

**ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672**

**7906 HOUSE JUDICIARY**

171

(2) "runaway minor" means a person under 18 years of age who  
(A) is habitually absent from home;  
(B) refuses to accept available care;  
(C) has no parent, guardian, custodian, or relative able or willing to  
provide care; or  
(D) has been physically abandoned by  
(i) both parents;  
(ii) the surviving parent; or  
(iii) one parent if the other parent's rights and responsibilities have  
been terminated under AS 25.23.180(c) or AS 47.10.080 or voluntarily  
relinquished. (§ 4 ch 144 SLA 1988)

**ALASKA STATUTES**

**TITLE 18**

**ALASKA MISSING PERSONS CLEARINGHOUSE**

## Article 7. Missing Persons Information Clearinghouse.

Section	Section
600. Missing persons information clearinghouse	640. Reports upon finding a missing person
610. Duties of missing persons information clearinghouse	650. Civil penalty
620. Duty of law enforcement agencies	660. Definition
630. Medical and dental records of missing persons	

**Sec. 18.65.600. Missing persons information clearinghouse.** There is in the Department of Public Safety the missing persons information clearinghouse. (§ 1 ch 72 SLA 1988)

**Sec. 18.65.610. Duties of missing persons information clearinghouse.** (a) The missing persons information clearinghouse is established as a central repository of information regarding missing persons.

(b) The clearinghouse shall

(1) establish within the state a system and appropriate procedures for communication of information regarding missing persons;

(2) collect, maintain, and disseminate accurate and complete information on missing persons for the purpose of identifying, locating, and returning them;

(3) provide for exchange of information on missing persons within the state;

(4) cooperate with private citizens, local law enforcement agencies, and other state and federal agencies in investigations concerning missing persons;

(5) provide training and assistance to law enforcement agencies to promote effective use of the clearinghouse. (§ 1 ch 72 SLA 1988)

**Sec. 18.65.620. Duty of law enforcement agencies.** In addition to the requirements of AS 47.10.141 regarding reports of missing minors, a local or state law enforcement agency shall submit to the clearinghouse all missing person reports received by the law enforcement agency that relate to a person who is not located within 48 hours after the first report concerning that person was filed. (§ 1 ch 72 SLA 1988)

**Sec. 18.65.630. Medical and dental records of missing persons.** (a) When a person files a report of a missing person with a law enforcement agency or with the clearinghouse, a form authorizing the release of medical and dental records to the law enforcement agency and to the clearinghouse shall be supplied to the family, next of kin, or legal guardian of the missing person. The family, next of kin, or legal guardian of the missing person may complete the release form and deliver the release form to the physician or dentist of the missing person. The physician or dentist who receives a release form signed by the family, next of kin, or legal guardian of the missing person shall release to the law enforcement agency and the clearinghouse only that information that is necessary to identify the missing person.

(b) When the family, next of kin, or legal guardian of a missing person cannot be located or does not exist, a law enforcement agency may execute a written declaration stating that an active investigation is being conducted and that medical and dental records are required for the exclusive purpose of furthering the investigation. Notwithstanding AS 09.25.120 and AS 17.30.155, the declaration signed by a peace officer under this subsection is sufficient authority for the physician or dentist to release information necessary to aid in the identification of the missing person. The physician or dentist may only release that information that is necessary to identify the missing person.

(c) Medical and dental records obtained under this section shall be provided to the clearinghouse.

(d) When a missing person is found, the law enforcement agency and the clearinghouse shall destroy all records in their files obtained under this section. (§ 1 ch 72 SLA 1988)

**Sec. 18.65.640. Reports upon finding a missing person.** A person who has filed a missing person report with the clearinghouse or a law enforcement agency shall immediately notify the clearinghouse or the law enforcement agency when the location of the missing person is determined. (§ 1 ch 72 SLA 1988)

**Sec. 18.65.650. Civil penalty.** The commissioner of public safety, or a person designated by the commissioner of public safety, may file a civil complaint in the district court to enforce AS 18.65.640. A person who fails to comply with AS 18.65.640 is subject to a civil fine of not more than \$1,000. (§ 1 ch 72 SLA 1988)

**Sec. 18.65.660. Definition.** In AS 18.65.600 — 18.65.660 "clearinghouse" means the missing persons information clearinghouse established in AS 18.65.600. (§ 1 ch 72 SLA 1988)



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# Alaska State Legislature

Senator Randy Phillips

Senate District L

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**MEMBER**  
Alaska Commission on  
Postsecondary Education

## Memorandum

**TO:** Representative Brian Porter, Chair  
House Judiciary Committee

**FROM:** Senator Randy Phillips *Rep*

**DATE:** March 26, 1993

**RE:** Senate Bill No. 45  
"An Act relating to persons under the age of 21; providing for designation of 'safe homes' for runaway minors; and providing for an effective date."

The above referenced bill has been referred to the House Judiciary Committee.

Please consider this as my formal request that S.B. 45 be scheduled before your committee for an early hearing.

If you have any questions or comments do not hesitate to call me at 4949. Your cooperation is appreciated.



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**MEMBER**  
Alaska Commission on  
Postsecondary Education

## Memorandum

**TO:** All Senators

**FROM:** Senator Randy Phillips *REP*

**DATE:** April 19, 1993

**RE:** CS for Senate Bill No. 45 (RLS)  
"An Act relating to persons under the age of 21; providing for designation of shelters for runaway minors; relating to the retention and incarceration of minors and providing for an effective date."

According to the Alaska Department of Health and Social Services, over 3,500 youth runaway from home each year in Alaska. Many of these youths end up on the streets or in the homes of exploitive adults where they engage in prostitution, drug trafficking and property crimes to support themselves.

Senate Bill 45 was proposed as a means of addressing the growing problem of "runaway" children in Alaska, the inability of parents to deal with these children under existing laws and the inability of the state and local governments to protect these children. Senate Bill 45 changes several statutes relating to persons under the age of 21 as well as providing a mechanism for the licensing of "safe homes".

Senate Bill 45 changes the definition of contributing to the delinquency of a minor. Current statute provides that a person over the age of 19 may not aid, induce, cause or encourage a child under the age of 16 to be absent from the custody of a parent, guardian. Senate Bill 45 would raise that age from 16-18.

Senate Bill 45 prohibits an unemancipated minor from working without the permission of the minor's legal custodian and from working after 10:00 pm on school nights or 9:00 pm. if the minor is under the age of 16.

Senate Bill 45 allows the parents of a minor child to file an emancipation petition with the court on behalf of a minor. The purpose of this provision is to allow parents that cannot compel a child to remain in their custody and control, to initiate the process that would make the child solely accountable for his or her actions. It requires that a parent show that they have taken steps to work with their child before a minor can be emancipated. It also allows the court to consider the ability and willingness of a noncustodial parent to petition for custody.

An amendment added in the Health Education and Social Services Committee brings Alaska's laws on detention and incarceration of minors into compliance with federal laws. This provision is necessary in order for the state of Alaska to continue to receive federal grant funds for youth shelters.



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Sectional Analysis

CS SB 45 (R.S)

**Section 1:**

Summarizes the general purposes of sections 13 and 16 of the bill, citing both the requirements of the pertinent federal Act and conditions specific to the state.

**Section 2.**

This section sets out the findings and intent that relate to the "shelters for runaways" sections of the bill.

**Section 3-8.**

These sections amend the code of civil procedure relating to actions to remove the disabilities of minority. Under current law, a minor can get court approval to have the responsibilities and powers of an adult for either general purposes or for a specific purpose. The changes in these sections would allow the legal custodian of a minor to file a petition to remove the disabilities of the minor. Formerly, only the minor could file such a petition.

Requires the court to find that if petitioner is the legal custodian, rather than the minor, the legal custodian and the minor must have been unable to resolve an interpersonal conflict by other means. Also requires the court to consider whether a non custodial parent is willing and able to petition for custody of the child.

**Section 9.**

The substantive effect of all the changes in this section is to raise from 16 to 18 the age of minors covered by the statute that makes it a crime to contribute to the delinquency of a minor by encouraging the minor to be absent from the custody of parents or other custodians. Exceptions are made for minors for whom the disabilities of minority have been removed and for persons who aid runaway minors by keeping them in a "safe home."

## Section 10.

This section is a technical amendment made necessary by the amendments to AS 11.51.130(a) under sec 8 of this bill.

## Section 11

This section, relating to working hours is self-explanatory.

## Section 12.

This section provides immunity to the state and to agencies that designate runaway shelters for the acts of a minor in a shelter for runaways..

## Section 13.

Substantially revises and extends the key juvenile detention/incarceration provision of current statutory law, AS 47.10.130.

Proposed AS 47.10.130(a) establishes an explicit prohibition against incarceration of a minor in a correctional facility.

Proposed AS 47.10.130(b) carries forward without change language of the current statute assigning responsibility for notification of the minor's parent(s), guardian(s), or custodian(s) of the minor's detention.

Proposed AS 47.10.130(c) sets out three exceptions to the general prohibition against a minor's incarceration in a correctional facility:

- (1) minors adjudicated delinquent or held in official detention pending filing of a delinquency adjudication petition, the incarceration not to exceed six hours or the time necessary to arrange other transportation, whichever is shorter;
- (2) minors held pending prosecution as an adult; and
- (3) minors held in protective custody, that is, held because they are intoxicated or incapacitated by alcohol.

~~Proposed AS 47.10.130(d) places conditions and limitations on the holding of minors who are placed in correctional facilities under the exceptions of sec. 130(c)(1) (temporary detention pending transportation) or 130(c)(3) (protective custody detention). Those conditions and limitations include assignment to quarters separate from adults and provision of necessary services separate from the services that are provided to adults held in the correctional facility.~~

Proposed AS 47.10.130(e) recognizes ~~other related~~ and similar delays beyond the control of the custodian by allowing an extension of the holding of a minor in temporary detention pending transportation ~~to exceed the six hour maximum in limited circumstances.~~ At the same time, the subsection imposes specific duties on the person having responsibility for the minor's detention to document the reason for the extension and to advise the pertinent parties of the delay in transportation.

Proposed AS 47.10.130(f) authorizes extension of the holding of the minor in temporary detention pending transportation ~~only so long as necessary to complete the necessary transportation arrangements for the minor.~~

For minors held in protective custody, proposed AS 47.10.130(g) directs that the parameters of treatment and detention that are set out in AS 47.37.170(i) are made applicable to minors so held.

#### **Section 14.**

This section allows a peace officer to take a minor who is in protective custody to a shelter for runaways that agrees to shelter the minor. The officer shall use his/her discretion as to where the minor should be taken. This section also requires the officer to inform the minor's custodian that counseling services are available through the Department of Health and Social Services.

#### **Section 15.**

This section requires the Department of Health and Social Services to offer counseling services to the custodian of a runaway minor (and to the custodian's household) before the department may take emergency custody of the minor.

#### **Section 16.**

Makes correlative changes to a juvenile detention statute, AS 47.10.190. (relates to section 13)

#### **Section 17.**

Requires a program for runaway children to promptly inform the Department of Health and Social Services if a child is evading the custody and supervision of the department.

#### **Section 18.**

Immunity from criminal liability for certain acts for employees of licensed programs for runaway minors.

#### **Section 19.**

Requires certificate for "shelters for runaways."

Provides operating and notification requirements for "shelters for runaways."

Provides that the records of shelters for runaways be confidential.

Provides immunity from liability for operators of "shelters for runaways."

Defines "runaway minor" and "shelters for runaways."

#### **Section 20.**

This section provides that a person ~~may not~~ represent a home as a "shelter for runaway minors" unless the person has the appropriate permit.

**Section 21.**

This section directs DHSS to adopt regulations under the which a nonprofit corporation may apply for a license to designate and supervise safe homes for runaway minors. The regulations must include health and safety standards for the homes. Upon notification by a licensed agency, DHSS will provide a permit to the designated homes.

**Section 22.**

This section requires that an agency may not designate safe homes unless licensed to do so by DHSS.

**Section 23.**

This section defines "runaway minor" and "shelters for runaways"

**Section 24.**

This section gives the bill an immediate effective date.

For An Act Entitled: "An Act relating to persons under 21 years of age; providing for the designation of shelters for runaway minors; relating to the detention and incarceration of minors; and providing for an effective date."

Background

CSSB 45 (RLS) (efd fld) speaks to a wide range of issues concerning the liberty of minors. This legislation is primarily directed at the problem of chronic runaway children and the practice of confining minors in adult correctional facilities, jails and rural lock-ups.

Early on in statehood the legislature passed a "runaway minor" law that allowed the incarceration of minors in state-operated youth facilities (detention). This practice was based on the belief that society had an obligation to guide and control the behavior of its youth and society had the right to use the means necessary to carry out this responsibility.

Congress enacted legislation known as the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP), which in part prohibits the incarceration of runaway minors and the incarceration of minors in adult correctional facilities. At that time Congress discovered that "locking up" minors under these conditions did not help them and in some cases caused further emotional/psychological damage to already troubled youth.

In 1976, Alaska repealed its "runaway law," which brought the practice of "locking up" runaway minors to an end but continued the practice for minors charged with criminal type offenses.

Under current statute a peace officer has the authority to take protective custody of a runaway minor and offer the minor a choice of services. (AS 47.10.141.b)

Community and parent groups have become increasingly frustrated with the lack of intervention services offered to runaway minors. The sponsor of this bill brought forward these concerns in an effort to seek solutions.

The department has participated in the process of finding solutions by conducting statewide runaway and homeless youth conferences, and networking with national, state and local agencies.

This bill represents the first step in efforts towards determining long range solutions for the problems of runaway minors and the incarceration of minors in adult correctional facilities.

#### Analysis/Program Impact

The department has very limited funds available for services to runaway and homeless minors. The shelter home concept described in this bill would provide one of the most needed services for runaway minors. These homes are needed most in smaller rural communities of the state that lack the non-profit services of the larger metropolitan areas.

The "runaway problem" in Alaska is a complex family problem. The extent to which the runaway problem affects families throughout Alaska is not completely understood. The department recognizes that a comprehensive statewide study must be conducted to uncover the true scope of the problem and chart a remedial course of action.

As to the practice of incarcerating minors in adult correctional facilities, the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, calls for its elimination.

Alaska has been a participant in the formula grant program offered under the U.S. Department of Justice through the Office of Juvenile Justice and Delinquency Prevention since 1976 and receives the minimum annual allocation of \$325,000. Acceptance of these funds has obligated the state to improve its juvenile justice system and comply with the requirements of the Act.

Since 1989, Alaska has had to seek waivers to receive this formula grant funding because we have been unable to meet the OJJDP standard addressing the removal of youth from adult jails and lockups. The Division recently received its 1991 Federal funding on its third and final waiver request but is greatly concerned by the verbal advisement from the Office of Juvenile Justice and Delinquency Prevention indicating Alaska's eligibility to receive 1992 Federal Formula grant funds will depend on passage of CSSB 45 (RLS) (efd fld) this session.

Without this grant revenue of \$325,000 annually, it would be necessary to use state general funds to continue funding ten (10) Non-Secure Attendant Shelter programs serving twelve (12) communities. The Non-Secure Attendant Shelter model has been Alaska's most effective approach in attempting to comply with the jail removal requirement of the JJDP Act. In FY 92 it cost approximately \$171,150 to provide

alternative placement to 472 youth who may have otherwise been placed in adult jails or lockups.

CSSB 45 (RLS) (efd fld) prohibits the confinement of youth in adult lock-ups, jails and correctional facilities except under special circumstances. Enactment of this legislation would demonstrate Alaska's intent to meet the requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

#### DEPARTMENTS POSITION

The department strongly supports the provisions of this bill that establish shelter homes, and restrict the use of adult correctional facilities for the incarceration of minors.

The department stands in a neutral position on the other provisions of the bill as they are not clearly within the jurisdictional boundaries of the department.

The enactment of the shelter home provisions and the jail removal provisions will greatly assist the department in its mission to meet the health and safety needs of Alaska's youth. The department is committed to going forward with the development of services for runaway and homeless youth and the removal of minors from adult correctional facilities.

Recommended:

Deborah R. Wing

Date:

4/26/93

Deborah R. Wing, Director  
Division of Family and Youth Services

Approved:

Theodore A. Mala

Date:

4/27/93

Theodore A. Mala MD, MPH  
Commissioner  
Department of Health and Social Services

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 45 (HES)

Revision Date: April 1, 1993 Dept. Affected: Health and Social Services  
 Title: "An act relating to persons under 21 years of age; providing designation of shelters for runaway minors..." BRU: Family & Youth Services  
 Component: Central Office, SCRO, NRO & SERO  
 Sponsor: Senator Randy Phillips  
 Requestor: Senate Finance Committee COMPONENT SERIAL NO. 0259, 0254, 0255 & 0258

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	38.6	92.5	144.1	157.0	157.0	157.0
TRAVEL	5.0	10.0	12.0	12.0	12.0	12.0
CONTRACTUAL	23.2	6.4	9.6	9.6	9.6	9.6
SUPPLIES	1.2	1.4	1.6	0.6	0.6	0.6
EQUIPMENT	6.0	6.0	6.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>74.0</b>	<b>116.3</b>	<b>173.3</b>	<b>179.2</b>	<b>179.2</b>	<b>179.2</b>

**CAPITAL**

**REVENUE FUND SOURCE**

**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	74.0	116.3	173.3	179.2	179.2	179.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>74.0</b>	<b>116.3</b>	<b>173.3</b>	<b>179.2</b>	<b>179.2</b>	<b>179.2</b>

**POSITIONS:**

FULL-TIME	1	2	3	3	3	3
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None

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

The department would realize impact in its Community Care Licensing program and in the Juvenile Justice and Delinquency Prevention formula grant program. Attached to this fiscal note are detailed program impact statements and a request for new positions.

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

Phone: 465-3191  
 Date: 04/01/93

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

Date: 4/1/93

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 45(RLS)(efdfld)

Revision Date: April 26, 1993 Dept. Affected: Health and Social Services  
 Title: "An act relating to persons under 21 years of age; providing designation of shelters for runaway minors..." BRU: Family & Youth Services  
 Sponsor: Senator Randy Phillips Component: Central Office, SCRO, NRO & SERO  
 Requestor: House Judiciary Committee COMPONENT SERIAL NO. 0259, 0254, 0255 & 0258

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES	38.6	92.5	144.1	157.0	157.0	157.0
TRAVEL	5.0	10.0	12.0	12.0	12.0	12.0
CONTRACTUAL	23.2	6.4	9.6	9.6	9.6	9.6
SUPPLIES	1.2	1.4	1.6	0.6	0.6	0.6
EQUIPMENT	6.0	6.0	6.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>74.0</b>	<b>116.3</b>	<b>173.3</b>	<b>179.2</b>	<b>179.2</b>	<b>179.2</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE</b>						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	74.0	116.3	173.3	179.2	179.2	179.2
1005 GF/Program Receipts						
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Other						
<b>TOTAL</b>	<b>74.0</b>	<b>116.3</b>	<b>173.3</b>	<b>179.2</b>	<b>179.2</b>	<b>179.2</b>

**POSITIONS:**

FULL-TIME	1	2	3	3	3	3
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: None

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

The department would realize impact in its Community Care Licensing program and in the Juvenile Justice and Delinquency Prevention formula grant program. Attached to this fiscal note are detailed program impact statements and a request for new positions.

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

Phone: 465-3191  
 Date: 04/26/93

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

Date: 4/27/93

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FISCAL NOTE ANALYSIS CSSB 45 (RLS) (efd fld)  
(attachment)  
Community Care Licensing Program

Assumption: CSSB 45 (RLS) (efd fld) could not be implemented without new positions. As in other experiences with private agencies, state agency staff must train private agency staff in child care regulations and monitor for compliance to assure the protection of the children in care. In Anchorage and some other areas of the state, licensing workers are carrying a facility load of 120 per worker. They are unable to meet current statutory responsibilities without adding another facility type to their responsibilities. In addition, equity for licensees already in the division's licensing load is warranted.

Program Summary:

1. Positions: One Community Care Licensing Specialist (CCLS) is needed to implement the safe homes permit process in the Southcentral Region, as that is the region where private nonprofit groups have expressed strong interest in implementing the new statutory provisions.

The position would begin by providing research support to the contractor for drafting the regulations; by identifying areas of need and private agencies interested in recruiting and evaluating safe homes; and by being a licensing trainee in Anchorage under the supervision of an experienced licensing supervisor. Following the promulgation of regulations, the position would assist in the development of implementation materials and provide training in the new safe homes concept to both private agency and division staff throughout the region. Division staff would then pick up the support of agencies in their development of safe homes. Following implementation, the position would carry a mixed licensing and safe home load.

In FY 1995, a CCLS position would be needed in Fairbanks to serve the Northern region. In FY 1996 a CCLS position would be needed in Juneau to serve southeast Alaska.

2. Other Expenditures A personal computer is a necessity for each position to gain technological efficiency and to meet the continuing goal of a PC for each division professional.

\$20,000 in the contract line is needed to contract with an attorney or an experienced professional to draft the safe home regulations and related legal documents and to adjust the safe home regulation draft following public comment.

FISCAL NOTE ANALYSIS CSSB 45 (RLS) (efd fld)  
(attachment)

Juvenile Justice and Delinquency Prevention Program

The intent of this bill is to improve the juvenile justice system in Alaska. Federal standards set out in the Juvenile Justice and Delinquency Prevention Act prohibit the incarceration of juveniles in the same facility with an adult, except under special circumstances.

The department participates in a federal formula grant program which is tied to the Juvenile Justice and Delinquency Act. The grant provides the state with \$325,000 annually for assistance in making improvements to the juvenile justice system in Alaska.

Alaska has used most of these grant funds to establish ten small shelter programs serving twelve Alaska communities. These shelters are established for the narrowly defined purpose of providing an alternative for the practice of placing minors in adult jails.

Enactment of this legislation assists the department in its effort to meet the requirements of the JJDP Act. The department has experienced difficulties in meeting the requirements of the Act and has been advised by the federal granting authority that Alaska's eligibility for the federal fiscal year 1992 formula grant funds will almost certainly depend upon Alaska's success in passing this legislation.

Without the grant revenue of \$325,000 the department would need to use general funds to continue funding of the shelter programs.

Position Title		Community Care Licensing Specialist I		No. of Positions	1	Range/Step	16A	Bargaining Unit	GGU
Time Status	Full Time	Staff Months	12	Location	Fairbanks	Election District	29-34		
<b>TYPE of EXPENDITURE:</b>			<b>AMOUNT</b>	Justification	FY 1995	<p>A Community Care Licensing Specialist will implement the safe homes permit process in the Northern Region in the second year. It would be located in Fairbanks and operate regionwide.</p> <p>CSSB 45 (RLS) (eld fld) would not be implemented without this position. Some workers are carrying 120 homes and residential facilities. The load is such that they are unable to meet current responsibilities and could not add another facility type to their duties.</p> <p>The position will 1) identify communities needing safe homes and private agencies interested in recruiting and evaluating homes; 2) will train and provide technical support to private agency staff who are evaluating safe home; and 3) will also enforce regulations (including revocation or denial of permit when a child is harmed in the home, when a first time applicatn is not in substantial compliance with regulations, or when there is a serious pattern of disregard for regulations). Serious complaints against a provider holding a permit cannot be solely handled by private agency staff. Following implementation, the position would carry a mixed licensing and safe home load.</p>			
Salary			38.3						
Benefits			15.7						
Premium Pay									
Other									
<b>Total Personal Services</b>			<b>54.0</b>						
Travel			5.0						
Contractual			3.2						
Commodities			1.2						
Equipment			6.0						
Other									
<b>Total Cost</b>			<b>69.4</b>						
<b>FUNDING SOURCE for TOTAL COST</b>									
1002	Federal Receipts								
1003	GF Match								
1004	General Fund		69.4						
1005	GF/Program Receipts								
1006	GF/Mental Health Trust								
1007	I/A Receipts								
1061	CIP Receipts								
Other									

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: Family & Youth Services  
 COMPONENT: Northern Region

**FY94**

Page 2 of 3  
 Revised Date:

Position Title		Community Care Licensing Specialist I		No. of Positions	1	Range/Step	16A	Bargaining Unit	GGU
Time Status		Start Months		Location		Anchorage		Election District	
Full Time		9						9-25	
<b>TYPE of EXPENDITURE</b>			<b>AMOUNT</b>			Justification			
Salary			27.4			A Community Care Licensing Specialist will implement the safe homes permit process in the Southcentral Region. The first year this position will 1) do research to support the contractor for drafting the regulations; 2) will identify communities needing safe homes and private agencies interested in recruiting and evaluating homes; 3) will be a licensing trainee; and will help develop safe home materials.			
Benefits			11.2						
Premium Pay									
Other									
<b>Total Personal Services</b>			<b>38.6</b>						
Travel			5.0			CSSB 45 (RLS) (efid fld) would not be implemented without this position. Some workers are carrying 120 homes and residential facilities. The load is such that they are unable to meet current responsibilities and could not add another facility type to their duties.			
Contractual			3.2						
Commodities			1.2						
Equipment			6.0						
Other									
<b>Total Cost</b>			<b>54.0</b>			This position will train and provide technical support to private agency staff who are evaluating safe homes. It will also enforce regulations (including revocation or denial of a permit when a child is harmed in the home, when a first time applicant is not in substantial compliance with regulations, or when there is a serious pattern of disregard for regulations). Serious complaints against a provider holding a permit cannot be solely handled by private agency staff. Following implementation, the position would carry a mixed licensing and safe home load.			
<b>FUNDING SOURCE for TOTAL COST</b>									
1002	Federal Receipts								
1003	GF Match								
1004	General Fund		54.0						
1005	GF/Program Receipts								
1006	GF/Mental Health Trust								
1007	I/A Receipts								
1061	CIP Receipts								
Other									

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: Family & Youth Services  
 COMPONENT: Southcentral Region

**FY94**

Page 1 of 3  
 Revised Date:

Position Title		Community Care Licensing Specialist I		No. of Positions	1	Range/Step	16A	Bargaining Unit	GGU
Time Status	Staff Months			Location	Juneau		Election District	3&4	
Full Time	12			Justification	FY 1996				
<b>TYPE of EXPENDITURE</b>			<b>AMOUNT</b>	<p>A Community Care Licensing Specialist will implement the safe homes permit process in the Southeastern Region in the third year. It would be located in Juneau and operate regionwide.</p> <p>CSSB 45 (RLS) (eld fld) would not be implemented without this position. Some workers are carrying 120 homes and residential facilities. The load is such that they are unable to meet current responsibilities and could not add another facility type to their duties.</p> <p>The position will 1) identify communities needing safe homes and private agencies interested in recruiting and evaluating homes; 2) will train and provide technical support to private agency staff who are evaluating safe home; and 3) will also enforce regulations (including revocation or denial of permit when a child is harmed in the home, when a first time applicatn is not in substantial compliance with refulations, or when there is a serious pattern of diredgard for regulations). Serious complaints against a provider holding a permit cannot be solely handled by private agency staff. Following implementation, the position would carry a mixed licensing and safe home load.</p>					
Salary			36.5						
Benefits			15.0						
Premium Pay									
Other									
<b>Total Personal Services</b>			<b>51.5</b>						
Travel			2.0						
Contractual			3.2						
Commodities			1.2						
Equipment			6.0						
Other									
<b>Total Cost</b>			<b>63.9</b>						
<b>FUNDING SOURCE for TOTAL COST</b>									
1002	Federal Receipts								
1003	GF Match								
1004	General Fund		63.9						
1005	GF/Program Receipts								
1006	GF/Mental Health Trust								
1007	I/A Receipts								
1061	CIP Receipts								
Other									

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: Family & Youth Services  
 COMPONENT: Southeastern Region

**FY94**

Page 3 of 3  
 Revised Date:

FISCAL NOTE ANALYSIS CSSB 45  
(attachment)  
Community Care Licensing Program

Assumption: CSSB 45 could not be implemented without new positions. As in other experiences with private agencies, state agency staff must train private agency staff in child care regulations and monitor for compliance to assure the protection of the children in care. In Anchorage and some other areas of the state, licensing workers are carrying a facility load of 120 per worker. They are unable to meet current statutory responsibilities without adding another facility type to their responsibilities. In addition, equity for licensees already in the division's licensing load is warranted.

Program Summary:

1. Positions: One Community Care Licensing Specialist is needed to implement the safe homes permit process in the Southcentral Region, as that is the region where private nonprofit groups have expressed strong interest in implementing the new statutory provisions.

The position would begin by providing research support to the contractor for drafting the regulations; by identifying areas of need and private agencies interested in recruiting and evaluating safe homes; and by being a licensing trainee in Anchorage under the supervision of an experienced licensing supervisor. Following the promulgation of regulations, the position would assist in the development of implementation materials and provide training in the new safe homes concept to both private agency and division staff throughout the region. Division staff would then pick up the support of agencies in their development of safe homes. Following implementation, the position would carry a mixed licensing and safe home load.

In FY 1995, a CCLS position would be needed in Fairbanks to serve the Northern region. In FY 1996 a CCLS position would be needed in Juneau to serve southeast Alaska.

2. Other Expenditures A personal computer is a necessity for each position to gain technological efficiency and to meet the continuing goal of a PC for each division professional.

\$20,000 in the contract line is needed to contract with an attorney or an experienced professional to draft the safe home regulations and related legal documents and to adjust the safe home regulation draft following public comment.

FISCAL NOTE ANALYSIS CSSB 45  
(attachment)

Juvenile Justice and Delinquency Prevention Program

The intent of this bill is to improve the juvenile justice system in Alaska. Federal standards set out in the Juvenile Justice and Delinquency Prevention Act prohibit the incarceration of juveniles in the same facility with an adult, except under special circumstances.

The department participates in a federal formula grant program which is tied to the Juvenile Justice and Delinquency Act. The grant provides the state with \$325,000 annually for assistance in making improvements to the juvenile justice system in Alaska.

Alaska has used most of these grant funds to establish ten small shelter programs serving twelve Alaska communities. These shelters are established for the narrowly defined purpose of providing an alternative for the practice of placing minors in adult jails.

Enactment of this legislation assists the department in its effort to meet the requirements of the JJDP Act. The department has experienced difficulties in meeting the requirements of the Act and has been advised by the federal granting authority that Alaska's eligibility for the federal fiscal year 1992 formula grant funds will almost certainly depend upon Alaska's success in passing this legislation.

Without the grant revenue of \$325,000 the department would need to use general funds to continue funding of the shelter programs.

Position Title		Community Care Licensing Specialist I		No. of Positions	1	Range/Step	16A	Bargaining Unit	GGU
Time Status		Staff Months		Location		Anchorage		Election District	
Full Time		9						9-25	
<b>TYPE of EXPENDITURE</b>			<b>AMOUNT</b>		<b>Justification</b>				
Salary			27.4		<p>A Community Care Licensing Specialist will implement the safe homes permit process in the Southcentral Region. The first year this position will 1) do research to support the contractor for drafting the regulations; 2) will identify communities needing safe homes and private agencies interested in recruiting and evaluating homes; 3) will be a licensing trainee; and will help develop safe home materials.</p> <p>CSSB 45 would not be implemented without this position. Some workers are carrying 120 homes and residential facilities. The load is such that they are unable to meet current responsibilities and could not add another facility type to their duties.</p> <p>This position will train and provide technical support to private agency staff who are evaluating safe homes. It will also enforce regulations (including revocation or denial of a permit when a child is harmed in the home, when a first time applicant is not in substantial compliance with regulations, or when there is a serious pattern of disregard for regulations). Serious complaints against a provider holding a permit cannot be solely handled by private agency staff. Following implementation, the position would carry a mixed licensing and safe home load.</p>				
Benefits			11.2						
Premium Pay									
Other									
<b>Total Personal Services</b>			<b>38.6</b>						
Travel			5.0						
Contractual			3.2						
Commodities			1.2						
Equipment			6.0						
Other									
<b>Total Cost</b>			<b>54.0</b>						
<b>FUNDING SOURCE for TOTAL COST</b>									
1002 Federal Receipts									
1003 GF Match									
1004 General Fund			54.0						
1005 GF/Program Receipts									
1006 GF/Mental Health Trust									
1007 I/A Receipts									
1061 CIP Receipts									
' Other									

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRJ: Family & Youth Services  
 COMPONENT: Southcentral Region

**FY94**

Page 1 of 3  
 Revised Date:

Position Title		Community Care Licensing Specialist I		No. of Positions	1	Range/Step	16A	Bargaining Unit	GGU
Time Status	Staff Months			Location	Fairbanks		Election District	29-34	
Full Time		12		Justification		FY 1995			
<b>TYPE of EXPENDITURE</b>			<b>AMOUNT</b>	<p>A Community Care Licensing Specialist will implement the safe homes permit process in the Northern Region in the second year. It would be located in Fairbanks and operate regionwide.</p> <p>CSSB 45 would not be implemented without this position. Some workers are carrying 120 homes and residential facilities. The load is such that they are unable to meet current responsibilities and could not add another facility type to their duties.</p> <p>The position will 1) identify communities needing safe homes and private agencies interested in recruiting and evaluating homes; 2) will train and provide technical support to private agency staff who are evaluating safe home; and 3) will also enforce regulations (including revocation or denial of permit when a child is harmed in the home, when a first time applicatn is not in substantial compliance with refulations, or when there is a serious pattern of disregard for regulations) Serious complaints against a provider holding a permit cannot be solely handled by private agency staff. Following implementation, the position would carry a mixed licensing and safe home load.</p>					
Salary		38.3							
Benefits		15.7							
Premium Pay									
Other									
<b>Total Personal Services</b>		<b>54.0</b>							
Travel		5.0							
Contractual		3.2							
Commodities		1.2							
Equipment		6.0							
Other									
<b>Total Cost</b>		<b>69.4</b>							
<b>FUNDING SOURCE for TOTAL COST</b>									
1002	Federal Receipts								
1003	GF Match								
1004	General Fund		69.4						
1005	GF/Program Receipts								
1006	GF/Mental Health Trust								
1007	I/A Receipts								
1061	CIP Receipts								
Other									

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: Family & Youth Services  
 COMPONENT: Northern Region

**FY94**

Page 2 of 3  
 Revised Date:

Position Title		Community Care Licensing Specialist I		No. of Positions	1	Range/Step	16A	Bargaining Unit	GGU
Time Status		Staff Months		Location		Election District			
Full Time		12		Juneau		3&4			
TYPE of EXPENDITURE			AMOUNT	Justification FY 1996					
Salary			36.5	<p>A Community Care Licensing Specialist will implement the safe homes permit process in the Southeastern Region in the third year. It would be located in Juneau and operate regionwide.</p> <p>CSSB 45 would not be implemented without this position. Some workers are carrying 120 homes and residential facilities. The load is such that they are unable to meet current responsibilities and could not add another facility type to their duties.</p> <p>The position will 1) identify communities needing safe homes and private agencies interested in recruiting and evaluating homes; 2) will train and provide technical support to private agency staff who are evaluating safe home; and 3) will also enforce regulations (including revocation or denial of permit when a child is harmed in the home, when a first time application is not in substantial compliance with regulations, or when there is a serious pattern of disregard for regulations). Serious complaints against a provider holding a permit cannot be solely handled by private agency staff. Following implementation, the position would carry a mixed licensing and safe home load.</p>					
Benefits			15.0						
Premium Pay									
Other									
Total Personal Services			51.5						
Travel			2.0						
Contractual			3.2						
Commodities			1.2						
Equipment			6.0						
Other									
Total Cost			63.9						
FUNDING SOURCE for TOTAL COST									
1002	Federal Receipts								
1003	GF Match								
1004	General Fund		63.9						
1005	GF/Program Receipts								
1006	GF/Mental Health Trust								
1007	I/A Receipts								
1061	CIP Receipts								
Other									

**REQUEST for  
NEW POSITION**

AGENCY: Health and Social Services  
 BRU: Family & Youth Services  
 COMPONENT: Southeastern Region

**FY94**

Page 3 of 3  
 Revised Date:

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO : CSSB 45 (FIN)

Revision Date: \_\_\_\_\_  
 Title: Misc. Laws Relating to Minors  
 Sponsor: Senator(s) Phillips, et. all  
 Requestor: Senate Rules

Department Affected: Labor  
 BRU: Labor Standards & Safety  
 Component: \_\_\_\_\_  
Wage & Hour  
 COMPONENT SERIAL NO. 345

**EXPENDITURES/REVENUES:**

(Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE:</b>						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: \$ None

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

Prepared by: Donald G. Study, CSP, Director Phone: 465-6003  
 Division: Labor Standards & Safety Date: 4/17/93

Approved by Commissioner: Charles W. Mahlen  
 Agency: Department of Labor Date: 4/17/93

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FISCAL NOTE

No. 4

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: CSRB 45 (FIN)

(S) Publish Date: 4-13-93

Revision Date: \_\_\_\_\_ Department Affected: Alaska Court System  
 Title: An Act relating to persons under 21 years BRU: Trial Courts  
 Sponsor: Senator Phillips Components: \_\_\_\_\_  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 768

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 94	FY 95	FY 96	FY 97	FY 98	FY 99
PERSONAL SERVICES	18.7	18.7	18.7	18.7	18.7	18.7
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT	1.4					
LAND & STRUCTURES						
GRANTS & CLAIMS						
TOTAL OPERATING	20.1	18.7	18.7	18.7	18.7	18.7

CAPITAL						
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REVENUE						
FUND SOURCE						

FUNDING: (Thousands of Dollars)

1002 FEDERAL RECEIPTS						
1003 GF MATCH						
1004	20.1	18.7	18.7	18.7	18.7	18.7
1005 RECEIPTS						
1006						
OTHER						
TOTAL	20.1	18.7	18.7	18.7	18.7	18.7

POSITIONS:

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

Estimate of current year (FY 93) impact: None

Changes in CSRB 45 RUL reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
4/16/93  
 Date: \_\_\_\_\_  
 Corrine Aide (Initial)

ANALYSIS: (Attach a separate page if necessary)  
No fiscal impact.

Prepared by: C. S. Christensen III, Staff Counsel Phone: 264-3228  
 Division: Alaska Court System Date: 04/08/93

Approved by: Arthur H. Snowden, II, Administrative Director Date: 04/08/93  
 Agency: Alaska Court System

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

Alaska Court System  
Fiscal Analysis  
CS SB 45(HES)

It is anticipated that this legislation will increase the number of inquiries by the public for information on emancipation of minors. These inquiries typically require 15 minutes of custody investigator time. It is estimated that the legislation will create 150 new inquiries a year in Anchorage. Inquiries in the rest of the state are estimated at 50% of the Anchorage rate, or 75 a year. If 25% of the inquiries progress to the filing of a petition of emancipation, 56 new petitions will be filed. Each petition requires approximately 8 to 10 hours of custody investigator time for interviewing parents, children and others, writing reports and testimony. The investigator will be assigned to Anchorage, but will support the entire state.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Assistant Custody Investigator, range 18A, Anchorage, PPT - 4 months	\$13,579	\$5,138	\$18,717

Equipment

Desk, chair, computer terminal and filing cabinets			<u>1,400</u>
<b>Total First Year Cost</b>			<u><u>\$20,117</u></u>

S B

5 3

April 7, 1993

Alaska State Legislature  
House Judiciary Committee  
State Capitol  
Juneau, AK 99801

Dear Committee Member,

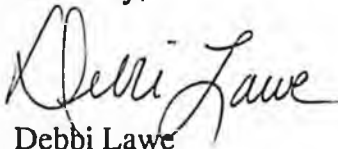
It is my understanding that CSSB53 is now being considered by your committee. I would like to urge you to take prompt and positive action WITHOUT AMENDMENT on this vital legislation. Without your immediate action, this bill may get blocked creating further delay and we will all, once again, be faced with this issue in January of 1994. Please don't put it off.

This bill does not address the legality of abortion. That has already been determined by the Alaska Constitution. Abortion is legal in the state of Alaska. The question is one of funding of abortion services under the general relief medical program. Should this right of abortion guaranteed in the constitution be allowed to all women or only women of high incomes. That is the question.

I personally believe this issue does not belong in government. I also believe it is a very personal decision and one I hope I never have to make again. Unfortunately, this decision has become a political issue and our lives and the lives of our children are literally in your hands. Denying abortion services to poor women in Alaska is discrimination. Please support SB53, without amendment, and continue to guarantee this constitutional right to women regardless of income.

Thank you for your time and support of this very difficult issue.

Sincerely,



Debbi Lawe  
P.O. Box 1019  
Ward Cove, Ak 99928-1019

FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 53(FIN)

Revision Date: 08-Mar-93 Dept. Affected: Health and Social Services  
 Title: Annulling changes made by certain regu- BRU: Assistance Payments  
lations...relating to funding of abortion services... Component: AFDC  
 Sponsor: Senate HESS Committee  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00220

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(297.3)	(321.5)	(347.7)	(376.1)	(406.7)	(439.9)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(297.3)</b>	<b>(321.5)</b>	<b>(347.7)</b>	<b>(376.1)</b>	<b>(406.7)</b>	<b>(439.9)</b>

CAPITAL						
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REVENUE FUND SOURCE						
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FUNDING:

(Thousands of Dollars)

1002 Federal Receipts	(148.7)	(160.8)	(173.9)	(188.0)	(203.4)	(219.9)
1003 GF Match	(148.6)	(160.7)	(173.8)	(188.1)	(203.3)	(220.0)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(297.3)</b>	<b>(321.5)</b>	<b>(347.7)</b>	<b>(376.1)</b>	<b>(406.7)</b>	<b>(439.9)</b>

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

ANALYSIS: (Attach a separate page if necessary)

The fiscal analysis above is based upon the "savings" to the AFDC program resulting from abortions paid for by the General Relief Medical program. Additional information is attached.

This fiscal note is provided to show the estimated cost reduction associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that budget components may be decreased if the legislation passes. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

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

Phone: 465-3347  
 Date: 3/8/93

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

Date: 3/10/93

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## ANALYSIS (Cont.)

## Aid to Families with Dependent Children

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs.

Of the 181 eligible for public assistance, it is assumed that 60%, or 109 would receive Aid to Families with Dependent Children (AFDC) for an average of 6 months during a year; 65 of these children would be new additions to existing cases, at a cost of \$118 per month, and 44 would be first children that bring their parent into AFDC as new assistance cases with an average cost of \$952 per case per month. The FY 94 costs associated with these children are as follows:

65 children X \$118 per month X 6 months =	\$ 46,020
44 children X \$952 per month X 6 months =	\$251,328
Total AFDC costs:	\$297,348

## Revenue sources:

50% GF Match:	\$148,674
50% Federal Receipts:	\$148,674

For subsequent years it is assumed that the average annual increase in AFDC caseload will be 5% per year and that there will be an adjustment each year of 3% for increases in the cost of living.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 53(FIN)

Revision Date: 03/08/93 Dept. Affected: Health and Social Services  
 Title: Annuling changes made by certain regu- BRU: Medical Assistance  
lations...relating to funding of abortion services... Component: Medical Non-Facility  
 Sponsor: Senate HESS Committee  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00229

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(694.4)	(805.5)	(934.4)	(1,083.9)	(1,257.3)	(1,458.5)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(694.4)</b>	<b>(805.5)</b>	<b>(934.4)</b>	<b>(1,083.9)</b>	<b>(1,257.3)</b>	<b>(1,458.5)</b>

CAPITAL						
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REVENUE FUND SOURCE						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts	(347.2)	(402.8)	(467.2)	(541.9)	(628.7)	(729.2)
1003 GF Match	(347.2)	(402.7)	(467.2)	(542.0)	(628.6)	(729.3)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(694.4)</b>	<b>(805.5)</b>	<b>(934.4)</b>	<b>(1,083.9)</b>	<b>(1,257.3)</b>	<b>(1,458.5)</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based upon the "savings" to the Medicaid Non-Facilities component resulting from abortions paid for by the General Relief Medical program. Additional information is attached.

This fiscal note is provided to show the estimated cost reduction associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that any actual "savings" will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: Dave W. Williams Phone: 465-3355  
 Division: Medical Assistance, DHSS Date: 3-8-93

Approved by Commissioner: Theodore A. Mala, MD, MPH Date: 3/10/93  
 Agency: Department of Health & Social Services

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ANALYSIS (Cont.)  
Medical Assistance Administration, BRU  
Medicaid Non-Facility Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs after childbirth as would the pregnant mothers previous to childbirth.

The cost of providing prenatal, postpartum, and other medical services to pregnant women and newborns and their parent are estimated at \$3,836 per pregnancy. For the estimated 181 eligible births these costs total \$694,400 in FY 94.

For subsequent years there is an assumed 11% utilization increase and a 5% inflation cost.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 53(FIN)

Revision Date: 08-Mar-93 Dept. Affected: Health and Social Services  
 Title: Annuiling changes made by certain regu- BRU: Medical Assistance  
lations...relating to funding of abortion services... Component: Medicaid Facility  
 Sponsor: Senate HESS Committee  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00230

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(454.0)	(526.7)	(610.9)	(708.7)	(822.1)	(953.6)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(454.0)</b>	<b>(526.7)</b>	<b>(610.9)</b>	<b>(708.7)</b>	<b>(822.1)</b>	<b>(953.6)</b>

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

1002 Federal Receipts	(227.0)	(263.3)	(305.5)	(354.3)	(411.0)	(476.8)
1003 GF Match	(227.0)	(263.3)	(305.5)	(354.3)	(411.0)	(476.8)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(454.0)</b>	<b>(526.7)</b>	<b>(610.9)</b>	<b>(708.7)</b>	<b>(822.1)</b>	<b>(953.6)</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: (151.3)

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

The fiscal analysis above is based upon the "savings" to the Medicaid Facilities component resulting from abortions paid for by the General Relief Medical program. Additional information is attached.

This fiscal note is provided to show the estimated cost reduction associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that any actual "savings" will result from passage of the legislation.

Prepared by: Dave W. Williams  
 Division: Medical Assistance, DHSS

Phone: 465-3355  
 Date: 3-8-93

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

Date: 3/10/93

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ANALYSIS (Cont.)  
Medical Assistance  
Medicaid Facility Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the affected women would otherwise continue full-term pregnancies and would be eligible for certain state funded public assistance services as a result. Consequently, this fiscal note relates to the number of women who would not continue their pregnancies and the resultant reduction in utilization of certain state funded services those women would likely have used. It is assumed that the effect of this bill would be to reduce the number of pregnant women who would otherwise be eligible for medical assistance in proportion to the number of abortions performed.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 women would have been eligible for medical assistance programs for the pregnancy.

The cost of providing birthing and related services on an inpatient basis to pregnant women are estimated at \$2,508 per pregnancy. For the estimated 181 eligible births these costs total \$454,000 in FY 94.

For subsequent years utilization is anticipated to grow at 11% and inflation is calculated as 5%.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 53(FIN)

Revision Date: 08-Mar-93 Dept. Affected: Health and Social Services  
 Title: Annuling changes made by certain regulations...relating to funding of abortion services... BRU: Medical Assistance  
 Component: General Relief Medical  
 Sponsor: Senate HESS Committee  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00232

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	288.7	334.9	388.5	450.6	522.7	606.3
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>288.7</b>	<b>334.9</b>	<b>388.5</b>	<b>450.6</b>	<b>522.7</b>	<b>606.3</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE</b>						
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**FUNDING:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	288.7	334.9	388.5	450.6	522.7	606.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>288.7</b>	<b>334.9</b>	<b>388.5</b>	<b>450.6</b>	<b>522.7</b>	<b>606.3</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based upon the "costs" to the General Relief Medical program resulting from abortions paid for through GRM. Additional information is attached.

This fiscal note is provided to show the estimated cost increase associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost increases. No assumption should be made that any actual "new costs" will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: Dave W. Williams DW  
 Division: Medical Assistance, DHSS

Phone: 465-3355  
 Date: 3-8-93

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

Date: 3/10/93

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ANALYSIS (Cont.)

Medical Assistance Administration, BRU  
General Relief Medical, Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs.

The associated costs with each abortion are estimated to be \$880. For the estimated 329 abortions the total cost is estimated to be \$288,700.

For subsequent years there is an assumed 11% utilization increase and a 5% inflation cost.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

BILL NO. CSSB 53(FIN)

Revision Date: 08-Mar-93 Dept. Affected: Health and Social Services  
 Title: Annuling changes made by certain regu- BRU: Medical Assistance Administration  
lations...relating to funding of abortion services... Component: Claims Processing  
 Sponsor: Senate HESS Committee  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00243

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	(74.2)	(86.1)	(99.8)	(115.8)	(134.3)	(155.8)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(74.2)</b>	<b>(86.1)</b>	<b>(99.8)</b>	<b>(115.8)</b>	<b>(134.3)</b>	<b>(155.8)</b>

CAPITAL						
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REVENUE FUND SOURCE						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts	(55.6)	(64.6)	(74.8)	(86.8)	(100.7)	(116.8)
1003 GF Match	(18.6)	(21.5)	(25.0)	(29.0)	(33.6)	(39.0)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(74.2)</b>	<b>(86.1)</b>	<b>(99.8)</b>	<b>(115.8)</b>	<b>(134.3)</b>	<b>(155.8)</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based on avoidance of the projected costs for processing new claims for newborns and mothers who will utilize the Medicaid program should this bill pass. Additional information is attached.

This fiscal note is provided to show the estimated cost reductions associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that any actual 'savings' will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: Dave W. Williams  
 Division: Medical Assistance, DHSS

Phone: 465-3355

Date: 3-8-93

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

Date: 3/10/93

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ANALYSIS (Cont.)  
Medical Assistance  
Claims Processing Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the pregnant women and the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 women would have been eligible for medical assistance programs for the pregnancy.

The processing costs associated with each claim are estimated to be \$6.23. For the 181 births it is assumed that there will be approximately 65 claims per birth for prenatal care, childbirth, and postpartum care.

For subsequent years there is an assumed 11% utilization increase and a 5% inflation cost.

# FISCAL NOTE

No. 5

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 53

(S) Publish Date: 1/29/93

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Annuling changes made by certain regulations...relating to funding of abortion services... BRU: Medical Assistance Administration  
 Sponsor: Senate HESS Committee Component: Claims Processing  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00243

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	(74.2)	(86.1)	(99.8)	(115.8)	(134.3)	(155.8)
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(74.2)</b>	<b>(86.1)</b>	<b>(99.8)</b>	<b>(115.8)</b>	<b>(134.3)</b>	<b>(155.8)</b>

CAPITAL						
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REVENUE FUND SOURCE						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts	(55.6)	(64.6)	(74.8)	(86.8)	(100.7)	(116.8)
1003 GF Match	(18.6)	(21.5)	(25.0)	(29.0)	(33.6)	(39.0)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(74.2)</b>	<b>(86.1)</b>	<b>(99.8)</b>	<b>(115.8)</b>	<b>(134.3)</b>	<b>(155.8)</b>

**POSITIONS:**

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in SSB 53 (Fin) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
2-26-93 date AK Comte Aide (initial)

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based on avoidance of the projected costs for processing new claims for newborns and mothers who will utilize the Medicaid program should this bill pass. Additional information is attached.

This fiscal note is provided to show the estimated cost reductions associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that any actual "savings" will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: [Signature]  
 Division: Medical Assistance, DHSS

Phone: 465-3355  
 Date: 1-26-93

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

Date: 1/27/93

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Can I work HESS Medical Ass't - Claims Processing

ANALYSIS (Cont.)  
Medical Assistance Administration, BRU  
Claims Processing, Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs.

The processing costs associated with each claim are estimated to be \$6.23. For the 181 births it is assumed that there will be approximately 65 claims per birth for prenatal care, childbirth, and postpartum care.

For subsequent years there is an assumed 11% utilization increase and a 5% inflation cost.

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

4  
Bill Version: SB 53  
(S) Publish Date: 1/29/93

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Annulling changes made by certain regulations...relating to funding of abortion services... BRU: Medical Assistance  
Sponsor: Senate HESS Committee Component: General Relief Medical  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00232

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	288.7	334.9	388.5	450.6	522.7	606.3
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>288.7</b>	<b>334.9</b>	<b>388.5</b>	<b>450.6</b>	<b>522.7</b>	<b>606.3</b>

CAPITAL						
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REVENUE FUND SOURCE						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	288.7	334.9	388.5	450.6	522.7	606.3
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>288.7</b>	<b>334.9</b>	<b>388.5</b>	<b>450.6</b>	<b>522.7</b>	<b>606.3</b>

**POSITIONS:**

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CSA 53 (Fin) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
2-26-93 kl  
date Comte Aide (initial)

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based upon the "costs" to the General Relief Medical program resulting from abortions paid for through GRM. Additional information is attached.

This fiscal note is provided to show the estimated cost increase associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost increases. No assumption should be made that any actual "new costs" will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no...

Prepared by: Kimberly B. Beane  
Division: Medical Assistance, DHSS

Phone: 465-3355  
Date: 1-26-93

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

Date: 1/27/93

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*Handwritten:* HESS - Medical Assistance - General Relief Medical

ANALYSIS (Cont.)

Medical Assistance Administration, BRU  
General Relief Medical, Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs.

The associated costs with each abortion are estimated to be \$880. For the estimated 329 abortions the total cost is estimated to be \$288,700.

For subsequent years there is an assumed 11% utilization increase and a 5% inflation cost.

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# FISCAL NOTE

No. 3

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

Bill Version: SB 53

(S) Publish Date: 1/29/93

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title: Annuling changes made by certain regulations...relating to funding of abortion services... BRU: Medical Assistance  
 Sponsor: Senate HESS Committee Component: Medical Non-Facility  
 Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00229

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(694.4)	(805.5)	(934.4)	(1,083.9)	(1,257.3)	(1,458.5)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(694.4)</b>	<b>(805.5)</b>	<b>(934.4)</b>	<b>(1,083.9)</b>	<b>(1,257.3)</b>	<b>(1,458.5)</b>

CAPITAL						
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REVENUE FUND SOURCE						
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**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts	(347.2)	(402.8)	(467.2)	(541.9)	(628.7)	(729.2)
1003 GF Match	(347.2)	(402.7)	(467.2)	(542.0)	(628.6)	(729.3)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(694.4)</b>	<b>(805.5)</b>	<b>(934.4)</b>	<b>(1,083.9)</b>	<b>(1,257.3)</b>	<b>(1,458.5)</b>

**POSITIONS:**

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in SSSB 53 (Fin)  
reflect NO FISCAL CHANGE from the original  
fiscal note. This fiscal note is appropriate.

Estimate of current year (FY93) impact: 0.0

2/26/93 date ML Comte Aide (initial)

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

The fiscal analysis above is based upon the "savings" to the Medicaid Non-Facilities component resulting from abortions paid for by the General Relief Medical program. Additional information is attached.

This fiscal note is provided to show the estimated cost reduction associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that any actual "savings" will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: [Signature]  
Division: Medical Assistance, DHSS

Phone: 465-3355  
Date: 1-26-93

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

Date: 1/27/93

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H+SS-Medical Assistance - Medical Non Facility

## ANALYSIS (Cont.)

Medical Assistance Administration, BRU  
Medicaid Non-Facility Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs after childbirth as would the pregnant mothers previous to childbirth.

The cost of providing prenatal, postpartum, and other medical services to pregnant women and newborns and their parent are estimated at \$3,836 per pregnancy. For the estimated 181 eligible births these costs total \$694,400 in FY 94.

For subsequent years there is an assumed 11% utilization increase and a 5% inflation cost.

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# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

2  
Bill Version: SB 53  
(S) Publish Date: 1/29/93

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Annulling changes made by certain regulations... relating to funding of abortion services... BRU: Medical Assistance  
Sponsor: Senate HESS Committee Component: Medicaid Facilities  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00230

**Expenditures/Revenues:**

	(Thousands of Dollars)					
OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(454.0)	(526.7)	(610.9)	(708.7)	(822.1)	(953.6)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(454.0)</b>	<b>(526.7)</b>	<b>(610.9)</b>	<b>(708.7)</b>	<b>(822.1)</b>	<b>(953.6)</b>

<b>CAPITAL</b>						
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<b>REVENUE FUND SOURCE</b>						
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**FUNDING:**

	(Thousands of Dollars)					
1002 Federal Receipts	(227.0)	(263.3)	(305.5)	(354.3)	(411.0)	(476.8)
1003 GF Match	(227.0)	(263.3)	(305.4)	(354.4)	(411.1)	(476.8)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(454.0)</b>	<b>(526.7)</b>	<b>(610.9)</b>	<b>(708.7)</b>	<b>(822.1)</b>	<b>(953.6)</b>

**POSITIONS:**

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CSB 53 (Fix) reflect NO FISCAL CHANGE from the original fiscal note. This fiscal note is appropriate.  
2-26-93 JK  
date Comte Aide (initial)

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based upon the "savings" to the Medicaid Facilities component resulting from abortions paid for by the General Relief Medical program. Additional information is attached.

This fiscal note is provided to show the estimated cost reduction associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that any actual "savings" will result from passage of the legislation. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: Kenneth B. Brock  
Division: Medical Assistance, DHSS  
Approved by Commissioner: Theodore A. Mala, MD, MPH  
Agency: Department of Health & Social Services

Phone: 465-3355  
Date: 1-26-93  
Date: 1/27/93

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Fiscal Note - H.S.S. - Medical Assistance - Medicaid Facilities

ANALYSIS (Cont.)  
Medical Assistance  
Medicaid Facility Component

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the affected women would otherwise continue full-term pregnancies and would be eligible for certain state funded public assistance services as a result. Consequently, this fiscal note relates to the number of women who would not continue their pregnancies and the resultant reduction in utilization of certain state funded services those women would likely have used. It is assumed that the effect of this bill would be to reduce the number of pregnant women who would otherwise be eligible for medical assistance in proportion to the number of abortions performed.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 women would have been eligible for medical assistance programs for the pregnancy.

The cost of providing birthing and related services on an inpatient basis to pregnant women are estimated at \$2,508 per pregnancy. For the estimated 181 eligible births these costs total \$454,000 in FY 94.

For subsequent years utilization is anticipated to grow at 11% and inflation is calculated as 5%.

# FISCAL NOTE

STATE OF ALASKA  
1993 LEGISLATIVE SESSION

No. 1  
Bill Version: SB 53  
(S) Publish Date: 1/29/93

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Annulling changes made by certain regu- BRU: Assistance Payments  
lations...relating to funding of abortion services... Component: AFDC  
Sponsor: Senate HESS Committee  
Requestor: \_\_\_\_\_ COMPONENT SERIAL NO. 00220

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY94	FY95	FY96	FY97	FY98	FY99
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(297.3)	(321.5)	(347.7)	(376.1)	(406.7)	(439.9)
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>(297.3)</b>	<b>(321.5)</b>	<b>(347.7)</b>	<b>(376.1)</b>	<b>(406.7)</b>	<b>(439.9)</b>

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

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

**FUNDING:**

(Thousands of Dollars)

1002 Federal Receipts	(148.7)	(160.8)	(173.9)	(188.0)	(203.4)	(219.9)
1003 GF Match	(148.6)	(160.7)	(173.8)	(188.1)	(203.3)	(220.0)
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<b>TOTAL</b>	<b>(297.3)</b>	<b>(321.5)</b>	<b>(347.7)</b>	<b>(376.1)</b>	<b>(406.7)</b>	<b>(439.9)</b>

**POSITIONS:**

FULL-TIME			
PART-TIME			
TEMPORARY			

Changes in CSA 53 (Fin)  
reflect NO FISCAL CHANGE from the original  
fiscal note. This fiscal note is appropriate.  
2-26-93 \_\_\_\_\_  
date Comte Aide (initial)

Estimate of current year (FY93) impact: 0.0

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

The fiscal analysis above is based upon the 'savings' to the AFDC program resulting from abortions paid for by the General Relief Medical program. Additional information is attached.

This fiscal note is provided to show the estimated cost reduction associated with the proposed legislation. The FY 94 budget, however, does not include adjustments for these cost reductions. No assumption should be made that budget components may be decreased if the legislation passes. The FY 93 impact is shown as 0.0 because there was no consideration of the cost of the regulations addressed by the bill within the FY 93 budget.

Prepared by: Jan Hansen  
Division: Jan Hansen, Director, Division of Public Assistance  
Approved by Commissioner: Theodore A. Mala, MD, MPH  
Agency: Department of Health & Social Services

Phone: 465-3347  
Date: 1/27/93  
Date: 1/27/93

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## ANALYSIS (Cont.)

## Aid to Families with Dependent Children

This bill will annul regulations intended to reduce the number of pregnancies that would be aborted because of the availability of payment for that procedure under the General Relief Medical program (GRM). Many of the children who would otherwise be born would be eligible for certain state funded public assistance services. Consequently, this fiscal note relates to the number of children that would not be born and the resultant reduction in utilization of certain state funded services those children would likely have used.

It is assumed that 329 births would be avoided as a result of this bill. That number is based on 40% of the total number of abortions performed with medical assistance funding during FY 91. Of the 329, it is assumed that 55%, or 181 would have been eligible for public assistance programs.

Of the 181 eligible for public assistance, it is assumed that 60%, or 109 would receive Aid to Families with Dependent Children (AFDC) for an average of 6 months during a year; 65 of these children would be new additions to existing cases, at a cost of \$118 per month, and 44 would be first children that bring their parent into AFDC as new assistance cases with an average cost of \$952 per case per month. The FY 94 costs associated with these children are as follows:

65 children X \$118 per month X 6 months =	\$ 46,020
44 children X \$952 per month X 6 months =	\$251,328
Total AFDC costs:	\$297,348

## Revenue sources:

50% GF Match:	\$148,674
50% Federal Receipts:	\$148,674

For subsequent years it is assumed that the average annual increase in AFDC caseload will be 5% per year and that there will be an adjustment each year of 3% for increases in the cost of living.

# Alaska State Legislature

Senator Steve Rieger, Chair  
Senator Bert Sharp, Vice Chair  
Senator Loren Leman  
Senator Mike Miller  
Senator Jim Duncan  
Senator Johnny Ellis  
Senator Judith Salo



State Capitol  
Room 516  
Juneau, Alaska 99801  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

MEMORANDUM

~~April 6, 1993~~

TO: Representative Brian Porter, Chairman  
House Judiciary Committee

FROM: Senator Steve Rieger, Chairman *SR*  
Senate Health, Education and Social Services Committee

RE: Scheduling request for ~~SB 53~~ "AA Act relating to payment for abortions under Medicaid and general relief medical assistance; annulling changes made by certain regulations adopted by the Department of Health and Social Services relating to funding of abortion services under the general relief medical program."

I respectfully request an early hearing for SB 53 which has been referred to your committee.

Thank you for your consideration.

# Alaska State Legislature

Senator Steve Rieger, Chair  
Senator Bert Sharp, Vice Chair  
Senator Loren Leman  
Senator Mike Miller  
Senator Jim Duncan  
Senator Johnny Ellis  
Senator Judith Salo



State Capitol  
Room 516  
Juneau, Alaska 99801  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

**CS SB 53(Fin) am(efd fld) "An Act relating to payment for abortions under Medicaid and general relief medical assistance; annulling changes made by certain regulations adopted by the Department of Health and Social Services relating to funding of abortion services under the general relief medical program."**

CS SB 53(Fin) am(efd fld) annuls the changes made by the new regulations and amends the Medicaid and GRM statutes so that similar regulations could not be adopted in the future.

### **Section 1:**

(a) Makes it clear that the old statutes allowed state funding for abortions.

(b) Intent is that abortions are eligible for funding under the regulations as they existed in December 1992.

### **Sec. 2.**

Changes the Medicaid statutes. Adds a new section to the Medicaid statutes saying the department shall pay for abortions to the extent permitted under federal law and if not permitted under federal law, a person eligible for assistance under this chapter shall be covered under the GRM statutes.

### **Sec. 3.**

Changes the GRM statutes. Adds a new section to the GRM statutes saying the department shall pay abortion costs for a person who is otherwise eligible for assistance under Medicaid or GRM statutes, with equal priority to other services as ranked in the statutes.

### **Sec. 4.**

Annuls the changes to the GRM regulations.

### **Sec. 5.**

Allows the Act to be retroactive to the date the regulations went into effect.

RECEIVED MAR 12 1993

Position Paper  
CSSB 53 (FIN)

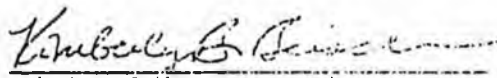
CSSB 53(FIN) would annul changes in regulations intended to limit use of government funding to pay for abortions that are not therapeutic. Specifically, the bill annuls changes in the regulations that specify that General Relief Medical is only available to women seeking "therapeutic abortions: and related services, annuls references to "elective abortions:" under 7 AAC 47,210 and 7 AAC 47,290 including subsections defining "elective abortions" and "therapeutic abortions."

The statement of intent calls for abortions to be eligible for funding under regulations in force in December of 1992. Unlike the original bill, CSSB 53(FIN) bars the administration from readopting the same regulations.

Position:

The Department of Health and Social Services opposes CSSB 53(FIN). The bill is a needless action which, if adopted, would place abortions in a special, single service category paid for without a determination as to medical necessity. The present regulations reflect extensive hearing testimony reviewed at all levels of government and with considerable public involvement. Existing regulations make Alaska's policy on abortion consistent with the majority of other states.

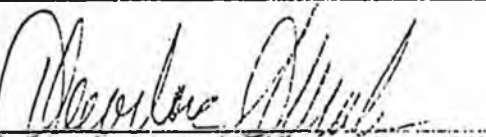
Recommended by:

  
\_\_\_\_\_  
Kimberly B. Busch  
Director  
Div. of Medical Assistance

Date:

3-9-93

Approved by:

  
\_\_\_\_\_  
Theodore A. Mala, MD, MPH  
Commissioner

Date:

3/10/93

# Alaska State Legislature

Senator Steve Rieger, Chair  
Senator Bert Sharp, Vice Chair  
Senator Loren Leman  
Senator Mike Miller  
Senator Jim Duncan  
Senator Johnny Ellis  
Senator Judith Salo



State Capitol  
Room 516  
Juneau, Alaska 99801  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

The following changes would occur with the passage of SB 53:

**7 AAC 47.170(b)** An applicant under 18 years of age may apply on his or her own behalf if the applicant is living apart from parents or guardian and is managing his or her own personal financial affairs. [A female] **An** applicant under 18 years of age living at home with her parents or guardian may apply without regard to her parents' or guardian's income if she is **a female** seeking a [therapeutic abortion] **pregnancy-related service.**

**7 AAC 47.200 GENERAL RELIEF MEDICAL COVERAGE.** The General Relief Medical program provides payment on behalf of needy persons who are eligible under the provisions of this chapter for any of the following services:

---  
(4) physician services if

(A) related to major medical care provided in a hospital on an inpatient basis;

(B) provided in a hospital emergency room the same day on which the recipient is admitted for major medical care;

(C) provided to a recipient residing in a nursing home;

(D) provided in either an outpatient or an inpatient setting to a recipient with a diagnosis described in 7 AAC 47.271(b); **or**

(E) [provided in determining eligibility for a therapeutic abortion; **or**] **provided for pregnancy-related services;**

[(F) provided for a therapeutic abortion;]

(5) outpatient laboratory and x-ray services provided in conjunction with [a therapeutic abortion] **pregnancy-related services** or nursing home care;

(6) medical transportation related to major medical care, nursing home care, or [a therapeutic abortion] **pregnancy-related services;**

(7) outpatient surgical center services provided in conjunction with [a therapeutic abortion] pregnancy-related services or nursing home care;

---

**7 AAC 47.210. EXCLUSIONS FROM GENERAL RELIEF MEDICAL PROGRAM.** Notwithstanding any other provisions contained in this chapter or 7 AAC 43, a payment may not be made under the General Relief Medical program for any expense

---

(7) for an elective procedure [,including an elective abortion] other than a pregnancy-related service as defined in 7 AAC 47.290;

**7 AAC 47.290. DEFINITIONS.** In 7 AAC 47.010 -- 7 AAC 47.290

---

(3) "elective procedure" means a procedure that is subject to the choice or decision of the patient or physician regarding medical services that are advantageous to the patient but not necessary to prevent the death or disability of the patient; [,and includes an elective abortion;]

(5) [is repealed:] "pregnancy-related service" or "pregnancy-related services" means a service or services reasonably necessary for an abortion;

7 AAC 47.290(7) and (8) are added definitions which would be annulled.

Released 7/24/92

**DIVISION OF LEGAL SERVICES  
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STATE OF ALASKA**

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

**MEMORANDUM**

July 22, 1992

**SUBJECT:** DHSS Abortion Funding Regulations (Work Order No. 8-LS0049)

**TO:** Senator Arliss Sturgulewski

**FROM:** Terri Lauterbach  
Legislative Counsel

You have asked us to review the legality of the Medicaid and General Relief Medical (GRM) abortion funding regulations proposed by the Department of Health and Social Services on July 8, 1992.

There are a number of areas where the proposed regulations are not clear. However, in our opinion, a court probably would find that the proposed changes to the Medicaid regulations are legally valid and consistent with legislative intent because they reflect federal Medicaid requirements, a result intended by the legislature. But, a court is less likely to find the proposed changes to the GRM regulations to be consistent with legislative intent because the court may view them as arbitrary changes and because they probably result in unconstitutional administration of the state's medical assistance programs.

A finding of arbitrariness could be made because the proposed regulations change a longstanding DHSS interpretation of the GRM statutes without any intervening legislative directive to do so and without any demonstrable change in the medical needs of Alaskan women. A finding of unconstitutionality could be made because the proposed regulations infringe privacy rights and the right to equal protection of the laws by treating indigent pregnant women who choose to continue their pregnancies differently from indigent pregnant women who choose not to.

In order to answer your question, this memorandum will discuss the following topics:

- (1) Content of the proposed regulations.
- (2) Effect of the proposed regulations.
- (3) Consistency of the proposed regulations with legislative intent.
- (4) Constitutionality of the proposed regulations - privacy.
- (5) Constitutionality of the proposed regulations - equal protection.

(2) where termination of a pregnancy is certified by a physician as medically necessary "to prevent the death or disability of the woman"; and (3) where termination of a pregnancy is certified by a physician as medically necessary "to ameliorate a condition harmful to the woman's physical or psychological health." See proposed 7 AAC 47.290(8).<sup>4/</sup>

"Elective abortion" is defined to mean a procedure, other than a therapeutic abortion, to terminate a pregnancy.<sup>5/</sup> See proposed 7 AAC 47.290(7).

(2) Effect of the proposed regulations.

The effect of the proposed changes in the Medicaid regulations would be to bring the state program into compliance with current federal abortion funding restrictions.<sup>6/</sup>

---

<sup>3/</sup>(...continued)

In cases alleging incest or sexual abuse of a minor, will DHSS simply accept the pregnant woman's statement of the occurrence, or will DHSS somehow investigate or require corroboration of the age and identity of the alleged perpetrator?

7 AAC 47.290(8)(B) should be clarified on this point. In its present form, it invites arbitrary action and leaves open the possibility of extreme invasion of privacy.

<sup>4/</sup> 7 AAC 47.290(8) does not distinguish between previability and postviability abortions.

<sup>5/</sup> "Elective procedure" is also defined in the proposed regulations as

a procedure that is subject to the choice or decision of the patient or physician regarding medical services that are advantageous to the patient but **not necessary to prevent the death or disability of the patient, and includes an elective abortion.** (See 7 AAC 47.290(3).) (Underlined language is proposed as new language in the regulation. Bold face indicates emphasis added for the purposes of this memo.)

As with 7 AAC 140(a) and 7 AAC 47.290(8)(B), discussed in preceding footnotes, this proposed regulation needs clarifying.

It is obvious from the definition of "therapeutic abortion" and "elective abortion" that GRM funding will be provided for an abortion that is "not necessary to prevent the death or disability of the patient." Therefore, the definition of "elective procedure" should be rewritten to be consistent with the definition of "elective abortion." One way to achieve consistency would be to move the new language currently proposed to be appended at the end of 7 AAC 47.290(3) to the beginning of that definition instead so that it would read as follows:

"Elective procedure" means (A) an elective abortion or (B) a procedure that is subject to the choice of the patient, but not necessary to prevent the death or disability of the patient.

<sup>6/</sup> Medicaid is a joint federal-state program. The state cannot use Medicaid money for a purpose prohibited by federal law or regulation.

# **CORRECTION**

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

Released 7/24/92

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A finding of arbitrariness could be made because the proposed regulations change a longstanding DHSS interpretation of the GRM statutes without any intervening legislative directive to do so and without any demonstrable change in the medical needs of Alaskan women. A finding of unconstitutionality could be made because the proposed regulations infringe privacy rights and the right to equal protection of the laws by treating indigent pregnant women who choose to continue their pregnancies differently from indigent pregnant women who choose not to.

In order to answer your question, this memorandum will discuss the following topics:

- (1) Content of the proposed regulations.
- (2) Effect of the proposed regulations.
- (3) Consistency of the proposed regulations with legislative intent.
- (4) Constitutionality of the proposed regulations - privacy.
- (5) Constitutionality of the proposed regulations - equal protection.

A "Conclusion" section appears after the following "Discussion" section.

### DISCUSSION

#### (1) Content of the proposed regulations.

The proposed regulations make changes in two different DHSS programs that provide medical care for indigent women: Medicaid and General Relief Medical (GRM).

The proposed changes in the Medicaid regulations provide that payment for an abortion will "in the department's discretion" be covered if the billing invoice is accompanied by certification that "the life of the mother would be endangered if the pregnancy were carried to term."<sup>1/</sup> See proposed 7 AAC 43.140(a).

The proposed changes in the GRM regulations would restrict funding to "therapeutic abortions" and eliminate funding for "elective abortions." See proposed 7 AAC 47.200 and 7 AAC 47.210.

"Therapeutic abortion" is defined in the proposed GRM regulations to include three types of pregnancy terminations<sup>2/</sup>: (1) where the pregnancy resulted from "actions that would constitute a crime of" sexual assault, sexual abuse of a minor, or incest;<sup>3/</sup>

---

<sup>1/</sup> It is not clear what the proposed regulations mean by "in the department's discretion." Will the DHSS second-guess the physician's certification?

According to the Anchorage Daily News, the commissioner intends to leave "the final call" to "doctors, not bureaucrats." However, that comment was, according to the ADN, made in reference to the definitions of "elective" and "therapeutic" in the GRM regulations, not the use of "in the department's discretion" in the Medicaid regulations. See ADN, Thursday, July 9, 1992, at Page A10, Col. 5.

The proposed Medicaid regulations should be clarified in regard to this language about DHSS's "discretion."

<sup>2/</sup> In using the phrase "termination of pregnancy," the regulations make no attempt to distinguish procedures like induced labor or Caesarian sections. Most likely, these would be covered under Medicaid as childbirth procedures, so they need not be covered under the GRM regulations.

<sup>3/</sup> The regulations do not state who will determine whether actions leading to the pregnancy "would constitute" the specified crimes. Short of a conviction (which would usually take so long as to moot the question of abortion), who is in a position of determining that any of the specified crimes has occurred?

In cases alleging sexual assault, for instance, the lack of consent of the victim is often at issue. Will DHSS personnel, after questioning a pregnant woman, determine whether or not there was consent?

(continued...)

(2) where termination of a pregnancy is certified by a physician as medically necessary "to prevent the death or disability of the woman"; and (3) where termination of a pregnancy is certified by a physician as medically necessary "to ameliorate a condition harmful to the woman's physical or psychological health." See proposed 7 AAC 47.290(8).<sup>4/</sup>

"Elective abortion" is defined to mean a procedure, other than a therapeutic abortion, to terminate a pregnancy.<sup>5/</sup> See proposed 7 AAC 47.290(7).

(2) Effect of the proposed regulations.

The effect of the proposed changes in the Medicaid regulations would be to bring the state program into compliance with current federal abortion funding restrictions.<sup>6/</sup>

---

<sup>3/</sup>(...continued)

In cases alleging incest or sexual abuse of a minor, will DHSS simply accept the pregnant woman's statement of the occurrence, or will DHSS somehow investigate or require corroboration of the age and identity of the alleged perpetrator?

7 AAC 47.290(8)(B) should be clarified on this point. In its present form, it invites arbitrary action and leaves open the possibility of extreme invasion of privacy.

<sup>4/</sup> 7 AAC 47.290(8) does not distinguish between previability and postviability abortions.

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a procedure that is subject to the choice or decision of the patient or physician regarding medical services that are advantageous to the patient but **not necessary to prevent the death or disability of the patient, and includes an elective abortion.** (See 7 AAC 47.290(3).) (Underlined language is proposed as new language in the regulation. Bold face indicates emphasis added for the purposes of this memo.)

As with 7 AAC 140(a) and 7 AAC 47.290(8)(B), discussed in preceding footnotes, this proposed regulation needs clarifying.

It is obvious from the definition of "therapeutic abortion" and "elective abortion" that GRM funding will be provided for an abortion that is "not necessary to prevent the death or disability of the patient." Therefore, the definition of "elective procedure" should be rewritten to be consistent with the definition of "elective abortion." One way to achieve consistency would be to move the new language currently proposed to be appended at the end of 7 AAC 47.290(3) to the beginning of that definition instead so that it would read as follows:

"Elective procedure" means (A) an elective abortion or (B) a procedure that is subject to the choice of the patient...but not necessary to prevent the death or disability of the patient.

<sup>6/</sup> Medicaid is a joint federal-state program. The state cannot use Medicaid money for a purpose prohibited by federal law or regulation.

Although federal restrictions have varied from time to time, current federal restrictions prohibit Medicaid payments for an abortion unless the life of the pregnant woman would be endangered by a completed pregnancy.

Because of the proposed definitions of "therapeutic abortion" and "elective abortion," the effect of the proposed changes in the GRM regulations is less clear. How many abortions will be considered "elective," if any, and therefore not be funded? And what kind of physician statement will be considered sufficient by DHSS to satisfy the requirement that a physician certify the abortion as medically necessary?<sup>7/</sup>

It is possible that the definitions, by including situations involving the woman's "physical or psychological health," would permit any abortion to be funded as long as the woman could find a physician willing to provide the appropriate certification.<sup>8/</sup> After an initial dip in abortion funding caused by confusion on the part of both patients and their physicians about coverage, the department could well discover that the requirement of physician certification will become a pro forma bit of paperwork with no actual effect of restricting funding.

However, for the sake of analyzing the regulations from the perspective of whether they are consistent with legislative intent, this memorandum will assume that the fiscal note accompanying the proposed regulations is basically accurate. The fiscal note predicts increased costs to the state and federal government of over \$1,000,000 in fiscal year 1993 and almost \$2,000,000 by fiscal year 1997.<sup>9/</sup> According to DHSS spokesperson Ed Wicher, the prediction of increased costs is based on an anticipated decrease in abortions and a concomitant increase in live births of indigent children

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<sup>7/</sup> These questions are crucial not just as matters of clarity but as matters of constitutionality. If, in practice, all types of abortions will wind up being funded without significant procedural obstacles for different types, the proposed regulations would probably not be construed to violate either privacy rights or the right to equal protection of the law.

<sup>8/</sup> See, for instance, the statement attributed to Thomas Moffatt, executive director of Alaska Right to Life Inc., in the Anchorage Daily News, July 9, 1992, page A1, Col. 5:

[The definition of "therapeutic abortion"] opens the barn door. In my opinion that definition would permit any abortion. I would imagine any one of a dozen abortionists could certify anyone who walked through their doors.

Whether one ascribes good faith to "abortionists" or not, we agree with Mr. Moffatt that the definition of "therapeutic abortion" could encompass all abortions since an unwanted pregnancy probably always has, at a minimum, adverse psychological effects on a woman.

<sup>9/</sup> See page 2 of the "NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES" that accompanied the actual language changes proposed for 7 AAC 43 and 7 AAC 47, issued 7/8/92.

who, with their indigent mothers, will be eligible for public medical and financial benefits.<sup>10/</sup>

(3) Consistency of the proposed regulations with legislative intent.

Given the content and the assumed effect<sup>11/</sup> of the proposed regulations, one aspect of our analysis is whether DHSS's decision to distinguish among types of abortions, funding some and not others, is consistent with legislative intent.

According to Alaska case law, the intention of the legislature must be determined from the words used in the statute being implemented by the agency, construed with reference to the purpose of the program of which the statute is a part.<sup>12/</sup> If an administrative regulation is consistent with a statute's purposes and reasonably necessary to carry them out, the Alaska Supreme Court will not overturn it, provided it is reasonable and not arbitrary.<sup>13/</sup> Since a regulation is presumptively valid, the burden of proving the invalidity of a regulation is on the party challenging it.<sup>14/</sup> Furthermore, since these proposed regulations involve policy-making and the particularized expertise and experience of administrative personnel, a court will be inclined to defer to the administrative decision expressed in the regulation, and will inquire only whether it has a reasonable basis.<sup>15/</sup>

In light of these standards that the court has developed for its review of administrative regulations, it is clear that the proposed changes to the Medicaid regulations would be upheld if challenged. It is much less clear whether the proposed changes to the GRM regulations would be upheld.

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<sup>10/</sup> It is not clear exactly what percentage of abortions currently funded will be considered "elective" (and unfunded) under the new regulations. However, the fiscal note is substantial, indicating that DHSS believes a significant percentage of abortions will no longer qualify for public funding and will not be covered by nonpublic funds either. An "educated guess," based on the fiscal note, would be that 35 - 40 percent of abortions currently funded under Medicaid and GRM will no longer be funded under those programs nor by private means.

<sup>11/</sup> For a discussion of the "assumed effect" see the preceding three paragraphs of this memorandum.

<sup>12/</sup> State v. City of Anchorage, 513 P.2d 1104 (Alaska 1973).

<sup>13/</sup> Kalmakoff v. State, Commercial Fisheries Entry Com'n, 693 P.2d 844 (Alaska 1985).

<sup>14/</sup> State v. Alveksa Pipeline Service Co., 723 P.2d 76 (Alaska 1986).

<sup>15/</sup> Hood v. State, 574 P.2d 811 (Alaska 1978). However, this deference may be more applicable to new regulations than to changes in old regulations.

With respect to the proposed Medicaid regulations, the court would no doubt look at the legislative intent expressed in AS 47.07.040, where the legislature gave DHSS the authority to

make those arrangements or regulatory changes, not inconsistent with law, as may be required under federal law to obtain and retain approval of the United States Department of Health and Human Services to secure for the state the optimum federal payment under the provisions of 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act, Medical Assistance). (Emphasis added.)

In order to retain the approval of the federal government for the state's Medicaid program, the state must not use Medicaid money for an abortion unless the pregnant woman's life would be endangered by carrying the pregnancy to term. DHSS's proposed changes in the Medicaid regulations would simply insert that federal restriction into the state's program.<sup>16/</sup> Therefore, we have no doubt that a court would uphold the new state Medicaid restriction as consistent with legislative intent because it is necessary to keep the state program in compliance with federal requirements, a result clearly intended by the legislature.

We have more doubt about whether the GRM restrictions would be upheld. Most of our doubt stems from issues that the proposed regulations raise under the state constitution.<sup>17/</sup> However, there is also some room for doubt about the validity of the proposed regulations because of issues raised about their consistency with the legislative intent involving the GRM statutes.

To determine legislative intent under the GRM program, a court would look at AS 47.25.120 and 47.25.130 and the definition of "assistance" in AS 47.25.300. These statutes indicate that the legislature intended to leave implementation of the GRM program largely within the discretion of DHSS. The three statutes read as follows:

Sec. 47.25.120. ELIGIBILITY FOR ASSISTANCE. Financial assistance may be given under AS 47.25.120 - 47.25.300, so far as practicable under the conditions in this state, to a needy person who is eligible under the regulations of the department. (Emphasis added.)

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<sup>16/</sup> It would also make the regulations match reality. It is my understanding from DHSS that the federal Medicaid restriction (life endangerment) already has been implemented on the state level for over a decade, even though 7 AAC 43.140(a) has continued to list two other situations (health effects, and rape/incest) as being covered by Medicaid during that time. These other two situations have been covered under GRM, instead of Medicaid, during the last decade.

<sup>17/</sup> See the next two sections of this memo.

**Sec. 47.25.130. AMOUNT AND TYPE OF ASSISTANCE.** (a) The amount of assistance for a needy person shall be determined by the department with regard to the resources and needs of the person and the conditions existing in each case. Where possible, assistance shall be sufficient to provide the applicant with reasonable subsistence according to standards of assistance established by the department. However, the amount of assistance for subsistence needs may not exceed \$120 a person a calendar month. (Emphasis added.)

**Sec. 47.25.300. DEFINITIONS.** In AS 47.25.120 - 47.25.300

(1) "assistance" means financial assistance to or on behalf of a needy person, including subsistence (food, shelter, fuel, clothing, and utilities) and transportation, medical needs (including, but not limited to, hospitalization, nursing, and convalescent care), burial, and other determined needs;

These statutes give broad discretion to DHSS. After a person is determined to be "eligible under regulations of the department," the amount of assistance must be "determined by the department" with regard to the "needs" of the person and "the conditions existing in each case." Assistance must be reasonable "according to standards of assistance established by the department." While assistance is supposed to include "medical needs," the legislature has not defined that term except to say that it includes a minimum of "hospitalization, nursing, and convalescent care." In essence, the proposed regulations are an exercise of DHSS's authority to interpret the term "medical needs."

As a general matter, we think that the GRM statutes give very wide discretion to DHSS to interpret the term "medical needs." "Need" is an ambiguous term according to the dictionary, meaning both "necessary or required" and "useful or desired."<sup>18/</sup> Considering the legislature's limitation of general relief financial assistance to \$120 a month, we doubt that a court would have considered it unreasonable for DHSS to limit general relief medical assistance to procedures necessary to prevent the death or disability of the patient when initially implementing the GRM program. This would have restricted the medical aspect of the program to a very basic level of assistance like the legislature restricted the financial aspect of the program.

However, the proposed regulations are not the initial regulations to implement the GRM program. Rather, the proposed regulations would change implementation of a program that is almost 40 years old<sup>19/</sup> and that has probably covered all abor-

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<sup>18/</sup> Webster's New World Dictionary.

<sup>19/</sup> The general relief program was enacted by ch. 110, SLA 1953.

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tions not covered under Medicaid for most, if not all, of those 40 years.<sup>20/</sup> When determining whether the proposed GRM regulations are reasonable, a court might evaluate whether there is a reasonable basis for the change, not whether the regulations would have been reasonable initially.

When evaluating the reasonableness of the changes made by the regulations, a court might note, first of all, that there have been no legislative changes in the definition of "assistance" or "medical needs" since 1953. Furthermore, the court would probably note that DHSS itself has had a longstanding interpretation that GRM "medical needs" include all types of abortions.<sup>21/</sup> And, the court would probably note that, despite the longstanding DHSS policy of covering abortions under GRM, there has never been a legislative change indicating disapproval of that policy.<sup>22/</sup> Finally, the agency will probably be unable to demonstrate to the court that the medical needs of Alaskan women have changed with respect to pregnancy options. Therefore, DHSS probably cannot point to any legislative or medical reason for interpreting "medical needs" differently now than they have been determined over the past few decades. Thus a court could, in our opinion, find the proposed GRM changes to be arbitrary, with no reasonable basis.

We are not alone in this opinion. The question of whether the GRM regulations could be changed to prohibit funding for "elective" abortions was put to Attorney General Wilson Condon in 1981 by then Governor Jay Hammond.

Condon acknowledged that a "strong argument" could be made that DHSS has absolute discretion to change its definition of "medical needs" in the GRM regulations, but explained at length that there definitely would be "legal difficulties" with this approach. He wrote

AS 47.25 gives the agency broad discretion to determine whether there is a need for specific types of medical treatment [for persons who are eligible for general relief]. . . By [previously] adopting regulations

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<sup>20/</sup> We base this latter conclusion on written evidence from the mid-1970's and oral anecdotal evidence dating back to the 1960's.

<sup>21/</sup> We do not know if the court will grant "deference" to DHSS's longstanding interpretation or to DHSS's current desire to change the interpretation.

<sup>22/</sup> Abortions were singled out by DHSS for continued coverage under GRM regulations in the summer of 1986 when the legislature cut the GRM appropriation by 50 percent for fiscal year 1987. Before that time, they had been covered along with other "physician services." Contemporaneously with the GRM funding cut, the legislature enacted a priority system for eliminating GRM services when appropriations were insufficient to cover them all. Thus, there has been fairly recent legislation about services under GRM, but no indication that different types of abortions should be treated differently.

providing for the coverage of abortion expenses the agency implicitly made a finding that there is a general need for that type of medical treatment, *i.e.*, that abortions are "medical needs" under the terms of the statute. It could be argued that before the regulations could be amended to exclude elective abortions, there would have to be a finding that conditions within Alaska had changed to such an extent that there is no longer a need for that type of medical treatment. Without such a finding, the change [in the regulations] might be considered an arbitrary agency action. It should also be noted that the legislature has not taken action to change the original agency determination.

Such a finding would be most difficult to make in this case. Neither the Hyde Amendment nor the United States Supreme Court decision in Harris alter[s] "medical needs." Nor has any other event occurred in the state which suggests a change in medical needs. Absent changed circumstances, we believe a court might not permit the deletion of elective abortions from the list of medical needs covered by the General Relief Medical Assistance program.<sup>23/</sup>

We agree with Attorney General Condon's opinion that changes in the GRM regulations without a change in either the underlying statute or in the medical circumstances of indigent women in the state would likely be viewed as unlawful arbitrary action by the agency. Such arbitrariness would be inconsistent with legislative intent. In addition, the regulations would be inconsistent with legislative intent if they resulted in unconstitutional administration of the state's medical assistance programs. This memo will now discuss the constitutional issues raised by the proposed regulations.

(4) Constitutionality of the proposed regulations - privacy.

Given the content and the assumed effect<sup>24/</sup> of the proposed regulations, it is clear that the privacy clause of the state's constitution<sup>25/</sup> could be the basis of a challenge to the constitutionality of the regulations.<sup>26/</sup>

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<sup>23/</sup> Op. Att'y Gen., January 12, 1981, File No. J-66-413-81, at pages 5 - 6.

<sup>24/</sup> For a discussion of the "assumed effect" see footnotes 6 - 10 and accompanying text.

<sup>25/</sup> Article 1, sec. 22, Constitution of the State of Alaska.

<sup>26/</sup> It cannot reasonably be argued that a woman's decision about whether to continue a pregnancy fails to involve a privacy right.

Under the state constitution, a regulation impinging on the right to privacy may be upheld only if it is necessary to further a compelling state interest.<sup>27/</sup>

A challenge based on the state's privacy clause would contend that the proposed regulations interfere with an indigent woman's right to privately determine whether to continue her pregnancy. Challengers would probably say that the regulations force a state-sponsored inquiry into the woman's reasons for her choice (if the choice is abortion) and place a substantial obstacle (by denying funding) in the way of implementing the woman's choice (if the choice is abortion and for a reason not supported by the state).

Defenders of the proposed regulations would probably use arguments like those made in federal decisions that have upheld Medicaid abortion funding restrictions. They would argue that it will be a woman's poverty, not the state, that will stand in the way of an "elective" abortion under the proposed regulations. They would also point out that the right to privacy is not absolute<sup>28/</sup> and can be outweighed by the state's "important and legitimate interest in potential life."<sup>29/</sup> Defenders would probably claim that by not funding "elective" abortions, the state would simply be expressing its legitimate preference to financially support childbirth. The woman's right of privacy would not be violated because, according to the regulations' defenders, she can still get an abortion, just not at state expense.

In rebuttal, the regulations' challengers would probably note that the state itself has acknowledged that lack of state funding will be more than an obstacle in the path of many indigent pregnant women; it will be an absolute bar. DHSS's own fiscal note projects that a significant number of indigent women who cannot get publicly-funded

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<sup>26/</sup>(...continued)

As long ago as 1942 and as recently as June 1992, federal decisions have recognized that the federal "[c]onstitution places limits on a State's right to interfere with a person's most basic decisions about family and parenthood," including "the right of the individual, married or single, to be free from unwarranted governmental intrusion into matters so fundamentally affecting a person as the decision whether to bear...a child." See, Casey v. Planned Parenthood of Southeastern Pennsylvania, \_\_\_ U.S. \_\_\_ (1992), 1992 WestLaw 142546, page 11, which cites a string of cases extending back to 1942.

And, while the contours of Alaska's right to privacy are not yet firmly established, it is clear that the right to privacy guaranteed to Alaskans is broader in scope than that guaranteed in the federal constitution. State v. Glass, 538 P.2d 872 (Alaska 1978).

<sup>27/</sup> Grav v. State, 525 P.2d 524 (Alaska 1974).

<sup>28/</sup> Grav v. State, *supra*; Ravin v. State, 537 P.2d 494 (Alaska 1975); and State v. Erickson, 574 P.2d 1 (1978).

<sup>29/</sup> Casey, *supra*, at page 24.

abortions under the new restrictions will, in effect, be forced to carry their pregnancies to term. Challengers would probably contend that this is not only the effect, but also the purpose of the new regulations. The challengers can point to the governor's own press release that says the purpose of the new restrictions is "to save lives." They would probably say that the intent of the restrictions clearly goes beyond promoting childbirth, which could be achieved by less intrusive means like educational outreach, and, instead, strikes at the heart of the right to privacy itself, by using the power of the state to impose an "undue burden" on the right of an indigent woman to freely decide how to manage her pregnancy.<sup>30/</sup>

The Alaska Supreme Court's resolution of these arguments is as likely to be affected by its view of reality as by case law, and it may well be determined by the strength of the record before it at the time it makes its decision.<sup>31/</sup> If the court views the Medicaid and GRM changes separately, from the point of view of the programs themselves, the court could uphold the Medicaid regulations as requirements of federal law and uphold the GRM changes as treating all "elective" procedures the same.<sup>32/</sup> However, if the court views the programs from the point of view of an indigent pregnant woman, the court could find that the two programs, in the way that they operate together to support a pregnant woman's choice to give birth but not, in all cases, her choice to have an abortion, impermissibly interfere with her fundamental right of reproductive choice. While acknowledging that protection of potential life

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<sup>30/</sup> "Undue burden" appears to be the test developing under the federal constitution for testing the validity of a state's abortion restrictions. While the test under the state constitution will probably be even more stringent, requiring a compelling state interest, it is instructive to note the following language from the most recent abortion decision based on the federal constitution:

A finding of an undue burden is a shorthand for the conclusion that a state regulation has the purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion of a nonviable fetus. A statute with this purpose is invalid because the means chosen by the State to further the interest in potential life must be calculated to inform the woman's free choice, not hinder it. And a statute which, while furthering the interest in potential life or some other valid state interest, has the effect of placing a substantial obstacle in the path of the woman's choice cannot be considered a permissible means of serving its legitimate ends. (Casey, *supra*, at page 27) (Emphasis added.)

<sup>31/</sup> See, *Casey, supra*, where the U.S. Supreme Court acknowledges that the strength of the record before the court on spousal and child abuse convinced it to strike down the "husband-notice" provision of Pennsylvania's abortion restrictions.

<sup>32/</sup> Of course, to do this, the court would have to overlook the fact that "therapeutic abortion" includes an abortion that would be an "elective procedure" if it were not an abortion. That is, a "therapeutic abortion" includes abortions that are not necessary to prevent the death or disability of the patient, which is the determining factor for other "elective" procedures. So, actually, the regulations do not treat all "elective" procedures the same.

is a legitimate governmental goal, the court could point out that it is not a compelling interest until viability. And, since a compelling interest is needed to override a fundamental privacy right, the court could strike down the regulations with respect to abortions performed before viability.

We believe it is more likely that the Alaska Supreme Court will adopt the challengers' view of reality and the applicable law rather than the defenders' view. We doubt that the court will find the regulations to be neutral, in reality, on the issue of reproductive choice when it is faced with the fiscal note and the acknowledged antipathy of the Administration toward abortion, as exemplified in the Governor's press release. More likely, the court will see a reality where an indigent woman has no real choice concerning her pregnancy if her eligibility for medical care is conditioned on the result desired by the state - childbirth.<sup>33/</sup> As to the applicable case law to form the legal underpinnings of its decision, the Alaska court need only point to the explicit (and stronger) privacy right granted under the state constitution and the lack of a compelling governmental interest to override that right before viability.

(5) Constitutionality of the proposed regulations - equal protection.

The proposed regulations also implicate the equal protection clause of the state constitution<sup>34/</sup> because the regulations treat some indigent pregnant women differently from other indigent pregnant women. Otherwise eligible pregnant women who choose childbirth will receive state assistance with medical procedures while some otherwise eligible pregnant women who choose abortion will not.

Whether the different treatment of pregnant women under the regulations is constitutional under the state's equal protection clause will be determined by the following test: the court will assess the legitimacy of the state purpose purportedly furthered by the different treatment and the extent to which the relationship between the asserted purpose and the different treatment is fair and substantial; then the court will determine the nature and the extent of the infringement of individual rights allegedly caused by the disparate treatment.<sup>35/</sup> Depending on the importance of

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<sup>33/</sup> The court will probably make clear that its decision would be the same if the state were seeking to encourage population control by funding abortions and not childbirth. The constitutional question before the court will not involve the weighing of the value of abortion as against childbirth, but instead will concern the protection of either procreative choice from discriminatory governmental treatment. See, Doe v. Director of the Michigan Dept. of Social Services, 468 N.W.2d 862 (Ct.App. Mich. 1991), appeal granted at 472 N.W.2d 638 (MI 1991)

<sup>34/</sup> Article I, sec. 1, Constitution of the State of Alaska.

<sup>35/</sup> Williams v. Zobel, 619 P.2d 448 (Alaska 1980), rev'd on other grounds, 457 U.S. 55 (1982).

the individual interest involved, a greater or lesser burden will be placed on the state to show this fair and substantial relationship.<sup>36/</sup>

In light of this equal protection test, challengers of the regulations would probably contend, first of all, that the individual interest being affected by the disparate treatment is a fundamental interest, the right of reproductive choice.<sup>37/</sup> Secondly, given the importance of the individual right affected, the challengers would probably contend that the state's purpose in treating the classes of pregnant women differently (based on whether they choose childbirth or abortion) needs to be not only legitimate but must approach being a compelling interest that is virtually unachievable by means that would have less impact on the affected right. The challengers would no doubt point out that the state's interest in potential life is not compelling until viability, and argue that the effect of the regulations on reproductive choice before viability cannot be justified.

Defenders of the regulations would probably counter that the regulations will result not in disparate treatment, but in equal treatment. Instead of funding some "elective" procedures (i.e., "elective" abortions) under the GRM program and not other elective procedures, as was the past practice, the state will be treating all "elective" procedures the same. Alternatively, the regulations' defenders may argue that equal protection analysis should not apply because women who need a "therapeutic abortion" are not similarly situated to those who merely want an "elective abortion." Therefore, the regulations can validly treat them differently. Defenders would probably also contend that the right to reproductive choice remains with the woman because she can seek an abortion without state funds. Therefore, according to potential defenders, since there is no fundamental right being affected, the government's purpose in treating the women differently need only be legitimate, not compelling. And that legitimate right is the right to protect potential life.

As with the arguments based on the state constitution's privacy clause, a state court's resolution of the differing arguments about equal protection will depend as much on the strength of the record before it and the court's view of reality as on case law. The court could uphold the GRM regulations as validly treating "elective abortions" differently from "therapeutic abortions." Alternatively, the court could strike down the GRM regulations because they work in conjunction with the Medicaid regulations to treat pregnant women differently based on whether they choose to exercise their

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<sup>36/</sup> Wilson v. Municipality of Anchorage, 669 P.2d 569 (Alaska 1983).

<sup>37/</sup> Since the fundamental nature of the interest rests, at least in part, on the state constitution's privacy clause, the privacy right arguments described in the previous section of this memo and the equal protection arguments described in this section stem from some of the same reasoning. However, the legal analysis is a bit different, and either or both could be used by an Alaska court to strike down the regulations, so this memo treats them separately.

fundamental right of reproductive choice. The court could find that the women affected by the regulations are similarly situated because they are pregnant and that the state may not interfere with a woman's choice on how to treat that pregnancy by reserving to itself the power to define that some abortions are "elective" while childbirth is not. The court could find the protection of potential life to be a legitimate state interest, but not compelling enough before fetal viability to override a woman's right of reproductive choice. As a legal underpinning for resolving the equal protection arguments differently from similar cases decided under the federal constitution, an Alaska court would point to the more stringent standard developed under the state constitution for testing the constitutionality of classifications made by government actions.

### CONCLUSION

The regulations making changes in the Medicaid program clearly comply with the legislative intent that Alaska participate in the federal Medicaid program. However, the regulations that propose restrictions on funding "elective" abortions under the GRM program may be viewed by a court as unlawful arbitrary changes because they change a long history of contrary agency interpretation without apparent statutory or medical justification. The GRM regulations also raise substantial issues under the state constitution's privacy clause and equal protection clause.<sup>38/</sup>

Whether a court would find the GRM changes to be arbitrary will probably depend on whether the court analyzes the new regulations apart from the history of the GRM program or as changes to a longstanding interpretation by the agency. Viewed in isolation, the proposed regulations appear to fall within the broad discretion granted to DHSS by the legislature. However, viewed as changes to a longstanding agency policy, the changes may be viewed as somewhat arbitrary.

How a state court would resolve the constitutional issues and whether the restrictions would be upheld under the constitution will depend not only on purely legal arguments but on the view of social and economic reality demonstrated in the record before the court and adopted by the court as the reality it is willing to recognize. To the extent that the court is convinced that an indigent pregnant woman's privacy right or right to equal protection is actually interfered with by the regulations (and not merely by her own poverty or by her election of a "nonmedically necessary" procedure), the court has legal precedents available to it to support a decision striking down the regulations. If the court is convinced, despite the Governor's press release and the DHSS fiscal note, that the regulations are neutral with regard to privacy rights and do not treat similar medical conditions differently, the court also has legal precedents available to it to support a decision upholding the regulations.

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<sup>38/</sup> They also raise issues involving clarity. See footnotes 1, 3, 5, and 7.

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In our opinion, the issue of the regulations' arbitrariness is a toss-up, but we think the Alaska Supreme Court is likely to be convinced that the regulations are not neutral with regard to privacy (in either their effect or purpose), do impermissibly treat the choice of childbearing differently from the choice of not bearing a child, and are not justified by a sufficient governmental interest with respect to previability abortions. Therefore, we think there is a substantial probability that the court will find the regulations to be unconstitutional with regard to previability abortions, but constitutional with regard to postviability abortions.<sup>39/</sup>

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<sup>39/</sup> We are not alone in our view that Alaska courts will probably take a different view than the federal courts have on the constitutionality of restricting public funding of abortions for indigent women. Opinions and memoranda from the Alaska Attorney General's Office under three different Administrations over the last 14 years have consistently indicated that the Alaska Supreme Court is likely to share the view of the dissenters in the federal cases that have upheld restrictions on public funding of abortions. See Op. Atty Gen., March 31, 1978, Op. No. 15, pages 2 - 3; Op. Atty Gen., Jan. 12, 1981, File No. J-66-413-81, pages 6 - 7; Op. Atty Gen., April 17, 1981, page 6; and Memorandum of Assistant Attorney General Elizabeth Shaw to Representative Mark Boyer, January 19, 1990, page 1.

Moreover, state courts in at least six other states have refused to follow federal precedent in this area and have struck down various abortion funding restrictions under their state constitutions, citing state privacy clauses, state due process clauses, or state equal protection clauses. See, Moe v. Secretary of Administration and Finance, 417 N.E.2d 387 (Mass. 1981); Committee to Defend Reproductive Rights v. Myers, 625 P.2d 779 (CA 1981); Right to Choose v. Byrne, 450 A.2d 925 (NJ 1982); Planned Parenthood Association v. Department of Human Resources of the State of Oregon, 663 P.2d 1247 (Or. App. 1983), affirmed at 687 P.2d 785 (OR 1984); Doe v. Maher, 515 A.2d 134 (Conn. Super. 1986); and Hope v. Perales, 571 N.Y.S.2d 972 (Sup. 1991).

For a more complete discussion of these A.G. opinions and other states' cases, refer to our memorandum to you dated July 7, 1992.

# HOUSE COMMITTEE REPORT

(9)

Date Referred: March 26, 1993

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 4/2/93

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered: CSSB 53(FIN) am (efd fld)

CS FOR SENATE BILL NO. 53(FIN) am(efd fld) ANNULLING ABORTION FUNDING REGULATIONS  
"An Act relating to payment for abortions under Medicaid and general relief medical assistance; annulling changes made by certain regulations adopted by the Department of Health and Social Services relating to funding of abortion services under the general relief medical program."

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

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

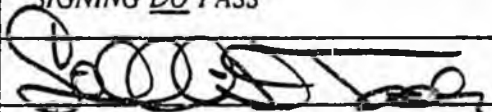
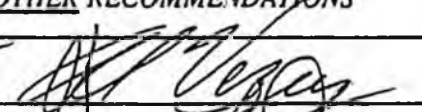
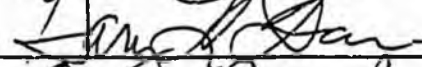
APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

[ ] fiscal impact \_\_\_\_\_

5 [X] <sup>Senate</sup> fiscal note(s) H+SS 1/29/93

[ ] zero fiscal note \_\_\_\_\_

[ ] zero fiscal note(s) \_\_\_\_\_

SIGNING DO PASS	D.P.	OTHER RECOMMENDATIONS	DNP	NR	AM
	✓		X		
Bettye Dan	✓		✓		
Vernie Nicholas	✓	Car Beudre		✓	
Hailey Olberg	✓				

  
CHAIRMAN'S SIGNATURE

## *Position Paper - CSSB 53(Fin) am(efd fld)*



AAUW-  
Alaska

AAUW-Alaska, the statewide arm of the American Association of University Women, supports a woman's right to self-determination in her reproductive life. Therefore, we urge prompt passage of CSSB 53(Fin) am(efd fld) which will annul the recent amendments to regulations which determine the availability of General Relief Medical Assistance funding for abortion services. This legislation will also codify in statute that payment for both therapeutic and elective abortion procedures shall be covered for those eligible for General Relief Medical Assistance to the extent permitted under federal and state law, notwithstanding administrative regulations.

Abortion services in Alaska are costly due to a lack of general availability and the required travel. Alaska's rate of teen pregnancies remains among the highest in the nation, and the reality of an unwanted child, especially for a young woman, is most often a lifetime of poverty and bitterness. 5% of Alaska's population--20,000 children--are currently being raised by single parents supported by public funding. The cost to the Alaskan public to support these children is far more than that of terminating unwanted pregnancies. There is also a lifetime psychological burden on the both the mother and unwanted child, which cannot be measured in monetary terms.

CSSB 53(Fin) am(efd fld) will remove the unwarranted intrusion of government into the most private aspects of those Alaskan women who cannot afford medical care on their own. The amended regulations now in effect stipulate that abortion services will be covered by General Relief Medical Assistance in the cases of rape, incest or when a physician determines that there will be physical or psychological harm to the mother. This provision thus denies our Alaskan constitutional right to privacy for victims of rape and incest who are seeking appropriate medical care in order that they may attempt to resume a normal life and who may not wish to reveal the circumstances surrounding the pregnancy.

The regulations also impose a moral/religious code on a selected segment of our population. The majority of Alaskans agree that each woman has the right to control her own body. This was documented in a statewide survey conducted by Cracian & Associates in late 1991, in which over 70% of those surveyed were found to be pro-choice. That this right should not be based on a woman's financial situation is supported by the citizens of our state: In the oral and written testimony submitted concerning the amended regulations by over 8,400 individual Alaskans in 99 communities during the summer of 1992, 66% were opposed to any changes in the General Relief Medical Assistance regulations; only 34% supported changing the regulations.

AAUW-Alaska urges prompt passage of this vital legislation.



Marcja Lynn McKenzie, Chair  
Campaign for Choice

SB 53

3/28/93



Members of the House H.E.S.S. Committee:

I am here to speak for the passage of Senate Bill 53 on behalf of the American Association of University Women - Alaska. The AAUW believes that a woman's most fundamental basic right is the freedom to make informed choices concerning her own reproductive health, and that economic status should not restrict a woman's ability to make that choice.

The United States Supreme Court continues to support the premise that the decision to terminate a pregnancy is a private matter, best left to a woman and her physician. In Alaska, the right to privacy is a fundamental tenant of our constitution. To create a special class of women in Alaska who will be denied privacy and access to abortion because of their economic status is simply unacceptable.

We have committed state funds to provide health care for the poor. Abortion must be treated like any other medical procedure. If we single out this procedure as unacceptable for state funding, poor women may find their reproductive options limited to the point where they begin to practice self-induced or medically unsafe procedures. By denying access to abortion because of financial status, the State of Alaska may well begin to promote needless medical complications or even deaths.

In closing, I would like to share with you a comment I heard in a film called "Before Abortion Was Legal." This film portrays personal stories of women's reproductive choices before Roe v. Wade. In the film, one older woman makes a very profound statement about the choices women must make when considering an abortion. I am paraphrasing what she said, but in essence, it went something like this: "At a particular time in her life, a woman will go to any extreme to end a unwanted pregnancy, even to the point of laying down her life. On the other hand, if at a time later in her life she decides she wants to bear a child, she will also willingly lay down her life to bring that child into the world."

I believe this is a very simple truth. Please keep this in mind as you decide whether or not to fund abortions for poor women. Thank you for this opportunity to speak to you.

Meg Gaydosik  
Public Policy Chair  
AAUW - Alaska  
1024 Fifth Avenue  
Fairbanks, AK 99701

## P O S I T I O N

P A P E R



AMERICAN  
ASSOCIATION OF  
UNIVERSITY  
WOMEN

## REPRODUCTIVE RIGHTS

The American Association of University Women supports the right of every woman to safe and comprehensive reproductive health care. AAUW believes that decisions concerning reproductive health care are personal ones, and that the right to make informed decisions should be available to all women.

"AAUW advocates choice in the determination of one's reproductive life" is the statement in the 1991-93 Public Policy Program. Affirmed by large majorities of AAUW members at every convention since 1977, this position reaffirms AAUW's strong commitment to the right of privacy and the rights of individuals. AAUW has had a commitment to reproductive health care for over seventy years:

- In 1920, the Association served on the U.S. Public Health Service Advisory Council of the Division of Venereal Diseases, dealing with effects on women of a campaign to control venereal diseases.
- In 1935, the Association Legislative Program advocated legalization of the dispensing of contraceptive information by physicians.
- In 1970, Hawaii AAUW launched a successful drive to repeal the state's restrictive abortion laws, stimulating AAUW's involvement in other states.
- In 1971, the Association convention adopted a resolution calling on members in all fifty states to work for repeal of restrictive abortion laws, so that abortion would be legal for those who wish it after medical consultation.
- In 1971, AAUW joined an *amicus curiae* (friend of the court) brief in the U.S. Supreme Court case of *Roe v. Wade* that led to the 1973 decision legalizing abortion.
- In 1989, AAUW initiated the AAUW Campaign for Choice (CFC) in response to the U.S. Supreme Court decision in *Webster v. Reproductive Health Services*. Through the Campaign, AAUW took a lead nationwide in fighting for reproductive rights for all women.
- In 1992, AAUW launched a second AAUW CFC in response to the Court's decision in *Planned Parenthood of Southeastern Pennsylvania v. Casey*. AAUW continues to serve as a leader in the national fight to preserve women's reproductive freedom.

Choice, self determination, is the foundation of all civil rights. Among a woman's most basic rights is the freedom to make informed choices concerning her reproductive health within the dictates of her religious and moral beliefs. Her economic status should not restrict her ability to make that choice. Without reproductive freedom, educational and economic equity are impossible.

AAUW hopes that pregnancy prevention can become the new meeting ground for all those concerned about abortion. The Association is greatly concerned about attacks on family planning and restrictions on access to abortion. Both undermine a woman's right to decide when and whether to bear children. Until threats to reproductive freedom end, AAUW's advocacy of women's right to safe, accessible and comprehensive reproductive health care will remain an integral part of its efforts to gain equity and justice for women.

Program and Policy Department  
July 1992



# Alaska State Legislature

Please enter into the record my testimony to the HOUSE HESS  
 committee name  
 committee on SB 53 , dated 3/26/93  
 bill/subject

My name is Evelyn Frisk, speaking on behalf of the Interior Alaska Women's Political Caucus, in support of Senate Bill 53. We believe all women, regardless of where they live or what their economic status is, should have access to all reproductive health services. For poor women, state funding is a significant part of that access. The majority of Alaskans continue to support both the availability and the funding of abortion services. The caucus urges you to pass Senate bill 53.

Signed: Evelyn B. Frisk  
 Testifier

Interior Alaska Women's Political Caucus  
 Representing (Optional)

P.O. Box 10465, Fairbanks, AK 99710  
 Address

457-2552  
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