

ALASKA LEGISLATURE COMMITTEE FILES 1993-1994 8672

7907

HOUSE JUDICIARY

172



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

I am against SB 53. 2 scriptures to consider are: Proverbs 9:10 The fear of the LORD is the beginning of wisdom. Proverbs 6:16 There are six things the LORD Hates, seven that are detestable to him: haughty eyes, a lying tongue, hands that shed innocent blood, a heart that devises wicked schemes, feet that are quick to rush into evil, a false witness who pours out lies and a man who stirs up dissension among brothers.

SB 53 wants every Alaskan to support hands that shed innocent blood. Abortion is murder - murder is wrong.

SB 53 NOT WISE.

Signed: John L. Hunter
Testifier

Life
Representing (Optional)

2010 Lisga St., Fbks., AK. 99701
Address

907-452-7747
Phone No.



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

See attached

Signed:

[Signature]

Testifier

NACE/CEE

Representing (Optional)

2325 - 30th Ave. Fairbanks, AK 99701

Address

452-5538

Phone No.

March 26, 1993

I am Ruth Ewig and reside at 2325 30th Avenue. I have attended three out of five teleconferences concerning SB 53 and oppose this bill even more now that legislators have expanded the scope of state expenditure for the extermination of preborn babies. Our Founding Fathers wrote a constitution and fought a war to protect "life, liberty and the pursuit of happiness" in that order. Our constitutional republic was designed to be a "government of the people, by the people and for the people." It does not read a government of the legislators, by the legislators, and for the legislators' personal advancement. To act on behalf of any other purpose is treasonous on your part and destroys all of us.

I quote from a book entitled Pro life Answers to Pro Choice Arguments by Randy Alcorn and urge all of you to obtain a copy.

"All those in political office must be painfully aware of the contempt with which many regard you. You are seen as people without integrity or moral courage, as chameleons who kowtow to special interest groups, as spineless bureaucrats more concerned about reelection than the welfare of people. *Show the public they are wrong about you.* Be different. Don't make your goal to keep your job but to do your job. History condemns politicians who defended slavery because it was unpopular to oppose it. Don't let history condemn you for defending what all people will someday recognize to have been the killing of innocent children."

"If you put popularity over morality, at least do so with common sense. Realize that only 9.2 percent of Americans will withhold their vote from a prolife candidate purely because he takes a prochoice position, even if they agree with him in other areas. 'Hardcore' prolife outnumber their prochoice counterparts over three times among Republicans, but also outnumber them among Democrats and Independents. Poll after poll indicates that legislators favoring such measures as parental consent, informed consent, and restriction of all convenience abortions *have the overwhelming support of most Americans.* Though you should take the prolife position for scientific and moral reasons, not political ones, realize that in the majority of cases, holding consistently to the prolife position will gain you more votes than it will lose."

A copy of this has been faxed down to your committee. Thank you.

Ruth Ewig 3/26/93



Alaska State Legislature

Please enter into the record my testimony to the Health, Educ & Soc. Services
committee name

committee on SB#53 . dated March 26, 1993.
bill/subject

I am strongly opposed to annulling the regulations put into effect by Gov. Hickel in Jan. 1993. It is unfair to require the citizens of Alaska to pay for abortions when we are against this idea in conscience. You would force me to participate in being an accomplice to the abortions of poor women, which I view as the murder of innocent children. Abortion & sterilization, when paid for by the State or Federal government is an abuse of power and a genocidal attempt to limit certain kinds of populations (in Alaska - it would be ^{Alaskan} Native cultures).

Please don't bow to special interest groups who want to limit the freedom & right-to-life of all Alaskans. I vote and will make sure that if passed, the proponents of SB#53 will know that the majority of Alaskans don't support this bill - by our future votes against you! Did you know that 15.7% of Americans will

Signed: Helen M. Groves over →

Testifier **HELEN M. GROVES**

Representing (Optional)

PO Box 61496 Fairbanks, AK 99706

Address

456-5445

Phone No.

will withhold their vote from a candidate purely because he/she takes a pro-choice position, even if they agree w/ him or her on other issues?

P.S. What happened to the previous consensus gathered from local testimony that showed that most Alaskans do not support "State paid for" abortions?

Who do you represent in Juneau?
Yourself or the voters?

Sincerely,
Allen M. Gross - "Pro-life"

Date: March 26, 1993

To: House HESS Committee and All House Members

Re: SB53

Senate Bill 53 is not about helping a woman out of a physically dangerous situation. Our current regulations under the Mickel Administration provide for that. SB53 is only about the so-called "fairness" factor. Because abortion on demand is legal and rich women can afford an elective abortion, this bill seeks to provide welfare funds to poor women so they can end their pregnancy simply because they do not want to be pregnant anymore. No physical threat need be present; just a desire to end a pregnancy "because they want to".

Supporters of SB53 want to make it "law" for poor women's elective abortions to be funded by the State, simply because rich women can afford this luxury and poor cannot. I use the term luxury to make a point. If the State will fund a poor woman's elective abortion because an elective abortion is available and affordable for a rich woman, why not have the State pay for a poor woman's elective cosmetic surgery like a face lift, or pay for her hairstyling at the finest salon, or even pay for some latest fashion clothes and jewelry.

That's absurd, isn't it? And if you really see SB53 for what it is, it's no different. I ask for you to listen to reason and vote against SB53. The State of Alaska should not fund elective abortions.

Thank you!

Respectfully submitted,



Mark N. Moldenhauer/Alaska Resident

P.O. Box 595

Sterling, AK 99672

907-262-9319

Please enter into record my testimony to the House HESS committee on SB53, dated March 26, 1993.

Please open-mindedly consider the horror of what you are part of if you pass this bill. You would only be adding a problem on top of a problem. The answer is not to fund abortions through medicaid. How absurd! There are far better ways to approach the crisis pregnancy, holding both the mother and child's best interest at hand. For lack of time I cannot elaborate.

I ask you, representatives, Cynthia Toohay, Con Bunde, Gary Davis, Al Vezey, Pete Kott, Harley Olberg, Bettye Davis, Irene Nicholia, and Tom Brice, please listen carefully to the following words, and ponder upon them when you cast your vote on this bill.

Quote, "Hold a baby, any baby. Look into his eyes. Tell him that no one will ever love him. Tell him that there is no way that he can ever bring anything of value to the world."
"Then, even though he won't understand a word you are saying, tell him he must die". End quote.

The fact is your yes vote to this SB53 ~~bill~~ carries a verdict of murder and death to every unborn life who is not wanted.

Please vote no to SB53.

Thank you!

Joyce M. Moldenhauer

Joyce M. Moldenhauer

P.O. Box 595
Sterling, AK 99672
907-262-9319



Alaska State Legislature

Please enter into the record my testimony to the HESS
committee name
 committee on Senate Bill 53, dated Mar 26, 1993.
bill/subject

I am testifying to let you know that I do not support Senate Bill 53. I do not believe that it is the state or federal governments role to fund abortion. It is my opinion that by funding abortion the state & federal government takes away a persons responsibility to take care of themselves. The state/federal government is not a social service organization. Reject Senate Bill 53 and give the responsibility ~~to the state/federal government~~ to care for themselves back to the people/person where it belongs.

Signed: LeAnn McCaughey
Testifier
None
Representing (Optional)
Box 8642 NIKISKI, AK 99635
Address
907-1776-5687
Phone No.

907-283-8459

Deborah L. Morris

304 Sterling Ct.

Kenai, Alaska 99611

I am very much against SB 53. I am also very disappointed that it has been passed this far. I do not want my tax dollars spent in the murder of babies. The scariest thing about this bill is, it makes state payments mandantorn for abortions deemed necessary by the abortioists. Not only will the state permit funding for abortions for medical reasons or problems but if a women is having psychological problems from the negative impacts of the pregnancy she too will also be able to obtain a state funded abortion. This to me is quite a loophole because women will use the excuse of psychological health as a reason for the state to

pay for the abortion. Hospitals who do not believe in abortion or practice them will be forced to hold state funded abortions. I have lived in Alaska for almost 19 years and am proud to be an Alaskan. This really upsets me that we as "the Great Land" want our state to fund abortions. The word abortion in the dictionary means "to be arrested in development." The only people who will benefit from SB53 passing is the abortionists, who are practicing abortions. If SB53 is passed you are contributing to the wealth of the abortionists. I work in a job that has close contact with the public, I know several people who

have obtained abortions
from state funds. The
way I see this bill is
if someone does not have
any money ^{for an abortion} the state
can help them get ~~one~~
~~abortion~~. What we are
saying if this bill passes
is Alaska will help women
abort & destroy the
babies growing in their
wombs. That's a lot of
blood on Alaska's hands.
That's sad - it's so sad. All
I can say is God help
us. Again I am very much
against SB53 & I hope you
all make the right decision
to be against it also.

Thank you,

~~Deborah~~ Morris
3/21/93

Bettie L. Davis
 P.O. Box 395
 Uam Gulch, AK, 99568

Senate Bill 53

262-5124

Please vote against S.B. 53. This is not how I want my tax dollar spent. Abortion is murder. Is there any fundamental difference between a baby who resides in his mother's uterus and one who has made an 8-inch journey down the birth canal? If so what is the difference? At what point in the birth process does God's mantle of numbness fall upon an individual? The only difference between them is that one can be seen and the other cannot. So it is equally wrong to kill either those born or yet to be born. If a baby is born in the delivery room with deficiencies it is wrong to destroy it. Authorities would charge you with murder. Yet a few moments earlier with abortion it would have been ok? legal? Once born, the deliberate destruction of life is unthinkable. Why then is such a baby considered "fair game" when he resides within his mother's uterus? It is true that the law recognizes a different status for those born versus those unborn, but the law in this instance is wrong. There is no biological or moral basis for the distinction. Infanticide merely seems acceptable when we don't have to witness the death process of a tiny victim we have not met yet. Please vote against this S.B. 53. Thank you.

Bettie L. Davis

P.O. Box 395 Uam Gulch - AK



Alaska State Legislature

SB 53

House HEALTH, ED.

Please enter into the record my testimony to the AND SOCIAL SERVICES committee name

committee on SB-53 dated 3/26/93
bill/subject

ON BEHALF OF THE FAIRBANKS COALITION FOR CHOICE, I EXPRESS STRONG SUPPORT FOR SB-53 TO RESTORE FUNDING FOR POOR WOMEN'S ABORTIONS. THE COALITION ALSO SUPPORTS THE AMENDMENT WHICH WOULD AS INSURE THAT NO FUTURE RESTRICTIONS ON THIS FUNDING COULD BE IMPOSED. WOMEN NEED TO HAVE ACCESS TO SAFE AFFORDABLE ABORTION, REGARDLESS OF THEIR ECONOMIC STATUS.

WHILE SOME PEOPLE HAVE OBJECTED TO THE COST OF ABORTIONS TO TAXPAYERS, IT MUST BE NOTED THAT THE COST OF THE PREGNANCIES WHICH WOULD RESULT IF ABORTION FUNDING IS DENIED - TO TAXPAYERS WOULD BE MANY THOUSANDS OF DOLLARS MORE THAN THE COST OF THE ABORTIONS. THE STATE HAS NO RIGHT, (NOR INTEREST) TO: DICTATE MORALITY, DISCRIMINATE AGAINST WOMEN BECAUSE OF THEIR POVERTY, PROMOTE PREGNANCY OVER ABORTION, NOR TO INVADE WOMEN'S PRIVACY IN FORCING THEM TO JUSTIFY THEIR DECISIONS TO THEIR DOCTORS - PLEASE SUPPORT THE AMENDED SB-53.

Thank you.
Sincerely, Lisa Penálver

P.S. I tried to testify, but was unable to get to the L.I.O. before testimony was closed (4:40 p.m.).

Signed: LISA PENÁLVER, DIRECTOR, FCFQ 2

Testifier

Fairbanks Coalition For Choice

Representing (Optional)

P.O. Box 74264

Address

Fairbanks, AK 99707

Phone No.

SB 53



Alaska State Legislature

Please enter into the record my testimony to the HOUSE HESS
 committee name
 committee on SB 53, dated March 26, 1993
 bill/subject

SB 53 is a nonproductive obligation of state funds. IT will encourage use of state funds for birth control as it did in the past. I hope you can more wisely appropriate our limited state funds.

Signed: Steven J. Joslin
 Testifier

Representing (Optional)
P.O. Box 377 DELTA JUNCTION?
 Address
895-4565
 Phone No.

Senator:
To Mike Miller

SB 53

+ all Legislators :

VOTE NO on

S. B. 53

Carl M. Jauhola
P.O. Box 274
NENANA, ALASKA
99760

Geraldine M. Jauhola
Geraldine M. Jauhola
P.O. Box 274
Mi. 302.1 Parks Hwy.
NENANA, AK 99760

P.O. Box 1138,
Girdwood, AK 99587

SB 53

To: HESS Committee members

Dear Honorable Representatives:

SB 53 is NOT in the best interests of all Alaskans.

The present abortion funding regulations are a satisfactory compromise between those who advocate unlimited public funding for abortion and those who would criminalize abortion for any reason.

Any spending of limited state resources should target efforts at education and family planning for poor women.

Sincerely,

Sai Duchanin

Sai Duchanin RN /PA-C

SB 53

1-465-2137

TO ALL LEGISLATORS:

I STRONGLY OBJECT TO
SENATE BILL 53.

PLEASE VOTE NO ON SB53.
THANKYOU.

Agnes Anne Wilcox
832-5617
Nenana, AK
99760

SB 53

March 23, 1993

Health, Education & Social Services Committee
Alaska State Legislature
State Capitol
Juneau, AK 99801

RE: Senate Bill No. 55

Dear H E S Committee,

It deeply concerns me to see that our legislators are pushing the idea of using state dollars to pay for abortions. I am opposed to this bill.

As an Alaskan Native, my culture values life very highly. To pursue this alternative is a sign of compromising and loss of values to life and especially the future of our people. I was taught that our people are our greatest resources. Why should we as a state, lessen that fact by allowing such a bill to destroy our future?

Furthermore, I understand our state is one of the richest states in the Union. Why is it, that "the poor people" is one the main reasons we are seeing this bill pushed?

I believe the emphasis is misplaced. If the emphasis is "the poor people", our government should find a way to take care of "the poor people" problem first, and the other will take care of itself. Let's deal with the root of the problem and not the by-product of the problem. This bill will not solve "the poor people" problem but prolong it. With this perspective, we would have not solved this problem, but unwisely spent state funds. This is where I am uncomfortable in seeing this bill going to the floor. (You will have to consider the fact that if bill No. 55 passes and people begin using our state money for abortions, it can promote an unnecessary habit, wasting state dollars.)

Instead, the government should be helping people by creating jobs, starting businesses, and giving assistance for child care so parents can work, so each lady can afford their choice, which ever it may be. I myself do not support abortions, because life is precious.

Glenda Tabor
P.O. Box 325
Kotzebue, Ak 99752

March 23, 1993

page 2

To help the "poor people" is in itself an honest gesture and also our responsibility. We must help them, and in my opinion, must not lead them to destruction or cause them to be destructive to themselves or their babies. If we have the resources to help at all it should be in the right direction. We may think abortion is a solution to the problem of unwanted pregnancies due to poverty, but who's to say, one of those unwanted babies may grow up and one day solve or help people out of poverty? (It's sad to see that even mothers would not be able to see that day, because of their choice to abort their babies, and sadder to have been done with state money.)

We are told more and more, our state money is running low in Alaska. Please use the money wisely. Value our human resources on the state level. If there is extra money, use it to promote adoptions, tubal ligations, foster parent's programs, and especially hospital care for those who choose to have their babies. The WIC program is one of the best things going in the state. It can use a few more dollars.

Sincerely,



Glenda Tabor

cc: Governor Hickel
Al Adams
Eileen Maclean
Georgianna Lincoln
Alaska Right to life
file



Alaska State Legislature

Please enter into the record my testimony to the House Ness
 committee name
 committee on SB -53, dated 4-1-93
 bill/subject

I believe it is unfair to prevent women, who happen to be poor, from having to continue an unwanted pregnancy on the assumption of saving money for the state. The worst thing that can happen to a child is be unwanted and by insisting a woman go full term because the child can be adopted, simply makes the woman a "baby factory". The state should not be in such a business.

LOIS KNAPP
 P.O. Box 232
 HOUSTON, AK 99694
 (907) 892-6304

State of Alaska
State House of Representatives
Juneau, Alaska 99801

SB53

Attn: Representative Tooley and other Legislators
Fax#: 465-2137

Dear Representative Tooley,

My name is Sarah Mills. I am a 38 year old female, single, and an Alaskan resident. I have lived in Alaska for approximately 35 of my 38 years.

I am concerned about the passage of Senate Bill No. 53, due for discussion this week.

As a single woman I take full responsibility for my reproductive life. I am not married, and do not want to have children until I am married. I realize not all women feel this way. I also realize that all pregnancies are not planned, timely or desired etc.

As a Psychology student I have been studying what many clinicians call "Post-Abortion Syndrome". Despite various surveys and literature reviews that deny this problem, it does exist for many women, causing much personal distress. I realize that not all women suffer in this way after abortion. Many do however as is verified from the growing 'support groups' forming to address this need. Many times abortions are recommended due to the best medical interest of the patient, physically and psychologically. This has been disproven as valid for most women; in fact a woman's emotional distress is usually aggravated by abortion. (See The Psychological Aspects of Abortion Edited by David Mall and Dr. Walter Watts, Loyola University, 1979, a collection of essays by several physicians).

In the same way counselors are needing information on how to counsel women suffering from abortion aftermath ("How to Help After an Abortion", Healing Conference, Marquette University, Milwaukee, Wisconsin, June 5, 1991).

I can't in good conscience promote abortion as a procedure for anything except a life and death event. I value "Freedom of Choice" and love living in a democratic society. I believe that 'choice' occurs with the decision to conceive or to prevent conception. After conception occurs a separate life is formed. (If it wasn't a life, why must it be 'terminated', 'ended', 'aborted' etc.) To me, life begins at conception and any attempt to end that life is morally wrong. I value life.

I can't desire that my tax money goes to pay for the abortive procedure. It's grievous to me the way abortion is used so freely, and how it de-values the unborn child. Please consider this letter in your session.

SARAH MILLS
3640 W. DIMOND
ANCHORAGE, AK 99515

Sincerely,

Sarah Mills
Sarah Mills

To HESS	From LIO/SOL
Co.	Co.
Dept.	Phone
Fax	Fax

*please include Testi
Money with the Bill
SB53*

SB 53

State Legislature

Please enter into the record my testimony to the House HESS
committee name
committee on SB53- , dated 3/26/93
bill/subject

Please pass SB53. The state should continue to provide funding for abortions for women who are eligible for Medicaid.

Our state does provide good support for prenatal care. It should also provide financial assistance for abortions.

In response to testimony about the fiscal integrity of our state, this bill would save the state money.

Please pass SB53, ASAP.

Signed: *[Signature]*
Testifier

Representing (Optional)
POB 1492 Soldotna AK 99669
Address
262-4273
Phone No.



Testimony in Support of SB 53

Presented to the House Health, Education and Social Services Committee

by Annalee McConnell, Public Affairs Coordinator

March 23, 1993

On behalf of Planned Parenthood of Alaska, I urge you to ensure state funding of abortions for poor women through the enactment of SB 53. Alaska should maintain its long tradition of non-discriminatory respect for the right to privacy in decisions about reproductive health. It is unconscionable that the governor waited until the legislature adjourned last spring to propose regulations clearly intended to discourage low income women from receiving legal abortions.

As you know, Planned Parenthood and six other organizations filed suit last month to block implementation of the regulations. It was not until we filed our complaint in court that the Department of Health and Social Services finally put into writing its intention not to single out this medical procedure by requiring separate psychological evaluations or special record-keeping. The state's affidavit implies that the regulations would make virtually no difference in the state's practice with regard to funding abortion. Yet what is to explain the 40% reduction in the number of abortions on which both the original fiscal note to the regulations and the January 27 DHSS position paper on SB 53 are based? Clearly, the governor does intend that fewer poor women receive state-funded abortions.

For many women, unplanned pregnancies create severe financial and emotional hardships. It is patently unfair that a poor woman who elects to bear a child receives state-funded obstetrical care, while the woman who believes childbirth is against her best interests receives no financial assistance. The administration says that only elective abortions are denied funding, yet the term "elective abortion" is a misnomer. Women must choose one type of medical care or the other: continuing a pregnancy with obstetrical services or terminating it with an abortion.

When the regulations went into effect, neither the women needing abortions, nor their doctors, nor counseling agencies like Planned Parenthood were comforted by the assertions of one state employee that abortions would not be treated any differently than before. We believe this is why doctors stopped doing Medicaid-funded abortions until an agreement between the plaintiffs and the state was signed by the judge as a court order. They didn't trust the statement of one mid-level manager in light of the governor's claim that the "state will stop funding abortions", as the headline of his July press release on the proposed regulations declared.

We urge the committee to report this bill out favorably and to seek a commitment for a vote on the House floor at the earliest possible time. Thank you.



A United Way Agency

406 W. Fireweed Lane, Suite 103 • Anchorage, Alaska 99503 • (907) 277-4822



planned parenthood of alaska

March 28, 1993

Dear Representative:

On behalf of Planned Parenthood of Alaska, I urge you to ensure state funding of abortions for poor women through the enactment of SB 53. Alaska should maintain its long tradition of non-discriminatory respect for the right to privacy in decisions about reproductive health. It is unconscionable that the governor waited until the legislature adjourned last spring to propose regulations clearly intended to discourage low income women from receiving legal abortions.

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We urge you to support state funding of abortion and to seek a commitment for a House vote on SB 53 at the earliest possible time. Thank you.

Sincerely,

Donna Hurdle, MSW
Executive Director



United Way Agency

406 W. Fireweed Lane, Suite 103 • Anchorage, Alaska 99503 • (907) 277-4822

Dixie Lee Weiss
3220 Foster Avenue
Juneau, Alaska 99801
(907) 586-1044

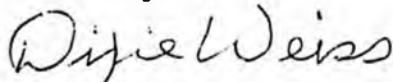
Members
House Judiciary Committee
State Capitol
Juneau, AK 99801

CSSB53(Fin)am(efd fld)

This is to request prompt and positive action WITHOUT AMENDMENT on this vital legislation.

I shouldn't have to even be writing this POM as I was one of 8,400 individual Alaskans in one of 99 communities who expressed the 66% majority view that General Relief Medical Regulations should not be amended when the Hickel Administration sought oral/written testimony.

Sincerely



Dixie Weiss



Alaska State Legislature

SB 53

Please enter into the record my testimony to the House Health Education & Social Services
committee name

committee on Senate Bill 53, dated 3-26-93
bill/subject

I am opposed to Senate bill 53 because I believe that abortion has opened up a whole new avenue of abuse toward women. The word "Choice" rings hollow when the only choice society encourages her to make is to abort her baby.

Who does abortion really serve? Does it serve the woman who wishes she could keep her child? Or does it serve her boyfriend who threatens to leave her if she doesn't abort? Or does it serve her husband who doesn't want to support another child? Or her parents who want to save face in the community or who aren't willing to save for their daughters' child in order to help her to complete her schooling? Are these loving responses to a woman in crisis?

Abortion clinics also benefit. Don't be fooled by thinking they are there only to help women. Their motive is profit. Carol Everett was the marketing manager for 4 abortion clinics in Texas 10 years ago. In an interview with Today's Christian Woman Magazine the March/April issue she states, "abortion is the largest uncontrolled industry in our nation. Most abortion clinics are run as chains because they are so profitable. I had \$25 commission on every abortion, so I know exactly how many we did. The last month I was involved, we did 545 abortions - which equaled \$13,625 in my pocket."

"The abortion industry is not about choices; it's about money."

(Continued on back)

Signed: Connie Emmert RN Connie Emmert RN
Testifier

Representing (Optional)

P.O. Box 7191 Ketchikan, Alaska 99901

Address

907-225-8811

Phone No.

①

LETTERS / TESTIMONY ON SB 53

Abortion is not a choice women make. Abortion is a skillfully marketed product sold to a woman at a crisis time in her life."

"A woman calls the abortion clinic exploring her alternatives, but she doesn't realize the abortion ~~counselor~~ counselor is actually an abortion salesperson."

As taxpayers we may think it is more economical for the State to pay for an abortion than to support a woman on welfare. But, lets not forget that Germany's "final solution" for the "Jewish problem" had its roots in a depressed post WWI economy. They first decided to sterilize people with hereditary diseases. Then they began to mercy kill retarded children, then psych patients and then other "life unworthy of life" because it was cheaper than to care for them.

As the late governor of Connecticut, Ella Grasso, once said, "Let us not kill the children of the poor, and then tell them how we have helped them."



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

Thank you for the opportunity to comment on SB 53. This is an important bill on reproductive freedoms. This bill gives all women the same reproductive freedoms by giving abortions rights to low income women. The same rights that are afforded by more affluent woman. Low income woman are not less sexually responsible than their more affluent counterparts. Every woman sometimes in their sexual lives encounters birthcontrol failure or an unwanted unlooked for pregnancy. We all have to do what is right for ourselves and our families married or not. All women need to have the right to make this choice regardless of income. The State provides health care to those who can't afford it. Abortion is a legal medical procedure. This State is

Signed: Heather Mearns
Testifier

Representing (Optional)
POB 6811 Ketchikan
Address
25-5377
Phone No.

obligated to pay for abortions for those
woman who can't afford ~~them~~ it. This
State should not be making a moral decision
on a legal medical procedure. This is for a
woman to make for herself and her family
present or future.

Please pass SB53.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE HEBS COMMITTEE
committee name

committee on SB 53, dated 26 MARCH 1993.
bill/subject

I URGE YOU TO VOTE IN SUPPORT OF SB 53 WHICH WILL RESTORE FUNDS WHICH WILL ENABLE LOW-INCOME WOMEN TO OBTAIN ABORTIONS.

IT IS A WOMAN'S RIGHT TO BE ABLE TO DETERMINE HER OWN MEDICAL TREATMENT.

POOR WOMEN, ALL WOMEN, DESERVE THE RIGHT TO DETERMINE THEIR OWN REPRODUCTIVE LIFE.

THE RESCINDING OF THESE FUNDS DISCRIMINATES AGAINST THE POOR.

PLEASE SUPPORT THIS BILL TO RESTORE STATE FUNDS.

Signed: Janice Durreff
Testifier

Representing (Optional)

963A FOREST PARK DR STG, KETCHIKAN, AK 99901

Address

907 - 225 - 4333

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HESS (House) committee name

committee on Senate Bill 53, dated 3/26/93

bill/subject
My name is Kathy Hudson
I'm speaking in support of SB 53.

I believe a woman has a right to make choices about her own body. A woman's decisions about her future and her body should not be at the mercy of other's moral judgement. We need to only judge ourselves and our own conduct; not try to control other's moral decisions.

As for state funding of abortions - I believe it is in the best interest of the state and of the taxpayers to help prevent unwanted pregnancy. A poor woman doesn't need the added burden of a child she cannot raise, whether financially or emotionally; and I don't believe the state or the taxpayers want that burden either.

Signed: Kathy Hudson
Testifier

Representing (Optional)
P.O. Box 9060, Ketchikan, 99901
Address
225-9133
Phone No.

(6)



Alaska State Legislature

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

I sincerely believe in the need to continue funding of abortions for poor women. I urge you to do so too. It is important to guarantee equal rights to all our states residents regardless of economic status. I believe it is essential to recognize a woman's right to make her own decision about ~~it~~ ^{this issue}. I urge you to support this bill. Abortion rights are legal in Alaska. To refuse one segment of the population such as low income families is clearly discrimination. This shouldn't be a governmental issue. This is a difficult personal decision and, once made, shouldn't be more difficult because of financing or ~~this is not a right or wrong decision.~~ discrimination. Thank you for your support of SB 53.

Signed: Debra Lawe
 Testifier

Representing (Optional)
P.O. Box 1019 - Ward Cove, Ak 99928
 Address
225-8095
 Phone No.

WRITTEN TESTIMONY

Please enter into the record my testimony to the House Hess committee on S.B.53, Annuling the Governors Abortion Regulations and ammended to provide abortion on demand with priority funding by thestate, March 26, 1993 at 3:30pm.

I oppose S.B.53 because if it is passed:

1. Alaska will become the Abortion Capitol of the U.S.A. Right now we are over-flowing with the elderly brought up here by their children so that they can receive the Longevity Bonus, Permanent Fund dividend, and tax exempt status for their homes and cars. These people are draining our resources with-out ever having contributed to the state of Alaska. Women will be flocking up here for state funded abortions and any other free benefits they can get. Is this the caliber of people that help benefit the state?

2. Alaska is, and will become in even greater numbers, liable for lawsuits by women injured physically, mentally and emotionally by state funded abortions. There are some women in Sitka who are contemplating filling a suite against the state for injuries received from state funded abortions.

Are these two situations really what you want to set up? We d not even have valid informed consent regulations to protect the state against lawsuits.

Alaska is trapped in the financial and moral quick sand of Turnagain Arm. The tide is coming in and it is time to extract the state not push it deeper into the quick sand.

Please oppose S.B. 53 vigorously and do not pass it out of committee. Thank You.

Virginia C. Phillips

Virginia C. Phillips
404 Lake St., 2-D
Sitka, Alaska 99835

Phone: 907-747-802

THE
FOLLOWING
DOCUMENTS
ARE
POOR
ORIGINAL
COPIES

Parental Notification Reduces Teen Pregnancy

BOSTON — A recent study in *The American Journal of Public Health* clearly shows that parental notification laws reduce teenage pregnancy and abortion rates.

The study, "Impact of the Minnesota Parental Notification Law on Abortion and Birth," in the March, 1991 *Journal*, states that the abortion rate fell 28% after the enactment of a parental notification law in Minnesota in 1981. Since the birthrate also declined, this demonstrates that the pregnancy rate among teenagers dropped dramatically. The study concludes that the Minnesota law encouraged pregnancy avoidance among teenagers.

Planned Parenthood and other abortion advocacy groups have wasted millions of taxpayers' dollars trying to reduce teen pregnancy, said Massachusetts Citizens for Life President Ruth Pak-

luk. "Ironically, parental notice and consent statutes are the only measures that have proven effective in reducing teen pregnancies, and abortion advocacy groups have spent millions of dollars opposing these laws. It is time for them to admit publicly that they have been wrong and apologize for wasting so many tax dollars," she said.

"It is clear from the success of the Minnesota notice law and the Massachusetts parental consent law that parental involvement in their minor daughters' health-care decisions has had an overwhelmingly positive impact," said MCFL Education Director Linda Thayer.

"Because a minor often lacks the ability to make fully informed choices, parental involvement is imperative to ensure that she receives the benefit of appropriate counsel from those who know her

physical, emotional, familial, religious, or psychological background," her parents. Thayer added that abortion advocates are currently trying to weaken the Massachusetts parental consent statute. They want to lower the age limit for minors from 18 to 16 and the state to require the involvement of one instead of two parents, said Medelind McCormick, Chairman of the MCFL Legislative Committee. "We hope that these results will persuade them to stop their efforts to weaken parental notice and consent statutes."

The Wanderer
Press
4-11-91

WAITING PERIOD REDUCES ABORTIONS

JACKSON, MS — A 24-hour waiting period for abortions has resulted in a 40% decrease in abortions. Mississippi also requires doctors to tell women about fetal development and abortion alternatives. (USA TODAY 1/22/93)



Alaska State Legislature

Please enter into the record my testimony to the H-Hess
 committee name
 committee on Bill 5853, dated 3-26-93
 bill/subject

*I am against any funds relating to
 payment under Medicaid and general
 reely. medical assistance, that would provide funds
 for abortions. Again I'm against this
 bill. I do not want my money going
 toward abortions.*

Signed: Betsy Meany
 Testifier

Representing (Optional)
307 Target Way Sitka AK 99835
 Address
747-6778
 Phone No.

1 of 1
3 of 6



Alaska State Legislature

Please enter into the record my testimony to the H - Hess
committee name

committee on Bill #53, dated 3/24/93
bill/subject

I oppose Bill #53. Against any funds relating to payment under Medicare and general relief medical assistance; that would provide funds for obstructions.

Signed: William A. Ward
Testifier

Representing (Optional)
307 Thicket Way, SITKA AK 99835
Address

(907) 747-6778
Phone No.

lofl



Alaska State Legislature

Please enter into the record my testimony to the H. HESS
committee name

committee on SB53 , dated 3.26.93
bill/subject

I oppose SB53 + strongly urge you to defeat it,
I oppose state funded abortions.
Please consider:

Elective abortions funded by the State of Alaska encourage our young people to engage in promiscuous behavior. Elective abortions funded by the State of Alaska is saying to our young people that our law makers (who should be looked upon as having the highest of moral standards) approve of irresponsible intercourse. If there are no adverse consequences to have to face from irresponsible intercourse (like pregnancy) why should young people practice abstinence and self control? What kind of future society are we and our children going to be living in where promiscuity and lack of responsibility is encouraged, where irresponsibility makes young people vulnerable to AIDS and other sexually transmitted diseases. By encouraging our young people to choose abstinence we protect them from AIDS, guilt, doubt and worry, loss of self esteem, abortion trauma, exploitation, emotional disorders + unwed pregnancy. Abstinence means freedom from all the above complications, plus the freedom to develop meaningful relationships, freedom from sexual obligations, freedom to develop rewarding skills + abilities + ^{to} decided what they want to do with their future.

Signed: Alise Young
Testifier

Continued

Representing (Optional)

Address

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the H HESS
 committee name
 committee on SB 53, dated 3.26.93
 bill/subject

continued

By encouraging our young people to practice self control we protect them from other sexually transmitted diseases also! Did you know that STD's are the most common disease in America next to the common cold + flu and that STDs infect 3 million teenagers each year, that new strains of STDs are resistant to treatment and that STDs often cause chronic pain + permanent damage? As for "safe sex" every teen I have talked to says that they know condoms are no protection from pregnancy much less STDs.

Please defeat SB53. I object to state funds being used for elective abortions.
 Thank you for considering my testimony.

Signed: Alice Young
 Testifier
Respect for Human Life
 Representing (Optional)
Box 6661
 Address
747 5155
 Phone No.

-8116

KODIAK LTO - 9264 (FAX)

TO: All State House of Representatives HESS 465 2137 H
465 2069 S

FROM: Michael E Noonan

PO Box 4487

KODIAK AK 99615

907 486 3603

FAX 486 1913

RE: Senate Bill # 53

I urge your support of Senate Bill # 53 which provides for state funding for abortions.

Abortions are a TRAGEDY &

WORSE TRAGEDIES are babies condemned to lives in which they are unwanted and unloved.

a scandalizing percentage of children live below the poverty line. - CRUEL!

Please, don't add to the problem.

Michael E Noonan

S B

5 4

Alaska State Legislature



House of Representatives House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

LETTER OF INTENT

It is the intent of the House Judiciary Committee, in its adoption of HCS for CS for SB 54 (JUD), to alter the jurisdiction of the criminal courts over juvenile offenders charged with murder and to require the juvenile offender for whom waiver to criminal court has been sought for other offenses to prove that he or she is amenable to treatment in the juvenile justice system.

The House Judiciary Committee, in its adoption of HCS CSSB 54 (JUD), intends to alter the substantive legal rights of juvenile offenders. In the judgement of the committee, the scope of a court's jurisdiction and the allocation of burdens of proof in legal actions are matters of substantive law, not matters of procedure.

It is the judgement of the committee that, once the screening authorities have decided that a juvenile offender is not amenable to treatment in the juvenile court system and have filed a petition seeking waiver of the juvenile into the adult criminal court system, it is the offender himself who is in the best position to show that he would be treatable in the juvenile court system. The juvenile offender and his attorney are the ones who know the most about the offender's family and educational experiences, and are in the best position to present information relating to the issue of treatability to the court.

For example, under the Alaska Court of Appeals' decision in R.H. v. State, 777 P. 2d 204 (Alaska App. 1989), the state may not compel a juvenile offender to submit to a psychiatric evaluation for the purpose of determining his amenability to treatment in the juvenile court system. In its decision, the court acknowledged that "in some situations, the lack of information concerning the psychiatric condition of the accused child will undoubtedly make the state's burden more difficult to meet." 777 P. 2d at 211. In the view of the committee, to place the burden of proof upon the party who has the greatest access to the facts relevant to the issue of treatability is a sound public policy choice.

Brian S. Porter

Brian Porter, Chairman

CSSB 54 (FIN) - Juvenile Crime - Logical Summary

I. Automatic Trial of Juveniles as Adults for Certain Felony Offenses

Under current law (AS 47.10), state prosecutors are permitted to petition for a "waiver of jurisdiction" to close a juvenile offender's case in juvenile court and prosecute him as an adult if the offense is deemed serious enough.

SB 54 proposes significant changes in this system by mandating that certain juveniles be automatically tried as adults under certain conditions. These changes are principally present in Section 4, with an additional provision found in Section 7.

A. Section 4 mandates that juvenile offenders from 16 to 18 years of age be tried as adults when charged with the following crimes:

1. an unclassified or class A felony; or
2. a felony class "crime against a person" and the minor has been either (a) previously adjudicated as a delinquent or (b) convicted as an adult, for a felony class "crime against a person" in Alaska or any other jurisdiction.

B. Section 4 mandates that juvenile offenders from 14 to 16 years of age be tried as adults when charged with the following crimes:

1. murder, attempted murder, or solicitation to commit murder; or
2. an unclassified or class A felony and the minor has been either (a) previously adjudicated as a delinquent or (b) convicted as an adult, for a felony class "crime against a person" in Alaska or any other jurisdiction; or
3. a felony class "crime against a person" and the minor has been either (a) previously adjudicated as a delinquent or (b) convicted as an adult, for a felony class "crime against a person" in Alaska or any other jurisdiction.

The distinction between 2 and 3 above is that not all unclassified or class A felonies are also "crimes against a person".

The "Definitions" appendix (attached) lists the crimes that constitute unclassified and class A felonies. It also lists those crimes which constitute a "crime against a person" as defined under AS 33.30.901.

C. Section 4 also provides that the juvenile will be tried as an adult for all "properly joined" crimes committed in connection with the unclassified or class A felony for which they are principally charged. (This practice is allowed under Criminal Rule 8(a).)

- D. Under the conditions outlined in A and B above, the juvenile must be prosecuted as an adult. The court is given no option in this decision. However, if the minor is charged as an adult based on his previous adjudication or conviction for another crime, the minor may appeal their waiver on two grounds.
1. that he is "amenable to treatment" before age 20. In this instance, the minor bears the burden of proving his amenability "by a preponderance of the evidence".
 2. that he was not, in fact, previously adjudicated delinquent or convicted of the necessary crime. In this instance, the state bears the burden of proving "by a preponderance of the evidence" that the minor was, in fact, adjudicated delinquent or convicted of a qualifying crime. A sworn statement be furnished to prove the juvenile's previous prosecution in another jurisdiction.
- E. Section 4 establishes that the state is entirely free to employ the currently existing procedures for closing a juvenile's case in order to prosecute him as an adult for lesser offenses.
- F. Section 7 provides that if a minor is not convicted of the felony charge that required he be tried as an adult, but is only convicted for lesser offenses, then the convictions will be treated as juvenile adjudications. However, within five days of his conviction as a juvenile delinquent, the state has the right to file a petition for a waiver to convict the minor as an adult for these lesser offenses.

II. Detention and Incarceration

Current law is vague and contradictory about the pre-trial detention and later incarceration of minors convicted as adults. Most often, minors convicted as adults are placed in the custody of the Department of Corrections. On occasion, however, judges order that minors convicted as adults remain in the custody of the Department of Health and Social Services (Division of Family and Youth Services). Either way, minors are required to be kept separate from adults.

SB 54 eliminates this ambiguity by mandating that minors either charged or convicted as adults be placed in the custody of the Department of Corrections. Both DOC and DHSS agree that this is the best policy for logistical reasons and also the best policy to allow for the rehabilitation of the bulk of juvenile offenders in DHSS custody.

- A. Section 2 amends the definition of "prisoner" within the custody of the Department of Corrections to include a juvenile charged, prosecuted, or convicted as an adult.
- B. Section 10 amends current law concerning the detention of minors to state that a juvenile held in jail under the custody of the DOC need not be "held in custody in a room or other place apart and separate from adults."

III. Records

- A. Section 4 amends public records statute 09.25.120, which lists juvenile records as confidential, to provide that juvenile records are not confidential if otherwise provided for in law.
- B. Section 5 provides that the court may not seal the records of a criminal proceeding involving a minor if
 1. the minor has not yet fulfilled the orders of the court connected with their adjudication or conviction; or if
 2. the minor was convicted as an adult under AS 47.10.010 (e), created by SB 54, for (a) an unclassified or class A felony and properly joined crimes, or (b) for a second felony class crime against a person; or if
 3. the minor was adjudicated delinquent or convicted as an adult for a felony class crime against a person and had been previously adjudicated delinquent or convicted as an adult for a felony class crime against a person.
- C. Section 8 states that the records of criminal proceedings against a minor are public records if the minor was adjudicated delinquent or convicted as an adult for a crime committed when he was 16 years of age or older. Section 12, concerning applicability, makes it clear that this provision is not retroactive.
- D. Section 9 allows the victim(s) of a property crime or crime against a person committed by a minor to inspect the official record of the minor related to that crime in order to use the information in support of a civil action against the minor, his parent(s), or legal guardian(s).

IV. Restitution

Courts are not currently required to force juveniles to pay restitution for property offenses or, for crimes against a person. It is also virtually impossible to sue a juvenile in civil court for damages resulting from his crimes because his criminal record is kept confidential. SB 54 makes considerable changes in both of these areas.

- A. Section 9, as mentioned previously, allows victims of juvenile crime to access the juvenile's criminal record in order to obtain information for a civil suit against the minor, his parent(s), or legal guardian(s).

There is no current statutory limit on the liability of the juvenile offender. This has never been an issue in the past because it was practically impossible to sue a juvenile offender for damages resulting from criminal activity and because juveniles usually have negligible personal assets.

- B. Section 6 requires that the court order a minor to pay restitution to the benefit of the victim if the minor's offense is the basis of a delinquency adjudication.
- C. Section 3 allows for the entirety of a juvenile offender's permanent fund dividend, as well as the dividends of his parent(s) or legal guardian(s), to be attached to pay restitution or civil damages resulting from the juvenile's criminal activity which caused personal injury or harmed real or personal property.
- D. Section 5, as previously mentioned, forbids sealing a juvenile offender's criminal record for an offense if restitution ordered by the court for that offense has not yet been paid.

Senate Bill 54 - Juvenile Crime - Definitions

1) Unclassified felonies include:

- first and second degree murder
- first degree attempted murder
- first degree sexual assault
- first degree sexual abuse of a minor
- first degree misconduct involving a controlled substance
- kidnapping

2) Class A felonies include:

- attempted commission or solicitation to perform an unclassified felony other than first degree murder
- attempted performance or solicitation to perform a crime defined outside AS 11 that carries an indefinite or life term
- manslaughter
- kidnapping (when certain affirmative defenses are employed)
- first degree assault
- first degree robbery
- first degree arson
- first degree escape
- first degree misconduct involving weapons
- criminal possession of explosives to commit murder or kidnapping
- second degree misconduct involving a controlled substance
- promoting prostitution in the first degree involving a person under 16 years of age
- (outside the criminal code) violation of the Credit Union Act when certain officers receive deposits while the credit union is insolvent

3) The term "crime against a person" is defined under AS 33.30.901. This statute states that "crimes against a person" consist of the crimes listed in AS 11.41. The felony class crimes defined in AS 11.41 for which a minor can be charged (e.g. not possible for minor to commit incest as presently defined) include:

- first and second degree murder
- manslaughter
- criminally negligent homicide
- first, second, and third degree assault
- kidnapping
- first, second, and third degree sexual assault
- first, second, and third degree sexual abuse of a minor
- unlawful exploitation of a minor
- first, second, and third degree robbery
- extortion
- coercion

POSITION PAPER

CSSB 54 (FIN)

JUVENILE WAIVER

For An Act Entitled: "An Act relating to violations of laws by juveniles; and providing for an effective date."

Background

In Alaska, as in most other states the age of criminal responsibility coincides with the age of majority (18 years of age). This recognizes the fundamental differences between children and adults and is expressed in numerous other laws limiting the rights, privileges, and responsibilities of children. Because the designated age of criminal responsibility is an arbitrary standard, legal mechanisms are necessary to identify and properly address the inevitable exceptions. Waiver of juvenile jurisdiction is the generally established mechanism for differentiating between the vast majority of youthful offenders and those few offenders whose behavior identifies them more closely with adult criminals.

Waiver of juvenile Court jurisdiction occurs in Alaska through a formal Court process as a judicial determination. Alaska's law (AS 47.10.060) does not establish a minimum age for which a youth can be transferred to adult criminal jurisdiction. AS 47.10.060 allows the "waiver" of a youth of any age for any delinquent act. The Court must determine the youth to be "not amenable" to treatment as a juvenile. The state has the burden of proof. A youth is considered unamenable to treatment if the youth "probably cannot be rehabilitated under juvenile jurisdiction, before reaching 19 years of age. In determining amenability to treatment the Court may give consideration to four factors: (1) the seriousness of the alleged offense; (2) the youth's delinquent history; (3) the causation of the delinquent offense and (4) the availability of treatment facilities for the youth.

Analysis/Program Impact

Under present Alaska law the method of applying the waiver standard is a judicial proceeding. All evidence bearing on the waiver decision is considered by the Court. Waiver decisions made by judges require a threshold finding of probable cause, that the accused juvenile offender committed the alleged offense. The probable cause standard is guided

by statutorily established criteria, and is subject to judicial review.

The standards for making waiver decisions under a judicial process are legislatively determined and applied by the judiciary. Factors to be considered in determining which cases meet the standard for waiver are also legislatively established. A balance of society's interest in public protection and rehabilitation is sought.

CSSB 54(FIN) proposes an automatic waiver method for some minors 14 years of age and older, by specifying the initial charge. This is a significant departure from a court determined waiver.

This bill would change the jurisdictional authority for child proceedings found in Title 47 to enable the automatic prosecution of a minor in adult Court for certain offenses. The offense for which the minor is charged would be the determining factor. For some offenses, but not all, prior history of delinquency adjudication would also be a determining factor. This bill would secondarily amend the definition of prisoner to allow the Court to sentence a waived juvenile to secure facilities operated by the Department of Corrections.

In most waiver cases, the decision to waive has depended on the belief of psychologists and psychiatrists that a youth cannot be rehabilitated before juvenile jurisdiction expires. If these "expert" witnesses do not provide overwhelming testimony that a youth is not amenable to treatment, then the statutory framework presumes that jurisdiction will remain with the juvenile court. Recent case law is now denying the Court access to this expert testimony and the potential for the state to prevail in a waiver request has diminished.

CSSB 54(FIN) would permit the automatic waiver and the adult prosecution of a minor 16 years of age and older when;

the minor is charged with an unclassified or class A felony; or

the minor is charged with a crime against a person that is a felony other than an unclassified or class A felony, and the minor has a previous adjudication(s) as a delinquent or conviction (s) as an adult for a felony crime against a person in Alaska or elsewhere.

CSSB 54(FIN) would also permit the automatic waiver and the

adult prosecution of a minor 14 - 15 years of age when;

the minor is charged with murder, attempted murder, solicitation to commit murder; or

the minor is charged with an unclassified or class A felony and has a previous delinquent adjudication for any felony offense in Alaska or elsewhere; or

the minor is charged with any felony and has previously been convicted as an adult of any felony offense in Alaska or elsewhere.

A minor could attempt to reverse the waiver process by a petition to the Court for the charges to be heard in the juvenile court rather than adult court. The minor would have the burden of proof to show by a preponderance of evidence that he/she is amenable to treatment by age 20 and the state would have the burden of proof to show by a preponderance of the evidence that any previous adjudications or convictions are in fact true.

If a minor prosecuted in adult court is not convicted as charged under the provisions of this bill, but is convicted of a lesser charge to which automatic waiver does not apply, the minor would be sentenced as a juvenile. The state could however, petition the Court to waive a minor under the current waiver provisions of AS 47.10.060. For such a second waiver attempt the state would have the burden of proving the minor's non-amenability to treatment by age 19.

The Department estimates a high of 36 offenders per year could be waived under this bill based on an analysis of FY 1992 youth offender statistics. The following analysis of youth offender trends for each category specified in the bill is provided.

DHSS Youth Offender Statistics

Category (1) (A) FY 1991 - 12 of the 36 cases referred were formally charged with an unclassified or class A felony.

FY 1992 - 28 of the 60 cases referred were formally charged with an unclassified or class A felony.

FY 1993 - (7/1/92 - 12/31/92) 11 of the 27 cases referred were formally

charged with an unclassified or class A felony.

Total for (1)(A) crimes is 51 for 30 months of referrals.

Category (1)(B)

FY 1991 - 0 of the 2 cases referred were formally charged with an felony crime against a person and had a previous adjudication.

FY 1992 - 0 of the 2 cases referred were formally charged with an felony crime against a person and had a previous adjudication.

FY 1993 - (7/1/92 - 12/31/92) 1 of 1 case referred was formally charged with a felony crime against a person and had a previous adjudication.

Total (1)(B) crimes is 1 for 30 months of referrals.

Category (2)(A)

FY 1991 - There were 0 cases referred in this category.

FY 1992 - 6 of the 6 cases referred were formally charged with murder.

FY 1993 - (7/1/92 - 12/31/92) There were 0 cases referred in this category.

Total (2)(A) crimes is 6 for 30 months of referrals.

Category (2)(B)

FY 1991 - There were 0 cases referred and formally charged with a unclassified or class A felony and had a previous felony adjudication.

FY 1992 - 2 of the 13 cases referred were formally charged with an unclassified or class A felony and had a previous felony adjudication.

FY 1993 - (7/1/92 - 12/31/92) of 0 cases referred and formally charged with an unclassified or class A felony and had a previous felony adjudication.

Total (2)(B) crimes is 2 for 30 months of referrals.

Category (2).(C)

FY 1991 - There were 0 cases referred and formally charged with a felony and had a previous conviction as an adult for a felony.

FY 1992 - There were 0 cases referred and formally charged with a felony and had a previous conviction as an adult for a felony.

FY 1993 - (7/1/92 - 12/31/92)
There were 0 cases referred and formally charged with a felony and had a previous conviction as an adult for a felony.

Total (2)(C) crimes is 0 for 30 months of referrals.

	FY 1991	FY 1992	FY 1993
Total Referrals	36	81	28
Total Adjudicated	12	36	12
Total Waived Back	24	45	16

Data Source DFYS PROBER

The number of offenders that could potentially be waived back into the juvenile system is the difference between the referral cases and the adjudicated cases.

This legislation would not significantly reduce the number of offenders referred to DHSS juvenile intake officers and subsequently confined in DHSS youth facilities. During the past three fiscal years the department has been averaging 6,704 youth corrections referrals per year statewide of which 36 would have possibly qualified in FY 1992 for waiver under this bill.

JUVENILE RECORDS

This bill would lift the seal of confidentiality for records of minors charged under the automatic waiver provisions of the bill. The department would stop short of releasing all information about a minor's family to prevent the public humiliation that could be brought upon young siblings and other family members that were not party to the offense.

DEPARTMENTS POSITION

The department cannot support automatic waiver for accused juvenile offenders under 16 years old. These offenders often can be successfully treated in the juvenile justice system or waived into adult court under Alaska's existing waiver law. The waiver of juvenile jurisdiction is a most difficult decision in which society has competing interests. In cases where the offender is under 16 years of age, a balancing of the goals of public protection, and society's interest in protecting and rehabilitating youthful offenders must be weighed.

The department cannot support the provisions of this bill that place waived offenders back into the juvenile justice system if they are convicted of a lesser charge for which automatic waiver does not apply, or are granted juvenile status as a result of petitioning on amenability to treatment.

These offenders can present serious management and behavior problems if they are brought back into a juvenile facility. DHSS youth facilities do not have the staffing or physical plant to segregate these offenders that in time could represent a significant number.

The department does not support the lifting of confidentiality for juvenile records if the minor's family, especially siblings, are to suffer public humiliation as a result of the information that is made public. Juvenile records under the jurisdiction of the court and the department may include extensive family social history, placement history, and medical information about the minor and members of the minor's family. The release of such records should require some form of guaranteed protection by the court.

The department does support the automatic waiver for juvenile offenders 16 years and older who are charged with the crimes of murder, attempted murder and solicitation to commit murder.

Recommended: Deborah R. Wing Date: 3/4/93

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

Approved: Theodore A. Mala Date: 3 March 1993

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

8-LS0384Y ✓
Chenoweth
4/16/93

HOUSE CS FOR CS FOR SENATE BILL NO. 54(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
EIGHTEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS HALFORD, Phillips, Leman, Taylor, Miller
REPRESENTATIVES Porter, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to violations of laws by juveniles, to the remedies for offenses
2 and activities committed by juveniles and to records of those offenses, and to
3 incarceration of juveniles who have been charged, prosecuted, or convicted as
4 adults; and providing for an effective date."

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

6 * Section 1. AS 09.25.120 is amended to read:

7 Sec. 09.25.120. PUBLIC RECORDS; EXCEPTIONS; CERTIFIED COPIES.
8 Every person has a right to inspect a public record in the state, including public
9 records in recorders' offices except (1) records of vital statistics and adoption
10 proceedings which shall be treated in the manner required by AS 18.50; (2) records
11 pertaining to juveniles, unless the record is, by law, a public record; (3) medical and
12 related public health records; (4) records required to be kept confidential by a federal
13 law or regulation or by state law; (5) to the extent the records are required to be kept
14 confidential under 20 U.S.C. 1232g and the regulations adopted under 20 U.S.C. 1232g

1 in order to secure or retain federal assistance; (6) records or information compiled for
2 law enforcement purposes, but only to the extent that the production of the law
3 enforcement records or information (A) could reasonably be expected to interfere with
4 enforcement proceedings, (B) would deprive a person of a right to a fair trial or an
5 impartial adjudication, (C) could reasonably be expected to constitute an unwarranted
6 invasion of the personal privacy of a suspect, defendant, victim, or witness, (D) could
7 reasonably be expected to disclose the identity of a confidential source, (E) would
8 disclose confidential techniques and procedures for law enforcement investigations or
9 prosecutions, (F) would disclose guidelines for law enforcement investigations or
10 prosecutions if the disclosure could reasonably be expected to risk circumvention of
11 the law, or (G) could reasonably be expected to endanger the life or physical safety
12 of an individual. Every public officer having the custody of records not included in the
13 exceptions shall permit the inspection, and give on demand and on payment of the fees
14 under AS 09.25.110 - 09.25.115 a certified copy of the record, and the copy shall in
15 all cases be evidence of the original. Recordors shall permit memoranda, transcripts,
16 and copies of the public records in their offices to be made by photography or
17 otherwise for the purpose of examining titles to real estate described in the public
18 records, making abstracts of title or guaranteeing or insuring the titles of the real
19 estate, or building and maintaining title and abstract plants; and shall furnish proper
20 and reasonable facilities to persons having lawful occasion for access to the public
21 records for those purposes, subject to reasonable rules and regulations, in conformity
22 to the direction of the court, as are necessary for the protection of the records and to
23 prevent interference with the regular discharge of the duties of the recordors and their
24 employees.

25 * Sec. 2. AS 33.30.901(11) is amended to read:

26 (11) "prisoner"

27 (A) means a person [, OTHER THAN A JUVENILE,] held
28 under authority of state law in official detention as defined in AS 11.81.900(b);

29 (B) includes a juvenile committed to the custody of the
30 commissioner when the juvenile has been charged, prosecuted, or convicted
31 as an adult;

1 * Sec. 3. AS 43.23.065(b) is amended to read:

2 (b) An exemption is not available under this section for permanent fund
3 dividends taken to satisfy

4 (1) child support obligations required by court order or decision of the
5 child support enforcement agency under AS 25.27.140 - 25.27.220;

6 (2) court ordered restitution under AS 12.55.045 - 12.55.051, [OR]
7 12.55.100, or AS 47.10.080(b)(4);

8 (3) claims on defaulted scholarship loans under AS 43.23.067;

9 (4) court ordered fines;

10 (5) writs of execution under AS 09.35 of a judgment that is entered

11 (A) against a minor in a civil action to recover damages;
12 recovery under this subparagraph is limited to \$2,000 and court costs, and
13 may be obtained only when the judgment is based upon

14 (i) an act of the minor that is defined as a crime
15 against a person under AS 33.30.901, that injured the plaintiff, and
16 for which the minor was adjudicated a delinquent or convicted as
17 an adult; or

18 (ii) the minor's intentional or knowing injury of real
19 or personal property of the plaintiff;

20 (B) under AS 34.50.020 against the parent, parents, legal
21 guardian, or person having the legal custody of an unemancipated minor;

22 (6) a debt owed by an eligible individual to an agency of the state,
23 unless the debt is contested and an appeal is pending, or the time limit for filing an
24 appeal has not expired.

25 * Sec. 4. AS 47.10.010 is amended by adding a new subsection to read:

26 (When a minor who is at least 16 years of age is arraigned on a charge of
27 murder in the first degree ~~under AS 47.10.100~~, attempted murder in the first degree
28 ~~under AS 47.10.100~~, or murder in the second degree ~~under AS 47.10.110~~,
29 AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules do not apply to the
30 offense for which the minor is arraigned or to any additional offenses joinable to it
31 under the applicable rules of court governing criminal procedure. The minor shall be

1 charged, prosecuted, and sentenced in the superior court in the same manner as an
2 adult.

3 * Sec. 5. AS 47.10.020(a) is amended to read:

4 (a) Whenever circumstances subject [A PERSON INFORMS THE COURT
5 OF THE FACTS THAT BRING] a minor to the jurisdiction of AS 47.10.010 -
6 47.10.142 [WITHIN THIS CHAPTER], the court shall

7 (1) provide, under procedures adopted by court rule, that, for a
8 minor who is alleged to be a delinquent minor under AS 47.10.010(a), a state
9 agency shall make a preliminary inquiry to determine if any action is appropriate
10 and may take appropriate action to adjust or dispose of the matter without a
11 court hearing; if, under this paragraph,

12 (A) the state agency makes a preliminary inquiry and takes
13 appropriate action to adjust or dispose of the matter without a court
14 hearing, the minor may not be detained or taken into custody and, subject
15 to (d) of this section, the matter shall be closed by the agency if the minor
16 successfully completes all that is required of the minor by the agency in
17 the adjustment or disposition;

18 (B) the agency concludes that the matter may not be
19 adjusted or disposed of without a court hearing, the agency may file a
20 petition under (2) of this subsection setting out the facts; or

21 (2) appoint a competent person or agency to make a preliminary inquiry
22 and report for the information of the court to determine whether the interests of the
23 public or of the minor require that further action be taken; if, under this paragraph,
24 the court appoints a person or agency to make a preliminary inquiry and to
25 report to it, then upon [. UPON] the receipt of the report, the court may informally
26 adjust or dispose of the matter without a hearing, or it may authorize the person having
27 knowledge of the facts of the case to file with the court a petition setting out the facts;
28 if [. WHERE] the court informally adjusts or disposes of the matter, the minor may
29 not be detained or taken into the custody of the court, and the matter shall be closed
30 by the court upon adjustment or disposition.

31 * Sec. 6. AS 47.10.020 is amended by adding a new subsection to read:

1 (d) The provisions of this subsection apply to a minor who is alleged to be a
2 delinquent minor under AS 47.10.010(a)(1) and for whom an agency has, under
3 applicable court rule, made a preliminary inquiry before taking appropriate action as
4 authorized by (a)(1) of this section. Following the preliminary inquiry, unless the
5 agency determines that the matter should be dismissed, the agency may take informal
6 action to adjust or dispose of the matter. When the agency decides that an informal
7 adjustment or disposition of a matter should be made, that informal adjustment or
8 disposition may not be made without the agreement or consent of the minor and the
9 minor's parents or guardians to the terms and conditions of the adjustment or
10 disposition. An informal action to adjust or dispose of a matter is not successfully
11 completed unless, among other factors that the agency considers, as to the victim of
12 the act of the minor that is the basis of the delinquency allegation, the minor pays
13 restitution in the amount set by the agency or agrees as a term or condition set by the
14 agency to pay the restitution.

15 * Sec. 7. AS 47.10.060(a) is amended to read:

16 (a) When a petition has been filed under AS 47.10.020, the minor has the
17 burden of proving, by a preponderance of the evidence, that the minor is
18 amenable to treatment under this chapter. If the court finds at the [A] hearing on
19 the [A] petition that there is probable cause for believing that the [A] minor is
20 delinquent and finds that the minor is not amenable to treatment under this chapter, the
21 court [IT] shall order the case closed. After a case is closed under this subsection, the
22 minor may be prosecuted as an adult.

23 * Sec. 8. AS 47.10.060(e) is amended to read:

24 (e) A person who has been tried as an adult under this section, or the
25 department on the person's behalf, may petition the superior court to seal the records
26 of all criminal proceedings, except traffic offenses, initiated against the person, and all
27 punishments assessed against the person, while the person was a minor. A petition
28 under this subsection may not be filed until five years after the completion of the
29 sentence imposed for the offense for which the person was tried as an adult. If the
30 superior court finds that the punishment assessed against the person has had its
31 intended rehabilitative effect and further finds that the person has fulfilled all

1 orders of the court entered under AS 47.10.080(b), the superior court shall order the
2 record of proceedings and the record of punishments sealed. Sealing the records
3 restores civil rights removed because of a conviction. A person may not use these
4 sealed records for any purpose except that the court may order their use for good cause
5 shown or may order their use by an officer of the court in making a presentencing
6 report for the court. The court may not, under this subsection, seal records of a
7 criminal proceeding

8 (1) initiated against a person if the court finds that the person has
9 not complied with a court order made under AS 47.10.080(b); or

10 (2) commenced under AS 47.10.010(e) unless the minor has been
11 acquitted of all offenses with which the minor was charged or unless the most
12 serious offense of which the minor was convicted was not murder in the first
13 degree, attempted murder in the first degree, or murder in the second degree.

14 * Sec. 9. AS 47.10.080(b) is amended to read:

15 (b) If the court finds that the minor is delinquent, it shall

16 (1) order the minor committed to the department for a period of time
17 not to exceed two years or in any event extend past the day the minor becomes 19,
18 except that the department may petition for and the court may grant in a hearing (A)
19 two-year extensions of commitment that do not extend beyond the child's 19th
20 birthday if the extension is in the best interests of the minor and the public; and (B)
21 an additional one-year period of supervision past age 19 if continued supervision is in
22 the best interests of the person and the person consents to it: the department shall place
23 the minor in the juvenile facility that the department considers appropriate and that
24 may include a juvenile correctional school, detention home, or detention facility; the
25 minor may be released from placement or detention and placed on probation on order
26 of the court and may also be released by the department, in its discretion, under
27 AS 47.10.200;

28 (2) order the minor placed on probation, to be supervised by the
29 department, and released to the minor's parents, guardian, or a suitable person; if the
30 court orders the minor placed on probation, it may specify the terms and conditions
31 of probation; the probation may be for a period of time, not to exceed two years and

1 in no event extend past the day the minor becomes 19, except that the department may
2 petition for and the court may grant in a hearing

3 (A) two-year extensions of supervision that do not extend
4 beyond the child's 19th birthday if the extension is in the best interests of the
5 minor and the public; and

6 (B) an additional one-year period of supervision past age 19 if
7 the continued supervision is in the best interests of the person and the person
8 consents to it;

9 (3) order the minor committed to the department and placed on
10 probation, to be supervised by the department, and released to the minor's parents,
11 guardian, other suitable person, or suitable nondetention setting such as a family home,
12 group care facility, or child care facility, whichever the department considers
13 appropriate to implement the treatment plan of the predisposition report; if the court
14 orders the minor placed on probation, it may specify the terms and conditions of
15 probation; the department may transfer the minor, in the minor's best interests, from
16 one of the probationary placement settings listed in this paragraph to another, and the
17 minor, the minor's parents or guardian, and the minor's attorney are entitled to
18 reasonable notice of the transfer; the probation may be for a period of time, not to
19 exceed two years and in no event extend past the day the minor becomes 19, except
20 that the department may petition for and the court may grant in a hearing

21 (A) two-year extensions of commitment that do not extend
22 beyond the child's 19th birthday if the extension is in the best interests of the
23 minor and the public; and

24 (B) an additional one-year period of supervision past age 19 if
25 the continued supervision is in the best interests of the person and the person
26 consents to it;

27 (4) order the minor to make suitable restitution in lieu of or in addition
28 to the court's order under (1), (2), or (3) of this subsection; the court may not refuse
29 to make an order of restitution under this paragraph to the benefit of the victim
30 of the act of the minor that is the basis of the delinquency adjudication;

31 (5) order the minor committed to the department for placement in an

1 adventure based education program established under AS 47.21.020 with conditions
2 the court considers appropriate concerning release upon satisfactory completion of the
3 program or commitment under (1) of this subsection if the program is not satisfactorily
4 completed; or

5 (6) in addition to an order under (1) - (5) of this subsection, if the
6 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
7 11.71.040(a)(4), order the minor to perform 50 hours of community service; for
8 purposes of this paragraph, "community service" includes work

9 (A) on a project identified in AS 33.30.901; or

10 (B) that, on the recommendation of the city council or
11 traditional village council, would benefit persons within the city or village who
12 are elderly or disabled.

13 * Sec. 10. AS 47.10.090 is repealed and reenacted to read:

14 Sec. 47.10.090. RECORDS. (a) The court shall make and keep records of all
15 cases brought before it.

16 (b) The following records pertaining to a minor who was 16 years of age or
17 older at the time of the alleged offense and who was convicted or adjudicated a
18 delinquent for the commission of that offense are public records:

19 (1) a petition filed under AS 47.10.020 seeking to have the court
20 declare the minor a delinquent;

21 (2) a petition filed under AS 47.10.080 seeking to have the court
22 revoke the minor's probation;

23 (3) a petition filed under AS 47.10.010 - 47.10.142 that, under
24 AS 47.10.060, requests the court to find that a minor is not amenable to treatment
25 under this chapter and that results in closure of a case under AS 47.10.060(a); and

26 (4) a court judgment or order entered under AS 47.10.010 - 47.10.142
27 that disposes of a petition identified in (1) - (3) of this subsection.

28 (c) Except for a record that, under (b) of this subsection, is a public record,

29 (1) the court's official records under this chapter may be inspected only
30 with the court's permission and only by persons having a legitimate interest in them;

31 (2) all information and social records pertaining to a minor and

1 prepared by an employee of the court or by a federal, state or city agency in the
2 discharge of the employee's or agency's official duty, including driver's license action
3 under AS 28.15.185, are privileged and may not be disclosed directly or indirectly to
4 anyone without the court's permission.

5 (d) Notwithstanding (c)(2) of this section, a state or city law-enforcement
6 agency

7 (1) shall disclose information regarding a case that is needed by the
8 person or agency charged with making a preliminary investigation for the information
9 of the court; and

10 (2) may disclose to school officials information regarding a case that
11 is needed by the school officials to protect the safety and well-being of school students
12 and staff.

13 (e) The court shall forward a record of adjudication of a violation of an
14 offense listed in AS 28.15.185(a) to the Department of Public Safety if the court
15 imposes a license revocation under AS 28.15.185.

16 (f) Within 30 days of the date of a minor's 18th birthday or, if the court
17 retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the
18 date on which the court relinquishes jurisdiction over the minor, the court shall order
19 sealed all the court's official records, information and social records pertaining to that
20 minor, as well as records of all driver's license proceedings under AS 28.15.185,
21 criminal proceedings against the minor, and punishments assessed against the minor.
22 A person may not use these sealed records for any purpose except that the court may
23 order their use for good cause shown or may order their use by an officer of the court
24 in making a presentencing report for the court. The provisions of this subsection
25 relating to the sealing of records do not apply to

26 (1) records that, under (b) of this subsection, are made public records;
27 and

28 (2) records of traffic offenses.

29 (g) The name or picture of a minor under the jurisdiction of the court may not
30 be made public in connection with the minor's status as a delinquent child or a child
31 in need of aid unless authorized by order of the court. However, notwithstanding the

1 limitation imposed by this subsection, the name of a minor who is found for the
2 second time to have violated a law that if committed by an adult would be a felony
3 shall be made public unless the court, for good cause shown, in certain individual
4 cases, enters an order prohibiting the disclosure.

5 (h) A person who violates a provision of this section is guilty of a
6 misdemeanor, and upon conviction is punishable by a fine of not more than \$500 or
7 by imprisonment for not more than one year, or by both.

8 (i) In (c)(1) of this section, a person with a legitimate interest in the inspection
9 of an official record maintained by the court includes a victim who suffered damage
10 as the result of physical injury by an offense that is a crime against a person
11 committed by a minor or as a result of the knowing or intentional injury of the
12 victim's real or personal property by an offense committed by a minor. If the victim
13 knows the identity of the minor, identifies the minor to the court, and certifies that the
14 information is being sought to support a civil action against the minor or against the
15 minor's parents or guardians under AS 34.50.020, the court shall allow the victim to
16 inspect and may not refuse permission for the victim to use the following records and
17 information in connection with the civil action:

18 (1) a petition filed under AS 47.10.020 seeking to have the court
19 declare the minor a delinquent;

20 (2) a petition filed under AS 47.10.080 seeking to have the court
21 revoke the minor's probation;

22 (3) a petition filed under AS 47.10.010 - 47.10.142 that, under
23 AS 47.10.060, requests the court to find that a minor is not amenable to treatment
24 under this chapter and that results in closure of a case under AS 47.10.060(a); and

25 (4) a court judgment or order entered under AS 47.10.010 - 47.10.142
26 that disposes of a petition identified in (1) - (3) of this subsection.

27 * **Sec. 11.** AS 47.10.190 is amended to read:

28 **Sec. 47.10.190. [CONDITIONS GOVERNING] DETENTION OF MINORS.**

29 (a) When the court commits a minor to the custody of the department, the department
30 shall arrange to place the juvenile in a detention home, facility, or another suitable
31 place that the department designates for that purpose.

1 **(b)** A juvenile detained in a jail or similar institution at the request of the
2 department shall be held in custody in a room or other place apart and separate from
3 adults. **The provisions of this subsection do not apply to a juvenile held in a jail**
4 **when committed to the custody of the commissioner of corrections under**
5 **AS 33.30.**

6 * Sec. 12. AS 47.10.990 is amended by adding a new paragraph to read:

7 (10) "crime against a person" has the meaning given in AS 33.30.901.

8 * Sec. 13. APPLICABILITY. This Act applies

9 (1) to civil actions accruing on or after the effective date of this Act; and

10 (2) to offenses committed on or after the effective date of this Act.

11 * Sec. 14. This Act takes effect September 1, 1993.

HOUSE COMMITTEE REPORT

(7)

Date Referred: March 5, 1993

FURTHER REFERRALS:

Finance

Date of Committee Action: 4-16-93

The JUDICIARY Committee considered:

CS SB 54(FIN)

CS FOR SENATE BILL NO. 54(FIN)

OFFENSES BY JUVENILE OFFENDERS

"An Act relating to violations of laws by juveniles, to the remedies for offenses and activities committed by juveniles and to records of those offenses, and to incarceration of juveniles who have been charged, prosecuted, or convicted as adults; and providing for an effective date."

RECOMMENDATIONS:

be replaced with HCS CSSB 54 (JUD) the same title
 a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the _____ Committee

ADOPTS: House Judiciary letter of Intent 4-16-93
 AND SENATE " " 4-17-93

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

fiscal impact _____ fiscal note(s) CRT SYSTEM (2-26-93)

zero fiscal note CORRECTIONS, ADMINIS⁽²⁾ zero fiscal note(s) DPS (2-19-93)
LAW + PR+SS (2-24-93)

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	DNP	NR	AM
<i>[Signature]</i>	✓	<i>[Signature]</i>			✓
<i>[Signature]</i>	✓				
<i>Janette James</i>	✓				
<i>Brian Porter</i>	✓				

[Signature]
 CHAIRMAN'S SIGNATURE

FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HCS CSSB 54 (Iud)

Revision Date: _____ Dept. Affected: Administration
 Title: "An Act relating to violations of laws by juveniles, to the remedies . . ." BRU: Office of Public Advocacy
 Component: Office of Public Advocacy
 Sponsor: Halford
 Requestor: House Judiciary COMPONENT SERIAL NO. 43

Expenditures/Revenues: (Thousands of Dollars)

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

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

FUNDING:

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

POSITIONS

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

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

ANALYSIS: (attach a separate page if necessary.)

Prepared By: Brant McGee, Public Advocate Phone: 274-1684
 Division: Office of Public Advocacy Date: _____

Approved by Commissioner: Nancy Bear Usara *NBU* Date: 4/20/93
 Agency: Department of Administration

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HCS CSSB 54 (JUD)

Revision Date: _____ Dept. Affected: Administration
 Title: An Act Relating to violations of law BRU: Public Defender Agency
by Juveniles... Component: Public Defender Agency
 Sponsor: Sen. Halford
 Requestor: House Judiciary Comm. COMPONENT SERIAL NO. 43

Expenditures/Revenues:

(Thousands of Dollars)

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

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

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

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: BH Gayle A. Horvatski, Comm. Aide
 Division: House Judiciary Comm.
 Approved by Commissioner: Brian D. Porter
 Agency: Chairman, House Judiciary Comm.

Phone: 465-6841
 Date: 4-19-93
 Date: 4-19-93

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FISCAL NOTE

STATE OF ALASKA
1993 LEGISLATIVE SESSION

BILL NO. HCS CSSB 54 (JUD)

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act Relating to Violations of Law BRU: Statewide Programs
by Juveniles... Component: Statewide Programs
 Sponsor: Sen. Halford
 Requestor: House Judiciary Comm. COMPONENT SERIAL NO. _____

Expenditures/Revenues:

(Thousands of Dollars)

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

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

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

FUNDING:

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Gayle A. Horetski, Committee Aide
 Division: House Judiciary Committee
 Approved by Commissioner: Brian S. Porter
 Agency: Chairman, House Judiciary Committee

Phone: 465-6841
 Date: 4-19-93
 Date: 4-19-93

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By: Sen. Taylor

SENATE
LETTER OF INTENT

CSSB 54(FIN)

It is the intent of the Senate that Sections 1, 5, and 8 of this Act are not intended to modify court rules regarding access to presentence reports, discovery in criminal cases, or any other court rules designed to limit the dissemination of information to protect individual privacy, a person's right to a fair trial or other constitutional rights.

Adopted: 3/2/93

Alaska State Legislature



DRAFT

House of Representatives
House Judiciary Committee

State Capitol, Room 120
Juneau, Alaska 99801-1182
(907) 465-4990

LETTER OF INTENT

It is the intent of the House Judiciary Committee, in its adoption of HCS for CS for SB 54 (JUD), to alter the jurisdiction of the criminal courts over juvenile offenders charged with murder and to require the juvenile offender for whom waiver to criminal court has been sought for other offenses to prove that he or she is amenable to treatment in the juvenile justice system.

The House Judiciary Committee, in its adoption of HCS CSSB 54 (JUD), intends to alter the substantive legal rights of juvenile offenders. In the judgement of the committee, the scope of a court's jurisdiction and the allocation of burdens of proof in legal actions are matters of substantive law, not matters of procedure.

It is the judgement of the committee that, once the screening authorities have decided that a juvenile offender is not amenable to treatment in the juvenile court system and have filed a petition seeking waiver of the juvenile into the adult criminal court system, it is the offender himself who is in the best position to show that he would be treatable in the juvenile court system. The juvenile offender and his attorney are the ones who know the most about the offender's family and educational experiences, and are in the best position to present information relating to the issue of treatability to the court.

For example, under the Alaska Court of Appeals' decision in R.H. v. State, 777 P. 2d 204 (Alaska App. 1989), the state may not compel a juvenile offender to submit to a psychiatric evaluation for the purpose of determining his amenability to treatment in the juvenile court system. In its decision, the court acknowledged that "in some situations, the lack of information concerning the psychiatric condition of the accused child will undoubtedly make the state's burden more difficult to meet." 777 P. 2d at 211. In the view of the committee, to place the burden of proof upon the party who has the greatest access to the facts relevant to the issue of treatability is a sound public policy choice.

Brian Porter, Chairman

04/16/93
15:35:50

J. LEGISLATIVE TELECONFERENCE NETWORK SYSTEM
PARTICIPANT LIST (ALL PARTICIPANTS)
TCN:30533 SCHEDULED FOR:04/16/93 15:15 TO 17:00
PUBLIC HEARING HOUSE JUDICIARY

LTN1150
BY:ANC
FOR:ANC

LOCATION: ANCHORAGE

SB 54
SB 54
SB 54
SB 54

GLENN
HOWARD
JAY
SHARON

FLOTHE
BURGER
PAGE
BLEEK

STATE TROOPERS
STATE TROOPERS

Testify
OBSERVE
OBSERVE
TESTIFY
OBSERVE

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: April 16, 1993
Place: Capitol Room 120

SB 54 Juvenile Waiver
HB 222 Use of Rented Property/Law Violations
HB 188 Forfeiture of Property
HB 195 Authorizing Youth Courts
HB 187 Interception of Private Communications

Subject of Meeting: HB 132 Extend Resource
Extraction Permit/Lease

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Mary A. A. ORSACE	ALASKA MINERS ASSN	240 MAIN ST, STE 500	99801		586-3340	<input checked="" type="radio"/> Y <input type="radio"/> N	HB 132
Margot Kouth	Law - CDCO	Box 110300	99811		465-3428	<input checked="" type="radio"/> Y <input type="radio"/> N	SB 54
Randall Hines	DHSS	Box 110630	99811		465-3187	<input checked="" type="radio"/> Y <input type="radio"/> N	SB 54 & HB 195
						<input type="radio"/> Y <input type="radio"/> N	
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REF

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE NORDLUND

TO: DRAFT HCS CSSB 54(JUD)

Page 3, line 25:

Delete "a new subsection"

Insert "new subsections"

Page 4, following line 2:

Insert a new subsection to read:

"(f) If, under (e) of this section, the minor is to be prosecuted as an adult, the minor may, within 10 days of the date that the minor is arraigned, file a petition with the court seeking to have the charges heard under the procedure prescribed in AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules. The petition under this subsection must allege that the minor is amenable to treatment under this chapter before the minor's 20th birthday. At a hearing on a petition under this subsection, the minor bears the burden of proving by a preponderance of the evidence that the minor is amenable to treatment under this chapter before reaching 20 years of age. In ruling on the petition, the court shall consider the factors set out in AS 47.10.060(d)."

Page 6, line 11:

Delete "or"

Insert "1"

Page 6, line 13, after "second degree":

Insert ", or unless, after commencement of the criminal proceeding under AS 47.10.010(e), the charges were heard and disposed of under AS 47.10.020 - 47.10.090 and the Alaska Delinquency Rules in response to a petition filed under AS 47.10.010(f)"

ALASKA

CIVIL LIBERTIES UNION

P. O. Box 201844 Anchorage, AK 99520-1844

Phone: 907-258-0044 Fax: 907-258-0288

Messages Only: 907-276-2258

March 26, 1993

The Honorable Brian Porter
Chairman, Judiciary Committee
The House of Representatives
State Capitol, Juneau, AK 99801-1182

Dear Representative Porter:

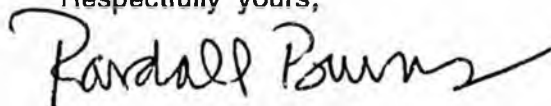
I am writing on behalf of the Alaska Civil Liberties Union (AkCLU), an affiliate of the American Civil Liberties Union (ACLU), to express our opposition to SB 54. This bill provides for an *automatic* "waiver" of juveniles 16 years and over from the juvenile system into the adult criminal justice system when they are charged with unclassified or Class A felony offenses.

Over the years the AkCLU and other youth advocacy organizations have argued against bills that assert an automatic waiver. As you know, the State of Alaska already has a system in place for the waiver of juveniles from Children's to Superior Court. The present system functions effectively and, despite criticisms, we have heard no persuasive arguments to the contrary.

Given that we presently have an effective system, we can see no **fiscal justification** for enacting legislation that will cost the state more money to administer while further reducing the already tentative civil liberties of our juvenile population.

Bottom line: automatic waiver to adult court will necessitate strong constitutional protections for those juveniles being waived to adult court, protections necessitating much more expensive -- primarily state funded -- defense and prosecutorial costs. Given that present agency budgets already account for the funding of juvenile waivers under the current system, why attempt to fix something that clearly is not broke by replacing it with much more expensive procedures that trample on the rights of Alaska's children?

Respectfully yours,



Randall P. Burns
Executive Director

Rep. Brian Porter, Chairman

House Judiciary Committee

Date: March 26, 1993
Place: Capitol Room 120

Subject of Meeting: HB 160 Liability of Design Professionals; SB 54 Offenses by Juveniles

Please Print Name	Representing	Business/Personal Mailing Address	Zip	(H) Phone	(W) Phone	Do you Want to Testify?	Which Subject/ Which Bill?
Rosemary Matt	A.D.O. T. + P.F.	MS 2500			465-6960	Y <input checked="" type="radio"/> N	HB 192
Donna Schultz	DHSS / DFYS	P.O. Box 110630 / 99811-0630			465-2112	Y <input checked="" type="radio"/> N	Will answer questions SB 54
Jim Galea	DHSS / DFYS	PO Box 110630 -			465-3208	Y <input checked="" type="radio"/> N	Will answer questions SB 54
Deborah Wing	DHSS / DFYS	" "			465-3191	Y <input checked="" type="radio"/> N	Available to AS. Quest.
✓ Shanon Marklin	AK Prof. Design	215 5th St # 8	99801		586-7518	Y <input checked="" type="radio"/> N	HB 160
✓ Russ Winner	AK Action Trust	900 W 5th Ave Ste 700, Anch.	99501		277-9522	<input checked="" type="radio"/> Y N	HB 160
✓ Charles E. Cole	Attorney General	Box K JUNEAU			3600	<input checked="" type="radio"/> Y N	SB 54
✓ DEAN GUANEZI	Dept. of LAW	Box KC JUNEAU				<input checked="" type="radio"/> Y N	SB 54
✓ Mitch Ritter	AK Prof. Design ^{Comm}				586-1371	<input checked="" type="radio"/> Y N	SB HB 160
LIZ DODD	ACLU	100 Parks St.	99801		463-2601	Y <input checked="" type="radio"/> N	SB 54
						Y N	
						Y N	

By: Sen. Taylor

SENATE
LETTER OF INTENT

CSSB 54(FIN)

It is the intent of the Senate that Sections 1, 5, and 8 of this Act are not intended to modify court rules regarding access to presentence reports, discovery in criminal cases, or any other court rules designed to limit the dissemination of information to protect individual privacy, a person's right to a fair trial or other constitutional rights.

Adopted: 3/2/93



ALASKA STATE LEGISLATURE
Senator Rick Halford
President of the Senate

While in Session:
State Capitol
Juneau, AK 99801-1182
907-465-4958

While in Interim:
P.O. Box 670190
Chugiak, AK 99567
907-694-4958

MEMORANDUM

TO: Representative Brian Porter, Chairman
House Judiciary Committee

FROM: Senator Rick Halford

DATE: March 25, 1993

SUBJECT: CSSB 54 (FIN), "An Act relating to violations of laws by juveniles, to the remedies for offenses and activities committed by juveniles and to records of those offenses, and to incarceration of juveniles who have been charged, prosecuted, or convicted as adults; and providing for an effective date."

Recent years have witnessed an alarming increase in the frequency and violence of juvenile crime. Although this problem is strongly influenced by numerous factors beyond direct government control, public confidence in the justice system's treatment of juvenile crime has substantially eroded in the face of two general perceptions. First, the system is overly concerned with the rights of juvenile offenders and not concerned enough with protecting the rights of actual and potential victims of juvenile crime. Second, given the escalation of juvenile crime, the current system seems to fail to provide the convincing threat of punishment necessary to deter juvenile delinquents from evolving into hardened criminals.

Senate Bill 54 will require that juveniles sixteen years of age and older be prosecuted and sentenced as adults when charged with the most serious kinds of crimes - class A and unclassified felonies - or when charged with a felony class crime against a person if they have previously been adjudicated delinquent or convicted as an adult for a felony class crime against a person. Under certain exceptional circumstances, SB 54 also provides that minors fourteen years of age or older at the time of the alleged offense will be charged and prosecuted as adults.

Furthermore, Senate Bill 54 defines in statute the terms of detention and incarceration for juveniles who are charged and tried as adults by providing that they be delivered directly into the custody of the Department of Corrections. The criminal records of juveniles will not be sealed for crimes

for which they are adjudicated delinquent or convicted as an adult and that were committed when the juvenile was sixteen years of age or older.

Senate Bill 54 also provides for new restitution measures designed to deter juvenile crime and arrest the normal pattern of juvenile criminal development at a less serious stage. At present, courts are not required to order juveniles to pay restitution for either violent crimes or property crimes. Because the names of juvenile delinquents are kept confidential, it is also virtually impossible to sue them for damages resulting from criminal activity. SB 54 will require courts to order juveniles to pay suitable damages for their crimes, permit victims access to the criminal records of juveniles who have injured them or damaged their property in order to pursue civil suits, and allow the permanent fund dividends of delinquents and their parent(s) or legal guardian(s) to be attached for payment of restitution or civil damages.

Thank you for your consideration of this legislation.

SB 54

The question being: "Shall CS FOR SENATE BILL NO. 54(FIN) be returned to second reading for the purpose of a specific amendment, that being Amendment No. 6?" The roll was taken with the following result:

SB 54**CSSB 54(FIN)**

Return to second reading - AM 6

YEAS: 9 NAYS: 10 EXCUSED: 1 ABSENT: 0

Yeas: Adams, Donley, Duncan, Ellis, Kerttula, Lincoln, Little, Phillips, Zharoff

Nays: Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Rieger, Sharp, Taylor

Excused: Salo

and so, the motion failed.

Senator Taylor offered the following Letter of Intent:

Letter of Intent
for
CSSB 54 (FIN)

It is the intent of the Senate that Sections 1, 5, and 8 of this Act are not intended to modify court rules regarding access to presentence reports, discovery in criminal cases, or any other court rules designed to limit the dissemination of information to protect individual privacy, a person's right to a fair trial or other constitutional rights.

SB 54

Senator Taylor moved and asked unanimous consent that the Letter of Intent be adopted. Senator Adams objected, then withdrew his objection. There being no further objection, the Senate Letter of Intent was adopted.

The question being: "Shall CS FOR SENATE BILL NO. 54(FIN) "An Act relating to violations of laws by juveniles, to the remedies for offenses and activities committed by juveniles and to records of those offenses, and to incarceration of juveniles who have been charged, prosecuted, or convicted as adults; and providing for an effective date" pass the Senate?" The roll was taken with the following result:

CSSB 54(FIN)

Third Reading - Final Passage

YEAS: 12 NAYS: 7 EXCUSED: 1 ABSENT: 0

Yeas: Donley, Frank, Halford, Jacko, Kelly, Leman, Miller, Pearce, Phillips, Rieger, Sharp, Taylor

Nays: Adams, Duncan, Ellis, Kerttula, Lincoln, Little, Zharoff

Excused: Salo

and so, CS FOR SENATE BILL NO. 54(FIN) passed the Senate with a Senate Letter of Intent.

Senator Taylor moved the effective date clause.

The question being: "Shall the effective date clause be adopted?" The roll was taken with the following result:

CSSB 54(FIN)

Effective Date

BILL NO: CSSB 54

DATE: February 17, 1993

TITLE: "An Act relating to violations of laws by juveniles. . ."

CONTACT: C.E. Swackhammer
Deputy Commissioner
465-4322

Section 1 amends AS 12.55.045 Restitution, paragraph (a), by adding a defendant who is a minor to those individuals the court may order to make restitution to a victim.

Section 2 amends AS 33.30.901 Definitions, paragraph (11), to include a juvenile committed to the custody of the commissioner when the juvenile has been convicted as an adult.

Section 3 amends AS 34.50.020 Liability for the Destruction of Property by Minors, paragraph (a), to increase the civil damages from \$2,000.00 to \$5,000.00 against an unemancipated minor or who maliciously injures property belonging to a person, municipal corporation, association, village, school district, or religious or charitable organization.

Section 4 amends AS 43.23.065 Exemptions to Permanent Fund Dividends, paragraph (b), which permits the seizure of minor's permanent fund dividend check up to the value of \$5,000.00 if the minor is convicted of an act against a person which caused injury or minor's malicious or willful injury of real or personal property and also allows seizure of permanent fund dividend check of the parent, legal guardian, or person having legal custody of an unemancipated minor.

Section 5 adds a new subsection AS 47.10-010 which allow a minor 16 years of age or older to be tried as an adult if the minor committed an unclassified or class A felony or a crime against a person that is classified as a felony and the minor has previously adjudicated as delinquent or convicted as an adult as a result of an offense against a person classified as a felony and paragraph (G) of this section provides for the minor to be sentenced as an adult if convicted of the above listed crimes.

Section 6 amends AS 47.10.060 Waiver of Jurisdiction, which provides that the court may not seal the records of a criminal proceeding under AS 47.10.010(e)-(g)

Section 7 amends AD 47.10.080 Judgements and Orders, paragraph (b), by stating that the court may not refuse to make an order of restitution if the findings of delinquency is based on the offense which knowingly or intentionally injures real or personal property.

Section 8 adds a new section AS 47.10.080 provides if a minor was first prosecuted as an adult but convicted of an offense which was not included in the AS 47.10-010(e) if the minor should be treated as a minor.


Section 9 amends AS 47.10-090 Records, by adding a new subsection which provides for records access to a victim of a crime against the persons real or personal property by a minor adjudicated delinquent.

Section 10 amends AS 47.10.190 Conditions Covering Detention, by adding that a minor does not need to be jailed apart from adults when the juvenile was convicted as an adult.

Section 11 amends AS 47.10.990 Definitions, by adding a definition of crime "Crime against a person" as having the meaning given by AS 33.30.901 (section 2, above).

Section 12 amends rule 21(b) Alaska Delinquency Rules, to provide for a jury of 12 persons if the juvenile request trial if the act the juvenile is accused of is punishable as a felony and for a trial jury of 6 if none of the acts the juvenile accused of is a felony under AS 11.

This legislation will increase the amount of investigative time only to the extent of requiring grand jury appearance by the investigating officer(s). It will not impact the thoroughness of the criminal investigation of a serious crime.



Richard L. Burton
Commissioner