

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7851 HOUSE JUDICIARY

116

Representative Eileen MacLean

January 20, 1993

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The bill is given an immediate effective date by bill section 6. As with last session's measure, out of an abundance of caution, bill section 5 makes these changes retroactive to December 18, 1991, the 20-year anniversary date of the Alaska Native Claims Settlement Act's taking effect. In the original Act, on that date a number of safeguards initially enacted would have expired. All the safeguards that are of concern for purposes of this legislation have been expanded and extended in the two later federal Acts, especially the addition made by 43 U.S.C. 1636(d).

JC:pl

93-031.plm

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 73

Revision Date: _____ Dept. Affected: Revenue
 Title: ANCSA State Tax Exemptions BRU: Revenue Operations
 Component: Income and Excise Audit
 Sponsor: Representative MacLean
 Requestor: Representative MacLean COMPONENT SERIAL NO. 113

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ 0

ANALYSIS: (Attach a separate page if necessary)

This bill has no effect on the State since there is no state property tax.

Prepared by: Larry E. Meyers, Director Phone: 465-2320
 Division: Income and Excise Audit Division Date: 1/21/93
 Approved by Commissioner: Darrel J. Rexwinkel Date: 1/21/93
 Agency: Department of Revenue

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Alaska Federation of Natives, Inc.

January 27, 1993

Representative Eileen MacLean
Alaska State Legislature
Capitol Office Building
Juneau, Alaska 99811

Dear Representative MacLean:

The Alaska Federation of Natives has reviewed House Bill 73 as introduced on January 18, 1993. This letter is intended to convey the Federation's support for the bill as introduced.

With the exception of two language changes, HB 73 is identical to CSHB (Resources) introduced in the Second Session of the 17th Alaska Legislature.

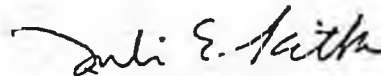
Amendments to AS 43.90.015, as HB 73 proposes, will prevent inconsistencies with AS 29.45.030 (m) and bring AS 43.90.015 into conformity with the Alaska Native Claims Settlement Act (ANCSA), as amended.

ANCSA provisions are controlling in this matter and thus amending Alaska statutes via HB 73 will serve to limit the potential for future conflict and litigation expenses.

I view HB 73 simply as an effort to conform state law with federal law.

Thank you for your interest in this matter.

Sincerely,



Julie E. Kitka
President

Land Protections

The land protections described in this section are probably the most significant gains for Alaska Natives contained in the "1991" law.

The "1991" law provides that all "undeveloped" land owned by village, urban and regional corporations automatically have the following protections:

1. The land cannot be taxed.
2. The land cannot be taken by trespassers who otherwise might acquire rights to the land through adverse possession (also known as trespassers or squatters' rights).
3. The land cannot be taken by creditors to pay a debt owed by the corporation.
4. The land cannot be lost if the corporation files bankruptcy.
5. The land cannot be lost even if the corporation is involuntarily dissolved.

Because these land protections are so important, they are now automatic. The corporation's board of directors does not need to take action, unless an activity creating "development" has already occurred. Shareholders do not need to vote in order to protect the corporation's undeveloped land.

LAND AUTOMATICALLY PROTECTED FROM...



Taxes on undeveloped land



Bad debts



Adverse possession

Loss of Land Protections

Members of a Native corporation board of directors must understand that actions they take could result in the loss of these land protections. Land protections can be lost in three ways:

1. Leased: If the board of directors leases the land, the protections are lost. Even though the leased land is not "developed," it can be taxed, taken by adverse possession or sold by creditors or a bankruptcy judge to pay the corporation's debts.

Exception: If the purpose of the lease is to allow oil, gas or mineral exploration, then the land protections continue to apply.

2. Pledged: Protections can be lost if the board of directors mortgages or pledges the land as security in a commercial transaction, such as a bank loan. If the land is

pledged, it can be taxed and it can be sold by creditors or a bankruptcy judge to pay the corporation's debts.

3. Developed: If the board of directors develops the land, it loses the automatic protections. The land can be taxed, taken by adverse possession, or, if the corporation gets into trouble, the land can be seized and sold by creditors or a bankruptcy judge to pay the corporation's debts.

WAYS TO LOSE LAND PROTECTIONS



Leased



Pledged



Developed

Native corporations should be very cautious about pledging their undeveloped land to a bank or anyone else.

Definition of "Developed" Land

The "1991" law defines "developed" as *"a purposeful modification of land from its original state that effectuates a condition of gainful and productive present use without further substantial modification."*

Because this definition is complicated, it is important that a board of directors be very cautious when it makes decisions about using the corporation's land. If there is any question that a board action or decision might result in losing land protections, the board should seek advice from an attorney before a final decision is made.

Some things can be done on the land without losing the protections. In some circumstances, land can be surveyed, and roads, electricity lines and sewers can be built. Whether such actions are "safe" can only be determined on a case by case basis.

Finally, land is automatically considered to be "developed" if it is subdivided, even if no changes are made to the land. For that reason, the corporation should never subdivide any of its land without careful study of the impacts on the status of its land.

To protect important subsistence uses, the law says that hunting and fishing on village and regional corporation land do not make the land "developed." For that reason, fish camps, trapping cabins and other structures may be built and used on the land if they are needed for subsistence hunting, fishing or gathering. The corporation may also charge a fee to hunters, fishermen and guides without losing the protections of "undeveloped" land.

Regaining Land Protections

Even if land is mortgaged, leased or "developed," the protections automatically resume when the mortgage or lease expires or the development ends. For example, if a village corporation leases some of its land for five years, during the years it is leased, the land can be taxed or sold to pay the corporation's debts. However, when the five years are over and the lease expires, the land is again automatically protected from taxation and creditors.

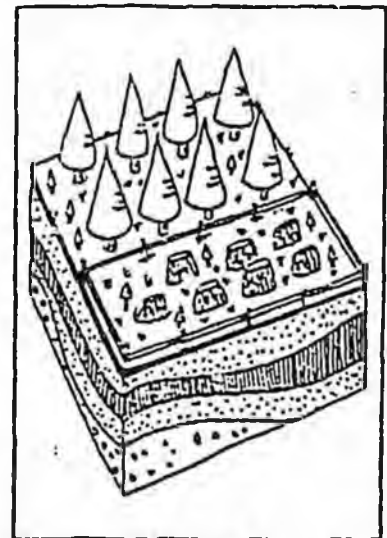
Example: A corporation runs a gold-mining operation on otherwise-undeveloped land. During the years that the mining takes place, the land can be taxed or taken to pay a debt. But if the corporation closes down the mining operation, and restores the land to its original condition, the land then qualifies as "undeveloped" and gains back the protection lost when the venture began.

If a corporation has already subdivided land, it can be returned to "undeveloped" status if the land is resubdivided back to its original state. The resubdivision must be approved by whichever platting authority has jurisdiction. In these cases, the protections do apply to land that was previously subdivided.

Timber Development

The "1991" law makes an important change on how protections apply to timber development. For example, if a village corporation cuts timber on its land, only the approximate area where timber is actually cut can be taxed. Under the old law, a larger area of land would lose the protections and thus become vulnerable to taxes and loss by other means. Now, protections are lost only on the parcel of land where timber cutting and development are actually occurring and only during the period of harvest.

Timber lands can also regain land protection. During the years a village corporation cuts timber for commercial sale, the land is considered "developed," and thus can be taxed, if the corporation is in a taxing jurisdiction, or taken to pay creditors. When the commercial harvest ends, though, the land is no longer considered to be "developed" and the land is automatically protected.



*Only area where
timber is cut
loses protection*

Tax Recapture on Subdivided Land

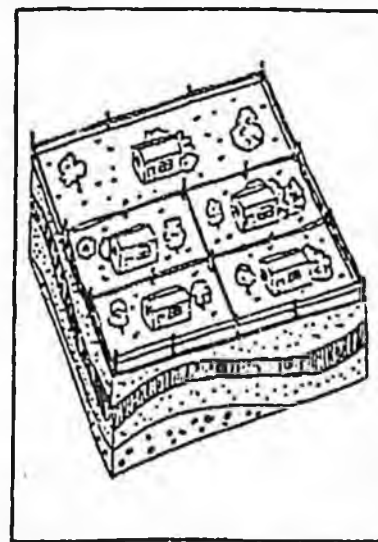
If a Native corporation is in a taxing jurisdiction and its land is subdivided, the corporation must pay the amount of taxes that would have been

levied during the 30 months before the subdivision plat is recorded. The back taxes must be paid in semi-annual installments. The entire amount must be paid off within 30 months of the date the plat is recorded.

Before the final plat is approved, the government with tax jurisdiction must notify the corporation of the taxes it will owe.

Example: Corporation Z decides to subdivide 50 acres on a scenic river site. Until now, the land has been "undeveloped" and exempt from property taxes. On September 1, 1990, the subdivision plat is recorded. The corporation must pay an amount equal to property taxes it would have paid on that 50 acres from March 1, 1988 to September 1, 1990. The total tax bill on the 50 acres is \$10,000. Corporation Z must make its first \$2,000 payment March 1, 1991. The total bill must be paid off by March 1, 1993.

TAX RECAPTURE



Tax recapture applies only if the land being subdivided is within the boundaries of a taxing jurisdiction, such as a borough or municipality with the power to tax.

Subdivided land

Summary

One of the most important changes made by the "1991" law is that Land Bank protections are now automatic. No board action is required because the land protections automatically apply to all undeveloped ANCSA lands. Native land, so long as it remains undeveloped, is protected from property taxes, from squatters, from being taken to pay a bad debt and from bankruptcy.

Before, corporations had to apply to the federal government to get these protections. Now, they're automatic; nothing else is required. A corporation loses these protections if its land is pledged, leased, developed or subdivided. Native corporation board members must recognize the types of actions that may result in losing land protections.

Board members may want to review the status of their lands in light of the definition of "developed," to determine whether any of the corporation's land does not qualify for automatic protections.

Even if the land protections are lost, they can be regained if the lease ends or development activity stops.

HOUSE COMMITTEE REPORT

(7)

Date Referred: January 18, 1993

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 1-28-93

The COMMUNITY AND REGIONAL AFFAIRS Committee considered:

HB 73

HOUSE BILL NO. 73

ANCSA STATE TAX EXEMPTIONS

"An Act relating to state and local taxation and other state regulation as affected by the Alaska Native Claims Settlement Act, as amended, and related federal statutes; and providing for an effective date."

RECOMMENDATIONS:

be replaced with _____ the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (Dept/Date) _____

fiscal impact _____

fiscal note(s) _____

zero fiscal note Revenue 1-21-93

zero fiscal note(s) _____

	SIGNING <u>DO PASS</u>	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
Sanders	<i>Jerry Sanders</i>	✓	<i>John N. Deim</i>		✓	
Bunde	<i>W. R. Bunde</i>	✓	<i>Rep Willis</i>		✓	
Williams	<i>W. K. Williams</i>	✓				
Toohey	<i>Toohey</i>	✓				
Olberg	<i>Harley Olberg</i>	✓				

Harley Olberg
 CHAIRMAN'S SIGNATURE

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723



WHILE IN JUNEAU
State Capitol
Juneau, Alaska 99801-1132
465-4525
465-4833
463-3241 FAX

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Kobuk
Kolzebue
Noatak
Noorvik
Selawik
Shungnak

MEMORANDUM

Harley
TO: Representative Harley Oberg, Chairman
House Community & Regional Affairs Committee

FROM: Representative Eileen P. MacLean *Eileen*

DATE: January 19, 1993

SUBJ: Scheduling HB 73

This is to request a hearing in the House Community & Regional Affairs Committee for HB 73, relating to state and local taxation and other state regulation under the Alaska Native Claims Settlement Act, as amended, and related federal statutes.

HB 73 will bring state law into compliance with federal amendments made to the Alaska Native Claims Settlement Act (ANCSA) in 1991. Several references are made throughout the bill to sections of 43 U.S.C. 1601-1642, the ANCSA law.

HB 73 was primarily intended to bring state law into compliance with federal law regarding the exemption of ANCSA property from taxation. The 1991 amendments to ANCSA included a provision to continue the exemption of taxation of ANCSA property indefinitely, or until development occurs. Although this change has been made at the federal level, state law has not been brought into compliance with the federal act.

In the bill drafting process, the drafter noted other sections of the ANCSA law which needed to be updated and referenced several other sections of state law to the amendments made in 1991.

Representative Harley Olberg
page 2

This same bill almost passed the legislature last year. HE 451 was left in in the Senate Rules Committee at the time of adjournment. To my knowledge, there are no problems or concerns with this legislation. It is primarily housekeeping in nature and again, only brings state statutes into compliance with federal law.

If you have any questions, please contact Rena Bukovich of my staff at 465-4525.

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 8, 1993

Place: Capitol Room 120

Subject of Meeting: HB 73 - State and Local Taxation; ANCSA. HJR 21 - Thurgood Marshall

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
C. S. CHRISTENSEN	AKSICA COURT SYSTEM	303 K ST ANCHORAGE	99524		264-8228	<input checked="" type="radio"/> Y <input type="radio"/> N	ACS CERTIFICATION
Jack Choukoff	LAW LEGAL SERVICES				465-2450	<input type="radio"/> Y <input checked="" type="radio"/> N	AVAILABLE TO ANSWER QUESTIONS: HB 73
<i>Please call 125</i> → Rena Bukovich	Rep. Eileen MacLean	Capitol			465-4565	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 73
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
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						<input type="radio"/> Y <input type="radio"/> N	

HB

75

FISCAL NOTE

STATE OF ALASKA
1994 LEGISLATIVE SESSION

BILL NO. CS HB 75(JUD) (8-LS0372W)

Revision Date: 01-18-94	Dept. Affected: Revenue
Title: Qualifications For PFD's By Military	BRU: Permanent Fund Dividend
	Component: Permanent Fund Dividend
Sponsor: MULDER, Martin	
Requestor: House Judiciary	COMPONENT SERIAL NO. 981

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY95	FY96	FY97	FY98	FY99	FY00
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY94) impact: \$ -0-

ANALYSIS: (Attach a separate page if necessary.)

See Pages 2 and 3

Prepared by: <u>Thomas C. Williams</u> <i>Thomas C. Williams</i>	Phone: <u>465-2323</u>
Division: <u>Permanent Fund Dividend</u>	Date: <u>01-18-94</u>
Approved by Commissioner: <u><i>[Signature]</i></u>	Date: <u>1/18/94</u>
Agency: <u>Department of Revenue</u>	

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ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 75 (JUD) (8-LS0372J)

January 18, 1994

This committee substitute substantially expands allowable absences to enable residents to remain eligible for a dividend while absent from Alaska to accompany an individual who, by virtue of their maintenance of residency in another state, has declared that they intend to go somewhere other than Alaska to remain permanently. The resident's departure with that non-resident spouse would strongly suggest that the resident would again follow the non-resident when the non-resident retired to their state of residency, making the resident's declared "intent" suspect.

Allowing residents to maintain eligibility for the dividend program based on accompanying a nonresident member of the military would likely increase the population of eligible applicants by as many as several thousand by:

- a. encouraging virtually all current non-resident spouses of non-resident military members living in Alaska to declare Alaska residency, knowing that they *and their children* will continue to remain eligible once they leave the state;
- b. substantially increasing the number of dividends issued to individuals living out of state;
- c. substantially increasing the likelihood of paying individuals who have taken all the proper steps to establish and maintain Alaska residency without truly having the actual requisite intent to remain permanently or to return to Alaska to remain permanently.

This committee substitute version would also generally eliminate the ability of a resident spouse to piggy-back onto the allowable absence of their resident spouse, except in those cases where an allowably absent individual is a member of the military. Section 1 would require the department to simply ignore certain facts relevant to confirming an individual's intent. This opens a wide door to fraudulent filings and compromises the ability of the Department to ensure compliance with the principal eligibility requirement, the intent to remain in Alaska permanently.

On December 16, 1993, Superior Court Judge Dana Fabe upheld the department's position that accompanying a non-resident military member on an absence does not in itself allow an individual to remain eligible for a dividend. Judge Fabe concluded that "there is a rational relationship between the expressed legitimate purposes of the Dividend program, on the one hand, and , on the other, ... for denying an "allowable absence" exception to residents who accompany their nonresident spouses on allowable absences." [p. 17, *Zeiler v. State of Alaska*, 3AN-92-1567 Civil] She went on to agree that, "It is reasonable to allow residents to "piggyback" onto an allowable absence of a resident spouse, because the fact that the spouse is still a resident is a factor tending to show "an intent to return to Alaska and remain permanently in the state". That factor

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
ANALYSIS OF CS HB 75 (JUD) (8-LS0372\J)

January 18, 1994

does not exist for residents who accompany nonresident spouses out of state. For the same reason, it is reasonable to require additional proof of intent from a Dividend applicant whose spouse is not a resident. [pp.17-18, *Zeiler v. State of Alaska*, 3AN-92-1567 Civil]

In addition, as long as residency for purposes of the dividend program is defined in terms of allowable absences, the prohibition from considering the residency of an individual's spouse proposed in section 1 of this committee substitute conflicts with the "piggyback" amendment proposed in section 2, as pointed out by Judge Fabe in her decision.

As reflected in section 1(b), Chapter 21, SLA 1980, the original intention of the dividend program was in part "to encourage persons to maintain their residence (*not just residency*) in Alaska and to reduce population turnover in the state." [*emphasis and comment added*] Significantly expanding the allowable absence provisions, sending more and more dividend dollars to individuals living out of state, is not consistent with the stated intent of the program. Expanding allowable absence encourages individuals to declare Alaska residency while simply passing through Alaska simply to qualify for a unique economic benefit. This effect is also at odds with the intent of the program "to reduce population turnover in the state." It is clear from the intent in the enabling legislation that the dividend program was never intended to pay people who simply passed through Alaska.

Sponsor Statement CSHB 75 (JUD)

OVERVIEW

For the past few years, several Alaskan residents have been unfairly denied their permanent fund dividends or put into a lengthy review process due to the fact that they were married to a non-resident. Most often, these individuals got married to a member of the U.S. military while on assignment here in Alaska. After their marriage, the Permanent Fund Division considered their intent to remain to be in question. This led to the individual being put into the review process and usually being denied their dividend.

Substantial changes were made to the PFD application process and eligibility in 1992, when HCSCSSB 327 am H (Ch. 4 SLA 1992) passed the 17th Legislature. Included in this legislation were changes that were designed to correct this problem. In the bill, AS 43.23.015(a) was amended to state that the residency of an individual's spouse could not be a principal factor in determining the residency of an individual.

A suit was filed by five residents, Zeiler v. State, Permanent Fund Division, over this issue in 1992. A ruling was issued in late 1993 that rejected some portions of the plaintiffs' claims, but has been resubmitted for clarification.

In the suit, there is an estimated 800 people who were refused dividends for having a spouse who was a non-resident. Though changes were made to help correct this with HCSCSSB 327 am H, there is still some ambiguity in the statutes that continues to hamper applications from resident spouses and dependents of non-residents.

WHAT HB 75 DOES

CSHB 75 (JUD) begins by amending AS 43.23.015(a) to state that "the residency of an individual's spouse may not be a factor relied upon by the commissioner in determining the residency of the individual." Previously, this section stated that the residency of an individual's spouse may not be the **principal** factor relied upon by the commissioner for determination of residency.

In addition, the bill amends AS 43.23.095(8) dealing with the acceptable

reasons for absence from Alaska while still maintaining eligibility for the PFD. In subsection (C), instead of "military service", the section would read "service in the military forces of the United States or to accompany as a spouse or dependent a state resident or nonresident serving in the military forces." This should firmly establish the legislative intent of the changes made in 1992, namely that a resident of Alaska should not be denied their permanent fund simply because their spouse is a non-resident provided they meet all other qualifications. Naturally, these individuals would still be held accountable for all other PFD eligibility requirements, such as the two year return requirement, etc.

Military personnel and their families are an important part of Alaskan communities and the economy. The rights of these individuals as Alaskans should be protected as much as any other Alaskan resident.

8-LS0372E✓
Cook
4/18/93

CS FOR HOUSE BILL NO. 75()
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MULDER, Martin

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to eligibility for permanent fund dividends for certain individuals
2 who are absent from the state; and providing for an effective date."

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

4 * Section 1. AS 43.23.015(a) is amended to read:

5 (a) The commissioner shall adopt regulations under the Administrative
6 Procedure Act (AS 44.62) for determining the eligibility of individuals for permanent
7 fund dividends. The commissioner may require an individual to provide proof of
8 eligibility, and the commissioner may use other information available from other state
9 departments or agencies to determine the eligibility of an individual. The commissioner
10 shall consider all relevant circumstances in determining the eligibility of an individual.
11 However, the residency of an individual's spouse may not be a [THE PRINCIPAL]
12 factor relied upon by the commissioner in determining the residency of the individual.

13 * Sec. 2. AS 43.23.095(8) is amended to read:

14 (8) "state resident" means an individual who is physically present in the state

1 with the intent to remain permanently in the state under the requirements of
2 AS 01.10.055 or, if the individual is not physically present in the state, intends to
3 return to the state and remain permanently in the state under the requirements of
4 AS 01.10.055, and is absent only for any of the following reasons:

5 (A) vocational, professional, or other specific education for
6 which a comparable program was not reasonably available in the state;

7 (B) secondary or postsecondary education;

8 (C) [MILITARY] service in the military forces of the United
9 States or to accompany as a spouse or dependent a state resident or
10 nonresident serving in the military forces of the United States;

11 (D) medical treatment;

12 (E) service in Congress;

13 (F) other reasons which the commissioner may establish by
14 regulation; or

15 (G) service in the Peace Corps;

16 * Sec. 3. This Act takes effect January 1, 1994.

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
PROCEDURAL DIFFERENCES IN PROCESSING APPLICATIONS
FROM MEMBERS OF THE UNIFORM SERVICES

As of August 6, 1993

Application Question

Question 9 on the 1993 Adult application asked whether or not the applicant was a member of the uniformed services.

Rationale: Members of the Uniform Services are required to declare to their employer their state of legal residency. This relatively unique declaration provides confirmable evidence of the individual's residency and intent. While there are many occupations in Alaska that may involve a relatively temporary duty assignment to Alaska, we are not aware of any other where the employer requires each employee to declare a state of residence.

Accordingly, the Department adopted 15 AAC 23.173(g)(3). That regulation states, "Proof bearing on an individual's intent to remain permanently in Alaska might be any proof acceptable to the department, including ... employment and unemployment records including a copy of the leave and earnings statement of a military member for (A) December of the year before the qualifying year; and (B) the most recent month."

Beginning in 1993 the PFD Division began independently confirming this declaration information directly with the U.S. Departments of Defense and Transportation, eliminating the need for 9,648 members of the Uniform Services to provide copies of their Leave and Earning Statements (LES) with their applications. The residency of the remaining 5,168 members of the Uniform Services could not be confirmed directly with the U.S. Departments of Defense and Transportation. Consequently, we asked those applicants to provide copies of their December 1991 and most recent LES. Of those, 2,866 applicants provided a December 1991 and current LES reflecting Alaska as their state of residency, 289 provided an LES showing another state of residency and 2,013 had yet to respond as of August 2, 1993.

Regulations

15 AAC 23.143(h) states "An individual who when signing an application knows the individual will be departing Alaska at a specific time to a specific destination for a reason other than one allowed by 15 AAC 23.163(c) does not have the intent to remain permanently in Alaska and is not eligible for a dividend. An individual whose ineligible spouse is a member of the uniformed services of the United States and whose spouse receives orders to depart Alaska dated on or before the date the individual signed an application is not eligible for a dividend if the individual departs within 180 days of signing an application".

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
PROCEDURAL DIFFERENCES IN PROCESSING APPLICATIONS
FROM MEMBERS OF THE UNIFORM SERVICES

As of August 6, 1993

Rationale: While not all Alaska residents with non-resident spouses depart Alaska when their non-resident spouse departs, historically we have found that the vast majority do depart. Consequently, this regulation was adopted to establish a reasonably objective test of those residents' intent to remain. This test can be and is applied to the spouses of members of the Uniform Services because the Uniform Services members routinely receive written and dated transfer orders.

Follow-up Eligibility Questions

When a member of the Armed Forces is selected for an eligibility determination, the member will receive a copy of the attached eligibility questionnaire tailored specifically to the nature of their employment. In accordance with the provisions of 15 AAC 23.163(g)(5), this questionnaire includes a question regarding "the priority the individual gave Alaska on an employment assignment preference list, such as those used by military personnel."

Rationale: It makes sense to ask only specific questions relevant to an applicant's situation. Just as those individuals who are absent attending college are required to have their school registrar complete and return to the Department an education verification form, military members are asked for information pertinent to their particular situation.

Other Requirements and Questions

All other statutory and regulatory eligibility requirements, as well as eligibility inquiries, are applied in the same manner for members of the Uniformed Services as they are for other PFD applicants.

Attachment

ALASKA DEPARTMENT OF REVENUE
PERMANENT FUND DIVIDEND DIVISION
1993 ADULT ELIGIBILITY QUESTIONNAIRE

FOR INDIVIDUALS WHO WERE ABSENT FOR SERVICE IN THE UNITED STATES ARMED FORCES

First Name	M.I.	Last Name	Social Security Number
Address			Home Phone ()
City	State	Zip Code	Work Phone ()
Batch No.	DLN	Date	

Dear 1993 Permanent Fund Dividend Applicant:

Your permanent fund dividend application has been selected for an eligibility determination. To qualify for an Alaska permanent fund dividend while absent from Alaska an adult must have been a resident for six months immediately before leaving, be absent for an allowable reason, and must show at all times during the absence an intent to return to Alaska to remain permanently. An adult who has never lived in Alaska cannot claim residency.

The questions in this questionnaire pertain to calendar year 1992, the qualifying year for the 1993 dividend. Please carefully read the entire questionnaire, answer all questions and **provide copies of any documents requested**. If a question is not applicable to you, write "N/A" as your answer. You should include any additional documents that you think shows you are an eligible Alaskan resident. Please note that documents you send must either be the original or "certified true copies." Documentation *will not* be returned. After you have fully answered all questions on this questionnaire, **please sign and date the questionnaire or it will not be considered valid**.

Under 15 AAC 23.173(b), you are required to submit any information requested by the Department of Revenue in order to determine if you qualify for a 1993 permanent fund dividend. **If you do not provide the requested information within 30 days from the date of this questionnaire, 15 AAC 23.173(c) provides that your claim to a 1993 permanent fund dividend may be denied.**

Because we review thousands of applications each year, it may be several weeks before we will be able to review your application. Your timely response to this questionnaire is necessary to help complete your application file. It is our goal to finish our review of all timely filed and complete 1993 applications no later than December 31, 1993.

Please advise us **in writing** if you change your address or telephone number(s). Thank you for your cooperation and patience.

Sincerely,

Tracy Buck, Supervisor
Dividend Review Unit

RETURN COMPLETED QUESTIONNAIRE TO:

Alaska Department of Revenue
Permanent Fund Dividend Division
Dividend Review Unit
P.O. Box 110466
Juneau, AK 99811-0466

Five sue state over dividend rejection

By DON HUNTER
Daily News reporter

Five Alaskans who were denied permanent fund dividend checks because their husbands or wives are not state residents have sued the state Department of Revenue.

The suit filed in Anchorage on Thursday seeks to represent an estimated 800 people who have been refused dividends for similar reasons. A judge will decide later whether to certify the complaint as a class-action suit.

Plaintiffs Gloria Lynn Zeiler, Janele Bolls, John B. Howell, Joyce Herr and Sandra Broadnax claim the permanent fund division's eligibility rules violate state and U.S. constitutional equal rights guarantees as well as "the right to marry the individual of one's choice, the right to travel, economic rights and the right to serve in the U.S. military," the suit says.

The suit seeks to represent "Alaskans who have been denied PFDs, are at risk of being denied PFDs, or who can only obtain PFDs by providing information beyond that required of other Alaskans, because their spouses are non-residents."

Disputes about the eligibility for dividends of some residents, largely military spouses, first arose last year. In some cases, such as that of Zeiler, one of the plaintiffs in the current suit, the Revenue Department demanded repayment of dividends the family had received for seven years.

"They want \$18,200 in back checks for her and her children, when every year she completely and forthrightly told them exactly what her situation was," said attorney Kenneth Kirk, who filed the suit.

"One year, they even reviewed her eligibility. Then, in 1990, they suddenly decided to ask for reimbursement."

Kirk said other similarly affected people are also sponsoring the suit. The five named plaintiffs were picked because they represent different categories of people denied checks because their spouses are non-residents.

Recent efforts by lawmakers to protect such individuals may be too little or too late, he said.

"This will take awhile. These people could easily be delayed on next year's checks," Kirk said, "and frankly, we just don't trust the legislature to do anything."

"The case was ready to file, and we filed it. If the legislature fixes things, we'll be happy to dismiss it. I'm sure."

Tom Williams, director of the permanent fund division, said Friday he had not seen the suit and could not comment on it in detail. But he said the agency has already changed its policies to cure some of the complaints.

For example, the agency no longer rejects an applicant only because the applicant's wife or husband is a non-resident, Williams said. A bill passed by the state

Senate and awaiting action in the House writes the same policy into law, he said.

"It doesn't say we can't look at it," Williams said, but if the agency learns that an applicant's spouse is a non-resident, it has to consider other factors in deciding his or her eligibility for a dividend.

The recent changes clear up most problems for residents living in Alaska who happen to be married to people who are not residents, a category that many military dependents fit into, Williams said.

It does not, however, address situations where an Alaska resident moves out of state with a non-resident — for example, if a person who marries someone in the military here, then leaves with them when they are transferred. The permanent fund division might well consider the Alaskan not eligible for a dividend, according to Williams.

The plaintiffs in the Zeiler suit include Zeiler, a 30-year Alaska resident who lived outside Alaska from 1982 to 1989 with her Air Force husband; Bolls, who also lived outside Alaska with her military husband; Howell, who remained in Alaska after his wife had to leave the state for medical reasons; Herr, who moved to Alaska in 1989 but has been refused dividends because her husband is a non-resident; and Broadnax, a 26-year Alaskan who moved out of state with her military husband and was denied a dividend last year.

After first being denied a 1991 dividend, Howell was approved, but might have to provide additional information to get this year's dividend, the suit says.

5 Alaskans denied fund checks sue state

By BEN WEAR

TIMES WRITER

A group of Alaskans denied Permanent Fund checks because their spouses were not officially Alaska residents sued the state Thursday to get their checks and throw out regulations they say are unconstitutional.

The class-action lawsuit, filed by five people on behalf of several hundred others whose checks were delayed or withheld by the state, is the latest round in a controversy that began last fall. The Permanent Fund dividend division denied checks to 800 applicants and held up 845 more for review after a computerized cross-check showed they were married to non-residents.

Since then, the dividend division has admitted it erred in denying checks to longtime resi-

dents who married non-residents, usually soldiers stationed here temporarily who continue to vote in their home state. And Tom Williams, director of the dividend division in the Department of Revenue, issued a policy change designed to mollify another group: non-resident spouses who moved here with a non-resident, then applied for Permanent Fund checks after the one-year qualifying period.

The department had denied that group the \$931.34 checks last year on the assumption that their spouses' decision to maintain residency elsewhere was evidence they do not intend to be lifelong Alaskans. Williams changed the policy to remove that assumption.

Now, a bill is moving through the Legislature that would put that policy into law. Despite those

signs of progress, the attorney who filed the lawsuit said it is still necessary for several reasons.

"The division's policy can be changed very easily," Kenneth Kirk said Friday. As for the bill, Kirk said even good ideas often are lost in the legislative shuffle or horse-traded into oblivion.

"I don't think it's a very safe bet," Kirk said.

In addition, Kirk said, Alaskans married to non-residents are required to fill out complicated questionnaires and furnish financial information many consider confidential. And neither the policy change nor the legislation help yet another group denied checks, Kirk said.

Longtime residents who move temporarily to another state with a non-resident are not eligible, said Williams of the dividend division. But if they move with a resi-

dent under certain circumstances, they are eligible.

"The Legislature has specifically identified allowable absences," Williams said, which include military service, college and medical treatment. "We allow residents to piggyback only on resident spouses with allowable absences. We think that's very clear in the law."

Kirk and his clients say that distinction is unfair and unconstitutional because it makes one person's legal status dependent on their spouse's status. That same distinction, applied to Alaskans living in the state, is exactly what the state backed away from in Williams' policy change, Kirk said.

"The standard is whether you're an Alaskan at heart, not whether you're here putting money into the economy," Kirk said.



HEADQUARTERS
ALASKAN COMMAND (ALCOM)
ELMENDORF AIR FORCE BASE, ALASKA 99506

RECEIVED
14 JAN 1991
JAN 16 1991

Honorable Walter J. Hickel
Governor of Alaska
Suite 758, 3601 C Street
Anchorage, Alaska 99503

GOVERNOR'S OFFICE

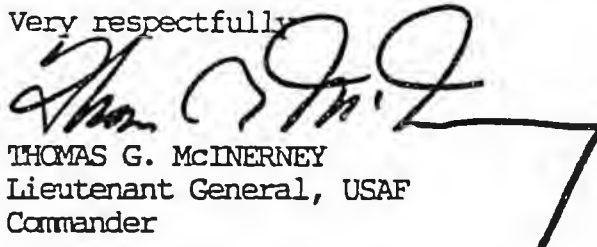
Dear Governor Hickel

As the senior U.S. military commander in Alaska, I want to express my concern over the state procedures for determining proper recipients for Alaska permanent fund dividends. My interest is simply this: residents of Alaska serving in the military forces of the United States should be fairly treated and should not be disadvantaged because they are absent from the state pursuant to military orders.

I understand the unique nature of the Alaska permanent fund and the necessity for strict procedures to avoid abuse. However, national requirements placed upon Alaskans to leave their homes to serve "outside" should not detrimentally affect their rights as citizens of this great State. Alaska residents are stationed around the world - throughout the lower 48, in Europe, in the Pacific, and in the Middle East. However well-intentioned the present requirements might be, asking all Alaskan military families to return every two years at great personal expense from the four corners of the world is, in my opinion, insensitive to the contributions and sacrifices that these Alaskans are making for their State and for their country.

I am encouraged by the concern I hear expressed by members of the state legislative and executive branches. Suggestions to allow application by representatives on behalf of absent military members, and suggestions to change the presence requirement from two years to four years seem particularly appropriate. I support any and all such efforts that take into consideration the special situation and special contributions of those Alaskans serving in the armed forces of the United States.

Very respectfully,


THOMAS G. McINERNEY
Lieutenant General, USAF
Commander

H B

7 8

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: February 19, 1993

Place: Capitol Room 120

Subject of Meeting: HB 64 Anti-Stalking Law

HB 78 Testimony of Minors in Criminal Trials

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Elizabeth CUADRA	Self	P.O. Box 33678 Juneau	99803	789-2084	586-3340	(Y) N	HB 64
✓ Cindy Smith	ANDUSA	419 6th St.	99801	586-3650		(Y) N	HB 64
✗ Sam Trivette	Dept. of Correction	46 Home			465-3376	Y (N)	HB 64
✗ MARCIA MCKENZIE	CDVSA - Dept of Pub Saf	Box 111200 Juneau 99801	99811		465-4356	(Y) N	HB 64
✗ John Newell	SITKA Police Dept	304 LAKE ST. SITKA 99835	99835	747-6073	747-3349	Y (N)	HB 64
✗ Margaret Knuth	Law				465-4049	(Y) N	HB 64 / 78
✗ Les Ann Lucas	Public Safety				465-4322	(Y) N	HB 64
✗ Captain [unclear]	Self					(Y) N	HB 64
✗ Rena Bukovich	Rep MacLean	— Capitol 507			465-6872	(Y) N	HB 78
✗ Deborah Leper	Sen. Leman	Capitol 115			465-7095	(Y) N	HB 64
						Y N	
						Y N	

ALASKA STATE LEGISLATURE

Representative Eileen Panigeo MacLean
Co-Chair House Finance Committee
P.O. Box 830
Barrow, Alaska 99723
(907) 852-7111



WHILE IN JUNEAU
State Capitol, Room 507
Juneau, Alaska 99801-1182
465-4833
465-4525
463-3241 FAX

HOUSE OF REPRESENTATIVES

M E M O R A N D U M

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Point Lay
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Kivalina
Kobuk
Kotzebue
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Noorvik
Selawik
Shungnak

Seward Peninsula

Bravig Mission
Diomede
Shishmaref
Teller
Wales

TO: Representative Brian Porter, Chairman
House Judiciary Committee

FROM: Representative Eileen P. MacLean *Eileen MacLean*

DATE: February 9, 1993

SUBJ: Committee Hearing for HB 78

This is to request a hearing for HB 78 relating to the testimony of children in certain criminal proceedings; and providing for an effective date.

Under current law, in a criminal proceeding involving a child victim or witness, the court can order that the testimony of the child be taken by closed circuit television or through one-way mirrors if it determines that the child's testimony under normal court procedures would result in the child's inability to effectively communicate. This bill would allow the court to extend those privileges to children to the age of 16, up from the current age of 13.

The attached memorandum from the Legal Services Division examines the constitutional "confrontation clause" requirement that a person must meet his accuser against other states special treatment laws. There is no single age limit that serves as a benchmark for special treatment in other states. The range is from ages 10-16, with the latter being the upper limit that states have set for use of special proceedings to take testimony through videotaped testimony or one-way mirrors.

REQUEST FOR SCHEDULING

Representative Porter
page 2

According to the attorney, since it is not the child's age but rather the impairment of the child's ability to communicate testimony that is the essence of the exceptional treatment, the age ceiling could be extended from 13 to 16 without raising a significant constitutional concern. Regardless of the age, the test the court must follow is to summarize specific evidence and an express finding that the child's personal appearance as a witness would significantly impair the substance of the child's testimony.

If you have any additional questions regarding this legislation, please contact Rena Bukovich of my staff at 465-4525.

SPONSOR STATEMENT

HB 78

Representative Eileen P. MacLean

Under current law, in a criminal proceeding involving a child victim or witness, at the request of the court or guardian ad litem, the court can order the testimony of the child be taken by closed circuit television or through one-way mirrors if it determines that the child's testimony under normal procedures would result in the child's inability to effectively communicate. This bill would allow the court to extend those privileges to children under the age of 16, up from the current age 13.

The constitution forbids denying the accused face-to-face confrontation with an accuser in a criminal trial without specific evidence and an express finding that the probable effect of the defendant's presence on the witness would significantly impair the substance of the witness's testimony. The U.S. Supreme Court has ruled that the right of a criminal defendant to confront his accuser is not absolute. In certain situations the right of confrontation can be limited where the court makes a case specific finding of necessity that limitations on the right of confrontation are necessary. The U.S. Supreme Court has approved procedures like current AS 12.45.046 as long as the decision to employ the procedure is made on a case specific finding of necessity that determines that requiring the child to testify in the courtroom in the presence of the defendant will result in the child suffering severe emotional distress such that the child cannot reasonably testify.

The attached memorandum from the Legal Services Division examines other states procedural provisions limiting the confrontation clause. There is no single age limit that serves as a benchmark for special treatment. The range is from ages 10 to 16, with the latter being the upper limit that states have set for use of special proceedings to take testimony through videotaped testimony or one-way mirrors.

Section 2 makes the bill retroactive and applicable to criminal offenses occurring before the effective date of the bill. This will make the age limit enacted in HB 78 applicable to offenses that occur before the effective date of the bill but which are prosecuted after the effective date.

Sponsor Statement

DIVISION OF LEGAL SERVICES

**LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA**

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

February 8, 1993

SUBJECT: Sectional Summary of HB 78 (Work Order No. 8-LS0133\A)

TO: Representative Eileen MacLean
Attn: Rena

FROM: Jerry Luckhaupt *JL*
Legislative Counsel

You have requested a sectional summary of the above described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1 of the bill amends AS 12.45.046(a) by providing that if a child victim or witness, in a criminal proceeding, is under the age of 16, the court may order the testimony of the child be taken by closed circuit television or by way of one-way mirrors. The current age limit is 13 years of age or younger.

Section 2 of the bill provides that the amendment in section 1 of the bill is retroactive and applies to criminal prosecutions, that occur after the effective date of the act, of criminal offenses that occurred prior to the effective date of the act.

Section 3 of the bill provides an effective date.

GPL:lmb
93-036.lmb

Sectional Summary

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

January 20, 1993

SUBJECT: Draft bill to amend the procedures applicable to obtaining the testimony of children in certain criminal proceedings (Work Order No. 18-LS0133VA)

TO: Representative Eileen MacLean
ATTN: Rena Bukovich

FROM: Jerry Luckhaupt *JEL*
Legislative Counsel

State law authorizes trial courts to protect children appearing as witnesses in criminal proceedings by allowing their testimony to be taken out of the presence of the defendant, using closed circuit television or one-way mirrors. AS 12.45.046. ^{1/} The statute sets the maximum age of a child-witness or child-victim to whom these procedures may be applied at 13. The attached bill draft would increase the maximum age to 16.

The constitutional provision that bears upon the consideration of this statute is the so-called "confrontation clause," the Sixth Amendment to the United States Constitution ^{2/} and its counterpart, article I, section 11 of the Alaska Constitution. ^{3/}

^{1/} Such a procedure was found to be constitutional by the United States Supreme Court in Marvland v. Craig, 497 U.S. 836, 110 S.Ct. 3157, 111 L.Ed.2d 666 (1990), as long as the decision to employ the procedure is made on "a case-specific finding of necessity" that requiring the child to testify in the courtroom in the presence of the defendant would result in the child suffering severe emotional distress such that the child could not reasonably communicate. See also Cov v. Iowa, 487 U.S. 1012, 108 S.Ct. 2798, 101 L.Ed.2d 857 (1988).

^{2/} The provision reads, in relevant part:

In all criminal prosecutions, the accused shall enjoy the right . . . to be confronted with the witnesses against him

^{3/} The confrontation clause of the state constitution reads:

In all criminal prosecutions, the accused . . . is entitled . . . to be confronted with the witnesses against him:

Legislative Legal Memo

Representative Eileen MacLean

January 20, 1993

Page 2

At least half the states have similar procedural provisions applicable to child victims or witnesses of crimes similar to those covered by the Alaska statute.^{4/} My review of the applicable statutes indicates that there is no single maximum age that serves as a benchmark. The range generally is from ages 10 (Minnesota) to 16 (five states: Alabama, Florida, Mississippi, Hawaii, and New Jersey). In one state, Pennsylvania, a statute sets the maximum age at 17 but its use for children age 16 or 17 would only occur under exceptional circumstances.

The Pennsylvania statute^{5/} in question is interesting. Under it, a videotaped deposition may be taken of a child victim or witness if the child has not reached the age of 18. The statute then establishes rebuttable presumptions for the taking and use of videotaped testimony of child victims and witnesses who are between 14 and 18:

In the case of an individual from 14 to 15 years of age, there shall be a rebuttable presumption that the individual will benefit from the use of procedures in section 5984 (relating to videotaped depositions) and 5985 (relating to testimony by closed circuit television). In the case of an individual from 16 to 17 years of age, there shall be a rebuttable presumption that the individual will not benefit from [these] procedures.

In other words, while Pennsylvania allows the use of videotaped or closed-circuit television for evidentiary purposes of children up to age 18--and is apparently the only state to do so--the presumption changes as to the ability to use these techniques for children who are older, 16 or 17.^{6/}

From my research, age 16^{7/} seems to have become the upper limit that the states have set for use of special proceedings to take testimony through videotaped testimony or using one-way mirrors. But, as the Pennsylvania statute shows, age 16 is not necessarily an absolute maximum limitation, and I haven't found a decision in

^{4/} In addition, roughly two-thirds of the states also authorize the use of a child's videotaped testimony.

^{5/} Pa. Cons. Stat. Ann. title 42 § 5984.

^{6/} A Pennsylvania trial court has apparently found the Pennsylvania statute unconstitutional insofar as it requires only a "good cause" showing to permit a child to testify outside the presence of a defendant. Instead, the court imposes a requirement of a particularized finding by the trial court that the child witness was in need of special protection. It does not appear that the child's age was a factor in the decision.

^{7/} In the only jurisdiction that I was able to find where the use of the special evidentiary methods may be applied to persons older than 16, Pennsylvania, the deposition or testimony of a child 16 or 17 may be videotaped only if the proponent of taping--the state--satisfies the rebuttable presumption that the individual will not benefit from the use of the special procedure.

Representative Eileen MacLean

January 20, 1993

Page 3

which the courts have set aside a child victim or child witness protection statute due solely to the legislature's choice of a maximum age to which the protection statute may apply. Apparently the courts are willing to leave to the legislature the final decision as to the maximum age level for which these special procedures for the taking of testimony from witnesses may apply.

The courts are, of course, vigorous in assuring that the special procedures are made available, if they are used at all, only in circumstances in which specific evidence and an express finding are entered in the record that the child's personal appearance as a witness would significantly impair the substance of the child's testimony. Blume v. State, 797 P.2d 664, 674 (Ak. App. 1990).

My guess is that you could extend the ceiling under Alaska law from 13 to 16 without raising any real question as to whether the change in age alone would present a problem of constitutional magnitude. Since it is not the child's age but rather the impairment of the child's ability to communicate testimony that is the essence of the exceptional treatment, you might be able to raise the ceiling to 18. However, regardless of what age the ceiling is raised to, the test that the court must follow is the one enunciated in Blume, namely that the court summarize in the record both specific evidence and an express finding that the child's personal appearance as a witness would significantly impair the substance of the child's testimony. For children who have passed their 16th birthday, that would seem to be a tough requirement. Even with this statutory change, most older children should have to expect to confront the criminal defendants in open court.

In any event, in conjunction with the attached draft, you should consider for inclusion in the bill draft findings that set out the reasons why you believe the change should be made.

JPL:pl
93-030.plm

Attachment

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO: HB 78

Revision Date: _____ Dept. Affected: Public Safety
 Title: An act relating to the testimony BRU: Alaska State Troopers
of children in certain criminal proceedings Component: Detachments
 Sponsor: Representative MacLean
 Requestor: House HESS COMPONENT SERIAL NO. 799

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

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
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 FUND SOURCE:	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

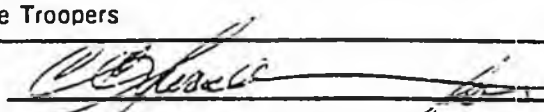
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year (FY 93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary.)
 No significant fiscal impact on the Alaska State Troopers is anticipated.

Prepared By: Francis C. Allan Phone: 269-5691
 Division: Alaska State Troopers Date: 02/04/93
 Approved by Commissioner:  Date: 2/4/93
 Agency: Richard L. Burton, Dept. of Public Safety

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Fiscal Note - Public Safety

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 78

Revision Date: _____ Dept. Affected: Department of Administration
 Title: "An Act relating to the testimony of children in certain criminal proceedings..." BRU: Public Defender Agency
 Sponsor: Representatives MacLean, Toohy Component: Public Defender Agency
 Requestor: _____ COMPONENT SERIAL NO. 1631

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE:	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
Other	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: \$ _____

ANALYSIS: (Attach a separate page if necessary)

See attached.

Prepared by: John Salemi, Public Defender
 Division: Public Defender Agency
 Approved by Commissioner: Nancy Bear Usara
 Agency: Administration

Phone: 279-7541
 Date: February 8, 1993
 Date: _____

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CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 78

This proposal has as its purpose the minimization of emotional trauma to minors at least 13 years of age but less than 16 years old who are called on to testify in criminal proceedings. This proposal expands the right of the state to present the testimony of children in criminal cases by closed circuit television. (There are other provisions in the bill, such as the appointment of a guardian ad litem, which will not be discussed in this fiscal analysis).

The Public Defender Agency recognizes that the state has a legitimate interest in minimizing emotional injury with respect to minor witnesses in criminal cases. But because the use of closed circuit television for this purpose has a significant impact on the constitutional rights of accused individuals in criminal proceedings, any expansion of said use must be based on a compelling state interest. This legal language establishes the test to determine how competing interests are balanced. Absent a showing of a compelling state interest to extend the use of closed circuit television to minor witnesses who are 13, 14, or 15 years old such a law suffers constitutional infirmity.

A defendant in a criminal case has an absolute right to confront the witnesses who are called against him/her. This right of confrontation is explicit in the U.S. and state constitutions. See the Sixth and Fourteenth Amendments to the United States Constitution. See also Article 1, Section 11 of the Alaska Constitution.

A.S. 12.45.046 currently allows closed circuit television testimony for children under the age of 13 (or testimony by one-way mirror). As a prerequisite to use of this procedure the court must determine that the normal court practice of requiring the witness to testify in court would inhibit effective communication.

It must be understood that any testimony by a witness, minor or adult, has the potential to create emotional trauma. Using closed circuit television or one-way mirrors does not reduce the trauma of having to recall significant events of a potentially painful nature and relating them to a judge or jury. The only legitimate issue here is whether having to recall those events in a courtroom, in the presence of the accused, creates substantially more trauma. To make such a finding would in most instances be highly speculative. It must be remembered that courtroom proceedings are very solemn and formal. The defendant does not get to address a witness directly. Questions are asked through attorneys. Security is in place in criminal cases whenever needed. Courtrooms are typically fairly large and the distance between defendant and the witness stand substantial. Therefore defendant-generated trauma is minimized by the very nature of court proceedings.

CONTINUATION of FISCAL NOTE ANALYSIS

For Bill/Resolution No. HB 78

For this law to pass constitutional muster the state would have to show that any emotional injury or trauma the minor witness might suffer by testifying "live" would be generated solely by the defendant's presence in the same courtroom. Making such a showing will be difficult, highly speculative and could involve such things as psychological evaluations. It is the understanding of the Public Defender Agency that under present law these procedures are rarely used. It is questionable whether such an expansion of this procedure is necessary.

In the final analysis this bill must strike the delicate balance between the constitutional rights of the accused and preventing emotional injury to young witnesses. Because the testimony of a minor witness in a criminal case can often be the pivotal evidence in that case, using unusual procedures to present the evidence can cause problems. A jury will see all of the other testimony live. They very well may draw negative inferences about the defendant when the testimony of a young witness is presented by television or one-way mirrors. This alone cuts against the very important concept of the presumption of innocence.

While there will be no distinct fiscal impact on the Public Defender Agency it is likely an extension of the statute will eventually be subject to a constitutional challenge.

Chukchi Campus
UNIVERSITY OF ALASKA FAIRBANKS

P.O. Box 297 • Kotzebue, Alaska 99752 • (907) 442-3400

25 January, 1993

Representative Eileen MacLean
State Capitol
Juneau, AK 99801

Dear Rep. MacLean:

I am writing in support of HB 78. I have worked, as a therapist, with numerous adolescent victims of abuse and adults abused as children, who expressed that the disclosure and prosecution of the abuse was more traumatic than the actual abuse itself.

I applaud the State of Alaska's efforts to protect in a healthy manner the physical, emotional, and spiritual rights of our children.

Respectfully:

Barbara R. Wilson ACSW

Barbara R. Wilson ACSW
Asst. Prof. of Social Work
University of Alaska Fairbanks
Chukchi College

Support Letters

Maniilaq Association

P.O. Box 256
Kotzebue, Alaska 99752
(907) 442-3311

December 8, 1992

Representative Eileen Panigeo MacLean
Alaska State Legislature
P.O. Box V, Rm. 128, Capitol
Juneau, Alaska 99811

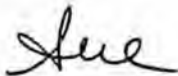
Dear Eileen,

Greetings during this joyous season! I pray that you and your family have a wonderful holiday.

Shirley Goldy brought to my attention a situation that I believe warrants your assistance. It seems that children over the age of 13 must face their abusers in court and cannot be videotaped similar to what is done with younger children. This seems very cruel and unnecessary. Other states have 16 or 18 as age limits for court appearances. I believe that Alaska needs to change the age limit to at least 16 years old, if not 18 years old.

By sponsoring legislation to raise the age limit to 16 or 18, you would ensure that our children are not abused a second time by the system. I look forward to hearing from you.

Most sincerely,



Susan L. Adams,
Deputy Administrator
Social and Regional Services

cc: Shirley Goldy, Group Home
Marge West, Family Services
Ruth Apgar, DFYS

EILE/MAC/TXTIVA

MEMBER VILLAGES

Ivisaappaat, Nunatchiaq, Ipnachiaq, Katyaak, Kivaliniq, Laugviik, Qikiqtagruk, Nautaaq, Nuurvik, Akuligaq, Isinnaq

Rep. Eileen MacLean
Alaska Capital Legislature
State Capital Room 507
Juneau, Alaska 99801 -1182

2/5/93

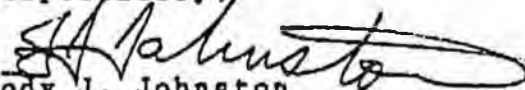
Dear Rep. MacLean,

We are sending this letter in support of House Bill #78
"An act relating to the testimony of children in certain
proceedings; and providing for an effective date"

We in the field of Social Services must support efforts to
protect the children. This bill will expand the ages of
protection for victims, children, who were unfortunately
traumatized by crimes. They do not need multiple interviews
in public court, they have been traumatized enough.

Thank you for your hard work and courage to introduce this
important bill. Vote yes for House Bill #78

Respectfully,


Jody J. Johnston
Maniilaq Alcohol Program
Box 256, Building P.R.F.
Kotzebue, Alaska 99752
1-800-478-3312

Kerrigo M. Hunt / DATA INTAKE COORDINATOR
Lori Russell / Youth Prevention Coordinator

Judy Reyes - Aftercare Counselor Coordinator
Shonda Hance, Placement

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 78

Revision Date: February 11, 1993
Title: "An Act relating to testimony of children
in certain criminal proceedings..."
Sponsor: Representative MacLean
Requestor: House Judiciary

Department Affected: Law
BRU: Prosecution
Component: All
COMPONENT SERIAL NO. 0085 thru 0090

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND &						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING:

1002 Federal						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
OTHER						
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)

Please see attached analysis.

Prepared by: Richard T. Pegues, Director
Division: Administrative Services Division
Approved by Commissioner: Charles E. Cole, Attorney General
Agency: Department of Law

Phone: 465-3672
Date: February 11, 1993
Date: February 11, 1993

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 78

ANALYSIS: (continued)

AS 12.45.046(a) currently provides that in a prosecution of a violent crime, including sexual assault, committed against or witnessed by a child under the age of 13, the court may order that the testimony of the child be taken by closed circuit television or through one-way mirrors, if the court determines that the testimony by the child victim or witness under normal court procedures would result in the child's inability to effectively communicate. This bill would raise the age limit to child victims or witnesses for whom these procedures could be extended to children under the age of 16.

There will not be a fiscal impact for the Department of Law because facilities and procedures are already in place to allow this type of testimony.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 78

Revision Date: _____
Title: An Act relating to the testimony of children
in certain criminal . . .
Sponsor: Representatives Maclean, Toohey
Requestor: House HESS

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy
COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
-------------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)
See attached.

Prepared by: Brant McGee, Public Advocate
Division: Office of Public Advocacy

Phone: 274-1684
Date: _____

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 2/2/93

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FISCAL NOTE

**STATE OF ALASKA
1993 LEGISLATIVE SESSION**

BILL NO. HB 78

ANALYSIS: (continued)

Office of Public Advocacy will receive 15 to 25 additional guardian ad litem appointments annually if this bill is passed. However, this type of witness representation is now relatively routine and straightforward for older children and only rarely requires substantial staff or contractor resources.

HOUSE COMMITTEE REPORT

(9)

Date Referred: January 22, 1993

FURTHER REFERRALS: Judiciary
Finance

Date of Committee Action: 2-8-93

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: HB 78

HOUSE BILL NO. 78

TESTIMONY OF MINORS IN CRIMINAL TRIALS

"An Act relating to the testimony of children in certain criminal proceedings; and providing for an effective date."

RECOMMENDATIONS: the same title
be replaced with _____ a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) _____

APPROVES PREVIOUS: (DepuDate) _____

fiscal impact _____ fiscal note(s) _____

zero fiscal note Public Safety, Admin - Public Safety zero fiscal note(s) _____

SIGNING <u>DO</u> PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				
<i>[Signature]</i>	X				

[Signature]
CHAIRMAN'S SIGNATURE

HB

79

(7)

Date Referred: February 10, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-12-93

The JUDICIARY Committee considered:

HB 79

HOUSE BILL NO. 79

DAMAGE TO PROPERTY BY MINORS

"An Act relating to recovery from a parent or legal guardian of wilful or malicious destruction of property by a minor."

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

ADOPTS: _____ letter of Intent

- ATTACHES NEW FISCAL NOTE(s): (Dept) APPROVES PREVIOUS: (Dept/Date)
- [] fiscal impact _____ [] fiscal note(s) _____
- [] zero fiscal note _____ [X] zero fiscal note(s) LAW, ADMIN, HESS

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Janetta James</i>	<input checked="" type="checkbox"/>	<i>Pete East</i>		<input checked="" type="checkbox"/>	
<i>[Signature]</i>		<i>Gail [Signature]</i>		<input checked="" type="checkbox"/>	
<i>Brian Porter</i>	<input checked="" type="checkbox"/>	<i>[Signature]</i>		<input checked="" type="checkbox"/>	
		<i>[Signature]</i>		<input checked="" type="checkbox"/>	

Brian Porter

 CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 12, 1993
 Place: Capitol Room 120

*HB 86 Sanctions for Property-Related Offenses
 HB 79 Damage of Property by Minors

Subject of Meeting: HB 152 Magistrate Jurisdiction
 HB 58 Admin. of Budget Reserve Fund

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Margot Knuth	Law - Crim	Box 110300 9981			5-4049	(Y) N	HB 86
✓ Jay Frank	State Farm Allstate	431 N. Franklin St Junction			586-5777	(Y) N	HB 79
✓ E. S. CHRISTENSEN	COURT SYSTEM	303 K ST TRUCK	99501		264-8228	(Y) N	HB 152
Randall Harris	DHSS	Box 110630 Junction	99811		465-3187	Y (N)	HB 86
✓ Jim Baldwin						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

House of Representatives

MEMORANDUM

To: Representative Brian Porter
House Judiciary Committee

From Representative Con Bunde

Date: February 8, 1993

Re: House Bill 79 - relating to recovery from a parent or legal guardian of wilful or malicious destruction of property by a minor.

I respectfully request that House Bill 79 be scheduled for a hearing at your earliest convenience.

House Bill 79 would increase the current cap for parental liability from \$2000.00 to what is allowable in district court, \$50,000.00. This bill would allow owners of property that had been wilfully or maliciously damaged by minors to recover monetarily from the minor's parents for the total sum of damages incurred, as long as those damages total less than \$50,000.00.

A sponsor statement and accompanying back-up will follow.

If you have any questions please do not hesitate to contact my office at x4843.



House of Representatives

Sponsor Statement

House Bill 79

Relating To Recovery From A Parent Or Legal Guardian Of Willful
Or Malicious Destruction Of Property By A Minor.

Within recent years, the nation's legislatures have begun using their legislative powers to encourage parental responsibility through statute.

The following are examples of parental liability legislation that have been instituted within the past few years:

- California: Parents can be fined or jailed for allowing their children to participate in gangs.
- Wisconsin: Parents can be forced to pay child support when their children have babies.
- Arkansas: Parents can be fined when their children skip school.
- Florida: Parents can be jailed if a child hurts another with a gun left accessible by the parent.

In light of the legislation in other states, I am requesting we update AS 34.50.020. It was last updated in 1967. The states of Washington and Delaware also have statutes similar to Alaska's; however, the maximum recoverable is higher than what is currently allowed in Alaska's statute.

The primary purpose of this bill is to revise the current version of the law by increasing the amount recoverable from \$2000.00 to the maximum amount recoverable in district court, which is presently \$50,000.00.

Under the current terms of the law, owners of property damaged by minors, regardless of the amount of damage can claim a maximum of \$2000.00 from

the parents or legal guardians. If damages are in excess of \$2000.00, the amount above this limit is not recoverable.

Therefore, with the passage of HB 79, property owners victimized by minors will be able to recover a greater portion of their damages.

I have included a copy of the bill, a copy of the statute and several accompanying departmental fiscal notes.

Sec. 34.50.010. Action for injury to the inheritance. A person seized of an estate in remainder or reversion may maintain a civil action for an injury done to the inheritance, notwithstanding an intervening estate for life or years. (§ 22-1-5 ACLA 1949)

Collateral references. — 51 Am. Jur. 31 C.J.S., Estates, §§ 85, 107, 111.
2d. Life Tenants and Remaindermen,
§§ 2, 3, 22, 98.

Sec. 34.50.020. Liability for destruction of property by minors. (a) A person, municipal corporation, association, village, school district, or religious or charitable organization, incorporated or unincorporated, may recover damages in a civil action in an amount not to exceed \$2,000 and court costs, from either parent or both parents or the legal guardian or person having the legal custody of an unemancipated minor under the age of 18 years, who maliciously or wilfully destroys real or personal property belonging to the person, municipal corporation, association, village, school district, or religious or charitable organization.

(b) A state agency or its agents, including a person working in or responsible for the operation of a foster, receiving, or detention home, or children's institution, is not liable for the acts of unemancipated minors in its charge or custody. (§ 1 ch 98 SLA 1957; am § 1 ch 107 SLA 1967)

Collateral references. — 59 Am. Jur. Parents' liability for injury or damage
2d. Parent and Child, § 123. intentionally inflicted by minor child. 54
67A C.J.S., Parent and Child, §§ 123, ALR3d 974.
163.

Chapter 55. Uniform Land Sales Practices Act.

Section	Section
04. Administration	24. Cease and desist orders
06. Fraudulent and prohibited practices	26. Revocation
08. Prohibitions on dispositions of interests in subdivisions	28. Penalties
10. Application for registration	30. Civil remedy
12. Public offering statement	32. Jurisdiction
14. Inquiry and examination	34. Interstate rendition
16. Notice of filing and registration	36. Service of process
18. Annual report	38. Uniformity of interpretation
20. General powers and duties	42. Exemptions
22. Investigations and proceedings	44. Definitions
	46. Short title

Pranksters purloin holiday decorations

ANCHORAGE DAILY NEWS
By DONNA FREEDMAN
Daily News reporter
12/17/92

More than two dozen Anchorage teen-agers took part in what police called a holiday season scavenger hunt early Wednesday, vandalizing several homes around Dimond High School before they were caught in the school parking lot.

Police found 25 juveniles at the school piling up plastic Nativity scenes, snowmen, Santa Clauses and other Christmas ornaments

lifted from area yards. City street signs, advertising banners and construction barricades were also among the stolen decorations. Other youths involved in the hunt got away, police said.

The holiday pilfering came just two days after local furniture dealer Jim Lowe was convicted of manslaughter in the shooting death of another teen involved in a scavenger hunt in May. The youth was with a group trying to steal an

advertising balloon from the roof of Lowe's downtown store.

Police did not identify the youths caught in Wednesday's scavenger hunt.

"It was reported as a theft in progress, but once the officers got out there and found cars running all over the place, it was clearly a scavenger hunt," said police spokeswoman JoAnn Brandlen. "The officers described it as a scavenger hunt, and they got the

students to say as much."

Dimond High principal Gail Opalinski disagreed, calling the event an early senior prank. She said she had talked with some students who were believed to have been involved.

"They decided they were going to decorate the high school with Christmas decorations," Opalinski said. "I would imagine some of

Please see Page B-3, PRANK

PRANK: Teen-agers steal decorations during a holiday scav

Continued from Page B-1

them picked up street signs while they were at it."

She stressed that the hunt was not sanctioned or approved by the school district.

"We very much regret it," she said. "We're concerned about the safety of the kids, and about the property damage done. Kids this age don't always use their best judgment."

It isn't known how many homes were hit, since not all of the decorations had been claimed by late Wednesday afternoon.

For David and Carol Jensen, this was the second time their home on Greenhill Way had been vandalized this holiday season.

The Jensen yard is famous in the neighborhood for its elaborate decorations, which include a trio of penguins warming themselves by a

campfire, several snowmen and Santa Clauses, a small wooden Santa's Workshop filled with toy animals, thousands of lights, and signs with rhymes like the old Burma Shave ads.

David Jensen said a large toy soldier was stolen from the yard last week. After that, they tied all their decorations together with steel cable and installed motion detectors around the displays.

Those detectors woke them early Wednesday. The couple turned on the lights and saw teens piling into a pickup truck.

The Jensens found two plastic Santa Clauses and a homemade wooden sleigh, with electric lights, missing. They later retrieved them at Dimond High.

The youths had apparently tried to take the penguins and some gingerbread men, but "they were wired in so

well they couldn't have done it without taking a tree along with them," David Jensen said.

The vandals also destroyed strings of lights, extension cords and two handmade wooden moose. Jensen said it will cost about \$350 to fix or replace the damaged decorations.

Another Dimond area resident, Arthur Anderson, was luckier. He found a plastic candy cane and snowman

scavenger hunt

stolen from his yard at the high school.

The theft was an inconvenience. But what chilled Anderson was that police told him it was part of a scavenger hunt.

"The Jim Lowe case just got decided. Evidently these kids aren't familiar with what's happening around town," Anderson said. "They're setting themselves up for another incident like that."

NEWS CLIPPING

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 79

Revision Date: January 26, 1993
 Title: "...relating to recovery from a parent or legal guardian
 ...destruction of property by a minor."
 Sponsor: Representative Bunde
 Requestor: Representative Bunde

Department Affected: Department of Law
 BRU: Legal Services
 Component: Operations
 COMPONENT SERIAL NO. 0093

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE:						
-------------------------	--	--	--	--	--	--

FUNDING:	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

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

Estimate of current year (FY93) impact: -0-

ANALYSIS: (Attach a separate page if necessary.)
 Please see the attached analysis.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: January 26, 1993
 Approved by Commissioner: Charles E. Cole, Attorney General
 Agency: Department of Law Date: January 26, 1993

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FN - LAW

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 79

ANALYSIS (Continued):

This bill amends AS 34.50 to provide that a person, municipal corporation, association, village, school district, or religious or charitable organization may recover damages in an amount not to exceed \$50,000, plus costs, interest and attorney fees, from either parent or both parents or the legal guardian or person having legal custody of an unemancipated minor under the age of 18 years, who maliciously or wilfully destroys real or personal property belonging to the above parties seeking recovery. Currently, the maximum amount that may be recovered is \$2,000. This bill deals with the recovery remedies of parties other than the state and, consequently, there will not be a fiscal impact for the Department of Law.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HB 79

Revision Date: _____
Title: "An Act relating to recovery from a parent or
legal guardian . . ."
Sponsor: Representatives Bunde, Toohy
Requestor: (H) HES

Department Affected: Administration
BRU: Risk Management
Component: Risk Management
COMPONENT SERIAL NO. 71

EXPENDITURES/REVENUES:

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES	0	0	0	0	0	0
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	0	0	0	0	0	0

CAPITAL	0	0	0	0	0	0
---------	---	---	---	---	---	---

REVENUE FUND SOURCE:	0	0	0	0	0	0
----------------------	---	---	---	---	---	---

FUNDING:

1002 Federal Receipts	0	0	0	0	0	0
1003 GF Match	0	0	0	0	0	0
1004 GF	0	0	0	0	0	0
1005 GF/Program Receipts	0	0	0	0	0	0
1006 GF/MHTIA	0	0	0	0	0	0
OTHER	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

POSITIONS:

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

Estimate of current year (FY93) impact: None

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Donald J. Hitchcock, Director
Division: Risk Management

Phone: 465-2180
Date: 1-28-93

Approved by Commissioner: Nancy Bear Usera
Agency: Administration

Date: 1/29/93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

FEB 02 1993
BILL NO. HB79

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: "An Act relating to recovery from a parent or legal guardian of damages by minor" BRU: Purchased Services
 Sponsor: Representative Bunde Component: Foster Care & Residential Child Care
 Requestor: _____ COMPONENT SERIAL NO. 0252 & 0253

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL						
---------	--	--	--	--	--	--

REVENUE FUND SOURCE						
---------------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

There would be no program or fiscal impact for the Department if this bill were to become law.

Prepared by: Deborah R. Wing, Director
 Division: Department of Health & Social Services

Phone: 465-3191
 Date: 01/27/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 2/2/93

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FN-HSS

HB

81

(7)

Date Referred: March 12, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 3-31-93

The JUDICIARY Committee considered:

HB 81

HOUSE BILL NO. 81

PHASE OUT LONGEVITY BONUS

"An Act relating to the longevity bonus program."

RECOMMENDATIONS:

be replaced with _____

CS HB 81 (STA)

the same title

a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: _____ letter of Intent

ATTACHES NEW FISCAL NOTE(s): _____ (Dept)

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal impact _____

fiscal note(s) ADMIN

zero fiscal note _____

zero fiscal note(s) ADMIN

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>Brian Porter</i>	<input checked="" type="checkbox"/>	<i>Bill Davidson</i>	<input checked="" type="checkbox"/>		
		<i>Judy D'Amico</i>		<input checked="" type="checkbox"/>	
		<i>Paul Phillips</i>		<input checked="" type="checkbox"/>	
		<i>James H. [unclear]</i>		<input checked="" type="checkbox"/>	
		<i>Pete [unclear]</i>		<input checked="" type="checkbox"/>	
		<i>Jeannette James</i>		<input checked="" type="checkbox"/>	

Brian Porter
CHAIRMAN'S SIGNATURE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 31, 1993

Place: Capitol Room 120

HB 92 Regulation of Notaries Public

Subject of Meeting: HB 81 Longevity Bonus
HB 89 Borough Assembly Apportionment

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
✓ Dave Dierdorff	LAA-LEGAL				2150	(Y) N	TO ANSWER QUESTIONS ON HB 89
✓ Rupe Andrews	AARP	Jenkens	99801	789-7422		(Y) N	HB 81
✓ Gene HERRIOTT	Self	CAPITOL BLDG.			465-4797	(Y) N	HB 92
✓ Patty Thratt	H. Gov. Office	Capitol Bldg	811		465-3509	(Y) N	ANSWER questions/testify HB 92
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 31, 1993

Place: Capitol Room 120

HB 92 Regulation of Notaries Public

Subject of Meeting: HB 81 Longevity Bonus
HB 89 Borough Assembly Apportionment

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
<i>N. Werra</i>	<i>D. A.</i>	<i>SA</i>				<input checked="" type="radio"/> Y <input type="radio"/> N	<i>HB 81</i>
<i>Bob Berryhill</i>	<i>AARP</i>	<i>157 Behrens</i>	<i>99801</i>	<i>586-7626</i>		<input type="radio"/> Y <input checked="" type="radio"/> N	
						<input type="radio"/> Y <input checked="" type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
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						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	
						<input type="radio"/> Y <input type="radio"/> N	

**GOVERNOR'S PROPOSAL
LONGEVITY BONUS PHASE OUT
TALKING POINTS**

Phase out program

- ~ Grandfathering all current recipients
- ~ End new enrollment with those who turn 65 before January 1, 1997
- ~ Reduce payment for new eligibles over next three years (94 -- \$200; 95 -- \$150; 96 -- \$100)

Origin of program

- ~ Established in 1972 to pay \$100/month to those over age 65 who lived in Alaska prior to statehood (January 3, 1959)
- ~ Intended to provide for Alaskans who helped build our state but didn't have retirement income to stay in Alaska

Program changes

- ~ Vest case (1984) eliminated original residency requirements
- ~ Changes focus of program and made it open ended
- ~ Monthly bonus increased from \$100 to \$250

Program growth and costs

- | | | |
|--------|-------------------|----------------------------|
| ~ 1973 | 4,753 recipients | \$346,100 annual cost |
| ~ 1983 | 9,731 recipients | \$27.5 million annual cost |
| ~ 1986 | 15,763 recipients | \$44 million annual cost |
| ~ 1993 | 23,000 recipients | \$66 million annual cost |
| ~ 2000 | 31,000 recipients | \$93 million annual cost |
- ~ We've spent \$88 million more than we would if the program had been phased out in 1986.
 - ~ Each year phase out is delayed, the total (aggregate through end) cost of the program increases over \$100 million.

Changes for today's seniors

- ~ Alaska's life style and cost of living are now comparable to other states
- ~ More traditional employment opportunities have employer-based pensions
- ~ Social Security benefits have increased
- ~ Medical assistance programs are now available
- ~ ERISA protection for pensions is now provided

- ~ The Permanent Fund Dividend program was initiated
- ~ Senior citizen tax relief is available
- ~ Free and/or subsidized private and governmental services are available for all senior citizens
- ~ OAC grant programs which fund a variety of community based senior services have been initiated

Annuity programs

- ~ After six years of trying, the issue has still not been resolved.
- ~ Government-operated annuity program will require new expenditures and new administrative programs
- ~ The new direct deposit feature for the PFD allows recipients to self-direct dividends to an account of their choice
- ~ Annuity concept requires large pool of participants to ensure financial viability
- ~ The less affluent will be able to invest little or none of their PFD

Time to act

- ~ Current year is a window of opportunity to assure grandfathering of existing recipients
- ~ Ability to provide any transition time is becoming more difficult
- ~ Pressure to terminate all non-needs based benefits is growing

**ALASKA LONGEVITY BONUS
-PHASE OUT
Questions and Answers**

1. *Whom was the Longevity Bonus intended to serve?*

In 1972 the Legislature established the Longevity Bonus Program to serve seniors who were 25 year residents and lived in Alaska prior to statehood.

2. *What was the purpose of the Longevity Bonus Program?*

"The sole purpose of this chapter is to offer..... an incentive to continue uninterrupted residency in the state." Chapter 205 SLA 1972

3. *What changes have occurred since the creation of the Longevity Bonus Program in 1972 that reduce the need for the program?*

The need for future seniors to rely on the Longevity Bonus has been mitigated by a number of programs/protections that were not available when the Longevity Bonus was created.

- ~ Alaska's life style and cost of living are now comparable to other states
- ~ More traditional employment opportunities have employer-based pensions
- ~ Social Security benefits have increased
- ~ Medical assistance programs are now available
- ~ ERISA protection for pensions is now provided
- ~ The Permanent Fund Dividend program was initiated
- ~ Senior citizen tax relief is available
- ~ Free and/or subsidized private and governmental services are available for all senior citizens
- ~ OAC grant programs which fund a variety of community-based senior services have been initiated

In addition, elimination of the 25 year residency and requirement to be in Alaska before January 3, 1959, (Statehood) has drastically enlarged the group the program was designed to served.

4. *Why phase out the Longevity Bonus program?*

The state budget cannot sustain the projected growth of this program. Current recipients who are dependent on the Longevity Bonus are in jeopardy of eventually losing the benefit if growth is not curtailed. Projections indicate the program will exceed \$100,000,000 in the year 2002.

5. *Why end eligibility with those who are now age 62?*

This provides those with reasonable expectations of receiving the bonus some financial support from the Longevity Bonus. It provides adequate notice to others who have time for planning that the Longevity Bonus will no longer be available.

6. *Isn't a three year phase out short notice?*

Alaskans have been on notice that the Longevity Bonus was not likely to continue since 1986 when the legislature began considering proposals to phase out the program. Therefore, with the proposed three-year phase out, Alaskans will have known for over ten years that it was not likely that the program could be sustained indefinitely.

7. *Will phase out of the Longevity Bonus adversely affect the Alaska economy?*

No. The phase out will be gradual over 41 years so the effect will not be significant. With necessary budget reductions, the funds otherwise spent on the Longevity Bonus will be shifted to other priorities.

8. *In 1986 there was an advisory vote to end the Longevity Bonus and create an annuity program. Why doesn't this proposal contain an annuity plan?*

Economic conditions, investment options, and available technology have changed during the ensuing 7 years. The annuity plan calls for creation of a new government program at a time when it is necessary to downsize government operations. Additionally, Alaskans can now self-direct investment of their PFD to any number of options through direct deposit.

9. *Under other proposals that include an annuity plan, will seniors be guaranteed payment of \$250 per month when they reach age 65?*

Absolutely not. They will receive payments based only upon how much money they actually deposited in the program. The size of monthly payments will depend on the amount of annual investment; number of years in the program; and rate of interest earned. Those who did not invest any portion of their PFD will receive nothing.

10. *What costs has the state incurred by not ending the Longevity Bonus in 1986?*

The state has spent over \$88 million more than it would have if the growth had been held to the \$44 million budget of 1986. Today, the program serves 23,000 recipients and adds an additional \$5 million to the budget annually.

11. *Why will this approach to phasing out the Longevity Bonus program work when others have failed?*

This plan is simple. It is a single issue, not tied to development of new and financially complex programs. It is not dependent on uncertainties of the financial markets. It is sensitive to people's needs. It recognizes the special role of Senior Alaskans. It simply makes sense.

GOVERNOR'S PROPOSAL LONGEVITY BONUS PHASE OUT

The original Longevity Bonus legislation stated, "The sole purpose of this chapter is to offer and provide ... an incentive to continue uninterrupted residency in the state." (Ch. 205, SLA 1972) We propose to phase out the Longevity Bonus Program because:

- ~ Other incentives are now offered that enhance the living conditions of seniors
 - Alaska's life style and cost of living are now comparable to other states
 - More traditional employment opportunities have employer based pensions
 - Social Security benefits have increased
 - Medical assistance programs are now available
 - ERISA protection for pensions is now available
 - The Permanent Fund Dividend program was initiated
 - Senior citizen tax relief is available
 - Free and/or subsidized private and governmental services are available for all senior citizens
 - OAC grant programs which fund a variety of community based services have been initiated
- ~ 25 year residency requirement was struck down, negating the original intent of the program
- ~ It is serving all those who were at least 45 years old when it was passed
- ~ Bonus amount has increased from \$100 to \$250 and will need further adjustment to keep pace with inflation
- ~ Combination of the increased Bonus and more recipients due to shorter residency has made the program too costly
- ~ Limited state resources should be focused on those less able to help themselves
- ~ Alaskans generally agree it's time to phase out the current program

Key Provisions of Proposal

Terms	3-year phase out \$200, \$150, \$100 Grandfather all current recipients
Cost	Declines rapidly after 1996 Set formula allows for accurate budgeting
Administration	No new administrative cost Program ends by 2040
Investment Options for Permanent Fund Dividend (PFD)	Self-directed through direct deposit instructions on PFD application
Effect on Alaska's Seniors	Proposal easily understood Current recipients continue bonus at \$250 Provides for a reasonable transition

LONGEVITY BONUS PHASE OUT PROPOSALS COMPARISON CHART

	GOVERNOR'S PROPOSAL	SENATE BILL 6
TERMS	<ul style="list-style-type: none"> - 3 year phase out - \$200, \$150, \$100 - Grandfather all current recipients 	<ul style="list-style-type: none"> - Estimated 15 year phase out - Bonus declines based on variable factors - Grandfather all current recipients
COST	<ul style="list-style-type: none"> - Declines rapidly after 1996 - Set formula allows for accurate budgeting 	<ul style="list-style-type: none"> - Declines gradually - Declines dependent on PFD and investment income - Additional administrative costs - Variable nature makes budgeting difficult
ADMINISTRATION	<ul style="list-style-type: none"> - No new administrative costs - Program ends by 2040 	<ul style="list-style-type: none"> - New administrative system to determine annual payments within the longevity bonus program - create new government managed and administered annuity investment program - Longevity Bonus administration ends 2040 - New annuity administration open ended
INVESTMENT OPTIONS FOR PERMANENT FUND DIVIDENDS (PFD)	<ul style="list-style-type: none"> - Self-directed through direct deposit instructions on PFD application 	<ul style="list-style-type: none"> - Creates complex state operated annuity program as option for investing PFD - May not have sufficient participation to sustain financial viability
EFFECT ON ALASKA'S SENIORS	<ul style="list-style-type: none"> - Proposal easily understood - Current recipients continue at level they started - Provides for a reasonable transition - Frees resources for other senior needs 	<ul style="list-style-type: none"> - Complex to understand - Annual bonus dependent on PFD and investment income - Dedicates more general funds to non-needs based senior program

**GOVERNOR'S PROPOSAL
LONGEVITY BONUS PROGRAM
PHASE OUT
SUMMARY OF INTENT**

The Alaska Longevity Bonus Program was established in 1972 to pay \$100 per month as a "bonus" to those over age 65 who had lived in Alaska for 25 years and were here at the time of statehood. This was a finite, self liquidating group. The purpose of the program was to "offer and provide.... an incentive to continue interrupted residency in the state." (Ch. 205, SLA 1972) Were the original criteria still in place, those eligible to enroll in the program in 1996 would have been 28 years old at the time of statehood.

At the end of 1973 the program had 4,753 recipients and an annual cost of \$346,100. The program grew at a steady rate up through 1983 when there were 9,731 recipients and an annual budget of \$27,586,750. The \$100 monthly bonus was increased in 1976, 1978, 1981, and 1982 to its current level of \$250 per month. Current projections suggest the annual cost of the ALB will exceed \$90 million in the year 2000 and will pass the \$100 million mark in 2002.

In 1984, the Supreme Court found the residency rules unconstitutional in the Vest case. By the end of 1986 the Longevity Bonus Program had 15,763 recipients with an annual budget of \$44,105,500. Compared to 1983, that represented a 62% increase in recipients and a 60% increase in budget. More important, the Vest case changed the group being served from a finite, self liquidating group (65 years old, 25 years in state, here at time of statehood) to a continually growing group (anyone age 65 with one year residency). Beyond the change in the size of the group, the basic purpose of the Longevity Bonus Program changed. It was no longer a program to provide an incentive to long term Alaskans who helped build our state prior to statehood.

During the years since the creation of the Longevity Bonus, there have been several changes that have improved the economic condition of Alaskan seniors. The federal government passed the Employee Retirement Income Security Act (ERISA) in 1976, Individual Retirement Accounts (IRAs) became widely available, Senior Citizen Property Tax Relief was enacted, property values increased, The Permanent Fund Dividend was established, State income taxes were repealed, and Social Security incomes steadily increased. As a group, those reaching age 65 today, have had the advantage of the economic growth of the past 20 years and are more economically stable than any previous group of seniors.

This proposal protects those who planned their retirement around the Longevity Bonus Program. They will be able to depend on it for the rest of the time they remain in Alaska. The three year transition period before new enrollment is ended allows those close to retirement to receive the Longevity Bonus. It gives future retirees time to make other plans for retirement income. This proposal does not provide for creating a government operated annuity plan. For those who wish to invest their Permanent Fund Dividend to provide for future retirement income, today they can do so by directing the Permanent Fund Dividend Division to send the PFD to a private annuity plan or other investment of their choice. This can be accomplished through direct deposit instructions on the PFD application. This preserves the investment concept without creating a new bureaucracy to implement an insurance type program.

This proposal returns the Longevity Bonus Program to its original goal -- assisting a finite group who may not have remained in Alaska in retirement without this assistance.

Funds Spent on Senior Programs

FY '93 unless otherwise noted

Program	State	Federal	Total
Dept. of Administration			
Longevity Bonus	64,811,700		64,811,700
Pioneer Homes	30,432,500		30,432,500
Older Alaskans Commission	6,053,500	6,486,900	12,523,400
TOTAL DEPT.	101,297,700	6,486,900	107,767,600
Dept. of Health & Social Services			
Supplemental Security Income		3,580,580	3,580,580
Longevity Bonus Hold Harmless	2,194,500		2,194,500
Adult Public Assistance (for aged)	14,600,000		14,600,000
Food Stamps for elderly		165,600*	165,600*
Medicaid home health care	227,800	227,000	455,600
Medicaid nursing homes			
Skilled nursing	2,677,100	2,677,100	5,354,200
Intermediate nursing	16,385,400	16,385,400	32,770,800
General Relief Medical (Nursing Homes)	253,900		253,900
Medicaid Permanent Fund (Hold Harmless)	2,621,200		2,621,200
TOTAL DEPT.	38,959,900	23,035,680	61,996,380
Dept. of Community & Regional Affairs			
Homeowners Property Tax Exemption	2,838,800		2,838,800
Renters Equivalency Rebate	820,000		820,000
Job Training Partnership Act		185,125	185,125
TOTAL DEPT.	3,658,800	185,125	3,843,925
Dept. of Commerce and Economic Development			
Alaska Housing Finance Corporation			
Senior Housing Development	141,100		141,100
Senior Housing Revolving Loan Program	Up to \$30 million in bonds available from AHFC		
TOTAL DEPT.	141,100		141,100
TOTAL ALL DEPARTMENTS	144,057,500	29,707,625	173,765,125

Total number of seniors age 60+ = 35,266. Average benefit per senior = \$4,927.00.

* Estimated figure based on percentage of seniors served

Note: All funding levels are for FY 93 authorized, except for Medicaid and Job Training Partnership Act, which are FY 92 actual.

Additional State Benefits--Revenues Lost	Additional Municipal Benefits--Revenues Lost
Dept. of Transportation, ferry fares: \$540,800	Municipal Tax Exemptions \$8,454,353*
Dept. of Public Safety, vehicle registration: Estimated \$300,000.	*The above information does not include municipal services or discounts for seniors. Municipalities also often offer sales tax exemptions, discounted bus fares and similar programs.
University of Alaska, tuition waiver: \$230,267 estimated	
Dept. of Fish and Game: waivers of hunting, trapping, and fishing licenses (average cost: \$10.60): \$27,560.	Total number of seniors age 60+ = 35,266. Total revenues lost = \$8,454,353.
Total additional State benefits = \$1,098,627. Average senior benefit = \$31.15.	Total average benefit = \$240.

House Bill 81
Sectional Analysis

Sec. 1: Provides for phase out of the Longevity Bonus Program.
Specifically:

- a. All current Longevity Bonus recipients and persons reaching age 65 before January 1, 1994, would receive the current \$250 per month bonus payment.
- b. Persons reaching age 65 during calendar year 1994 would receive \$200 per month.
- c. Persons reaching age 65 during calendar year 1995 would receive \$150 per month.
- d. Persons reaching age 65 during calendar year 1996 would receive \$100 per month.

Under current law, all persons 65 or older are eligible to receive a \$250 per month bonus payment.

Sec. 2: Provides that persons must be 65 before January 1, 1997, to receive a bonus payment. Persons turning 65 after that time would not be eligible.

MEMORANDUM

State of Alaska
Department of Law

TO Nancy Bear Usera
Commissioner
Department of Administration

DATE March 10, 1993

FILE NO 223-93-0335

TEL NO 465-3600

SUBJECT Constitutionality of
phase-out provisions of
HB 81 and SB 58

FROM John B. Gaguine ^{BS}
Assistant Attorney General
Governmental Affairs - Juneau

We sent you a memorandum recently expressing our opinion that the provisions of HB 81 and SB 58 abolishing the longevity bonus but "grandfathering" in those who would turn 65 before January 1, 1997 would not violate the equal protection clauses of the state or federal constitutions. You have now asked whether there are constitutional problems with the differing amounts given to the "grandfathered" persons.¹

We believe that these provisions would be constitutional for the same reason as the whole "grandfathering" scheme would be. The farther a person is from age 65 - retirement age for many people, and the age at which social security benefits begin - the longer the person has to adjust his or her retirement plans. Thus in our opinion a court would find that the legislature could permissibly conclude that a person turning 65 in 1996 would suffer less hardship from a reduced longevity bonus than would a person turning 65 in 1994, and accordingly the court would uphold the legislative decision to reduce the bonus to a greater degree for the former senior than for the latter.

If we can be of further assistance, please let us know.

cc: Roberley Waldron
Eileen Plate

¹ As we noted in our initial memorandum, those turning 65 before the start of 1994 would receive \$250 a month for life; those turning 65 in 1994, \$200; those turning 65 in 1995, \$150; and those turning 65 in 1996, \$100.

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. CSHB81 (STA)

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to the longevity BRU: Assistance Payments
bonus program Component: OAA-ALB Hold Harmless
 Sponsor: House Rules Committee
 Requestor: Governor COMPONENT SERIAL NO. 223

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	(163.0)	(482.0)	(729.6)	(987.8)	(1,255.1)	(1,534.1)
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	(163.0)	(482.0)	(729.6)	(987.8)	(1,255.1)	(1,534.1)

CAPITAL	0.0	0.0	0.0	0.0	0.0	0.0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	(163.0)	(482.0)	(729.6)	(987.8)	(1,255.1)	(1,534.1)
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL	(163.0)	(482.0)	(729.6)	(987.8)	(1,255.1)	(1,534.1)

POSITIONS:

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

Estimate of current year (F'93) impact: NONE

ANALYSIS: (Attach a separate page if necessary)

CSHB 81(STA) continues the Longevity Bonus program indefinitely, but decreases the Longevity Bonus payment from \$250 to \$225 beginning July 1, 1993. CSHB 81(STA) also eliminates Longevity Bonus payments for individuals who reach the age of 65 after December 31, 1993.

The decrease in the Longevity Bonus payment combined with decrease in OAA-ALB Hold Harmless caseloads after FY 94 as "grandfathered" ALB recipients are replaced in the Adult Public Assistance caseload by aged individuals who do not qualify for the Longevity Bonus program will cause the amount of OAA-ALB Hold Harmless funds necessary for federal Supplemental Security Income (SSI) replacement to decrease. CSHB 81(STA) does not affect the Adult Public Assistance program because Longevity Bonus payments are not treated as countable income by that program.

Prepared by: Jan L. Hansen, Director
 Division: Division of Public Assistance

Phone: 465-2680
 Date: 3/19/93

Approved by Commissioner: Theodore A. Mala, MD, MPH
 Agency: Department of Health & Social Services

Date: 3/22/93

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ANALYSIS (cont.):

1. CSHB 81(STA) continues the OAA-ALB Hold Harmless program.
2. Only those who reach age 65 before January 1, 1994 will continue to be eligible for Longevity Bonus payments.
3. The Longevity Bonus payment will decrease from \$250 to \$225 effective July 1, 1993.
4. OAA-ALB Hold Harmless funds replace federal Supplemental Security Income (SSI) benefits lost by APA recipients because of the receipt of Longevity Bonus payments. Under current law, OAA-ALB Hold Harmless payments range from \$0 to \$250; the average payment is \$125. Under CSHB 81(STA), the average payment will decrease by \$12.50 to \$112.50 ($\$225 \times 1/2 = \112.50).
5. The effect of the bonus payment decrease on OAA-ALB Hold Harmless is delayed by 4 months because of the 2-month retrospective payment methodologies used by both the ALB program and the SSI program. For example, the bonus payment decrease will affect only 8 months in FY 94 because the payment decrease will not occur for impacted OAA clients until September 1, 1993, and SSI benefits will not be affected until November 1, 1993. Therefore, changes in the amount of hold harmless benefits to replace lost SSI benefits also begin November 1, 1993.
6. Without the effects of CSHB 81(STA), the OAA-ALB Hold Harmless caseload would normally increase each year by about 6 percent. However, under CSHB 81(STA), caseload growth will stop in FY 94, and then, because of outmigration, death, and other reasons, will slowly decrease as follows:

	OAA-ALB HH Caseload without CSHB 81(STA)	OAA-ALB HH Caseload Under CSHB 81(STA)	Amount of Caseload Decrease
FY 94	1630	1630	---
FY 95	1728	1563	165
FY 96	1831	1494	337
FY 97	1941	1425	516
FY 98	2058	1357	701
FY 99	2181	1287	894

7. The average \$12.50 decrease in OAA-ALB Hold Harmless payments (caused by the \$25 decrease in Longevity Bonus payments) combined with the expected decrease in the OAA-ALB Hold Harmless caseload will cause OAA-ALB Hold Harmless expenditures to decrease as follows:

FY 94	$1630 \times 8 \text{ months} \times \$12.50 =$	\$ 163.0
FY 95	$1563 \times 12 \text{ months} \times \$12.50 =$	\$ 234.5
	$165 \times 12 \text{ months} \times \$125.00 =$	\$ 247.5
	Total	\$ 482.0
FY 96	$1494 \times 12 \text{ months} \times \$12.50 =$	\$ 224.1
	$337 \times 12 \text{ months} \times \$125.00 =$	\$ 505.5
	Total	\$ 729.6
FY 97	$1425 \times 12 \text{ months} \times \$12.50 =$	\$ 213.8
	$516 \times 12 \text{ months} \times \$125.00 =$	\$ 774.0
	Total	\$ 987.8