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during the jail sentence and will release the offender to the third-party custody of a treatment facility if the offender opts for that. He reports that in the cases he has handled this way, the women have chosen treatment (pers. com.).

A Florida state official says her state's laws put mothers in jail rather than into treatment programs and she finds this "appalling." She says, "The idea was to scare people into getting treatment. But these women don't use drugs because they want to. They use them because they are addicted. It was the 'good ol' boy image of 'kick them in the rear'," says Shirley Smith of the Substance Abused Newborns section of the state Department of Health and Rehabilitative Services.

Mitchell J. Wiet, a lawyer for Northwestern Memorial Hospital's Perinatal Center for Chemical Dependence in Chicago, recommends nonvoluntary treatment for women who refuse or fail treatment. Mr. Wiet says the U.S. Supreme Court has laid the groundwork several times. First, the court articulated the state's "important and legitimate" interest in the potentiality of human life.[25] Second, it spoke of the state's "unquestionably...strong and legitimate interest in encouraging normal childbirth" and its "direct interest in protecting the fetus."[26] Third, it discused the state's "legitimate governmental objective of protecting potential life."[27]

In addition, Mr. Wiet argues that the courts already require parents or third parties to protect children from prenatal injury. For example (Wiet, p. 155):

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[25] *Roe v. Wade*, 410 U.S. 133, 1973.

[26] *Mauer v. Roe*, 432 U.S. 464, 1977.

[27] *Harris v. McRae*, 478 U.S. 297, 1980.

- Every jurisdiction in the U.S. now permits a live-born child to sue a third person for injuries to the child before birth. [Appellate courts either have ruled to permit the lawsuit or the topic has not come before them. A survey of cases in the *American Law Review* (40 ALR3d 1222 and Supplement) shows no Alaska rulings.]

- Some case law allows a live-born child to recover damages for prenatal injury caused by a parent [two examples: *Grodin v. Grodin* allowed a child to sue the mother for taking Tetracycline during pregnancy, causing the child to have badly discolored teeth (301 N.W.3d 869 Mich. App, 1980); *Stallman v. Youngquist*, in which a child was allowed to sue the mother for prenatal injuries from a motor vehicle (152 Ill. App. 3d 683, 1987)].

- Court decisions give a state *parens patriae* powers which allow it to require medical care for minors against the parents' wishes. [An example is *Raleigh Fitkin-Paul Morgan Memorial Hospital v. Anderson*, (377 U.S. 985, 1964) in which the court held that "an unborn child is entitled to the law's protection" and ordered a pregnant woman to have a blood transfusion contrary to her religious conviction.]

- Approximately half the states, including Alaska, have set aside the doctrine of parent-child tort immunity. This means parents have a duty to avoid injury to the child and the child has a right to be free of injury caused by a parent. In Alaska, the supreme court in 1967 held that a minor child could sue her mother for injuries allegedly sustained as a result of the mother's negligent driving (*Hebel v. Hebel*, 435 P.2d 8).

These court decisions support the concept that the state can require an addicted expectant mother to be treated, even if she doesn't want to be, Wiet says,

especially after the fetus is viable. The high risk of serious injury to the fetus, including death, is well documented in the literature and should outweigh the effects of restricting the mother's personal liberty, Wiet says (p. 155).

Educate and Fund Before Mandating Treatment

Some observers say it is wrong to impose the harsh sanctions of the criminal law, to require testing, to take custody of children or to force pregnant women into treatment without first making all-out education and funding efforts.

It would be far better, these advocates say, to expand efforts to educate women and their partners about the dangers of drug and alcohol use during pregnancy. In addition, it would be better to make certain that all pregnant women, including drug and alcohol abusers, have access to frequent and high quality prenatal care. This approach encourages pregnant women to go to the doctor and it helps create bonding between the woman and the fetus by emphasizing prenatal care. Moreover, the state should first provide adequate and effective treatment aimed at pregnant women. In addition, the state should first try to change conditions which breed abuse of drugs and alcohol. This increased emphasis on funding and education would represent a social commitment to benefiting women, not controlling them, they say (Note, p. 1011-12).

Reacting to reports that courts compel pregnant women to undergo medical procedures in order to protect the fetus, the editors of the *New England Journal of Medicine* write:

> "The best chance we have to protect fetuses is through enhancing the status of all women by fostering reasonable pay for the work they do, providing equal employment opportunities and adequate day care, providing a reasonable social safety net and ensuring all pregnant women access to high-quality prenatal services."

Identify Infants Born with Drugs or Alcohol in Their Systems

The National Conference of State Legislatures (NCSL) recommends that states adopt legislation to identify infants born with FAS or substance abuse problems for appropriate child protective, health or rehabilitative services. The NCSL did not suggest specific ways to identify these children. Although it would not reach all children affected by drugs or alcohol, one method is to require testing of newborns and pregnant women when there is reason to suspect drug or alcohol abuse (see Minnesota Statutes 626.5562). State Department of Health and Social Service officials say they are taking steps to test all Alaska newborns for cocaine (Livey, pers. com.).

Require Physicians to Report Newborns with Drugs/Alcohol in Their Systems

Officials at the Alaska Department of Health and Social Services favor requiring physicians to report if a child is born addicted to a drug or alcohol, according to Russ Webb of the Division of Family and Youth Services. State officials reason that children damaged before birth by drugs or alcohol are at risk for abuse and neglect because they are more difficult to care for than other children. The department says Alaska physicians do not report all cases, despite requests to do so (Webb, pers. com.).

Providence Hospital physicians use their own judgment about which cases to report, based on knowledge of the family situation (Wolf, pers. com.). A Providence Hospital ethics committee has written guidelines for drug testing of newborns but the guidelines are not established protocol. Some physician groups do not agree with them, fearing that reporting infringes on the privacy rights of the mother, according to Janet Oates of the hospital's administrative

council.[28] Hospital administrators say they believe it is the state's role to provide physicians with clear direction about whether or not newborns with signs of drug or alcohol injury fall into the category of abused and/or neglected children (Oates, pers. com.).

Providence Hospital guidelines state that if a newborn shows certain signs, the newborn's physician "should consider" ordering a toxicology urine screen for the baby. Nursing staff are to alert the physician if the signs are observed. If urine tests are positive for any known non-prescribed drug, the nursery staff "will immediately notify" the primary physician and the hospital social work department. Physicians will tell the family of the positive results. "The physician should inform (the family) of the Child Protective Service referral... The hospital social worker will...make the report to DFYS, coordinate services with DFYS and communicate with medical and nursing staff on the disposition decision" *(Providence Hospital Guidelines*, August 16, 1989).

A drug-screening policy at Humana Hospital in Anchorage states that any newborn with any of the tell-tale signs "will be considered" for a toxicology urine screen. It adds that a drug screen test and a urine screen test "will be ordered" by the physician. Language concerning referral to child protective services is similar to that in the Providence Hospital policy (Humana Hospital, *Policy No. 101.45*).

Physicians at the Alaska Native Medical Center recommend follow up through the state Division of Family and Youth Services for all newborns who test positive for cocaine (Alaska Native Medical Center, Feb. 23, 1989).

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[28] Janet Oates, a member of the hospital administrative council, did not want to release copies of the guidelines because they have not been accepted by all physicians. The copies used for this memorandum were provided by the state Department of Health and Social Services. The guidelines have not been finalized.

Among the criteria for testing at the hospitals are: a newborn's unconsolable irritability, difficulty feeding, prematurity, withdrawal symptoms, low Apgar scores, malformations of the genito-urinary system, seizures or tremors and small head.

Draft Laws Recognizing a Pregnant Woman's Obligations to Her Future Child

Deborah Mathieu of Harvard says requiring a pregnant woman to give up certain activities during pregnancy is not materially different from other accepted limits on a person's behaviors, such as compulsory vaccination. She says it should not be difficult to draft laws that make a pregnant woman's obligations to her future child clear and not unduly burdensome. Policy makers contemplating these laws should consider five factors, she says (Mathieu, p. 50-4):

a) The magnitude of harm: To what extent will the future child be harmed by his mother's actions? To what extent will the pregnant woman be harmed if her decision is overruled and her body is invaded? She concludes that the right to the woman's bodily integrity is so important that the only justifiable interventions would be those that prevent major harm to the child and cause only minor harm to the woman.

b) A balance of the interests involved: The woman's interests include that of bodily integrity, of making decisions for her children, of not being pregnant and of not rearing a child. The child's interests include not suffering or being disabled. Dr. Mathieu concludes that early in the pregnancy, the woman's interests dominate. Later in the pregnancy, however, the interests of the future child are "at least as compelling as are hers."

c) The probability that harm will occur: There must be ample evidence of a high probability of serious harm to the child if the state does not intervene, and only minor harm to the woman if it does intervene.

d) The probability that harm can be avoided or removed: It only makes sense to intervene if there is significant probability that the harm can be prevented or ameliorated. Policy makers must consider whether the contemplated intervention is reliable and effective.

e) The proportion of harm: If intervention creates more harm than it cures, the point of intervention would be defeated. For this reason, the harms prevented or removed should be substantial when compared to the degree of invasion. Secondly, the intervention should be the least intrusive available.

Treat the Pregnant Woman for Drug or Alcohol Abuse

Dr. Ira Chasnoff recommends drug and alcohol treatment for the substance-abusing pregnant woman, combined with parenting education. He says intervening to provide specialized, comprehensive treatment for addicted pregnant women has been shown to cut the average hospitalization period for affected infants from a four-to-six-week stay to a stay of only two or three days. This represents a savings of $27,000 per child, he said (testimony before U.S. House of Representatives, May 21, 1986). The savings would be greater in Alaska, where in 1989, one day in the Providence Hospital Level III nursery averaged $2,400. Other national experts in alcohol abuse during pregnancy report that 60 to 80 percent of heavy drinkers who enter treatment programs reduce their consumption before the third trimester of pregnancy (Weiner, Rossett and Mason, p. 70).

Require Parents of Drugged Newborns to Complete Treatment

Alaska judges and prosecutors strongly support treatment for substance abusers (see, for example, "Legislators Drafting Bill for Treatment of Inmates," Associated Press, *Anchorage Times*, January 25). One judge says he has convinced "more than one" reluctant substance-abusing pregnant woman to take treatment.

G: Summary

Legislators and judges who want to write a coherent body of law about substance abuse that is constitutional and protects both the woman and the fetus are in a dilemma. This is because whatever is done for the fetus must necessarily be done to the pregnant woman.

Some other states have begun to attack the problem. At least one is requiring testing and reporting of pregnant women and newborns when physicians suspect drug or alcohol abuse. At least one allows the state to require successful treatment before the drug-damaged infant can be allowed back in the family home. Some have redefined child neglect to include an unborn child or a fetus. Some are allowing the state to take custody when a child shows evidence of drugs or alcohol in its system. Meanwhile, experts suggest systematically identifying babies born with drugs or alcohol in their systems, requiring physicians to report these births, and treating women for their drug or alcohol problem before the baby is born.

IMPLEMENTING A SCHOOL CURRICULUM ON FETAL ALCOHOL SYNDROME

Legal Questions

Assistant Attorney General Gary Amandola says there are no legal problems with requiring FAS curriculums in Alaska school districts.

Policy Questions

The state Department of Education sees no problem with encouraging local school districts to initiate a curriculum. However, the department has significant concerns about mandating a specific curriculum, according to Mary Hakala, the department's legislative liaison.

In a "first time ever" move, however, the state Board of Education on January 30 voted to support a mandatory comprehensive health curriculum in Alaska schools. FAS would be one component of that curriculum, according to Ms. Hakala.

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Economic Impact of Fetal Alcohol Syndrome in Alaska

February 1989

by

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Senate Advisory Council

for

Senator Johne Binkley

Alaska State Legislature

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MEMORANDUM

TO: Senator Johne Binkley
Alaska State Senate

FROM: Maureen Weeks MW
Senate Advisory Council

DATE: February 17, 1989

SUBJECT: Economic impact of Fetal Alcohol Syndrome; IR # 89-100015

An estimated 29 babies with Fetal Alcohol Syndrome (FAS) are born in Alaska annually; of these 26 survive the first year. Two to 15 times this many babies are born with a lesser set of symptoms known as Fetal Alcohol Effects (FAE). Babies exposed to alcohol before birth may be too small when they are born. Just ten years ago almost all low birthweight babies died at birth. Today, increasingly expensive medical technology saves the lives of four out of five but cannot correct many defects already caused by alcohol. Fifty-eight percent of both FAS and FAE patients have IQ's below 70 (classified as Developmentally Disabled). Conservatively estimated, the lifetime cost per Alaska FAS birth is $1.4 million. Lifetime cost for Alaska FAS babies born each year is $39.8 million.

These are selected medical and social costs only; they do not include, among other things, costs of welfare, the justice system, mild physical problems, mild learning disabilities or loss of a useful member of society.[1]

A table of costs associated with FAS and FAE follows page 18 of this report.

I. BACKGROUND.

Fetal Alcohol Syndrome (FAS) is caused when the alcohol which a pregnant woman drinks damages the brain and body of the fetus as it develops. Until 1973, alcohol was not suspected as toxic to an unborn baby. Respected medical authorities told pregnant women that the placenta protected their fetuses from harmful substances. Today we know these authorities were wrong. Babies who are exposed to alcohol before they are born can be irreversibly harmed for the rest of their lives.

The damage done by alcohol has profound implications for the victim and society. The harmful effects of alcohol on the fetus last a lifetime. A common problem is mental retardation. The average IQ of FAS patients is 66. Almost every child

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[1] Harwood and Napolitano estimate direct average lifetime costs at $405,000 per person and indirect costs at $191,000, in 1980 dollars. Adjustment for inflation and cost of living differences (3 percent per year and 30 percent) yields direct costs of $528,000 and indirect costs of $249,000, for a total of $1,010,000/person, Alaska 1989. Total costs for 29 Alaska FAS births would be $29,290,000. (A 30 percent increase is conservative; the Bureau of Labor Statistics reports that medical services increased by 83.5 percent in Anchorage between 1980 and 1988.) It should be noted that some costs in the Harwood study are much less than Alaska costs. For example, intensive care hospitalization is estimated nationwide at $2,500 per infant v. $120,000/year per infant in Alaska; institutionalization is estimated at $25,000/year nationwide v. $109,000 in Alaska.

or adult with FAS needs lifelong care, supervision or support from family and society. Those most severely affected may spend their lives in institutions. Some suffer physical anomalies such as heart problems, cleft palate, kidney problems, blindness and deafness.

Few, if any, families can pay the enormous costs of supporting an FAS child or adult. Babies born with FAS may need intensive hospital care at birth at an average cost of $2,400 a day. One in eight children born with FAS have cleft palates, requiring surgeries costing up to $75,000 and long term speech therapy twice or three times a week at $96 an hour. Fifty-eight percent of patients with FAS have IQ's below 70 and as such are classified as developmentally disabled. Cost of special education for a severely retarded child is $20,000 a year. Average annual cost for each FAS patient in an institution is $109,000.

Two national studies of the economic impact of Fetal Alcohol Syndrome have been published since the syndrome was discovered in 1973. Harwood and Napolitano in 1985 found the U.S. spends up to $108.8 million a year on FAS births; Abel and Sokol in 1986 found annual costs of $321 million a year. This report adapts the more conservative Harwood and Napolitano study to Alaska.

II. INCIDENCE OF FAS AND FAE

An estimated 29 Alaska babies are born a year with FAS. Experts believe between two and 15 times that many FAE babies are born annually.

A diagnosis of FAS requires signs in three areas:

(1) Pre and/or post natal growth retardation (weight, length, and/or head circumference below the tenth percentile).

(2) Central nervous system problems (neurological abnormality, developmental delay, or intellectual impairment.

(3) Characteristic facial features (including small eyes, crossed eyes, short nose, or abnormalities of the mouth such as cleft palate).

FAS may be difficult to identify, especially among newborns. The identifying facial features may not be easily recognized and mental retardation may not be identified until years after birth.

U.S. researchers speculate that some racial groups, such as certain American Indian tribes, may be at greater risk for FAS than the population as a whole. A 1982-83 study of Indians on 26 reservations in New Mexico, Colorado, Utah and Arizona showed a wide variation in prevalence of FAS among cultural groups. For example, among Navajo Indians, the incidence was 1.4 FAS cases per 1,000 births; among Pueblo Indians it was 2 per 1,000 births and among Plains Indians it was 9.8 per 1,000 births.

Dr. James Berner of the Native Health Service, and Vicki Hild, FAS Coordinator for the Alaska Native Health Board, report statewide incidence of FAS between

1981 and 1988 at 4.2 per 1,000 live births. At an average of 2,700 deliveries annually, this would be about 12 FAS Native births a year.

The estimate comes from an Alaska Area Native Health Service survey of Alaska Native children born between 1981 and 1988. The study shows that the highest recorded FAS rate among any population in the world is in the Copper River area of Alaska: 250 FAS cases per 1,000 births (or one in every four births). Estimated incidence among Alaska Natives in other areas:

Sitka region:	2.1 FAS cases per 1,000 births
Bethel region:	3.5 FAS cases per 1,000 births
Anchorage:	3.8 FAS cases per 1,000 births
Nome region:	4.0 FAS cases per 1,000 births
Tanana Chiefs:	5.9 FAS cases per 1,000 births

It would be a mistake to ignore FAS among non-Native Alaskans. Data shows, for example, that one non-Native woman in Southcentral Alaska has produced seven children with FAS. No one has studied the incidence of FAS among non-Native Alaskans. Indeed, relatively few studies of the incidence of FAS among the general population have been done in the U.S. The literature commonly estimates overall FAS prevalence at from 1 to 3 cases per 1,000 live births (see Sixth Special Report to the U.S. Congress on Alcohol and Health, January 1987). Estimates in U.S. cities show:

Cleveland (1973-79)	.4 FAS cases per 1,000
Cleveland (1979-82)	3.0 FAS cases per 1,000
Seattle (1978)	1.3 FAS cases per 1,000
Boston (1977)	3.1 FAS cases per 1,000
Boston (1983)	2.1 FAS cases per 1,000

Estimates from Europe include:

Sweden (1979)	1.6 FAS cases per 1,000 births
	1.4 cases per 1,000 births
France (1977-79)	1.3 cases per 1,000 births
	2.9 cases per 1,000 births.

Abel and Sokol added together all FAS births reported worldwide in text or by personal communication and found a worldwide incidence of 1.9 FAS cases per 1,000 live births. Rates were higher in North America (2.2 cases per 1,000 live births) than in Europe and other countries (1.8 cases per 1,000 live births). They believe site, economic class and culture affect the reported FAS rate. Hild and Berner place national incidence at 1.7 per 1,000 live births. This study will use that conservative estimate. At an average of 10,000 deliveries annually, this would be about 17 non-Native babies born with FAS in Alaska a year. Added to the estimated 12 Native births, this brings the total Alaska FAS births per year to 29 babies. Of these, 26 babies survive their first year. See Table 1.

In the 16 years since U.S. doctors recognized that alcohol harms the fetus, researchers have concentrated on the more serious illness, FAS. However, patients with FAE have an average IQ of 73 and researchers now believe that in addition to lowered IQ, FAE causes hyperactivity, learning disorders, speech and hearing problems, perceptual problems and short attention span, among other problems. In some cases, these signs may not become evident until the child has trouble in school. Educators faced with a "difficult" child may not associate school problems with prenatal exposure to alcohol.

Researchers disagree on the incidence of FAE. Ann Streissguth of the University of Washington Medical School, an associate of the U.S. discoverers of FAS, estimates that FAE occurs twice as often as FAS. The National Institute on

Table 1

Incidence of FAS births in Alaska, 1988

Native births:	
Deliveries (a)	2,736
Incidence of FAS births (b)	4.2/1000
Number of FAS births (2736 x .0042 = 11.5)	12
Non-Native births:	
Deliveries (a)	10,163
Incidence of FAS births (b)	1.7/1000
Number of FAS births (10163 x .0017 = 17.3)	17
Total FAS births:	29
First-year survivors:	
Neonatal mortality rate, Alaska: (c)	5.1%
Neonatal survivors:	28
Postneonatal mortality rate: (c)	5.9%
FAS first-year survivors	26

(a) Alaska Vital Statistics 1985, Department of Health and Social Services, Juneau, 1988.

(b) J.E. Berner, "Update: Incidence of Fetal Alcohol Syndrome (FAS) In Alaska Natives", February 3, 1989.

(c) Alaska Vital Statistics 1985, p. 7.

Alcohol Abuse and Alcoholism reports a ten times increase and Sokol estimates much as a 15 times increase. Hild believes the incidence of FAE in Alaska is ten times that of FAS, or higher. In an effort to be conservative, this report will use the lowest estimate (twice FAS). At this rate, 58 Alaska FAE babies are born a year.

Table 2 shows the number of FAE births per year at each estimate.

Table 2

Incidence of FAE, Alaska 1985 (a)

Estimate of times increase over FAS	Number of FAE born/year (FAS = 29/yr)
2	58
10	290
15	435

(a) Three estimates of the frequency of FAE are quoted in the literature:

* 2 times FAS: Ann P. Streissguth, Ph.d, of the University of Washington Medical School. (Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome, July, 1986, p. 4)

* 10 times FAS: National Clearinghouse for Alcohol Information at Rockville Maryland. (Fact Sheet, December 1985). V. Hild, FAS coordinator for the Alaska Native Health Board, estimates the FAE incidence in Alaska exceeds 10 times that of FAS.

* 15 times FAS: R.J. Sokol. ("Alcohol Abuse During Pregnancy: An Epidemiologic Study", Alcoholism: Clinical and Experimental Research, April 1980, p. 135-145.

B. Medical costs associated with FAS and FAE.

FAS patients commonly require medical care for cleft palate, heart defects, kidney defects, visual and hearing defects, dental problems and skeletal and postural problems. When estimates of the prevalence of these anomalies are available, this report relies on Abel and Sokol, Harwood and Napolitano and Hild for accurate statistics. Unfortunately, the prevalence for the majority of physical problems has not been established and these costs are not be included in this report. Table 6 shows costs of selected physical disorders. Hospital costs are explained below.

Alcohol can lower birthweight even in babies who do not have FAS. Ruth Little reports that when a pregnant woman drinks one ounce of alcohol a day, birthweight can fall by 160 grams. Alcohol also lowers birthweight in the majority of FAS births. Low birthweight babies are at risk to need intensive care. Just ten years ago almost all low birthweight babies died at birth. Today, newborn intensive care saves the lives of four out of five. This intense early care is increasingly expensive and cannot correct the lifelong and expensive defects already caused by prenatal exposure to alcohol. In some cases, the desperate effort to save a too-small baby's life adds to the irreversible burden of harm the child will carry with it for the rest of its life.

Abel and Sokol report that 79.8 percent of FAS babies are low birthweight (see Table 3). Of 29 Alaska babies born annually with FAS, 23 babies would be low birthweight. Alaska vital statistics records show that 4.6 percent of babies are born low birthweight despite their prenatal care. Thus, one Alaska baby would be low birthweight despite the best prenatal care, leaving 22 Alaska babies whose low birthweight is due to FAS. Abel and Sokol report that 74.3 percent of FAS low birthweight babies are moderately low birthweight, weighing between 1500 and 2500 grams. At this rate, 16 Alaska FAS babies would be

moderately low birthweight. The rest (six babies) are very low birthweight, weighing less than 1500 grams.

The National Institute of Medicine reports that 32.8 percent of moderately low birthweight babies need intensive care (see Table 4). Of the 16 moderately low birthweight Alaska babies, five would need intensive care. All of the very low birthweight babies (six babies) would need intensive care. The total number of FAS low birthweight babies needing intensive care is 11 per year. This estimate is corroborated by Dr. Jack Jacob, Providence Hospital neonatologist, who reports between ten and 15 FAS infants are treated in the intensive care unit each year.

Providence Hospital records show that in 1987, the average length of stay in intensive care for an FAS baby was 27 days and in 1988, it was 65 days.[2] Average FAS hospital costs in 1987-88 were $99,740 per FAS child; average neonatal physician fees for FAS infants were $11,065. These costs include all hospital costs except transport, other physicians and anesthesiology. Total average cost of intensive care for one FAS baby is $110,805 per year. For 11 low birthweight babies, it is $1,218,855 per year.

The Institute of Medicine estimates that 19 percent of all moderately low birthweight babies and 38.3 percent of very low birthweight babies must be rehospitalized during their first year. Streissguth of the University of Washington reports that it is "usual" for FAS babies to be rehospitalized for pneumonia and problems such as hip dysplasia; applying statistics for all low birthweight babies to FAS births may result in conservative estimates.

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[2] To compare, average length of stay for all low birthweight babies in the intensive care unit at Providence was 19.7 days in 1987 and 23.7 days in 1988.

Using the Institute of Medicine averages for all low birthweight babies, one FAS moderately low birthweight baby would be rehospitalized for 12.5 days and two very low birthweight babies would be rehospitalized for 16.2 days. Hospitalization for children not in intensive care was about $900 a day at Providence Hospital in Anchorage in 1988. Rehospitalization for one baby for 12.5 days is $11,250 and for two babies at 16.2 days it is $29,160. Total cost of rehospitalization for low birthweight FAS babies: $40,410. This does not include physicians, surgery, special procedures or transportation. See Table 5.

Table 3

Low birthweight of FAS births,
Alaska 1985

Alaska Low Birthweight Births (under 2500 grams) due to FAS.

FAS births which are Low Birthweight:	
Total FAS births:	29
% FAS births which are under 2500 grams (a)	79.8%
LBW babies in 29 FAS births:	23
(29 x .798 = 22.9)	
Low Birthweight births not due to FAS:	
% Alaska LBW births under 2500 grams not due to FAS (b)	4.6%
4.6% x 23 = 1 LBW birth not due to FAS	
LBW births due to FAS:	22
(23 x .046 = 1.1)	

Weight distribution of Alaska FAS Low Birthweight births:

1500-2500 grams (MLBW):	
% FAS births between 1500-2500 grams (a)	74.3%
FAS MLBW babies:	16
(22 x .743 = 16.4)	
Under 1500 grams (VLBW):	
All other LBW babies are VLBW (under 1500 grams)	6

(a) Abel and Sokol, "Incidence of Fetal Alcohol Syndrome and Economic Impact of FAS-Related Anomalies", Elsvier Scientific Publishers, Ireland, August, 1986, p. 58.

(b) If FAS were eliminated from Alaska, 4.6 percent of all births would still be low birthweight. Although they would still need treatment, the costs of their treatment should not be attributed to FAS. This number is the solution to the following equation: 4.8% x 12,900 births = 79.8% x 24.6 FAS births + p x 12,869 non-FAS births, where 4.8% is low birthweight rate in Alaska; 12,900 is number of Alaska births in 1985; 79.8% is U.S. LBW rate for FAS births; 24.6 is FAS births in Alaska in 1985. Formula devised by J.W. Senner, Oregon State Health Division, "Revised Annual National Cost Estimates" (Portland), p. 2.

Table 4

Costs of intensive care hospitalization for FAS LBW babies
Alaska 1985

Moderately LBW (1500-2500 grams) Intensive Care hospitalization:	
% MLBW babies requiring intensive care (a)	32.8%
MLBW FAS babies requiring intensive care (16 x .328 = 5.4)	5
Very LBW (under 1500 grams) Intensive Care hospitalization:	
% VLBW babies requiring intensive care (a)	100%
VLBW FAS babies requiring intensive care	6
Total	11 babies
Hospital cost for 11 babies at $99,740 (b)	$1,097,140
Physician cost for 11 babies at $11,065 (b)	$ 121,715

(a) The Institute of Medicine reports that 32.8% of LBW infants and 100% of VLBW infants require newborn intensive care. Preventing Low Birthweight, Institute of Medicine, (Washington, D.C.), 1985. This may be an underestimate for FAS babies who show a longer average length of stay in intensive care, an indication that they may be sicker than other low birthweight babies. Providence Hospital reports the following average lengths of stay in the newborn intensive care unit in 1987 and 1988.

	1987	1988
Low Birthweight	19.7 days	23.7 days
FAS Low Birthweight	27 days	65 days

(b) Costs do not include transportation, other physician or anesthesiology fees. Neonatologist Dr. Jack Jacob estimates between 10 and 15 FAS infants a year enter the unit (Lisa Wolf, pers. comm.).

Table 5

Cost of first-year rehospitalization for FAS LBW babies
Alaska 1985

LBW rehospitalization:	
FAS MLBW babies in intensive care	5
Neonatal mortality rate (a)	5.1%
FAS MLBW babies who survive intensive care (5 x .051 = .25)	5
Percent LBW babies rehospitalized (b)	19%
Number of LBW babies rehospitalized (5 x .19 = .95)	1
Cost of rehospitalization: 1 x $11,250 (c)	$11,250
VLBW rehospitalization:	
FAS VLBW babies in intensive care	6
Neonatal mortality rate (a)	5.9%
FAS VLBW babies who survive intensive care (6 x .059 = .35)	6 babies
Percent VLBW babies rehospitalized (b)	38.3%
Number of VLBW babies rehospitalized (6 x .383 = 2.3)	2
Cost of rehospitalization: 2 x $14,580 (c)	$29,160
Total cost of first-year rehospitalization:	$40,410

(a) Alaska 1985 Vital Statistics, Department of Health and Social Services, (Juneau), p. 7.

(b) The National Institute of Medicine reports that 19% of 2500-1500 gram babies are rehospitalized during the first year, as are 32.8% of babies under 1500 grams. Preventing Low Birthweight, National Institute of Medicine, (Washington, D.C.), 1985. This may be an under-estimate for FAS births. Streissguth reports that it is "usual" for FAS babies to be rehospitalized during the first few months of life for pneumonia, failure to thrive, hip dysplasia and other problems. A Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome, University of Washington Medical School, July 1, 1986.

(c) Providence Hospital charges for pediatric mission, 1988: $900/day (MLBW average length of stay, 12.5 days; VLBW stay, 2 days).

C. Costs associated with mental retardation.

Streissguth in a study of 61 FAS/FAE diagnosed patients between the ages of 12 and 40 shows that more than half (58 percent) of both FAS and FAE patients were developmentally disabled (IQ's below 70). Hild finds the 58 percent estimate likely in Alaska. This report will rely on that estimate. At this rate, 15 FAS first-year survivors and 34 FAE patients have IQ's below 70. (Note that computing the incidence of FAE at 10 times that of FAS, the percentage used by Alaska experts, there would be 336 developmentally disabled FAE patients born every year.) Social service costs for the average moderately to mildly retarded child are $25,000 a year (not including education). For adults, these costs are as high as $45,000 a year (including vocational rehabilitation). About five FAS children currently are part of the Alaska Youth Initiative program for severely troubled youth at an average cost of $90,000 a year each.

If 58 percent of FAS and FAE patients are developmentally disabled, an estimated 42 percent have minimal brain dysfunction. In this report, costs for this portion of patients are estimated at $4,000 each, the additional cost of special education for mildly disabled persons (above regular education operating costs). State officials caution that FAS/FAE patients with IQ's between 70 and 100 may actually be more expensive than those with lower IQ's because of added counselling, legal and corrections costs. This is not reflected in this report.

Streissguth's study of 61 FAS/FAE patients from the Southwest U.S., Seattle and Vancouver, B.C. showed the following patient characteristics:

(1) IQ's ranged from a score of 20 to 105. Average IQ of patients with FAS was 66 and of patients with FAE, 73. No patient with FAS showed

an IQ above 90. Streissguth concludes it is impossible to predict from a diagnosis alone how handicapped an individual patient with FAS/FAE will be as an adolescent or adult.

(2) 58 percent of both FAS and FAE patients had IQ's below 70, (generally classified as developmentally disabled).

(3) The average reading, spelling and arithmetic level of these patients (ages 12 to 40) was 4th grade, 3rd grade and 2nd grade, respectively.

(4) Average level of general adaptive functioning was 7 years 5 months. (Median age of those tested was 16 years 5 months.)

(5) There was no indication of general improvement in IQ, achievement or adaptive living scores as patients got older.

(6) None of the patients were able to live independently.

Vicki Hild of the Alaska Native Health Board has tabulated living situations for 118 Alaska Natives with FAS. She found that 20 percent had been adopted and 10 percent had died. The remaining children shuttled back and forth between their biological parents and state custody. It is state policy to keep children with their biological parents if possible; children move in and out of state custody as a parent's condition improves or worsens. Among biological parents of the 118 children in the Hild study, only three mothers appeared "reasonably" stable.

Hild cites as an example of "ping-ponging" custody, the case of one Alaska FAS child who had lived in seven foster homes by the time she was three.[3]

D. Costs not included in this estimate.

Medical researchers have not yet determined a reliable rate of incidence for the majority of physical defects common to FAS victims and these costs have not been included in this estimate. These physical anomalies include visual problems, kidney and genital tract problems, and dental and skeletal defects (more frequently found in adolescents and adults), including club foot and scoliosis and neurotube defects such as spina bifida. Also not included are on-going lifelong medical costs associated with the ill health of patients with these problems. (Despite their illnesses, however, FAS patients are expected to live a normal life span.) Transportation, anesthesiology and some physician costs for first-year hospitalization and costs of FAE babies with physical damage are also not included.

Many social costs are also not included in this estimate. FAS children and adults are at high risk for physical and sexual abuse. They may exhibit signs of depression; some may be suicidal; a few may become violent. As they grow into adulthood, some may exhibit increasingly inappropriate sexual behavior.

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[3] Streissguth believes stability is important to the well-being of FAS patients. "We usually find great improvement in emotional development and social functioning when children with both full and partial FAS have stable and supportive living arrangements. Improved behavior which often occurs, even in the absence of changes in IQ, should not be ignored simply because it is more difficult to measure and quantify." "Psychological and Behavioral Effects in Children Prenatally Exposed to Alcohol", Alcohol Health and Research World, Fall 1988, p. 10.

Many of the costs of welfare, child abuse, sexual abuse, psychiatric care, incarceration, stress on the care-giver and loss of a useful member of society are not included in this report. Hild has stated that "without early intervention, all FAS and most FAE patients will be on welfare." In addition, this report does not consider what may be the enormous, but still unrecognized, costs of learning disabilities suffered by children afflicted with FAE.

TABLE I

LIFETIME COST ESTIMATES OF SPECIFIC BIRTH DEFECTS IN FAS BIRTHS -- ALASKA

	Birth Defect	Annual Cost per Patient	Number of Times or Years	Lifetime Cost per Patient	Prevalence	Number Per Yr (% x 26)	Lifetime Cost: All Born 1988
	ANNUAL FAS BIRTHS (29 BIRTHS; 26 SURVIVORS)						
1	Neonatal Unit/Providence	99,740	1	99,740		11	1,097,140
2	Neonatal Physician	11,065	1	11,065		11	121,715
3	First Year Rehospitalization	13,470	1	13,470		3	40,410
4	Initial Audio Screening	100	1	100	52%	15	1,500
5	Audio Check-up	100	4	400	100%	26	10,400
6	Otitis Media Surgery	1,224	1	1,224	56%	15	18,360
7	Hearing Aid	1,260	14	17,640	33%	9	158,760
8	Hearing Aid Mold	50	65	3,250	33%	9	29,250
9	Heart Surgery	75,000	1	75,000	5%	1	75,000
10	Cleft Palate Surgery	65,000	1	65,000	12%	3	195,000
11	Infant Learning Program (HSS)	2,513	3	7,539	100%	26	196,014
12	H/C Child: phys defect (HSS)	8,700	18	156,600		7	1,096,200
	H/C Child: devel delay (HSS)	8,700	3	26,100	58%	15	391,500
13	Minimal Special Eductn (DOE)	4,000	15	60,000	42%	11	660,000
14	Child Mental Retardation (DOE)	20,000	15	300,000	58%	15	4,500,000
15	DD Child (HSS)	25,000	18	450,000	58%	15	6,750,000
16	Alaska Youth Initiative (HSS)	90,000	12	1,080,000		1/2	540,000
17	DD Adult Initial Training(HSS)	45,000	3	135,000	58%	15	2,025,000
18	DD Adult Supervised Work (HSS)	22,500	44	990,000	58%	15	14,850,000
19	Institution	109,000	65	7,085,000	3%	1	7,085,000
	Lifetime Costs for FAS Births: 1988						39,841,249
	Lifetime Costs per FAS Birth			1,373,836			
20	ANNUAL FAE BIRTHS AT TWICE FAS RATE (58)						
21	Infant Learning Program (HSS)	2,513	3	7,539	58%	34	256,326
22	DD Child (HSS)	25,000	18	450,000	58%	34	15,300,000
23	Child Mental Retardation (DOE)	20,000	15	300,000	58%	34	10,200,000
24	DD Adult Initial Training(HSS)	45,000	3	135,000	58%	34	4,590,000
25	DD Adult Supervised Work (HSS)	22,500	44	990,000	58%	34	33,660,000
	Lifetime Costs for FAE Births: 1988						64,006,326
	Total FAS/FAE Births						103,847,575

NOTES TO FAS COST TABLE

Numbers refer to line numbers on the table.

1. Neonatal Unit. Charges per FAS patient in the Providence Hospital Neonatal Intensive Care Unit were $68,910 in 1987 and $130,570 in 1988, for an average of $99,740. Average length of stay of FAS infants in the Neonatal Intensive Care Unit more than doubled between 1987 and 1988. It was 27 days in 1987 and 65 days in 1988 (v. 19.7 and 23.7 days for all low birthweight babies in the unit). Statistics provided by Lisa Wolf of Providence Hospital.

2. Neonatal Physician. Physician costs per FAS child were $6,130 in 1987 and $16,000 in 1988, for an average of $11,065. Estimates by Sharon Lee of Alaska Neonatal-Perinatal Associates.

3. First-year rehospitalization. Cost estimate is based on 1988 Providence Hospital pediatric charges of $900/day. The number of infants and average length of stay (12.5 days for moderately low birthweight infants and 16.2 days for very low birthweight babies) are from the National Institute of Medicine and are for all low birthweight infants. Applied to FAS births, these may be underestimates. Streissguth reports it is "usual" for FAS babies to be rehospitalized in the first few months of life.

4. Initial Audio Screening. The state audiologist, Communicative Disorders Program, Anchorage, reports all FAS children need a workup. This report estimates that 11 infants receive a workup in intensive care; the 15 remaining surviving infants are counted in this entry.

5. Audio Check-up. FAS children need three to four follow up checks. The $100 charge is from the Alaska Treatment Center in Anchorage; the check-up estimate is from the state audiologist.

6. Otitis Media Surgery. Estimate is from the Geneva Woods Ear Nose and Throat Associates. Source of 56% prevalence is Harwood and Napolitano. These costs do not include less severe ear problems common to 93 percent of FAS patients (Alaska Treatment Center). Twenty-nine percent of FAS patients have permanent hearing loss.

7. Hearing Aid. A hearing aid for a baby costs $1,260; it is replaced once every five years for life at this cost. Cost estimate from Alaska Treatment Center.

8. Hearing Aid Mold. A $50 ear mold must be replaced annually. Estimate from Alaska Treatment Center.

9. Heart Surgery. Up to 70 percent of FAS patients have heart problems (Streissguth reports the portion at 30-40 percent; Hild reports 70 percent). Harwood and Napolitano report 10 percent require heart surgery, but reduce the estimate to 5 percent to reflect cases actually having surgery. Cost estimates from Vicki Hild, Alaska Native Health Board FAS coordinator.

10. Cleft Palate. Costs include an average of four surgeries, dental and orthodontics work. They do not include long term speech therapy at $96/session twice or three times a week. Estimates from Vicki Hild. The 12% estimate is average of Abel and Sokol (11.5%) and Harwood and Napolitano (12.5%).

11. Infant Learning Program. Mary Diven of the state division of Maternal and Child Health reports these figures are "deceptively low", under estimating the true cost of rural service. Infant Learning Program costs as much as $6,000/year in some rural areas.

12. Handicapped Children's Program. Cost estimates include averages for children with heart problems, cleft palate and developmental delay. Children with physical problems can be on the program for 21 years; children with developmental delays may be on the program for as few as three years. Cost estimates by Kathy Robinson, Maternal and Child Health, Alaska Department of Education. This report estimates that one child per year has heart problems (a low estimate in view of the 30 to 70 percent with heart problems); three have cleft palates; and three more have other physical problems such as spina bifida, progressive scoliosis, or severe visual and hearing loss.

13. Minimal Special Education. Costs cover only $4,000/year for additional special education for learning disabled children, above normal operating and capital education costs (Tom Buckner, Department of Education). Christine Hagmeier of the Department of Health and Social Services cautions that patients with IQ's above 70 and below 100 "may well be more expensive than those with lower IQ's" because they an become involved in counselling, corrections and the law. These costs are not reflected in this report. The 42 percent prevalence estimate is from Streissguth.

14. Child Mental Retardation. Cost of special education for severely retarded children is $20,000 - $23,000/year, in addition to normal operating and capital education costs. Estimates from Tom Buckner, Department of Education.

15. Developmentally Disabled Child (HSS). Cost estimate by Christine Hagmeier of the Department of Health and Social Services. Costs can include foster care, in-home care, shared care, respite care, in-home training, advocacy and family support. Hagmeier reports that severely disabled children can cost between $35,000 and $85,000 with average cost of $55,000.

16. Alaska Youth Initiative. Cost estimate from John Van Den Berg, Department of Health and Social Services. This is a program for 52 severely troubled youths. The average age is 15.8 years; the average number of failed housing placements is 16. Currently five FAS youths are in the program. This report estimates children remain on the program an average of 12 years (based on Van Den Berg's report that "absolute minimum lifetime costs per child are $1 million".) It further assumes that one FAS child would enter this program every two years. Streissguth reports that aggressive behavior may be a problem for about 40% of the boys. Those from a less structured and protected environment may be "quick to anger when crossed and quick to strike out impulsively".

17. Developmentally Disabled Adult Initial Training. Costs include $25,000 residential care (example: foster care and independent living) plus initial vocational rehabilitation costs of $20,000, for a total of $45,000. Initial vocational rehabilitation costs average between two and five years. Estimate by Christine Hagmeier.

18. Developmentally Disabled Adult Supervised Work. After initial rehabilitation costs (see #17 above), costs can "fade" to between $10,000 and $25,000 for lifetime residential care plus $5,000 lifetime vocational rehabilitation care (Hagmeier). The average of this $15,000 to $30,000 range is $22,500.

19. Institution. Estimate by Ellen Ganley, Governor's Council for the Handicapped and Gifted.

20. FAE Births. Annual FAE births are calculated in this report at twice that of FAS births. This is a conservative estimate. Hild believes the actual number of FAE births annually is ten times the FAS births (or 290 FAE births and 168 developmentally disabled FAE persons.) In this report, cost estimates for FAE births are limited to mental retardation. They do not include costs associated with mild learning disabilities, physical anomalies, child abuse, sexual abuse or the justice system.

21. See #11.
22. See #15.
23. See # 14.
24. See # 17.
25. See # 18.

SOURCES

Ernest L. Abel and Robert J. Sokol, "Incidence of Fetal Alcohol Syndrome and Economic Impact of FAS-Related Anomalies", Department of Obstetrics and Gynecology, Wayne State University, Drug and Alcohol Dependence, Vol. 19, 1987, pp. 51-70.

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Henrick J. Harwood and Diane M. Napolitano, "Economic Implications of the Fetal Alcohol Syndrome", Alcohol World Health & Research, National Institute on Alcohol Abuse and Alcoholism, Fall 1985.

Ruth Little, "Moderate Alcohol Use During Pregnancy and Decreasing Infant Birthweights", American Journal of Public Health, Vol. 67, 1977.

Ann P. Streissguth, A Manual on Indian Adolescents and Adults with Fetal Alcohol Syndrome, University of Washington Medical School, July 1, 1986.

PERSONS CONSULTED

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Vicki Hild, FAS Coordinator, Alaska Native Health Board.

Kathy Robinson, Handicapped Children's Program, Alaska Department of Health and Social Services.

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John Van Den Berg, Mental Health and Social Services, Alaska Department of Health and Social Services.

Lisa Wolf, Providence Hospital.

Sec. 47.37.190. Involuntary commitment of alcoholics. (a) After a hearing initiated by petition of a spouse or guardian, a relative, the certifying physician, or the administrator in charge of an approved public treatment facility, a person may be committed to the custody of a private or public facility by the superior court. The petition shall allege that the person is an alcoholic who habitually lacks self-control in using alcoholic beverages and that the person (1) has threatened, attempted to inflict, or inflicted physical harm on another and that unless committed is likely to inflict physical harm on another; or (2) is incapacitated by alcohol. A refusal to undergo treatment does not constitute evidence of lack of judgment as to the need for treatment. The petition shall be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The certificate shall set out the physician's findings in support of the allegations of the petition.

(b) After the petition is filed, the court shall fix a date for a hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of the hearing, including the date fixed by the court, shall be served on (1) the petitioner; (2) the person whose commitment is sought; (3) the next of kin of the person whose commitment is sought; (4) the administrator in charge of the approved public treatment facility in which the committed person has been committed for emergency care; and (5) any other person the court considers appropriate. A copy of the petition and certificate shall be delivered to each person notified.

(c) If, not less than two days before the date fixed for the hearing, the person sought to be committed or the person's counsel or advisor files a written request with the superior court, the court shall summon and impanel a jury of six adult residents of the judicial district in which the court officiates, preferably from the court's jury list or the last voters lists, if available, to hear and consider evidence concerning the condition of the person sought to be committed. (§ 1 ch 207 SLA 1972; am § 7 ch 150 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "a private or public facility" for "the office" near the end of the first sentence of subsection (a).

Sec. 47.37.200. Hearing on petition for involuntary commitment of alcoholics. (a) At the hearing required under AS 47.37.190(b), the court or the jury, if requested under AS 47.37.190(c), shall hear all relevant testimony, including, if possible, the testimony of at least one licensed physician who has examined the person whose commitment is sought. The person whose commitment is sought shall be present unless the court believes that being present is likely to be injurious to the person, in which case the court shall appoint a guard-

ian ad litem to represent the person throughout the proceeding. The court may examine the person in open court, or if advisable, examine the person out of court. If the person has refused to be examined by a licensed physician, the person shall be given an opportunity to request examination by a court-appointed licensed physician. If the person fails to request a medical examination and there is sufficient evidence to believe that the allegations of the petition are true, or if the court believes that more medical evidence is necessary, the court may issue a temporary order committing the person to a private or public facility for a period of not more than five days for purposes of a diagnostic examination.

(b) If after hearing all relevant evidence, including the results of any diagnostic examination by the private or public facility, the court or the jury finds that grounds for involuntary commitment have been clearly established, the court shall issue an order of commitment to the private or public facility. A court may not order the commitment of a person unless it determines that a private or public facility is able to provide adequate and appropriate treatment for the person.

(c) A person committed under AS 47.37.190 — 47.37.200 shall remain in the custody of a private or public facility for treatment for a period of up to 30 days. At the end of the 30-day period, the person shall be discharged automatically unless the office, before the expiration of the period, obtains a court order for recommitment upon the grounds set out in AS 47.37.190(a) for a further period of up to 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the office shall apply for recommitment if after examination it is determined that the likelihood still exists.

(d) A person recommitted under (c) of this section who has not been discharged by the private or public facility before the end of the 90-day period shall be discharged at the expiration of that period unless the office, before expiration of the period, obtains a court order on the grounds set out in AS 47.37.190(a) for recommitment for a further period not to exceed 90 days. If a person has been committed because the person is an alcoholic likely to inflict physical harm on another, the office shall apply for recommitment if after examination it is determined that the likelihood still exists. No more than two recommitment orders may be permitted under (c) and (d) of this section.

(e) Upon the filing of a petition for recommitment under (c) or (d) of this section, the court shall fix a date for hearing no later than 10 days after the date the petition was filed. A copy of the petition and of the notice of hearing, including the date fixed by the court, shall be served on (1) the petitioner; (2) the person whose commitment is sought; (3) the next of kin of the person whose commitment is sought; (4) the original petitioner under AS 47.37.190(a), if different from the petitioner for recommitment; (5) any other person the court considers

appropriate. AS 47.37.180(c) applies to hearings for recommitment under this section. At the hearing the court or the jury shall proceed as provided in (a) of this section.

(f) A private or public facility shall provide adequate and appropriate treatment for a person in its custody. A public facility may transfer a person in its custody from one approved public treatment facility to another if the transfer is medically advisable.

(g) A person committed to the custody of the office for treatment shall be discharged at any time before the end of the period for which the person has been committed if either of the following conditions is met:

(1) when an alcoholic committed on the grounds of likelihood of infliction of physical harm on another is no longer considered an alcoholic or the likelihood of the person inflicting physical harm no longer exists; or

(2) when, in the case of an alcoholic committed on the grounds of the likelihood of infliction of physical harm on another, either

(A) further treatment will not be likely to bring about significant improvement in the person's condition, or

(B) treatment is no longer adequate or appropriate.

(h) The court shall inform the person whose commitment or recommitment is sought of the right to contest the application, be represented by counsel at every stage of the proceedings relating to commitment and recommitment, to have counsel appointed by the court or provided by the court, if the person is unable to obtain counsel, and to a jury trial, if requested, as specified in AS 47.37.190(c). If the court believes that the person needs the assistance of counsel, the court shall require counsel, by appointment if necessary, regardless of the person's objection. The person whose commitment or recommitment is sought shall be informed of the right to be examined by a licensed physician of the person's choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician for the examination.

(i) If a private treatment facility agrees with the request of a competent patient or the patient's parent, sibling, adult child, or guardian to accept the patient for treatment, the administrator of the public treatment facility shall transfer the patient to the private treatment facility.

(j) A person committed under this chapter may at any time seek discharge from commitment by writ of habeas corpus under AS 12.75.010 — 12.75.230. (§ 1 ch 207 SLA 1972; am §§ 8 — 12 ch 150 SLA 1980)

Effect of amendments. — The 1980 amendment substituted "private or public facility" or "a private or public facility" for "the office" or "office" in several places throughout the section, and substituted "A public facility" for "The office" at the beginning of the second sentence of subsection (f).

NOTES TO DECISIONS

Actionable duty imposed on municipality. — This section imposes upon a municipality an actionable duty to take persons incapacitated by alcohol in a public place into protective custody. Busby v. Municipality of Anchorage, 741 P.2d 230 (Alaska 1987).

Sec. 47.37.270. Definitions. In this chapter

(1) "alcoholic" means a person who habitually lacks self-control in using alcoholic beverages, or uses alcoholic beverages to the extent that the person's health is substantially impaired or endangered, or the person's social or economic function is substantially disrupted;

(2) "approved private treatment facility" or "private facility" means a private agency meeting the standards prescribed in AS 47.37.140(a) and approved under AS 47.37.140(c);

(3) "approved public treatment facility" or "public facility" means a treatment agency operating under the direction and control of the office or providing treatment under AS 47.37.010 — 47.37.270 through a contract with the office under AS 47.37.130(g) or through a grant awarded under AS 47.30.475, and meeting the standards prescribed in AS 47.37.140(a) and approved under AS 47.37.140(c);

(4) *[Repealed, § 23 ch 71 SLA 1988.]*

(5) "commissioner" means the commissioner of health and social services;

(6) "coordinator" means the coordinator of the office of alcoholism and drug abuse;

(7) "department" means the Department of Health and Social Services;

(8) "emergency service patrol" means a patrol established under AS 47.37.230;

(9) "hazardous volatile material or substance"

(A) means a material or substance that is readily vaporizable at room temperature and whose vapors or gases, when inhaled,

(i) pose an immediate threat to the life or health of the person; or

(ii) are likely to have adverse delayed effects on the health of the person;

(B) includes, but is not limited to,

(i) gasoline;

(ii) materials and substances containing petroleum distillates; and

(iii) common household materials and substances whose containers bear a notice warning that inhalation of vapors or gases may cause physical harm;

(10) "incapacitated by alcohol" means a person who is unconscious or whose judgment is otherwise so impaired that the person is incapable of realizing and making a rational decision with respect to a need for treatment, as evidenced objectively by extreme physical debilita-

tion, physical harm or threats of harm to others or chronic inability to hold regular employment;

(11) "incompetent person" means a person who has been adjudged incompetent by the appropriate court;

(12) "inhalant abuse" means the misuse of a hazardous volatile material or substance by inhaling its vapors;

(13) "intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol;

(14) "office" means the office of alcoholism and drug abuse within the Department of Health and Social Services;

(15) "treatment" means the broad range of emergency, outpatient, intermediate, and inpatient services and care which may be extended to alcoholics and intoxicated persons, including diagnostic evaluation, medical, psychiatric, psychological, and social service care, vocational rehabilitation and career counseling;

(16) "work therapy"

(A) means an activity that involves a patient in basic employment skills and assists the patient in reintegration into a community;

(B) does not include

(i) activities such as personal housekeeping chores or cooperative responsibilities expected of each patient in the program; or

(ii) work that produces goods or services for sale or distribution, the proceeds of which would be returned to the owners, operators, or businesses of the rehabilitation program. (§ 1 ch 207 SLA 1972; am § 4 ch 116 SLA 1978; am §§ 15 — 18 ch 150 SLA 1980; am § 3 ch 58 SLA 1983; am § 69 ch 37 SLA 1986; am E.O. No. 71, § 23 (1988); am § 5 ch 75 SLA 1989)

Revisor's notes. — Paragraphs (9) and (12) were enacted as (15) and (16), respectively. Renumbered in 1989, at which time the remaining paragraphs were renumbered accordingly.

Effect of amendments. — The 1986 amendment at the end of paragraph (6) added "and drug abuse."

The 1988 amendment, effective July 1, 1988, repealed former paragraph (4), which defined "board."

The 1989 amendment, effective July 1, 1989, added present paragraphs (9) and (12).

Chapter 40. Purchase of Services.

Article
1. Purchase of Services for Minors (§ 47.40.041)

Article 1. Purchase of Services for Minors.

Section
41. Grants

POSITION PAPER/Department of Health and Social Services

POSITION PAPER

SENATE BILL NO. 414

For an Act entitled: "An Act relating to commitment to treatment programs for pregnant women who are alcoholics."

SB 414 would amend the Uniform Alcoholism and Intoxication Treatment Act by permitting the involuntary commitment to a public or private treatment facility of pregnant alcoholics whose continued use of alcohol is likely to harm the fetus. Under this Bill, pregnant alcoholics could be committed, if necessary to prevent potential damage to the fetus, for the term of the pregnancy subject to requirements for periodic court hearings to determine the need for continued treatment.

Background: The recognition that excessive maternal alcohol use during pregnancy can damage the fetus has occurred only in the last twenty years or so and knowledge of the prevalence of such injury is still being developed. Fetal alcohol syndrome (FAS), the best known form of injury, has a worldwide incidence of about 1.9 cases per 1000 live births. The United States rate is about 1.3 per 1000 and, according to estimates made by the Alaska Native Health Service and the Alaska Native Health Board, the rate in Alaska Natives is approximately 4.3 per 1000 live births. Rates for the non-Native Alaska population are not known.

Fetal Alcohol syndrome, in its fully developed form, is characterized by: (1) prenatal onset and persistence of growth deficiency for length, weight, and head circumference; (2) facial abnormalities; (3) cardiac defects; (4) minor joint and limb abnormalities; and (5) delayed development and mental deficiency varying from borderline to severe. Because FAS is not curable and because of its lifelong effects on physical health and mental development and because of high levels of alcohol use in the population, FAS is of special concern in Alaska.

Analysis: THe intent of the Bill is to interrupt the deleterious effects on the fetus of alcohol use by pregnant women by providing treatment and, where necessary, prolonged and involuntary confinement. In common with many other types of drugs with the potential for causing fetal injury, it is not known with certainty when alcohol use exerts its greatest effect on the fetus. In many types of fetal injury caused by drug use, the greatest sensitivity on the part of the fetus appears to be in the first trimester and that may be the case at least for those malformations which are characteristic of FAS. However, growth retardation may be affected by alcohol use later in pregnancy. FAS may result from continued use throughout pregnancy or from high dose binge drinking. It should also be pointed out that heavy alcohol use by pregnant

POSITION PAPER/Department of Health & Social Services

women does not invariably result in FAS. The 1987 edition of the Nelson Textbook of Pediatrics estimates the likelihood of harmful effect from chronic severe maternal alcoholism at 30 to 50 percent.

In order to be effective in preventing fetal injury, heavy maternal alcohol use, including binge drinking, would have to be prevented from the early stages through the remainder of the pregnancy. Since women who abuse alcohol are probably less likely than other women to seek prenatal care during the first trimester, much of the damage resulting from alcohol use would probably already have been done by the time the pregnancy is diagnosed and before commitment procedures could be instituted. It also seems likely that the possibility of involuntary commitment would serve to discourage alcohol-using pregnant women from seeking and receiving prenatal care, thus compounding the problem even further.

Position: The Department of Health and Social Services is in agreement with the intent of this Bill, but believes that involuntary commitment would probably not provide timely intervention, will likely discourage women from seeking needed prenatal care and would therefore be relatively ineffective in achieving the desired result. Consequently, the Department cannot support SB 414. The Department has not explored the legal questions which are inherent in the use of involuntary commitment.

Recommended by: Duane B. Peeples for
Katherine A. Kelly, Dr.P.H.
Director, Division of
Public Health

Date: _____

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

Date: Feb 21, 1990

MEMORANDUM State of Alaska

TO: Frank Baxter, Commissioner
Department of Administration

DATE: February 14, 1990

FILE NO:

TELEPHONE NO:

THRU: Sioux Plummer, Special Assistant
Office of the Commissioner

SUBJECT: SB 414

FROM: John Salemi, Public Defender

It appears the intent of SB 414 is to protect the unborn fetus in situations where the pregnant woman is abusing alcohol. While this is a laudable objective, I believe implementation of such legislation would raise serious constitutional questions regarding the rights of individuals. While facially a noncriminal piece of legislation, the effect is to criminalize the use of alcohol among pregnant women. There is a significant restriction of liberty based on the individual's status as an abuser of alcohol. "Status offenses" have previously been deemed unconstitutional by the United States Supreme Court. For example, one cannot be punished for the mere fact that he or she is a narcotics addict. Additionally, the hotly debated issue of rights of a fetus, when life begins, etc. will play itself out in the courts if this legislation is enacted. Once implemented, the Public Defender Agency will undoubtedly carry the burden of constitutional litigation/argument in these types of cases. Incidences of fetal alcohol syndrome are on the rise. These cases present themselves disproportionately in the lower socio economic strata. As such the vast majority of individuals who might be committed under this law would be entitled to Public Defender representation.

Based on the fact that a strong constitutional attack will have to be mounted involving both extensive evidentiary hearings at the trial court level and appellate court briefing and argument, there will be noticeable fiscal impact on the Public Defender Agency. Even assuming no constitutional infirmity, the procedural mechanism which permits this type of commitment will involve considerable time and expense on the part of the attorney charged with representing the woman who is the subject of the potential commitment. Over the period of the pregnancy, the statute allows the state to request three separate 90-day periods of commitment. There will be hearings on each of these three occasions to determine the appropriateness of continued commitment. Prior to the hearings the defense will undoubtedly request that an independent medical expert evaluate the client to determine the potential for alcohol abuse, efforts at rehabilitation, indicators of any damage to the fetus and so on. Medical evaluations of this nature along with expert testimony are very expensive. Hearings involving medical experts are often lengthy. Because the individual client is not being charged with a criminal offense, but is subject to the equivalent of incarceration, these matters will not be dealt

with perfunctorily. The litigation will be adversarial rather than conciliatory.

If this legislation is enacted, the Public Defender Agency will need additional personnel to advance the constitutional concerns at the trial court and appellate levels. Assuming the statute passes constitutional muster, it is unclear as to how many cases of this nature will be "prosecuted" by the state on a yearly basis. As previously mentioned, incidences of fetal alcohol syndrome are on the rise in Alaska. This very well could be a commonly used vehicle for commiting pregnant women who have alcohol problems. As the Department of Law has not yet submitted a fiscal note on this bill, the Public Defender Agency is unsure as to the precise fiscal impact. It appears that at least one attorney and support person would be required to handle the additional load created by such legislation. This is especially true in light of the fact that these cases would fall into the laps of attorneys who now do mental health commitment hearings. As the number of those cases have risen rather dramatically in recent years, this additional burden could not be absorbed without further resources within the agency.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 414 (b)
PUBLISH DATE: 2/27/90

FISCAL NOTE

REQUEST:

Revision Date:
Title: Relating to commitment to treatment programs for pregnant women . . .
Sponsor: Binkley
Requestor:

Agency Affected: Health & Social Services
BRU:
Components:

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

Fiscal impact for FY90 is "0".

Prepared by: Katherine Kelly, Director
Division: Division of Public Health
Phone: 465-3090
Date:

Approved by Commissioner: Myra M. Munson
Agency: Department of Health & Social Services
Date: 2/21/90

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

Although the Department has sunmitted a "0" fiscal note on this legislation, we believe that this fiscal note deserves additional explanation.

Few individuals are involuntarily committed to alcohol programs under the current commitment law. This occurs for two reasons. First, there are few available beds in treatment programs into which the individual can be committed. In the absence of a bed, the commitment does not take place. Secondly, the commitment law has been criticized by some as very difficult to use. These individuals claim that, regardless of the availability of space in treatment programs, few individuals are able to be committed.

The Department's "0" fiscal note assumes that if a pregnant woman is committed, she will either fill a bed that is already being paid for through State funds or bump an individual off an existing waiting list for the treatment slot. If no bed is available, we assume that the comittment will either not be sought or will not be granted. To the extent that the existing commitment law is changed or that sufficient additional treatment capacity becomes available, additional state funds to pay for this treatment may be necessary.

The Department wishes to emphasize that our "0" fiscal note does not imply that additional resources are not needed to provide appropriate programs for pregnant women who abuse alcohol. The peciliarities of the committment law, rather than our assessment of available resources, have dictated the submission of this fiscal note. The Department recognizes that additional resources are needed to develop appropriate alcohol treatment services for pregnant women and we have included an increment in the FY 91 budget to expand these services.

STATE OF ALASKA
1990 LEGISLATIVE SESSION

Bill Version: SB 414 (a)
Publish Date: 2/27/90

FISCAL NOTE

REQUEST:

Revision Date:
Agency Affected: Alaska Court System
Title: An Act relating to commitment to treatment programs for pregnant women...
BRU: Trial Courts
Sponsor: Binkley, Zharoff, Coghill, Pourchot...
Components:
Requestor: HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

FUNDING: (Thousands of Dollars)

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

POSITIONS:

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: Jan Strandberg, General Counsel
Phone: 264-8228
Division: Alaska Court System
Date: 02/21/90

Approved by: Arthur H. Snowden, II, Administrative Director
Date: 02/21/90
Agency: Alaska Court System

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

Senator Johne Binkley

Senate Finance Committee
P.O. Box V • Juneau, Alaska 99811 • (907) 465-4985

Finance Committee
Co-Chairman

March 28, 1990

Joan Hamilton
Box 1275
Bethel, Alaska 99559

Re: SB 414 - Relating to commitment to treatment programs for pregnant women who are alcoholics

Dear Joan:

I've received your public opinion message regarding Senate Bill 414. We need to talk.

I'm sure you would agree that fetal alcohol syndrome and fetal alcohol effects are enormous problems in our state. Over the past three years I introduced resolutions which resulted in Mother's Day Week being proclaimed as Fetal Aclohol Syndrome Awareness Week. We asked all Alaskans to become involved in public education and support of pregnant women in this important issue. By and large, except for those individuals and organizations who were already involved in prevention efforts, these resolutions seemed to fall on deaf ears.

This past fall I read Michael Dorris' book, The Broken Cord. I also listened with growing concern as Dr. Ann Streissguth, one of the pioneers in FAS research, talked about the FAS and FAE kids as adolescents and young adults in our society and the problems both they and society are facing because of their birth defects--*preventable* birth defects.

Every year in Alaska a *minimum* of between 87 and 319 children are born with alcohol-related birth defects, twenty-nine of these with the more severe defects labeled FAS. News of the danger of drinking during pregnancy is beginning to spread, but not fast enough to make a difference for these children--and probably for their brothers and sisters not yet born.

Alcohol-related birth defects affect children of all races and social structures. In fact, the record holder in Alaska is non-Native. This woman has given birth to seven FAS children, and is pregnant again. What are we going to

do about her? None of her children live with her; they're all out in foster care, and she resists efforts to get her into treatment voluntarily.

Senate Bill 414 simply expands the alcohol commitment statutes to allow for a petition to the court for commitment of a pregnant alcoholic woman to the custody of a treatment center. The current alcohol commitment statutes allow for petition of an individual who is incapacitated or who has threatened or islikely to harm another. A pregnant woman doesn't have to meet the measure of being legally incapacitated to be causing permanent damage to her unborn child. And under Alaska law, the unborn child is not defined as "another" so the pregnant alcoholic can't be committed under that provision. That's why SB 414 would establish the new category, one for "pregnant women who are alcoholic and whose continued use is likely to harm the fetus."

Even so, this commitment procedure would be used only in those most grevious circumstances, when every effort at voluntary treatment had been exhausted. The petition is a court document. It must be accompanied by a certificate of a physician who has examined the individual within the previous two days. From a practical standpoint, the treatment agency has be involved, to verify they are willing and able to take the person into custody. And the individual has the right to request a jury trial. It would be a difficult process, as is the case with the current alcohol commitment statutes.

There are critics who say we need increased public information campaigns and more treatment instead. My FAS package includes measures that address increased public education and treatment opportunities. It includes initiatives to help those children who have already been afflicted with these birth defects. What more is needed? I think its time we start talking about the issue of society taking a stand in those cases where a woman's addiction is causing such catastrophic damage to innocent lives.

I've enclosed a copy of a graph my staff prepared, based on the State Division of Alcohol and Drug Abuse's estimates of the costs of inpatient treatment and research which conservatively averages the costs of newborn neonatal services and the lifetime costs of an FAS child. Dollars are hard, cold facts, and the imbalance of the graph in terms of costs is staggering. Even so, if we could measure the imposition of a few months of a woman's life against the years of lost productivity, health problems, and lower quality of life to the damaged child, I believe that chart would be frightening.

I have to tell you, Joan, the really positive thing SB 414 has done already is to get more people concerned and involved in this issue. This is an

enormous, growing problem in Alaska, and we need to be more involved as caring people and communities in changing attitudes and findings answers.

I'm sending you a copy of Michael Dorris's book, Joan, and would like to ask as a favor to me, that you read it and get it started into circulation. I know what a tenacious worker you are when you're committed to a cause, and I would welcome your support.

Sincerely,

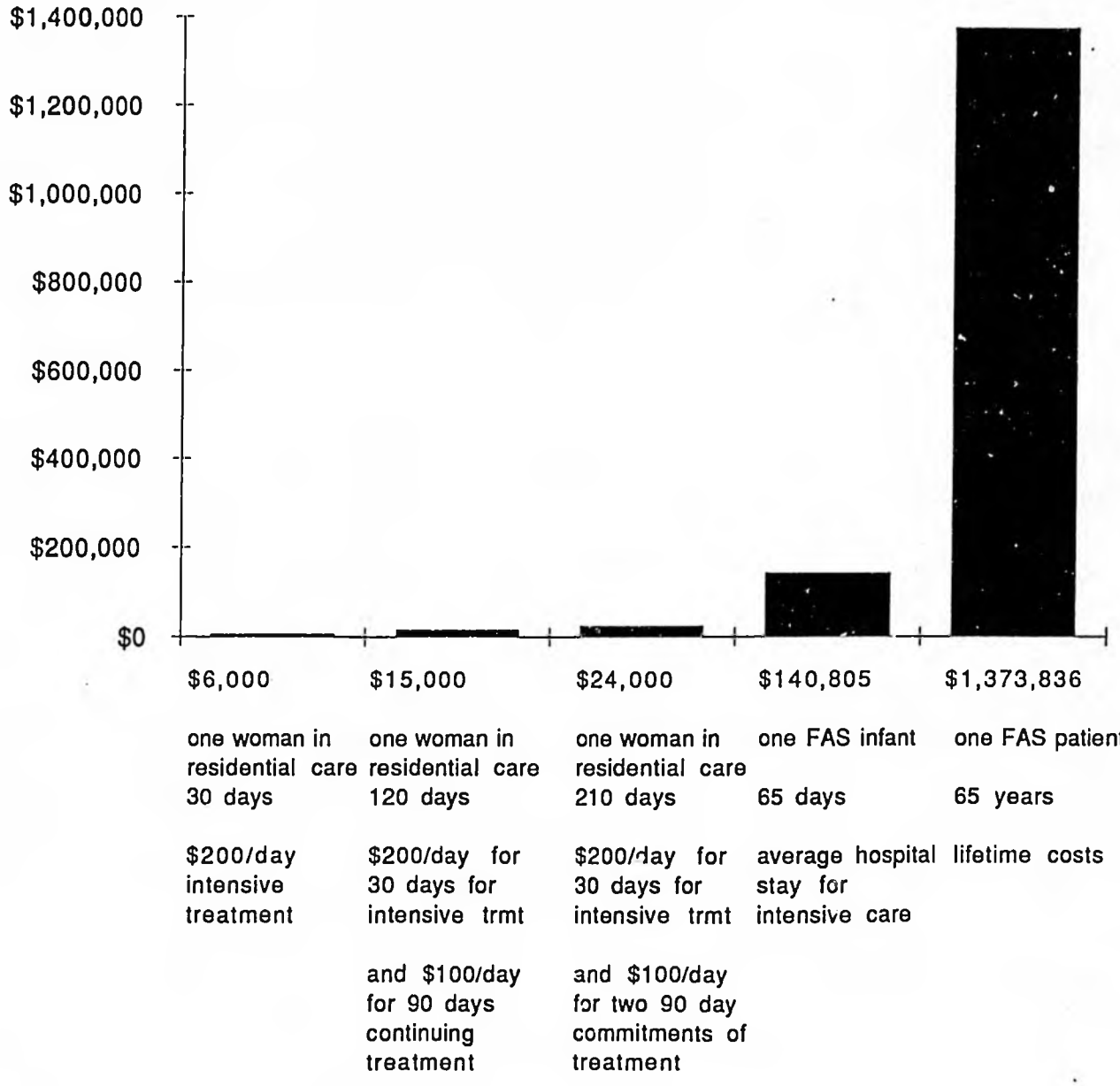
Senator Johne Binkley
Yukon-Kuskokwim and
Interior Rivers

paj

enclosures

cc: Senator Adams
Senator Duncan
Senator Faiks
Senator Halford
Senator Pearce
Senator Rodey
Senator Szymanski
Senator Zharoff
Representative Davis
Representative Foster
Representative Goll
Representative Grussendorf
Representative Hoffman
Representative Jacko
Representative Kubina
Representative MacLean

Costs of Treatment as Compared with Costs of FAS



Bill would reduce birth of FAS babies

OPINION

by Sen. Johne Binkley
for the Tundra Times

JUNEAU — We can take an important step to reduce the number of Fetal Alcohol Syndrome babies born in Alaska if my bill providing for involuntary commitment of pregnant alcoholic women passes the Legislature. But one thing we *won't* be doing is putting drinking moms in jail.

It's understandable that people unfamiliar with this legislation might think the police will be prowling the bars, looking for pregnant women to haul off to jail if this bill passes. That's not true.

And even if an alcoholic woman did find herself in court under this law, she wouldn't be sent to jail. The judge would be able to order her to check into a residential alcohol treatment program.

Here's exactly what the bill — Senate Bill 414 — would do as it is currently written:

If a pregnant woman is showing signs of serious alcoholism, the bill allows the court to be petitioned to determine whether she needs professional help to avoid harming the baby she is carrying. And, while there is plenty of evidence to show that even a couple of drinks a day during pregnancy can cause some damage to the baby's health, this bill is aimed only at the hard core alcoholic, not the casual drinker.

The only peopole who could make a complaint in court against the woman would be her spouse, guardian, relative, a doctor or the administrator of a treatment facility. Because the bill also requires a doctor to file a certificate supporting the court petition, we've tried to protect against a situation where an angry husband or relative files an unjustified complaint.

The doctor must have examined the woman sometime within the two days prior to the petition being submitted to the court, or must have at least given her the opportunity to reject a physical examination.

If, after reviewing the evidence and the physician's certificate, the court decides that only intervention can prevent damage to the baby, the judge can then order the woman committed to a private or public facility for treatment of alcoholism.

The commitment period would be 30 days, with provisions for extension until the baby is born if the court is convinced during a second hearing that there is a need for continuing treatment.

As the treatment goes on, the patient would be provided reasonable opportunities to see the doctor of her choice.

And even if an alcoholic woman did find herself in court under this law, she wouldn't be sent to jail. The judge would be able to order her to check into a residential alcohol treatment program.

And, at any point during the treatment period, if the woman either is determined to be no longer alcoholic or she is no longer pregnant, she would be released.

Most mothers obviously want to take good care of their babies from the moment they find out they're pregnant, and they don't need or deserve anybody from the state telling them how to do it. But alcohol and drug addiction can override that natural protective instinct, and helping those mothers addicted to alcohol protect their babies is the aim of this bill.

Some would say we have no right to intervene in a pregnant woman's life. I'd point out that we already have laws on the books making it illegal to provide alcohol or drugs to children from the moment they are born. Shouldn't we provide that same protection — if only in the most serious cases of alcohol abuse by the mother — in the months before the child is born?

Others might argue that by the time a woman is obviously pregnant and her alcohol abuse is documented well enough to go to court, the fetus has already been damaged. That some damage already would have occurred probably is true, but medical research has documented the fact that the brain is developing through the whole term of the pregnancy.

So even if the mother didn't stop drinking until the latter stages of her pregnancy, the child would still have a chance of having fewer defects than if the alcohol abuse were allowed to continue right up until birth.

Finally, some opponents of this bill would argue that it would discourage women from seeking medical care during pregnancy, out of fear that the doctor might file a complaint to get her committed to an alcohol program. But again, this bill is aimed only at the most serious abusers, and we've found that many pregnant women who are seriously alcoholics don't get proper medical care during their pregnancy anyway.

Fetal Alcohol Syndrome saddles a child with lifelong defects that are directly attributable to the mother's behavior. And since most these mothers have no financial resources, they create expensive financial problems we end up paying for. It costs an average of $1140,000 just to get a newborn FAS child through the period of intensive care it requires at birth and $1.4 *million* to care for it over a lifetime.

When I filed this bill, I thought a lot about a woman in Southcentral Alaska who has had seven FAS babies. All of those children are in foster families now, and the last we heard, this woman is pregnant again.

If we had had this law on the books, we might have been able to save not only her first FAS baby from some degree of damage, but the other six as well. Being committed to a treatment program might have brought an end to her alcohol abuse for good, and those other six babies could have been born healthy.

I don't claim to have written the perfect bill in this or any other case, but it will be debated and people surely will offer changes as it makes it way through the Legislature's committee process. An important part of that process is public input, and if you've got ideas on this subject, I encourage you to contact us.

Right now there are about 30 FAS babies being born every year in Alaska. This bill won't save them all, but it would at least give us the hope of saving some of them.

Marshall F. Goldberg, M.D.
Chinook Medical Building
1905 Cowles Street
Fairbanks, Alaska 99701
(907) 451-6500

MAR 14 1990

March 4, 1990

Senator John B. Coghill
P.O. Box V
Juneau, AK 99811

Dear Senator Coghill:

As a specialist in women's reproductive health care, I am writing to request that you consider withdrawing your sponsorship of Senate Bill #414, "an act relating to 'commitment to treatment programs for pregnant women who are alcoholics'." Although I do not know your particular reasons for proposing such legislation, I must tell you that I believe the bill is ill-conceived, would not achieve the desired effect, and would do irreparable harm to the pregnant women of Alaska. I base this opinion on the following considerations:

1. Reference is made in the Bill to an approved public or private treatment facility. To my knowledge, there are no approved private or public treatment facilities for pregnant alcoholics presently in the state, which would accept such individuals on an involuntary basis.

2. Since no one knows precisely the toxic threshhold of alcohol needed for developing fetal alcohol syndrome and at what specific stage of fetal development such effects are incurred, little if any benefit to the fetus can be realized unless one is prepared to commit an alcoholic woman for the entire duration of her pregnancy.

3. I am unaware of any data that have looked at the relative costs (social, psychological, or monetary) of incarcerating a pregnant woman for the duration of her pregnancy versus the benefit of preventing a single case of fetal alcohol syndrome.

4. The Bill, as it is currently written, could commit an alcoholic pregnant woman a minimum of 30 days. In that time period she would be "drug free" and would very likely be released at the end of that 30 day period. She would then return to her previous ethanol exposure and would most likely not be recommitted until another 30 days had passed. Hence you have the likely scenario of a woman being incarcerated on and off during the duration of her pregnancy, thereby creating a legal/judicial nightmare.

5. Also not addressed in the Bill is the eventual disposition of the infant, who was formerly a fetus under the State's protection, who is now ex-utero and has to be a ward of the state in order to continue to be in a protected environment. It makes little or no sense for this fetus, and now infant, to be protected for eight or nine months and then suddenly have it be placed back in a home environment where its mother is an alcoholic and unlikely to care for him or her in the best possible manner.

6. Also not addressed in the Bill are the various liabilities incurred by the persons seeking to commit a pregnant alcoholic to a treatment facility. Failure to commit or to release such a person prematurely may raise an individual's medical/legal liability, especially as it relates to an adverse outcome, i.e. an alcoholic affected infant.

7. If indeed such a bill were to pass both Houses, be approved by the Governor and withstand judicial review, what further restrictions on the "habits" of pregnant women, which indeed could impact on fetal well-being, would then be imposed? What about the women who smoke during pregnancy, take cocaine or other abusive substances, or fail to get adequate prenatal care? Would these women then in turn be subject to incarceration to "protect the fetus?"

8. Also not addressed is the potential impact on a pregnant woman's access to care. If she is an alcoholic and subject to commitment, is she likely to present in a timely and continued fashion for prenatal care and admit readily to her substance abuse? More than likely, she would bypass those agencies, institutions and individuals who are there to help her the most.

9. Finally, what about the obligations to report a pregnant woman who is an alcoholic. Are the individuals named in the Bill subject to civil penalties if they fail to report a pregnant woman who is an alcoholic and what about the violation of physician/patient confidentiality, which is so necessary to promote maternal and fetal well-being?

I have raised just some of the issues that need to be addressed seriously by you and the other co-sponsors of this Bill. Although I believe your intentions are noble, i.e. to prevent fetal alcohol syndrome, the approach is entirely misguided and ill-advised. Providing treatment facilities statewide for alcoholic pregnant women on a <u>voluntary</u> basis will achieve the same desired result because it will allow such women to come forward early in their pregnancies and be identified by the authorities and agencies that can provide the appropriate assistance.

Thank you for your prompt attention to this matter. I look forward to hearing your response in the very near future.

Sincerely yours,

M. F. Goldberg, M.D., MPH, FACOG

Marshall F. Goldberg, M.D., MPH, FACOG

MFG/wjr

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION CSSJR 63(St Affairs)
PUBLISH DATE

FISCAL NOTE

REQUEST:
Revision Date:
Affected Agency: Legislative Affairs Agency
Title: Proposing an amendment...
BRU: Legislative Council
... duration of a regular session.
Sponsor: Senator Frank
Components: Session Expens; Legal Services
Requestor: Senate State Affairs
Admin. Serv.,Public Serv.,Leg. Salaries&Allow

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY91	FY92	FY93	FY94	FY95	FY96
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>
TOTAL OPERATING	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>
Federal Fund	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>	<1,000.0>

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: (ATTACH A SEPARATE PAGE IF NECESSARY)

CSSJR 63 (State Affairs) reduces the length of the legislative session from 120 days to 100 days. The estimated daily cost of the session is $50,000 a day. If the session is reduced by 20 days a savings of $1,000,000 is calculated.

Prepared By: Pamela A. Stoops, Director — Phone: 465-3850
Division: Administrative Services — Date: 4/11/90

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency — Date: 4/11/90

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION SJR 63
PUBLISH DATE

FISCAL NOTE

REQUEST:
Revision Date:
Affected Agency: Legislative Affairs Agency
Title: Proposing an amendment...
BRU: Legislative Council
... duration of a regular session.
Sponsor: Senator Frank
Components: Session Expenses, Legal Services
Requestor: Senate State Affairs
Admin. Serv.,Public Serv.,Leg.Salaries&Allow

EXPENDITURES/REVENUES: (THOUSANDS OF DOLLARS)

OPERATING	FY91	FY92	FY93	FY94	FY95	FY96
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants, Claims						
Miscellaneous	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>
TOTAL OPERATING	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>
CAPITAL	0	0	0	0	0	0
REVENUE	0	0	0	0	0	0

FUNDING: (THOUSANDS OF DOLLARS)

General Fund	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>
Federal Fund	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>	<1,500.0>

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: (ATTACH A SEPARATE PAGE IF NECESSARY)

SJR 63 reduces the length of the legislative session from 120 days to 90 days. The estimated daily cost of the session is $50,000 a day. If the session is reduced by 30 days a savings of $1,500,000 is calculated.

Prepared By: Pamela A. Stoops, Director — Phone: 465-3850
Division: Administrative Services — Date: 4/11/90

Approved By: Warren Endicott, Executive Director
Agency: Legislative Affairs Agency — Date: 4/11/90

DISTRIBUTION (BY PREPARER)
LEGISLATIVE FINANCE
LEGISLATIVE SPONSOR

REQUESTOR
OFFICE OF MANAGEMENT & BUDGET
AGENCY (IES)

SB 415

PROFESSIONAL SERVICES CONTRACT BETWEEN

LEADERSHIP OF THE ALASKA SENATE

AND

SENATE RULES COMMITTEE

AND

THE JOSEPHSON INSTITUTE FOR THE ADVANCEMENT OF ETHICS

CONTRACT AMOUNT: $70,000.00
(excluding expense reimbursement)

The parties to this contract, made and entered into this ____ day of _____, 1990, Senate Rules Committee, (hereinafter referred to as the "Agency,"), and The Josephson Institute for the Advancement of Ethics (hereinafter referred to as the "Consultant").

THE PURPOSE OF THIS CONTRACT IS TO PROVIDE professional services to the Senate Rules Committee and review the present laws and rules of the Alaska Legislature regarding matters of legislative ethics.

IT IS THEREFORE MUTUALLY AGREED THAT:

CLAUSE I - STATEMENT OF WORK

The Consultant will review the present laws and rules of the Alaska Legislature, draft legislation and prepare a report regarding matters of legislative ethics including but not necessarily limited to:

(a) Process and procedures for resolving ethics charges;

(b) Gifts, gratuities and honoraria;

(c) Conflicts of interest--including outside income, financial interests and disclosures;

(d) Post employment restrictions;

(e) Use of public facilities and staff;

(f) Conduct discrediting the Legislature;

(g) Lobbying regulations;

(h) Use of campaign funds.

The Consultant will present draft legislation and a report to the Senate on April 2, 1990 or at any later time agreed to by both parties. The report will recommend legislative changes required for a comprehensive, integrated, practical set of rules and procedures that will establish clear and reasonable standards of conduct for Alaska state legislators and staff. An objective of the proposal is to put Alaska in a nationally recognized leadership role for standards and

enforcement of ethical conduct, providing a model for all other states.

The Consultant will have unfettered discretion in preparing the report and its legislative proposal.

Michael Josephson of the Institute will be available to testify and make presentations of the report to legislative hearings as required by the project director.

CLAUSE II - PERIOD AND DATES OF PERFORMANCE AND TERMINATION

(A) The work under this contract shall begin February 13, 1990 and must be completed by May 10, 1990.

(B) This contract may be terminated by the Agency upon delivery of written notice to the Consultant. If this contract is so terminated and the termination is not based on a breach by the Consultant, the Consultant shall be compensated for services provided under the terms of this contract to the date of termination if the Consultant provides the Agency with a written report containing a description of the services performed, a statement of the results or conclusions formed based upon the research or analysis performed, and a copy of all documents and reports generated as a consequence of work done under this contract. If such compensation is less than the advance payment under Clause III (A)(1), the Consultant agrees to refund the balance of the advance payment.

CLAUSE III - COMPENSATION AND METHOD OF PAYMENT

(A) For the work required by this contract, the Consultant shall be:

(1) paid Twenty Eight Thousand and No/100 Dollars ($28,000.00) upon execution of this contract;

(2) paid Twenty Eight Thousand and No/100 Dollars ($28,000.00) on March 12, 1990.

(3) paid Fourteen Thousand and No/100 Dollars ($14,000.00) upon submittal of draft legislation and report.

(4) upon submittal and approval of invoices, reimbursed for travel, lodging, meals, telephone charges, shipping and printing expenses reasonably necessary to carry out the Consultant's obligations under this contract.

(B) A payment to the Consultant under (A)(3) and (4) shall be based on proper billings provided by the Consultant.

(C) The Project Director must approve a billing before it may be paid.

(D) If a payment under (A)(3), is not made within 90 days after the Agency has received a proper billing, the Agency shall pay interest on the unpaid balance of the billing at the rate of 1.5 percent per month from, and including, the 91st day through the date payment is made. A payment is considered made on the date it is mailed or personally delivered to the Consultant.

(E) Total payments under this contract excluding reimbursement for expenses, shall not exceed Seventy Thousand and No/100 Dollars ($70,000).

CLAUSE IV - EXPENSES AND DUPLICATION

(A) Except as otherwise provided under Clause III (A)(4) the office space, equipment, supplies, clerical support and other expenses that are necessary for the Consultant to carry out the Consultant's obligations under this contract shall be supplied and paid by the Consultant at no cost to the Agency.

(B) Duplicates of any report required by this contract may be produced by the Agency; the office space, equipment, supplies, clerical support and other expenses required for the duplication shall be supplied by the Agency.

CLAUSE V PROJECT DIRECTOR

Project Director shall be Senator Pat Pourchot.

CLAUSE VI - RECORDS, DOCUMENTS, AUDIT

The Consultant shall accurately maintain those records, including detailed time records, that are required by the Project Director. The records are subject to inspection by the Agency or the Project Director at all reasonable times. All documents and reports generated as a consequence of work done under this contract shall become the property of the State of Alaska, and the State shall own all rights included in any copyright rights for the documents and reports. Upon completion of the work or the termination of this contract, the documents and reports shall be delivered to the Project Director.

CLAUSE VII - INDEMNIFICATION

The Consultant shall indemnify, save harmless, and defend the Agency, and the Agency's officer's, agents and employees from liability for any claim, including costs arising from the claim, arising from Consultant's negligence in the performance of Consultant's obligations under this contract.

CLAUSE VIII - VENUE

In the event that the parties to this contract find it necessary to litigate the terms of the contract, venue shall be the State of Alaska, First Judicial District, at Juneau, and the contract shall be interpreted according to the laws of Alaska.

CLAUSE IX - ASSIGNMENT

This contract may not be assigned to another party unless in accordance with Sec. 160 of the Procurement Procedures of the Alaska State Legislature.

CLAUSE X - WORKERS' COMPENSATION

During the life of this contract, the Consultant shall, in accordance with AS

23.30.045(d), provide and maintain workers' compensation insurance. The Consultant shall require any subcontractor to provide and maintain workers' compensation insurance for the subcontractor's employees. Consultant shall provide the Agency, upon request, with written proof of the coverage required by this clause.

CLAUSE XI - CERTIFICATION/AUTHORIZATION

Execution of this contract was authorized by a majority of the members of the Senate Rules Committee on February 13, 1990. The sole source justification for this contract (EXHIBIT A) was authorized by a majority of the members of the Senate Rules Committee on February 13, 1990. Execution of this contract by the chair of the Senate Rules Committee constitutes the signed authorization required by Procurement Procedures sec. 150(b) and sec. 040; the committee members who authorized the contract delegated their sec. 150 and sec. 040 signature responsibilities to the chair of the Committee on February 13, 1990.

Execution of this contract by the Legislative Affairs Agency Executive Director or his designee hereby constitutes a certification that funds have been appropriated and encumbered for the amount of this contract.

CLAUSE XII - MODIFICATION AND PREVIOUS AGREEMENTS

This document contains all the terms and conditions agreed upon by the parties. No other understandings, oral or otherwise, regarding the subject matter of this contract shall be deemed to exist or to bind either of the parties to this contract. This contract may not be modified unless in writing and signed by the parties to this contract.

IN WITNESS WHEREOF, the parties have executed this contract on the dates indicated below:

CONSULTANT
THE JOSEPHSON INSTITUTE FOR
THE ADVANCEMENT OF ETHICS

Michael Josephson Date
Tax I.D.:
Bus. Lic. No.:

ACCEPTED

Sen. Pat Pourchot, Chair Date
Senate Subcommittee on the Select
Committee on Legislative Ethics
Project Director

CERTIFYING AUTHORITY

Warren Endicott Date
Executive Director
Legislative Affairs Agency

SENATE RULES COMMITTEE

Sen. Arliss Sturgulewsi, Chair Date
Procurement Officer

LEADERSHIP OF THE ALASKA SENATE

Sen. Tim Kelly Date
Senate President
Procurement Officer

APPROVED AS TO FORM

Legal Counsel Date

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

MEMORANDUM

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: Senator Drue Pearce

RE: Request for hearing - SB 423

DATE: March 5, 1990

Senate Bill 423 passed from the Health, Education, and Social Services Committee today. I request that a hearing on this bill be scheduled at the earliest possible date in the Senate Judiciary Committee.

If you have questions, Jo Fenety of my office is the staff contact on this bill.

DP:jf

Alaska State Legislature

3111 C Street, Suite 150
Anchorage, Alaska 99503
(907) 561-2038

During Session:
P.O. Box V
Juneau, Alaska 99811
(907) 465-4993

Senator Drue Pearce
District G

SPONSOR STATEMENT

TO: Senator Jan Faiks, Chair
Senate Judiciary Committee

FROM: Senator Drue Pearce

RE: Senate Bill 423

DATE: March 5, 1990

The rate of family violence in Alaska is very high. For instance, in 1988, 43% of all homicides were family violence homicides, while over 60% involved the use of a gun.

A study by the Abuse Prevention Project of the Municipality of Anchorage covered the period 1986-88. The study reviewed domestic violence restraining orders filed over a six-month period. They found that 65% of the alleged perpetrators had access to a gun. Interviews with victims revealed that 29% reported that earlier abuse in the relationship had included threats with a deadly weapon and 7% reported physical damage from a weapon.

Victims frequently seek help by requesting a restraining order. The most frequently mentioned reasons for requesting an emergency restraining order are fear for safety, threats of violence, and physical abuse. Still, mere possession of an emergency restraining order does not necessarily deter the perpetrator and violence may still erupt.

SB 423 raises the penalty for misconduct involving possession of a weapon by a person violating a domestic violence restraining order. Currently the offence constitutes assault in the fourth degree, which is a class A misdemeanor. This bill raises the offence to assault in the third degree, a class C felony.

The Alaska Network on Domestic Violence and Sexual Assault fully supports this change as does the Alaska Council on Domestic Violence and Sexual Assault.

February 16, 1990

Domestic Violence Committee
Lt. Shirley A. Warner, Chair
4501 S. Bragaw Street
Anchorage, Alaska 99507-1599

The Honorable Representative Alyce Hanley
P.O. Box V
Juneau, Alaska 99811

RE: Support for House Bill 340: An act relating to misconduct involving possession of a weapon by a person who is in violation of a domestic violence restraining order.

Dear Representative Hanley,

Thank you very much for sponsoring House Bill 340. The Domestic Violence Committee supports this bill as it provides an additional measure in the fight against domestic violence. The Domestic Violence Committee was formed in June 1988 for the purpose of discussing, clarifying, and revising any areas of concern regarding domestic violence. We represent a variety of governmental agencies who deal with domestic violence on a daily basis. 20 to 30 people are in attendance at each quarterly meeting to deal with significant issues.

The goal of the Committee is to insure optimum protection for victims of domestic violence through an expedient and efficient procedure for dealing with violators.

We feel this bill will further our success in dealing with this most volatile crime. Currently when an officer responds to the scene of a violation of a domestic violence writ, and the respondent is in possession of a deadly weapon, the most the officer is able to do is place the person under arrest for a misdemeanor.

Research has shown, and current cases within the State have proven, that deadly weapons have been used where the victim has been murdered during a violation of a writ.

The Committee feels the ideal would be that the respondent is warned via the writ that if he/she violates the writ, and is in possession of a deadly weapon, he/she shall be arrested for a felony. It is our hope that this addition would act as further deterrance in the injury and death of innocent people. In the event the respondent does not pay heed to this warning three things will occur: 1) an officer has the authority to arrest the respondent for a felony; 2) more time is allowed to pass providing for a "cooling off period"; 3) the respondent will become very aware of the seriousness of the crime and he/she will know the State is serious about this crime.

The following information should prove useful in your discussion with anyone who may oppose this worthwhile step in furthering the protection of victims of domestic violence.

From the National Women Abuse Prevention Project:

* When battered women are killed by their abusers, it frequently occurs after they have been separated from them or taken other action to end the relationships.

* FBI data indicate that 30% of female homicide victims are killed by their husbands or boyfriends. This translates into the death of four women per day at the hands of male partners.

* An in-depth study of all one-on-one murder and non-negligent manslaughter cases from 1980-84 found that more than one-half (52%) of female victims were killed by male partners.

* 40% of women seeking shelter services in Texas were abused with weapons.

* Research suggests that spousal abuse results in more injuries that require medical treatment than rape, auto accidents, and muggings combined.

From Men Who Batter: An Integrated Approach for Stopping Wife Abuse, Edward W. Gondolf, Learning Publications, 1989:

* In a study of domestic violence and the police in Kansas City, Missouri, it was found that police had responded to disturbance calls, at the address of homicide victims at least once in the two years before the homicide in 90% of the cases, and five or more times in 50% of the cases.

From the Statistical Study of Domestic Violence Cases: 1986-1988, in Anchorage:

* Approximately 12% of the domestic violence victims experienced injury by weapons or objects.

* Approximately 9% of the domestic violence victims were threatened with a knife, gun or other dangerous object.

If you have any questions, or if any member of this committee can assist in any way to insure the expedicious passage of this legislation, please call. Thank you.

Sincerely,

Lt. Shirley A. Warner
Chair, Domestic Violence Committee
Anchorage Police Department
786-8851

Nancy Scheetz-Freymiller
Executive Director
Abused Women's Aid in Crisis
272-0100

Carrie Longoria
Director, Abuse Prevention Program
Municipality of Anchorage
343-4876

Kevin Fitzgerald
Assistant District Attorney
State of Alaska
277-8622

James F. Wolf
Municipal Prosecutor
Municipality of Anchorage
343-4250

Cheryl Mann
Executive Director
Alaska Women's Resource Center
276-0528

Sgt. Doug Stowers
Warrant Section
Anchorage Police Department
343-4198

Sgt. Michael A. Grimes
Violent Crimes Unit
Anchorage Police Department
786-8807

1st Sgt. Dennis Casanovas
Patrol Division
Alaska State Troopers
269-5511

Sgt. Gary Apperson
Patrol Division
Anchorage Police Department
786-8500

FORUM

Murder, by any other name, smells the same

pete dexter

SACRAMENTO — A week never passes without one of the calls; sometimes there are two or three in a day.

"My ex-husband just came in here and ripped up my clothes with a knife."

"My boyfriend broke the windows out of my car."

"Please, my husband's going to kill me ... "

The men come back again and again and again. They beat up their wives and girlfriends, they vandalize their cars, they call them in the middle of the night, they follow them home, they threaten to kill them and their children.

They say they do it for love.

Usually before a woman comes to the newspaper she has called a lawyer and the district attorney's office and the police department or the sheriff's office; usually she's called everybody she knows.

And once in a while, giving the system its due, somebody is arrested for assault or violating a restraining order and does a few days in the county jail, and learns from that to be more circumspect in the business of terrorizing people weaker than himself.

More often, the calls are ignored.

That or a cop shows up and tries to negotiate a peace himself. You can't blame the cop for that, by the way. A domestic crime is always complicated, it usually involves different versions of a story that the cop doesn't know anything about, and so, unless someone is standing in the doorway with the kitchen knife in their leg, it's hard to figure out what happened.

So the cop warns everybody and leaves.

And sometimes that's enough, and sometimes it isn't.

I am thinking now about Kathy Thomas, who was buried Tuesday in Fair Oaks Cemetery. She was the 25-year old kid who was shot three times at close range Wednesday morning, allegedly by her estranged husband, Richard Thomas.

"Allegedly", of course, is the legal term that I am obligated to throw into stories like this.

In this particular case, I would remind you that the word appears side by side with the fact that witnesses saw Richard Thomas buy the gun, witnesses saw him come into the rental office where Kathy Thomas worked Wednesday morning, scream at her — "I warned you" — and shoot her, and witnesses saw him surrender to police and collapse.

Other witnesses watched him terrorize Kathy Thomas for years.

Records show she'd taken out a restraining order against him, that she'd charged him with assault and battery, that she'd called the sheriff's department two days before she was killed and reported that he'd tried to run her off the road.

You are entitled to look at all that and give Richard Thomas as much "allegedly" as you like.

And this being America, his attorneys are entitled to defend him in any way they can.

But now that I've said that — acknowledged that Richard Thomas is entitled to a legal presumption of innocence and every protection of the law, that his attorneys are entitled to be attorneys — let me also say that something one of his lawyers, Assistant Public Defender Kevin D. Clymo, offered up in the newspaper Saturday made me sick to my stomach.

I am not speaking here of Clymo's contention that Thomas was confused. "I don't think he understands what's going on," Clymo said. "He's been told he's charged with murder. He's been told he killed his wife. He knows he's in jail. But I don't think he has a clue how long he's been there, what day it is, or what really happened."

Mr. Clymo is entitled to that, just as I'm entitled to remember the merciless stalking that preceded Kathy Thomas's death.

But the attorney didn't stop there.

He referred to the "pressure inside (Thomas's head) ... building up" and "psychiatric problems", and then offered this:

"If he hits upon a memory of anything that occurred, it'll be devastating. He really loved that woman. You can tell. He really loved her."

He really loved her.

And that turns my stomach.

I suppose am not as comforted by that word "love" as Mr. Clymo is, but perhaps I've heard it too much.

Too much to believe it has anything to do with hurting women, too much to believe that terrorism is a melancholy thing.

Kathy Thomas is in Fair Oaks Cemetery because Richard Thomas wasn't in jail. She asked for help and didn't get it.

It's the wrong time for cheap quantification.

She was taken too cheaply as it is.

☐ Pete Dexter is a Sacramento Bee columnist.

Sec. 11.46.315. Possession of burglary tools. (a) A person commits the crime of possession of burglary tools if the person possesses a burglary tool with intent to use or permit use of the tool in the commission of

(1) burglary in any degree;

(2) a crime referred to in AS 11.46.130(a)(3); or

(3) theft of services.

(b) As used in this section, "burglary tools" means

(1) nitroglycerine, dynamite, or any other tool, instrument, or device adapted or designed for use in committing a crime referred to in (a)(1)-(3) of this section; or

(2) any acetylene torch, electric arc, burning bar, thermal lance, oxygen lance, or other similar device capable of burning through steel, concrete, or other solid material.

(c) Possession of burglary tools is a class A misdemeanor. (§ 7 ch 166 SLA 1978)

Revisor's notes. — Formerly AS 11.61.230. Renumbered in 1989.

Collateral references. — 13 Am. Jur. 2d, Burglary, §§ 74-77.

12A C.J.S., Burglary, §§ 43-48.

Validity, construction and application of statutes relating to burglars' tools, 33 ALR3d 798.

Sec. 11.46.320. Criminal trespass in the first degree. (a) A person commits the crime of criminal trespass in the first degree if the person enters or remains unlawfully

(1) on land with intent to commit a crime on the land; or

(2) in a dwelling.

(b) Criminal trespass in the first degree is a class A misdemeanor. (§ 4 ch 166 SLA 1978; am § 12 ch 102 SLA 1980)

NOTES TO DECISIONS

Conviction and sentence affirmed. — See Roberts v. State, 680 P.2d 503 (Alaska Ct. App. 1984).

Cited in Alfred v. State, 758 P.2d 130 (Alaska Ct. App. 1988).

Collateral references. — 35 Am. Jur. 2d, Forcible Entry and Detainer, §§ 58-61; 52 Am. Jur. 2d, Malicious Mischief, § 1 et seq.; 75 Am. Jur. 2d, Trespass, §§ 86-94.

36 C.J.S. Forcible Entry and Detainer, § 1 et seq.; 54 C.J.S. Malicious Mischief, § 1 et seq.; 87 C.J.S. Trespass §§ 140-165.

Forcible detainer or trespass, where entry was peaceable, 49 ALR 597.

Right to use force to obtain possession of real property to which one is entitled, 141 ALR 273.

Validity, construction, and application of statutes or ordinances penalizing one who enters or remains in dwelling after having been forbidden to do so, 146 ALR 655.

Injunction against repeated or continuing trespasses on real property, 60 ALR2d 310.

Uninvited entry into another's living quarters as invasion of privacy, 56 ALR3d 434.

Sec. 11.46.330. Criminal trespass in the second degree. (a) A person commits the crime of criminal trespass in the second degree if the person enters or remains unlawfully

(1) in or upon premises; or

(2) in a propelled vehicle.

(b) Criminal trespass in the second degree is a class B misdemeanor. (§ 4 ch 166 SLA 1978)

Cross references. — For provisions authorizing arrest without warrant in certain cases where the police officer has reasonable cause to believe that the person has committed a crime under this section, see AS 12.25.030(b).

NOTES TO DECISIONS

Prerequisites for conviction. — In order to convict a defendant for the offense of criminal trespass, the state is obligated to prove beyond a reasonable doubt that he knowingly remained on the premises after personally being ordered to leave, and recklessly disregarded a lawful order that he not remain. Johnson v. State, 739 P.2d 781 (Alaska Ct. App. 1987).

Since this section is silent regarding mens rea, AS 11.81.610 is implicated. Johnson v. State, 739 P.2d 781 (Alaska Ct. App. 1987).

Cited in Moxie v. State, 662 P.2d 990 (Alaska Ct. App. 1983); Arabie v. State, 699 P.2d 890 (Alaska Ct. App. 1985).

Sec. 11.46.340. Defense: emergency use of premises. In a prosecution under AS 11.46.300, 11.46.310, 11.46.320, or 11.46.330(a)(1), it is an affirmative defense that

(1) the entry, use, or occupancy of premises or use of personal property on the premises is for an emergency in the case of immediate and dire need; and

(2) as soon a reasonably practical after the entry, use, or occupancy, the person contacts the owner of the premises, the owner's agent or, if the owner is unknown, the nearest state or local police agency, and makes a report of the time of the entry, use, or occupancy and any damage to the premises or personal property, unless notice waiving necessity of the report is posted on the premises by the owner or the owner's agent. (§ 4 ch 166 SLA 1978)

Sec. 11.46.350. Definition. (a) As used in AS 11.46.300 — 11.46.350, unless the context requires otherwise, "enter or remain unlawfully" means to

(1) enter or remain in or upon premises or in a propelled vehicle when the premises or propelled vehicle, at the time of the entry or remaining, is not open to the public and when the defendant is not otherwise privileged to do so;

(2) fail to leave premises or a propelled vehicle that is open to the public after being lawfully directed to do so personally by the person in charge; or

(3) enter or remain upon premises or in a propelled vehicle in violation of a provision in an order issued under AS 25.35.010(b) or 25.35.020.

(b) For purposes of this section, a person who, without intent to commit a crime on the land, enters or remains upon unimproved and apparently unused land, which is neither fenced nor otherwise enclosed in a manner designed to exclude intruders, is privileged to do so unless

(1) notice against trespass is personally communicated to that person by the owner of the land or some other authorized person; or

(2) notice against trespass is given by posting in a reasonably conspicuous manner under the circumstances.

(c) A notice against trespass is given if the notice

(1) is printed legibly in English;

(2) is at least 144 square inches in size;

(3) contains the name and address of the person under whose authority the property is posted and the name and address of the person who is authorized to grant permission to enter the property;

(4) is placed at each roadway and at each way of access onto the property that is known to the landowner;

(5) in the case of an island, is placed along the perimeter at each cardinal point of the island; and

(6) states any specific prohibition that the posting is directed against, such as "no trespassing," "no hunting," "no fishing," "no digging," or similar prohibitions. (§ 4 ch 166 SLA 1978; am § 9 ch 61 SLA 1982; am § 4 ch 168 SLA 1988)

Cross references. — For definition of terms used in this chapter, see AS 11.46.990; for definition of terms used in this title, see AS 11.81.900.

Effect of amendments. — The 1988 amendment added subsection (c).

NOTES TO DECISIONS

Constitutionality of AS 11.46.330. — Any possible vagueness that the phrase "after being lawfully directed to [leave the premises] personally by the person in charge," in paragraph (a)(2) imports into AS 11.46.330 is cured by literally reading AS 11.46.330 in light of the applicable mens rea. Since AS 11.46.330 is silent regarding mens rea, AS 11.81.610 is implicated. Johnson v. State, 739 P.2d 781 (Alaska Ct. App. 1987).

"Enters". — "Enters" means that the intruder enters by entry of his whole body, part of his body, or by insertion of any instrument that is intended to be used in the commission of a crime. Sears v. State, 713 P.2d 1218 (Alaska Ct. App. 1986).

The terms "building" and "premises" in AS 11.46.310, 11.81.900(b)(3) and this section are used interchangeably. Arabie v. State, 699 P.2d 890 (Alaska Ct. App. 1985).

Premises must be closed to public. — Under subsection (a) premises must be closed to the public for an unlawful act of entry or remaining to occur. Arabie v. State, 699 P.2d 890 (Alaska Ct. App. 1985).

"Remains unlawfully" does not include entry into a restricted area of a building which is otherwise open to the public. Arabie v. State, 699 P.2d 890 (Alaska Ct. App. 1985).

Quoted in Plant v. State, 724 P.2d 536 (Alaska Ct. App. 1986).

follow in the same situation. "Noise" does not include speech that is constitutionally protected.

(c) Disorderly conduct is a class B misdemeanor and is punishable as authorized in AS 12.55 except that a sentence of imprisonment, if imposed, shall be for a definite term of not more than 10 days. (§ 7 ch 166 SLA 1978; am § 6 ch 78 SLA 1983)

NOTES TO DECISIONS

Editor's notes. — The cases cited in the notes below were decided under former AS 11.40.080 and 11.45.030.

Constitutionality of former disorderly conduct statute. — See Poole v. State, 524 P.2d 286 (Alaska 1974); State v. Martin, 532 P.2d 316 (Alaska 1975).

Disorderly conduct statute cannot be applied to behavior which is constitutionally exempt from criminal prohibition. Anniskette v. State, 489 P.2d 1012 (Alaska 1971).

"Fight" defined. — The word "fight", in paragraph (a)(5), means to struggle against a person in physical combat. Walsh v. State, 758 P.2d 124 (Alaska Ct. App. 1988).

Policemen presumed least likely to be provoked. — Insofar as the theory of disorderly conduct rests on the tendency of the actor's behavior to provoke violence in others, one must suppose that policemen, employed and trained to maintain order, would be least likely to be provoked to disorderly responses. Anniskette v. State, 489 P.2d 1012 (Alaska 1971).

It is only in the most limited circumstances that speech may be punished. Anniskette v. State, 489 P.2d 1012 (Alaska 1971).

For discussion of speech prohibited under former disorderly conduct statute, see Anniskette v. State, 489 P.2d 1012 (Alaska 1971).

Telephone call criticizing public officer. — There is neither legislative language nor constitutional power to read this section as including within its ambit a single telephone call criticizing a public officer for the performance of his official duties. Anniskette v. State, 489 P.2d 1012 (Alaska 1971).

That an officer was personally offended by defendant's telephone call did not render the defendant's conduct a crime. Anniskette v. State, 489 P.2d 1012 (Alaska 1971).

As to application of former AS 11.40.080, prohibiting indecent exposure and exhibition, see E.L.L. v. State, 572 P.2d 786 (Alaska 1977).

Quoted in Ingram v. State, 703 P.2d 415 (Alaska Ct. App. 1985); Norbert v. State, 718 P.2d 160 (Alaska Ct. App. 1986); Cavanaugh v. State, 754 P.2d 757 (Alaska Ct. App. 1988).

Cited in Jerrel v. State, 765 P.2d 982 (Alaska Ct. App. 1988).

Collateral references. — 12 Am. Jur. 2d, Breach of Peace, etc., §§ 18-40.

11 C.J.S., Breach of the Peace, §§ 1-16.

Failure or refusal to obey police officer's order to move on, on street, as disorderly conduct, 65 ALR2d 1152.

Misuse of telephones as disorderly conduct, 97 ALR2d 504.

Vagueness as invalidating statutes or ordinances dealing with disorderly persons or conduct, 12 ALR3d 1448.

Larceny as within disorderly conduct statute or ordinance, 71 ALR3d 1156.

Insulting words addressed directly to police officer as breach of peace or disorderly conduct, 14 ALR4th 1252.

Sec. 11.61.120. Harassment. (a) A person commits the crime of harassment if, with intent to harass or annoy another person, that person

(1) insults, taunts, or challenges another person in a manner likely to provoke an immediate violent response;

(2) telephones another and fails to terminate the connection with intent to impair the ability of that person to place or receive telephone calls;

(3) makes repeated telephone calls at extremely inconvenient hours;

(4) makes an anonymous or obscene telephone call or a telephone call that threatens physical injury;

(5) subjects another person to offensive physical contact; or

(6) violates a provision of an order issued under AS 25.35.010(b) or 25.35.020 restraining the respondent from communicating directly or indirectly with the petitioner.

(b) Harassment is a class B misdemeanor. (§ 7 ch 66 SLA 1978; am § 10 ch 61 SLA 1982)

Cross references. — For provisions authorizing arrest without warrant in certain cases where the police officer has reasonable cause to believe that the person has committed a crime under this section, see AS 12.25.030(b).

NOTES TO DECISIONS

For case construing former AS 11.45.035 relating to illegal use of telephones, see Anniskette v. State, 489 P.2d 1012 (Alaska 1971)

Quoted in Allen v. State, 759 P.2d 541 (Alaska Ct. App. 1988).

Cited in Brower v. State, 728 P.2d 645 (Alaska Ct. App. 1986).

Collateral references. — Misuse of telephones as disorderly conduct, 97 ALR2d 504.

Validity, construction, and application of state criminal statute forbidding use of telephone to annoy or harass, 95 ALR3d 411.

Forum state's jurisdiction over nonresident defendant in action based on obscene or threatening telephone call from out of state, 37 ALR4th 852.

Sec. 11.61.125. Distribution of child pornography. (a) A person commits the crime of distribution of child pornography if the person brings or causes to be brought into the state for distribution, or in the state distributes, or in the state possesses, prepares, publishes, or prints with intent to distribute, any material that visually depicts conduct described in AS 11.41.455(a), knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct.

(b) This section does not apply to acts that are an integral part of the exhibition or performance of a motion picture if the acts are performed within the scope of employment by a motion picture operator or projectionist employed by the owner or manager of a theater or other place for the showing of motion pictures, unless the motion picture operator or projectionist

(1) has a financial interest in the theater or place in which employed; or

Sec. 25.30.130. Modification of custody decree of another state.

NOTES TO DECISIONS

Cited in Garding v. Garding, 767 P.2d 183 (Alaska 1989).

Sec. 25.30.140. Filing and enforcement of custody decree of another state.

NOTES TO DECISIONS

Findings necessary for award of attorney's fees. — See Kimmons v. Heldt, 667 P.2d 1245 (Alaska 1983).

Sec. 25.30.900. Definitions.

NOTES TO DECISIONS

Quoted in S.J. v. L.T., 727 P.2d 789 (Alaska 1986).

Chapter 35. Domestic Violence.

Sec. 25.35.010. Injunctive relief in cases involving domestic violence. (a) A person who is subjected to domestic violence may petition a superior or district court for injunctive relief restraining the infliction of further domestic violence against the petitioner by the respondent. The court may appoint a guardian ad litem or attorney to represent a minor who is subject to this chapter in the same manner as an attorney may be appointed under AS 25.24.310.

(b) Upon receiving a petition under (a) of this section, the court shall schedule a hearing and shall provide at least 10 days notice to the respondent of the hearing and of the respondent's right to appear and to be heard either in person or by attorney. If, at the hearing, the court finds that the petitioner has been subjected to domestic violence by the respondent, the court may issue any order it determines to be necessary for the protection of the health, safety or welfare of the petitioner or of a minor child in the care of the petitioner. An order under this subsection may include provisions that

(1) restrain the respondent from subjecting the petitioner to domestic violence;

(2) direct the respondent to vacate the home of the petitioner;

(3) restrain the respondent from communicating directly or indirectly with the petitioner;

(4) direct the respondent to pay support for the petitioner or for a minor child in the care of the petitioner if there is an independent legal obligation of the respondent to support the petitioner or the child;

(5) award temporary custody of a minor child to the petitioner;

(6) direct the respondent to pay medical expenses incurred by the petitioner as a result of the domestic violence;

(7) direct the respondent to engage in personal or family counseling or mediation;

(8) restrain the respondent from entering a propelled vehicle in the possession of or occupied by the petitioner.

(c) An order issued under this section remains in effect for a period of time not to exceed 90 days. However, the petitioner may petition the court for an extension of a provision of the order if the provision is described in (b)(1), (b)(2), (b)(3), (b)(7), or (b)(8) of this section. If the court, after notice to the respondent of and a hearing on the petition for the extension in accordance with the procedures described in (b) of this section, finds that an extension of the provision of the order is necessary to protect the petitioner or a minor child in the care of the petitioner from domestic violence, the court may extend the provision of the order for a period of time not to exceed 45 days. The court may not grant more than one extension under this subsection.

(d) Proceedings under this section do not preclude any other available civil or criminal remedies. (§ 1 ch 139 SLA 1980; am §§ 3, 4 ch 61 SLA 1982; am § 6 ch 17 SLA 1985; am § 5 ch 43 SLA 1985)

Effect of amendments. — The first 1985 amendment in subsection (a) inserted "or district"; in subsection (b) in the introductory language deleted "superior" preceding "court" in three places and substituted "that" for "which," and at the end of paragraph (7) added "or mediation"; and in subsection (c) deleted "superior" preceding "court" in three places.

The second 1985 amendment added the second sentence of subsection (a).

NOTES TO DECISIONS

Prohibiting contact with former spouse. — The superior court has jurisdiction, where appropriate, to enter a "no-contact" order, prohibiting a party from making contact with his former spouse, in the context of a final decree of divorce. Siggelkow v. State, 731 P.2d 57 (Alaska 1987).

Sec. 25.35.020. Emergency injunctive relief in cases involving domestic violence. (a) A person who has been subjected to domestic violence may petition the superior or district court for a temporary order providing for emergency injunctive relief restraining the inflic-

tion of further domestic violence against the petitioner by the respondent.

(b) An order under this section may be granted without written or oral notice to the respondent if the court finds that the petitioner has been subjected to domestic violence and

(1) it clearly appears that there is a substantial likelihood of immediate danger from the respondent to the health, safety, or welfare of the petitioner or of a minor child in the care of the petitioner; and

(2) the petitioner or the petitioner's attorney certifies to the court in writing the efforts, if any, which have been made to provide notice to the respondent and the reasons supporting the claim that notice should not be required.

(c) An order issued under this section may include a provision described in AS 25.35.010 (b), except an order for mediation. The order shall be endorsed with the date and hour of issuance, shall be filed in the clerk's office and entered in the records of the court, and shall state the reason that it was granted without notice. The order shall remain in effect for a period not to exceed 20 days, unless extended by the court for good cause. The reasons for the extension shall be entered in the records of the court.

(d) If an order under this section is granted without notice, a hearing before the court for injunctive relief under AS 25.35.010 shall be scheduled by the court at the earliest possible time consistent with the notice provisions of AS 25.35.010. If at the hearing the petitioner does not proceed with the petition for injunctive relief, the court shall dissolve the emergency injunctive relief order.

(e) On three days notice to the petitioner, or on shorter notice as the court may prescribe, the respondent may make a motion to the court for the dissolution or modification of an order for emergency injunctive relief under this section. The court shall hear and rule on the motion in an expeditious manner.

(f) Proceedings under this section do not preclude other available civil or criminal remedies. (§ 1 ch 139 SLA 1980; am §§ 5, 6 ch 61 SLA 1982; am §§ 7 — 10 ch 17 SLA 1985)

Effect of amendments. — The 1985 amendment in subsection (a) inserted "or district" preceding "court" and deleted the last three sentences of the subsection concerning securing emergency injunctive relief; added ", except an order for mediation" at the end of the first sentence of subsection (c); in subsection (d) deleted "superior" preceding "court" in three places; and in subsection (e) deleted "superior" preceding "court" in three places.

Sec. 25.35.040. Service of process. (a) Process issued under AS 25.35.010 or 25.35.020 shall be promptly served and executed. If process is to be served upon a person believed to be present or residing in a municipality, as defined in AS 29.71.800, or in an unincorporated community, process shall be served by a peace officer of that munici-

pality or unincorporated community who has jurisdiction within the area of service. If a peace officer of the municipality or unincorporated community who has jurisdiction is not available, a superior court, district court, or magistrate may designate any other peace officer to serve and execute process issued under AS 25.35.010 or 25.35.020. A state peace officer shall serve process in any area that is not within the jurisdiction of a peace officer of a municipality or unincorporated community. A peace officer shall use every reasonable means to serve process issued under AS 25.35.010 or 25.35.020.

(b) Service of process required under this section does not preclude a petitioner from using any other available means to serve process issued under AS 25.35.010 or 25.35.020. (§ 7 ch 61 SLA 1982; am §§ 3, 4 ch 27 SLA 1986)

Effect of amendments. — The 1986 amendment in subsection (a) added the second and fourth sentences and in the third sentence substituted "a peace officer of the municipality or unincorporated community who has jurisdiction" for "a state peace officer" and added subsection (b).

Sec. 25.35.060. Definitions. In this chapter, "domestic violence" means a crime under AS 11.41 when the victim is a spouse or a former spouse of the respondent; a parent, grandparent, child, or grandchild of the respondent; a member of the social unit comprised of those living together in the same dwelling as the respondent; or a person who is not a spouse or former spouse of the respondent but who previously lived in a spousal relationship with the respondent. (§ [illegible] 139 SLA 1980; am § 8 ch 61 SLA 1982; am § 6 ch 43 SLA 1985)

Effect of amendments. — The 1985 amendment inserted "a parent, grandparent, child, or grandchild of the respondent" and made punctuation changes.

(7) "correctional facility" means premises, or a portion of premises, used for the confinement of persons under official detention;

(8) "credit card" means any instrument or device, whether known as a credit card, credit plate, courtesy card, or identification card or by any other name, issued with or without fee by an issuer for the use of the cardholder in obtaining property or services on credit;

(9) "crime" means an offense for which a sentence of imprisonment is authorized; a crime is either a felony or a misdemeanor;

(10) "culpable mental state" means "intentionally", "knowingly", "recklessly", or with "criminal negligence", as those terms are defined in (c) of this section;

(11) "dangerous instrument" means any deadly weapon or anything that, under the circumstances in which it is used, attempted to be used, or threatened to be used, is capable of causing death or serious physical injury;

(12) "deadly force" means force that the person uses with the intent of causing, or uses under circumstances that the person knows create a substantial risk of causing, death or serious physical injury; "deadly force" includes intentionally discharging or pointing a firearm in the direction of another person or in the direction in which another person is believed to be and intentionally placing another person in fear of imminent serious physical injury by means of a dangerous instrument;

(13) "deadly weapon" means any firearm, or anything designed for and capable of causing death or serious physical injury, including a knife, an axe, a club, metal knuckles, or an explosive;

(14) "deception" means to knowingly

(A) create or confirm another's false impression that the defendant does not believe to be true, including false impressions as to law or value and false impressions as to intention or other state of mind;

(B) fail to correct another's false impression that the defendant previously has created or confirmed;

(C) prevent another from acquiring information pertinent to the disposition of the property or service involved;

(D) sell or otherwise transfer or encumber property and fail to disclose a lien, adverse claim, or other legal impediment to the enjoyment of the property, whether or not that impediment is a matter of official record; or

(E) promise performance that the defendant does not intend to perform or knows will not be performed;

(15) "defense", other than an affirmative defense, means that

(A) some evidence must be admitted which places in issue the defense; and

(B) the state then has the burden of disproving the existence of the defense beyond a reasonable doubt;

(16) "drug" has the meaning ascribed to it in AS 11.71.900(9);

BILL NO: HB 340

DATE: February 15, 1990

TITLE: Assault in violation of a restraining order

CONTACT: Barbara Miklos 465-4356

DEPARTMENT OF PUBLIC SAFETY

The Council on Domestic Violence and Sexual Assault supports HB 340 which makes possession of a weapon by a person who harasses or trespasses in violation of a domestic violence restraining order a Class C felony. The legislation accomplishes this by including two new provisions in the crime of misconduct involving weapons in the first degree: possessing a weapon while trespassing or harassing a person in violation of a restraining order. This change in statute is important because domestic violence situations can be very dangerous; the possession of a gun escalates the possibility of serious injury or death. Making these circumstances felony crimes reinforces the seriousness of these situations and provides greater scrutiny and control over the offender through various means, including supervised probation.

The need for this legislation is well documented. In 1988, firearms were used in 62% of the murders in Alaska. Forty-three percent of the murders in Alaska were either family members or in boyfriend-girlfriend relationships. Nationally, in 1988, firearms were used in 61% of the murders; 19% of the murders were committed by family members or a boyfriend-girlfriend. For female murder victims nationwide, 31% were slain by husband or boyfriends, and 5% of the male victims were killed by wives or girlfriends. These figures demonstrate both how frequently guns are used in murders, and how often the victims are people who are in a relationship where a domestic violence restraining order could be used.

The Council supports the passage of HB 340.

ARTHUR ENGLISH
Commissioner

STATE OF ALASKA
1990 LEGISLATIVE SESSION

BILL VERSION: SB 423
PUBLISH DATE: 3/6/90

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: Misconduct involving possession of a weapon .....
Sponsor: Senator Pearce, et al
Requestor: Senate HESS

Agency Affected: Public Safety
BRU: Council on Domestic Violence and Sexual Assault
Component: _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)

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

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
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: (Attach a separate page if necessary)

This bill is expected to have no fiscal impact on the Department of Public Safety.

Prepared by: Barbara Miklos, Executive Director
Division: Council on Domestic Violence and Sexual Assault
Approved by Commissioner: Arthur English
Agency: Department of Public Safety

Phone: 465-4356
Date: 2/8/90
Date: 2-14-90

2/9/90

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