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Number 573

Mr. Cattanach stated that in regard to item #9 the Task Force wanted the committee to understand what they were trying to do in Section 32 of CSSB 322. He continued that currently 25 percent of all the cases before the Workers' Compensation Board were concerned with the fairness issue in determining spendable weekly wage determination. He further stated that the language that was drafted was targeted to the exceptional cases but they had now become the rule. The Task Force wanted a much narrower definition aimed at the people who voluntarily left the work force, such as a mother who had to take care of her children or a student, and they wanted those people to be exceptions. He continued that it was not their intent to open the door for everyone else and emphasized that "voluntary" was important. He stated the reasons for determining the 18 month standard and confirmed that item #9 was definitely a comprise and the Task Force didn't want to change 18 months to 12 months.

Number 591

Mr. Anders stated that the Task Force didn't have a problem with item #10.

Mr. Anders stated that in regard to item #11, the Task Force suggested that the word "unanimously" be deleted so that a formal board hearing was not required to determine the choice of a physician requested to perform an Independent Medical Exam (IME). He explained that if unanimously was left in, the result would be to fill up the board's schedule and burden the system even more than it currently was.

Number 632

Mr. Cattanach stated that the Task Force took item number 12 and number 13 together and they recommended keeping the penalties at 25 percent.

TAPE TWO, SIDE ONE
Number 000

Mr. Anders stated that items #14, 15, and 17 were alright.

Mr. Anders stated that in regard to item #16 all that was needed was to include "approval" or "acceptance."

Number 020

Mr. Anders continued that in reference to vocational rehabilitation counselors, it was not the Task Forces' intent to keep anyone that was qualified from performing

these services. He continued that the certification language included was so that the administration would set regulations and that individuals who were qualified would not be excluded.

Mr. Cattanach stated that he did not feel that vocational rehabilitation counselors should be grandfathered in for CSSB 322 if they lacked certification and suggested they be required to submit a plan. He pointed out that the plan should contain an expected date of completion for certification and the Task Force did not think the time period should exceed three years.

Number 040

Chairman Donley invited Mr. Don Koch to testify.

Number 056

Mr. Don Koch, Special Deputy for the Division of Insurance, suggested an alternative for item #2. He felt that it was appropriate for the legislature to establish the rule but not appropriate for them to establish the value on the rule, in regard to the mandated rebate of not less than five percent. He continued that the assigned risk pool companies currently had a 20 percent surcharge but statistics indicate that their rate of accidents or injuries was 33 percent worse than other employers not in the assigned risk pool. He continued that it was mostly the small businesses that were placed in the pool and that a lot of them did not belong there. He explained that the division submitted a proposal to the National Council that called for the removal of the surcharge on employers in a risk pool if their premiums did not exceeded $10,000. He pointed out that a company with over $10,000 in premium costs probably belonged in the high risk pool but the companies with less than $10,000 in premium costs didn't. He stated that there was an alternative in effect in the rating system, called an experience modification plan (EMP). He further stated that typically, employers subjected to the EMP were businesses that on the average generated $2,500 a year in premium costs. He continued that these employers were compared with their peers on claim frequency, with the worst claim frequency offender having a larger EMP. He noted that this addressed the safety program the committee had been talking about. He explained that there wasn't a plan for the small risk company but the division was aware of the "merit rating plan" that some states had adopted. The merit rating plan provided for some form of credit to be given to a small company, not subject to the EMP, if they had an accident free period of experience. He stated that it was the intent of the division to push for something along those

lines and felt it was a good alternative to item #2. He stated that it should accomplish essentially the same things.

Number 115

Chairman Donley asked when a company went into the assigned risk pool were the rates fixed at a certain level for everyone in the pool.

Mr. Koch explained that their rates were the same as they would be outside the pool with the exception of the 20 percent surcharge.

Chairman Donley asked why there couldn't be two levels of the assigned risk pools.

Mr. Koch replied that making the distinction between the two levels would be very difficult.

Mr. Koch explained that the division started a program informing businesses how to prepare insurance forms and that would help by keeping some companies out of the assigned risk pool.

A discussion followed concerning the experience modification plan and which companies belonged in the plan.

Number 187

Since there was no further business to come before the House Labor and Commerce Committee, Chairman Donley adjourned the meeting at 4:00 p.m.

HOUSE LABOR AND COMMERCE COMMITTEE
March 10, 1988
1:30 p.m.

MEMBERS PRESENT

Rep. Dave Donley, Chairman
Rep. Niilo Koponen, Vice Chair
Rep. H. A. "Red" Boucher
Rep. Cliff Davidson, arrived late
Rep. Johnny Ellis
Rep. Walt Furnace
Rep. Curt Menard

MEMBERS ABSENT

None

COMMITTEE CALENDAR

HB 352/SB 322 "An Act relating to workers' compensation; and providing for an effective date."

SCR 44 "Relating to estimates of joblessness in the state."

SJR 33 "Relating to the labeling of irradiated food."

HB 535 "An Act relating to working conditions for employees required to use respirators."

Discussion of potential committee legislation.

WITNESS REGISTER

Mr. Bob Arnold, Assistant
Senator Willie Hensley
P.O. Box V
Juneau, Alaska 99811
465-2444
Position Statement: Supported SCR 44.

Ms. Beth Kerttula, Volunteer
Senator Jay Kerttula
P.O. Box V
Juneau, Alaska 99811
465-3771
Position Statement: Supported SJR 33.

Mr. Richard Arab, Deputy Director
Division of Safety and Health
Alaska Dept. of Labor
P.O. Box 21149
Juneau, Alaska 99802
465-4855
Position Statement: Supported HB 535.

Ms. Jackie McClintock, Director
Division of Workers' Compensation
Alaska Dept. of Labor
P.O. Box 21149
Juneau, Alaska 99802
465-2790
Position Statement: Supported SB 322

Ms. Resa Jerrel, Lobbyist
Associated General Contractors of Alaska
134 North Franklin St.
Juneau, Alaska 99801
586-1740
Position Statement: Opposed HB 535.

Mr. Chuck Caldwell, Chief
Division of Research and Analysis
Alaska Dept. of Labor
P.O. Box 21149
Juneau, Alaska 99802
465-4500
Position Statement: Answered questions regarding SCR 44.

Ms. Ginger Baim, Assistant
House Labor and Commerce Committee
P.O. Box V
Juneau, Alaska 99811
465-3892

PREVIOUS ACTION

HB 535:	Jrn-Date	Jrn-Pg		Action
	02/29/88	2393	(H)	Read the first time with referral(s)
	02/29/88	2393	(H)	L&C then HESS
SCR 44:	Jrn-Date	Jrn-Pg		Action
	02/05/88	2150	(S)	Read the first time with referral(s)
	02/05/88	2150	(S)	L&C
	02/08/88	2172	(S)	L&C waived five-day notification rule
	02/11/88	2234	(S)	Co-spon added: Zharoff
	02/12/88	2246	(S)	L&C RPT 4DP

	02/12/88	2247	(S)	Zero fiscal note published
	02/18/88	2341	(S)	Co-spon added: Binkley
	02/22/88	2360	(S)	Rules to calendar
	02/22/88	2363	(S)	Read the second time SCR 44
	02/22/88	2364	(S)	Passed Y18 N- A:
	02/22/88	2367	(S)	Transmitted to (H)
	02/24/88	2327	(H)	Read the first time with referral(s)
	02/24/88	2328	(H)	L&C

SJR 33:	Jrn-Date	Jrn-Pg		Action
	03/26/87	719	(S)	Read the first time with refe. ral(s)
	03/26/87	719	(S)	STA & HESS
	04/15/87	951	(S)	Spon substitute intro
	04/15/87	951	(S)	STA, HESS & JUD
	04/23/87	1031	(S)	STA RPT 1DP 3NR
	04/23/87	1031	(S)	Zero fiscal note published
	05/13/87	1393	(S)	HES RPT 5DP
	05/15/87	1455	(S)	JUD RPT CS 4DP
	02/09/88	2191	(S)	Rules to calendar W/CS and Zero FN
	02/09/88	2192	(S)	Read the second time
	02/09/88	2192	(S)	Rules CS adopted unan consent
	02/09/88	2192	(S)	Advanced to third reading unan consent
	02/09/88	2192	(S)	Read the third time CSSS SJR 33(RUL)
	02/09/88	2193	(S)	Passed Y18 N- X2
	02/09/88	2197	(S)	Transmitted to (H)
	02/10/88	2143	(H)	Read the first time with referral(s)
	02/10/88	2143	(H)	L&C then HESS

SB 322:	Jrn-Date	Jrn-Pg		Action
	01/11/88	1840	(S)	Read the first time with referral(s)
	01/11/88	1840	(S)	L&C
	02/23/88	2376	(S)	L&C RPT CS 5DP
	02/23/88	2376	(S)	Zero Fiscal Note published
	02/25/88	2416	(S)	Rules to calendar
	02/25/88	2419	(S)	Read the second time
	02/25/88	2420	(S)	L&C CS adopted unan consent
	02/25/88	2420	(S)	Advanced to third reading unan consent
	02/25/88	2420	(S)	Read the third time CSSB 322 (L&C)

02/25/88	2420	(S)	L&C Letter of Intent adopted by Senate
02/25/88	2421	(S)	Passed Y15 N- X5
02/25/88	2421	(S)	Effective date same as passage
02/25/88	2424	(S)	Transmitted to (H)
02/26/88	2358	(H)	Read the first time with referral(s)
02/26/88	2358	(H)	Labor & Commerce then Judiciary

Previous committee consideration and testimony on SB 322 was held on January 19, 21, 29, February 12 and March 8, 1988.

HB 352:	Jrn-Date	Jrn-Pg		Action
	01/11/88	1847	(H)	Read the fist time with referral(s)
	01/11/88	1847	(H)	L&C then JUD

Previous committee consideration and testimony on HB 352 was held on January 19, 21 and 29, February 12, 16, 18, and March 8, 1988.

ACTION NARRATIVE

TAPE ONE, SIDE ONE
Number 000

The House Labor and Commerce Committee meeting was called to order by Chairman Donley at 1:45 p.m. Members present were Representatives Donley, Ellis, Boucher, Davidson, Koponen, Furnace and Menard.

Chairman Donley stated that the first order of business was SCR 44, relating to estimates of joblessness in the state. He called for the first witness.

Number 018

Mr. Bob Arnold, assistant to Senator Hensley, stated that SCR 44 was aimed at obtaining more accurate information on unemployment levels or jobless levels in the state. He pointed out that the Alaska Dept. of Labor reported unemployment, in Senator Hensley's district, at nine to ten percent while surveys indicated that unemployment was at 40 to 50 percent. He continued that the Alaska Dept. of Labor was not the problem, that the problem was the U.S. Dept. of Labor's rules on the gathering of unemployment data (methodology and definitions concerning what constituted unemployed). He advised the committee that according to the definitions of unemployment, a person needed to actively search for work within the last four weeks in

order to be counted as unemployed. He continued that for a person in rural Alaska, where there were not any jobs available, it didn't make sense to look for a job that wasn't there. He pointed out that a survey conducted by the Alaska Dept. of Labor in 1981 for the House Research Agency, concluded that the official methodology (US Dept. of Labor) tended to overestimate employment and underestimate unemployment in rural areas. He stated that Senator Hensley believed that it was more important than ever to obtain as accurate a picture of levels of unemployment in Alaska as possible and that four billion dollars in federal grants were distributed throughout the United States on the basis of unemployment data.

Number 069

Mr. Arnold stated that the resolution asked two things. One, it asked the Alaska Dept. of Labor to prepare an estimate drawn upon any and every source of information concerning levels of real joblessness in Alaska. The second thing the resolution asked was for the Alaska Dept. of Labor to advise the legislature what steps could be taken to influence change in the federal methodology so that in the future official estimates would come closer to really representing the joblessness level in the state.

Rep. Furnace asked how the resolution would be used to change the reporting requirements that determine the basis for unemployment levels.

Mr. Arnold replied that SCR 44 did not address the issue of reporting requirements because they were federally fixed. He stated that this resolution directed the legislature to ask the Dept. of Labor for guidance in how to influence change in the federal methodology used to determine unemployment criteria.

Number 114

Rep. Boucher commended Senator Hensley on introducing SCR 44 and asked that the delegates from Alaska to the US Congress be informed of SCR 44.

Mr. Arnold stated that Senator Hensley's office would send the resolution to the Alaska delegates in Washington, D.C. as soon as the action in both bodies was complete.

Rep. Koponen stated that the federal unemployment statistic criteria was changed several times and asked if one of the changes stipulated a number of weeks of unemployment before a person was counted as unemployed. He asked a representative from the Dept. of Labor to explain the most recent definition of unemployment for the purpose of being counted among the unemployed.

Number 190

Mr. Chuck Caldwell, Chief of Research and Analysis for the Alaska Dept. of Labor, stated that there had been changes in the benefit programs over the last few years but there hadn't been a change in the definition of the statistical programs. The last time the statistical program was changed was in the 1960's, as far as definitions were concerned.

Rep. Boucher moved SCR 44 to the next committee of referral with individual recommendations. There being no objections, the motion passed.

Number 210

Chairman Donley announced that the next order of business was SJR 33, relating to the labeling of irradiated foods. He called for the first witness.

Ms. Beth Kerttula, a volunteer from Senator Kerttula's office, stated that SJR 33 was a consumers right to know resolution. She stated that SJR 33 was not a ban on irradiated foods but simply a resolution to let the Federal Drug Administration (FDA) know that Alaskans disapproved of eliminating the labeling requirements for irradiated food or food that contained irradiated ingredients. She stated her belief in labeling food for content and pointed out that a lot of information had been published concerning the fact that irradiation may be hazardous to people's health. She continued that a study from India indicated that a large percentage of children fed irradiated wheat developed precursors to leukemia. She reiterated that scientific information suggested that irradiation was dangerous. She also noted that one method of irradiation involved the use of nuclear waste. She listed the countries that have either banned irradiation or considered banning it and she prepared a list for the committee members of the states that have introduced resolutions to either ban irradiation or at least study it further. She concluded that even the University of Alaska, which was working on a study of irradiation, recognized that irradiation, at the least, lessened the nutritional value of food. She encouraged the committee to support SJR 33.

Number 267

Rep. Menard stated his support of SJR 33.

Rep. Menard moved SJR 33 to the next committee of referral with individual recommendations. There being no objections, the motion passed.

Number 293

Chairman Donley announced that the next order of business was proposed committee legislation, W.O. 5-2031A drafted by Cramer, which related to access to an employee personnel file. He asked the committee if they wanted to introduce it as committee legislation and there being no objections, the committee will introduce it.

Chairman Donley stated that the next piece of proposed committee legislation was W.O. 5-2032A drafted by Cramer, which related to plant closures, mergers and privatization. He asked the committee members to study it and explained that the committee would bring it up for discussion next week.

Number 301

Chairman Donley announced that the next order of business was HB 535, an act relating to working conditions for employees required to use respirators. He asked his staff to explain the proposed committee substitute for HB 535.

Ms. Ginger Baim, assistant to the House Labor and Commerce Committee, stated that the proposed committee substitute for HB 535 made two changes. The first being to paragraph A which changed the amount of consecutive hours worked, using a respirator, before receiving a break from four hours to two hours. She continued that the second part of the bill, paragraph B, required that an employee using a respirator fill out a safety report at the end of the shift and that the safety report had to indicate that an employee would not be discriminated against if the employee reported a safety violation.

Number 323

Ms. Resa Jerrel, lobbyist for Associated General Contractors of Alaska (AGC), stated that the language in paragraph B was greatly improved and that AGC had major problems with the previous version of HB 535. She continued that AGC still had a problem with the mandatory rest break after two hours consecutive use of a respirator. She pointed out that current Federal Occupational Safety and Health Administration (OSHA) regulations state that an employee using lead in their work, must have a break every 4.4 hours. She continued that OSHA had a standard paragraph which they used in requirements for various substances that allowed employees to stop work at any time to wash their face. She stated her belief that most employees would take their own breaks when needed and did not require mandatory fifteen minute breaks. She explained that the AGC had a respirator program which included a standard form for companies to post for their employees and

that one of the items of the program called for constant review to determine that the program met the state goal of providing maximum employee protection. She continued that when a company had a valuable employee, who knew how to work with toxic substances and a respirator, that the employer would not risk losing them by discriminating against them for listing a safety violation. She concluded that AGC felt there were enough regulations to protect employees and that HB 535 was not needed.

Number 365

Rep. Ellis asked if federal OSHA standards were the same as the state's.

Ms. Jerrel replied that the state had it's own OSHA program which it took over from the federal government two years ago.

A discussion followed concerning the proposed committee substitute requirement of two hours consecutive work before receiving a break and the federal requirement for persons working with lead which required a break for every 4.4 hours of consecutive work.

Number 427

Rep. Furnace stated that the two hour requirement seemed too short and suggested that HB 535 should comply with the federal standard, in the use of lead, of 4.4 hours.

Rep. Koponen moved to adopt the committee substitute for HB 535 for the purpose of discussion. There being no objections, the motion passed.

Number 445

Mr. Richard Arab, Deputy Director for Occupational Safety and Health for the Alaska Dept. of Labor, stated the Dept. of Labor supported CSHB 535. He stated that the major problem with wearing a respirator was heat stress and dehydration especially if wearing a full body suit associated with asbestos removal. He stated that it got very hot and that the department felt that a two hour interval was reasonable. He continued that the Industrial Hygiene Association recommended there be a morning and an afternoon fifteen minute break, in addition to the lunch break, for occupations where heat stress could be a factor. He advised the committee that the department did not have a problem with the record keeping requirement of paragraph B.

Number 470

Rep. Boucher asked if there were any lung doctors available to testify.

Chairman Donley suggested that the committee ask Dr. Thorn, of the Dept. of Labor, to testify when CSHB 535 was scheduled again before the committee.

Rep. Boucher requested that Dr. Thorn be present to give testimony on CSHB 535.

Chairman Donley asked if there were any members of the public to testify on CSHB 535, there being none he advised that CSHB 535 would be held over in committee for further study.

Number 483

Chairman Donley announced that the next order of business was SB 322, an act relating to workers' compensation. He called for a 10 minute break to see if the proposed House committee substitute for SB 322 would arrive.

The meeting was called back to order at 2:40 p.m. Chairman Donley announced that since the legal department could not get the committee substitute ready in time, the committee would go over the memorandum dated March 10, 1988, prepared by Rep. Donley's staff, which listed the proposed House committee substitute changes for SB 322 (included in the House Labor and Commerce committee file item #5). He stated that after the committee went through the memo they would adjourn until 4:00 p.m. which was the time the drafters estimated the proposed committee substitute for SB 322 would be done.

Number 500

Ms. Ginger Baim, assistant for the House Labor and Commerce Committee, stated that there were two issues concerning the rehabilitation section. The first issue was, should the committee include in the proposed committee substitute a grandfather clause that allowed currently practicing rehabilitation specialists, without the required certification, the right to continue practicing. She continued that within that question were two considerations. Should the state allow an open ended grandfather clause permitting any rehabilitation specialist who had been practicing in the state to be included or should the grandfather clause stipulate a time frame for currently practicing rehabilitation specialists to complete the certification required under the definition in CSSB 322. She explained that the first consideration would allow practicing rehabilitation specialists who had

demonstrated competency in their field, but with no intention of certifying, the right to have the department judge what constituted equivalency in regard to certification. The second consideration dealt with opening a window in the grandfather clause that would allow a currently practicing specialist the right to complete their certification program within a specified period of time. She concluded that there was still some confusion over the definition of rehabilitation specialist and whether or not the current definition was accurate.

Number 515

Rep. Furnace mentioned that Rep. Hudson had offered an amendment to the committee for discussion. He stated his support of that amendment and mentioned that the intent was to open the window for certification for two to three years.

Rep. Koponen stated that the committee could use some information on how the certification requirements could be met and whether or not they were feasible for Alaskans.

A discussion followed concerning whether or not a rehabilitation specialist was qualified to practice in Alaska and if so how much time should be allowed so practicing rehabilitation specialists could get the proper certification to meet the criteria set out in CSSB 322.

Number 549

Rep. Ellis stated that trying to judge if a rehabilitation specialist was qualified would be beyond what the committee members should include in statute and suggested a window of opportunity for professional certification, gaged by the length of the certification course, as the way to go.

Rep. Furnace asked for Ms. McClintock's response to the proposed amendment, W.O. 5-1514Bg, and wondered if it gave the workers' compensation division the latitude to determine if the qualifications were adequate.

Number 572

Ms. Jackie McClintock, Director of Workers' Compensation Division, stated that most rehabilitation specialists in the state were qualified to do the job but were not able to take the certification test because of time and locality restraints.

Rep. Menard asked what the program was and if they were taking university classes to get certified.

Ms. McClintock answered that with both certification programs there were academic requirements to be met before being allowed to take a certification test. She continued that the Certified Insurance Rehabilitation Specialist (CIRS) required a bachelors degree while a Certified Rehabilitation Counselor (CRC) required a master's degree.

Rep. Menard stated his concern that the people who need to take the certification test should be allowed more time than a year especially if they continue to work and need to go outside to take the test.

Rep. Furnace asked if proposed amendment, W.O. 5-1514Bg, met the test, as far as the division of workers' compensation was concerned.

Ms. McClintock replied that it opened a window of time for rehabilitation specialists to apply with the Dept. of Labor stating their intentions to become certified. She stated that it did not stipulate a time period in which the person must be certified by.

Rep. Furnace moved that proposed amendment, W.O. 5-1514Bg, be adopted by the committee for the purpose of discussion.

TAPE ONE, SIDE TWO
Number 000

Chairman Donley mentioned that the people who fit into the category of needing certification would still be considered qualified to do the work while obtaining the necessary certification.

Rep. Davidson asked if the question before the committee was to determine how much of a time frame was needed for certification.

Rep. Furnace recommended that the time span be set at two years for completing the certification program.

A discussion followed concerning the requirements for CIRS and CRC certification.

Number 061

Rep. Boucher asked if an acupuncturist would be considered a rehabilitation specialist.

Ms. McClintock replied, "No," and explained that a rehabilitation specialist accessed the vocational skills of an injured worker that would be necessary for future employment.

Rep. Boucher asked Ms. McClintock if she was happy with the proposed amendment concerning the definition of rehabilitation specialist.

Ms. McClintock stated that she was satisfied with the Labor/Management Ad Hoc Committee's diligence at looking into the definitions of CIRS and CRC. She continued that she was not adverse to leaving a window open for people to get their educational requirements necessary for taking the certification tests.

Chairman Donley pointed out that there may be rehabilitation specialists that were not qualified to practice in the state.

Number 150

Rep. Boucher asked Ms. McClintock if the proposed workers' compensation legislation was the best possible legislation.

Ms. McClintock answered that she personally thought it was the best legislation to come out.

Number 175

Chairman Donley stated that while the committee was waiting for the proposed House committee substitute from the legal department, they should go through the items listed in the March 10 memorandum (File item #5). He pointed out that the purpose of the workers' compensation legislation was to keep Alaskans working and to improve the system. He continued that the first change of the proposed House committee substitute was to call for a mandated rate decrease of six percent. He relayed the rational for the mandated rate decrease and called for a moratorium on additional rate increases for the next 18 months.

Number 194

Rep. Furnace stated he understood the rational for a six percent mandated rate decrease but pointed out that it could cause problems for the insurance industry. He didn't formally object to the mandated rate decrease but he felt that the committee might want additional testimony on this issue before making a final decision.

Chairman Donley pointed out that the six percent figure was derived at because of the public testimony the committee heard last month which predicted soft and hard dollar savings of approximately six percent. He continued that additionally, the proposed committee substitute would contain a proposal that would provide for a rebate of 10 percent for employers in the assigned risk pool and a five percent rebate for employers not in the assigned risk pool

if they institute a safety program that meets the standards established by OSHA and didn't have any safety violations for the premium year.

Chairman Donley stated that the third change in the proposed committee substitute called for a mandatory fine of $10,000 for employers who failed to carry workers' compensation insurance. He continued that the fourth change called for the number of claims filed and the percent of claims that were controverted during the year to be included in the insurers annual report to the division of workers' compensation.

Number 251

Rep. Furnace stated that in regard to change number three, he preferred setting the fine at $5,000.

Chairman Donley stated that item #5 of the proposed committee substitute called for amending the contents of the annual report to break out the costs of legal fees to reflect the fees paid to both the plaintiff and defense attorneys and to include all other costs associated with litigation. He continued that item #6 called for amending the section to provide that an employers choice of physician for an Independent Medical Exam (IME) was limited to no more than one change in choice, as was an employees right of choice under the proposed legislation. He pointed out that item #6 didn't preclude referrals to specialists or referrals from one doctor to another. He stated that item #7 had to do with the stress language that the committee discussed earlier. He stated that item #8 included language requiring that an IME must be offered in the same speciality as the treating physician unless the Board agreed, on a case by case basis, to authorize an IME by a physician who was not within the same speciality of the employees physician.

Number 299

Rep. Furnace stated that this was another area that he wanted the committee to look into. He suggested that the word "unanimously" in regard to the Board's decision, be reinstated.

Chairman Donley pointed out that three Board members voted on the decision regarding authorizing a physician not in the same speciality to conduct an IME and asked if the committee wanted a unanimous vote or a two thirds vote by the Board. The proposed committee substitute called for two thirds vote and Rep. Furnace was asking for a unanimous vote.

Rep. Furnace stated that it was important and wanted the chance to vote on it. Chairman Donley stated that the committee would have the opportunity to vote when the proposed committee substitute was before them.

Number 317

Rep. Davidson asked why it should be a unanimous decision by the Board.

Rep. Furnace replied that it was important because of the nature of the IME to have like specialists or physicians reviewing one another's work.

Number 331

Chairman Donley stated that the next few amendments conformed with the testimony offered by the Task Force. He continued that item #12 was important because it called for benefit checks paid to recipients residing in Alaska to be paid by checks drawn on Alaska banks.

Chairman Donley stated that item #15 called for a new section to be added that addressed the concern of the increased time it took between filing a case and obtaining a formal hearing date before the Board.

Number 355

Chairman Donley stated that he was very proud of the committee for all their hard work and reiterated that workplace safety was the most important thing the committee should encourage to reduce workers' compensation premiums and costs.

Number 376

Chairman Donley stated that the committee would adjourn until 4:00 p.m., when the proposed committee substitute would be ready from the legal department. The proposed committee substitute did not arrive and the meeting did not reconvene.

Since there was no further business to come before the House Labor and Commerce Committee, Chairman Donley adjourned the meeting at 3:20 p.m.

HOUSE LABOR AND COMMERCE COMMITTEE
March 15, 1988
2:30 p.m.

MEMBERS PRESENT

Rep. Dave Donley, Chairman, arrived late
Rep. Niilo Koponen, Vice Chair
Rep. H. A. "Red" Boucher
Rep. Johnny Ellis
Rep. Walt Furnace, arrived late
Rep. Curt Menard

MEMBERS ABSENT

Rep. Cliff Davidson

COMMITTEE CALENDAR

A Presentation on the Alliance Bank and Proposed Hallwood Stabilization Trust.

HJR 64: "Relating to Alaska's participation in the bottomfish fisheries and other benefits from the Exclusive Economic Zone of the United States off the coast of Alaska."

HB 482: "An Act making an appropriation from the Railbelt energy fund to the Railbelt energy account of the power development revolving loan fund for construction of the Bradley Lake power project; and providing for an effective date."

HB 483: "An Act establishing the Railbelt energy account in the power development revolving loan fund; and providing for an effective date."

CSSB 15: "An Act relating to trade secrets."

CSSB 322: "An Act relating to workers' compensation; and providing for an effective date."

Discussion of proposed committee legislation.

WITNESS REGISTER

Rep. Adelheid Herrmann
District 26
P.O. Box V
Juneau, Alaska 99811
465-4942
Position Statement: Sponsor of HJR 64.

Rep. Sam Cotton
District 15A
P.O. Box V
Juneau, Alaska 99811
465-3711
Position Statement: Sponsor of HB 482 & HB 483.

Mr. Tony Gumbiner
Chairman of the Board
The Hallwood Group
767 Third Avenue
New York, New York 10017
Position Statement: Supported the proposed Hallwood Stabilization Trust.

Mr. Jim Cairns
Chairman of the Board
Alliance Bank
Minnesota & Benson Blvd.
Anchorage, Alaska 99503
Position Statement: Supported the proposed Hallwood Stabilization Trust.

Mr. Gary Daily
City of Unalaska
P.O. Box 89
Unalaska, Alaska 99685
581-1259
Position Statement: Supported HJR 64.

Mr. Chris Christensen, Assistant
Senator Jan Faiks
P.O. Box V
Juneau, Alaska 99811
465-3755
Position Statement: Supported SB 15.

Mr. Bob LeResche, Executive Director
Alaska Power Authority
P.O. Box AM
Juneau, Alaska 99811
465-3575
Position Statement: Supported HB 482 & HB 483.

Ms. Jackie McClintock, Director
Workers' Compensation Division
Alaska Dept. of Labor
P.O. Box 21149
Juneau, Alaska 99802
465-2790
Position Statement: Answered questions regarding workers' compensation insurance.

Ms. Erika Mahaney
Injured Worker
P.O. Box 671495
Chugiak, Alaska 99687
338-4506
Position Statement: Opposed to CSSB 322.

PREVIOUS ACTION

HJR 64:	Jrn-Date	Jrn-Pg		Action
	02/15/88	2210	(H)	Read the first time with referral(s)
	02/15/88	2210	(H)	L&C then RES

HB 482:	Jrn-Date	Jrn-Pg		Action
	02/15/88	2215	(H)	Read the first time with referral(s)
	02/15/88	2215	(H)	L&C then RES, FIN
	02/22/88	2318	(H)	Co-spon added: Brown

Previous committee consideration and testimony on HB 482 was held on March 3, 1988.

HB 483:	Jrn-Date	Jrn-Pg		Action
	02/15/88	2215	(H)	Read the first time with referral(s)
	02/15/88	2215	(H)	L&C then FIN
	02/19/88	2299	(H)	Co-spon added: Boucher
	02/22/88	2318	(H)	Co-spon added: Brown

Previous committee consideration and testimony on HB 483 was held on March 3, 1988.

SB 15:	Jrn-Date	Jrn-Pg		Action
	01/12/87		(S)	Prefile released
	01/19/87	22	(S)	Read the first time with referral(s)
	01/19/87	22	(S)	L&C then JUD
	02/12/87	276	(S)	L&C RPT 3DP with amendment 1NR
	02/12/87	277	(S)	Zero fiscal note pub.
	03/13/87	589	(S)	JUD RPT CS 3DP
	03/13/87	589	(S)	Zero fiscal note/ analysis

	03/18/87	629	(S)	Rules to calendar
	03/18/87	633	(S)	Read the second time
	03/18/87	633	(S)	JUD CS adopted unan consent
	03/18/87	633	(S)	Advanced to third reading unan consent
	03/18/87	633	(S)	Read the third time CSSB 15(JUD)
	03/18/87	633	(S)	Passed Y20 N-
	03/18/87	635	(S)	Transmitted to (H)
	03/20/87	568	(H)	Read the first time with referral(s)
	03/20/87	568	(H)	L&C then JUD

SB 322:	Jrn-Date	Jrn-Pg		Action
	01/11/88	1840	(S)	Read the first time with referral(s)
	01/11/88	1840	(S)	L&C
	02/23/88	2376	(S)	L&C RPT CS 5DP
	02/23/88	2376	(S)	Zero Fiscal Note published
	02/25/88	2416	(S)	Rules to calendar
	02/25/88	2419	(S)	Read the second time
	02/25/88	2420	(S)	L&C CS adopted unan consent
	02/25/88	2420	(S)	Advanced to third reading unan consent
	02/25/88	2420	(S)	Read the third time CSSB 322 (L&C)
	02/25/88	2420	(S)	L&C Letter of Intent adopted by Senate
	02/25/88	2421	(S)	Passed Y15 N- X5
	02/25/88	2421	(S)	Effective date same as passage
	02/25/88	2424	(S)	Transmitted to (H)
	02/26/88	2358	(H)	Read the first time with referral(s)
	02/26/88	2358	(H)	Labor & Commerce then Judiciary

Previous committee consideration and testimony on SB 322 was held on January 19, 21, 29, February 12 and March 8, 10, 1988.

ACTION NARRATIVE

TAPE ONE, SIDE ONE
Number 000

The House Labor and Commerce Committee meeting was called to order by Chairman Donley at 2:35 p.m. Members present were Representatives Donley, Ellis, Boucher, Koponen, Furnace and Menard.

Chairman Donley announced that the first order of business was a presentation on the current status of the Alliance Bank and the proposed Hallwood Stabilization Trust. He introduced Mr. Tony Gumbiner, Chairman of the Board of the Hallwood Group and Mr. Jim Cairns, Chairman of the Board of the Alliance Bank.

Mr. Gumbiner explained that the Hallwood Group was a public corporation listed on the New York Stock Exchange as well as an investment bank. He pointed out that they were usually traded on major stock exchanges around the world. He stated that rescuing companies in need of their services was their area of expertise. He stated that a few months ago the Hallwood Group completed a restructuring of Alaska Mutual Bank, United Bank of Alaska and the United Bank of Southeastern. He recounted how the Hallwood Group had restructured the Bank of Texas and explained how they assisted the Federal Deposit Insurance Corporation (FDIC) and the controller of currency, the Federal Reserve with the problems of failing banks.

Number 083

Mr. Gumbiner explained background information that related to the proposal for the establishment of the Hallwood Alaskan Real Estate Stabilization Trust. He informed the committee members that a copy of the proposal was in their file and that the proposal was commonly referred to as "Bridgebank."

Mr. Gumbiner stated that the objective of the proposed trust was to prevent further decline in real estate values by allowing the trustees to manage the liquidation of the trust assets to prevent an oversupply of property in the local marketplace which would cause further decline in the price of residential or commercial properties.

Number 156

Mr. Gumbiner explained that the proposed trust would be formed as a liquidating trust that was established under a firm set of rules. The rules were contained in the distribution agreement and organized by a trustee. The trust would be formed along the lines of a nonprofit institution, with Hallwood Group not collecting any fees for their services. The trust would be managed by a Board of Trustees that would be selected from the beneficiary institutions and a representative from the state. The Hallwood Group asked the state to fund the enterprise by making an equity investment of 15 million dollars in the trust. The state would be entitled to a small portion of the equity and the other players would be entitled to a portion of the equity depending on the amount of

contribution. The state would be giving the trust liquidity in order to get the trust organized.

Number 195

Mr. Gumbiner stated that the trust would be maintained for ten years and during the ten year period the trust would try to maintain a level of prices instead of pushing property on the market precipitously. He explained how the trust would offer funds of property for sale and to whom. He stated that in the future the state could be asked to lend money to the trust. He continued that the Hallwood Group was asking for assistance from the Alaska Housing Finance Corporation (AHFC) and the Alaska Industrial Development Association (AIDA). The assistance requested would be for moratoriums on financing new supplies of real estate.

Number 330

Mr. Jim Cairns, Chairman of the Board of Alliance Bank, pointed out that the trust did not view this proposal as a state bail out because the state would receive a portion of the equity of the trust. He stated that their concern was the dumping of property, viewed as bad investments, on the market and effectively lowering the value of all property. He stated that another thing that bothered them was the possibility of Alliance Bank returning to the FDIC after 16 months and what that would do toward the state's gradual economic recovery. He explained that the purpose of the proposed trust was two fold, to stabilize the market and to try to preserve the banking system in the state.

Number 400

Vice Chairman Koponen stated for the record that Rep. Ellis arrived at 2:37 p.m. and Rep. Furnace arrived at 2:45 p.m. Rep. Boucher asked about the possibility of Alliance Bank being returned to the FDIC.

Mr. Gumbiner explained that Alliance Bank would not be returned to FDIC if it looked as if the bank could make money in the long term.

Mr. Cairns stated that it was the conclusion of the Hallwood Group and the Alliance Bank that the bank could make a profit.

A discussion followed concerning the factors that could effect the Alliance Bank and the Hallwood Group from making a profit.

A discussion followed concerning outstanding loans from the Alliance Bank and how they would be handled.

A discussion followed concerning the FDIC and what role they play in determining the disposition of loans.

Number 522

Rep. Koponen asked if there were any advantages in transferring the title of some properties to the University Foundation as a gift.

Mr. Gumbiner stated that it wouldn't be a true gift because the carrying costs were currently well in excess of any benefit that could arise from the tax break.

Rep. Menard asked if the 15 million dollars that the state contributed would be sufficient working capital.

Mr. Gumbiner stated that Alaska would not be giving the trust money; rather the state was making an investment on the same terms as any other beneficiary institution. The state would be repaid as well as get cash flow from the investment. He continued that the 15 million dollars was seed money which was sufficient working capital to establish the trust. The Hallwood Group would probably require 45 million dollars in order to fund the trust to the point where it was cash flow positive.

Number 575

Vice Chairman Koponen announced that the next order of business was HJR 64, relating to Alaska's participation in the bottomfish fisheries and other benefits from the Exclusive Economic Zone of the United States off the coast of Alaska. He asked the sponsor of HJR 64, Rep. Herrmann, to join the committee.

Number 580

Rep. Herrmann asked to make a few brief remarks concerning the Exclusive Economic Zone (EEZ). She stated that on March 10, 1983, President Reagan established by proclamation an Exclusive Economic Zone of the United States and thereby joined 58 other coastal nations declaring jurisdiction over the ocean resources adjacent to their land masses. She continued that the coastal states had a strong interest in the protection, conservation and development of the coastal and ocean resources. She continued that management of the ocean resources was a difficult matter for two fundamental reasons. The present complex system of ocean governmental jurisdiction and the nature of the ocean itself. The challenge would be to design and implement an equitable and efficient ocean resource management system. She explained that the US EEZ extended 200 miles off the coast.

Number 595

Rep. Herrmann explained that the reason she introduced HJR 64 was because the state's fisheries benefitted other states as well. Alaska's fisheries and decision making bodies for fisheries were many times controlled by outside interests. She would like to see this practice stopped. Many times the capitalization of a fishery was done by outside interest because they either had the existing equipment or the capital to invest in needed equipment. She would like to see more Alaskans involved in the state's fisheries but she felt that could not happen if the resource was limited. She asked the committee members for their support of HJR 64.

Rep. Menard asked how Rep. Herrmann came up with the "no less than 50 percent participation" figure.

Rep. Herrmann stated that since there was not much participation now by Alaskans, and because the area was right off Alaska's coast, she figured why shouldn't Alaskans have 50 percent of the bottomfish fisheries.

Rep. Ellis asked how far along the federal government was in limiting entry.

She replied that the council was holding hearings but she was not sure about an answer.

Number 626

Mr. Gary Daily, Port Director for Dutch Harbor, city of Unalaska, stated his support as well as the city of Unalaska's support for HJR 64. He explained that there was a vast economic potential for Alaska in the bottomfish fisheries.

TAPE ONE, SIDE TWO
Number 000

Mr. Daily st ted that there were 41 Alaskan factory trawlers presently fishing out of the EEZ and noted they were mostly from Seattle. He expected the number of the factory trawlers to double within three years which would equate to over 22,000 jobs. He stated that historically all the trawling and deep sea fisheries had been done by Seattle people not by Alaskans. He pointed out that Unalaska and Dutch Harbor with that awesome name of fisheries and money did not have a fleet. He stated his support for a partnership with the US government for area management and noted that the most effective enforcement partner was the US Coast Guard. He understood there were presently two Japanese ships and crews that were in Soviet

prisons for violating Soviet waters and commented on how they protect their resource. He figured that the bottomfish fisheries were a two billion dollar industry.

Number 068

Rep. Koponen moved HJR 64 to the next committee of referral with individual recommendations. There were no objections, so the motion carried.

Chairman Donley announced that the next order of business was HB 482 and HB 483. He explained that HB 483 was the enabling legislation that would establish the Railbelt energy account in the power development revolving loan fund and that HB 482 was the appropriation legislation. He stated there were proposed committee substitutes for both bills in the member's files. The committee substitutes cleaned up technical problems and assured that the money was channeled through a revolving loan fund. In addition, there was a proposed amendment from Rep. Cotton to appropriate $18 million from the Railbelt energy fund to the Fritz Creek transmission line project.

Number 099

Rep. Cotton, sponsor of HB 482 and HB 483, asked the committee to consider another amendment to the proposed committee substitute for HB 483. It would accomplish what he hoped to accomplish in the first place. The amendment would change Section 1, line 18 and 19 to read, "unless the loan has been authorized by the legislature."

Number 121

Rep. Koponen moved to adopt the amended committee substitute, W.O. 5-1895B drafted by Utermohle, for HB 483. There being no objections, the motion passed.

Rep. Menard asked if the legislature was in the group.

Rep. Cotton answered "absolutely" and explained that he wanted to make sure that the legislature was in the position to approve any expenditures coming out of the Railbelt energy account.

Rep. Ellis asked if the Fritz Creek intertie project needed a loan.

Rep. Cotton stated that the utility group suggested that the Fritz Creek transmission line be funded from the Railbelt energy fund. He stated that he did not have a problem with it and that an amendment to that effect was prepared for HB 482 and included in the members files. He explained that the status on the Fritz Creek transmission

line was that Homer Electric Association (HEA) had originally arranged financing, it's an $18 million project, and that it was considered an integral part of the overall project. It would run the power from Bradley Lake to Soldotna. He continued that HEA arranged for Rural Electric Association (REA) financing at five percent but they ran into some problems. The problem was that part of the power would be going to municipal utilities and REA's rules didn't allow the loan to benefit non REA utilities. He stated that funding the Fritz Creek project was an appropriate use of funds from the Railbelt energy account.

Number 178

Rep. Ellis asked Rep. Cotton if he had considered including in the language of HB 483, in addition to power projects, funding for demand side energy projects.

Rep. Cotton answered "yes" and suggested to the committee that they might want to delete the word "power" from line 13.

A discussion followed concerning which language should be used in HB 483 to allow projects that were on the demand side of energy projects to be funded from the Railbelt energy fund.

Number 241

Rep. Menard asked if it was a fifty year loan package.

Rep. Cotton replied that he thought it was a thirty year term on the loan.

Number 263

Rep. Ellis proposed an amendment to HB 483 which would be inserted on line 14 after the first sentence of the bill. A discussion followed concerning the language of the proposed amendment. "Projects which may qualify for loans shall include demand side energy conservation and energy use studies."

Rep. Koponen asked if it would include such things as distribution, conservation and alternative energy projects.

Rep. Ellis replied that he would like it to be all inclusive.

Rep. Cotton stated he did not have a problem with the amendment. He reiterated his suggestion to delete the word "power" from line 13.

Chairman Donley stated that the motion before the committee was to include the sentence that Rep. Ellis stated and to delete the word "power" from line 13.

Rep. Ellis amended his motion to insert after the first sentence on line 14, "Projects which may qualify for loans shall include demand side energy conservation projects and energy use studies" and to delete the word "power" from line 13.

Chairman Donley asked if there were any objections to the motion to amend. He asked the members in favor of the motion to indicate by the usual sign. There were four in favor, so the motion carried.

Chairman Donley stated there was an amended committee substitute before the committee on HB 483. He called for further discussion.

Number 318

Rep. Koponen moved CSHB 483 (L&C) to the next committee of referral with individual recommendations. Rep. Furnace objected to the motion. Chairman Donley asked all those in favor of the motion to signify by the usual sign, there were five members in favor and one opposed, the motion carried.

Number 327

Chairman Donley stated that the next order of business was HB 482, the appropriation bill for HB 483. He advised the committee members that there was a proposed amendment attached to the committee substitute for HB 482 in their files.

Rep. Cotton stated his support for the proposed amendment to the proposed committee substitute for HB 482.

Number 341

Rep. Ellis asked if the $165 million was the actual figure.

Rep. Cotton stated that he was hoping that the number was lower. A discussion followed on how that figure could change.

Rep. Ellis asked if the figures changed how would the legislation be handled.

Rep. Cotton indicated that the Alaska Power Authority (APA) would loan the required amount to the project and then there would be a balance in the account that would be

available to the legislature for appropriation or the legislature could authorize another loan from the fund.

Rep. Ellis asked what the further reduction in rates would be to the consumers if HB 482 and HB 483 were passed into law.

Rep. Cotton explained that the APA put together Bradley Lake alternative financing cases, referred to as the base case which was the presently approved plan of finance and would result in 4.6 cents per kilowatt hour cost of power. If the legislature used base case number three financing at six percent it would go down to 3.8 cents per kilowatt hour. He stated that by using the six percent interest rate, there would be $2.5 million annual savings to the consumer.

Number 401

Rep. Menard asked if the $18 million for the Fritz Creek project was in addition to the $165 million appropriated from the Railbelt energy fund to the Railbelt energy account.

Rep. Cotton replied "yes".

Number 414

Rep. Ellis asked for the verdict from the energy task force on the Fritz Creek project.

Rep. Cotton explained that there never was a question of the need for the Fritz Creek project but that it had been assumed that HEA would own it and arrange their own financing for it. He continued that if the project was not financed through the Railbelt energy fund, that financing would be arranged through another source.

Rep. Ellis asked if there was anyone from the administration to testify on HB 482 and HB 483.

Rep. Cotton replied that he hadn't talked with anyone from the administration concerning this legislation and noted that they would spend the Railbelt energy fund on other items if they could.

Number 447

Rep. Boucher moved to adopt the amendment for the committee substitute for HB 482. Rep. Ellis objected for the purpose of discussion.

Mr. Bob LeResche, Executive Director of the Alaska Power Authority (APA), stated that under HB 356, which passed

into law, the savings in the wholesale rate would be passed through to the consumers. Each kilowatt hour would save that many tenths of a cent and each consumer would save that many tenths of a cent on their bill depending on their consumption of kilowatt hours. He stated that the administration still had ideas about using the money from the Railbelt energy fund to supplement the general fund. He continued that if by a quirk of fate the money remained in the fund, the administration did not object to the money being used the way HB 483 and HB 482 would stipulate. He noted that the benefits of the project exceed just spending the money. He stated that the APA supported the use of loan money on the Fritz Creek project.

A discussion followed concerning possible problems with the Fritz Creek project.

Number 495

Rep. Ellis asked if the APA had a position on the amended CSHB 483 which called for use of funds for demand side energy projects.

Mr. LeResche stated that he had no objection to that amendment.

Rep. Ellis asked if the amendment he made was in conflict with the power development revolving loan fund.

Mr. LeResche stated that he did not think there was a conflict.

Chairman Donley stated that there was a motion to adopt the amendment for the proposed CSHB 482 and asked if there were any objections to the motion. Rep. Furnace objected and called for the question. Chairman Donley asked all members in favor of the amendment to signify by the usual sign, there were four members in favor, so the motion carried.

Number 525

Rep. Boucher moved to adopt the amended CS for HB 482, there being no objections, the motion passed.

Rep. Boucher moved CSHB 482 (L&C) to the next committee of referral with individual recommendations. Rep. Furnace objected and called for the question. Chairman Donley asked all members in favor of the motion to signify by the usual sign, there were four members in favor so the motion carried.

Number 530

Chairman Donley announced that the next order of business was CSSB 15, an act relating to trade secrets. He commented that CSSB 15 had been before the committee several times and asked for the will of the committee.

Number 535

Mr. Charles Christensen, assistant to Senator Faiks who sponsored CSSB 15, stated that the common law recognized the tort of misappropriation of trade secrets. A trade secret was defined as any information that derived independent economic value from not being generally known and not readily obtained by proper means by other persons. He stated that the bill before the committee was in effect, the uniform trade secrets act, which had been adopted by at least 11 states. He continued that SB15 restated the common law on the subject and noted that in Alaska there hasn't been ary Supreme Court cases which addressed the issue of trade secrets. He concluded that the cases before the Superior Court were very expensive to litigate because there wasn't any statutory law on trade secrets.

Number 548

Rep. Menard moved CSSB 15 to the next committee of referral with individual recommendations, there being no objections, the motion passed.

Chairman Donley stated that the next order of business was proposed committee legislation, W.O. 5-2032A drafted by Cramer, which dealt with plant closures. He asked if there were any objections to introducing it as committee legislation and having none the committee will introduce it.

Number 560

Chairman Donley explained that the next order of business was CSSB 322, the workers' compensation legislation. He stated that the proposed committee substitute, W.O. 5-1514L drafted by Ford, was before the committee in the member's files. He explained that included in the proposed CS was the provision for the rehabilitation specialists to have a grace period in which to get their certification requirements. He stated that there was a proposed amendment to CSSB 322 which was attached to the memorandum dated March 15 (File item #9) and he explained that the amendment was based on the recommendation from the Task Force that all the penalty provisions be consistent.

Rep. Koponen moved to adopt the proposed amendment, W.O. 5-1514La drafted by Ford. Rep. Menard objected for the purpose of discussion. There was some discussion on the proposed amendment.

Rep. Menard withdrew his objection.

Rep. Furnace asked to get a handle on the deletions.

Number 609

Ms. Ginger Baim, assistant to the House Labor and Commerce Committee, explained how the amendment delineated the renumbering of the sections of the bill following the amendment.

Chairman Donley restated there was a motion on the floor and since there were no further objections to adopt the amendment for the proposed HCS for CSSB 322, it was adopted.

Rep. Koponen moved to adopt HCS for CSSB 322 (L&C) as amended. There being no objections, the motion carried.

Chairman Donley stated that the amended HCS CSSB 322 (L&C) was before the committee and open for discussion.

Number 625

Rep. Furnace stated that there were three items of concern, that were left over from the last meeting.

TAPE TWO, SIDE ONE
Number 000

Chairman Donley advised Rep. Furnace that if he made an oral motion to amend, the Chair would accept it.

Number 009

Rep. Furnace asked the committee to look at item #8 of the memo dated March 15. He moved and asked unanimous consent to amend the language and reinstate the word "unanimous" in relation to the consent of the board for Independent Medical Exams (IME).

Chairman Donley clarified the issue, stating that item #8 called for physicians reviewing another physician's work doing IME's must be in the same speciality unless the board agreed otherwise. The amendment would require that the board unanimously agree to authorize an IME by a physician who was not in the same speciality as that of the employee's treating physician.

Number 251

Ms. McClintock stated that there wasn't any issue that required a unanimous decision from the workers' compensation board.

A discussion followed concerning a unanimous decision and whether or not it could be appealed.

Number 283

Chairman Donley asked the committee if they wanted to leave the bill as it was or to amend it according to Rep. Furnace proposed amendment. He asked if there was further discussion on the amendment. There wasn't any. Chairman Donley asked all members in favor of the amendment to signify by the usual sign. There were five members in favor, so the motion passed.

Number 307

Rep. Furnace called attention to item #3 on the March 15 memo which raised the fine from $1,000 to $10,000 for not carrying workers' compensation insurance.

Rep. Furnace proposed that the fine be kept at $1,000.

Chairman Donley stated that the members could find that section of the bill on page 13, line 22.

Chairman Donley asked Rep. Furnace to clarify the language he wanted for an amendment.

Chairman Donley stated that the motion before the committee was to change on page 13, line 23, the fine from $10,000 to $1,000.

Rep. Furnace stated that the $10,000 fine was too harsh and didn't think that an employer who couldn't afford workers' compensation insurance premiums could afford a $10,000 fine.

Number 358

Rep. Ellis asked if anyone had served jail time for not carrying insurance.

Ms. Ginger Baim stated that no one had served jail time under this section of law.

Rep. Furnace asked if anyone ever had to pay a $1,000 fine.

Ms. McClintock answered that she thought a couple of the more serious cases were fined $1,000.

Number 375

Chairman Donley stated that he was opposed to the proposed amendment because a strong message was needed so those employers would carry insurance. He asked all members in favor of the motion to amend to signify by the usual sign. There were five members opposed, so the motion failed.

Number 385

Rep. Furnace called the member's attention to item #1 of the March 15 memo which was the mandated rate decrease for workers' compensation premiums of six percent, found on page 33, line 7, (Section 44) of HCS CSSB 322. Rep. Furnace moved to delete Section 44 in it's entirety.

Chairman Donley stated that there was a motion to amend before the committee and asked if there was discussion on the motion.

Number 396

Rep. Furnace stated that he realized that the intent of the legislation was to save money but he was concerned that a mandated rate reduction would actually increase the cost in the future.

Rep. Boucher stated that this was the guts of the bill and that the intent was to reduce the cost of workers' compensation insurance. He also asked if mandating rate decreases was constitutional or if it could be done.

Number 416

Chairman Donley pointed out that the state had the power to regulate insurance rates and the division of insurance was governed by statute to carry out that function. The legislature had the power by statute to tell the division how to do that function.

A discussion followed concerning the division of insurance's opposition to a mandated rate decrease.

Rep. Furnace stated that he was more concerned about the possible insolvency of one of the insurance carriers in the state and how that would affect future rates.

Number 443

Chairman Donley explained the hard and soft dollar savings of HCS CSSB 322.

Number 469

Chairman Donley stated that the motion was to delete Section 44, which was the mandated rate decrease of six percent. He asked all those in favor of the motion to signify by the usual sign. There were five members opposed, so the motion failed.

Rep. Koponen moved HCS CSSB 322 (L&C) to the next committee of referral with individual recommendations. Chairman Donley asked if there were any objections.

Rep. Furnace stated that there was someone who had traveled long distance to address the committee and asked that she be allowed to testify.

Number 490

Ms. Erika Mahaney, representing victims of the workers' compensation system, stated that the original intent of the system appeared to be lost. She asked the committee to specifically look at three problems before passing the legislation out of committee. The first problem was that the length of time should be extended between IME's. The second problem had already been addressed in HCS CSSB 322 regarding like specialists reviewing each other's work for IME's. The third problem was that no limit should be placed on treatment or length of treatment without fair evidence to the contrary. She asked the committee not to move HCS CSSB 322 out of committee.

Number 540

Rep. Koponen suggested that Ms. Mahaney's testimony be passed on to the Judiciary Committee.

Number 549

Chairman Donley stated that there was a motion to move HCS CSSB 322 as amended to the next committee of referral with individual recommendations. There were no objections to the motion, so the motion carried.

Chairman Donley thanked the committee members for all their hard work on HCS CSSB 322.

Since there was no further business to come before the House Labor and Commerce Committee, Chairman Donley adjourned the meeting at 4:45 p.m.

March 6, 1989

Senator Duncan
Alaska State Legislature
Room 119, P.O. Box V
Juneau, Alaska 99811

Dear Senator Duncan:

The Labor Management Task Force recently responded to you regarding Senate Bill 51. In that letter we outlined our concerns with vocational rehabilitation services as we viewed them when initiating worker's compensation legislation in 1988.

We have recently reviewed your committee substitute for SB 51 and feel that the limitations provided in the title allow us to reconsider our previously stated objections to SB 51. As we understand it the time period for obtaining certification as a rehabilitation specialist would be extended for an additional three years. The Department of Labor has informed us that there are only four individuals that will not be able to make the certification requirements by the June 30, 1989 deadline. We have presently no objection to this extension of additional time needed to meet certification requirements.

Sincerely,

Mary Pierce
Co-Chairman
Labor Management Task Force

Robert Anders
Co-Chairman
Labor Management Task Force

cc: Senator Tim Kelly
Jacqueline McClintock -
Division of Worker's Compensation
Representative Dave Donley

MP/tmb/L.SD.3/6

April 11, 1989

Alaska House of Representatives
Health, Education and Social Services
Room 106, Capitol Building
P.O. Box V
Juneau, Alaska 99811
Attn: Honorable Johnny Ellis, Chairman

SUPPORT FOR THE PASSAGE OF CSSB 51

Dear Mr. Ellis:

I would like to extend my support for SB 51 (CSSB 51), which is currently being reviewed by your committee. This legislation would provide adequate time for members of the vocational rehabilitation profession to obtain the necessary prerequisites for certification.

Without this corrective legislation, the original provision unduly excluded viable members of the vocational rehabilitation profession, by providing inadequate time for educational training. CSSB 51 would not endanger the integrity of the vocational rehabilitation area; it would only grant valued members of this profession, who were already gainfully employed, the time needed to complete the education necessary for certification.

I am confident that you will carefully review the merits of this legislation. Thank you for your attention in this matter.

Sincerely,

John Lepore

John Lepore
3444 Nowell Ave. #309
Juneau, Alaska 99801

SB

53

STATE OF ALASKA
THE LEGISLATURE

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

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

SB 53

H. HESS 4/19/90

H. HESS 4/25/90

HOUSE COMMITTEE REPORT

(7)
Date Referred: April 10, 1990 FURTHER REFERRALS:

FINANCE

Date of Committee Action: 4/19/90

The HESS Committee considered: CSSB 53(Hess)

CS SB NO. 53 (HESS) COLA ADJUSTMENT FOR RETIRED TEACHERS

"An Act relating to the teachers' retirement system; and providing for an effective date."

RECOMMENDATIONS:
[X] be replaced with HCS CS HB 53 (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 _____
[ ] zero fiscal note _____
[ ] zero with analysis _____

APPROVES PREVIOUS: (Date/Dept)
[X] fiscal note(s) 3/26/90 / Admin
[ ] zero fiscal note(s) _____
[ ] zero fn/analysis _____

SIGNING DO PASS:
Ltg Ellis
Mark Boyer
Whitmire
Montgomery
Chris Davis

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend

Ltg Ellis
Chairman's Signature

NEA-ALASKA

AFFILIATED WITH THE NATIONAL EDUCATION ASSOCIATION

ANCHORAGE REGIONAL OFFICE
1411 W. 33RD AVENUE
ANCHORAGE, ALASKA 99503
(907) 274-0536

JUNEAU OFFICE
705 MUNICIPAL WAY, SUITE 302
JUNEAU, ALASKA 99801
(907) 586-3090

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

March 15, 1990

To: Senator Paul Fischer, Chair
Members, Senate HESS Committee

Re: Senate Bill No. 53
"An Act relating to the teachers' retirement system, and providing for an effective date."

NEA-Alaska strongly supports and encourages your favorable consideration of SB 53. Establishing an annual post retirement pension adjustment is a legislative priority of NEA-Alaska and its 6,000+ members.

It is our understanding that the CS for SB 53 which will be before the Committee makes the annual post retirement pension adjustment (PRPA) revenue neutral and may in fact show a slight savings for the state and school district employers by increasing employee contributions and making some prospective changes in the benefit system.

As evidenced by Section 1 in the CS current active members are willing to share in a portion of the cost increase in order to provide for an annual post retirement pension adjustment and that it will be based on sound actuarial funding.

Provision for an annual adjustment to their fixed retirement income will obviously provide some help to retirees relative to the adverse effects of inflation. It should also be noted that teachers in Alaska do not have access to Social Security or any other supplemental benefit system except as they are able to provide for same on their own initiative.

The CS for SB 53 improves and makes the TRS a better system. As such it will make teaching in Alaska more attractive as a professional career and should mitigate some against excessive employee turnover. This contributes to the overall quality of our collective effort in public education.

In 1986 similar legislation was passed relative to the Public Employee's Retirement System. It is time to do the same for the TRS.

Thank you for your consideration of our position.

Respectfully submitted,

Bob Manners
Executive Director

Don Oberg
President

cc: Senator Jim Duncan

Probable Components CS for SB 53 - PRPA

* new - means for people employed after effective date

1. PRPA
   a. age 65 and over the lessor of 75% CPI or 9%
   b. age 60-65, the lessor of 50% CPI or 6%
   c. Ad hoc PRPA up to 4%

   Retirees:
   - a, b, or c, whichever is greater

   Current active:
   - a, b, or c, whichever is greater
   - minimally eligible for b eight years after retirement

   New:
   - minimally eligible for b eight years after retirement

2. Health Insurance Premium Cost

   Retirees/Current active:
   - no change

   New:
   - retiree pays premium to age 60
   - pays 50% between age 60 and 65
   - age 65 or over, fully paid by TRS

3. Normal retirement changed from age 55 to age 60
   Early retirement changed from age 50 to 55

   - applies to New employees only

4. No changes on 20 and out

5. 10% Alaska cost of living differential (COLA)

   Retirees/Current active:
   - no change

   New:
   - not available until age 65

6. Employee Contribution Rate

   Retirees:
   - no effect

   Current active/New:
   - changes from 7% to 8.65% on 1/1/91
   - becomes a before tax contribution

7. Benefit Formula

   Retirees:
   - no change

   Current active/New:
   - 2%/year for first 20 years
   - 2 1/2%/year for each year over 20 years which is earned after the effective date

   (if the effective date is 7/1/90, a teacher has on that date 25 years of credited service, teaches one more year for a total of 26, retirees on 7/1/91; formula is 25 years @ 2% + one year @ 2 1/2%)

8. Elimination of Military Double Dip

   Retirees/Current active:
   - no change

   New:
   - cannot use military time as credited service in the TRS if using those same years to draw a military pension

STATE OF ALASKA
THE LEGISLATURE

LEGISLATIVE AFFAIRS AGENCY

[illegible] STATE CAPITOL
JUNEAU ALASKA 998[illegible]
907 465 [illegible]

MEMORANDUM April 4, 1990

SUBJECT: Sectional analysis of CSSB 53 (HESS)
(Teachers retirement system)

TO: Senator Jim Duncan

FROM: Teresa B. Cramer TBC
Legislative Counsel

You have requested a sectional analysis of the above described bill.

As a preliminary matter, note that a sectional analysis or summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1 increases the contribution rate for members of the Teachers' Retirement System from seven percent to 8.65 percent beginning on January 1, 1991 and directs that contributions be deducted before federal taxes are computed.

Secs. 2 and 3 change the contribution rate by which members of the Teachers' Retirement System first hired on or after July 1, 1990, may buy in military service or Alaska Bureau of Indian Affairs service from seven percent to 8.65 percent.

Sec. 4 requires that a member have received an honorable discharge to be entitled to claim military service in TRS. The section also prohibits a member from receiving TRS retirement benefits for military service for which the member is entitled to receive retirement benefits from the United States government.

Secs. 5 and 6 change the retirement age for members of TRS. Eligibility for normal retirement is changed from 55 years to 60 years, and eligibility for early retirement is changed from 50 years to 55 years.

Sec. 7 increases the multiplier for computing certain benefits payable to TRS members. Benefits for years of service greater than 20 which were earned after July 1, 1990, will be figured by multiplying by two and one-half percent instead of by two percent. Benefits for all service earned before July 1, 1990, and for that part of the benefits that are figured on fewer than 20 years of service are figured at two percent.

Sec. 8 restores language to AS 14.25.110 that was removed from AS 14.25.110(d) by sec. 7.

Secs. 9 and 10 repeat the changes in eligibility for normal and early retirement made by secs. 5 and 6. AS 14.25.125 is the section that grants members eligible to retire under the Public Employees' Retirement System the right to retire under TRS with only two years of membership service in TRS.

Sec. 11 limits eligibility for the cost-of-living allowance (COLA) to retired members of TRS who are state residents and at least 65 years of age or disabled. The COLA is currently payable to retirees of any age who are living in the state.

Sec. 12 changes the post retirement pension adjustment (PRPA) statute to parallel the provisions of PERS, found at AS 39.35.475. Subsection (a) makes the PRPA mandatory if the cost of living, as determined under (f) of the section, has increased during the previous calendar year and limits eligibility to receive the PRPA. Subsections (b) and (c) set out the formula for determining the amount of the PRPA and for figuring fractional benefits for those not retired for the full year. Subsection (d) retains the amount of PRPA's granted while a member was receiving disability benefits for the member's retirement benefit. Subsection (e) includes adjustments granted to deceased members or survivors when figuring death benefits or survivor's benefits under TRS.

Secs. 13 - 15 change eligibility for major medical insurance coverage. Under sec. 15, benefit recipients who choose to be covered and who are younger than 60 must pay the full cost of the insurance premium, benefit recipients between the ages of 60 and 65 must pay one-half the cost, and disabled members and persons 65 years of age or older receive coverage without paying for the premium.

Sec. 16 applies the changes that reduce the value of TRS benefits or limit eligibility for TRS benefits to employees first hired on or after the effective date of the Act. The increase in the contribution rate and the corresponding increase in benefit calculations, including the post retirement pension adjustment, apply to all employees.

Sec. 17 gives the Act an effective date of July 1, 1990.

If I may be of further assistance, please advise.

TC:mi
wkmi6/069

1990 LEGISLATION
POSITION PAPER
DEPARTMENT OF ADMINISTRATION

Division Retirement and Benefits Bill Number CS SB 53

Bill Title An Act relating to Post Retirement Pension Adjustment to TRS.

Position Statement: Explain briefly what bill does, its impacts and Departments' position, i.e. a) support, b) do not support, c) neutral or d) oppose.

SB 53 provides a tremendous opportunity to guarantee teachers that retirement benefits will keep pace with cost-of-living increases, and at the same time, guarantee employers of a related reduction in employer contributions.

This Committee Substitute was developed to provide retired teachers with an automatic, pre-funded, post retirement pension adjustment (PRPA) and an increased benefit multiplier. Cost containment provisions are included to off-set the pre-funding expense.

The current ad hoc PRPA was established on a pay-as-you-go basis. Every time an ad hoc PRPA is issued, the system's unfunded liability is increased, which, in turn, increases the employers' contribution rate--after the fact. The most important aspect of this bill is that it provides for prefunding the PRPAs. The funding of future PRPAs would be incorporated into the plan, with monies set aside in advance. Employer contribution rates would no longer have to "react" to a pension adjustment, and retirees could enjoy some retirement security.

If passed, effective January 1, 1991 teachers' contributions would increase from 7% to 8.65% of salary. These contributions would be with pre-tax, instead of the current after-tax, dollars. Additionally, for those teachers first hired after this bill's effective date, the following provisions would apply:

1. depending on age, each will share in the cost of the health premium after retirement. (For those already hired, the premium is fully paid);
2. none will be eligible for the Alaska cost of living allowance (COLA) until age 65. If the retiree is an Alaska resident, the COLA is an additional 10% of the retirement benefit; and

3. normal retirement age will be 60 instead of 55.

There are administrative costs to implement the provisions of the bill. These costs would be funded by an appropriation from the Teachers' Retirement System; no general fund monies are needed. On the other hand, employer contributions are made with the support of general fund dollars. Under this legislation the employer contribution rate would be REDUCED by .05%, saving an estimated $200 thousand each year.

The Department of Administration and the Division of Retirement and Benefits fully support this legislation. It responsibly adjusts the priorities to ensure an automatic pension adjustment for living cost increases. This enhancement should serve well to attract and retain the best of the teaching profession.

APPROVED:

Director Sally Smith Division Retirement and Benefits

Signature Sally Smith Date 3/23/90

Commissioner Frank S. Baxter

Signature Frank Baxter Date 3/23/90

(For more information, call Sioux Plummer 465-2200) Rev. 12/89

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: CSSB 53 (HESS)
Publish Date: 3/26/90

FISCAL NOTE

REQUEST:

Revision Date:
Agency Affected: Administration
Title: An Act relating to Post Retirement Pension Adjustments in TRS
BRU: Retirement and Benefits
Sponsor: Duncan
Components: Retirement and Benefits
Requestor:

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY 92	FY 93	FY 94	FY 95	FY 96
PERSONAL SERVICES	55.5	55.5	55.5	55.5	55.5	55.5
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	233.7	.3	.3	.3	.3	.3
SUPPLIES	.2	.1	.1	.1	.1	.1
EQUIPMENT	44.5	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	333.9	55.9	55.9	55.9	55.9	55.9
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER	333.9	55.9	55.9	55.9	55.9	55.9
TOTAL	333.9	55.9	55.9	55.9	55.9	55.9

POSITIONS:

FULL-TIME	1	1	1	1	1	1
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary) THESE ADMINISTRATIVE COSTS WILL BE BORNE BY THE TEACHERS' RETIREMENT FUND. THEY WILL NOT IMPACT THE GENERAL FUND.

Please refer to page 2 for a detailed discussion of the administrative costs.

THIS BILL IS ESTIMATED TO SAVE THE STATE $29.1 IN PERSONAL SERVICES COSTS IN FY 91 AND EACH YEAR THEREAFTER. THIS BILL IS ESTIMATED TO SAVE SCHOOL DISTRICTS $172.1 IN PERSONAL SERVICES COSTS IN FY 91 AND EACH YEAR THEREAFTER. Please refer to page 3 for discussion.

Prepared by: Sally Smith, Director
Phone: 465-4460
Division: Retirement and Benefits
Date: 3/22/90

Approved by Commissioner: Frank S. Baxter
Date: 3/23/90
Agency: Department of Administration

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

15/6K1/030704-0/182

Rev: 11/89

Committee Substitute for Senate Bill 53
Fiscal Note Analysis
Prepared by Division of Retirement & Benefits
Department of Administration
March 9, 1990

Analysis: This bill would establish a pre-funded automatic post retirement pension adjustment (PRPA) and several other cost containment measures in the Teachers' Retirement Systems (TRS). A savings to employers of $200,000 each year is estimated, after considering the costs for automated systems enhancements and ongoing maintenance.

The PRPA would be granted from July 1 of each year if the Consumer Price Index for Anchorage (CPI-W) increased during the prior calendar year. The bill would also increase the benefit formula to encourage members who accumulate 20 years of membership service to continue teaching. The cost containment provisions implemented by this bill would parallel the Public Employees Retirement System.

The total estimated administrative cost to the division of $333.9 for FY 91 is for personal and contractual services. During the first year, a permanent programer/analyst IV would develop the changes to the TRS automated system in cooperation with a firm contracted to assist. In the second and subsequent years the A/P IV would complete the project and provide ongoing maintenance for the automatic PRPA system and benefit calculation systems for both the TRS and the Public Employees Retirement System. Current staff would not be able to absorb this increased workload.

Committee Substitute for Senate Bill 53
Analysis of Financial Impact to the Retirement Fund
Prepared by Division of Retirement & Benefits
Department of Administration
March 9, 1990

Analysis: This bill would decrease the state Teachers' Retirement System (TRS) contribution rate by 0.05% in FY 91. The state TRS payroll is estimated to be $58,159,258 in FY 91 and remain stable thereafter.

The state savings of $29,080 are calculated as follows:

Department of Education FY 91 estimated salary	$5,673,729
Decrease in TRS rate	X 0.05%
Total savings.....	$ 2,837
University of Alaska FY 91 estimated salary	$52,485,529
Decrease in TRS rate	X 0.05%
Total savings.....	$ 26,243
TOTAL STATE SAVINGS...	$29,080

In addition to these state savings, the school districts' contribution rates would likely decrease by 0.05% in FY 91. The school districts' salaries are estimated to be $ 344,238,828 in FY 91 and remain stable each year thereafter.

The school districts' savings of $103,272 are calculated as follows:

School district FY 91 estimated salaries	$344,238,828
Decrease in TRS rate	X 0.05%
TOTAL SCHOOL DISTRICT SAVINGS...	$172,119

Passage of this bill will have no measurable impact on the TRS unfunded liability. It will not affect the TRS funding ratio.

Position Title	No. of Positions	Range/Step	Barg. Unit
Analyst/Programmer IV	1	19A	GG

Time Status	Staff Months	Location	Election District
PE/FT	12.0	Juneau	4

Type of Expenditure		Amount
1	2	3
Salary	40,032	
Benefits	15,480	
Premium Pay		
Other		
Total Personal Services		55,512
Travel		0
Contractual		350
Commodities		100
Equipment		22,250
Other		
Total Cost		79,212

Funding Source for Total Cost		
Federal Receipts	1002	
G. F. Match	1003	
General Fund	1004	
I-A Receipts	1006	
CIP Receipts	1061	
Other	Teachers' Retirement 1034	79,212

Justification

This position will be responsible for the analysis, design, programming, implementation, maintenance, and enhancement of systems and subsystems mandated by CSSB 53. This includes tracking and overseeing contract analyst/programmer work during the first year of the development effort, continuing development to completion in the second or third year, interfacing and maintaining interfaces of the newly developed systems with all other State systems and other systems as appropriate, and maintaining all systems developed by this project as they become operational.

8/6B1/030709-0

Request For New Position

Agency: Administration

BRU: Retirement and Benefits

Component: Retirement and Benefits

Revised Date

FY 91

SB

70

HOUSE COMMITTEE REPORT

(7)
Date Referred: March 3, 1989 FURTHER REFERRALS: JUDICIARY

Date of Committee Action: 3/29/89

The HEALTH, EDUCATION, & SOCIAL SERVICES Committee considered: CSSB 70(FIN)

CS FOR SENATE BILL NO. 70 (Finance)
[GENETIC TESTING IN PATERNITY CASES]
"An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

RECOMMENDATIONS:
[ ] be replaced with _____ [ ] 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)
[ ] fiscal impact _____
[ ] zero fiscal note _____
[ ] zero with analysis _____

APPROVES PREVIOUS: (Date/Dept)
[ ] fiscal note(s) _____
[ ] zero fiscal note(s) _____
[X] zero fn/analysis 2/28/89 DOR

SIGNING DO PASS:

J. Ellis

SIGNING: (Check approp. column)

	Do Not Pass	No Rec	Amend
Mary Sue Feldman			X
Cheri Davis		X	
Terry Martin		X	
Arthur Bolger		X	
Steve Frier		X	

J. Ellis
Chairman's signature

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage

Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

MEMORANDUM

TO: Representative Johnny Ellis
Chair, House HESS Committee

FROM: Senator Rick Uehling

DATE: March 3, 1989

RE: CSSB 70: "An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure

I have asked staff to provide the following background and analysis to CSSB 70, which has been referred to the Health, Education and Social Services Committee. At this time, I respectfully request that this bill be scheduled for hearing.

CSSB 70 is one of a group of companion bills which address new federal requirements mandated by the federal welfare reform act signed into law in October 1988.

CSSB 70 has the effect of amending a court rule by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

P.O. BOX V, JUNEAU, AK 99811 (907) 465-4821 • 3111 ST. 0515, ANCHORAGE, AK 99503 (907) 561-7613

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage

Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

Bill Summary: CS SB 70(FIN)

CS SB 70 has the effect of amending Civil rule 35 by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

CS SB 70 requires the Child Support Enforcement Agency to pay for tests and procedures which it orders. CS SB 70 also describes the process to be used by the Child Support Enforcement Agency to recover the costs for the tests.

The federal Act provides for a 90/10 federal/state match to pay for the test costs which Child Support Enforcement incurs as a result of this legislation which are not recoverable.

Federal regulations prohibit Child Support Enforcement from recovering costs of tests from persons receiving Aid to Families with Dependent Children.

2/8/89

P.O. BOX V, JUNEAU, AK 99811 (907) 465-4421 • 3111 SE #515, ANCHORAGE, AK 99503 (907) 561-7613

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage

Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

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45 CFR 232 "Special Provisions..."

VII. Statute: AS 25.20.050
AS 47.23.040

VIII. PL 100-485 "Family Support Act of 1988"

P.O. BOX V, JUNEAU, AK 99811 (907) 465-4821 • 3111 ST. #515, ANCHORAGE, AK 99503 (907) 561-7613

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage

Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

BILL HISTORY SB 70

1/09/89	First Reading, Senate
2/08/89	HESS Committee Substitute *Eliminated billing provision, substituted civil cost recovery process. Amendments eliminated fiscal note.
2/15/89	Judiciary Committee Substitute *Restricted mandatory genetic testing to those contested cases where the state is a party to the action.
2/22/89	Finance Committee Substitute *Eliminated all references to the Federal Code of Regulations. Amendments solved technical problems created by use of federal regulations in state statute.
3/02/89	Senate Floor Vote *15 Yeas, 0 Nays, 2 Excused, 3 Absent

P.O. BOX V, JUNEAU, AK 99811 (907) 465-4821 • 3111 ST. #515, ANCHORAGE, AK 99503 (907) 561-7613

Offered: 2/22/89
Referred: Rules

6-0231J

Original sponsors: Uehling, Pearce, and Sturgulewski

IN THE SENATE BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 70 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

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

* Section 1. AS 25.20.050 is amended by adding new subsections to read:

(e) On request of a party in a contested paternity action to which the state is a party, the court shall order the mother, the child, and the putative parent to submit to a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure designed to determine the statistical probability that the putative parent is a legal parent of the child in question.

(f) If the child support enforcement agency is a party in a contested paternity action, the agency shall request the court to order the tests and procedures described in (e) of this section. The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children).

* Sec. 2. AS 47.25.040(a) is amended to read:

(a) The agency shall appear on behalf of minor children or their mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian. When

the agency is a party in a contested paternity action, it shall request and pay for tests and procedures under AS 25.20.050(f). The agency may recover the costs of the tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children).

* Sec. 3. AS 25.20.05U(e), enacted by sec. 1 of this Act, has the effect of amending Civil Rule 35 by requiring a court in a contested paternity action to which the state is a party to order certain genetic tests on the request of a party.

* Sec. 4. This Act takes effect November 1, 1989.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

Bill Version: CS SB 70 (FIN)
Publish Date:

FISCAL NOTE

REQUEST:

Revision Date:
Title: An Act relating to certain testing in contested paternity actions
Sponsor: Senator Uehling
Requestor: Senate Finance Committee

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Division
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: The committee substitute essentially codifies the current procedure under which the State recovers its costs for blood testing to establish paternities and imposes no additional administrative costs on the Child Support Enforcement Division.

Prepared By: Linda Langston
Phone: 276-3441
Division: Child Support Enforcement Division
Date: February 22, 1989

Approved by Commissioner: Hugh Malone
Date: 2/24/89
Agency: Department of Revenue

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

RECEIVED
FEB 27 1989
LEGISLATIVE FINANCE

Introduced: 1/9/89
Referred: Health, Education and
Social Services and Finance

6 7211A

BY UEHLING, PEARCE
AND STURGULEWSKI

IN THE SENATE

SENATE BILL NO. 70

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

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

* Section 1. AS 25.20.050 is amended by adding new subsections to read:

(e) On request of a party in a contested paternity action, the court shall order the child and all other parties to submit to a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure designed to determine the statistical probability that the putative parent is a legal parent of the child in question except that the order may not apply to a person who has been found under applicable federal regulations to have good cause not to cooperate.

(f) If the child support enforcement agency is a party in a contested paternity action, the agency shall request the court to order the tests and procedures described in (e) of this section. The agency may impose a fee on a person for that person's tests and procedures if the person is not a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). The fee authorized by this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 2. AS 47.23.040(a) is amended to read:

(a) The agency shall appear on behalf of minor children or their

mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian. When the agency is a party in a contested paternity action, it shall request and pay for tests and procedures under AS 25.20.050(f). The agency may impose a fee on a person for that person's tests and procedures if the individual is not a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). The fee authorized by this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the effect of amending Civil Rule 35 by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

* Sec. 4. This Act takes effect November 1, 1989.

CORRECTION

THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
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mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian. When the agency is a party in a contested paternity action, it shall request and pay for tests and procedures under AS 25.20.050(f). The agency may impose a fee on a person for that person's tests and procedures if the individual is not a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). The fee authorized by this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the effect of amending Civil Rule 35 by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

* Sec. 4. This Act takes effect November 1, 1989.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

BILL VERSION: SB 70
PUBLISH DATE:

FISCAL NOTE

REQUEST:

Revision Date:
Title: An act relating to certain testing in contested paternity actions.
Sponsor: Senator Uehling
Requestor: Senate HESS

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Agency
Components: Operating

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 90	FY 91	FY 92	FY 93	FY 94	FY 95
OPERATING						
PERSONAL SERVICES	63.1	63.1	63.1	63.1	63.1	63.1
TRAVEL						
CONTRACTUAL	5.5	1.0	1.0	1.0	1.0	1.0
SUPPLIES						
EQUIPMENT	23.9	0	0	0	0	0
LANDS & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	92.5	64.1	64.1	64.1	64.1	64.1
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	23.4	13.2	13.2	13.2	13.2	13.2
FEDERAL FUNDS	61.0	42.3	42.3	42.3	42.3	42.3
OTHER GF/PGM	8.1	8.6	8.6	8.6	8.6	8.6
TOTAL	92.5	64.1	64.1	64.1	64.1	64.1

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

ANALYSIS: See attached analysis.

Prepared By: Linda Langston
Division: Child Support Enforcement Division
Phone: 276-3441
Date: February 6, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue
Date: February 6, 1989

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

111 Version SB 70
Analysis

	FY90	FY91	FY92	FY93	FY94	FY95
Personal Services:						
(2) PFT Clerk V's*	63.1	63.1	63.1	63.1	63.1	63.1
Contractual:						
Telephone installation, local/long distance costs	1.1	1.0	1.0	1.0	1.0	1.0
Space rental (104 sq.ft.)	4.4					
Equipment:						
Modular Furniture	21.0					
Purchase 2 data processing terminals	2.9					
Total	92.5	64.1	64.1	64.1	64.1	64.1

* Clerk V positions will be involved in the case management activities related to fee administration. Duties will include identifying cases, set-up, charging and collection of fees; parent location file maintenance; and the monitoring of parent status.

IN THE SENATE

BY THE HEALTH, EDUCATION, AND SOCIAL SERVICES COMMITTEE

CS FOR SENATE BILL NO. 70 (HESS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

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

* Section 1. AS 25.20.050 is amended by adding new subsections to read:

(e) On request of a party in a contested paternity action, the court shall order the mother, the child, and the putative parent to submit to a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure designed to determine the statistical probability that the putative parent is a legal parent of the child in question except that the order may not apply to a person who has been found under applicable federal regulations to have good cause not to cooperate.

(f) If the child support enforcement agency is a party in a contested paternity action, the agency shall request the court to order the tests and procedures described in (e) of this section. The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). Costs recovered under this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 2. AS 47.23.040(a) is amended to read:

(a) The agency shall appear on behalf of minor children or their

ORIGINAL

mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian. When the agency is a party in a contested paternity action, it shall request and pay for tests and procedures under AS 25.20.050(f). The agency may recover the costs of the tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). Cost recoveries authorized under this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the effect of amending Civil Rule 35 by requiring a court in a contested paternity action to order certain genetic tests on the request of a party.

* Sec. 4. This Act takes effect November 1, 1989.

Submitted This morning to Sen. Sec.

STATE OF ALASKA
[illegible] LEGISLATIVE SESSION

Bill Version: CS SB 70 (HESS)
Publish Date:

FISCAL NOTE

REQUEST:
Revision Date:
Title: An act relating to certain testing in contested paternity actions.
Sponsor: Senator Uehling
Requestor: Senate HESS

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Division
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: The committee substitute essentially codifies the current procedure under which the State recovers its costs for blood testing to establish paternities, and imposes no additional administrative costs on the Child Support Enforcement Division.

Prepared By: Linda Langston
Division: Child Support Enforcement Division
Phone: 276-3441
Date: February 7, 1989

Approved by Commissioner: Hugh Malone for
Agency: Department of Revenue
Date: 2/8/89

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

Offered: 2/15/89 6-0231H
Referred: Finance

Original sponsors: Uehling, Pearce, and Sturgulewski

IN THE SENATE BY THE JUDICIARY COMMITTEE

CS FOR SENATE BILL NO. 70 (Judiciary)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - FIRST SESSION

A BILL

For an Act entitled: "An Act relating to certain testing in contested paternity actions; amending Rule 35, Alaska Rules of Civil Procedure; and providing for an effective date."

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

* Section 1. AS 25.20.050 is amended by adding new subsections to read:

(e) On request of a party in a contested paternity action to which the state is a party, the court shall order the mother, the child, and the putative parent to submit to a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure designed to determine the statistical probability that the putative parent is a legal parent of the child in question except that the order may not apply to a person who has been found under applicable federal regulations to have good cause not to cooperate.

(f) If the child support enforcement agency is a party in a contested paternity action, the agency shall request the court to order the tests and procedures described in (e) of this section. The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). Costs recovered under this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 2. AS 47.23.040(a) is amended to read:

(a) The agency shall appear on behalf of minor children or their

mother or legal custodian or the state and initiate efforts to have the paternity of children born out of wedlock determined by the court on voluntary application by the mother or other legal custodian. When the agency is a party in a contested paternity action, it shall request and pay for tests and procedures under AS 25.20.050(f). The agency may recover the costs of the tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). Cost recoveries authorized under this subsection may not conflict with requirements of applicable federal regulations.

* Sec. 3. AS 25.20.050(e), enacted by sec. 1 of this Act, has the effect of amending Civil Rule 35 by requiring a court in a contested paternity action to which the state is a party to order certain genetic tests on the request of a party.

* Sec. 4. This Act takes effect November 1, 1989.

STATE OF ALASKA
1989 LEGISLATIVE SESSION

Bill Version: CS SB 70 (JUD)
Publish Date:

FISCAL NOTE

REQUEST:
Revision Date:
Title: An act relating to certain testing in contested paternity actions.
Sponsor: Senator Uehling
Requestor: Senate Judiciary

Agency Affected: Department of Revenue
BRU: Child Support Enforcement Division
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
OPERATING						
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LANDS & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: The committee substitute essentially codifies the current procedure under which the State recovers its costs for blood testing to establish paternities, and imposes no additional administrative costs on the Child Support Enforcement Division.

Prepared By: Linda Langston
Division: Child Support Enforcement Division
Phone: 276-3441
Date: February 15, 1989

Approved by Commissioner: Hugh Malone
Agency: Department of Revenue
Date: February 15, 1989

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

CS(JUD)

Senator Rick Uehling

Downtown, Elmendorf, Northeast Anchorage

Co-Chairman, Senate Finance Committee
International Trade & Tourism Committee
State Affairs Committee

SECTIONAL ANALYSIS CS SB 70(FIN)

Following is a sectional analysis of CS SB 70, a bill relating to the genetic testing requirements of the Federal Family Support Act of 1988.

Sec. 1 arises from section 111(b) of the federal Act. That section requires the state "to require the child and all interested parties in a contested paternity case to submit to genetic tests upon request of any such party...(except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate)." AS 25.20.050(e) implements this requirement. AS 25.20.050(f) directs the CSEA to be the requesting party when genetic testing is at issue. This means that CSEA will bear the costs of the tests because court rules place the costs on the requesting party. However, the federal Act allows the state to recover the costs of the test. AS 25.20.050(f) specifies that the agency may recover the costs of the paternity tests through the civil recovery process.

Sec. 2 makes parallel amendments in the CSEA statutes.

Sec. 3 notes that a court rule is affected by this bill. Genetic testing is currently at the discretion of the court on a showing of good cause. This bill would make the testing mandatory on the request of a party.

Sec. 4 gives the bill the effective date required by the federal Act.

P.O. BOX V, JUNEAU, AK 99811 (907) 465-4821 • 3111 ST. 8515, ANCHORAGE, AK 99503 (907) 561-7613

DEPARTMENTAL RESPONSE

Department of Revenue

SB 70

"An Act Relating to certain testing
in contested paternity actions;
amending Rule 35."

1-23-89

SECTION 1. We recommend changes in the language of new subsection (e) to read:

"AS 25.20.050 is amended by adding new subsections to read: (e) On request of a party in a contested paternity action, the court shall order the mother, the child, and the putative parent to submit to a blood test, tissue-type test, protein comparison, or other scientifically accepted procedure designed to determine the statistical probability that the putative parent is a legal parent of the child in question." We recommend striking the final clause of proposed subsection (e) ["except that the order may not apply to a person who has been found under applicable Federal regulations to have good cause not to cooperate."] because it is unnecessary. The Good Cause determination is made before a case reaches the stage of paternity establishment.

We strongly recommend revision of the new language in subsection (b) to read as follows: "(b) If the child support enforcement agency is a party in a contested paternity action, the agency shall request the court to order the tests and procedures described in (e) of this section. The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310 - 47.25.420 (Aid to Families with Dependent Children). Cost recoveries authorized under this subsection may not conflict with requirements of applicable Federal regulations.

SECTION 2. We strongly recommend a similar revision, as above, in the proposed language of this section. Our recommended revised language would read: "When the agency is a party in a contested paternity action, it shall request tests and procedures under AS 25.20.050 (f). The agency may recover the costs of tests as a cost of the action, except that no costs shall be recovered from a person who is a recipient of aid under AS 47.25.310-47.25.420 (Aid to Families with Dependent Children). Cost recoveries authorized under this subsection may not conflict with requirements of applicable Federal regulations.

SECTION 3. No objection. Recommend approval.

SECTION 4. No objection. Recommend approval.

§ 302.30 Publicizing the availability of support enforcement services.

Effective October 1, 1985, the State plan shall provide that the State will publicize regularly and frequently the availability of support enforcement services under the plan through public service announcements. Publicity must include information on any application fees which may be imposed for such services and a telephone number or postal address where further information may be obtained.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19647, May 9, 1985, as amended at 51 FR 37731, Oct. 24, 1986]

§ 302.31 Establishing paternity and securing support.

The State plan shall provide that:

(a) The IV-D agency will undertake:

(1) In the case of a child born out of wedlock with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, to establish the paternity of such child; and

(2) In the case of any individual with respect to whom an assignment under § 232.11 of this title or section 471(a)(17) of the Act is effective, to secure support for a child or children from any person who is legally liable for such support, using State laws and reciprocal arrangements adopted with other States when appropriate. Effective October 1, 1985, this includes securing support for a spouse or former spouse who is living with the child or children, but only if a support obligation has been established for that spouse and the child support obligation is being enforced under the title IV-D State plan.

(3) When assigned support payments are received and retained by an AFDC recipient, to proceed as follows:

(i) In States that implement the IV-A State plan requirements to count retained support payments as income under 45 CFR 233.20(a)(3)(v), the IV-D agency shall notify the IV-A agency whenever it discovers that directly received payments are being, or have been, retained; or

(ii) In States that do not implement the IV-A State plan requirements to count retained support payments as income to meet need, the IV-D agency shall recover the retained support payments. This recovery by the IV-D agency shall be carried out in accordance with the standards for program operations provided in § 303.80 of this chapter.

(b) Upon receiving notice from the IV-A or IV-E agency that there has been a claim of good cause under § 232.40 of this title, the IV-D agency will suspend all activities to establish paternity or secure support until notified of a final determination by the IV-A or IV-E agency.

(c) The IV-D agency will not undertake to establish paternity or secure support in any case for which it has received notice from the IV-A or IV-E agency that there has been a finding of good cause pursuant to §§ 232.40 through 232.49 of this title unless there has been a determination by the State or local IV-A or IV-E agency that support enforcement may proceed without the participation of the caretaker or other relative. If there has been such a determination, the IV-D agency will undertake to establish paternity or secure support but may not involve the caretaker or other relative in such undertaking.

(Approved by the Office of Management and Budget under control number 0960-0385)

[50 FR 19047, May 9, 1985, as amended at 51 FR 25526, July 15, 1986; 51 FR 37731, Oct. 24, 1986]

§ 302.32 Support payments to the IV-D agency.

The State plan shall provide that:

(a) In any case in which support payments are collected for a recipient of aid under the State's title IV-A plan with respect to whom an assignment under § 232.11 is effective, such payments shall be made to the IV-D agency and shall not be paid directly to the family.

(b) As soon as possible but not later than 30 days after the end of a month, the IV-D agency will inform the agency administering the State's title IV-A plan of the amount of the collection which represents payment on the required support obligation for that month as determined in § 302.51(a). Upon being informed of this amount, the IV-A agency will determine if such amount is sufficient to make the family ineligible for an assistance payment pursuant to the State's IV-A plan (See § 232.20 of Chapter II of this title). If such amount is sufficient to make the family ineligible for an assistance payment, the IV-A agency will notify the IV-D agency and the IV-D agency will distribute the amount collected pursuant to § 302.51 of this part. The IV-D agency will notify the family that it will continue to provide services pursuant to § 302.51(e)(1) of this part.

(c) If the IV-A agency determines that the amount of the collection which represents payment on the required support obligation for the month does not make the family ineligible for an assistance payment, or if a hearing is requested pursuant to § 205.10 of this title, the IV-A agency will notify the IV-D agency of such fact and the IV-D agency will distribute such amount pursuant to § 302.51 of this part.

(d) To the extent any amount collected in a month includes payment on required support obligations for past months, that portion of such amount will be distributed by the IV-D agency pursuant to § 302.51(b) (4) and (5) of this part.

(e) Support collected in a month after any month in which the support collected makes the family ineligible for an assistance payment (pursuant to § 232.20 of this title) but prior to or in the month in which the family receives its last assistance payment, shall be used to reimburse the State for any assistance paid in such months with any excess being paid to the family. This provision will not apply when a hearing is requested pursuant to § 205.10 of this title. In these cases, when the hearing results in a determination that the family was ineligible for an assistance payment, the IV-D agency will determine the amount by which the entire support collection for a month that the family would have received pursuant to paragraph (b) of this section exceeds the amount the family actually received for a month as an assistance payment and pursuant to § 302.51. Such excess shall be paid to the family. If the family is determined to be eligible, distribution will continue to be made pursuant to § 302.51.

(Approved by the Office of Management and Budget under control number 0960-0385)

[40 FR 27159, June 26, 1975, as amended at 47 FR 57281, Dec. 23, 1982; 49 FR 22289, May 29, 1984; 50 FR 19048, May 9, 1985; 51 FR 37731, Oct. 24, 1986]

§ 302.33 Individuals not otherwise eligible for paternity and support services.

(a) *Availability of services.* The State plan must provide that the support collection or paternity determination services established under the plan shall be made available to any individual not receiving assistance under the Aid to Families with Dependent Children (AFDC) program who files an application for the services with the IV-D agency. In an interstate case, only the initiating State may require an application under this section.

(b) *Definitions.* For purposes of this section:

"Applicant's income" means the disposable income available for the applicant's use under State law.

(c) *Application fee.* (1) Until October 1, 1985, the State plan may provide for an application fee to be charged each individual who applies for services under this section. If the State elects to charge a fee, the State plan shall specify either:

(i) A flat dollar amount not to exceed $25 to be charged each applicant; or

(ii) A fee schedule to be used to determine the fee to be charged each applicant. Such fee schedule will be based on each applicant's income and will be designed so as not to discourage the application for such services by those most in need of them.

(2) Beginning October 1, 1985, the State plan must provide that an application fee will be charged for each individual who applies for services under this section. Under this paragraph:

(i) The State shall collect the application fee from the individual applying for IV-D services or pay the application fee out of State funds.

flect the value of the services rendered, or the amount of time given to the agency.

[34 FR 1319, Jan. 28, 1969]

§ 225.2 State plan requirements.

The State plan for financial assistance programs under titles I, X, XIV, or XVI (AABD) of the Social Security Act for Guam, Puerto Rico and the Virgin Islands or for child welfare services under title IV-B of the Act must:

(a) Provide for the training and effective use of subprofessional staff as community service aides through part-time or full-time employment of persons of low income and, where applicable, of recipients and for that purpose will provide for:

(1) Such methods of recruitment and selection as will offer opportunity for full-time or part-time employment of persons of low income and little or no formal education, including employment of young and middle aged adults, older persons, and the physically and mentally disabled, and in the case of a State plan for financial assistance under title I, X, XIV, or XVI (AABD), of recipients: And will provide that such subprofessional positions are subject to merit system requirements, except where special exemption is approved on the basis of a State alternative plan for recruitment and selection among the disadvantaged of persons who have the potential ability for training and job performance to help assure achievement of program objectives;

(2) An administrative staffing plan to include the range of service personnel of which subprofessional staff are an integral part;

(3) A career service plan permitting persons to enter employment at the subprofessional level and, according to their abilities, through work experience, pre-service and in-service training and educational leave with pay, progress to positions of increasing responsibility and reward;

(4) An organized training program, supervision, and supportive services for subprofessional staff; and

(5) Annual progressive expansion of the plan to assure utilization of increasing numbers of subprofessional staff as community service aides, until an appropriate number and proportion of subprofessional staff to professional staff are achieved to make maximum use of subprofessionals in program operation.

(b) Provide for the use of nonpaid or partially paid volunteers in providing services and in assisting any advisory committees established by the State agency and for that purpose provide for:

(1) A position in which rests responsibility for the development, organization, and administration of the volunteer program, and for coordination of the program with related functions;

(2) Methods of recruitment and selection which will assure participation of volunteers of all income levels in planning capacities and service provision;

(3) A program for organized training and supervision of such volunteers;

(4) Meeting the costs incident to volunteer service and assuring that no individual shall be deprived of the opportunity to serve because of the expenses involved in such service; and

(5) Annual progressive expansion of the numbers of volunteers utilized, until the volunteer program is adequate for the achievement of the agency's service goals.

[34 FR 1320, Jan. 28, 1969, as amended at 41 FR 12016, Mar. 23, 1976; 42 FR 60506, Nov. 28, 1977; 45 FR 60086, Aug. 25, 1980; 51 FR 9204, Mar. 18, 1986]

§ 225.3 Federal financial participation.

Under the State plan for financial assistance programs under titles I, X, XIV, XVI (AABD) or for child welfare services under title IV-B of the Act, Federal financial participation in expenditures for the recruitment, selection, training, and employment and other use of subprofessional staff and volunteers is available at the rates and under related conditions established for training, services, and other administrative costs under the respective titles.

[51 FR 9204, Mar. 18, 1986]

PART 232—SPECIAL PROVISIONS APPLICABLE TO TITLE IV-A OF THE SOCIAL SECURITY ACT

Sec.
232.1 Scope.
232.2 Child support program; State plan requirements.
232.11 Assignment of rights to support.
232.12 Cooperation in obtaining support.
232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.
232.21 Computation of a supplemental payment when there is a support payment.
232.30 Cost of staff of special administrative units.
232.40 Claiming good cause for refusing to cooperate.
232.41 Determination of good cause for refusal to cooperate.
232.42 Good cause circumstances.
232.43 Proof of good cause claim.
232.44 Participation by the State IV-D agency.
232.45 Notice to the IV-D agency.
232.46 Granting or continuation of assistance.
232.47 Periodic review of good cause determination.
232.48 Record keeping in good cause.
232.49 Enforcement without the caretaker's cooperation.

APPENDIX A—MODEL TWO-PART GOOD CAUSE NOTICE

AUTHORITY: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

§ 232.1 Scope.

This part implements provisions of titles IV-A and IV-D of the Social Security Act that are applicable only to the AFDC program and establishes other administrative and fiscal requirements.

(Sec. 1102, Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97-35, 95 Stat. 843)

[47 FR 5674, Feb. 5, 1982]

§ 232.2 Child support program; State plan requirements.

The State plan must specify that the State:

(a) Has in effect a plan approved under Part D of title IV of the Act; and

(b) Operates a child support program in conformity with such plan.

[40 FR 27154, June 26, 1975]

§ 232.11 Assignment of rights to support.

(a) The State plan must provide that:

(1) As a condition of eligibility for assistance, each applicant for or recipient of AFDC shall assign to the State any rights to support from any other person as such applicant or recipient may have:

(i) In his own behalf or in behalf of any other family member for whom the applicant or recipient is applying for or receiving assistance; and

(ii) Which have accrued at the time such assignment is executed.

(2) If the relative with whom a child is living fails to comply with the requirements of paragraph (a)(1), (2), or (3) of this section, such relative shall be denied eligibility without regard to other eligibility factors.

(3) If the relative with whom a child is living is found to be ineligible for assistance because of failure to comply with the requirements of paragraph (a)(1), (2), or (3) of this section, any aid for which such child is eligible (determined without regard to the needs of the ineligible relative) will be provided in the form of protective payments as described in § 234.60 of this chapter.

(4) For new applicants, the requirements of paragraph (a) of this section shall be effective August 1, 1975; and for current recipients, it shall be effective as determined by the State agency but not later than the time of the next redetermination of eligibility required by § 206.10(a)(9) of this chapter and in any event not later than February 1, 1976.

(b) An assignment by operation of State law which is substantially identical to the requirements of paragraph (a)(1) may be utilized in lieu of the assignment described in that paragraph.

(c) If there is a failure to execute an assignment pursuant to this section, the State may attempt to establish paternity and collect child support pursuant to appropriate State statutes and regulations.

[40 FR 27154, June 26, 1975, as amended at 40 FR 52370, Nov. 10, 1975]

93-184 O—87—4

§ 232.12 Cooperation in obtaining support.

The State plan must meet all requirements of this section.

(a) The plan shall provide that as a condition of eligibility for assistance, each applicant for or recipient of AFDC will be required to cooperate (unless good cause for refusing to do so is determined to exist in accordance with §§ 232.40 through 232.49 of this chapter) with the State in:

(1) Identifying and locating the parent of a child for whom aid is claimed;

(2) Establishing the paternity of a child born out of wedlock for whom aid is claimed;

(3) Obtaining support payments for the applicant or recipient and for a child for whom aid is claimed; and

(4) Obtaining any other payments or property due the applicant or recipient or the child.

(b) The plan shall specify that *cooperate* includes any of the following actions that are relevant to, or necessary for, the achievement of the objectives specified in paragraph (a) of this section:

(1) Appearing at an office of the State or local agency or the child support agency as necessary to provide verbal or written information, or documentary evidence, known to, possessed by, or reasonably obtainable by the applicant or recipient;

(2) Appearing as a witness at judicial or other hearings or proceedings;

(3) Providing information, or attesting to the lack of information, under penalty of perjury; and

(4) Paying to the child support agency any support payments received from the absent parent after an assignment under § 232.11 has been made. This includes support payments received in the current month and any amounts due to the IV-D agency under the IV-D State plan provisions for recovery of retained direct support payments at 45 CFR 302.31(a)(3)(ii).

(c) The plan shall provide that, if the child support agency notifies the State or local agency of evidence of failure to cooperate, the State or local agency will act upon that information to enforce the eligibility requirements of this section.

(d) The plan shall provide that, if the caretaker relative fails to cooperate as required by paragraphs (a) and (b) of this section, the State or local agency will:

(1) Deny assistance to the caretaker relative without regard to other eligibility factors; and

(2) Provide assistance to the eligible child in the form of protective payments as described in § 234.60 of this chapter. Such assistance will be determined without regard to the needs of the caretaker relative.

[43 FR 2176, Jan. 16, 1978, as amended at 43 FR 45747, Oct. 3, 1978; 47 FR 43956, Oct. 5, 1982]

§ 232.20 Treatment of child support collections made in the Child Support Enforcement Program as income and resources in the Title IV-A Program.

(a) *Definition.* For purposes of this section, notwithstanding any other regulations in this chapter, support collections, monthly collections and support amounts for a month mean the assigned amount that the support enforcement agency collects from an absent parent or spouse on a monthly support obligation, less the disregarded sum under § 305.51(b)(1).

(b) The State plan must provide that in any case in which support payments are collected for a recipient of AFDC with respect to whom an assignment under § 232.11 is effective:

(1) Upon notification by the IV-D agency of the amount of a support collection, the IV-A agency will use such amount to review eligibility of the assistance unit under § 200.10(a)(9)(iii). This use of these amounts so collected shall not be later than the second month after the month in which the IV-A agency received a report of the monthly collections from the IV-D agency. In determining whether a support collection made by the State's IV-D agency, which represents support amounts for a month as determined pursuant to § 302.51(a) of this title, is sufficient to make the family ineligible for an assistance payment for the month to which the redetermination applies, the State will determine if such collection, when treated as if it were income, makes the family ineligible for an assistance payment. If such treatment makes the family ineligible, the IV-A agency will notify the family and the IV-D agency of the effective date of the family's ineligibility. The IV-D agency will treat the support collection that caused ineligibility in accordance with § 302.32. If such treatment does not make the family ineligible for an assistance payment, the assistance payment will be calculated without regard to such collection except that, when required under § 232.21 supplemental payments must be calculated and issued.

(2) Any payment received pursuant to § 302.51(b) (3) or (5) shall be treated as income in the month following the month to which the redetermination in paragraph (a)(1) of this section applies.

(c) From any amounts of assistance payments which are reimbursed by support collections made by the IV-D agency, the IV-A agency shall pay the Federal government its share of the collections made, after the incentive payments, if any, have been made pursuant to § 302.52 of Chapter III of this title.

(d) The State plan must provide that the IV-A agency, on behalf of the IV-D agency, will promptly pay to the family the sum disregarded under § 305.51(b)(1).

(Sec. 1102, Social Security Act, as amended, 49 Stat. 647, as amended; 42 U.S.C. 1302 and Part XXIII of Pub. L. 97-35, 248, 95 Stat 843, 96 Stat. 324)

[47 FR 5674, Feb. 5, 1982, as amended at 48 FR 28408, June 21, 1983; 49 FR 35599, Sept. 10, 1984; 51 FR 29229, Aug. 15, 1986]

§ 232.21 Computation of a supplemental payment when there is a support payment.

(a) The purpose of this section is to provide for the computation of a supplemental payment under section 402(a)(28) of the Social Security Act. When used in this section—

"Countable income" means the amount of the recipient's gross income that is used in the computation of the assistance payment after application of all disregards, including work-related expenses.

"Countable support payment" means the support collected on the current month's support obligation less an amount not in excess of the first $50 collected on that obligation. It also means the excess payments paid to the recipient by the IV-D agency under 45 CFR 302.51(b) (3) and (5).

"Disposable income" means the sum of the assistance payment, and the countable income used in determining the amount of the payment.

"Arrearages" means all collections of past due support exclusive of those made through the Federal and State income tax refund offset.

(b) The State plan must provide that, if the redetermination under

§ 232.20 indicates that the support payment made on the current month's support obligation would not cause ineligibility, and the State permitted recipients during July 1976 to retain countable income without an equal reduction in their assistance payment, and it currently has such a policy in effect, a supplemental payment will be computed for the current month.

(i) The supplemental payment for a month shall equal the maximum portion of the total support collected in that month which would not reduce the assistance payment if paid directly to the family. In determining this amount, the State agency will—

(I) First consider income from sources other than the support collection; and

(II) Include in the amount of support collected the maximum amount of any arrearages paid which would not cause ineligibility if paid directly to the family.

(2) The supplemental payment will be computed as follows:

(i) The State IV-A agency determines the assistance payment which would result from treating as income to the family the largest amount of the month's child support collection, including arrearages, that will not cause ineligibility. Using that assistance payment, and using that amount of the support collection as countable income, disposable income is computed.

(ii) The State agency then determines the amount of the assistance payment for which the family would be eligible if there were no support collection. Using that assistance payment, disposable income is again computed.

(iii) The supplemental payment is the amount of disposable income as computed in step (i) less the amount of disposable income as computed in step (ii).

(iv) *Examples:*

Example 1. The State computes the assistance payment by subtracting income from the need standard and pays the deficit or a maximum by family size, whichever is less: (All figures are assumed and do not include income from any other source.)

Step (i): Treating countable support payment as income. Subtract a countable support payment of $100 from a need standard of $300. The deficit is $200. Assume the State's maximum for this family size is $150; therefore, the assistance payment would be $150. The assistance unit would have a $150 assistance payment and the $100 countable support payment for a total disposable income of $250.

Step (ii): Not treating countable support payment as income. There is no income to subtract from the need standard. Thus the assistance payment would be the maximum of $150 for this family size, which would also be the disposable income.

Step (iii): Taking the difference. The supplemental payment is the difference between the disposable income computed under steps (i) and (ii), $250 minus $150, or $100.

Example 2. The State computes the assistance payment by subtracting income from a reduced need standard and pays the deficit or a maximum by family size, whichever is less. Assume a need standard of $400, a ratable reduction of 70%, and a maximum assistance payment of $200. Also assume a $500 total child support collection for the month, $200 of which is the current month's support obligation. The State's minimum payment is $5.

Step (i): Treating countable support payments as income. Determine the largest part of the $500 child support collection which would not cause ineligibility if counted as income to the assistance unit. This would be $279 because the State's reduced need standard is $280 (70% of $400) and any amount of income over $279 would make the family ineligible. The deficit would be $1. The assistance unit would not receive an assistance payment, however, they would have the $279 support payment as disposable income. No assistance payment is made but the family remains eligible under § 233.20(a)(3)(viii) (C) and (D).

Step (ii): Not treating countable support payment as income. There is no income to subtract from the reduced need standard, thus the assistance payment would be the maximum of $200 for this family size, which would also be the disposable income.

Step (iii): Taking the difference. The supplemental payment is the difference between the disposal incomes computed under steps (i) and (ii), $280 minus $200, or $80.

(c) A supplemental payment under this section may either be added to the assistance payment for which the unit is otherwise eligible, to make a new total assistance payment for the month or be issued separately. In the examples in paragraph (b)(2)(iv) of this section, the new total assistance payments would be $250 ($150 plus $100) in Example 1, and $280 ($200 plus $80) in Example 2.

[51 FR 20229, Aug. 16, 1986]

§ 232.30 Cost of staff of special administrative units.

Cost of staff of Special Administrative Units (SAUs) providing social and supportive services under the Work Incentive (WIN) program is subject to FFP under title IV-A in all jurisdictions, pursuant to section 403(d) of the Act and 45 CFR 224.14(d). Cost of staff who solely perform other social service functions is not eligible for FFP under title IV-A, except in Puerto Rico, the Virgin Islands, and Guam.

[41 FR 37781, Sept. 8, 1976, as amended at 47 FR 17508, Apr. 23, 1982]

§ 232.40 Claiming good cause for refusing to cooperate.

(a) *Opportunity to claim good cause.* The plan shall provide that an applicant for, or recipient of, AFDC will have the opportunity to claim good cause for refusing to cooperate as required by § 232.12.

(b) *Notice to applicant or recipient.* (1) The plan shall provide that: (i) Prior to requiring cooperation under § 232.12, the State or local agency will notify the applicant or recipient of the right to claim good cause as an exception to the cooperation requirement and of all the requirements applicable to a good cause determination;

(ii) The notice will be in writing, with a copy furnished to the applicant or recipient; and

(iii) The applicant or recipient and the caseworker will acknowledge that the applicant or recipient received the notice by signing and dating a copy of the notice, which will be placed in the case record.

(2) The notice may be in two parts. If the State elects a two part notice:

(i) The first notice shall: (A) Advise the applicant or recipient of the potential benefits the child may derive from the establishment of paternity and securing support;

(B) Advise the applicant or recipient that by law, cooperation in establishing paternity and securing support is a condition of eligibility for AFDC;

(C) Advise the applicant or recipient of the sanction provided by § 232.12 for refusal to cooperate without good cause;

(D) Advise the applicant or recipient that good cause for refusal to cooperate may be claimed; and that if the State or local agency determines, in accordance with this section, that there is good cause, the applicant or recipient will be excused from the cooperation requirement; and

(E) Advise the applicant or recipient that upon request, or following a claim of good cause, the agency will provide further notice with additional details concerning good cause.

(ii) The second notice, which will be provided promptly upon request of the applicant or recipient or following a claim of good cause, shall:

(A) Indicate that the applicant or recipient must provide corroborative evidence of a good cause circumstance (as specified in § 232.43 (b) and (f)) and must, when requested, furnish sufficient information to permit the State or local agency to investigate the circumstances;

(B) Inform the applicant or recipient that upon request, the State or local agency will provide reasonable assistance in obtaining the corroborative evidence;

(C) Inform the applicant or recipient that on the basis of the corroborative evidence supplied and the agency's investigation if necessary, the State or local agency will determine whether cooperation would be against the best interests of the child for whom support would be sought;

(D) List the circumstances (as specified in § 232.42) under which cooperation may be determined to be against the best interests of the child;

(E) Inform the applicant or recipient that the State Child Support Enforcement agency may review the State or local agency's findings and basis for a good cause determination and may participate in any hearings concerning the issue of good cause; and

(F) As applicable, (see § 232.49) inform the applicant or recipient that

either: The State Child Support Enforcement agency will not attempt to establish paternity and collect support in those cases where the applicant or recipient is determined to have good cause for refusing to cooperate; or the State Child Support Enforcement agency may attempt to establish paternity and collect support in those cases where the State or local agency determines that this can be done without risk to the applicant or recipient if done with out their participation.

(3) The State or local agency may, at its option, provide a single combined notice that contains all of the elements in paragraphs (b) (2) (i) and (ii) of this section.

(4) Appendix A to this Part 232 is a suggested two part notice format that meets the requirements of this section.

(c) *Requirements upon applicant or recipient.* (1) The plan shall provide that an applicant for, or recipient of, AFDC who refuses to cooperate and who claims to have good cause for refusing to cooperate has the burden of establishing the existence of a good cause circumstance. Such applicant or recipient will be required to:

(i) Specify the circumstances (see § 232.42) that the applicant or recipient believes provide sufficient good cause for not cooperating.

(ii) Corroborate the good cause circumstances in accordance with § 232.43; and

(iii) If requested, provide sufficient information (such as the putative father or absent parent's name and address, if known) to permit an investigation pursuant to § 232.43(g).

(2) The plan shall provide that if the requirements of paragraph (c)(1) of this section are not met, the State or local agency shall on that basis determine that good cause does not exist.

[43 FR 45747, Oct. 3, 1978]

§ 232.41 Determination of good cause for refusal to cooperate.

The plan shall provide that:

(a) For each applicant for or recipient of AFDC who claims to have good cause, the State or local agency will determine, in accordance with §§ 232.40, 232.42 and 232.43, whether good cause exists.

(b) The State or local agency's final determination that good cause does, or does not exist will:

(1) Be in writing;

(2) Contain the agency's findings and basis for determination; and

(3) Be entered into the AFDC case record.

(c) The State or local agency's determination of whether or not good cause exists will be made within a State established time standard that does not exceed 45 days from the day the good cause claim is made. The State or local agency may exceed this time standard only where the case record documents that the agency needs additional time because the information required to verify the claim cannot be obtained within the time standard or that the claimant did not provide corroborative evidence within the period required by § 232.43(b).

(d) If the State or local agency determines that good cause does not exist:

(1) The applicant or recipient will be so notified and afforded an opportunity to cooperate, withdraw the application for assistance, or have the case closed; and

(2) Continued refusal to cooperate will result in imposition of the sanction provided by § 232.12.

[43 FR 45748, Oct. 3, 1978]

§ 232.42 Good cause circumstances.

(a) *Circumstances under which cooperation may be "against the best interests of the child."* The plan shall provide that the State or local agency will determine that cooperation in establishing paternity and securing support is against the best interests of the child only if:

(1) The applicant's or recipient's cooperation in establishing paternity or securing support is reasonably anticipated to result in:

(i) Physical harm to the child for whom support is to be sought;

(ii) Emotional harm to the child for whom support is to be sought;

(iii) Physical harm to the parent or caretaker relative with whom the child is living which reduces such person's capacity to care for the child adequately;

(iv) Emotional harm to the parent or caretaker relative with whom the child is living, of such nature or degree that it reduces such person's capacity to care for the child adequately; or

(2) At least one of the following circumstances exists, and the State or local agency believes that because of the existence of that circumstance, in the particular case, proceeding to establish paternity or secure support would be detrimental to the child for whom support would be sought.

(i) The child for whom support is sought was conceived as a result of incest or forcible rape;

(ii) Legal proceedings for the adoption of the child are pending before a court of competent jurisdiction; or

(iii) The applicant or recipient is currently being assisted by a public or licensed private social agency to resolve the issue of whether to keep the child or relinquish him for adoption, and the discussions have not gone on for more than 3 months.

(b) *Physical harm and emotional harm defined.* Physical harm and emotional harm must be of a serious nature in order to justify a finding of good cause under paragraph (a)(1) of this section. A finding of good cause for emotional harm may only be based upon a demonstration of an emotional impairment that substantially affects the individual's functioning.

(c) *Special considerations related to emotional harm.* The plan shall provide that, for every good cause determination which is based in whole or part upon the anticipation of emotional harm to the child, the parent or the caretaker relative, as provided for in paragraphs (a)(1) (ii) and (iv) of this section, the State or local agency will consider the following:

(1) The present emotional state of the individual subject to emotional harm;

(2) The emotional health history of the individual subject to emotional harm;

(3) Intensity and probable duration of the emotional impairment;

(4) The degree of cooperation to be required; and

(5) The extent of involvement of the child in the paternity establishment or support enforcement activity to be undertaken.

[43 FR 45748, Oct. 3, 1978]

§ 232.43 Proof of good-cause claim.

The plan shall provide that:

(a) The State or local agency will make a good cause determination based on the corroborative evidence supplied by the applicant or recipient only after it has examined the evidence and found that it actually verifies the good cause claim.

(b) The applicant or recipient who claims good cause must provide corroborative evidence within 20 days from the day the claim was made. In exceptional cases where the State or local agency determines the applicant or recipient requires additional time because of the difficulty of obtaining the corroborative evidence, the agency shall allow a reasonable additional period of time upon approval by supervisory personnel.

(c) A good-cause claim may be corroborated with the following types of evidence:

(1) Birth certificates or medical or law enforcement records which indicate that the child was conceived as the result of incest or forcible rape;

(2) Court documents or other records which indicate that legal proceedings for adoption are pending before a court of competent jurisdiction;

(3) Court, medical, criminal, child protective services, social sevices, psychological, or law enforcement records which indicate that the putative father or absent parent might inflict physical or emotional harm on the child or caretaker relative;

(4) Medical records which indicate emotional health history and present emotional health status of the caretaker relative or the child for whom support would be sought; or, written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of the caretaker relative or the child for whom support would be sought;

(5) A written statement from a public or licensed private social agency that the applicant or recipient is being

assisted by the agency to resolve the issue of whether to keep the child or relinquish him for adoption; and

(6) Sworn statements from individuals other than the applicant or recipient with knowledge of the circumstances which provide the basis for the good cause claim.

(d) If after examining the corroborative evidence submitted by the applicant or recipient, the State or local agency wishes to request additional corroborative evidence which is needed to permit a good cause determination, the agency will:

(1) Promptly notify the applicant or recipient that additional corroborative evidence is needed; and

(2) Specify the type of document which is needed.

(e) Upon request, the State or local agency will:

(1) Advise the applicant or recipient how to obtain the necessary documents; and

(2) Make a reasonable effort to obtain any specific documents which the applicant or recipient is not reasonably able to obtain without assistance.

(f) Where a claim is based on the applicant's or recipient's anticipation of physical harm as specified and defined in § 232.42 (a) and (b), and corroborative evidence is not submitted in support of the claim:

(1) The State or local agency will investigate the good cause claim when the agency believes that:

(i) The claim is credible without corroborative evidence; and

(ii) Corroborative evidence is not available.

(2) Good cause will be found if the claimant's statement and the investigation which is conducted satisfies the agency that the applicant or recipient has good cause for refusing to cooperate.

(3) A determination that good cause exists will be reviewed and approved or disapproved by supervisory personnel and the agency's findings will be recorded in the case record.

(g) The State or local agency may further verify the good cause claim if the applicant's or recipient's statement of the claim required by § 232.40(c)(1)(ii), together with the corroborative evidence do not provide sufficient basis for making a determination. When the State or local agency determines that it is necessary, the agency may conduct an investigation of good cause claims to determine that good cause does or does not exist.

(h) If it conducts an investigation of a good cause claim, the State or local agency will:

(1) Contact the absent parent or putative father from whom support would be sought if such contact is determined to be necessary to establish the good cause claim; and

(2) Prior to making such necessary contact, notify the applicant or recipient to enable the applicant or recipient to:

(i) Present additional corroborative evidence or information so that contact with the parent or putative father becomes unnecessary;

(ii) Withdraw the application for assistance or have the case closed; or

(iii) have the good cause claim denied.

[43 FR 45749, Oct. 3, 1978]

§ 232.44 Participation by the State IV-D Agency.

The plan shall provide that:

(a) Prior to making a final determination of good cause for refusing to cooperate, the State or local agency will:

(1) Afford the IV-D agency the opportunity to review and comment on the findings and basis for the proposed determination; and

(2) Consider any recommendation from the IV-D agency.

(b) The State or local agency will give the IV-D agency the opportunity to participate in any hearing (under § 205.10 of this chapter) that results from an applicant's or recipient's appeal of any agency action under §§ 232.40 through 232.49.

[43 FR 45749, Oct. 3, 1978]

§ 232.45 Notice to the IV-D Agency.

The plan shall provide that:

(a) If the notice, required by § 235.70 of this chapter, has previously been provided to the IV-D agency, the State or local agency will promptly report to the IV-D agency that good cause has been claimed;

(b) The State or local agency will promptly report to the IV-D agency all cases in which it has determined that there is good cause for refusal to cooperate and if applicable, its determination whether or not child support enforcement may proceed without the participation of the caretaker relative; and

(c) The State and local agency will promptly report to the IV-D agency all cases in which it has determined that there is not good cause for refusal to cooperate.

[43 FR 45749, Oct. 3, 1978]

§ 232.46 Granting or continuation of assistance.

The plan shall provide that the State or local agency will not deny, delay, or discontinue assistance pending a determination of good cause for refusal to cooperate if the applicant or recipient has complied with the requirements of §§ 232.40(c) and 232.43 to furnish corroborative evidence and information.

[43 FR 45750, Oct. 3, 1978]

§ 232.47 Periodic review of good cause determination.

The plan shall provide that the State or local agency will:

(a) Periodically review, not less frequently than at each redetermination of eligibility required by § 206.10(a)(9) of this chapter, those cases in which the agency has determined that good cause exists based on a circumstance that is subject to change; and

(b) If it determines that circumstances have changed such that good cause no longer exists, it will rescind its findings and proceed to enforce the requirements of § 232.12 of this chapter.

[43 FR 45750, Oct. 3, 1978]

§ 232.48 Record keeping in good cause.

The plan shall provide that the State will maintain records of the activities under this section that will make it possible to submit to the Department, upon request, data concerning:

(a) The total number of cases in which the applicant or recipient claimed to have good cause for refusing to cooperate;

(b) The number of cases in which the claim was made without corroborative evidence under the provisions of § 232.43(f);

(c) The total number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate;

(d) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate without corroborative evidence under the provisions of § 232.43(f);

(e) The number of cases in which the applicant or recipient was fund to have good cause for refusing to cooperate based solely on an examination of the corroborative evidence supplied by the applicant or recipient with no investigation;

(f) The number of cases where good cause was claimed by an applicant prior to receiving AFDC and the final determination that good cause did not exist was made after the applicant was determined to be eligible for AFDC;

(g) The number of cases in which the applicant or recipient was found to have good cause for refusing to cooperate but there was a determination pursuant to § 232.49 that child support enforcement may proceed without the participation of the caretaker relative; and

(h) For those cases in which good cause was found, which of the circumstances specified in § 232.42 was found to exist.

[43 FR 45750, Oct. 3, 1978]

§ 232.49 Enforcement without the caretaker's cooperation.

The State plan may provide that:

(a) If the State or local agency makes a determination that good cause exists it will also make a determination of whether or not child support enforcement could proceed without risk of harm to the child or caretaker relative if the enforcement or collection activities did not involve their participation;

(b) This determination will be in writing, contain the agency's findings

and basis for determination, and be entered into the AFDC case record.

(c) If the IV-A agency excuses cooperation but determines that the IV-D agency may proceed to establish paternity or enforce support, it will notify the applicant or recipient to enable such individual to withdraw their application for assistance or have the case closed; and

(d) Prior to making a determination under this paragraph, the State or local agency will afford the IV-D agency an opportunity to review and comment on the findings and basis for the proposed determination and consider any recommendation from the IV-D agency.

[43 FR 45750, Oct. 3, 1978]

Appendix A—Model Two Part Good Cause Notice

This suggested two part notice format meets the notice requirements of § 232.40(b)(3). The first notice should be provided prior to requiring the applicant's or recipient's cooperation. The second notice should be promptly provided if the applicant or recipient so requests or following a claim of good cause. Receipt of the notice will be acknowledged by the applicant's or recipient's and the worker's signatures. The signed copy should be placed in the AFDC case record with one copy retained by the applicant or recipient.

Before being used by a State this model should be adapted by substituting the appropriate agencies' names.

Notice of Requirement To Cooperate and Right To Claim Good Cause for Refusal To Cooperate in Child Support Enforcement

BENEFITS OF CHILD SUPPORT ENFORCEMENT

Your cooperation in the child support enforcement process may be of value to you and your child because it might result in the following benefits:

- Finding the absent parent;
- Legally establishing your child's paternity;
- The possibility that support payments might be higher than your welfare grant; and
- The possibility that you and your children may obtain rights to future social security, veterans, or other government benefits.

WHAT IS MEANT BY COOPERATION?

The law requires you to cooperate with the welfare and child support agencies to get any support owed to you and any of the children for whom you want AFDC, unless you have good cause for not cooperating.

In cooperating with the welfare or child support agency, you may be asked to do one or more of the following things:

- Name the parent of any child applying for or receiving AFDC, and give information you have to help find the parent;
- Help determine legally who the father is if your child was born out of wedlock;
- Give help to obtain money owed to you or the children receiving AFDC; and
- Pay to the State any money which is given directly to you by the absent parent (you will continue to get your full AFDC grant from the State).

You may be required to come to the welfare office, child support office, or court to sign papers or give necessary information.

WHAT IS MEANT BY GOOD CAUSE?

You may have good cause not to cooperate in the State's efforts to collect child support. You may be excused from cooperating if you believe that cooperation would not be in the best interest of your child, and if you can provide evidence to support this claim.

IF YOU DO NOT COOPERATE AND YOU DO NOT HAVE GOOD CAUSE

- You will be ineligible for AFDC.
- Your children will still be eligible for AFDC for their own needs. Your children's grant will go to another person, called a "protective payee."

HOW AND WHEN YOU MAY CLAIM GOOD CAUSE

- If you want to claim good cause, you must tell a worker that you think you have good cause. You can do this at any time you believe you have good cause not to cooperate.
- If you claim "good cause" you must be given another notice. This second notice will explain the circumstances under which the Welfare Agency may find good cause, and the type of evidence or other information the Welfare Agency needs to decide your claim. You may also ask for this second notice to help you decide whether or not to claim good cause.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

_____

(Signature of applicant/recipient)

_____

(Date)

I have provided the applicant/recipient with a copy of this notice.

_____

(Signature of worker)

_____

(Date)

Second Notice of Right To Claim Good Cause for Refusal To Cooperate in Child Support Enforcement

GOOD CAUSE CIRCUMSTANCES

You may claim to have good cause for refusing to cooperate if you believe that such cooperation would not be in the best interests of your child. The following are circumstances under which the Welfare Agency may determine that you have good cause for refusing to cooperate:

- Cooperation is anticipated to result in serious physical or emotional harm to the child.
- Cooperation is anticipated to result in physical or emotional harm to you which is so serious it reduces your ability to care for the child adequately.
- The child was born after forcible rape or incest.
- Court proceedings are going on for adoption of the child, or
- You are working with an agency helping you to decide whether to place the child for adoption.

PROVING GOOD CAUSE

It is your responsibility to:

- Provide the Welfare Agency with the evidence needed to determine whether you have good cause for refusing to cooperate (if your reason for claiming good cause is your fear of physical harm and it is impossible to obtain evidence, the Welfare Agency may still be able to make a good cause determination after an investigation of your claim.)
- Give the necessary evidence to the agency within 20 days after claiming good cause. The Welfare Agency will give you more time only if it determines that more than 20 days are required because of the difficulty in obtaining the evidence.

The Welfare Agency may:

- Decide your claim based on the evidence which you give to the agency, or
- Decide to conduct an investigation to further verify your claim. If the Welfare Agency decides an investigation is needed, you may be required to give information, such as the absent parent's name and address, to help the investigation. The agency will not contact the absent parent without first telling you.

Note: If you are an applicant for assistance, you will not receive your share of the grant until you have given the agency the evidence needed to support your claim, and if requested, the information needed to permit an investigation of your claim.

EXAMPLES OF ACCEPTABLE EVIDENCE

The following are examples of acceptable kinds of evidence the Welfare Agency can use in determining if good cause exists.

If you need help in getting a copy of any of the documents, ask the Welfare Agency. The Welfare Agency will give you reasonable assistance which is needed to help you obtain the necessary documents to support your claim.

- Birth certificates, or medical or law enforcement records, which indicate that the child was conceived as the result of incest or forcible rape.
- Court documents or other records which indicate that legal proceedings for adoption are pending in court.
- Court, medical, criminal, child protective services, social services, psychological or law enforcement records which indicate that the alleged or absent father might inflict physical or emotional harm on you or the child.
- Medical records which indicate emotional health history and present health status of you or the child for whom support would be sought, or written statements from a mental health professional indicating a diagnosis or prognosis concerning the emotional health of you or the child.
- A written statement from a public or private agency confirming that you are being assisted in resolving the issue of whether to keep or give up the child for adoption, and
- Sworn statements from individuals (including friends, neighbors, clergymen, social workers, and medical professionals) who might have knowledge of the circumstances providing the basis of your good cause claim.

CHILD SUPPORT AGENCY PARTICIPATION AND ENFORCEMENT

The Child Support Enforcement Agency may review the Welfare Agency's findings and the basis for a good cause determination in your case. If you request a hearing regarding this issue of good cause for refusing to cooperate, the Child Support Enforcement Agency may participate in that hearing.

The Notice must include one of the following statements, as applicable depending on the State plan option chosen. See § 232.40

Option 2

If you are found to have good cause for not cooperating, the Child Support Enforcement Agency may attempt to establish paternity or collect support only if the Welfare Agency determines that this can be done without risk to you or your child. This will not be done without first telling you.

Option 3

If you are found to have good cause for not cooperating, the Child Support Enforcement Agency will not attempt to establish paternity or collect support.

I have read this notice concerning my right to claim good cause for refusing to cooperate.

(Signature of applicant/recipient)

(Date)

I have provided the applicant/recipient with a copy of this notice.

(Signature of worker)

(Date)

[43 FR 41350, Oct. 3, 1978]

PART 233—COVERAGE AND CONDITIONS OF ELIGIBILITY IN FINANCIAL ASSISTANCE PROGRAMS

Sec.
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233.60 Institutional status.
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233.100 Dependent children of unemployed parents.
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233.110 Foster care maintenance and adoption assistance.
233.120 Emergency assistance to needy families with children.
233.145 Expiration of medical assistance programs under titles I, IV-A, X, XIV and XVI of the Social Security Act.

AUTHORITY: Sec. 1102, 49 Stat. 647; 42 U.S.C. 1302.

§ 233.10 General provisions regarding coverage and eligibility.

(a) *State plan requirements.* A State plan under title I, IV–A, X, XIV, or XVI, of the Social Security Act must:

(1) Specify the groups of individuals, based on reasonable classifications, that will be included in the program, and all the conditions of eligibility that must be met by the individuals in the groups. The groups selected for inclusion in the plan and the eligibility conditions imposed must not exclude individuals or groups on an arbitrary or unreasonable basis, and must not result in inequitable treatment of individuals or groups in the light of the provisions and purposes of the public assistance titles of the Social Security Act. Under this requirement:

(i) A State shall impose each condition of eligibility required by the Social Security Act; and

(ii) A State may:

(A) Provide more limited public assistance coverage than that provided by the Act only where the Social Security Act or its legislative history authorizes more limited coverage;

(B) Impose conditions upon applicants for and recipients of public assistance which, if not satisfied, result in the denial or termination of public assistance, if such conditions assist the State in the efficient administration of its public assistance programs, or further an independent State welfare policy, and are not inconsistent with the provisions and purposes of the Social Security Act.

(iii) There must be clarity as to what groups are included in the plan, and which are within, and which are outside, the scope of Federal financial participation.

(iv) Eligibility conditions must be applied on a consistent and equitable basis throughout the State.

(v) A plan under title XVI must have the same eligibility conditions and other requirements for the aged, blind, and disabled, except as otherwise specifically required or permitted by the Act.

(vi) Eligibility conditions or agency procedures or methods must not preclude the opportunity for an individual to apply and obtain a determination of eligibility or ineligibility.

(vii) Methods of determining eligibility must be consistent with the objective of assisting all eligible persons to qualify.

(2) Provide that the State agency will establish methods for identifying the expenditures for assistance for any groups included in the plan for whom Federal financial participation in assistance may not be claimed.

(3) In addition, a State plan under title IV–A, X, XIV, or XVI of the Act, must: Provided that no aid or assistance will be provided under the plan to an individual with respect to a period for which he is receiving aid or assistance under a State plan approved under any other of such titles, or under title I of the Act.

(b) *Federal financial participation.* (1) The provisions which govern Federal financial participation in assistance payments are set forth in the Social Security Act, throughout this chapter, and in other policy issuances of the Secretary. Where indicated, State plan provisions are prerequisite to Federal financial participation with respect to the applicable group and payments. State plan provisions on need, the amount of assistance, and eligibility determine the limits of Federal financial participation. Federal financial participation is excluded from assistance payments in which the State refuses to participate because of the failure of a local authority to apply such State plan provisions.

(2) The following is a summary statement regarding the groups for whom Federal financial participation is available. (More detailed information is given elsewhere.)

(i) OAA—for needy individuals under the plan who are 65 years of age or older.

(ii) AFDC—for:

(a) Needy children under the plan who are:

(*1*) Under the age of 18, or age 18 if a full-time student in a secondary school, or in the equivalent level of vocational or technical training, and reasonably expected to complete the program before reaching age 19;

(*2*) Deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, or unemployment of a principal earner, and

(*3*) Living in the home of a parent or of certain relatives specified in the Act.

(*b*) The parent or other caretaker relative of a dependent child and, in certain situations, the parent's spouse.

(iii) AB—for needy individuals under the plan who are blind.

(iv) APTD—for needy individuals under the plan who are 18 years of age or older and permanently and totally disabled.

(v) AABD—for needy individuals under the plan who are aged, blind, or

Chapter 20. Parent and Child.

Section

50. Legitimation by subsequent marriage, acknowledgment in writing or adjudication

Sec. 25.20.010. Age of majority.

NOTES TO DECISIONS

Quoted in Dowling v. Dowling, Sup. Ct. Op. No. 2809 (File No. 6454), 679 P.2d 480 (1984).

Stated in Lawrence v. Lawrence, Sup. Ct. Op. No. 3044 (File No. S-652), 718 P.2d 142 (1986).

Sec. 25.20.030. Duty of parent and child to maintain each other.

NOTES TO DECISIONS

A parent is obligated both by statute and at common law to support his or her children, even in the absence of a court order of support. Matthews v. Matthews, Sup. Ct. Op. No. 3206 (File No. S-1693), 739 P.2d 1298 (1987).

A parent's duty of support encompasses a duty to reimburse other persons who provide the support the parent owes, belongs to whomever supported the children, and is simply an action on a debt. However, when a custodial parent seeks a modification of a divorce decree which neglected to address either child custody or child support and also seeks reimbursement for past child support expenditures, he or she may join the claims, and bring both by motion in the original divorce action. Matthews v. Matthews, Sup. Ct. Op. No. 3206 (File No. S-1693), 739 P.2d 1298 (1987).

Applicability of criminal nonsupport statute. — The criminal nonsupport statute, AS 11.51.120, does not extend beyond those individuals expressly made legally responsible for the support of a child by this section and AS 47.25.230; it does not apply to stepparents regardless of their actual relationship to the stepchildren. Olp v. State, Ct. App. Op. No. 719 (File No. A-1812), 738 P.2d 1117 (1987).

Quoted in Dowling v. Dowling, Sup. Ct. Op. No. 2809 (File No. 6454), 679 P.2d 480 (1984).

Sec. 25.20.050. Legitimation by subsequent marriage, acknowledgment in writing or adjudication.

(a) A child born out of wedlock is legitimated and considered the heir of the putative parent when (1) the putative parent subsequently marries the undisputed parent of the child; (2) the putative parent acknowledges, in writing, being a parent of the child; or (3) the putative parent is judged by a superior court, upon sufficient evidence, to be a parent of the child. Acceptable evidence includes, but is not limited to, evidence that the putative parent's conduct and bearing toward the child, either by word or act, indicates that the child is the child of the putative parent. That conduct may be construed by the court to constitute evidence of parentage. When indefinite, ambiguous, or uncertain terms are used, the court may use extrinsic evidence to show the putative parent's intent.

(b) The Bureau of Vital Statistics, as custodian of the original certificates of birth of all persons born in the state, is designated as the