ALASKA LEGISLATURE COMMITTEE FILES, 1989-1990 8672
5676 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES 80

HB

472

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 6, 1990 FURTHER REFERRALS:

JUDICIARY
FINANCE

Date of Committee Action: 4/17/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 472

HOUSE BILL NO. 472 CHILD SUPPORT GUIDELINES

"An Act relating to the Child Support Guideline Review Commission and to child support guidelines; and providing for an effective date."

RECOMMENDATIONS:
[X] be replaced with CSHB 472 (HESS) [X] the same title
[ ] a new title
[ ] have attached amendment(s)
[ ] do pass
[ ] do not pass
[X] no recommendation
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[X] fiscal impact 2AA
[ ] zero fiscal note _____
[X] zero with analysis Cmt

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) _____
[ ] zero fiscal note(s) _____
[ ] zero fn/analysis _____

SIGNING DO PASS:

_____

Mike Greenberg

_____

_____

_____

_____

_____

_____

_____

_____

_____

SIGNING:
(Check approp. column)

	Do Not Pass	No Rec	Amend
Chris Davis		X	
Jack Bayer		X	
Jay Ellis		X	

Jay Ellis
Chairman's Signature

Alaska Court System
State of Alaska
OFFICE OF ADMINISTRATIVE DIRECTOR

JANALEE R. STRANDBERG
Staff Counsel

303 K Street
Anchorage, AK 99501
(907) 264-8228

March 23, 1990

Rep. Johnny Ellis
Chair, House Health, Education
and Social Services Commiittee
PO BOX V (MS 3100)
Juneau, Alaska 99311

Re: HB 472--An Act relating to the Child Suppport Guideline Commission...

Dear Representative Ellis:

After discussing this bill with Mr. Snowden, it is the Alaska Supreme Court's position that the enactment of child support guidelines is a proper legislative function. Thus, the court supports this legislative effort to implement clear and consistent child support guidelines.

Thank you for the opportunity to comment on this bill.

Sincerely,

Janalee R. Strandberg
Staff Counsel

ccs. Rep. Mark Boyer
Peter Goll
Max F. Gruenberg, Jr.
George G. Jacko, Jr.
Cheri Davis
Walt Furnace

STEVE COWPER
GOVERNOR

PHONE
(907) 561-4227

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET • SUITE 742
ANCHORAGE, ALASKA 99503

March 7, 1990

Representative Johnny Ellis
Alaska State Legislature
P.O. Box V (MS 3100)
Juneau, Alaska 99811

Dear Representative Ellis and members of House HESS:

I had the opportunity to listen in on the discussion on HB 571, and the clarification regarding the intent of directing this bill towards absent parents who are accruing a debt to AFDC. The Women's Commission supports the speedy notification to absent parents who do not have a child support order in place and who are accruing a debt to AFDC. It is, of course, incumbent upon that parent to respond in a timely manner.

The Women's Commission strongly supports HB513. This legislation is long overdue. Many youth are in school at age 19. Completion of their education is our first concern.

Regarding HB472, the Women's Commission at their meeting on Mar 2 and 3 in Anchorage, made a decision not to support HB472. Last year I observed the court appointed child support guidelines committee. This committee took extensive testimony and carefully addressed all issues. A review of their committee notes would easily persuade you of this. There were good reasons for their decisions and the process was cost effective for the State.

Only the court has the opportunity of actually knowing both sides of the story. The obligors have been very vocal. It is my experience from years of working in the domestic violence field that where there is ongoing harassment in relation to custody and support there is often past or present violence or threats. We are only hearing one side of the story at these hearings. Custodial parents rarely feel able or safe to testify. If guidelines are decided legislatively, I believe that we will not have a fair and balanced process because we will only hear from obligors.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: HB 472
Publish Date: 2/6/90

FISCAL NOTE

REQUEST:

Revision Date:
Agency Affected: Alaska Judicial Council
Title: An Act relating to Child Support Guidelines Review Commission...
BRU:
Sponsor: Gruenberg
Components:
Requestor:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractual		200.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	200.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Funds	0.0	200.0	0.0	0.0	0.0	0.0
Federal Funds						
Other						
TOTAL	0.0	200.0	0.0	0.0	0.0	0.0

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: William T. Cotton, Executive Director
Phone: 279-2526
Division: Alaska Judicial Council
Date: 02/20/90

Approved by: William T. Cotton, Executive Director
Date: 02/20/90
Agency: Alaska Judicial Council

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

CSED

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

STEVE COWPER
GOVERNOR

PHONE
(907) 561-4227

STATE OF ALASKA
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION
3601 C STREET - SUITE 742
ANCHORAGE, ALASKA 99503

March 7, 1990

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Alaska State Legislature
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The Women's Commission strongly supports HB513. This legislation is long overdue. Many youth are in school at age 19. Completion of their education is our first concern.

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Only the court has the opportunity of actually knowing both sides of the story. The obligors have been very vocal. It is my experience from years of working in the domestic violence field that where there is ongoing harassment in relation to custody and support there is often past or present violence or threats. We are only hearing one side of the story at these hearings. Custodial parents rarely feel able or safe to testify. If guidelines are decided legislatively, I believe that we will not have a fair and balanced process because we will only hear from obligors.

The present guidelines, with allowance for special case exceptions, provide for adequate support if the non-custodial parent is working. They are not high compared to other states. One of the problems that is most often brought up is second families. Some non-custodial parents who have been paying low support amounts have suddenly, through a modification, had their obligation increased. This problem will decline with time as all new awards are determined by 90.3 and non-custodial parents do not therefore experience large changes in their obligations.

Sincerely

Ruth Lister
Executive Director

RL/kh

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: HB 472
Publish Date: 2/6/90

FISCAL NOTE

REQUEST:

Revision Date:
Agency Affected: Alaska Judicial Council
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BRU:
Sponsor: Gruenberg
Components:
Requestor:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
Personal Services						
Travel						
Contractual		200.0				
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
TOTAL OPERATING	0.0	200.0	0.0	0.0	0.0	0.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

General Funds	0.0	200.0	0.0	0.0	0.0	0.0
Federal Funds						
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TOTAL	0.0	200.0	0.0	0.0	0.0	0.0

POSITIONS:

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Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: William T. Cotton, Executive Director
Phone: 279-2526
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Approved by: William T. Cotton, Executive Director
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Distribution (by preparer):
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Impacted Agency(ies)

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ALASKA JUDICIAL COUNCIL
FISCAL ANALYSIS: HB472

Sec. 12 of HB472 requires the Alaska Judicial Council to "complete a comprehensive economic study of the costs of raising children in the state and submit a report with its findings to the legislature...." Council staff have discussed the cost of such a study with several persons. While estimates ranged as high as two million dollars, the Institute of Social and Economic Research (ISER) believed that the study could be done for $200,000. It is this rough estimate that is the basis of this fiscal note.

State of Alaska

Committees

CO-CHAIR, HOUSE JUDICIARY
VICE-CHAIR, HOUSE LABOR AND COMMERCE
HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES

P.O. BOX V
JUNEAU, ALASKA 99811
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914 CLAY COURT
ANCHORAGE, ALASKA 99503
(907) 276-6844

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

MEMORANDUM

FROM: Rep. Max F. Gruenberg, Jr. MG

TO: Rep. Johnny Ellis
Chair, House HESS Committee

DATE: March 23, 1990

SUBJECT: HB 472: Policy Issues and Background

On Monday the HESS Committee will be considering HB 472, "An Act relating to the Child Support Guidelines Review Commission and to child support guidelines; and providing for an effective date." I have previously provided a sectional analysis of the bill and copies of the recommendations it is based on. I've attached a memorandum explaining some of the history leading up to the introduction of HB 472, and discussing the reasons why I think it is important for the legislature to act on this subject now.

HB 472: POLICY ISSUES AND BACKGROUND

Introduction

Alaska currently has a child support guideline that is used to compute child support levels in judicial and administrative cases. The guideline was adopted and made applicable to judicial child support cases by the Alaska Supreme Court in 1987, as Civil Rule 90.3.

HB 472 would enact a legislative child support guideline. The guideline in the bill as introduced is identical to Civil Rule 90.3, with the single exception of child care expenses. (Under the bill, the judge is to consider both parents' child care expenses; the rule provides that only the non-custodial parent's expenses are a factor.) In addition, HB 472 creates a Child Support Commission to review the guideline, as is required by federal law, every four years. The bill also calls for an economic study of the costs of raising children in Alaska.

I. History of Alaska's Guideline

A. Development and Adoption of Civil Rule 90.3

The adoption of a child support guideline by the Alaska Supreme Court was prompted by federal legislation. The Child Support Enforcement Amendments of 1984 required each state to adopt, prior to October 1, 1987, a child support guideline to be used in setting child support awards. The law stated that the guideline could be established "by law or by judicial or administrative action"; it required that the guideline "be made available to all judges and other officials who have the power to determine child support awards..., but need not be binding...".

The 1984 Amendments also required each state to form a commission to study the state's child support system. Governor Sheffield appointed a 13-member Alaska Commission on Child Support Enforcement [the Sheffield Commission], chaired by the commissioner of revenue. The Commission included representatives of a broad spectrum of interested parties,

among them legislators, attorneys, a judge, custodial and non-custodial parents, and several state officials.

The Sheffield Commission issued its report to the governor in October, 1985. The Commission made a number of recommendations for improving the child support system. Among other things, it recommended the adoption of a presumptive formula for child support awards, and made several specific suggestions regarding the content of such a guideline. The Commission also recommended that, in order to ensure uniformity, "administrative and judicial standards for establishing support levels be standardized within the Alaska statutes." (Recommendation #9)

The administration did not introduce legislation to implement this recommendation in the 1986 legislative session, however. Instead, on March 4, 1986, the commissioner of revenue wrote to the administrative director of the Alaska Court System, asking that the court system adopt a guideline through judicial action. In response, the Chief Justice appointed a three person committee composed of a judge, a standing master and the court system's deputy administrative director, "to make recommendations in the form of proposed rules embodying guidelines which would implement the [Sheffield] Commission's recommendations."

The court system's subcommittee proposed a draft rule to the Supreme Court in December, 1986. The draft rule, which was largely based on the Sheffield Commission recommendations, was widely circulated. Five members of the House of Representatives, all of them attorneys, wrote to the court system objecting to the adoption of a court rule on the ground that as substantive law, such a matter fell within the legislature's constitutional authority under the Alaska Constitution. The members asked that the court submit any proposal it was considering to the chair of the Judiciary Committee for introduction by request.

The Chief Justice wrote back, noting that the court had been advised by its counsel that promulgation of a court rule was within its constitutional authority, but that it had no objection to legislative action. Subsequently, two members of the Senate Finance Committee wrote to the court system, in support of expeditious action by the judiciary to adopt a guideline in time to meet the federal deadline.

Once again, in the 1987 session, no legislation was introduced to implement a child support guideline. By the time the legislature adjourned, however, the court system's Civil Rules Committee had reviewed the draft proposed guideline and had submitted a revised proposed rule to the Supreme Court for its consideration. Following further review and revision by the Supreme Court, Civil Rule 90.3 was adopted effective August 15, 1987. The Division of Child Support Enforcement adopted an administrative regulation, effective September 30, 1987, based on the court rule, for use in administrative cases.

B. Events Since Promulgation of Civil Rule 90.3

1. Family Support Act of 1988

The federal Family Support Act of 1988 mandated that a single, uniform state child support guideline be presumptively applied in all judicial and administrative proceedings, and that the guideline be reviewed at least once every four years.

The new federal law raised a question as to whether Alaska law was in conformity with the new federal requirements. Although Civil Rule 90.3 was already presumptively applicable in all judicial proceedings, Alaska law at that time did not provide for use of a single, uniform guideline in both judicial and administrative support proceedings. (Although CSED, acting independently, had adopted a guideline similar to Civil Rule 90.3) Furthermore, there is no provision in Alaska law for the periodic review of the guideline used.

2. SB 54

The first Alaska legislation specifically addressing the issue of child support guidelines was introduced by Senator Uehling at the beginning of the 1989 session. SB 54 would have assured compliance with federal law by giving the Alaska Supreme Court specific statutory authority to promulgate a child support guideline by court rule which was presumptively applicable in all judicial and administrative child support proceedings, and by requiring the court to undertake a review of the rule at least once every four years. However, the bill remains in the first committee of referral, and no further hearings on it are planned.

3. Revisions to Civil Rule 90.3

In the meantime, after a year of experience with Civil Rule 90.3, the Chief Justice in late 1988 appointed a five member committee to review the rule. The committee was chaired by a family law attorney in private practice, and included a superior court judge, a family law master, and representatives of the Division of Child Support Enforcement and the Department of Law. The committee solicited written testimony regarding Civil Rule 90.3 and held two well publicized public oral comment sessions, teleconferenced statewide. The committee forwarded its recommendations for amendments to Civil Rule 90.3 to the Supreme Court on August 15, 1989, along with a proposed commentary to the rule.

On October 5, the Supreme Court adopted revisions to Civil Rule 90.3 effective January 15, 1990. The commentary to the rule was not approved or adopted by the court, but was published as an aid to users of the rule. Subsequently, the Division of Child Support Enforcement has by regulation adopted Civil Rule 90.3 as the child support guideline for administrative cases.

4. Family Support Task Force

While the court system process for amending Civil Rule 90.3 was in progress, the Child Support Subcommittee of the Family Support Task Force established by SCR 2 (1989) was meeting to review state law in the area of child support. The subcommittee was co-chaired by Rep. Max Gruenberg and CSED Director Linda Langston. It included legislators, representatives of the judicial branch, representatives of the administration, and both custodial and non-custodial parents. The subcommittee heard substantial public testimony in a series of meetings during the interim. One of the recommendations adopted by the subcommittee, and later by the Task Force, was that the legislature enact a child support guideline, and that Civil Rule 90.3 be used as the starting point for legislative consideration. Representative Gruenberg, as chair of the subcommittee, has introduced HB 472 to implement that recommendation.

II. Other States' Experience

A. Federal Recommendations

The federal Advisory Panel on Child Support Guidelines has recommended "that guidelines be implemented by means of [a] court rule of statewide applicability, where feasible," and that the process of developing guidelines include "active participation by a broadly comprised group, preferably including representatives of the courts, executive branch, the legislature, and relevant professional and advocate groups." (Advisory Panel Recommendation #9) The advisory panel stated, "Involvement of all groups with a stake in collections helps assure that the guidelines will gain maximum possible acceptance." The panel suggested that the "technical issues and detailed content" of a guideline could be dealt with better in a court rule than in a statute, and that a court rule could be more easily modified in the light of experience than a statute. It noted, however, that constitutional considerations might preclude this approach, particularly if there were no legislative authorization.

In Alaska, as described above, a "broadly comprised group" (the Sheffield Commission) worked to develop the initial general recommendations for implementation of a guideline, but the actual drafting of the proposal was carried out by representatives of the court system, with technical assistance from representatives of the administration. The recent amendments to the rule were drafted by a similar body, without "active participation" in the drafting process by a "broadly comprised group". In both cases the final language was the product of private deliberations by the supreme court.

B. Method of Adoption in Other States

The experience of other states has varied considerably. In 44 states and in the District of Columbia, legislation has addressed the guidelines issue. Legislatively enacted child support guidelines are in force in 19 states plus the District of Columbia. (In five of these jurisdictions, there had previously been a child support guideline promulgated by the courts.) In another 25 states, the legislature has enacted laws directing some other body to develop a guideline, or ratifying a guideline already developed. In 12 of these states the legislature has chosen to act through the court system, either by authorizing the courts to develop a rule on their own, or by specifying a process to be followed by the courts; in 10 states the legislature has selected an executive branch administrative agency to develop a guideline; in three states guidelines were developed by advisory commissions established by law.

Only six states, including Alaska, have a child support guideline that was promulgated by the courts and has not been specifically authorized or ratified by the legislature. (The supreme court of one of these states, Ohio, has repealed its court rule, although the repeal is not yet effective.) The Alaska Supreme Court in 1987 promulgated a guideline when the legislature failed to do so. However, the court has expressed support for legislative enactment of a child support guideline, and there is no assurance that in the future the court will on its own initiative undertake the federally-required reviews of the guideline.

III. Policy Alternatives

A. Legal Status of Civil Rule 90.3

The legal status of the Alaska guideline remains open to debate. The Supreme Court adopted Civil Rule 90.3 based on the opinion of its counsel that it had the constitutional authority to do so. However, the court has never expressed a formal opinion on that issue, although one justice dissented from the court's amendment of Civil Rule 90.3 in 1989 on the ground that adoption of the rule was outside the court's constitutional authority.

The fact that the court has undertaken to promulgate the rule does not mean that it has made any final decision on the constitutional issue involved. The court has not yet been presented with a case in which its constitutional authority has been challenged, nor has it had the benefit of adversarial briefing and argument on that issue. Until a definitive ruling is made, the question of the court's authority to promulgate a child support guideline remains open.

While the adoption of legislation authorizing the court to adopt a child support guideline, as proposed in SB 54, would

strengthen the argument that the court has the constitutional authority to do so, the issue would remain. In Maine, for example, the supreme court was specifically authorized by law to issue a child support guideline, but a majority of the court has stated that it believed such an action was outside the scope of its constitutional authority.

In addition to possible a constitutional challenge, promulgation of a child support guideline through the supreme court's rule making process is subject to challenge under the Open Meetings Act. By a 3-2 vote, the court denied a request that its deliberations on amendments to Civil Rule 90.3 be opened to the public. However, as with respect to the constitutional issue, the court has not had the benefit of legal argument on that issue, and the outcome of a court challenge to Civil Rule 90.3 based on the Open Meetings Act remains uncertain.

In view of the fact that a majority of the court has already indicated that either the court did not have the constitutional authority to adopt a child support guideline, or that it should have opened its deliberations to the public under the Open Meetings Act, there is reason for serious concern over the legal status of Civil Rule 90.3.

B. Policy Considerations

Three primary arguments have been made for legislative action in Alaska at this time. First, federal law requires that the guideline be reviewed every four years, and there is no provision for such review in current Alaska law. Second, there is a significant risk that Civil Rule 90.3 will be invalidated in a future court challenge. Third, the rule was initially developed and subsequently amended without the "active participation" of a "broadly comprised group" in drafting and decision-making process itself. Legislative action would provide a means for structured public participation in the policy making process.

The primary argument made against legislative adoption of a guideline at this time is that legislative action could result in substantive amendments to the guideline that will bring further disruption to an area of law that has already undergone significant change in recent years.

Advocates from both sides of the debate agree that stability in the area is desirable. The question that remains is whether the risk of invalidation of the current guideline outweighs the risk that the legislative debate will result in a substantially altered guideline. The answer to that question should become clearer as the debate on HB 472 proceeds.

Notwithstanding the fact that, as described above, there are legitimate policy issues to be addressed with respect to the appropriate manner to go about adopting a guideline, the controversy over this issue has largely been fueled by concerns related to the substance of the current guideline. Custodial parents' interest groups have spearheaded the drive for legislative action, believing that the legislature would ultimately enact changes to the rule which they desire. Noncustodial parents' interest groups fear that the legislative outcome will result in lower levels of child support than under the current rule.

The experience in other states, however, suggests that neither of these groups is right. The shift from a court rule to a legislative guideline did not result in substantial changes to the guideline in states where such a change has occurred. Furthermore, there is no indication that as a group the legislatively enacted guidelines are significantly different from the guidelines adopted by the courts.

To the extent that the legislative debate over HB 472 is fueled by considerations related to the content of the rule, the important question of who should bear the responsibility for making the public policy choices inherent in the rule will not be addressed. But the issue of allocating responsibility for promulgation of a guideline is the reason HB 472 is before the legislature today. Legislative action to resolve that issue, whatever means are chosen, will be a significant step forward.

SUMMARY OF AUTHORITY FOR PROMULGATION OF
AND CITATION TO CHILD SUPPORT GUIDELINES

States with statutory guideline: 20
[CA CO DC FL GA IL LA MD MN MS NV NH NM NY OK SD TX UT VA WY]

States with statutory authority for adoption of guideline: 25

Guideline in court rule: 12
[AZ AR DE HA ID IA ME MO NE NC PA RI]

Guideline in regulation: 10
[CT KY MT ND OR SC TN VT WV WI]

Guideline in other source: 3
[MA MI WA]

States without stat. authority for adoption of guideline: 6

Guideline in court rule: 6
[AL AK IN KS NJ OH]

NATIONAL LEGAL SUPPORT BUREAU
In conjunction with
ALASKA FAMILY SUPPORT GROUP

Legislative Affairs Teleconference
March 6th, 1990

Subject: HB 472
Child Support Guidelines
Guideline Review Commission

Presentation by:
F. David Bertrand
NLSB Alaska Coordinator

My name is David Bertrand, Alaska Representative for the National Legal Support Bureau and the Alaska Family Support Group Coordinator for Girdwood and the four valleys.

I wish to commend the Child Support Enforcement Sub-Committee for a job well done, and especially Representative Max Gruenberg for introducing House Bill 472. This Bill will pave the road for many other states to follow while removing public contempt for sensitive issues affecting our families.

Two important areas within the House Bill 472 infrastructure involves selection of Review Commission members and the study for 'Cost of Raising Children in AK.'

The 11 members of which two ObTigor and two Obligee parents would participate, the families of this organization feel the Review Commission will benefit wholeheartedly, while addressing the needs of present and future families of divorce. Although, the children caught in this web of decision making will not benefit until all children, both subsequent and primary are considered equal. The present system ignores the subsequent child.

Contract services selected for the study of 'Cost of Raising Children' is probably one of the most important considerations in making guidelines and an equitable awards system for Alaska. The University of Alaska or equivalent should do the study. As a foot note: We highly recommend an Income Shares method since the main concern is how much does it actually cost to raise a child and not how much a parent should be penalized.

In closing, the Family Support Groups in this state have spent alot of time in helping concerned parents achieve a fair and equitable child support system. The Alaska Family Support Group, Directed by Steve Strube, will continue to be a viable source of help to parents bereaved by the current system.

We encourage our elected and appointed officials to consider House Bill 472 as a break-through for a system that has affected approximately 26,000 parents statewide.

Better respect for C.S.E.D. and the agencie's sometimes over-looked noble efforts will increase proportionately as we all work together in building the ground floor necessary in achieving this goal. It's the future of our children we're concerned about, subsequent and primary. House Bill 472 is a good choice for all children in Alaska.

Thank you,

F. David Bertrand

F. David Bertrand
P.O. Box 583
Girdwood, Ak. 99587

ATTENTION: HOUSE H.E.S.S.

H.B. 472 I strongly support this bill. This Bill will put the child support award system in to the democratic process.

In my opinion it is good policy for parents and elected officals to be directly involved in formulating child support laws.

H.B. 571 I strongly support this bill so that obligors will be notified when a duty of support begins accruing.

H.B. 538 and 539 I strongly support these bills. I believe that children have the right to have access to both parents and both parents have the right to access their children. This visitation project will benefit familys and children by providing mediation for visitation problems.

I am a member of the Alaska ^ Support Group.
FAMILY

Paul A. L. Nelson

Paul A. L. Nelson
March 6, 1990

Rhona L. Miels

Rhona L. Miels Non-member

OPINION

Anchorage Daily News

Winner Pulitzer Prize Gold Medal for Public Service 1976, 1989

Gerald E. Grilly
Publisher

Howard Weaver
Managing Editor

Michael Carey
Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Founded in 1946 by Norman C. Brown

The court erred — on secrecy's side

Search for an issue to stir Alaskans' passions, and it'd be hard to top child-support laws. For several months, the state has been reviewing rules on how much divorced parents must pay to support their kids. Friday, the new rules finally came out. Despite the heavy public interest, though, the final decision was made behind closed doors.

No, the legislature didn't sneak back into session while you weren't looking. And this wasn't a decision made deep in the bowels of the state bureaucracy. It was made in a place that's no stranger to secrecy: the state Supreme Court.

The decision wasn't the result of a typical Supreme Court case, where somebody was suing someone else. The court always decides those cases in secret, and few object to that practice.

But the court's work on child-support rules was different. The court was acting, in effect, as a legislative body. It's within the court's power to write broad rules in some special circumstances, such as this one — but the justices should have let the public watch as they made their decisions.

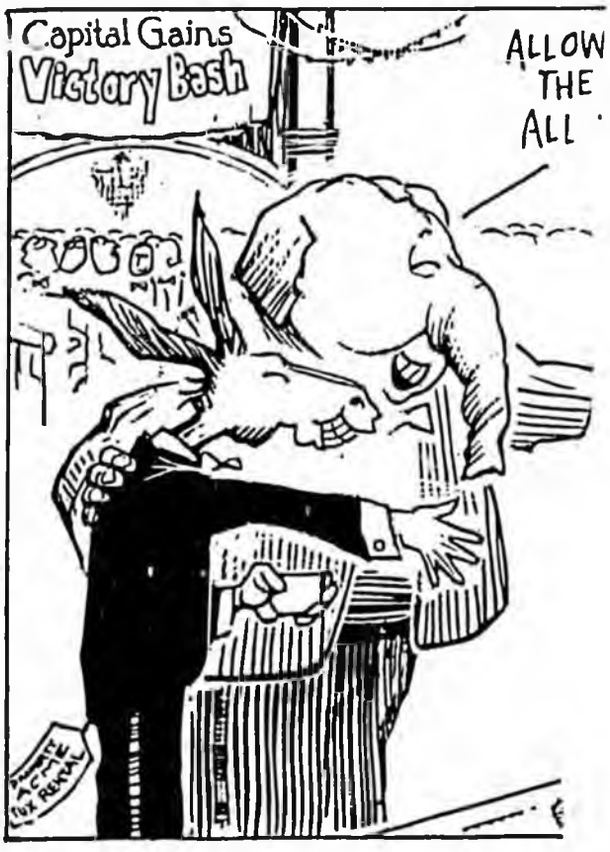
Indeed, at least one concerned parent asked the court to open its doors. But by a 3-2 vote, the justices refused. They gave no reason for that decision.

Shutting out the public can only hamper confidence in the court's child-support rules. The justices' decisions were effectively political, not legal. The public has right to know what factors influenced the outcome.

In deciding whether to open its proceedings, the court is the first and final authority. There's no avenue of appeal. The justices have the power to write rules in secret if they choose. Disgruntled parties may ask the legislature to overturn the child-support rules. But unless lawmakers act, what the court has written is law.

In past rule-makings, the court has usually honored public requests to attend committee meetings and to speak out on the proposals. The justices are considering a rule that would formalize that practice.

That's a good step, but it would still leave Alaskans in the dark at the crucial moment of decision. Whenever the justices sit as a policy-making body, they should let the public watch their decisions.



Immigrants could

howard weaver

Half a globe away, one of the world's great commercial and mercantile centers is crumbling. An engine that has powered growth and productivity for a hundred years is beginning to splutter, choked on anticipation of inevitable changes looming in the near future.

All the energy that has v[illegible]ted Hong Kong to the to[illegible]anks of economic produc[illegible]ity is now available to be tapped. If ours is truly a creative, energetic society, there ought to be a way to take advantage of that.

Alaskans have chased the dream of economic diversification through the decades like a holy grail. After the departure of the Russian fur traders, after the bust of the gold era, after the crash of the wartime boom, after the oil-price recession, Alaskans looked for energy and ideas to lift the state's economy back up. Each time it has come from some new natural resource exploitation, and each time it has generated

Alaska's oil, gold, timber or fish. Blessed with a splendid natural harbor but almost nothing else, they were able to harness their energy, intelligence and creativity to fashion a financial empire based on commerce and transportation. They have built prosperity out of sweat and smarts.

And now, with the 1996 transfer of the old Crown Colony to the Peoples Republic of China looming over them, the industrious citizens of Hong Kong are

D.C. Child Support Guideline Overturned

The Washington, D.C. Court of Appeals has overturned the Child Support Guideline in the District of Columbia. In Fitzgerald v. Fitzgerald, the Court held on October 13, 1989 that the Child Support Guideline conflicts with the existing law of the District of Columbia and is unauthorized.

The litigation involved calculation of child support for the daughter of Lorenzo C. Fitzgerald and Alice McKnight Fitzgerald. The father had custody of the daughter. The mother was ordered to pay child support as calculated under the Guideline. The father calculated the costs of raising the child at $724 per month, to be shared by the two parents.

Instead, the Superior Court had ordered child support of $1,316 per month (to be paid wholly by the mother) following calculations under the Guideline.

The National Council for Children's Rights and the Washington, D.C. chapter of the Women's Division of the National Bar Association ("GWAC") supported Alice McKnight Fitzgerald in arguing that the Guideline violated D.C. law.

The brief arguing that the Guideline was unfair was written and orally argued before the Appeals Court by Ron Henry, on behalf of NCCR and GWAC.

Needs of the Child

D.C. law requires that child support is to be based upon the needs of the child, the parents' ability to pay, and the particular facts and circumstances of the parties in litigation.

In contrast, the Guideline adopted a mathematical formula which was based principally upon the non-custodian's gross income and which was purposely calculated to provide compensation to the custodian in excess of the costs of raising the child.

NCCR and GWAC argued that child support should be related to the needs of the child and should not be seen as a reward for winning a custody fight or as a salary for the custodian.

Judge Judith Rogers

> "...child support should be related to the needs of the child and should not be seen as a reward for winning a custody fight or as a salary for the custodian."

Chief Judge Judith Rogers and Associate Judge John Terry agreed in their opinion, saying that under the Guideline, "the trial court has failed to determine either net income or the child's needs."

NCCR and GWAC also argued that the Guideline contained hidden assumptions which worked unfairly in many cases but which could not be rebutted because the assumptions were undisclosed. For example, the Guideline claimed that it had given consideration to tax obligations and child care expenses in establishing the basic support obligation as a percentage of gross income.

The Guideline did not explain, however, how these factors had been taken into account and parties in litigation were unable to measure the extent to which their own circumstances differed from the assumptions in the Guideline.

The court agreed, citing the "rigidity" of the Guideline and the lack of economic data used to draw up the Guideline.

Up to 38% of Gross Income

Under the Guideline, a non-custodian earning $25,000 or more would be ordered to pay 25 percent of gross income for one young child. Higher percentages applied for older children and where more than one child was present (up to 38 percent of gross income, which is about 75 percent of net income).

NCCR and GWAC argued that these support levels were unrelated to the needs of the child and were grossly out of line with child support awards in other jurisdictions including neighboring Maryland and Virginia.

Guidelines are necessary and important, but NCCR and GWAC argued that they believe fairness is

Continued on next page

State of Alaska

Committees

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

MEMORANDUM

TO: Rep. Johnny Ellis
Chair, House HESS Committee

FROM: Rep. Max F. Gruenberg, Jr.

SUBJECT: Sectional Analysis of HB 472

DATE: March 6, 1990

House Bill 472 implements Recommendations 44 through 47 of the Family Support Task Force. These recommendations, and the bill, include legislative enactment of a child support guideline (Rec. #44; HB 472 Sec. 2-10, 13), creation of a child support guidelines commission to advise the legislature on changes to the guideline (Rec. #45; HB 472 Sec. 1, 11), an economic study of the costs of raising children in Alaska (Rec. #46; HB 472 Sec. 12), and providing for the consideration of both parents' child care expenses in establishing the amount of child support (Rec. #47; HB 472 Sec. 3, at page 3, line 7).

The bill is the centerpiece of the legislative recommendations of the Child Support Subcommittee of the Family Support Task Force. HB 472 provides:

Section 1 [AS 24.20.085]

This bill section enacts AS 24.20.085. It creates, and prescribes the membership and duties of, the Child Support Guideline Commission.

AS 24.20.085(a): The Commission is reconstituted every four years, with eleven members: two legislators, a representative of the executive branch and of the judicial branch, three persons with expertise in relevant subject areas, and four public members.

AS 24.20.085(b): Each Commission's term runs from May 1 through December 31; membership is at the pleasure of the appointing authority.

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Continued on next page

Child Support Guideline *Continued from page 5*

the best way to assure that child support is actually paid.

When a child support award is punitive or unrelated to the needs of the child, NCCR and GWAC argued that noncompliance with court orders increases and parent-child relationships are damaged.

The unfairness of the Guideline had also become an issue of considerable conflict inside of the District of Columbia Superior Court. In an article June 12, 1989 the *Legal Times* of Washington, D.C. reported that "Hearing commissioners who determine child support awards have in many recent cases refused to follow the Guideline claiming that they are unfair."

In rejecting the Guideline, the Court of Appeals also criticized the procedure by which the Guideline was adopted. The Committee which created the Guideline did not hold public hearings or seek public comments prior to the implementation of the Guideline. NCCR and GWAC also noted that the Guideline Committee contained several representatives of the Women's Legal Defense Fund and other groups that did not contain representatives of non-custodial parents or second families.

NCCR and GWAC also argued that the Guideline Committee had ignored a mandate from Congress, as a part of the 1984 child support amendments, to study visitation and custody issues.

The subject of a Guideline shifted to the City Council, the 13-member legislature of the District of Columbia. On December 19, the Council passed a variation of the repudiated guideline as a temporary measure. It will be effective for about six months after which the district will have to pass a permanent guideline.

D.C. judges estimated that about 10,000 child support orders were issued during the two year period that the rejected Guideline was in effect. The losing side has appealed to the full nine-member D.C. Court of Appeals, and it is not clear what effect these actions will have on those cases.

The brief filed by NCCR and GWAC is available as NCCR Report L104 in the NCCR Catalogue. For a copy of the court decision, NCCR members send $1.00 postage; non-members, send $5.00.

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AS 24.20.085(b): Each Commission's term runs from May 1 through December 31; membership is at the pleasure of the appointing authority.

AS 24.20.085(c): Members of the Commission are entitled to per diem and travel funds; they elect a chair and vice-chair. The Commission is staffed by the Legislative Affairs Agency.

AS 24.20.085(d): The Commission is funded by the Legislative Council.

AS 24.20.085(e): The Commission reviews state and federal law dealing with child support and makes annual recommendations to the legislature for changes to state law.

Section 2 [uncodified]

Civil Rule 90.3, and the legislative commentary to the rule, may be amended only be the legislature.

Section 3 [Civil Rule 90.3]

A legislative child support guideline is established, through the adoption and amendment of Civil Rule 90.3. Civil Rule 90.3 was initially adopted as an "interpretive rule" by the Alaska Supreme Court in 1987. The Supreme Court has specifically stated that the rule subject to amendment by the legislature by a majority vote, without the two-thirds majority needed for amendment to procedural rules of court. With one exception, the version of Civil Rule 90.3 currently in force is the one adopted by Section 3 of HB 472.

Rule 90.3 (a): Child support awards in sole custody cases is calculated as a percentage of the adjusted annual income of the non-custodial parent. "Adjusted annual income" includes income from all sources, minus mandatory deductions such as taxes and union dues, and child support and alimony payments arising from prior relationships. (Child care expenses are no longer a deduction; this is the only change from current law.) The percentage of adjusted income to be paid as child support is 20% for one child, 27% for two children, 33% for three children, and an additional 3% for each additional child. Payments may be reduced by up to 50% for periods of visitation over 27 consecutive days.

Rule 90.3 (b): In shared custody cases, the amount of child support is determined by calculating the amount of support each parent would pay, assuming the other parent had primary custody, multiplying that amount by the percentage of time that the parent has custody, and having the person with the larger obligation pay the other the parent the difference between the two figures, multiplied by 1.5. Equal monthly payments must be made unless the obligor has custody for lengthy periods.

Rule 90.3 (c): The court must order payment of the calculated amount unless there is clear and convincing evidence of manifest injustice. The court must specify in writing the reason for and amount of any variation. Reasons for varying from the calculated amount may include: unusual circumstances, such as especially large family size, significant income of a child, or extraordinary expense levels; or a finding that the paying parent has a gross income below the federal poverty level. A minimum payment of $50 per month per child must be made, except in cases of shared custody or extended visitation; the calculations do not apply to income over $60,000 per year.

Rule 90.3 (d): The court must require acquisition of health insurance if it is available at a reasonable cost. Health insurance and mandated educational payments are deducted from the amount of child support.

Rule 90.3 (e): Each parent must file a sworn affidavit of income, with supporting documentation.

Rule 90.3 (f): "Shared custody" is defined as actual residence with a parent for at least 30% of the year.

Rule 90.3 (g): Travel expenses for visitation may be allocated by the court as it seems just and proper.

Rule 90.3 (h): Child support awards may be modified if allowed by federal law or upon a showing of a material change in circumstances under state law. A material change of circumstances is presumed if support as calculated under the rule varies from the outstanding support order by more than 15%. A child support order may not be modified retroactively, however.

Rule 90.3 (i): The reasonable work-related child care expenses of both parents for children under 12 must be considered.

Section 4 [AS 25.24.140 (a)]

Temporary support orders must comply with Civil Rule 90.3.

Section 5 [AS 25.24.160 (a)]

Judgments in divorce cases must comply with Civil Rule 90.3.

Section 6 [AS 25.24.170 (b)]

Post-judgment orders in divorce cases must comply with Civil Rule 90.3.

Section 7 [AS 25.24.200 (a)]

Agreements in actions for dissolution of a marriage must comply with Civil Rule 90.3.

Section 8 [AS 47.23.060 (e)]

Child support in judicial cases pursued by the Division of Child Support Enforcement orders must comply with Civil Rule 90.3.

Section 9 [AS 47.23.170 (d)]

Child support levels determined administratively in cases in which the right to support has been assigned to the State must comply with Civil Rule 90.3.

Section 10 [AS 47.23.200]

Child support levels determined administratively under AS 47.23.160, -.180, and -.190 must comply with Civil Rule 90.3.

Section 11 [uncodified]

The first Child Support Commission must be established May 1, 1992.

Section 12 [uncodified]

By May 1, 1992, the Alaska Judicial Council is to complete a comprehensive economic study of the costs of raising children in Alaska.

Section 13 [repealer]

AS 46.23.020(a)(2)(A), which authorized the Division of Child Support Enforcement to develop its own child support schedule, is repealed.

Sections 14 and 15 [effective dates]

The child support guideline established by Section 3 of the bill is effective January 15, 1991. All other bill sections are effective immediately.

Family Support Task Force
Subcommittee on Child Support

ADDITIONAL RECOMMENDATIONS TO THE TASK FORCE
November 28,1989

Periodic Review of Child Support Guidelines

1. The subcommittee recommends that the legislature enact a child support guideline complying with federal law, and that it use the text of Civil Rule 90.3, as amended by Supreme Court Order 1008, effective January 15, 1990, as the starting point for legislative consideration.

2. The subcommittee recommends that the legislature create a Child Support Guideline Review Commission. The Commission should be charged with the quadrennial review of the Alaska child support guideline, for the purpose of recommending to the legislature specific amendments to the child support guideline and to rules of court affecting the determination of child support. The Commission should be first appointed no later than the close of the second session of the 17th legislature (1992) and issue its first report to the legislature no later than the beginning of the first session of the 18th legislature (1993), with subsequent appointments and reports to follow at four year intervals. Adequate funding for the Commission should be appropriated.

The subcommittee recommends that the Commission be composed of eleven members, including representatives of the executive branch and the judiciary to be appointed by the presiding officer of each branch, and, to be appointed by the presiding officers of the legislature, legislators, appropriate experts in the fields of family law, economics, and family issues, and as public members, two persons who are paying child support and two who are receiving child support. There should be equal numbers of persons who are paying and receiving child support on the Commission.

3. The subcommittee recommends that the legislature appropriate funds for the preparation of a comprehensive economic study of the costs of raising children in Alaska. The study should include costs in intact families, in single parent households, and in households in which a parent has remarried, and should also include the impact of visitation and shared custody on the costs to both parents.

4. The subcommittee recommends that the reasonable work related child care expenses of both parents for children up to the age of 12 who are the subject of a child support order be considered in calculating the amount of their child support.

FAMILY SUPPORT TASK FORCE MEMBERS

Sen. Rick Uehling	CO-CHAIR
Rep. Johnny Ellis	CO-CHAIR
Sen. Drue Pearce	
Rep. Max R. Gruenberg, Jr.	
Rep. Mike Miller	
Sen. Jim Duncan	
Commissioner Myra Munson	Dept. of Health and Social Services
Commissioner David Hoffman	Dept. of Community and Regional Affairs
Dep. Comm. Royce Weller	Dept. of Revenue
Ms. Karen Ryals, Director	Vocational Education, Dept. of Ed.
Ms. Judy Knight, Dep. Dir.	Employment Security Division, Dept. of Labor

SUBCOMMITTEE CO-CHAIRS

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AFDC AMENDMENTS	Senator Rick Uehling Ed Musselwhite Employment Security Division Dept. of Labor
SUPPORT SERVICES	Senator Drue Pearce Karen Perdue, Deputy Commissioner Dept. of Health & Social Services
CHILD SUPPORT ENFORCEMENT	Rep. Max R. Gruenberg, Jr. Linda Langston, Director Child Support Enforcement Division Dept. of Revenue

STAFF

Janet Kowalski	Senator Uehling's office
Deborah Bonito	Representative Ellis' office
Gretchen Mannix	Welfare Reform Coordinator, Dept. of Health & Social Services
Mary Ellen Murphy	Dept. of Health & Social Services

RECOMMENDATION 44:

THE LEGISLATURE SHOULD ENACT A CHILD SUPPORT GUIDELINE COMPLYING WITH FEDERAL LAW, AND IT SHOULD USE THE TEXT OF CIVIL RULE 90.3, AS AMENDED BY SUPREME COURT ORDER 1008, EFFECTIVE JANUARY 15, 1990, AS THE STARTING POINT FOR LEGISLATIVE CONSIDERATION.

RECOMMENDATION 45:

THE LEGISLATURE SHOULD CREATE A CHILD SUPPORT GUIDELINE REVIEW COMMISSION.

- The Commission should be charged with the quadrennial review of the Alaska Child Support Guideline, for the purpose of recommending to the legislature specific amendments to the Child Support Guideline and to rules of court affecting the determination of child support.

- The Commission should be first appointed no later than the close of the second session of the 17th legislature (1992) and issue its first report to the legislature no later than the beginning of the first session of the 18th legislature (1993), with subsequent appointments and reports to follow at four year intervals.

- Adequate funding for the commission should be appropriated.

THE SUBCOMMITTEE RECOMMENDS THAT THE COMMISSION BE COMPOSED OF ELEVEN MEMBERS, INCLUDING:

- Representatives of the executive branch and the judiciary to be appointed by the presiding officer of each branch, and,

- To be appointed by the presiding officers of the legislature:
  - legislators
  - appropriate experts in the fields of family law, economics, and family issues, and
  - public members, including:
    - two persons who are paying child support, and,
    - two who are receiving child support.

- There should be equal numbers of persons who are paying and receiving child support on the commission.

THE LEGISLATURE SHOULD APPROPRIATE FUNDS FOR THE PREPARATION OF A COMPREHENSIVE ECONOMIC STUDY OF THE COSTS OF RAISING CHILDREN IN ALASKA. The study should include costs in intact families, in single parent households and in households in which a parent has remarried, and should also include the impact of visitation and shared custody on the costs to both parents.

RECOMMENDATION 47:

REASONABLE WORK RELATED CHILD CARE EXPENSES OF BOTH PARENTS FOR CHILDREN UP TO THE AGE OF 12 WHO ARE THE SUBJECT OF A CHILD SUPPORT ORDER SHOULD BE CONSIDERED IN CALCULATING THE AMOUNT OF THE CHILD SUPPORT.

RECOMMENDATION 48:

THE LEGISLATURE SHOULD PROVIDE FOR THE EXTENSION OF CHILD SUPPORT TO INDIVIDUALS UP TO THE AGE OF 19, IF THEY:
(1) ARE UNMARRIED AND LIVING WITH A PARENT, THEIR LEGAL GUARDIAN, OR THE DESIGNEE OF A PARENT OR LEGAL GUARDIAN;
(2) HAVE NOT GRADUATED FROM HIGH SCHOOL; AND
(3) ARE ACTIVELY PURSUING A HIGH SCHOOL DEGREE.

Issue

How should Alaska provide for the promulgation and periodic review of child support guidelines of child support awards by the courts and administrative agencies of the state?

FSA Provisions

Section 103 (a) of the Family Support Act requires that state child support guidelines be established for use in all judicial and administrative proceedings. There must be a rebuttable presumption that the guideline amount is the appropriate amount of support, subject to a written finding that the result is inappropriate under such criteria as may be established by the state.

Section 103 (c) of the Family Support Act requires that the guidelines must be reviewed at least once every four years in order to determine whether their application results in appropriate levels of support.

Cost

The proposed commission will need funding for members' travel costs and part time support staff.

The estimates for a comprehensive economic study of the cost of raising children range up to $1 million.

REPORT OF THE

CHILD SUPPORT ENFORCEMENT COMMISSION

TO THE

HONORABLE GOVERNOR WILLIAM J. SHEFFIELD

October 1, 1985

I. INTRODUCTION

In 1974, Congress passed Title IV-D of the Social Security Act, establishing the Child Support Program. The purpose of the program was to provide that all children receive support from absent parents by providing effective enforcement of child support laws.

In the ten years following passage of the Act, significant improvements have occurred in child support collections, but the problem remains a major one. Census information indicates that only 59% of families entitled to receive child support actually have support orders. Furthermore, only 49% of custodial parents with support orders receive full payment, while 28% receive nothing. Additionally, it is estimated that in at least 80% of cases, the reason for eligibility for Aid to Families with Dependent Children (AFDC) has been insufficient child support from absent parents.

A decade after passage of the Act, Congress reviewed the program and passed Public Law 98-378, the Child Support Amendments of 1984. The amendments mandate that states adopt specific procedures to strengthen their state enforcement programs. Additionally, they seek to assure that AFDC and non-AFDC families receive equal treatment under the program.

Feeling that many of the issues about child support warranted further study, Congress included a requirement that each state form a commission on child support to study the state child support program, and report to their Governor with a discussion of the commission's findings and recommendations.

This report represents the findings and recommendations of the Alaska Commission on Child Support Enforcement.

Public Law 98-378 closely followed comprehensive amendments to Alaska's child support laws sponsored by Governor Bill Sheffield. In presenting this report, the Commission wishes to acknowledge his active support of this commission and its efforts.

9. Recommendation: Codify Standards within Alaska Statutes

The Commission recommends that administrative and judicial standards for establishing support levels be standardized within the Alaska Statutes.

Statement

The Commission recognized that the various states have used either court rule or statute to establish bases for child support awards. Because Alaska has done neither, but through statute has established administrative rulemaking to fix levels of support, the Commission recommends that this practice be continued so that both judicially and administratively established support orders will be uniformly based.

DEVELOPMENT OF GUIDELINES FOR CHILD SUPPORT ORDERS: ADVISORY PANEL RECOMMENDATIONS AND FINAL REPORT

Part I: Advisory Panel Recommendations
Part II: Final Project Report
Part III: Implementation Materials

September 1987

Part I Prepared by:

Advisory Panel on Child Support Guidelines

Parts II and III Prepared by:

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The Advisory Panel recommendations and project report were developed with support from the Office of Child Support Enforcement, U.S. Department of Health and Human Services under Grant No. 18-P-20003. Any opinions expressed herein are those of the Advisory Panel on Child Support Guidelines or the author of the report and do not necessarily represent the views of the Office of Child Support Enforcement.

RECOMMENDATION #9
DEVELOPMENTAL PROCESS
AND IMPLEMENTING AUTHORITY

The Advisory Panel recommends that guidelines be implemented by means of court rule of statewide applicability, where feasible. A state's development of guidelines should include active participation by a broadly comprised group, preferably including representatives of the courts, executive branch, the legislature, and relevant professional and advocate groups.

Under federal regulations, guidelines can be implemented "...by law or by judicial or administrative action..." (45 CFR 302.56) The Advisory Panel considers a court rule to be the preferable means of implementation. Compared with a statute, development of a court rule lends itself more readily to the technical issues and detailed content encountered in a guideline's provisions. A court rule is more flexible than a statute and can be more easily modified in light of new economic data or legal findings, or adjusted to reflect experience gained from application of guidelines. In some states, a broad statutory mandate for development of a court rule may be required to legitimize the promulgation of guidelines under this mechanism. Even with a broad statutory authorization, however, the technical substance of a guideline is reserved for the contents of the court rule.

Constitutional provisions in some states may preclude implementation of guidelines under court rule, even if there is specific legislative authorization. In such cases, legislative enactment of guidelines can be a viable approach. Alternatively, in states where most child support awards are established through administrative process in the executive branch, implementation of guidelines through administrative regulation may be necessary. If possible, however, implementation of guidelines through administrative regulation limited to IV-D cases should be supplemented by a comparable court rule for cases heard outside the administrative process.

Guidelines should be developed with the advice and participation of broadly constituted groups. Ideally, such groups should include representatives of the courts, executive branch, and the legislature. They should also obtain active involvement by relevant professional and advocate groups such as the bar, child support enforcement administrators, and representatives of custodial and non-custodial parents and children's advocates. Since state child support commissions generally have a balanced composition and were mandated under P.L. 98-378 to establish "...appropriate objective standards for support...", their recommendations should be given due weight. Involvement of all groups with a stake in collections helps assure that the guidelines will gain maximum possible acceptance. It will also help avoid unanticipated adverse consequences in the application of guidelines.

that any deviation from the guideline be accompanied by written or oral findings.[14]

Implementing Authority

As noted above, federal regulations provide that states can implement guidelines "...by law or by judicial or administrative action." To date, states have used all of these options by implementing guidelines variously under authority of statute, court rule, and administrative regulation.

Statute. Colorado, Illinois, and Minnesota have enacted statutes mandating use of specified guidelines as rebuttable presumptions.[15] This mode of implementation has the advantage of providing universal authority to guidelines. In all three states, the guidelines are applied to IV-D and non-IV-D cases alike. They are binding upon the judiciary unless findings of fact are made to justify exceptions.

There are two disadvantages of incorporating guidelines into statute. The first is that the technical nature of guidelines does not readily lend itself to the legislative process of development. The Illinois and Minnesota guidelines are among the simplest guidelines in design. The Colorado guideline is more comprehensive, but it was developed initially by the Child Support Commission and modified only slightly by the Legislature. The second disadvantage is that statutes are less flexible and more difficult to change than judicial or administrative rules. Guidelines need to be revised periodically in light of experience gained in their use and in light of new economic findings. It is usually more difficult to revise a statute than non-statutory rules.

Court Rule. New Jersey adopted guidelines by means of a Supreme Court Rule (Rule 5:6A, 5/9/86). Delaware implemented the Melson formula by means of a Family Court Rule. The court rule approach has several advantages. First, the courts are unusually well situated to develop guidelines because they are neutral parties and are therefore in a better position to balance the competing interests involved in designing guidelines. Second, court rules normally have as much force with the judiciary as a statute. Third, a court rule is more easily changed than a statute. The most significant disadvantage of court rules is that some courts lack the legal authority to use that mechanism for child support guidelines. The Supreme Courts of Colorado and Vermont, for example, indicated that the

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[14] Colorado House Bill 1275, 1986, to be codified as Colorado Revised Statutes, Sec. 14-10-115 (3)(b).

[15] Colorado House Bill 1275, 1986; 23 Illinois Revised Statutes 1983, Sec. 10-10; Minnesota Statutes 1983, Sec. 518.551.

substantive nature of guidelines exceeded their procedural rule-making authority.

Administrative Regulation. Many states have implemented guidelines by administrative rule emanating from the child support enforcement agency. Missouri and Utah are two examples of states using this approach. In states using administrative process to establish child support orders for IV-D cases (including Missouri and Utah), administrative rule is the most expeditious method of implementing a guideline. An administrative rule issued by an executive agency cannot bind courts in their determination of child support awards, however, unless there is specific statutory authorization. Consequently, application of an administrative rule does not normally extend to non IV-D cases. This limits the usefulness of an administrative rule, especially in the large majority of states lacking administrative processes for establishing child support awards.

Other states have used hybrids of these three basic approaches in their implementation of child support guidelines. Nebraska has enacted legislation requiring the Supreme Court to develop child support guidelines for use as a rebuttable presumption (L.B. 7, 1985). California implemented the "Agnos guideline" by statute which establishes a minimum standard for child support awards. However, the statute delegates authority to establish guidelines for higher income households to individual counties, or to the state Judicial Council for those counties lacking a guideline (Ca. Civ. Code Secs. 4720-4732 (West Supp. 1985)). Vermont enacted the basic principles of a guideline, but delegated responsibility to the Agency for Human Services to specify the numerical formula (15 V.S.A. Secs. 653-662).

It can be seen from these examples that states have followed divergent paths in their determination of the most appropriate authority for implementing guidelines. Implementation by court rule is preferable in many ways because it provides applicability to all child support cases, but preserves the flexibility to modify the guideline based on experience and changing economic data. But courts in many states lack the authority to establish guidelines by this method. Moreover, in states with broad administrative processes for establishing child support awards on behalf of IV-D cases, issuance by administrative rule is generally the fastest means of implementation. As with a court rule, implementation by administrative rule also preserves the flexibility to change the guideline more readily than by altering a statute.

Summary of Report

In the remainder of this report, we review and analyze the available economic data concerning expenditures on children, discuss the factors that should be considered in developing guidelines, describe five approaches to

CIVIL RULE 90.3 COMMENTARY

I. INTRODUCTION

A. Commentary

This commentary to Civil Rule 90.3 was adopted by the Alaska Legislature as a statement of legislative intent regarding the proper interpretation and application of the rule. As a statement of legislative intent, the commentary does not have the force of law, but is conclusive evidence of the express intent of the legislature in adopting the stature. It is published with the rule as an aid to users of the rule.

B. Purpose

The primary purpose of Rule 90.3 is to ensure that child support orders are adequate to meet the needs of children, subject to the ability of parent to pay. The level of support under the rule is comparable to the national average, but it is significantly above what had been a usual support award in Alaska. The increase was necessary to avoid the impoverishment of custodial parents and to minimize the public's burden of supporting children through the Aid to Families with Dependent Children program. However, the primary focus of the increase in support awards was to promote the welfare of the children who benefit from the support.

The second purpose of 90.3 is to promote consistent child support awards among families with similar circumstances. Third, the rule is intended to simplify and make more predictable the process of determining child support, both for the courts and the parties. Predictable and consistent child support awards will encourage the parties to settle disputes amicably and, if resolution by the court is required, will make this process simpler and less expensive.

The final purpose of 90.3 is to ensure that Alaska courts comply with state and federal law. AS 25.24.160(2) requires that child support be set in an amount which is "just and proper..." The Child Support Enforcement Amendments of 1984 (P.L. 98-378) and its implementing regulations (45 CFR 302.56) require states to adopt statewide guidelines for establishing child support. The Family Support Act of 1988 (P.L. 100-485) requires that the guidelines presumptively apply to all child support awards and that the guidelines be reviewed every four years.

C. Scope of Application

Rule 90.3 applies to all proceedings involving child support, whether temporary or permanent, contested or non-contested, including without limitation actions involving separation, divorce, dissolution, support modification, domestic violence, paternity, Child in Need of Aid, and Delinquency. The support guidelines in the rule may be varied only as provided by paragraph (c) of the rule. Rule 90.3 does not apply to set any support which may be required for adult children.

II. PERCENTAGE OF INCOME APPROACH

Rule 90.3 employs the percentage of income approach. This approach is based on economic analyses which show the proportion of income parents devote to their children in intact families is relatively constant across income levels up to a certain upper limit. Applications of the rule should result in a non-custodial parent paying approximately what the parent would have spent on the children if the family was intact.

Integral to the rule is the expectation that the custodial parent will contribute at least the same percentage of income to support the children. The rule operates on the principle that as the income available to both parents increases, the amount available to support the children also will increase. Thus, at least in the sole or primary custodial situation, the contribution of one parent does not affect the obligation of the other parent.

III. DEFINING INCOME

A. Generally

The first step in determination of child support is calculating a parent's "total income from all sources". Rule 90.3(a)(1). This phrase should be interpreted broadly to include benefits which would have been available for support if the family had remained intact. Income includes, but is not limited to:

1. salaries and wages (including overtime and tips);
2. commissions;
3. severance pay;
4. royalties;
5. bonuses and profit sharing;

6. interest and dividends, including permanent fund dividends;

7. income derived from self-employment and from businesses or partnerships;

8. social security;

9. veterans benefits;

10. insurance benefits in place of earned income such as workers' compensation or periodic disability payments;

11. workers' compensation;

12. unemployment compensation;

13. pensions;

14. annuities;

15. income from trusts;

16. capital gains in real and personal property transactions to the extent that they represent a regular source of income;

17. spousal support received from a person not a party to the order;

18. contractual agreements;

19. perquisites or in-kind compensation to the extent that they are significant and reduce living expenses, including but not limited to employer provided housing and transportation benefits (but excluding employer provided health insurance benefits);

20. income from life insurance or endowment contracts;

21. income from interest in an estate (direct or through a trust);

22. lottery or gambling winnings received either in a lump sum or an annuity;

23. prizes and awards;

24. net rental income;

25. disability benefits;

26. Veteran Administration benefits;

27. G.I. benefits (excluding education allotments);

28. National Guard and Reserves drill pay; and

29. Armed Service Members base pay plus the obligor's allowances for quarters, rations, COLA, and specialty pay.

Means based sources of income such as Aid to Families with Dependent Children (AFDC), Food Stamps and Supplemental Security Income (SSI) should not be considered as income. The principal amount of one-time gifts and inheritances should not be considered as income, but interest from the principle amount should be considered as income and the principle amount may be considered as to whether unusual circumstances exist as provided by 90.3(c).

B. Self Employment Income

Income from self-employment, rent, royalties, or joint ownership of a partnership or closely held corporation includes the gross receipts minus the ordinary and necessary expenses required to produce the income. Ordinary and necessary expenses do not include amounts allowable by the IRS for the accelerated component of depreciation expenses, depreciation of real estate, investment tax credits, or any business expenses determined by the court to be inappropriate. Expense reimbursements and in-kind payments such as use of a company car, free housing or reimbursed meals should be included as income if the amount is significant and reduces living expenses.

C. Potential Income

The court may calculate child support based on a determination of the potential income of a parent who voluntarily is unemployed or underemployed. A determination of potential income may not be made for a parent who is physically or mentally incapacitated, or who is caring for a child under two years of age to whom the parents owe a joint legal responsibility. Potential income will be based upon the parent's work history, qualifications and job opportunities. The court also may impute potential income for non-income or low income producing assets.

D. Deductions

A very limited number of expenses may be deducted from income. Mandatory deductions such as taxes and mandatory union dues are allowable.

Child support and alimony payments arising out of different cases are deductible if three conditions are met. First, the

child support or alimony actually must be paid. Second, it must be required by a court or administrative order. (Support which is paid voluntarily without a court or administrative order may be considered under Rule 90.3(c).) Third, it must relate to a prior relationship. A child support order for children of a second marriage should take into account an order to pay support to children of a first marriage, but not vice-versa. But see commentary IV (B) (2).

E. Time Period for Calculating Income

Child support is calculated as a certain percentage of the income which will be earned when the support is to be paid. This determination will necessarily be somewhat speculative because the relevant income figure is expected future income. The court must examine all available evidence to make the best possible calculation.

The determination of future income may be especially difficult when the obligor has had very erratic income in the past. In such a situation, the court may choose to average the obligor's past income over several years.

Despite the difficulty in estimating future income, a child support order should award a specific amount of support, rather than a percentage of whatever future income might be. The latter approach has been rejected because of enforcement and oversight difficulties.

IV. SOLE OR PRIMARY CUSTODY

A. Generally

"Sole or primary custody" as this term is used in Rule 90.3 covers the usual custodial situation in which one parent will have physical custody of the child -- in other words, the child will be living with that parent -- for over seventy percent of the year. The shared custody calculations in paragraph (b) apply only if the other parent will have physical custody of the child at least thirty percent of the year (110 overnights per year). The visitation schedule must be specified in the decree or in the agreement of the parties which has been ratified by the court. See also commentary V (A).

The calculation of child support for the sole or primary custodial case under 90.3(a) simply involves multiplying the obligor's adjusted income times the relevant percentage given in subparagraph (a)(2). (Normally, the portion of an adjusted annual income over $60,000 per year will not be counted. See

Commentary VI (D).) As discussed above, the rule assumes that the custodial parent also will support the children with at least the same percentage of his or her income.

B. Visitation Credit

An obligor who exercises extended visitation, even if the visitation does not reach the thirty percent level of shared custody, probably will spend significant funds directly for the children during visitation. The spouse with primary custody conversely will have somewhat lower expenses during the extended visitation even though that parent's fixed costs such as housing will not decrease. Consequently, 90.3(a)(3) authorizes the trial court, in its discretion, to allow a partial credit (up to 50% of total support for that month) against a child support obligation. In considering a visitation credit, the court shall ensure that support for the child, including contributions from both parents, is adequate to meet the child's needs while the child resides with the custodial parent. A visitation credit may be taken only if the extended visitation actually exercised exceeds 27 consecutive days and the court has authorized the specific amount of the credit.

V. SHARED CUSTODY

A. Generally

"Shared custody" as this term is used in Rule 90.3 means that each parent has physical custody of the child at least thirty percent of the year according to a specified visitation schedule in the decree (110 overnights). "Shared custody" as used in 90.3 has no relation to whether a court has awarded sole or joint legal custody. "Shared custody" is solely dependent on the time that the decree or agreement of the parties which has been ratified by the courts specifies the children will spend with each parent.

In order for a day of visitation to count towards the required thirty percent, the children normally must remain overnight with that parent. Thus, a day or evening of visitation by itself will not count towards the total of time necessary for shared custody. Visitation from Saturday morning until Sunday evening would count as one overnight.

B. Calculation of Shared Custody Support

The calculation of support in shared custody cases is based on two premises. First, the fact that the obligor is spending a substantial amount of the time with the children probably

means the obligor also is paying directly for a substantial amount of the expenses of the children. Thus, the first step in calculating shared custody support is to calculate reciprocal support amounts for the time each parent will have custody based on the income of the other parent. The support amounts then are offset.

This calculation assumes that the parents are sharing expenses in roughly the same proportion as they are sharing custody. If this assumption is not true, the court should make an appropriate adjustment in the calculation.

The second premise is that the total funds necessary to support children will be substantially greater when custody is shared. For example, each parent will have to provide housing for the children. Thus, the amount calculated in the first step is increased by 50% to reflect these increased shared custody costs. However, the obligator's support obligation never will exceed the amount which would be calculated for sole or primary custody under 90.3(a). The amount which would be calculated under 90.3(a) should include any appropriate visitation credit as provided by (a)(3).

C. Divided Custody

The formula for shared custody described above was developed primarily for the situations in which the parents share custody of their only child, or the parents share custody of several children, but the children stay together. Custody of several children also can be divided so that at any one time one parent may have physical custody of one child and the other may have physical custody of the other children. Such an arrangement, depending on the circumstances, may require greater expenditures to support the children because it is somewhat less expensive to support children living together than in two households at the same time.

The first step in determining support in such a divided custody arrangement is to apply the usual shared custody formula by averaging the time all children will spend with each parent. For example, if one child will live with the father all of the time and two with the mother, support as calculated as if all the children spent one-third of the time with the father. The appropriate percentage figure for all the children (in the example, 3 or 33%) then is applied.

The second step in determining divided custody support is for the court to carefully consider whether the support amount should be varied under paragraph (c)(1)(A). A divided custody case should be treated as an unusual circumstance under which support will be varied if such a variation is "just and proper..." See commentary VI (B).

D. Failure to Exercise Shared Custody

One difficulty with tying the amount of support in shared custody cases to the amount of time each parent is expected to spend with the children is that parents often fail to exercise visitation. If this regularly occurs, the custodial parent may be forced to seek a modification based on the failure to exercise visitation. However, when a large block of visitation is not exercised by the obligor, 90.3(b)(4) provides a remedy without returning to court.

The principle employed in this provision is that annual shared child support will be paid over those months when the obligor parent does not have custody for a monthly which he or she was supposed to exercise custody, the obligor must make an additional support payment equal to his or her other payments for other months.

VI. EXCEPTIONS

A. Generally

Child support in the great majority of cases should be awarded under 90.3(a) or (b) in order to promote consistency and to avoid a tendency to underestimate the needs of the children. Nevertheless, the circumstances in which support issues arise may authorize courts to vary support awards for good cause.

The court may apply this good cause exception only upon proof by the parent requesting support be varied that this is clear and convincing evidence that manifest injustice would result if the support aware were not varied. In addition, a prerequisite of any variation under 90.3(c) is that the reasons for it must be specified in writing by the court.

When constitutes "good cause" will depend on the circumstances of each cause. Three situations constituting "good cause" are discussed below in sections VI (B)-(D). These three specific exceptions are not exclusive; however, the general exception for good cause may not be interpreted to replace the specific exceptions. Absent unusual circumstances, 90.3(c)(1)(A), or the exceptions for low or high incomes, 90.3(c)(1)(B) and (c)(2), the rule presumes that support calculated under 90.3(a) or (b) does not result in manifest injustice.

B. Unusual Circumstances

90.3(c)(1) provides that a court shall vary support if it finds, first, that unusual circumstances exist and, second, that these unusual circumstances make application of the usual

formula unjust. The paragraph specifies several possible factors that the court may consider when deciding whether unusual circumstances exist. This determination should be made considering the custodial parent's income because the percentage of income approach used in Alaska tends to slightly ubnderstate support relative to the national average for cases in which the custodial spouse does not earn a significant income. This understatement relative to the national average becomes substantial if the custodial parent has child care expenses. the application of the unusual circumstances exception to particuar types of factual situations is considered below:

1. Agreement of the Parents. The fact that the parties, whether or not represented by counsel, agree on an amount of support is not reason in itself to vary the guidelines. The children have an interest in adequate support independent of either parent's interest. Thus, approval of any agreement which varies the guidelines, whether in a dissolution, by stipulation or otherwise, must be based upon an explanation of the parties of what unusual factual circumstances justify the variation.

2. Subsequent Children. A parent with a support obligation may have other children living with him or her who were born or adopted after the support obligation arose. The existence of such "subsequent" children, even if the obligor has a legal obligation to support these children, will not generally constitute good cause to vary the guidelines. However, the circumstances of a particular case involving subsequent children might constitute unusual circumstances justifying variation of support. This would occur if payment of support calculated under the guidelines would cause substantial hardship to the "subsequent" children. In considering whether substantial hardship exists, a court should consider the income, including potential income, of both parents of the "subsequent" children.

In addition, the court should consider whether the "subsequent" children were born or adopted before Civil Rule 90.3 went into effect in August 1987. A parent who had "subsequent" children before this date may have had a reasonable expectation of supporting the "prior" children with substantially less support than required by Civil Rule 90.3. Thus, the increase in support under Rule 90.3 at least initially may be lessened to allow the parent to reorient his or her financial affairs. However, this reduction of the 90.3 guidelines only may occur when substantial hardship to the children (not the parent) otherwise would occur.

3. Prior Children. Rule 90.3(a) provides for a deduction from income for an obligor's payment of child support to support children of a prior relationship. However, no explicit deduction is allowed when the "prior" children

live with the obligor and thus the obligor furnishes support directly to the children. In such a situations, the court should reduce the support of the obligor when necessary to avoid substantial hardship to the "prior" children.

4. Relocation of Custodial Parent. The relocation of the custodial parent to a state with a lower cost of living normally will not justify a reduction in support. The level of Alaska's guidelines is comparable to the national average. The fact that the obligor parent's income has in effect marginally increased relative to the children's living expenses simply enables the children to be supported at a slightly higher level.

5. Prior and Subsequent Debts. Prior or subsequent debts of the obligor, even if substantial, normally will not justify a reduction in support. The obligation to provide child support is more important than the obligation to fulfill most other obligations. However an obligor parent may attempt to present evidence which shows the existence of exceptional circumstances in an individual case.

6. Income of New Spouse. The income of a new spouse of either the custodial or obligor parent normally will not justify a variation in support. Either party may attempt to show that exceptional circumstances exist in a particular case.

7. Age of Children. While the costs of raising children who are very young or who are over about ten years old are generally greater than raising other children, this in itself does not justify an increase in support. However, it should be considered in concert with other circumstances, and a parent always may seek to establish exceptional circumstances in a particular case.

8. Denial of Visitation. A denial of visitation may not be countered with a reduction in support. However, courts should use their powers to strictly enforce the visitation and custody rights of obligor parents.

9. Property Settlement. A parent may justify variation of the guidelines by proving that a property settlement in a divorce or dissolution between the parents provided one of the parents with substantially more assets than the parent would otherwise would have been entitled to, that this inequity was intended to justify increasing or decreasing child support, and that this intent specifically was stated on the record. Any such change in monthly child support may not exceed the actual excess of the property settlement apportioned over the minority of the child.

However, courts should not approve in the first instance unequal property settlements which are meant to increase or

decrease child support payments. "Property divisions are final judgments which can be modified only under limited circumstances, whereas child support always can be changed periodically under much more liberal standards. One should not be a trade-off for the other. Arndt v. Arndt 777 P.2d 668 (Alaska 1989).

C. Low Income of Obligor

90.3(c)(1)(B) provides that the guidelines do not apply if the obligor has a gross income below the federal poverty level. The applicable figure from the Federal Register is for the obligor alone, without regard to any subsequent family of the obligor. Subsequent children, and any income of the subsequent spouse, are relevant, if at all, only under 90.3(c)(1)(A) concerning the unusual circumstances exception.

Even if the obligor has an income of less than the poverty level, or no income at all, a minimum support of $50.00 per month applies. This $50.00 minimum support applies for all children, not to each child separately. The minimum level may be reduced under 90.3(a)(3) based on a visitation credit, or reduced under 90.3(b) based on the offset of the other parent's support obligation.

D. High Incomes of a Parent

Rule 90.3 provides that the percentages for child support will not be applied to a parent's adjusted annual income of over $60,000, unless the other parent is able to present evidence which justifies departure from this general rule. The factors which the court should consider in such a determination are specified in the rule.

VII. MEDICAL, EDUCATIONAL AND INSURANCE PAYMENTS

Rule 90.3(d) requires that the court address coverage of the children's health care needs. The court must require health insurance if the insurance is available to either party at a reasonable cost. The rule also provides that the obligor will receive credit against the child support obligation for any such payment if the payment is required by the court. Only actual cost to the obligor for the children may be credited.

VIII. CHILD SUPPORT AFFIDAVIT AND DOCUMENTATION

Each parent in a proceeding involving a determination of child support must provide the court with an income statement under oath. The rule also requires that the income statement of a parent be verified with documentation of current and past income. Suitable documentation of earnings might include paystubs, employer statements, or copies of federal tax returns.

IX. TRAVEL EXPENSES

The court may review the circumstances of each case, including the award of support, to determine how to allocate any travel expenses that are necessary to exercise visitation. This allocation should generally be done on a percentage basis because the actual costs may not be known or may change. The court should take care that its allocation of these expenses does no interfere with the custodial parent's ability to provide the basic necessities for the children. Such a basic level of support must be placed above visitation if sufficient funds are not available for both.

X. MODIFICATION

Alaska law allows the modification of support orders upon a material change in circumstances. A significant amendment to Rule 90.3 constitutes a material change in circumstances pursuant to AS 25.24.170(b). 90.3 presumptively defines a material change in circumstances, whether based on a change in the parties' income or a significant amendment to the rule, as whenever the change would result in an increase or decrease of support under the rule of at least 15%.

Federal law will require periodic review of certain support orders even in the absence of a significant change in circumstances beginning in October 1990 and to a greater extent in October 1993. See Family Support Act of 1988, P.L. 100-485, Section 103(c).

The Omnibus Budget Reconciliation Act of 1986, P.L. 99-509, Section 9103(a) (the Bradley Amendment), prohibits retroactive modification of child support arrearages. Rule 90.3(g)(2) is intended to restate this prohibition, including the exception allowed by federal law for modification during the pendency of a modification motion.

The prohibition against retroactive modification limits both requested decreases and increases in child support. See Prohibition of Retroactive Modification of Child Support

Arrearages, 54 Fed. Reg. 15,763 (1989). Thus, either the custodial or the obligor parent should promptly apply for a modification of child support when a material change in circumstances occurs.

XI. CHILD CARE EXPENSES

90.3(i) provides that in exercising its discretion under the rule, the court must consider the reasonable work-related child care expenses for children under 12 of both parents. Child care expenses may be an unusual factor justifying deviation from the calculated amount of support.

STATE OF ALASKA
THE LEGISLATURE

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JUNEAU, ALASKA 99811
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LEGISLATIVE AFFAIRS AGENCY

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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 3-6-90

H. HESS 3-16-90

H. HESS 3-26-90

H. HESS 4-6-90

H. HESS 4-17-90

HB

475

ALASKA STATE LEGISLATURE

ELECTIVE DISTRICT 1
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KUPREANOF
MEYERS CHUCK
PETERSBURG
SAXMAN
WRANGELL

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DURING SESSION
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JUNEAU, AK 99811
PHONE 465-3424

Representative Cheri L. Davis

MEMORANDUM

TO: Representative Johnny Ellis

FROM: Representative Cheri Davis

DATE: March 20, 1990

RE: HB 475

Current state law says that a child under school age shall be admitted to a school in the district in which the child is a resident, if immediately before the child became a resident of the district, the child was legally enrolled in the public schools of another district or state.

HB 475 would allow a student who moved from another district or state and was enrolled in a private school, the same rights as a child who had attended a public school.

After listening to testimony the primary concern seemed to be that HB 475 would allow someone to open a private kindergarten for the purpose of advancing underage students into the public school system. The concern seemed to be that Suzy could enter a private kindergarten in Juneau with no state mandated age requirements and then enter the Juneau public school system.

The section of AS 14.03.080(e) we are dealing with applies only to those students who have moved from another district or state. I don't believe parents will be willing to move from one city to another merely for the purpose of entering their child into kindergarten early. In order to make it clear to everyone that we intend HB 475 to apply only to those children moving from another district or state I offer the following CS HB475.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 475
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Enrollment in the public schools
Sponsor: C. Davis
Requestor: C. Davis

Agency Affected: Education
BRU: K-12 Support
Components: Foundation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING						
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

It is impossible to predict the fiscal impact of this bill, since it is unkown how many eligible kindergarten students would seek admission to the public schools under provisions of HB 475.

Prepared by: Mary Hakala
Division: Commissioner's Office
Phone: 465-2800
Date: 2/12/90

Approved by Commissioner: William G. Demmert
Agency: Education
Date: 2/12/90

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

Sec. 14.03.080. Free education. (a) A child of school age is entitled to attend public school without payment of tuition during the school term in the school district in which the child is a resident subject to the provisions of AS 14.14.110 and AS 14.14.120.

(b) A person over school age may be admitted to the public school in the school district in which the person is a resident at the discretion of the governing body of the school district. A person over school age may be charged tuition by the governing body of the school district.

(c) A child under school age may be admitted to the public school in the school district of which the child is a resident at the discretion of the governing body of the school district if the child meets minimum standards prescribed by the board evidencing that the child has the mental, physical and emotional capacity to perform satisfactorily for the educational program being offered.

(d) A child who is five years of age before August 15 preceding the beginning of the school year, and who is under school age, may enter a public school kindergarten.

(e) A child under school age shall be admitted to school in the district of which the child is a resident if immediately before the child became a resident of the district, the child was legally enrolled in the public schools of another district or state. (§ 1 ch 98 SLA 1966; am § 1 ch 64 SLA 1972; am § 2 ch 1 FSSLA 1987)

Effect of amendments. — The 1987 amendment, effective July 1, 1988, in subsection (d) deleted "or who will become five years of age" following "years of age" and substituted "August 15 preceding" for "November 2 following."

NOTES TO DECISIONS

Notice of school closure. — The importance of the educational and property interests involved in the closure of neighborhood schools in a school district requires adequate notice of the school board meeting at which the decision was made to close a specific school and five-day notice of the meeting is insufficient Tunley v. Municipality of Anchorage School Dist., Sup Ct Op No 2160 (File Nos 4796, 4797, 4826), 631 P.2d 67 (1980).

A five-day notice of which schools in a school district are s[illegible] closure militates against appro[illegible]paration and poses serious obstacles to [illegible] presentation of persuasive, properly researched, and supported opposition to any closure plan. It also lessens the likelihood of a fair hearing before the school board and of the school board reaching a reasoned administrative decision Tunley v. Municipality of Anchorage School Dist., Sup Ct Op No 2160 (File Nos 4796, 4797, 4826), 631 P.2d 67 (1980).

Given the critical importance of education to democratic society, the significant interests of the plaintiff as a taxpayer-owner of real property affected by the closure of the school nearest the plaintiff, and the important interests of both plaintiff's child, and the plaintiff as a parent, in the educational considerations involved, the plaintiff has rights subject to procedural due process protection, which due process rights to notice and an opportunity to be heard are independent of the requirement under the city's charter for an ordinance setting forth notice provisions for school board meetings Tunley v. Municipality of Anchorage School Dist., Sup Ct Op No 2160 (File Nos 4796, 4797, 4826), 631 P.2d 67 (1980).

ALASKA STATE LEGISLATURE

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DURING SESSION
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Representative Cheri L. Davis

MEMORANDUM

TO: Rep. Johnny Ellis

FROM: Rep. Cheri Davis

DATE: March 19, 1990

RE: Public Education/Private Education Bill

Current state law says that a child under school age shall be admitted to school in the district in which the child is a resident if immediately before the child became a resident of the district, the child was legally enrolled in the public schools of another district or state.

This law prevents a child from another district or state who was enrolled in a private school to enter into kindergarten or First grade if they are under age according to our entrance age requirements.

Example: Suzy has just moved to Juneau from Orange County, Ca. Her birthday is October 25, she will be 5. While in California her parents had her legally enrolled in a private school in kindergarten. In January her parents moved to Juneau where they decided to put her in the public school. They were told that because Suzy had not been 5 by August 15 that she could not start kindergarten here. They could have her tested at which time the school district would see if she fell under the category of being gifted/talented. If she tested to their satisfaction, then she would be allowed to enter the public school. If Suzy had been enrolled in a public school, there would have been no questions asked except proper school transcripts. This same scenario could also be used if the student had already completed kindergarten and was trying to enter the first grade being under the age of six.

I feel this raises a question of discrimination, but more importantly, I am concerned for the child who is unfairly treated by the system.

Juneau Christian School

P.O. Box 2000 • Juneau, Alaska 99803 • (907) 789-2179

February 13, 1990

Representative Cheri Davis
Pouch V
Juneau, AK 99811

Dear Representative Davis,

I have reviewed HB 475 Public/Private Schools Enrollment. As the administrator of a private school and also having been the director of a daycare center, I can appreciate the concern over the August 15th cut off date for 5 year olds entering kindergarten. I strongly agree that it is a good entrance age requirement because it allows children time to mature and truly be ready for kindergarten. What I disagree with is the discrimination against private schools versus public schools throughout our state and nation, private schools also have varying standards. Should it be assumed that private schools are inferior just because they have chosen to not be publically sponsored and regulated?

Let me give you several examples that I've dealt with in the last five years on the private school side. Last year we had a first grade transfer student from a public school in another state. This child was supposedly at the top of his class as reflected from his report card and parent interviews. This child could barely achieve even our minimum standards. He was young (he had an October birthday) and he was immature, both factors to his detriment but he had been in kindergarten already in a public school. Last year we also had a transfer student from a private school in Anchorage. When he joined us he fit right in and was in the top half of the class. With both examples is it really the issue of public versus private education? Or more of an issue of the individual maturity of the child?

Last year we made a decision to not accept children younger than the cut-off date except in the case of a child who had been tested and was found mature enough in development to be in kindergarten. We do not view our school as the easy way to get a child into public school if they complete our kindergarten program. I even state that in interviews with parents who are convinced their little Johnny or Suzy is the exception to the rule (most of these parents do, by the way). We are not trying to compete with public schools, we provide an alternative for an education with a Christ-centered philosophy.

/Continued

We do, however, provide a strong academic base of learning for our students. Automatically discriminating against a student because of attendance in a private school is purely religious discrimination which is unconstitutional. Again, from experience, I stress that school background does not always constitute success or failure at the appropriate grade level for their age. Much of it is due to the individual child's abilities and their maturity.

I hope this will assist you in formulating your opinion.

Sincerely,

Mrs. Carol Habeger

Mrs. Carol Habeger
Administrator
Juneau Christian School

CAH/jb

6-1777E
Ford
3/21/90

BY REP. C. DAVIS, Collins, Sharp, Leman, Hudson, Swackhammer

IN THE HOUSE

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 475

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to enrollment in the public schools."

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

* Section 1. AS 14.03.080(e) is amended to read:

(e) A child under school age shall be admitted to school in the district of which the child is a resident if, immediately before the child became a resident of the district, the child was legally enrolled in a [THE] public or private school in a grade level K - 12 in a school [SCHOOLS] of another district or state.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y · 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 3-20-90

HB

497

AFT ALASKA FEDERATION of TEACHERS
P.O. Box 201393 • Anchorage, Alaska 99520 • (907) 561-2650

MEMORANDUM MARCH 14, 1990

TO: ALL MEMBERS OF THE ALASKA LEGISLATURE

FROM: NICK BEGICH, VICE PRESIDENT OF POLITICAL AFFAIRS

SUBJECT: HOUSE BILL 497

I am pleased to write in support of the Master Teacher Bill, HB 497. This legislation will provide great opportunities for our young people by developing new teachers "real world" knowledge in the profession. Teachers need and benefit from the experiences of veteran colleagues. This program will go a long way in equipping new educators to better meet the needs of children.

Educational reform is being demanded in all sectors of our society. Educators, parents and business leaders know that change is needed. The need for improved teacher training and enhancements cannot be understated. Throughout Alaska our members have been seeking methods of improving our system of education at the local level. This legislation is a small step, a sound step, in the right direction for our next generation of teachers and those they educate.

Please support this bill.

cc file

Nina-bill five

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 9, 1990 FURTHER REFERRALS: 3/12 FINANCE

Date of Committee Action: 3-8-90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 497

HOUSE BILL NO. 497 MASTER TEACHER PROGRAM

"An Act relating to a master teacher program at state colleges and universities."

RECOMMENDATIONS:
[ ] be replaced with CS HB 497 (HESS) [X] the same title [ ] a new title
[ ] have attached amendment(s)
[X] do pass
[ ] do not pass
[ ] no recommendation
[ ] individual recommendations
[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept)
[ ] fiscal impact _____
[X] zero fiscal note DOE
[ ] zero with analysis _____

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) _____
[ ] zero fiscal note(s) _____
[ ] zero fn/analysis _____

SIGNING DO PASS

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend

Chairman's Signature

STATE OF ALASKA

DEPARTMENT OF EDUCATION

STEVE COWPER, GOVERNOR

GOLDBELT PLACE
801 WEST 10TH STREET
P.O. BOX F
JUNEAU, ALASKA 99811-0500

FEB 28 1990

February 27,1990

The Honorable Eugene Kubina
Alaska House of Representatives
PO Box V
State Capitol
Juneau, Alaska 99811

Dear Representative Kubina;

I have reviewed HB 497 with interest and believe the bill will benefit the education profession. I have referred the bill to staff for further study and will make sure that it comes to the attention of the State Board of Education.

Over the years, the education community has discussed initiating some type of master teacher program, so I suspect your bill will be met with some degree of enthusiasm. The Department and State Board have also discussed using Mt. Edgecumbe High School as a summer laboratory for the purposes proposed in your bill. You may want to consider a summer component for HB 497 since that is a time when teachers are not in the regular classroom. I will be happy to discuss this with you further if you wish.

I will pass on to Commissioner Demmert a copy of HB 497. The Commissioner will want to discuss this topic with an alliance he has formed with the university education deans.

Thanks for the opportunity to respond to the bill.

Sincerely,

Steve Hole
Deputy Commissioner

Alaska State Legislature

Legislative Research Agency

P.O. Box Y
Juneau, AK 99811-3100
Phone: (907) 465-3991
Fax: (907) 465-3351

March 1, 1990

MEMORANDUM

TO: Representative Eugene Kubina

ATTN: Tom Van Brocklin

FROM: Judy Brakel
Legislative Analyst

RE: Master Teachers in University Education Programs
Research Request 90.259

You asked whether any other states had legislation similar to that proposed in House Bill 497, which provides for master teachers to participate as instructors in university teacher education programs. You were also interested in programs of this type that may exist at private or public universities as a matter of policy and are therefore not provided for in statute.

In 1988 the State of Virginia enacted legislation to create "clinical faculty programs" wherein public school teachers are selected and trained to serve as supervisors of student teachers. Any institution of higher learning in Virginia may establish a program using these teachers; teachers accepted as clinical faculty members are to be designated as adjunct faculty. A copy of the statutory authority is attached. Although this is the only example we were able to find of a state-authorized program, several similar programs have been established at individual institutions.

Bringing experienced school teachers into teacher education programs is seen as one method of linking education theory to practice. It also addresses concerns about the lack of connection between university training and practical teaching. Mary Kennedy, director of the Research and Development Center on Teacher Education, reported that using experienced teachers in this way is currently an area of considerable interest and experimentation. Programs are too new, however, to have been empirically studied. Nevertheless, administrators in several teacher education programs now using master teachers as part of the university faculty stated that the teacher education programs have benefited greatly from this innovation.

Ms Kennedy, as well as others we talked with at several national education institutions, anticipated resistance on the part of universities to the appointment of teachers from the elementary, middle and secondary schools to university faculty positions, since they would lack the usual academic preparation and advanced degrees. In the examples we found, special kinds of faculty positions have been created. In Virginia and at Michigan State

University, these are called "clinical faculty" positions. The University of California at Santa Cruz (U.C.S.C.) calls them "supervisor of teacher education" positions. Depending on the program, their faculty privileges and responsibilities may differ from those of regular faculty.

Three teacher education programs utilizing master teachers are described below. The one in Virginia is now provided for by state law, but was initiated at the University of Virginia several years prior to the legislation. The programs at the University of California, Santa Cruz and Cleveland State University were developed by the universities and operate with the cooperation of county and district school systems.

Virginia Clinical Faculty Program

Jerry Moore, Director of Teacher Education at the University of Virginia's Curry School of Education, said the 1988 Virginia statute was designed to create a cadre of clinical faculty for the state. However, funding was provided only for four pilot programs. One of these is operated by the University of Virginia, which began its program five years ago and presently works with 30 to 40 clinical faculty members each year. Mr. Moore sees it as an attempt to create a seamless professional, clinical and academic faculty, with the clinical and academic faculty working together as a team. He regards the program as highly successful.

The teachers are not required to have masters degrees. They are screened by their own supervising staffs and appointed by the university. During their appointment (typically lasting two years) they continue as employees of the school district, usually with a reduced teaching load. They receive special training for their work as counselors and supervisors.

Clinical faculty supervise field interns, serve as advisors to the program, and participate as faculty in classes. Typically they teach methods classes or specialty seminars, and may work with other faculty as "teaching models." They also serve as mentors to new teachers coming into the school system. They are paid according to a fee structure for different kinds of work. They have faculty privileges and participate in faculty decision making, including hiring decisions. Their standing at the university is similar to that of other professors who are practicing and return temporarily to teach at the university.

University of California at Santa Cruz Supervisor of Teacher Education Program

The program at Santa Cruz was started six years ago and expanded two years later. Last year approximately 80 teachers received their credentials under this program. About half of the new teachers in Santa Cruz county this year are graduates of the program.

The program has six and one-half to seven "supervisor of teacher education" positions each year. They are filled mostly from the county school system. Ellen Moir, director of Student Teaching, reports that university staff met with every school superintendent in the county. School administrators see the program as an opportunity for participating teachers to grow professionally. They also believe that it results in better supervision of student teachers. The university sees it as an opportunity to combine theory with practice and to do collaborative research with the schools. Ms. Moir speaks of it as "the best thing we've ever done for our program."

The supervisor of teacher education position appointments are for two years and are staggered so that half of the teachers are new each year. The positions are advertised and are open to teachers who have taught at least five years. It is important that they be practicing teachers who want to continue teaching. Depending on its needs, the university looks for teachers in particular fields, e.g., elementary science and bilingual education. Applicants are reviewed by a hiring committee. Many of them have already worked with student teachers from U.C.S.C. as master teachers. It is considered an honor to be chosen for the program; last year there were 70 applicants for the four open positions.

During their year on loan to the university, the teachers continue as employees of the school district and are paid their regular salaries but they do not have classroom duties. The university has contracts to reimburse the districts.

Under the supervision of the director of student teaching, the teachers teach both the undergraduate and graduate programs leading to teacher credentials. Usually they teach methods classes. They also supervise student teachers, working with them more closely and for a longer time than in most student teaching programs. They are considered members of the faculty, with faculty privileges, but are not called professors and are not required to do research.

Cleveland State University Visiting Instructor Program

The Visiting Instructor Program (VIP) at Cleveland State University has existed since 1978. By 1989 approximately 40 teachers had participated in the program. Although the College of Education at Cleveland State considers the program successful, funding for the 1990-1991 academic year is uncertain.
Teachers apply for the VIP through their school superintendents, who select nominees for the positions. Those selected join the College of Education faculty for one year and teach introductory undergraduate level teachers classes. During this time they continue to be paid by their school districts, which are reimbursed by the university. The program operates with the cooperation of the local school districts, who see it as a means of improving teacher education and of rewarding good teachers.

Sources of Information on Teacher Education Programs

As stated above, relatively little descriptive material or criteria for evaluation exist about programs using experienced school teachers as faculty for university teacher education programs. An annotated list of personal references is attached so that people whom we queried can be contacted for more information. Materials from the University of Virginia, including the 1988 proposal by the University to the Commonwealth of Virginia for continued funding of the university's clinical faculty program are also attached, along with the Virginia clinical faculty program statute.

In researching this request, we learned of several programs which had some features in common with those proposed in House Bill 497 in that master teachers were used to supervise, train and assist beginning teachers. However, the focus of these activities is in school classrooms, not in the universities. An example is Connecticut's Cooperating Teacher Program. The Connecticut statutory citation is included in the reference list.

I hope this information is useful to you. If you have any questions, please contact this agency.

Attachments

REFERENCES

Dr. Thomas Frew, Associate Dean, College of Education, Cleveland State University, Cleveland, Ohio 44115. Phone (216)687-3737.

Mary M. Kennedy, Director, Research and Development Center on Teacher Education, Erickson Hall, College of Education, Michigan State University, East Lansing, Michigan 48824. Phone (517) 355-9302

> The research center has a staff of 35 and is funded by federal government grants. It compares purposes and effects of different teacher education programs. The staff observes programs around the United States. At Michigan State it is involved in an experimental project which brings school teachers into the university as clinical faculty members. These teachers are not fully responsible for the courses which they help teach. Ms. Kennedy commented that being a good teacher of children does not necessarily mean that they are good at teaching adults; special selection and training is important.

Ellen Moir, Director of Student Teaching, College of Education, University of California, Santa Cruz, California 95064. Phone (408) 459-4025.

> Ms Moir supervises the teachers selected for the supervisor of teacher education positions at U.C. Santa Cruz.

James R. Moore, Director, Office of Teacher Education, Curry School of Education, University of Virginia, Ruffner Hall, University of Virginia, 405 Emmet St., Charlottesville, Virginia 22903.

> Mr. Moore wrote some of the attached material describing the University of Virginia program.

State of Connecticut Public Act No.88-273 on teacher certification contains language establishing a cooperating teacher program beginning at Sec.4, Subsection (d). As explained in the forgoing memo, the cooperating teachers in this program are used only in the training of student teachers in the classroom and not in the University.

Virginia statute 23-9.2:6 establishes a clinical faculty program.

NEA-ALASKA

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(907) 456-4435
FAX (907) 456-2159

February 27 1990

TO: **Johnny Ellis, Chair, and members of the House HESS Committee; Mark Boyer, Peter Goll, Max Gruenberg, George Jacko, Cheri Davis and Walt Furnace**

FROM: **Bill Potter, NEA-Alaska**

RE: **HB 497 and HB 498**

NEA-Alaska supports HB 497 and HB 498, bills to utilize skilled and experienced classroom teachers in the teacher training programs of the University of Alaska system.

NEA-Alaska has for years been on record favoring modification of teacher training programs to include significant instruction of teacher trainees by practicing professionals. While there is much good in our teacher training programs, there is widespread concern from both recently trained and experienced teachers with the missing component of hard practical instruction from classroom practitioners.

The concept of utilizing skilled, experienced classroom teachers as a part of a teacher training program is within both the guidelines of N.A.S.D.E.C., the standards for approval of teacher education programs used by the State of Alaska, and N.C.A.T.E., the national standards used for approval of teacher education programs throughout the country. UAA P.A & S.D future placing of Teachers Local Community & UAA

In addition to a good subject matter foundation, the more practical the training received by a teacher trainee the more successful will be that teacher's initial teaching experience.

NEA-Alaska strongly supports HB 497 and HB 498.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 497
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act relating to a master teacher program at state colleges and Universities
Sponsor: Kubina & Ellis
Requestor: HESS

Agency Affected: Education
BRU: Educational Finance & Support Services
Components: District Support

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal Impact

Prepared by: Mary Hakala
Division: Commissioner's Office
Phone: 465-2800
Date: 2/23/90

Approved by Commissioner: William G. Demmert
Agency: Education
Date: 2/23/90

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

Alaska State Legislature

While in Session
P.O. Box V
State Capitol
Juneau, Alaska 99811
465-4859

Representative Eugene Kubina

P. O. Box 2463
Valdez, Alaska 99686
835-2695

MEMORANDUM

26 February 1990

To: HESS Committee

From: Rep. Gene Kubina

Subject: Master Teacher Program. HB 497
Appropriation bill. HB 498

House Bill 497 is designed to use the best of our state's teachers as a resource for training students in our education programs.

Each year, a total of four of our finest teachers will be chosen from our school districts. These teachers will spend the year working within the educational programs of UAF, UAJ, UAA, and PWSCC. Working directly with the students in the Educational programs, these " Master" teachers can share their invaluable experience of both the classroom and the community.

House Bill 497, and its companion Appropriation Bill 498, will add a valuable resource to our Alaskan educational programs: the very best of our Alaskan teachers.

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 2-27-90

H. HESS 3-8-90

6-1982E
Cramer
3/7/90

Original sponsor(s): REP. KUBINA, Ellis, C.Davis

IN THE HOUSE

CS FOR HOUSE BILL NO. 497 ( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

For an Act entitled: "An Act relating to a master teacher program at state colleges and universities."

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

* Section 1. AS 14.40 is amended by adding a new section to read:

Sec. 14.40.095. MASTER TEACHER PROGRAM. (a) The teacher education programs at a state university or college may participate in the master teacher program. The purpose of the master teacher program is to bring skilled, experienced teachers to the university or college to work with student teachers who are enrolled in teacher education programs.

(b) Under the master teacher program, a university or college shall choose which school district to invite to participate in the program and may choose whether it wishes teachers with experience in teaching students in grade levels K - 3, 4 - 6, 7 - 8, or 9 - 12.

(c) A school district invited to participate in the program shall notify the teachers in the district of the opportunity offered by the university or college. The district shall ask for letters of interest and letters of recommendation from the teachers in the district. To be considered, a teacher must have had at least five years of teaching experience at the indicated school level within the past 10 years.

(d) A committee of three local teachers, one local administrator, and one representative from the state university or college shall review the letters of interest and letters of recommendation,

interview candidates, and select the master teacher. The teacher members of the committee shall be appointed by the bargaining organization representing teachers in the school district.

(e) The university or college participating in the master teacher program may accept the teacher selected by a school district and shall enter into a participation agreement with a master teacher accepted for the program. An appointment to the master teacher program begins on the date set out in the agreement and lasts for one year. The university or college shall grant the teacher appropriate academic standing.

(f) The university or college in which the master teacher is serving shall reimburse the school district from which the teacher comes for all costs of the teacher's compensation during the time the teacher is participating in the master teacher program.

(g) Unless it is otherwise agreed, a teacher returning to a school district from the master teacher program shall return to the position occupied by that teacher when the teacher's participation in the master teacher program began.

(h) Participation in the master teacher program is not an interruption of the continuous service necessary to attain or retain tenure under AS 14.20.150, 14.20.155, or 14.20.160, and is not a break in service for retirement purposes. However, the time spent in the program may not be counted in determining when a teacher has sufficient service to enable the teacher to acquire tenure rights.

(i) The Board of Regents may adopt rules to implement this section.

(j) In this section

(1) "school district" means a municipal school district or a regional educational attendance area;

(2) "university or college" means the University of Alaska Southeast, University of Alaska Anchorage, University of Alaska Fairbanks, and Prince William Sound Community College.

* Sec. 2. Each university or college that participates in the master teacher program established by this Act shall report to the legislature by February 15, 1993, on the merits of the program.

HB

501

HOUSE COMMITTEE REPORT

(7)
Date Referred: February 9, 1990 FURTHER REFERRALS:

FINANCE

Date of Committee Action: 3/29/90

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: HB 501

HOUSE BILL NO. 501 AK HIGH SCHOOL ACHIEVEMENT SCHOLARSHIPS

"An Act relating to Alaska high school achievement scholarships; and providing for an effective date."

RECOMMENDATIONS:

[ ] be replaced with _____ [ ] the same title [ ] a new title

[ ] have attached amendment(s)

[X] do pass

[ ] do not pass

[ ] no recommendation

[ ] individual recommendations

[ ] additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Date/Dept)

[X] fiscal impact DOE/Post Secondary [ ] fiscal note(s) _____

[ ] zero fiscal note _____ [ ] zero fiscal note(s) _____

[ ] zero with analysis _____ [ ] zero fn/analysis _____

SIGNING DO PASS:

J Ellis

Mark Boyer

W Furnace

Hoy Jacobs

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
Chris Dams		X	

J Ellis

Chairman's Signature

Alaska State Legislature

Representative Niilo Koponen

House District 21

Pouch V
Juneau, Alaska 99811
(907) 465-4992

119 N. Cushman, Suite 207
Fairbanks, Alaska 99701
(907) 456-8172

POSITION PAPER

HB 501 "An Act relating to Alaska high school achievement scholarships"

House Bill 501 creates the Alaska High School Achievement Scholarship program to award postsecondary scholarships to Alaskan students who make significant academic, athletic or creative achievements in high school. The purpose of this bill is to encourage Alaska high school students to excel, and to offer our most promising students a significant incentive to attend an Alaskan college or university.

This bill offers pupils from every geographic area of Alaska an opportunity to participate in this program. If enacted this legislation would award a $4000 scholarship to each of six high school seniors in each House District. The awards are made in three categories of achievement: academic achievement, athletic honors in Olympic and Arctic Winter Game Sports and creative honors.

This scholarship program is not meant to replace the existing student loan program, but to complement it. The Alaska student loans require repayment, are available to all Alaskans, and can be used to attend any approved institution anywhere. The Alaska High School Achievement scholarships are a more specialized form of financial aid based on merit. They consist of outright grants to be used exclusively within Alaska. A student receiving a grant could apply for an Alaska student loan as well to cover additional expenses. The loan amount would be reduced by the $4000 scholarship.

The current cost of attending the University of Alaska and living on campus is approximately $4000. The balance would have to come from family funds, work, or other grants or loans. This scholarship program is in line with recent national efforts to emphasize quality in education and scholarship achievement. Studies have shown that tuition grants are more effective in encouraging new students to attend higher education institutions than other forms of financial aid.

The Achievement Scholarship program will benefit the state in many ways. Our most promising young people will have a clear opportunity and incentive to attend college in Alaska. The Olympic sports award, which includes basketball as well as winter sports, will help create a continuing Alaskan participation in this international arena. College graduates tend to find their first job and remain in the areas where they attend school. Alaska postsecondary institutions will benefit from the attendance of talented Alaskans. Finally, Alaska dollars will stay in Alaska turning over many times in our economy.

FAIRBANKS NORTH STAR BOROUGH SCHOOL DISTRICT
P.O. Box 1250 Fairbanks, Alaska 99707-1250 (907) 452-2000

April 22, 1988

Honorable Bettye Fahrenkamp
Senate
P. O. Box V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

I am writing to support CS HB 51 (Fin) "Alaska High School Achievement Scholarship" legislation.

At a time when many Alaskan families' resources are declining, which reduces the opportunities for high school graduates to further their education, the proposed achievement scholarship program deserves the support of our legislators. I strongly believe that to encourage our high school scholars and athletes to stay in Alaska to further their education is a very worthwhile endeavor and a worthwhile expenditure of state funds.

Thank you for your time. If you have any questions, please contact my office.

Sincerely,

Richard S. Cross
Superintendent of Schools

RSC/plh

bcc: Note - same letter sent to all members of Interior Delegation.

1988 ARCTIC WINTER GAMES

March 13-18, 1988
P.O. Box 1919, Fairbanks, Alaska 99707

April 28, 1988

Hon. Niilo Koponen
House of Representatives
Alaska State Legislature
P. O. Box V
Juneau, Alaska 99811

Dear Rep. Koponen:

I am writing to you on behalf of the 1988 ARCTIC WINTER GAMES Host Society Board of Directors with regard to your proposed House Bill 51. This morning, at our monthly meeting, we discussed the bill with much positive feedback. A motion was passed to officially support and endorse the concept of HB 51.

This bill will not only provide needed scholarship opportunities for many worthy Alaskans, but as a positive side effect will also bolster and enhance athletic programs supporting the Arctic Winter Games.

Thank you for the foresight in introducing this bill. We wish you and HB 51 success.

Sincerely,

Karl W. Kassel

Karl W. Kassel
General Manager

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: HB 501
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: Alaska high school achievement Scholarships
Sponsor: Kohonen
Requestor: House HESS

Agency Affected: Education
BRU: Education Program Support
Components: Education Special Projects

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES						
TRAVEL	6.4	6.4	6.4	6.4	6.4	6.4
CONTRACTUAL	25.0	20.3	36.6	36.6	36.6	36.6
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	31.4	26.7	43.0	43.0	43.0	43.0
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	31.4	26.7	43.0	43.0	43.0	43.0
FEDERAL FUNDS						
OTHER						
TOTAL	31.4	26.7	43.0	43.0	43.0	43.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

See Attached Analysis

Prepared by: Mary Hakala
Division: Commissioner's Office
Phone: 465-2800
Date: 4/4/90

Approved by Commissioner: William G. Demmert
Agency: Education
Date: 4/4/90

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