minor found to be delinquent or a child in need of aid is  
6 a ward of the state while committed to the department or the depart-  
7 ment has the power to supervise the minor's actions. The court shall  
8 review an order made under (b) or (c)(1) or (2) of this section an-  
9 nually, and may review the order more frequently to determine if  
10 continued placement, probation, or supervision, as it is being pro-  
11 vided, is in the best interest of the minor and the public. If annual  
12 review under this subsection would arise within 90 days of the hearing  
13 required under (1) of this section, the court may postpone review  
14 under this subsection until the time set for the hearing. The depart-  
15 ment, the minor, the minor's parents, guardian, or custodian are  
16 entitled, when good cause is shown, to a review on application. If  
17 the application is granted, the court shall afford these parties and  
18 their counsel reasonable notice in advance of the review and hold a  
19 hearing where these parties and their counsel shall be afforded an  
20 opportunity to be heard. The minor shall be afforded the opportunity  
21 to be present at the review.

22 \* Sec. 5. AS 47.10.080 is amended by adding new subsections to read:

23 (1) Within 18 months of the date a minor is initially committed  
24 to the department under AS 47.10.142(c), the court shall hold a hear-  
25 ing to review the placement and services provided and to determine the  
26 future status of the minor. The court shall make appropriate written  
27 findings, including findings related to the following:

28 (i) whether the child should be returned to the parent;

29 (2) whether the child should remain in foster care for a

1 specified period;

2 (3) whether the child should be placed for adoption;

3 (4) whether the child should remain in foster care on a  
4 permanent or long-term basis because of special needs.

5 (m) When the court orders a child committed to the department  
6 under (c) of this section and at a review under (f) or (l) of this  
7 section, the court shall inform the parties about the local foster  
8 care review panel established under AS 47.10.420.

9 Sec. 6. AS 47.10.142 is amended by adding new subsections to read:

10 (g) When a court orders a child committed to the department  
11 under this section, the court shall inform the following persons about  
12 the local foster care review panel established under AS 47.10.420:

13 (1) the child and the child's guardian ad litem;

14 (2) the parents or guardian of the child;

15 (3) the leaders of the child's tribe if the child's case is  
16 subject to 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act).

17 (h) Within 18 months after a minor is committed to the depart-  
18 ment under this section, the court shall review the placement plan and  
19 actual placement of the minor under AS 47.10.080(1).

20 \* Sec. 7. Notwithstanding AS 47.10.400(b), enacted by sec. 2 of this  
21 Act, the governor shall appoint the initial members of the State Children's  
22 Citizen Review Panel so that one serves a one-year term, two serve two-year  
23 terms, and two serve three-year terms.

24 Sec. 8. AS 47.10.490, enacted by sec. 2 of this Act, has the effect  
25 of amending Rule 19 of the Child in Need of Aid Rules by requiring a court  
26 to consider recommendations from a foster care review panel when conducting  
27 a review of the placement of a child in foster care.

28 \* Sec. 9. This Act takes effect July 1, 1990.

29 *Add: 4-year Sunset*

HB

21

# HOUSE COMMITTEE REPORT

(7)

Date Referred: January 9, 1989

FURTHER REFERRALS: LABOR & COMME

Date of Committee Action: 2/23/89

The HEALTH, EDUCATION & SOCIAL SERVICES Committee recommends that:

HOUSE BILL NO. 21 [SCHOOL DISTRICT LABOR NEGOTIATIONS]  
"An Act relating to negotiations between school boards and their employees."

[X] be replaced with CSHB 21 (HESS) [X] the same title  
[ ] have attached amendment(s) [ ] a new title

- [ ] do pass
- [ ] do not pass
- [ ] no recommendation
- [X] individual recommendations
- [ ] additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- [ ] fiscal impact
- [ ] zero fiscal note
- [X] zero with analysis

APPROVES PREVIOUS:

- [ ] fiscal note(s) published: \_\_\_\_\_
- [ ] zero fiscal notes(s) published: \_\_\_\_\_

SIGNING DO PASS:

[Signature]  
 \_\_\_\_\_  
[Signature]  
 \_\_\_\_\_  
[Signature]  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

SIGNING OTHER THAN DO PASS:  
(Do Not Pass, No Recommendation, Amend)

Cheri Davis Do Not Pass  
(needs a fiscal note)  
[Signature] No Rec.  
 \_\_\_\_\_  
Peter [Signature] NR  
Walt Furman  
 \_\_\_\_\_  
 \_\_\_\_\_

[Signature]  
 \_\_\_\_\_  
 Chairman's signature

# MEMORANDUM

State of Alaska  
Department of Education

TO: William Demmet  
Commissioner  
Department of Education

DATE: December 28, 1988

FILE NO: FAC 1602

FROM: Tom Ryan  
Acting Director

SUBJECT: Foundation  
Issues

Pursuant to your request we have analyzed the impact of adjustments to the foundation funding formula which would reduce the total state cost for this program. If the foundation program is underfunded without changes to the statute, then a proration of basic need as required by AS 14.17.225(b) would allow districts to exceed disparity limits. Therefore, if there are insufficient funds available to fully fund the program, rather than simply prorate entitlements based upon a unit value which has not been fully funded, the legislature should reduce the unit value in AS 14.17.056.

This change and others we have considered and rejected are discussed in more detail below. We are not promoting any of these options, and we have requested full funding of foundation program entitlements in our budget request.

Since FY 90 foundation information was not yet complete at the time of this analysis, and since the principles in operation are the same, our discussion below uses FY 89 data.

## 1. UNIT VALUE ADJUSTMENT

A change of the unit value from \$60,000/unit to \$59,500/unit (value set in AS 14.17.056) would have reduced the FY 89 full foundation entitlement by \$5,087,010. Each subsequent reduction of \$500 in the instructional unit value reduces the FY 89 entitlement by an identical amount, i.e. a \$1,000 change in unit value changes the foundation entitlement by \$10,174,020. Preliminary FY 90 data indicates that a foundation unit value of \$56,500 would produce a foundation entitlement of \$439,245,198 versus almost \$475 million with a \$60,000 unit.

Discussion: Unit value adjustments would not create any problem with disparity test calculations. The school district impact appears to be balanced. If the foundation program is underfunded and the unit value were left unchanged at \$60,000, then a proration of basic need as required by AS 14.17.225 (b) would allow districts to exceed disparity limits and jeopardize federal funding. Therefore, if there are insufficient funds available to fully fund the program, rather than simply prorate entitlements based upon a unit value which has not been fully funded, it is essential to reduce the unit value. This action simultaneously reduces entitlements and allowed local contribution, and so protects disparity limits.

2. INCREASE MINIMUM REQUIRED LOCAL CONTRIBUTION (MILL RATE)

If the required mill rate alone is changed (AS 14.17.025(1) and the ceiling (AS 14.17.025(2) remains at 35% of basic need, then the reduction in state aid would be as follows:

| <u>Mills</u> | <u>Foundation</u> | <u>Increment</u> | <u>total saved</u> | <u>Note:</u>                                  |
|--------------|-------------------|------------------|--------------------|---|
| 4            | \$448,430,555     |                  | 0                  | N.Slope/Valdez at 35%                         |
| 4.5          | 435,179,047       | \$13,251,508     | \$13,251,508       | Kenai reaches 35%                             |
| 5            | 426,294,829       | 8,884,218        | \$22,135,726       | Anchorage & Matsu -35%                        |
| 5.5          | 423,660,420       | 2,634,409        | \$24,770,135       | Fairbanks, Juneau<br>Ketchikan, Unalaska -35% |
| 6            | 422,338,082       | 1,322,338        | \$26,092,473       |   |

Discussion: This change would have no effect on the disparity test. However, it would have an unbalanced impact on school districts: most small municipal school districts would never reach the 35% ceiling, whereas the larger and more affluent municipal school districts would reach the ceiling on local share and therefore be able to appropriate less for schools. Therefore, although foundation entitlement decreases of up to \$26 million are possible with mill rate changes alone, the burden of such changes is unevenly distributed.

3. CHANGE LOCAL CONTRIBUTION PERCENTAGE CEILING

If the local contribution required by AS 14.17.025(2) is changed so that there is an increased maximum percentage (40%, 45%, or 50%, instead of 35%) then only the North Slope and Valdez would be affected. The increased ceiling on local share of basic need would increase the costs for the two districts and reduce the state's cost of the foundation program a like amount. A 4 mill tax in other municipal school districts does not generate enough to reach the existing 35% ceiling. The changes are linear, i.e. each 5% change in the ceiling changes the costs by the same amount since it is a percentage of the same figure: basic need.

each 5% increase costs North Slope \$593,790 (based upon FY 89 figures)  
 each 5% increase costs Valdez 189,840  
 each 5% increase reduces foundation 783,630

Discussion: An increase to a 50% ceiling by itself would reduce foundation entitlements by only \$2,350,890. Only the two districts will be affected until such time as the assessed valuation in other municipal school districts increases to a level at which the minimum required tax levy meets or exceeds the existing 35% of basic need ceiling.

Note: Except for North Slope and Valdez, every city borough school district currently contributes an equivalent of a 4 mill tax levy. If the North Slope and Valdez had the same requirement, that is if there were a higher ceiling or no ceiling, then the revenue generated would exceed the basic need of those districts by over \$40 million (\$38,443,979 for North Slope and \$2,456,739 for Valdez). This analysis suggests that some combination of increased mill rate and increased ceiling on local share would involve more school districts in increased local support and produce significantly more local contributions toward education, reducing the foundation payment entitlements significantly.

4. CHANGE LOCAL CONTRIBUTION CEILING AND MILL RATE

This change places a greater burden on a larger number of municipal school districts and as a result more dramatically reduces foundation entitlements:

| <u>Minimum mills</u>      | <u>Maximum % ceiling</u>           | <u>foundation reduced</u> |
|---------------------------|------------------------------------|---------------------------|
| A 4.5 mill minimum with a | 40% ceiling reduces state payments | \$16,115,669              |
|                           | 45%                                | 17,081,593                |
|                           | 50%                                | 18,047,516                |
| A 5.0                     | 40%                                | 29,569,410                |
|                           | 45%                                | 32,197,016                |
|                           | 50%                                | 33,162,939                |
| A 5.5                     | 40%                                | 40,865,063                |
|                           | 45%                                | 45,920,400                |
|                           | 50%                                | 48,264,381                |
| A 6.0                     | 40%                                | 49,516,307                |
|                           | 45%                                | 59,054,732                |
|                           | 50%                                | 62,269,611                |

Discussion: This change affects only who pays what share of basic need and therefore does not affect disparity calculations. Disparity tests are affected only by expenditures beyond the basic need amount.

5. REAA INTEREST COUNTED AS LOCAL CONTRIBUTION

AS 14.17.025 (d) could be changed to require regional education attendance area school districts to contribute a local share in the amount of interest earnings. For FY 89 the amount of such earnings was projected to be \$2,211,984. This figure does not include interest earnings on capital project funds, but only interest on amounts in the general operating fund.

Discussion: Reducing state foundation payments to REAAs by interest earned on investments removes any incentive for investment and REAAs would likely cease the practice and eliminate the expense of managing these investments. Such a change would likely be counter-productive unless some incentive was retained for investment.

JUNEAU SCHOOL DISTRICT BOARD OF EDUCATION

RESOLUTION #7-89

A RESOLUTION OF THE BOARD OF EDUCATION OF THE CITY AND BOROUGH OF JUNEAU OPPOSING HOUSE BILL 21, LEGISLATION MANDATING CLASS SIZE AND WORKLOAD AS NEGOTIABLE ITEMS.

Whereas, the Alaska Supreme Court has determined that class size is a policy issue and therefore non-negotiable; and

Whereas, the research on the effect of decreased class-size is mixed, at best; and

Whereas, the increased cost of substantial decreases in class size could even double the educational cost in the State of Alaska due to increased numbers of teachers and classrooms; and

Whereas, the determination of class size and teacher workload is a management decision; and

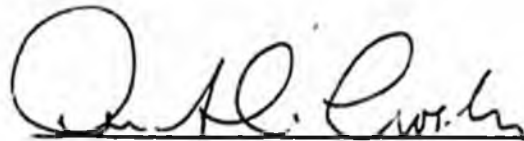
Whereas, most school districts already negotiate on extra duty responsibilities as "workload;" and

Whereas, these issues can already be negotiated if both sides are desirous of so doing;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF EDUCATION OF THE CITY AND BOROUGH OF JUNEAU, ALASKA:

1. That the Board of Education of the City and Borough of Juneau opposes the passage of House Bill 21 allowing for class size and work load to become a part of the negotiations between school boards and their teachers.
2. Effective Date. This resolution shall be effective immediately upon adoption.

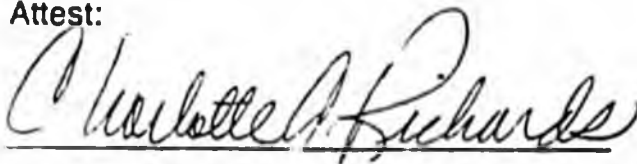
Adopted this 7th day of February, 1989.




---

David Crosby, President

Attest:



Charlotte Richards, Clerk

# ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

## POSITION PAPER

### CSHB21

#### "AN ACT RELATING TO NEGOTIATIONS BETWEEN SCHOOL BOARDS AND THEIR EMPLOYEES"

The Association of Alaska School Boards encourages the Legislature to **oppose passage of CSHB21**, which would make class size and workload a negotiable item with certificated employees, for the following reasons:

The Alaska Supreme Court, in *Kenai Peninsula Borough School District v. Kenai Peninsula Education Association, 1977*, described class size specifically as non-negotiable.

**Pupil-teacher ratio is a programmatic issue, clearly within the realm of policy**, an area over which board members, like legislators, have been elected to preside. By making class size negotiable, it becomes a labor issue. As a labor issue, both class size and workload would be grievable under Alaska statutes, and subject to binding arbitration.

**Making class size and employee workload negotiable, and therefore grievable under Alaska statutes, would make those issues subject to binding arbitration.**

In August 1988 AASB published survey results of a class size study of Alaska districts that showed the **exorbitant costs of reducing class size to 20 students**. The total costs of limiting class size to 20 pupils in Alaska is estimated at \$117.8 million, which includes increased salaries, construction and maintenance and operation costs—nearly one quarter of last year's education budget.

**Workload**, a matter of policy, would be subject to binding grievance arbitration by an outside party if it were negotiable, and would inevitably **result in increasing staff while decreasing productivity**.

The vast body of research on the class size issue **does not support the notion that pupils benefit from smaller classes or justify the great expense** involved in reducing class size. The Educational Research Service (ERS), in its exhaustive study of 100 research studies on class size from 1950 to 1985, concludes: "Existing research findings do not support the contention that smaller classes will of themselves result in greater academic achievement gains for pupils."

Policy decisions concerning class size and pupil-teacher ratios involve factors that are complex, varied, and often emotionally charged. These require the weighing of possible pupil benefits, possible teacher benefits, facilities utilized, financial costs, and political consequences which are best made at the local level by elected school boards.

## FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_  
 Title: Negotiations between school  
boards and their employees  
 Sponsor: Ellis, Koponen, et.al  
 Requestor: House HESS

Agency Affected: Education  
 BRU: \_\_\_\_\_  
 Components: \_\_\_\_\_

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

| OPERATING              | FY 89 | FY 90 | FY 91 | FY 92 | FY 93 | FY 94 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES      |       |       |       |       |       |       |
| TRAVEL                 |       |       |       |       |       |       |
| CONTRACTUAL            |       |       |       |       |       |       |
| SUPPLIES               |       |       |       |       |       |       |
| EQUIPMENT              |       |       |       |       |       |       |
| LAND & STRUCTURES      |       |       |       |       |       |       |
| GRANTS, CLAIMS         |       |       |       |       |       |       |
| MISCELLANEOUS          |       |       |       |       |       |       |
| <b>TOTAL OPERATING</b> | 0     | 0     | 0     | 0     | 0     | 0     |
| <b>CAPITAL</b>         |       |       |       |       |       |       |
| <b>REVENUE</b>         |       |       |       |       |       |       |

**FUNDING:** (Thousands of Dollars)

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

**POSITIONS:**

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

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

While this bill does not require an increased appropriation it may, in fact, result in increased costs to the State over the long term.

Prepared by: Mary Hakala  
 Division: Commissioner's Office

Phone: 465-2800  
 Date: January 18, 1989

Approved by Commissioner: *William C. Demmert*  
 Agency: Education

Date: January 18, 1989

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

# ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

## POSITION PAPER

### CSHB21

#### "AN ACT RELATING TO NEGOTIATIONS BETWEEN SCHOOL BOARDS AND THEIR EMPLOYEES"

The Association of Alaska School Boards encourages the Legislature to **oppose passage of CSHB21**, which would make class size and workload a negotiable item with certificated employees, for the following reasons:

The Alaska Supreme Court, in **Kenai Peninsula Borough School District v. Kenai Peninsula Education Association, 1977**, described class size specifically as non-negotiable.

**Pupil-teacher ratio is a programmatic issue, clearly within the realm of policy**, an area over which board members, like legislators, have been elected to preside. By making class size negotiable, it becomes a labor issue. As a labor issue, both class size and workload would be grievable under Alaska statutes, and subject to binding arbitration.

**Making class size and employee workload negotiable, and therefore grievable under Alaska statutes, would make those issues subject to binding arbitration.**

In August 1988 AASB published survey results of a class size study of Alaska districts that showed the **exorbitant costs of reducing class size to 20 students**. The total costs of limiting class size to 20 pupils in Alaska is estimated at \$117.8 million, which includes increased salaries, construction and maintenance and operation costs--nearly one quarter of last year's education budget.

**Workload**, a matter of policy, would be subject to binding grievance arbitration by an outside party if it were negotiable, and would inevitably **result in increasing staff while decreasing productivity**.

The vast body of research on the class size issue does not support the notion that pupils benefit from **smaller classes or justify the great expense** involved in reducing class size. The Educational Research Service (ERS), in its exhaustive study of 100 research studies on class size from 1950 to 1985, concludes: "Existing research findings do not support the contention that smaller classes will of themselves result in greater academic achievement gains for pupils."

Policy decisions concerning class size and pupil-teacher ratios involve factors that are complex, varied, and often emotionally charged. These require the weighing of possible pupil benefits, possible teacher benefits, facilities utilized, financial costs, and political consequences which are best made at the local level by elected school boards.

# ASSOCIATION OF ALASKA SCHOOL BOARDS

316 W. 11th St. • Juneau, Alaska 99801-1510 • (907) 586-1083

## POSITION PAPER

HB21

### "AN ACT RELATING TO NEGOTIATIONS BETWEEN SCHOOL BOARDS AND THEIR EMPLOYEES"

The Association of Alaska School Boards **opposes passage of HB21**, which would make class size and workload a negotiable item with certificated employees, and would make workload a negotiable item with noncertificated employees for the following reasons:

The Alaska Supreme Court, in **Kenai Peninsula Borough School District v. Kenai Peninsula Education Association, 1977**, described class size specifically as non-negotiable. States Justice Connor, "... the determination of optimum class size is quite basic to school policy and management, and potentially has a substantial impact on a school district's personnel expenditures. A number of courts (in various states) have found this to be clearly non-negotiable."

**Pupil-teacher ratio is a programmatic issue, clearly within the realm of policy**, an area board members, like legislators, have been elected to preside over. By making class size negotiable, it becomes a labor issue. Concerned citizens are presently afforded the opportunity to discuss the implications and conditions of classroom size with district officials.

**Making class size and employee workload negotiable, and therefore grievable under Alaska statutes, would make those issues subject to binding arbitration.** A decision made by a disinterested, party, possibly inexperienced in education/administration/finances issues, who, furthermore, is not held accountable to the voting public during election time, circumvents local government, and the checks and balances that public accountability assures.

**In August 1988 AASB published survey results of a class size study of Alaska districts that showed the exorbitant costs of reducing class size to 20 students.** Forty-one (41) districts indicated a total need of 336 additional teachers to reduce class sizes to 20 pupils. That translates into an additional \$16.3 million using an average teacher salary within each district reporting. Construction costs alone totalled nearly \$94.4 million. The total costs of limiting class size to 20 pupils in Alaska is estimated at \$117.8 million, nearly one quarter of last year's education budget. In short, class size is a significant determinant of school budgets. Even small system-wide changes in a pupil-teacher ratio can have a significant impact on a school district's budget. (These figures do not include additional costs that would result from negotiating workload.)

**Workload, a matter of policy, would be subject to binding grievance arbitration by an outside party if it were negotiable, and would inevitably result in increasing staff while decreasing production.** When boards "win" an arbitration they maintain the status quo; when employee groups "win" an arbitration they receive something they did not have before. Employee groups are not known to ask for increased workloads. Who will foot the bill?

The vast body of research on the class size issue does not support the notion that pupils benefit from smaller classes or justify the great expense involved in reducing class size. One education journal editor has written, "it may come as a surprise to many parents and taxpayers to discover that every conceivable test on the notion of class size and its effect on learning has proven unequivocally that class size does not make a significant difference. According to research studies, a class size of less than 10 pupils is necessary for anything approaching individual attention to be given." That was written 10 years ago and still holds true today. The Educational Research Service (ERS), in its exhaustive study of 100 research studies on class size from 1950 to 1985, concludes: "Existing research findings do not support the contention that smaller classes will of themselves result in greater academic achievement gains for pupils. Policy decisions concerning class size and pupil-teacher ratios involve factors that are complex, varied, and often emotionally charged. These require the weighing of possible pupil benefits, possible teacher benefits, facilities utilized, financial costs, and political consequences."



# NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

## ANCHORAGE REGIONAL OFFICE

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(907) 274-0536

## JUNEAU OFFICE

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JUNEAU, ALASKA 99801  
(907) 586-3090

## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

February 20, 1989

To: Representative Johnny Ellis, Chair  
Members, House HESS Committee

Re: House Bill No. 21; "An Act relating to  
negotiations between school boards and  
their employees."

Per request of the Committee NEA-Alaska has provided you with information regarding research reports on the issue of class size as well as recent summaries of public opinion on this issue.

You have also asked for clarification or definition of the term "teacher load." Since the term was first used by the Supreme Court in the 1977 Kenai decision in which the Court found that class size and teacher load were not mandatory subjects of negotiations the clarification which I now attempt is the result of our cumulative experience in negotiations in which various school boards have refused to negotiate on certain issues because they pertain to teacher load.

While class size itself is certainly a primary component of teacher load there are other consequences of the term which do not necessarily call for more teachers and more classrooms and buildings.

When a teacher has an inordinately heavy "teacher load" such things as additional clerical support, assistance with the compliance requirements of PL 94-142 (special education) regulations, classroom aides, relief from that heavy load after a semester or a year, relief from other duties (study halls, homeroom, lunch duty, bus duty, etc), extra compensation, qualification of the criteria used in performance evaluation, the number of different preparations, whether or not a person is required to teach outside their area of certification, access to additional preparation time, weighted student contact time, and team teaching are just a few of the components which could be considered.

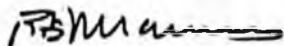
The "26th" student in a classroom where the parties have established a 25-student maximum certainly does not necessarily mean another teacher or another classroom or another building in light of the above.

It is important to emphasize that mere negotiability of class size and teacher load does not carry with it an automatic increase in operating costs. It is highly likely that when employees seek to negotiate on these issues that they will be faced with a school district bargaining position which will cause them to have to make hard choices between these issues and additional compensation.

The issue in HB 21 is nothing more than whether employees should have the right to negotiate on basic and fundamental conditions of their employment. The collective bargaining process itself will then establish the balance and priorities regarding compensation and basic opportunity for students.

Thank you for your consideration of our position.

Respectfully submitted,



Bob Manners  
Executive Secretary



# NEA-ALASKA

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## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456-4435

January 13, 1989

To: Rep. Johnny Ellis, Chair  
Members, House HESS Committee

Re: House Bill No.21; "An Act relating to negotiations  
between school boards and their employees."

NEA-Alaska supports and encourages your favorable response to HB 21.

This legislation is important because it establishes a process for solving problems attendant to class size and teacher load but does not impose a particular solution on the parties.

As a result of funding cuts at both the state and local level, class sizes and teacher load have been increasing. Because of the Kenai decision by the Supreme Court in the late 1970's both of these issues were determined to be non-negotiable. The Court further suggested that there was enough ambiguity on these issues that clarification by the legislature would be an appropriate consideration.

Therefore employees have not had a forum or means to effectively address issues which are basic to their terms and conditions of employment. The performance evaluation of teachers is impacted by the number of students in their classrooms, the number of different preparations which they have been assigned, and whether or not they have been assigned to a teaching area which might be outside their area of certification.

It is the position of NEA-Alaska that these issues are so basic to the conditions of employment that employees should minimally have the right to address them through the collective bargaining process.

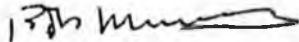
Since the diversity of our state practically precludes a legislative or regulatory resolution the only other option as a means to dealing with the issue for employees is through negotiations on a district by district basis.

The public wants lower class sizes and more teacher time for individual students. Lower class sizes are clearly a significant factor in improved student performance.

This bill assumes that the best solution is the one which is tailored to meet the individual needs of each district while not setting specific standards or even mandating criteria. It only provides a process which can lead to the resolution of these problems where they exist.

Thank you for your consideration of our position.

Respectfully submitted,



Bob Manners  
Executive Secretary

cc: Rep. Johnny Ellis

f6j89h21



# NEA-ALASKA

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## FAIRBANKS REGIONAL OFFICE

2118 CUSHMAN STREET  
FAIRBANKS, ALASKA 99701  
(907) 456 4435

January 20, 1989

To: Rep. Johnny Ellis, Chair  
Members, House HESS Committee

Re: CS for HB 21 (HESS); "An Act relating to  
negotiations between school boards and their  
employees."

As a result of the materials presented and testimony given at the HESS hearing on January 19, it is appropriate for NEA-Alaska to submit additional materials and information for your consideration.

For Committee members please find a background paper by NEA-Alaska President, Judy Salo, which summarizes various research reports on the topic of class size.

For the Committee file I have also enclosed an NEA summary of various public opinion surveys on class size.

Some of the testimony given to the Committee suggested that HB 21 should be considered in the context of cost projections and/or passage of an interest arbitration bill.

NEA-Alaska feels very strongly that this kind of testimony reflects serious distortions and misrepresentations of the intent, purpose, and effect of HB 21.

HB 21 only provides employees with a process to address employment concerns as they pertain to class size and teacher load. Such a process is not available to employees as a result of the 1977 Kenai Supreme Court decision. In that decision the Court asked for further legislative direction.

Contrary to the testimony of the AASB, HB 21 will not increase staff, increase costs, and decrease production. It will provide a mechanism for employees to seek solutions to problems which derive from excessively large classes and inordinately heavy teaching loads.

Further, HB 21 will force employees into making increasing harder choices between class size and work load improvements

and the potential improvements to their salaries and fringe benefit packages.

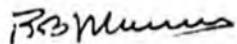
Unfortunately, "equal sharing" in class size/load decisions is not a reality in very many districts.

Through HB 21, employees are simply seeking the right through the bilateral process of negotiations to have the opportunity to participate in a process which determines some of their most basic conditions of employment, the size of their classes, the magnitude of their teaching load, and how these components will impact their teaching environment.

It does not unilaterally impose any pre-determined position, outcome, or burden on the school district.

Thank you for your consideration of our position. We encourage your expeditious passage of HB 21.

Respectfully submitted,



Bob Manners  
Executive Secretary

# CLASS SIZE

A Background Paper for NEA-Alaska Members  
By Judy Salo, President  
March 17, 1988

**One of the most obvious and detrimental effects of the recent cut-back in Alaska school funding has been the increase in class size.**

Results of the NEA-Alaska and PTA surveys show that although class size is not a problem in all of Alaska's schools, it has become a significant area of concern in many areas, particularly in urban schools.

The State Board, the Alaska Education Coalition, and the Governor's Interim Commission on Children and Youth have all recognized reduction of PTR as a primary objective. Reducing PTR from our perspective is important to the overall delivery of education as well as to dealing with at-risk youth.

Legislating class size from the State level has met, and will in the future meet, with opposition from school districts and boards. Some of that opposition is legitimate when you try to envision a bill that could cover the diversity of this state equitably.

An alternative to State legislation which would ensure local control and yet deal with the issue would be to make class size a topic for collective bargaining.

In survey after survey teachers have named class size as one of their primary concerns. Yet, since the 1977 Supreme Court Kerai Decision it has been on the list of non-negotiable items. Parents often ask teachers why we don't do something about it and why we don't attempt to deal with class size during negotiations. Our answer is, regrettably, that we can't.

The 1977 decision was the court's interpretation of an ambiguous law. If the legislature were to specify class size as a negotiable item that ambiguity would be gone.

It is likely that school districts and boards would oppose this issue because they prefer to keep the power on their side of the table on as many issues as possible. However, compared to a state mandate, it makes sense as a means to deal with the unique factors of each community and school system. The usual argument of "local control" that school boards have used against changes such as an improvement in the bargaining law would actually be reversed in this situation. Local control is not synonymous with school board control, and who better to work out a system of class size control than the teachers and board members in each district?

If legislation was introduced, would you support making class size a topic for collective bargaining?

JA/Classize/dl

# RELATIONSHIP OF CLASS SIZE AND STUDENT ACHIEVEMENT

---

From a historical perspective, J. M. Rice is credited with conducting the first empirical study on educational processes and their effects on student achievement. This study was published in *The Forum* in 1902. Although it included virtually no numbers, Rice observed no strong relationship between class size and attainment. Since this date, the findings of voluminous research studies have been reported. In a recent review of more than 3,000 studies, Willis D. Hawley et al., explain the inconsistencies in the conclusions reached by different analysts as follows:

1. The effects of class size reductions require complex statistical analysis.
2. The better the research design, the stronger the effect of class size reductions found.
3. Older studies showed few or no effects; newer studies show generally positive effects.
4. An effect of class size seen to be significant by one researcher may be termed insignificant by another, depending on the type of analysis used.
5. In many cases, reductions in class size do not result in evidence to show changes in teacher behavior, but such changes—or the lack thereof—are frequently not studied.

Again, historically, Glass and Smith categorized the four stages of research on class size as follows:

- 1895 – 1920 = the pre-experimental era
- 1920 – 1940 = the primitive experimental era
- 1950 – 1970 = the large-group technology era
- 1970 – present = the individualization era

A continuing volume of research studies have tried to find a more comprehensive and conclusive answer to the difficult question: What is the optimum/ideal class size to improve academic performance? Cited below are the findings of some of the major research studies concerning the relationship between class size and student achievement:

Walberg, Herbert J. and Sue Pinzur Rasber, "Public School Effectiveness and Equality: New Evidence and Its Implications," *Phi Delta Kappan*, 56 (September 1974), pp. 3-9.

In this study, the percentage of Selective Service draft candidates who failed the mental test in 1969 and 1970 in all 50 states was compared with nine socio-economic and educational variables. Pupil-teacher ratio was one of these educational inputs found to have affected the Selective Service examination scores of the military draftees. This test of general ability consisted of 100 vocabulary, mathematics, spatial, and mechanical items, many of which reflect specific abilities that can be acquired in school. The results of this comprehensive study show that "high pupil-teacher ratios . . . of children enrolled in public schools are associated with high rates of test failures."

In a subsequent report of this study (*Phi Delta Kappan*, May 1977), the authors state that "a reduction of one pupil per teacher is associated with an estimated 7.9 percent reduction in failure rate when the other variables are controlled. Although administrative, supportive, and capital expenditures are necessary, smaller classes may pay off because of the intensified, direct services they allow the teacher to provide the children. In particular, small classes permit more individual guidance, small-group work, and discussion without the constraints of authoritarian control often required in large groups."

Porwoll, Paul J., *Class Size: A Summary of Research*. Arlington, Va.: Educational Research Service, Inc., 1978.

This research brief is a comprehensive review of the literature on class size and achievement of elementary and secondary students as well as the effects of class size on other related areas. (Findings on the effects of class size and the educational process will be included in the next section of this report.) Based upon the analysis of 24 studies, the investigator found the relationship of class size and achievement to be inconclusive, contradictory and complex. The

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