

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8544 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

3. An incident occurred where I passed an etching material to the dentist, over the patients face, and some of the material dropped on the patients forehead. The material was not wiped off until after the procedure was completed, about forty-five minutes later. If I knew the material contained phosphoric acid, I would never have passed it over the patients face

4. I have witnessed Dental Assistants applying pit and fissure sealants on patients. Their on-the-job training did not stress the importance of isolating and completely drying the tooth prior to applying the sealant material. Patients are paying good money for a sealant to last at least five years, and the sealants I have seen did not last long enough for the patient to walk out the door

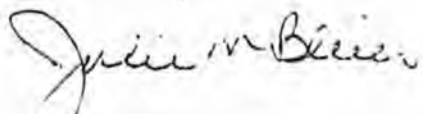
These are very basic, fundamental procedures that many Dentists "take for granted" and don't stress to Dental Assistants. It's these "fundamentals" that require formal and professional education to establish a firm foundation for proper patient care and to ensure consistency to the Dental Assistant profession. On-the-job training is NOT the answer. Dentists simply don't have the time to provide adequate, comprehensive Dental Assistant training. Time is money - training **WILL** suffer.

Professional education has taught me the basics, the background, the safety, and the legal ramifications that the dentists I have worked for did not take the time to teach me. In the past five years I have worked with dentists that still fail to wear gloves while in the patients mouth, because this is the way they were taught and they fail to understand the importance of wearing gloves. Many Dentists are "out of the loop" and not up to date with current safety and health requirements and methods.

Without question, if I had it all to do over, I would have gone to school to be certified as a Dental Assistant. Formal education provided me with a complete, full understanding of the procedures performed by Dental Assistants. Dental Assistants must be provided the very best education and training so they can perform their job with utmost confidence. Due to the high cost of Dental care, the patient expects a very high level of competence from the entire Dental Staff.

Please consider these consequences when making your decision. Remember, you are also a dental patient.

Respectfully,



Julie M. Bleier, Registered Dental Hygienist

TO: CON Bunde

HEALTH, ED & Social Services Committee

PLEASE do NOT PASS Bill #182. It is
NOT in the Best interest of the dental patients.

DIANNE LUND
4030 CROSSON DRIVE
ANCHORAGE AK 99517

Fax Transmittal Memo 7672

To Cynthia Toohey

Location Juneau

Fax # 907-4105-2137

Comments

1

No of Pages

Today's Date

2-Mar-95

From

Pam Trueman

Company

Location

Kodiak

Dept. Charge

Fax #

907-486-2800

Original
Disposition

Destroy

Return

Call for pickup

To: Cynthia Toohey
From: Pam Trueman, RDH
Date: March 2, 1995
SUBJECT: HB 182

As an Alaska state licensed hygienist for 13 years and a Native Corporation hygienist for 10 years, I would like to give my opinion on HB 182.

I am in favor of dental assistants applying pit and fissure sealants if quality assurance measures are followed through. I approve of a OJT program for instruction and would encourage all sealants placed by an assistant to be checked by a licensed dentist or hygienist.

The number of students that we exam yearly needing sealants require numerous trips to the villages to apply them. When assistants were able to apply sealants, they would always travel with a provider who checked the retention of the newly applied sealant.

Alot of dental assistants whom I have worked with, take great pride in doing a good job in their choosen field. With the added responsibility of applying sealants, I have seen them look closer at how they can improve other aspects of their job.



Official Business

Alaska State Legislature

REPRESENTATIVE CYNTHIA TOOHEY

State Capitol
Juneau, AK 99801-

DISTRICT 13

SPONSOR STATEMENT

House Bill 182: "An act allowing a dentist to delegate certain duties to a dental assistant."

This bill will allow dentists practicing in Alaska to delegate to a dental assistant the ability to perform three very specific tasks: application of topical preventive agents, application of prophylactic agents, and application of pit and fissure sealants. These practices by dental assistants have been judged to be technically illegal by an opinion issued by the Attorney-General, which has made the provision of dental care to Alaskans more difficult to effect. Enabling dentists to delegate certain specific duties to assistants whom they trust, and on whom they rely, is a step that must be taken in order to give dentists as much flexibility as possible in doing their jobs. HB 182 will help dentists throughout the State, but will be most helpful to dentists who serve the rural population. The lack of practical discretion currently available to dentists hinders their ability to see as many patients as possible. For practitioners in rural settings, especially for itinerant dentists travelling from village to village, this problem is acute enough that it can result in a patient not being seen due to time constraints. For the sake of Alaskans' oral health, HB 182 must be passed by the Nineteenth State Legislature.

HB 182 is supported by the Alaska Dental Society, the Alaska Native Health Board, Tanana Chiefs Conference, Inc., the Coastal District Dental Society, Bristol Bay Area Health Corporation, the Southeast Alaska Regional Health Consortium, and numerous dental health professionals across the State.

Please support and vote for HB 182.

INTERIM ADDRESS: 716 West 4th Avenue, Suite

SPONSOR STATEMENT



Alaska Dental Society

3400 Spenard Road, Suite 10
Anchorage, Alaska 99503
(907) 277-4675 • FAX: 274-2960

February 20, 1995

Representative Cynthia Toohey
Alaska State Legislature State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Representative Toohey:

The Alaska Dental Society would like to strongly support HB 182 which was introduced by you on February 15th - "An act allowing a dentist to delegate certain duties to a dental assistant." Dentistry has long had a real concern in this state with providing quality treatment to as many citizens as possible yet needing to be assured that those individuals who deliver the care are qualified to do so. In the zeal to be "the last frontier", proper checks and balances on ability need to be in place - not only for safety sake, but, self-servingly for the dentist who is legally liable for all treatment rendered in his/her office.

The language in this bill will empower *the dentist* to delegate certain duties to a dental assistant who *the dentist* knows has the skill level and capability to provide those services. The ability for the dental assistant to now legally do, what *the dentist* feels he/she is trained to do - "application of topical preventive or prophylactic agents" and "pit and fissure sealants," allows the dental hygienist to more efficiently concentrate at a higher skill level outlined in the current dental statute and evaluated by the state dental board. The current dental hygiene statute has been interpreted by the attorney general to say that any treatment task listed for a dental hygienist may only be performed by a dental hygienist. Dentistry feels this is not fair to dental assistant's, restricts the duties of the dental hygienist and certainly does not provide the most efficient use of skill levels for the consumer.

We would appreciate knowing the hearing dates scheduled for this bill and would be happy to provide dentists to testify on behalf of the legislation - either in person or by teleconference. It's really unfair to patients if their dentist has to cancel appointments on short notice to go testify, so as much advance information as possible is very helpful.

Sincerely,
Arne R. Pihl, DMD, President
Alaska Dental Society

**TANANA CHIEFS CONFERENCE, INC.**

122 FIRST AVENUE, SUITE 600
FAIRBANKS, ALASKA 99701-4897
PHONE 907/452-8251 • FAX 907/459-3850

Feb. 28, 1995

Rep. C. Toohy
House of Representatives
State Capitol
Mail Stop 3100
Juneau, AK 99801-1182

RE: HB-182

Dear Rep. Toohy,

Thank you for sponsoring HB-182 which authorizes licensed dentists to delegate some expanded functions to dental assistants. The Tanana Chiefs Conference, Inc. (TCC) strongly supports passage of this bill!

Allowing dental assistants to perform specific expanded functions will greatly increase our capacity to serve patients, particularly during field visits to remote communities when dental hygienists are unavailable.

Having the option to delegate some procedures to dental assistants will free up our dentist's time to provide more specialized dental care. More patients can then be seen by the dentist while the dental assistant is performing delegated functions.

Again we support HB-182 and appreciate your efforts on behalf of this bill.

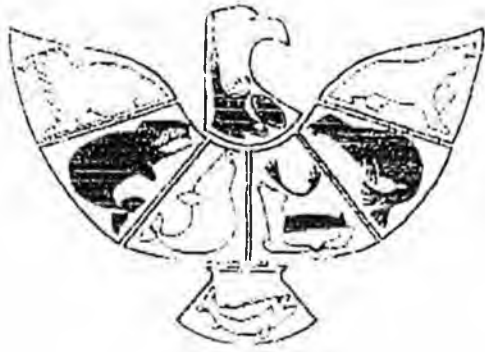
Thank you.

Sincerely,

TANANA CHIEFS CONFERENCE, INC.


Eileen Kozevnikoff
Director, Health Services

cc: file



Alaska Native Health Board

1345 Rudakof Circle, Suite 206
Anchorage, Alaska 99508

Phone: (907) 337-0028
FAX: (907) 333-2001

February 28, 1995

Representative Cynthia Toohey
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

RE: House Bill 182

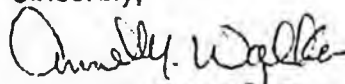
Dear Representative Toohey,

The Alaska Native Health Board is appreciative of your recent introduction of House Bill 182, which makes provisions for the application of topical preventive and prophylactic agents and pit and fissure sealants by dental assistants. Our Board of Directors included support for this legislation in our listing of state legislative priorities for this session.

Passage of this legislation will improve the ability of Alaska Natives (and all Alaskans) to access these important preventive services. The regional Alaska Native health organizations which comprise the Alaska Native Health Board will benefit from the authority to extend these services to their beneficiaries.

The Alaska Native Health Board supports H.B. 182 and offers any assistance we might offer to ensure its speedy passage during this session. Thank you again for your assistance and responsiveness.

Sincerely,


Joseph C. Dexter
Chairman

February 17, 1995

Cynthia Toohey,

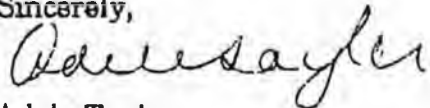
I am writing to express my support for HB 182. I am a dentist employed by the Bristol Bay Area Health Corporation and I have had the opportunity to see first hand the effect the recent Attorney General's opinion on this matter has had on the services we are able to provide to our patients.

We practice in a rural setting, providing dental services to a large widespread population. Well trained dental assistants allow us to provide more services to an underserved population.

The services we would like trained dental assistants to provide include placing sealants and applying topical fluorides. These are preventative services that have been performed by dental assistants for years with no adverse effects. Placing sealants is a time consuming procedure. It is a safe, completely reversible, cost effective procedure that I have seen well done hundreds of times by dental assistants. All of these procedures are done under the supervision of a dentist and of course we only allow those dental assistants who have been trained and who are proficient at the procedure to perform a particular procedure.

Allowing dental auxiliaries to do these activities is in the best interest of the people we serve.

Sincerely,



Adele Taylor
P.O. Box 365
Dillingham, AK 99576

Representative Cynthia Toohey
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

February 23, 1995

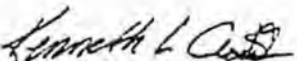
Dear Representative Toohey:

On behalf of the Bristol Bay Area Health Corporation and of the Coastal District Dental Society, I strongly support House Bill 182, "An Act allowing a dentist to delegate certain duties to a dental assistant." The primary disease prevention procedures affected by this legislation are critically important to the oral health of the population of our regions. This bill will remove a barrier to the provision of some of the most cost-effective dental services available.

These procedures are well within the realm of complexity of tasks routinely performed by dental assistants and do not require a high level of education as do other dental hygienist functions delineated in AS 08.32.110. Dental assistants nationwide have performed thousands of applications of topical preventive agents and pit and fissure sealants, establishing a long record of safety and effectiveness.

Your sponsorship of this legislation is greatly appreciated by the dentists in Alaska's bush communities and the people we serve.

Sincerely,



Kenneth L. Crooks, DDS

Chief of Dental Services, Bristol Bay Area Health Corporation
President, Coastal District Dental Society

February 17, 1995

Cynthia Toohy,

As a Dental Asst. supervisor from
the Bristol Bay Area Health Corporation in
Dillingham, Alaska, I am sending this
letter to support HB 182.

Thank you for your help.

Sincerely,

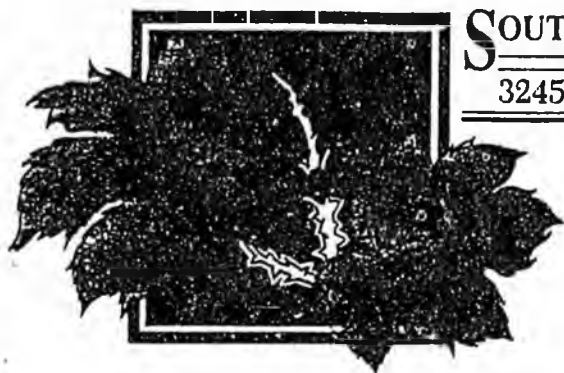
Glenda J. Nielsen

Glenda J. Nielsen

PO Box 148

Dillingham, Alaska 99576

S**OUTH****E****AST****A****LASKA****R****EGIONAL****H****EALTH****C****ORPORATION**
3245 HOSPITAL DRIVE • JUNEAU, ALASKA 99801 • (907) 463-4000



State Capitol
Room 104
Juneau Alaska 99801-1182

February 16, 1995

Dear Representative Toohy;

As Director of Dental Services for Southeast Alaska Regional Health Consortium. I am writing in support of House Bill 182.

I believe it is in the public interest to allow Dental Assistants to apply Dental Sealants. Application of Dental Sealants is a noninvasive dental procedure requiring no anesthetic or other medications. Dental Assistants in many locales have been applying Dental Sealants for more than ten years without reports of adverse incidents associated with Sealant application.

The technical expertise required to apply Dental Sealants is well within the skill level of Dental Assistants. The main tools used in the application of Dental Sealants are a dental mouth mirror, suction tube, and small disposable brush.

Dental Sealant application does not alter the tooth structure in any way.

Dental Assistants have been key in allowing Southeast Alaska Regional Health Consortium to provide Dental Sealants in many of the villages of Southeast Alaska.

Sincerely,

A handwritten signature in dark ink, appearing to read "Tom Bornstein DDS".

Tom Bornstein, DDS
Director Dental Services
Southeast Alaska Regional
Health Consortium



State Capitol
Room 104
Juneau, Alaska 99801-1182

Dear Representative Toohy:

As Director of Dental Services for Ketchikan, Alaska, I am writing in support of House Bill 182. I have also practiced dentistry with the PHS in Dillingham and Medena.

Sealants are a vital preventive measure in improving the oral health of our patients. Application of dental sealants is a noninvasive dental procedure that requires no anesthetic. The tooth structure is not altered in any way.

The technical skill required to apply sealants is well within the ability of the assistants. Sealants have been applied successfully by dental assistants in many locations for years without any adverse cases. In all cases, the dentist treatment plans which teeth actually need the sealants.

Because of the time constraints on village trips, the placement of sealants by assistants in the village is extremely important in meeting the dental needs of the villages. Please help us in striving to improve the oral health of our patients.

Sincerely,

Kevin Craig DDS

Kevin Craig, DDS
Director Dental Services
Ketchikan, AK



Alaska State Dental Hygienists' Association

Representative Cynthia Toohey
 State Capitol
 Juneau, AK 99801-1182

RE: House Bill 182

Dear Representative Toohey,

I have been a dental hygienist for 22 years and truly enjoy my profession. I am also The Alaska State Dental Hygienists' Association (ASDHA) Legislative Chairperson. This letter represents the views of the ASDHA regarding House Bill 182. My personal opinions parallel those of ASDHA and more but I won't get into all of my personal opinions in this letter. This issue of dental assistants performing dental hygiene functions has been around for several years. It is not new. We have had several meetings with the Alaska Dental Society (ADS) in the past trying to work out our differences and come to a workable agreement, but basically have agreed to disagree. The biggest obstacle we seem to keep coming up against is education. Perhaps after reading this you can make a more informed decision regarding this bill for your public.

"As dental hygienists, we are a community of professionals devoted to the prevention of disease and the promotion and improvement of the public's health. We are preventive oral health professionals who provide educational, clinical, and therapeutic services to the public. Our actions, behaviors, and attitudes are consistent with our commitment to public service."

This quote is taken from The Dental Hygiene Code of Ethics, which clearly states our goal is commitment to the public's health. In order to achieve this goal to the highest level possible a dental hygienist has a *minimum* of two years' college education with a degree and many times has a four year college degree and higher. In order for us to practice, we are tested, licensed and regulated with mandatory continuing education.

House Bill 182 which allows dental assistants, who have had no formal education, to apply topical preventive or prophylactic agents or pit and fissure sealants. Do you think this is protecting the public and providing them the oral care they deserve and are paying for, and think they are getting? If this bill passes, will a dentist take the time to properly train and observe a dental assistant in this technique sensitive procedure of applying pit and fissure sealants? Or would a formal educational course be a better instructor? Which person would *you* want servicing your family??

The Alaska State Dental Hygienists' Association does not endorse this bill as written. First, topical preventive agents could mean other substances than just topical fluoride (which is a poisonous substance and potentially fatal if too much is ingested). We feel it is totally inappropriate to allow a dental assistant to apply prophylactic agents which could be polishing agents. In many offices with this wording in place, the child prophylactics (teeth cleanings) then might be performed by the dental assistant without thorough removal of the calculus (tartar) on the child's teeth. Who would *you* want to clean your child's teeth? - someone who's been formally trained to remove the tartar which could cause gum irritation and possible infection, or someone who cannot perform that service? -someone

page 2
ASDHA

who has been formally instructed and tested or how to hold the handpiece to polish, how fast to polish, how much pressure to apply to the teeth when polishing so as not to cause damage to the tooth structure, and what the ramifications are if procedures aren't followed correctly or someone who's has not had this type of education? Is *this* commitment to public service??

I have also included an article from ADA News, February 20, 1995 regarding the placement of sealants. Could more damage than good be done if applied improperly?? Is *this* commitment to public service??

I understand this bill supposedly is being introduced for the Native Corporations in the bush. I understand the assistants used to be able to apply topical fluoride for their fluoride school programs and sealants for their sealant programs but can no longer perform these functions under current state law unless performed by a dental hygienist. We know these are important programs to have in the bush and ASDHA has written language in the past to change our statutes to allow these responsibilities to be performed by dental assistants with board certified courses. Board certified courses could be courses the State Dental Board has approved. These courses could include videotapes and manuals and self-tests which are now available, at a minimal cost to the dentist. I also know that the Native Corporations spent a lot of time and effort training their dental assistants, so I'm at a loss as to why mandatory training is not written into this bill. Is *this* commitment to public service for the bush communities??

As I mentioned above, this is not a new issue. I've included a copy of the statute changes which were agreed upon in 1991 by the president of the Alaska Dental Society, Rob Robinson, DMD, and Gail Bemis, RDH, for Connie Stewart, RDH, ASDHA president allowing other persons (we would prefer this to read dental assistants) to apply topical fluoride and pit and fissure sealants with a board certified course. This amendment never occurred because the language was changed and was not submitted as written, but with your help perhaps we can again institute this statute change and be able to meet everyone's needs. This is commitment to public service!

You are charged with the responsibility of protecting the public. Are you really doing your job well if you allow untrained personnel to perform oral care on the public? HB 182 would need to be rewritten before ASDHA will be supportive of this bill. I urge you to think about this very carefully before you make your final decision. If your family was involved, what level of care would you expect for them to receive? What level of care are you paying for? The public depends on your careful decisions for them.

Thank you for your time and I trust you will make an appropriate decision. If you require additional documentation or information regarding any of the above, I would be more than happy to supply you with that.

Sincerely,

Joellen Tate Rinker, RDH, BS

Joellen Tate Rinker, RDH, BS
Legislative Chairperson, ASDHA

Section 1. AS 08.32.110(a) and (b) is amended to read:

(a) The role of the dental hygienist is to assist members of the dental profession in providing oral health care to the public. A person licensed to practice the profession of dental hygiene in the state may:

(1) remove calcareous deposits, accretions, and stains from the exposed surfaces of the teeth beginning at the epithelial attachment by scaling and polishing techniques;

(2) apply topical preventive or prophylactic agents except as provided in (b) of this section;

(3) apply pit and fissure sealants except as provided in (b) of this section;

(4) perform root planing and periodontal soft tissue curettage;

(5) perform other dental operations and services delegated by a licensed dentist if the dental operations and services are not prohibited by (c) of this section; [AND]

(6) if certified by the board and under the direct or indirect supervision of a licensed dentist, administer local anesthetic agents [.]; and

(7) if certified by the board and under the direct or indirect supervision of a licensed dentist, administer and monitor nitrous oxide-oxygen analgesia.

(b) The Board shall specify by regulation those additional functions that may be performed by a licensed dental hygienist only upon successful completion of a formal course of instruction approved by the board. The board shall promulgate regulations specifying the education requirements, evaluation procedures, and degree of supervision required for each function. If certified by the board and under the general supervision of a licensed dentist, other persons may apply topical fluoride and pit and fissure sealants.

*This Supplement 1100 2220
provisions will with an
initials Ruth*

Agreed by: Robert W. Robinson II
Robert W. Robinson II, D.M.D.
President, Alaska Dental Society

5/13/91
Date

Witnessed by: Connie Stewart
Connie Stewart
ASDHA President by Gail Benis

5/13/91
Date

4,882

3,260

3,942

57

6.0

5,019

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6

4,100

LETTERS

ADA News Feb. 20 '95

Sealant reliability

Practicing pediatric dentistry in a Navy town for the past 17 years, I have placed my fair share of sealants and have seen thousands of my colleagues' finished products. Two facts have become evident: fissure sealants are not 100 percent successful and certain fissure sealant types are much less dependable than others.

I have noted that light-cured, white opaque fissure sealants do not stand the test of time. I have found the clear sealant to be a more efficacious product. The opaque sealants, however, seem to be the most popular class found in transfer patients. I have also noticed that decay under failed sealants progresses rapidly.

Common sense tells us that carious enamel is unsupported enamel, thus supplying an unstable foundation for the fissure sealant. Also, leaking sealants are a conduit to these untreated areas, causing recolonization of the defective enamel and/or dentin and rapid recurrence of the carious process.

Practice has taught me that not all clinically intact enamel is cariesfree. Very often enamelplasty will uncover demineralized tissue. This is especially true with respect to newly erupted molars.



With the advances in polymer chemistry, the marketing of marvelous resin products and the proven benefits of preventive resin restorations, it is difficult for me to understand why another article ("Sealant Use Guidelines Updated,"

Jan. 9 ADA News) is presented which advocates the sealing in of caries. This style of dentistry just doesn't make sense with the armamentaria, knowledge and skill we all possess.

Gordon H. Dixon, D.D.S.
San Diego

Editor's note: Dr. Dixon's clinical observations underscore the importance of the fact that sealants must be properly applied for good retention and the need for the sealants to be checked regularly as part of periodic recall as indicated in an Association report (JADA May 1987). Avoiding contamination is critical in the placement process. Numerous clinical trials over the past 30 years on large populations support the efficacy of dental sealants. The See LETTERS, facing page

LETTERS policy

ADA News reserves the right to edit all communications and requires that all letters be signed. The views expressed are those of the letter writer and do not necessarily reflect the opinions or official policies of the Association or its subsidiaries. ADA readers are invited to contribute their views on topics of interest in dentistry. Brevity is appreciated. For those wishing to fax their letters, the number is (312) 440-3538.

FEB 20, '95

3051 Elderberry Drive
Wasilla, Alaska 99654-7403
24 February 1995

To: *Legislative member*
Re: Statute Change to the Dental Hygiene Statute 08.32.110
House Bill 182

I am opposed to this statute change because it would decrease the quality of dental care the public deserves and is paying for. While I do not believe dental assistants are incapable of learning to polish teeth and apply pit and fissure sealants, I believe that under the present system, the amount of training and education assistants receive varies enormously. Some undergo formal training, but many are trained on the job. Until all dental assistants are trained under uniform guidelines and demonstrate a certain level of knowledge, and are all certified, I do not think allowing them to perform technically difficult procedures would be safe for their patients.

The application of pit and fissure sealants is a technically sensitive and difficult procedure in which many things can go wrong. It often takes a dentist or hygienist and an assistant to perform. Each step requires careful technique and precise timing. While a properly placed sealant protects the sealed surface from bacterial attack, an improperly placed sealant can leak, causing the tooth to be more at risk from decay than an unsealed tooth. Or it can fail altogether, leaving an unprotected tooth surface.

There is less risk of injuring the patient during polishing and applying fluoride treatments. However, the valuable educational aspects of the "cleaning" can easily be neglected. Many parents have questions that can only be answered by a professional who possesses a thorough grounding in the biological processes that occur in the mouth. A deep theoretical background is helpful even when answering simple concerns of the patient and parents.

I have lived and worked in Washington State where assistants are allowed to perform "child prophylaxes," and for the Indian Health Service where assistants apply pit and fissure sealants, and have worked in several clinics where they performed these functions. In my experience, they tended to "go through the motions". Their answers to parents' questions were vague and uninformed, usually unsatisfactory, and the poor technique they performed in applying sealants resulted in many failures and re-do's. Since the assistants I worked with were all Certified Dental Assistants, I shudder to think what would likely occur with those trained on the job.

Sincerely,

Maxine D. Franklin

Maxine Franklin, R.D.H., B.S.

March 1, 1995

TO ALL HOUSE MEMBERS OF HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE:

On Thursday, March 2, you will consider House Bill 182. It would allow unlicensed dental assistants to clean children's teeth and apply pit and fissure sealants.

I am a Dental Hygienist trained and licensed to do these procedures. You would be compromising patient care and doing a disservice to the public if you pass this bill.

A licensed person, such as a Dentist or Dental Hygienist has received a formal education from a school accredited to teach these procedures, therefore aware of how to do them, when to do them, and WHAT COULD GO WRONG. A licensed individual is also held accountable for a standard of care established by the profession.

In each of these procedures (applying propholactic agents and applying sealants) there are some things that can actually go wrong if the procedure is improperly performed or if treatment is performed inappropriately. I work in a private practice clinical setting. I know for a fact that dental assistants are not taught all of these factors.

Sure, it would be more convenient if an unlicensed preson could legally do these things - it would also be more convenient if your next-door neighbor could dispense antibiodics. But it would not be in the best interest of the public. That is why we have required education, licensing, and accountability for health care professionals.

I have worked for SEARHC in a village setting. I have found them perfectly able to send licensed Dentists and Hygienists to the bush. I submit this is a case of accepting a lesser standard of care to save money. Also an opportunity for Dentists to make a higher return on these commonly performed procedures.

Sincerely,
V.H. Miller RDH

WILLIAM AND KATHIE RUSSELL
P.O. BOX 872734
NASSILLA, ALASKA 99667
907-746-4009

February 26, 1995

Dear Legislative Member,

I am writing to voice my concerns about the House Bill 182 adding a sub-section to the dental hygiene statute 08.32.110 which reads as follows:

(d) this section does not prohibit a dental assistant from applying topical preventive or prophylactic agents or pit and fissure sealants when those duties have been delegated by a dentist licensed under AS 08.36.

I am strictly opposed to this amendment. We must think about the safety of our children, as once again they will be the victims if this bill passes.

Most dental assistants have received on the job training. Even licensed assistants have only 9 months of schooling, compared to 2 or 4 years for Dental Hygienists. Only an accredited school of Dental Hygiene can effectively train assistants in correct instrumentation, anatomy, the chemistry of dental disease, fluoride and patient education. Other than a Dentist, only a trained hygienist can identify medical problems that manifest themselves in the oral cavity before anywhere else in the body. A child prophylaxis is much more than just a polishing.

The application of pit and fissure sealants is a difficult and precise procedure that takes training if the sealant is to be placed properly. Improperly placed sealants are likely to fail leading to leakage and decay that makes the sealant more of a detriment than a preventative aid.

Furthermore, taking these professional services away from Dental Hygienists would be a disservice to the public. They would be receiving services unknowingly from unqualified, improperly trained staff, paying the same price for these procedures and receiving substandard care.

We need to prevent this and protect our children from this unconscious abuse from dentists who want only to utilize their assistants more fully to benefit their financial gain.

PLEASE PREVENT THIS FROM OCCURRING.

Sincerely,

Kathie A. Russell R.D.H.
Kathie A. Russell R.D.H.

Fax # 465-2137

P.O. Box 3645
Palmer, AK 99645
February 25, 1995

To: Representative Toohay
Re: House Bill 182

I oppose the proposed changes to the Dental Hygiene Statute which would allow dental assistants to apply topical or preventive agents or pit and fissure sealants because it would not be in the best interests of the public, which expects, deserves and pays for the services of a licensed professional. Many dentists question the ability of hygienists to place sealants properly, and I can't imagine them being comfortable allowing assistants to take over this difficult procedure.

Similarly, allowing an assistant to clean children's teeth would pose hazards for the public. I have worked in settings where assistants were allowed to clean teeth of children and adults, and found the "cleanings" to be far from acceptable. I have also seen many patients in my private practice setting who have been very unsatisfied with the cleanings they got in public health clinics. They claim that the cleanings consist of a polish, and a superficial going over of the lower front teeth. I find they often have huge deposits of black calculus under the gumline, that have remained, despite their "cleanings", to build up for years.

Even though many people think that children are easy patients, and cleaning their teeth doesn't demand much skill, we hygienists know this is not the case. Children as young as seven years old can develop serious gum disease, which hygienists are trained to detect, but assistants are not. Many children develop dental calculus (tartar), which dental assistants cannot remove, and may not detect. Unremoved calculus contributes to gum disease, which can destroy bone around the tooth roots of even young children.

The placement of pit and fissure sealants, and the performance of all the distinct procedures involved in cleaning the teeth require not only the specific steps of the processes, but a large background of theory and knowledge of the chemical, physical and biological characteristics of oral structures, in addition to the ability to assess the patients' general health in relationship to dental diseases. Patients expect their questions and concerns to be treated with the respect they deserve, and to receive a thorough and correct assessment of their dental problems, which of course is necessary before any treatment can be undertaken.

Dental Hygienists are licensed professionals who are highly trained and educated in both the practical and theoretical aspects of treating dental diseases, and in providing the public with scientifically based prevention-oriented information. To become a dental hygienist requires four years of college education and successful performance on a National Board Examination as well as a State Clinical Exam. In contrast dental assistants receive at best nine months training to become a Certified Dental Assistant. However, this is not a requirement, and many - perhaps most - dental assistants are still trained "on the job", which means that their level of knowledge varies widely. Because of this, I believe it would not be safe to allow dental assistants to perform these delicate and precise dental procedures.

Sincerely,

Alicia Hermon, R.D.H.
Alicia Hermon, R.D.H.

FEB 27, 1995

TO: CYNTHIA TOOMEY
RE: STATUTE CHANGE TO THE DENTAL HYGIENE
STATUTE DS. 32.110

PLEASE DELETE THE STATUTE
CHANGE OR OPPOSE THE CHANGE.

REASONS

- 1) DENTAL ASSISTANTS WITH NO
SERIAL TRAINING OR EDUCATION
CAN DO SAID PROCEDURES.
- 2) THEREFORE, THE PUBLIC IS
NOT ASSURED OF A CERTAIN
STANDARD OF CARE. DENTAL
HYGIENISTS HAVE EDUCATION & TRAINING -
ALASKA BOARD CERTIFIED. KEEP THE STANDARDS.

Thank You,
Claudia Seibel
P. O. BOX 6803
KETCHIKAN, AK. 99901
247-8607

February 24, 1995

Patricia A. Weeks, R.D.H.
16038 Mammoth Cir.
Eagle River, Alaska 99577
(907) 696-4651

Dear Committee members,

I am opposed to Cynthia Toohey's House Bill 182 regarding dental assistants for three reasons:

- 1) If assistants are allowed to polish teeth (apply prophylactic agents) they will inevitably be allowed to "clean" the teeth of, at the very least, children. Assistants are not legally allowed to remove the tartar, so they will merely polish over it. Even children as young as six can get tartar buildup and the associated gum disease it causes. The dentist will save time and money, but the patient's oral health will undoubtedly suffer, especially the children.
- 2) Fluoride and pit and fissure sealants should not be applied by someone without the proper understanding, training, education and background to apply them correctly. Improperly placed sealants can allow tooth decay and improper fluoride application has caused poisoning in children. Once again, it is the children who would suffer from the relaxing of the present law.
- 3) There is already an over-abundance of dental hygienists, whose job these three procedures have encompassed, in the Anchorage bowl. There are currently at least six hygienists on the waiting list for a job opening. I, myself, have been waiting for a job opening for over nine months. If assistants are allowed to do many tasks that previously only hygienists could do, there will be even more hygienists looking for work.

Rural dentists are properly trained to do these procedures. They should either do it themselves or employ a qualified hygienist to do them, and not try to pass it on to an unqualified assistant.

Passing this bill would benefit dentists financially, hurt dental hygienists professionally and economically and would not benefit the public. It would, in fact, offer them a lower standard of care.

Respectfully,



Patricia A. Weeks, R.D.H.

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 14:26:45 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
 SITE: LIO ANC VTS ANCHORAGE

9	DEBRA	MESTAS	T 02 HB 157
	8200 FRANK ST	ANCHORAGE	AK 99518 (907)349-8835
10	JULIANNE	MINARIK	T 02 HB 157
	PO BOX 126	GIRDWOOD	AK 99587 (907)783-3459
11	FRANCES	JAYNES	T 02 HB 157
	2900 CHESAPEAKE AVE	ANCHORAGE	AK 99516 (907)345-4579
12	JAMES	PIZZADILI	T 02 HB 157
	3801 MCCAIN COOP	ANCHORAGE	AK 99503 (907)562-6211

MSG: 1410 NO FURTHER INFORMATION
 ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 14:27:32 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
 SITE: LIO DLG VTS DILLINGHAM

1	DR. KEN	CROOKS	BBAHC	T 01 HB 182
	PO BOX 1610	DILLINGHAM	AK 99576	(907)842-5365
2	MS. ROBIN	STRATTON	BBAHC	T 01 HB 182
	PO BOX 1417	DILLINGHAM	AK 99576	(907)842-4330

MSG: 1410 NO FURTHER INFORMATION
 ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 14:27:41 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
 SITE: LIO FBX VTS FAIRBANKS

1	MS. PHYLLIS	CAVANAUGH	TCC	T 01 HB 182
	122 1ST AVE. SUITE 600	FAIRBANKS	AK 99701	(907)452-8251
2	MS. E.L.	WHEELER, DDS	TCC	T 01 HB 182
	122 1ST AVE. SUTIE 600	FAIRBANKS	AK 99701	(907)452-8251

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405

14:27:55 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362

TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

SITE: LIO FBX VTS FAIRBANKS

1 MS.	PHYLLIS	CAVANAUGH	TCC		T 01 HB 182
122	1ST AVE. SUITE 600	FAIRBANKS	AK 99701	(907)452-8251	
2 MS.	E.L.	WHEELER, DDS	TCC		T 01 HB 182
122	1ST AVE. SUTIE 600	FAIRBANKS	AK 99701	(907)452-8251	

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405

14:28:15 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362

TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

SITE: LIO DLG VTS DILLINGHAM

1 DR.	KEN	CROOKS	BBAHC		T 01 HB 182
	PO BOX 1610	DILLINGHAM	AK 99576	(907)842-5365	
2 MS.	ROBIN	STRATTON	BBAHC		T 01 HB 182
	PO BOX 1417	DILLINGHAM	AK 99576	(907)842-4330	

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405

14:28:20 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362

TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

SITE: LIO FBX VTS FAIRBANKS

1 MS.	PHYLLIS	CAVANAUGH	TCC		T 01 HB 182
	122 1ST AVE. SUITE 600	FAIRBANKS		AK 99701	(907)452-8251
2 MS.	E.L.	WHEELER, DDS	TCC		T 01 HB 182
	122 1ST AVE. SUTIE 600	FAIRBANKS		AK 99701	(907)452-8251

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 14:28:31 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
 SITE: LIO SIT VTS SITKA
 1 LISA SADLER-HART 0 02 HB 157
 107 BAHRT CIRCLE SITKA AK 99835 (907)747-5985

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 14:28:40 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
 SITE: LIO SOL VTS KEN/SOL
 1 DR. DAN PITTS AK DENTAL SOC T 01 HB 182
 155 SMITH WAY SOLDOTNA AK 99669 (907)262-9233

MSG: 1410 NO FURTHER INFORMATION
ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1409
14:28:59 N CONFERENCE DISPLAY PAGE 09 - REPORT CARD L362
TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
SPONSOR COMMENTS

LIO RESPONSE

MSG: 0013 PLEASE PRESS A VALID FUNCTION KEY
ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1409
14:28:59 N CONFERENCE DISPLAY PAGE 09 - REPORT CARD L362
TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
SPONSOR COMMENTS

LIO RESPONSE

MSG: 0013 PLEASE PRESS A VALID FUNCTION KEY
ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF12 Quit

03/06/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1409
14:28:59 N CONFERENCE DISPLAY PAGE 09 - REPORT CARD L362
TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN
SPONSOR COMMENTS

03/03/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1403
 08:28:27 N CONFERENCE DISPLAY PAGE 03 - PARTICIPATING LIOs L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

* LIO	NAME	ROOM ADDRESS	ROOM#	MODERATOR
	ANC ANCHORAGE	716 W 4TH, #200	ZZZ	ZZZ LOCATION STAFF
	DLG DILLINGHAM	KANGIIQUTAQ BLDG	ZZZ	ZZZ LOCATION STAFF
	FBX FAIRBANKS	119 N CUSHMAN ST	ZZZ	ZZZ LOCATION STAFF
* JNU	JUNEAU	CAPITOL	CAP106	ZZZ LOCATION STAFF
	SIT SITKA	210 LAKE STREET	ZZZ	ZZZ LOCATION STAFF
	SOL KEN/SOL	34824 KALIFONSKY	ZZZ	ZZZ LOCATION STAFF

MSG: 1410 NO FURTHER INFORMATION
 ENTER Pg# 04 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF7 Bwd PF8 Fwd

03/03/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 08:29:21 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

SITE: LIO ANC VTS ANCHORAGE

1	JOELLEN	TATE RINKER		T 01 HB 182
	2061 STURBRIDGE CIR	ANCHORAGE	AK 99507	(907)349-4149
2	LISA	HODSON SMITH		T 01 HB 182
	1830 N SALEM DR	ANCHORAGE	AK 99508	(907)562-7383
3	CECILIA	PREZIOSE		T 01 HB 182
	4858 CANTERBURY WAY	ANCHORAGE	AK 99503	(907)562-7363
4	LARRY	WIGET	ASD	T 03 HB 172
	4600 DEBARR RD	ANCHORAGE	AK 99510	(907)262-2255
5	CAROL	STOLPE		T 01 HB 182
	1741 GEORGE BELL	ANCHORAGE	AK 99515	(907)345-0448
6	JULIE	BLEIER		T 01 HB 182
	24343 LILAC CT, APT D	ANCHORAGE	AK 99506	(907)272-6122
7	BARBARA	O'DONNELL		T 01 HB 182
	1908 HILLCREST DR NO 8	ANCHORAGE	AK 99517	(907)272-9246
8	BEVERLY	WOOLEY		T 02 HB 157
	2073 DIMOND DR	ANCHORAGE	AK 99507	(907)563-3202

MSG:
 ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit

03/03/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1405
 08:29:21 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

SITE: LIO ANC VTS ANCHORAGE

1	JOELLEN	TATE RINKER		T 01 HB 182
	2061 STURBRIDGE CIR	ANCHORAGE	AK 99507	(907)349-4149
2	LISA	HODSON SMITH		T 01 HB 182
	1830 N SALEM DR	ANCHORAGE	AK 99508	(907)562-7383
3	CECILIA	PREZIOSE		T 01 HB 182
	4858 CANTERBURY WAY	ANCHORAGE	AK 99503	(907)562-7363
4	LARRY	WIGET	ASD	T 03 HB 172
	4600 DEBARR RD	ANCHORAGE	AK 99510	(907)262-2255
5	CAROL	STOLPE		T 01 HB 182

03/02/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:27:12

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:ANC

TCN:50283

SCHEDULED FOR:03/02/95 14:30 TO 16:00

FOR:ANC

PUBLIC HEARING

HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION ANCHORAGE

HB 182 JOELLEN TATE RINKER ✓ TESTIFY

HE 182 LISA HODSON SMITH ✓ TESTIFY

HE 182 CECILIA PRETIOSE ✓ TESTIFY

HE 182 CAROL STOLPE ✓ TESTIFY

HE 182 JULIE HEFFER ✓ TESTIFY

HD 172 LARRY WIGET ✓ ASD TESTIFY

03/02/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:38:16

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:FBX

TCN:50283

SCHEDULED FOR:03/02/95 14:30 TO 16:00

FOR:FBX

PUBLIC HEARING

HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION:FAIRBANKS

HB 182

MS.

PHYLLIS

CAVANAUGH ✓

TCC

TESTIFY



Alaska State Legislature
 House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

DATE: MARCH 2 1995

PLACE: Capitol Room 106

SUBJECT OF MEETING:
 HB 182: Delegation
 of Duties to Dental
 Assistants

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
						Y	N	
Kathleen Williamson	self	Box 33944 Juneau AK	99803	799-	799-3100	<input checked="" type="radio"/>	<input type="radio"/>	HB 182
Tom Bornstein	SEARHC	3245 HOSPITAL DR JUNEAU AK	99801	799 4050	463 4070	<input checked="" type="radio"/>	<input type="radio"/>	182
Therese Jordan	SEARHC	3245 HOSPITAL DR JUNEAU AK	99801	799-3064	463-4040	<input type="radio"/>	<input checked="" type="radio"/>	HB 182
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	

	1741 GEORGE BELL	ANCHORAGE	AK 99515	(907)345-0448
6	JULIE BLEIER			T 01 HB 182
	24343 LILAC CT, APT D	ANCHORAGE	AK 99506	(907)272-6122
7	BARBARA O'DONNELL			T 01 HB 182
	1908 HILLCREST DR NO 8	ANCHORAGE	AK 99517	(907)272-9246
8	BEVERLY WOOLEY			T 02 HB 157
	2073 DIMOND DR	ANCHORAGE	AK 99507	(907)563-3202

MSG:
 ENTER Pg# 09 PF2 NextC# ynnnn PF3 Exit PF5 Update PF7 Bwd PF8 Fwd PF12 Quit
 4BÜ . H e-ēPC LINE 5 COL 12

03/03/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1402
 08:30:18 N CONFERENCE DISPLAY PAGE 02 - AGENDA L362
 TCN 50283 T/C DATE: 03/02/95 TIME: 14:30 to 16:30 STATUS: 7 STATS IN

REF#	BILL	BILL TITLE/SUBJECT
01	HB 182	DELEGATION OF DUTIES TO DENTAL ASSISTANTS
02	HB 157	DIETITIANS AND NUTRITIONISTS
03	HB 172	KINDERGARTEN & MISC. EDUC

MSG:
 ENTER Pg# 03 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF12 Quit

03/03/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1403
 08:30:27 N CONFERENCE DISPLAY PAGE 03 - PARTICIPATING LIOs L362
 TCN 50283 T/C DATE: 03/02/ TIME: 14:30 to 16:30 STATUS: 7 STATS IN

* LIO	NAME	RESS	ROOM#	MODERATOR
	ANC ANCHORAGE	TH, #200	ZZZ	ZZZ LOCATION STAFF
	DLG DILLINGHAM	KANG...UTAQ BLDG	ZZZ	ZZZ LOCATION STAFF
	FBX FAIRBANKS	119 N CUSHMAN ST	ZZZ	ZZZ LOCATION STAFF
* JNU	JUNEAU	CAPITOL	CAP106	ZZZ LOCATION STAFF
	SIT SITKA	210 LAKE STREET	ZZZ	ZZZ LOCATION STAFF
	SOL KEN/SOL	34824 KALIFONSKY	ZZZ	ZZZ LOCATION STAFF

MSG: 1410 NO FURTHER INFORMATION
 ENTER Pg# 04 PF2 NextC# ynnnn PF3 Exit PF4 Menu PF5 Update PF7 Bwd PF8 Fwd

03/03/95 LEGISLATIVE TELECONFERENCE NETWORK LTN1410
 08:30:50 N CONFERENCE DISPLAY PAGE 10 - FINAL STATS L362

03/02/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:37:15

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:DLG

TCN:50283 SCHEDULED FOR:03/02/95 14:30 TO 16:00

FOR:DLG

PUBLIC HEARING

HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION: BIRMINGHAM

HB 182

DR.

KEN

CROOKS ✓

BBAHC

TESTIFY

HB 182

MS.

ROBIN

STRATTON ✓

BBAHC

TESTIFY

03/02/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:23:08

PARTICIPANT LIST (TESTIFIERS ONLY)

BY:JNU

TCN:50283 SCHEDULED FOR:03/02/95 14:30 TO 16:00

FOR:ALL

PUBLIC HEARING

HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION:KEN/SOL

HE 182

HE DAN

PITTS ✓

AK DENTAL SOC TESTIFY

03/02/95

LEGISLATIVE TELECONFERENCE NETWORK SYSTEM

LTN1150

14:55:30

PARTICIPANT LIST (ALL PARTICIPANTS)

BY:FBX

TCN:50283

SCHEDULED FOR:03/02/95 14:30 TO 16:00

FOR:FBX

PUBLIC HEARING

HOUSE HEALTH, EDUCATION & SOCIAL SERVICE

LOCATION:FAIRBANKS

HB 182

MS.

PHYLLIS

CAVANAUGH

TCC

TESTIFY

HB 182

~~E.L.~~

WHEELER DDS

TCC

TESTIFY

HB

2022

CS FOR HOUSE BILL NO. 202(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the participation and accountability of parents and
 2 guardians and the enforcement of restitution orders entered in juvenile
 3 delinquency proceedings; relating to claims on permanent fund dividends for
 4 certain court-ordered treatment in juvenile delinquency proceedings; and
 5 amending Alaska Delinquency Rules 3(b) and 8(b); and providing for an
 6 effective date."

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

8 * Section 1. AS 43.23 is amended by adding a new section to read:

9 Sec. 43.23.066. CLAIMS ON REIMBURSEMENT FOR COURT-ORDERED
 10 TREATMENT. (a) AS 09.38 does not apply to permanent fund dividends taken under
 11 AS 47.10.079(c). Notwithstanding AS 09.35, execution on a dividend claimed under
 12 AS 47.10.079(c) is accomplished by delivering a certified claim to the department
 13 containing the following information:

1 (1) the name and social security number of the individual whose
2 dividend is being claimed;

3 (2) the amount the individual owes on the reimbursement claim; and

4 (3) a statement that

5 (A) the Department of Health and Social Services has notified
6 the individual that future permanent fund dividends of the individual will be
7 taken to satisfy the reimbursement claim;

8 (B) the individual was notified of the right to request a hearing
9 and allowed 30 days after the date of the notice described in (A) of this
10 paragraph to request the Department of Health and Social Services to hold a
11 hearing on the reimbursement claim;

12 (C) the reimbursement claim has not been contested, or, if
13 contested, that the issue has been resolved in favor of the Department of Health
14 and Social Services; and

15 (D) if the reimbursement claim has been contested and resolved
16 in favor of the Department of Health and Social Services, no appeal is pending,
17 the time limit for filing an appeal has expired, or the appeal has been resolved
18 in favor of the Department of Health and Social Services.

19 (b) The Department of Health and Social Services shall notify the individual
20 if a dividend is claimed under (a) of this section. The notice shall be sent to the
21 address provided in the individual's permanent fund dividend application and must
22 provide the following information:

23 (1) the amount of the reimbursement claim;

24 (2) notice that the permanent fund dividend, or that portion of the
25 permanent fund dividend that does not exceed the amount of the reimbursement claim,
26 shall be paid to the Department of Health and Social Services; and

27 (3) notification that the individual has a right to request a hearing and
28 has 30 days after the date the notice is mailed in which to file with the Department of
29 Health and Social Services an objection to the dividend claim if a mistake has been
30 made.

31 (c) AS 44.62.330 - 44.62.630 apply to a hearing requested by an individual

1 under (b)(3) of this section.

2 * Sec. 2. AS 47.10 is amended by adding a new section to read:

3 Sec. 47.10.079. PARENTAL OR GUARDIAN ACCOUNTABILITY AND
4 PARTICIPATION. (a) The parent or guardian of a minor who is alleged to be a
5 delinquent under AS 47.10.010(a)(1) or found to be a delinquent under
6 AS 47.10.080(b) shall attend each hearing held during the delinquency proceedings
7 unless the court excuses the parent or guardian from attendance for good cause.

8 (b) If a minor is found to be a delinquent under AS 47.10.080(b), the court
9 may order that the minor's parent or guardian

10 (1) personally participate in treatment reasonably available in the
11 parent's or guardian's location as specified in a plan set out in the court order;

12 (2) notify the department if the minor violates a term or condition of
13 the court order; and

14 (3) comply with any other conditions set out in the court order.

15 (c) If a court orders a minor's parent or guardian to participate in treatment
16 under (b) of this section, the court also shall order the parent or guardian to use any
17 available insurance or another resource to cover the treatment, or to pay for the
18 treatment if other coverage is unavailable. If the court determines that the parent or
19 guardian is unable to pay for the treatment due to indigence and the department pays
20 for the treatment, the department may seek reimbursement only from the indigent
21 parent or guardian's permanent fund dividend.

22 (d) The permanent fund dividend of an indigent parent or guardian
23 participating in treatment ordered under (b) of this section may be taken under
24 AS 43.23.065(b)(6) and 43.23.066 to satisfy the balance due on a reimbursement claim
25 by the department under (c) of this section.

26 * Sec. 3. AS 47.10.080(b) is amended to read:

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

28 (1) order the minor committed to the department for a period of time
29 not to exceed two years or in any event extend past the day the minor becomes 19,
30 except that the department may petition for and the court may grant in a hearing (A)
31 two-year extensions of commitment that do not extend beyond the child's 19th birthday

1 if the extension is in the best interests of the minor and the public; and (B) an
2 additional one-year period of supervision past age 19 if continued supervision is in the
3 best interests of the person and the person consents to it; the department shall place
4 the minor in the juvenile facility that the department considers appropriate and that
5 may include a juvenile correctional school, juvenile work camp, treatment facility,
6 detention home, or detention facility; the minor may be released from placement or
7 detention and placed on probation on order of the court and may also be released by
8 the department, in its discretion, under AS 47.10.200;

9 (2) order the minor placed on probation, to be supervised by the
10 department, and released to the minor's parents, guardian, or a suitable person; if the
11 court orders the minor placed on probation, it may specify the terms and conditions
12 of probation; the probation may be for a period of time, not to exceed two years and
13 in no event extend past the day the minor becomes 19, except that the department may
14 petition for and the court may grant in a hearing

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

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

21 (3) order the minor committed to the department and placed on
22 probation, to be supervised by the department, and released to the minor's parents,
23 guardian, other suitable person, or suitable nondetention setting such as a family home,
24 group care facility, or child care facility, whichever the department considers
25 appropriate to implement the treatment plan of the predisposition report; if the court
26 orders the minor placed on probation, it may specify the terms and conditions of
27 probation; the department may transfer the minor, in the minor's best interests, from
28 one of the probationary placement settings listed in this paragraph to another, and the
29 minor, the minor's parents or guardian, and the minor's attorney are entitled to
30 reasonable notice of the transfer; the probation may be for a period of time, not to
31 exceed two years and in no event extend past the day the minor becomes 19, except

1 that the department may petition for and the court may grant in a hearing

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

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

8 (4) order the minor and the minor's parent to make suitable restitution
9 in lieu of or in addition to the court's order under (1), (2), or (3) of this subsection;
10 under this paragraph,

11 (A) except as provided in (B) of this paragraph, the court
12 may not refuse to make an order of restitution [UNDER THIS PARAGRAPH]
13 to benefit the victim of the act of the minor that is the basis of the delinquency
14 adjudication; and

15 (B) the court may not order payment of restitution by the
16 parent of a minor who is a runaway or missing minor for an act of the
17 minor that was committed by the minor after the parent has made a
18 report to a law enforcement agency, as authorized by AS 47.10.141(a), that
19 the minor has run away or is missing; for purposes of this subparagraph,
20 "runaway or missing minor" means a minor who a parent reasonably
21 believes is absent from the minor's residence for the purpose of evading
22 the parent or who is otherwise missing from the minor's usual place of
23 abode without the consent of the parent;

24 (5) order the minor committed to the department for placement in an
25 adventure based education program established under AS 47.21.020 with conditions
26 the court considers appropriate concerning release upon satisfactory completion of the
27 program or commitment under (1) of this subsection if the program is not satisfactorily
28 completed; [OR]

29 (6) in addition to an order under (1) - (5) of this subsection, if the
30 delinquency finding is based on the minor's violation of AS 11.71.030(a)(3) or
31 11.71.040(a)(4), order the minor to perform 50 hours of community service; for

1 purposes of this paragraph, "community service" includes work

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

3 (B) that, on the recommendation of the city council or
4 traditional village council, would benefit persons within the city or village who
5 are elderly or disabled; or

6 (7) in addition to an order under (1) - (6) of this subsection, order
7 the minor's parent or guardian to comply with orders made under AS 47.10.079,
8 including participation in treatment under AS 47.10.079(b)(1).

9 * Sec. 4. AS 47.10 is amended by adding a new section to read:

10 Sec. 47.10.086. ENFORCEMENT OF RESTITUTION. A person who is a
11 recipient of a restitution order involving a minor found delinquent under AS 47.10.080
12 may enforce an order for restitution under AS 47.10.080 against the minor and the
13 minor's parent under AS 09.35 as if the order were a civil judgment enforceable by
14 execution. This section does not limit the authority of the court to otherwise enforce
15 orders of payment for restitution. An order of restitution enforced under this section
16 does not limit under other law the civil liability of the minor or the minor's parent as
17 a result of the delinquent conduct.

18 * Sec. 5. Rule 3(b), Alaska Delinquency Rules, is amended to read:

19 (b) PRESENCE OF JUVENILE AND OTHER PARTIES. The presence of
20 the juvenile is required unless the juvenile:

21 (1) waives the right to be present and the juvenile's presence is excused
22 by the court; or

23 (2) engages in conduct which justifies exclusion from the courtroom.

24 The presence of the parent or guardian is required [PREFERRED, BUT NOT
25 REQUIRED] unless excused by the court for good cause [SO ORDERS].

26 * Sec. 6. Rule 8(b), Alaska Delinquency Rules, is amended to read:

27 (b) SUMMONS. Upon the filing of a petition for adjudication, the court shall
28 set a time for the arraignment on petition and shall, if the juvenile is not in custody,
29 issue a summons to be served with the petition compelling the attendance of the
30 juvenile. The court shall [MAY] issue a summons compelling the attendance of the
31 juvenile's parents or guardian at the hearing. If the summons and petition are not

1 contained in one document, the petition must be attached to and incorporated by
2 reference into the summons. The summons must contain a statement advising the
3 parties of their right to counsel.

4 * Sec. 7. Sections 5 and 6 of this Act take effect only if those sections receive the two-
5 thirds majority vote of each house required by art. IV, sec. 15, Constitution of the State of
6 Alaska.

7 * Sec. 8. Sections 1 - 4 of this Act take effect only if secs. 5 and 6 of this Act take effect.

8 * Sec. 9. If this Act takes effect, it takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

No. 7
 Bill Version: HB 202
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: Juvenile Delinquency Proceedings
 Sponsor: _____
 Requestor: Governor

Department Affected: Revenue
 BRU: Child Support Enforcement Division
 Component: Child Support Division
 COMPONENT SERIAL NO. 111

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Prepared by: Glenda Straube Phone: 269-6801
 Division: Child Support Enforcement Division Date: February 17, 1995
 Approved by Commissioner: Deborah Voigt, Deputy 465-2302
 Agency: Department of Revenue Date: February 17, 1995

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FISCAL NOTE

No. 6
 Bill Version: HB 202
 (H) Publish Date: 2/27/95

**STATE OF ALASKA
 1995 LEGISLATIVE SESSION**

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to the participation and accountability BRU: Legal Services
of parents and guardians in juvenile delinquency proceedings..." Component: Operations
 Sponsor: Rules by Request of the Governor
 Requester: Office of the Governor/OMB COMPONENT SERIAL NO. 0093

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends the statutes governing orders in delinquency proceedings to authorize the court to require that parents or guardians of juvenile offenders personally participate in treatment when appropriate, to require attendance of these persons at hearings that concern their children, and to require that parents be responsible for payment of restitution for harm caused by their children. The bill also specifies that the recipient of such a restitution order may enforce payment under the civil code as if the order were a civil judgment. Although the bill will require that the department's attorneys prepare summonses for parents and guardians to attend juvenile proceedings, this additional work is more a matter of organization than added cost. Currently, some parents voluntarily attend these proceedings and some do not. Parents who ignore a summons or fail to participate in court-ordered treatment would be subject to a contempt citation; the department may be called upon to initiate contempt proceedings in these circumstances. At this point in time, we do not anticipate a substantial additional burden handling contempt actions because of the sanctions the court could impose against a parent or guardian who ignored a court order.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 2/17/95
 Date: 2/17/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 5
Bill Version: HB 202
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Parental and Guardian participation & accountability
and enforcement of restitution in Juvenile Proceedings
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Southcentral Region
COMPONENT SERIAL NO. 254
See also (SN#): 255.258

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services

Phone: 465-3191
Date: 02/17/95

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 2/17/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 4
Bill Version: HB 202
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Parental and Guardian participation & accountability
and enforcement of restitution in Juvenile Proceedings
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Northern Region
COMPONENT SERIAL NO. 255
See also (SN#): 254.258

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services

Phone: 465-3191
Date: 02/17/95

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 2/17/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 3
Bill Version: HB 10
(H) Publish Date: 2/17/95

Revision Date: _____
Title: Parental and Guardian participation & accountability
and enforcement of restitution in Juvenile Proceedings
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Southeastern Region
COMPONENT SERIAL NO. 258
See also (SN#): 254.255

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/17/95
Date: 2/17/95

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FISCAL NOTE

No. 2
 Bill Version: HB 202
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: An Act relating to the participation and accountability of parents and the enforcement of restitution orders entered in juvenile proceedings
 Sponsor: _____
 Requestor: _____

Department Affected: Administration
 BRU: Public Defender Agency
 Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact.

Prepared by: John B. Salemi, Director
 Division: Public Defender Agency

Phone: (907) 264-4412
 Date: 2-17-95

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2-17-95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 1
Bill Version: HB 202
(H) Publish Date: 2/27/95

Revision Date: _____
Title: "An Act relating to parental and guardian participation and accountability and the enforcement of..."
Sponsor: Governor
Requestor: _____

Department Affected: Administration
BRU: Office of Public Advocacy
Component: Office of Public Advocacy

COMPONENT SERIAL NO. 43

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
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FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact.

Prepared by: Brant McGee
Division: Office of Public Advocacy

Phone: 274-1684
Date: 2-17-95

Approved by Commissioner: Mark Bovee
Agency: Department of Administration

Date: 2-17-95

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Rev: 01/95

Page 1 of 1

ZERO FISCAL NOTE - ADMINISTRATION - OFFICE OF PUBLIC ADVOCACY

HOUSE COMMITTEE REPORT

(7)

Date Referred: February 27, 1995

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 3/30/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 202

HOUSE BILL NO. 202

JUVENILE DELINQUENCY PROCEEDINGS

"An Act relating to the participation and accountability of parents and guardians and the enforcement of restitution orders entered in juvenile delinquency proceedings; relating to claims on permanent fund dividends for certain court-ordered treatment in juvenile delinquency proceedings; changing Alaska Supreme Court Delinquency Rules 3(b) and 8(b); and providing for an effective date."

recommends it be replaced with the following committee substitute CS HB 202 (HES) the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Revenue, Law 7

(3) H+SS, (2) Admin

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Carol L. Dan</i>	✓			
<i>Carla Bunde</i>			✓	
<i>Carol L. Dan</i>	✓			
<i>Carol L. Dan</i>	✓			
<i>Tom Brice</i>			✓	

CHAIR'S SIGNATURE *Carla Bunde*

adopted

DEPARTMENT OF LAW
PROPOSED AMENDMENT TO
HB 202 (PARENTAL ACCOUNTABILTY)

Page 5, line 12: Add the following after the semi-colon:

however, a parent of a minor who is a runaway or missing person is not liable under this subsection for the acts of the minor that are committed by the minor after the parent has made a report to a law enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or is missing; "runaway or missing minor" means a minor who a parent reasonably believes is absent from the minor's residence for the purpose of evading the parent or who is otherwise missing from the minor's usual place of abode without the consent of the parent.



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 27, 1995

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to parental participation and accountability, and the enforcement of restitution orders, in juvenile delinquency proceedings. This bill amends the statutes governing orders in delinquency proceedings to authorize the court to require that parents or guardians of juvenile offenders personally participate in treatment when appropriate, to require attendance of those persons at hearings that concern their children, and to require that parents be responsible for payment of restitution for harm caused by their children. The bill also specifies that the recipient of such a restitution order may enforce payment under the civil code, AS 09.35, as if the order were a civil judgment.

This bill is intended to increase the effectiveness of the juvenile justice system by increasing parental or guardian involvement and responsibility. Juvenile courts currently lack authority to compel parents or guardians to engage in treatment even though the parent's or guardian's behavior may be associated with the juvenile's delinquent behavior. The bill not only requires parental or guardian participation in treatment, but also contains a provision that makes the parent or guardian responsible for covering the cost of that treatment, either through using insurance or other such resource, or paying for the treatment. Under certain circumstances, if the Department of Health and Social Services pays for the treatment, that department may claim the parent's or guardian's permanent fund dividend in reimbursement. It is intended that the provisions in this bill will be enforceable by the contempt powers of the court under AS 09.50.

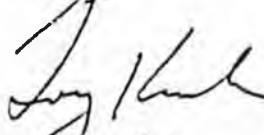
The provision in sec. 4 of the bill, which will allow enforcement of a restitution order under the civil code, parallels a provision that already exists in AS 12.55.051 of the criminal code for restitution orders entered in adult cases. This will simplify the process

The Honorable Gail Phillips
February 27, 1995
Page 2

for collection under such a restitution order. A victim of a crime perpetrated by a juvenile will be able to seek recovery under a restitution order even after the juvenile reaches age 18 and the juvenile court typically would no longer have jurisdiction over that person.

I urge your favorable action on this bill.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is fluid and cursive, with a large initial "T" and "K".

Tony Knowles
Governor



Alaska State Legislature
 House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

SUBJECT OF MEETING:
 HB 202 : Juvenile Delinquency
 Proceedings

DATE: MARCH 30

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?	WHAT SUBJECT/ WHICH BILL?
Lauri Otto	Law	MS 0317		SI	3428	(Y) N	202
Kathy Tibbles	DFYS	MS 0630			3023	Y N	Questions 202
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	
						Y N	

HB

205

CS FOR HOUSE BILL NO. 205(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a claim based on criminal street gang activity; relating to
2 offenses related to criminal street gang activities; relating to the crime of
3 recruitment for, sentencing for, and forfeiture of property relating to criminal
4 street gang activities; restricting criminal street gang offenders from obtaining a
5 permit to carry a concealed handgun; amending Alaska Rule of Civil Procedure
6 82; and providing for an effective date."

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

8 * Section 1. AS 09.55 is amended by adding a new section to read:

9 Sec. 09.55.700. CLAIM BASED ON CRIMINAL GANG ACTIVITY. (a)
10 A person who has been coerced, intimidated, threatened, or otherwise harmed by
11 another person as a result of that other person's participation in a criminal street gang
12 has a civil cause of action for treble damages against that other person and, if that
13 other person is an unemancipated minor under the age of 18, against the parent of the

1 minor for acts that were committed by the minor. However, a parent of a minor who
2 is a runaway or missing person is not liable under this subsection for the acts of the
3 minor that are committed by the minor after the parent has made a report to a law
4 enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away
5 or is missing. In this subsection, "minor who is a runaway or missing person" means
6 a minor who a parent reasonably believes is absent from the minor's residence for the
7 purpose of evading the parent or who is otherwise missing from the minor's usual
8 place of abode without the consent of the parent.

9 (b) A prevailing party who had a civil cause of action for treble damages
10 under (a) of this section may recover full reasonable attorney fees.

11 (c) In this section, "criminal street gang" has the meaning given in
12 AS 11.81.900(b).

13 * Sec. 2. AS 11.61 is amended by adding new sections to article 1 to read:

14 Sec. 11.61.160. RECRUITING A GANG MEMBER IN THE FIRST
15 DEGREE. (a) A person commits the crime of recruiting a gang member in the first
16 degree if the person uses or threatens the use of force against a person or property to
17 induce another person to participate in a criminal street gang or to commit a crime on
18 behalf of a criminal street gang.

19 (b) Recruiting a gang member in the first degree is a class C felony.

20 Sec. 11.61.165. RECRUITING A GANG MEMBER IN THE SECOND
21 DEGREE. (a) A person commits the crime of recruiting a gang member in the
22 second degree if the person is over 18 years of age and, without force or the threat of
23 force, encourages or recruits a person who is under 18 years of age and at least three
24 years younger than the offender to participate in a criminal street gang.

25 (b) Recruiting a gang member in the second degree is a class A misdemeanor.

26 * Sec. 3. AS 11.81.900(b) is amended by adding a new paragraph to read:

27 (59) "criminal street gang" means a group of three or more persons
28 who

29 (A) have in common a name or identifying sign, symbol, tattoo
30 or other physical marking, style of dress, or use of hand signs; and

31 (B) either individually, jointly, or in combination, have

1 committed or attempted to commit, within the preceding three years, for the
2 benefit of, at the direction of, or in association with the group, two or more
3 offenses under any, or any combination of, the following:

- 4 (i) AS 11.41;
5 (ii) AS 11.46; or
6 (iii) any other felony offense.

7 * Sec. 4. AS 12.55.015(a) is amended to read:

8 (a) Except as limited by AS 12.55.125 - 12.55.175, the court, in imposing
9 sentence on a defendant convicted of an offense, may singly or in combination

10 (1) impose a

11 (A) fine when authorized by law and as provided in
12 AS 12.55.035; or

13 (B) [A] day fine when authorized by law and as provided in
14 AS 12.55.036. if the court does not impose a term of periodic or continuous
15 imprisonment or place the defendant on probation;

16 (2) order the defendant to be placed on probation under conditions
17 specified by the court that may include provision for active supervision;

18 (3) impose a definite term of periodic imprisonment;

19 (4) impose a definite term of continuous imprisonment;

20 (5) order the defendant to make restitution under AS 12.55.045;

21 (6) order the defendant to carry out a continuous or periodic program
22 of community work under AS 12.55.055;

23 (7) suspend execution of all or a portion of the sentence imposed under
24 AS 12.55.080;

25 (8) suspend imposition of sentence under AS 12.55.085;

26 (9) order the forfeiture to the commissioner of public safety of a deadly
27 weapon that was in the actual possession of or used by the defendant during the
28 commission of an offense described in AS 11.41, AS 11.46, AS 11.56, or AS 11.61;

29 (10) order the defendant, while incarcerated, to participate in or comply
30 with the treatment plan of a rehabilitation program that is related to the defendant's
31 offense or to the defendant's rehabilitation if the program is made available to the

1 defendant by the Department of Corrections;

2 (11) order the forfeiture to the state of a motor vehicle, weapon,
3 electronic communication device, or money or other valuables, used in or obtained
4 through an offense that was committed for the benefit of, at the direction of, or
5 in association with a criminal street gang.

6 * Sec. 5. AS 12.55 is amended by adding a new section to read:

7 Sec. 12.55.137. PENALTIES FOR GANG ACTIVITIES. (a) If a class B
8 misdemeanor offense was committed for the benefit of, at the direction of, or in
9 association with a criminal street gang, the offense is a class A misdemeanor.

10 (b) If a class A misdemeanor offense was committed for the benefit of, at the
11 direction of, or in association with a criminal street gang, the offense is a class C
12 felony.

13 * Sec. 6. AS 12.55.155(c) is amended by adding a new paragraph to read:

14 (29) the defendant committed the offense for the benefit of, at the
15 direction of, or in association with a criminal street gang.

16 * Sec. 7. AS 12.55.185 is amended by adding a new paragraph to read:

17 (14) "criminal street gang" has the meaning given in AS 11.81.900(b).

18 * Sec. 8. AS 18.65.705(4) is amended to read:

19 (4) has not been convicted, within the five years immediately preceding
20 the application, of, and is not currently charged under a complaint, information,
21 indictment, or presentment with, any of the following misdemeanor offenses or similar
22 laws of another jurisdiction:

23 (A) AS 11.41.230, 11.41.250, 11.41.270;

24 (B) AS 11.46.315, 11.46.320, 11.46.330, 11.46.430, 11.46.484;

25 (C) AS 11.51.130;

26 (D) AS 11.56.330, 11.56.350, 11.56.380, 11.56.545, 11.56.700,
27 11.56.710, 11.56.740, 11.56.780, 11.56.790, 11.56.800, 11.56.805;

28 (E) AS 11.61.110, 11.61.120, 11.61.165, 11.61.210, 11.61.220,
29 11.61.240; or

30 (F) AS 11.71.050, 11.71.060;

31 * Sec. 9. AS 18.65.705 is amended by adding a new paragraph to read:

1 (17) has not been sentenced under AS 12.55.137 for an offense.

2 * **Sec. 10.** This Act applies to an act that occurred on or after the effective date of this Act.

3 * **Sec. 11.** AS 09.55.700(b), added by sec. 1 of this Act, has the effect of changing Alaska
4 Rule of Civil Procedure 82 by requiring an award of full reasonable attorney fees to persons
5 who have been harmed as a result of certain criminal gang activity.

6 * **Sec. 12.** AS 09.55.700(b), added by sec. 1 of this Act, takes effect July 1, 1995, only if
7 sec. 11 of this Act receives the two-thirds majority vote of each house required by art. IV,
8 sec. 15, Constitution of the State of Alaska.

9 * **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 1995.

FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

8
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____ Dept. Affected: Public Safety
Title: Gang Violence 3RU: DPS Statewide Support
Component: Commissioner's Office
Sponsor: Rules/Governor
Requestor: Governor's Office COMPONENT SERIAL NO. 0523

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

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
<small>Revenue Code</small>						

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-

Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
No fiscal impact to the Department of Public Safety is anticipated.

Prepared By: Lee Ann Lucas, Special Assistant to the Commissioner Phone: 465-4322
Division: Commissioner's Office Date: 2/20/95
Approved by Commissioner: *Ronald L. Otte* Date: 2-20-95
Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

No. 5
 Bill Version: HB 205
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...relating to a claim based on criminal street gang activity..." BRU: Prosecution, Legal Services
 Sponsor: Rules by Request of the Governor Component: Prosecution - All
 Requester: Governor's Office/OMB COMPONENT SERIAL NO. 0085-90,93

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill will provide important new tools to crack down on criminal activities of gangs in this state in several different ways. First, it creates a civil cause of action for victims against gang members, affording treble damages and full reasonable attorney fees, for harm resulting from the member's participation in the criminal street gang. If the gang member is an unemancipated minor, the parent of the minor is liable, as well.

Next, the bill makes it a crime (a class C felony) for a person to use or threaten to use force to induce another person to participate in, or commit a crime on behalf of, a criminal street gang. The bill also makes it a crime (a class A misdemeanor) for an adult to encourage or recruit a minor to participate in a criminal street gang, even if force or the threat of force is not used.

The bill allows the court to impose criminal forfeiture to the state of certain property used in or obtained through criminal street gang activities.

Prepared by: Richard I. Peques, Director
 Division: Administrative Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General
 Agency: Department of Law

Phone: 465-3672
 Date: 2/19/95
 Date: 2/19/95

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO.

ANALYSIS CONTINUATION:

This bill also makes it an aggravator for presumptive sentencing purposes in felony cases for a person to commit an offense for the benefit of, at the direction of, or in association with a street gang. If the offense is not a felony, this bill will increase the level of the offense for purposes of sentencing, so that a class B misdemeanor conviction that is related to criminal street gang activities will be punishable as a class A misdemeanor and a class A misdemeanor conviction that is related to criminal street gang activities will be punishable as a class C felony. Crimes committed in association with gang activity generally result in more serious injury or damage than other offenses, and it is appropriate that they be treated more seriously.

Finally, the bill amends concealed handgun permit statutes in AS 18.65 to prohibit those who have committed or are charged with committing certain misdemeanor offenses related to criminal street gang activities from being eligible for a concealed handgun permit. Under existing AS 18.65.705(2), a felony charge or conviction, whether or not related to criminal street gang activities, would make a person ineligible for a permit.

It is not anticipated that the bill will have fiscal impact for the Department of Law because, except for the new crimes of recruiting minors into gangs, the bill is concerned with increasing penalties for those who commit crimes as part of a gang or on behalf of a gang. These increased penalties will give the courts greater latitude in fashioning meaningful sentences, particularly in respect to offenders tried in juvenile court.

FISCAL NOTE

No. 6
 Bill Version: HB 205
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Corrections
 Title: An Act related to a claim based on criminal BRU: all
street gang activity..... Component: all
 Sponsor: _____
 Requester: Governor's Office COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY95) cost: \$ _____

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

DOC would be effected by all but Sec. 1 of the bill to the extent that violations are raised to a higher level or new offenses created.

Sec. 2, AS 11.61.160 (b), recruitment in the first degree, would be a class C felony as would Sec. 5, AS 12.55.140 (b). Both would require a pre-sentence investigation plus a prison sentence, probation supervision or both. There is no basis to judge the nature of the sentences that would be handed down nor the number of convictions for this offense. The remainder of the sections pertaining to class of offenses specify misdemeanors; which do not require pre-sentence investigations and are not supervised by probation officers.

The department would monitor those cases coming into the system to evaluate the impact on it's resources. Such impact is expected to be slight and would be limited to urban areas.

Prepared by: Jerry Shriner Phone: 465-4640
 Division: Commissioner's Office Date: 2/20/95
 Approved by Commissioner: Margaret M. Pugh Date: 2/20/95
 Agency: Department of Corrections

COMMITTEE

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 5
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Gang Violence
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Southeastern Region
COMPONENT SERIAL NO. 258
See also (SN#): 254,255

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	FY96	FY97	FY98	FY99	FY00	FY01
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1008 GF MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/21/95
Date: 2/2/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 4
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Gang Violence
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Southcentral Region
COMPONENT SERIAL NO. 354
See also (SN#): 355 258

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES						

FUND SOURCE (Thousands of Dollars)

	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/21/95
Date: 2/21/95

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STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 3
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: Gang Violence
Sponsor: Governor
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: Northern Region
COMPONENT SERIAL NO. 255
See also (SN#): 254,258

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES

CHANGES IN REVENUES ()

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Kathy Tibbles, Acting Director
Division: Family & Youth Services
Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3191
Date: 02/21/95
Date: _____

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

No. 2
Bill Version: HB 205
(H) Publish Date: 2/27/95

Revision Date: _____
Title: "An Act relating to prevention of criminal activities of street gangs..."
Sponsor: _____
Requestor: _____

Department Affected: Administration
BRU: Public Defender Agency
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Unless gang-related criminal activity rises dramatically in the future, this proposed legislation will have negligible impact on the Public Defender Agency.

Prepared by: John Salemi, Director
Division: Public Defender Agency

Phone: 264-4412
Date: _____

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: *[Signature]* 2/21/95

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FISCAL NOTE

No. 1
 Bill Version: HB 205
 (H) Publish Date: 2/27/95

STATE OF ALASKA
 1995 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act relating to prevention of criminal activities of street gangs..."
 Sponsor: _____
 Requestor: _____

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0	0	0	0	0	0
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CHANGE IN REVENUES ()	0	0	0	0	0	0
------------------------	---	---	---	---	---	---

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 95) cost: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

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

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 2/21/95

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F USE COMMITTEE REPORT

(7)

Date Referred: February 27, 1995

FURTHER REFERRALS:

State Affairs
Judiciary

Date of Committee Action: 03/09

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 205

HOUSE BILL NO. 205

STREET GANG ACTIVITY

"An Act relating to a claim based on criminal street gang activity; relating to offenses related to criminal street gang activities; relating to the crime of recruitment for, sentencing for, and forfeiture of property relating to criminal street gang activities; restricting criminal street gang offenders from obtaining a permit to carry a concealed handgun; amending Alaska Rule of Civil Procedure 82; and providing for an effective date."

recommends it be replaced with the following committee substitute 020.01.001-205 the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: (Dept/Date) _____

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) Public Safety
Law Enforcement, Admin 2/27/95

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Fred L. ...</i>			✓	
<i>...</i>			✓	
<i>...</i>	✓			
<i>...</i>				✓
<i>Green Richardson</i>			✓	
<i>Tom ...</i>			✓	

CHAIR'S SIGNATURE *[Signature]*

DEPARTMENT OF LAW
PROPOSED H. H&SS COMMITTEE AMENDMENT TO
HB 205 (STREET GANGS)

Page 2, line 1: Add the following after the period:

However, a parent of a minor who is a runaway or missing person is not liable under this subsection for the acts of the minor that are committed by the minor after the parent has made a report to a law enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or is missing; "runaway or missing minor" means a minor who a parent reasonably believes is absent from the minor's residence for the purpose of evading the parent or who is otherwise missing from the minor's usual place of abode without the consent of the parent.

DEPARTMENT OF LAW
PROPOSED H. H&SS COMMITTEE AMENDMENT TO
HB 205 (STREET GANGS)

Page 2, line 1: Add the following after the period:

However, a parent of a minor who is a runaway or missing person is not liable under this subsection for the acts of the minor that are committed by the minor after the parent has made a report to a law enforcement agency, as authorized by AS 47.10.141(a), that the minor has run away or is missing; "runaway or missing minor" means a minor who a parent reasonably believes is absent from the minor's residence for the purpose of evading the parent or who is otherwise missing from the minor's usual place of abode without the consent of the parent.

TONY KNOWLES
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

HB 205
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Juneau, Alaska 99811-0001
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February 27, 1995

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the prevention of criminal activities by street gangs. These crimes have become a distressing part of life in Anchorage and other urban areas of the state. Gangs have been responsible for drive-by shootings, random brutal violence, and a major increase in drug trafficking. If we cannot control the criminal acts of gangs, we cannot control crime as a whole in this state.

This bill will allow us to crack down on criminal activities of gangs in this state in several different ways. First, it creates a civil cause of action for victims against gang members, affording treble damages and full reasonable attorney fees, for harm resulting from the member's participation in the criminal street gang. If the gang member is an unemancipated minor, the parent of the minor is liable, as well.

Next, the bill makes it a crime (a class C felony) for a person to use or threaten to use force to induce another person to participate in, or commit a crime on behalf of, a criminal street gang. The bill also makes it a crime (a class A misdemeanor) for an adult to encourage or recruit a minor to participate in a criminal street gang, even if force or the threat of force is not used.

The bill allows the court to impose criminal forfeiture to the state of certain property used in or obtained through criminal street gang activities.

This bill also makes it an aggravator for presumptive sentencing purposes in felony cases for a person to commit an offense for the benefit of, at the direction of, or in association

GOVERNOR'S TRANSMITTAL LETTER

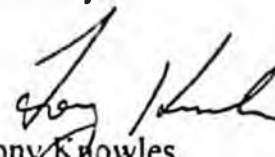
The Honorable Gail Phillips
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Page 2

with a street gang. If the offense is not a felony, this bill will increase the level of the offense, so that a class B misdemeanor that is related to criminal street gang activities will be a class A misdemeanor and a class A misdemeanor that is related to criminal street gang activities will be a class C felony. Crimes committed in association with gang activity generally result in more serious injury or damage than other offenses, and it is appropriate that they be treated more seriously.

Finally, the bill amends concealed handgun permit statutes in AS 18.65 to prohibit those who have committed or are charged with committing certain misdemeanor offenses related to criminal street gang activities from being eligible for a concealed handgun permit. Under existing AS 18.65.705(2), a felony charge or conviction, whether or not related to criminal street gang activities, would make a person ineligible for a permit.

We need to free our communities from the fear created by criminal activities of street gangs. We can do this by stopping the recruitment of minors into gangs for these activities and by increasing the penalties for those who commit crimes as part of a gang or on behalf of a gang. This bill does both. I urge your favorable action on it.

Sincerely,



Tony Knowles
Governor

Voice of The Times

The Anchorage Times

Publisher: BILL J. ALLEN

"Delivering in Alaskans, putting Alaska first"

Editors: DENNIS FRADLEY, PAUL JENKINS, WILLIAM J. TOBIN

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Gang crackdown

AMONG THE anti-crime proposals Gov. Tony Knowles is asking the Legislature to enact is one that would target gang violence.

Specifically, he would make it a felony to threaten the use of force to induce someone to commit a crime on behalf of a gang.

That's a strong suggestion, and one lawmakers should quickly approve. But it doesn't go far enough. Oregon has come up with an even broader way to control gangs. It is doing so through conspiracy statutes.

Portland, especially, is using using this as a tool to get gangs off the streets and into jail. And gang members who haven't yet been picked up are leaving town, rather than face being swept into the police net.

Under the Oregon conspiracy laws, police making arrests in connection with criminal activity by gang members don't just nab those directly involved. They also pick up other gang members, on the contention that by their membership in gang affairs they effectively conspired to aid and abet the criminal activity involved.

Gov. Knowles takes an important step in the fight against gangs with his proposal. Oregon has taken another.

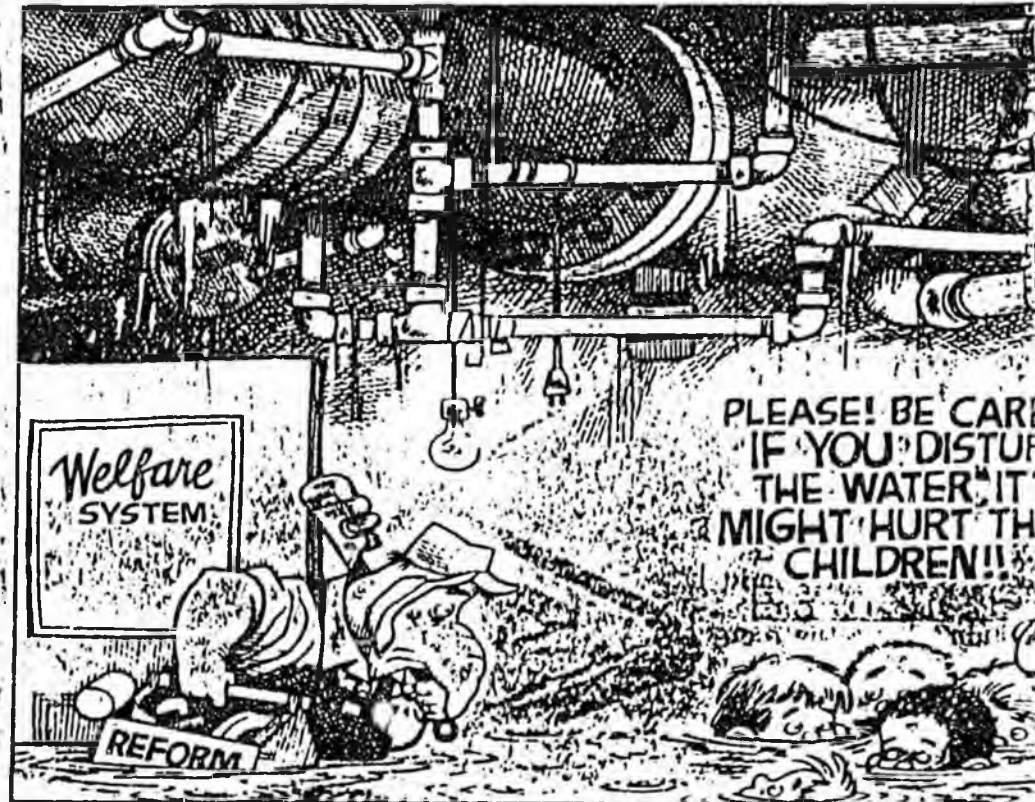
Every move against the rise of gangs is important in the war against crime. Legislators surely will back the governor, quickly.

Egan Center windows

SPEAKING OF gang activity brings to mind the recent midnight shooting that blew out a number of big windows at the Egan Civic and Convention Center.

Police did not label this as gang related.

SUPPORT



Black leaders in denial as racism

By WALTER E. WILLIAMS

If you're black and take seriously the race lobby's pronouncements since the Republican sweep of Congress, by now you should be packed and awaiting the train to take us back to the plantation. Since Republicans and now I've-seen-the-light Democrats are seriously talking about welfare reform, balanced budgets, deregulation and ending unfunded social programs...



Williams

such as basketball, boxing, football and track-and-field events, it is not uncommon for blacks to be close to 100 percent of the contestants. Fan turnout and loyalty, of course, translates into millions of dollars for the contestants. The sports arena highlights another important lesson: Internal factors play a much more important role in socioeconomic progress than external factors. Internal factors include personal self-discipline, education, deferring gratification and hard work. External factors include phenomena beyond the control of the individual, such as slavery, codified discrimination, lynching and gross malevolence.



March 7, 1995

Rep. Cynthia Toohey, Co-Chair
House Health and Social Services Committee
State Capitol
Juneau, Alaska 99801

Dear Representative Toohey:

On behalf of the Alaska Council on Prevention of Alcohol and Drug Abuse, I would like to offer our complete support of HB 205 as introduced on February 27, 1995, by the House Rules Committee.

We fully support efforts to prevent the criminal activities of street gangs, and believe the five main points outlined in the proposed bill will enable Alaskans to protect themselves from these activities. The Alaska Council realizes the ubiquitous nature of drug abuse in street gangs and understands the importance of stopping it.

We support the creation of a civil cause of action for victims against gang members, affording treble damages and full reasonable attorney fees, for harm resulting from the member's participation in the criminal street gang. We support the clause stating that if the gang member is an unemancipated minor, the parent of the minor is liable as well. Overall, we support the entire bill as it is written.

I urge your favorable action on this bill which would help stop the recruitment of minors into gangs and would increase the penalties for those who commit crimes as part of a gang or on behalf of a gang.

Thank you for your time and attention to this important matter.

Sincerely,

A handwritten signature in cursive script that reads 'Joseph DiMatteo'.

Joseph DiMatteo
Executive Director

HB

214

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 214

Revision Date: _____
Title: Relating to Maintenance of Medical Records
in Electronic Format
Sponsor: G. Davis
Requestor: H. HESS

Dept. Affected: Health and Social Services
BRU: Administrative Services
Component: Administrative Services Support
COMPONENT SERIAL NO. 320
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY95) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on the Department of Health and Social Services.

Prepared by: Janet Clarke, Director
Division: Administrative Services

Phone: 465-3082
Date: 03/09/95

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services

Date: 3/10/95

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HOUSE COMMITTEE REPORT

(7)

Date Referred: March 1, 1995

FURTHER REFERRALS:

Date of Committee Action: 3/28/95

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 214

HOUSE BILL NO. 214

MEDICAL RECORDS IN ELECTRONIC FORM

"An Act relating to the maintenance by health care providers of medical records in an electronic format."

recommends it be replaced with the following committee substitute _____ the same title a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

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

APPROVES PREVIOUS: _____ (Dept/Date)

fiscal note(s) _____

fiscal note(s) _____

zero fiscal note(s) H+SS

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
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<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
<i>[Signature]</i>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		

CHAIR'S SIGNATURE _____

[Handwritten Signature]



Official Business

Alaska State Legislature

HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT

HOUSE BILL 214

"An Act relating to the maintenance by health care providers of medical records in an electronic format"

House Bill 214 is fairly basic legislation. HB 214 will clarify that electronically stored medical records on computer terminals are legally acceptable in lieu of records on paper.

Hospitals and Nursing Homes are moving toward "paperless offices" in an effort to promote efficiency. However, some providers are hesitant to implement the electronic retention and maintenance of medical records without a hard-copy back-up due to the lack of explicit legal authority.

The current statute relating to medical records neither prohibits or permits them to be kept electronically. A legal memorandum from Legislative Legal Services is indicative of health care providers' concerns that the ability to maintain medical records is not clearly defined in statute or regulation. House Bill 214 will lend some clarity to the medical records statute.



Official Business

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HOUSE OF REPRESENTATIVES

State Capitol
Juneau, AK 99801-1182

SECTIONAL ANALYSIS

HOUSE BILL 214

"An Act relating to the maintenance by health care providers of medical records in an electronic format."

Section 1 - Amends AS 18.20.085. Hospital records retention. Adds a new subsection making this section subject to AS 18.95.010.

Section 2 - Amends AS 18. Health & Safety. Adds new chapter and section permitting the maintenance and preservation of medical records in an electronic format without maintaining a separate copy in a handwritten or other tangible format. Also allows the Department of Health & Social Services to adopt regulations.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

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Mail Stop 3101

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

MEMORANDUM

December 14, 1994

SUBJECT: Electronic medical records (Work Order No. 9-LS0313)

TO: Representative Gary Davis
Attn: Darin

FROM: *TB*
Theresa Bannister
Legislative Counsel

You have asked for an opinion relating to the use of electronic medical records. Essentially you are concerned with whether private health care facilities are legally able to keep all medical records electronically without maintaining a hard copy back-up. You have provided three situations for illustration and examination.

1. Introduction of electronic information. You have raised the potential problem of introducing a hard-copy of electronic information as evidence in court. Aside from other evidentiary rules that have to be satisfied for the introduction of any piece of evidence, it appears that the fact that you are working from an electronic source would not by itself prevent the introduction of the hard copy. Alaska Rule of Evidence 1002 appears to allow the introduction. That rule requires that the "original writing, recording, or photograph" is required, except as otherwise provided by state statute or other state court rule. Although this wording does not look promising, the definition of "original" includes the following language: "If data are stored in a computer or similar device, any printout or other output readable by sight, shown to reflect that data accurately, is an original." However, it is possible that an electronic reproduction of another document (e.g. a signed consent form) may not be considered to be "data" for the purposes of that definition. In that case, Alaska Rule of Evidence 1003 would seem to provide for the introduction, since it authorizes the admission of a duplicate unless a genuine question is raised as to authenticity or it would be unfair to admit the duplicate in lieu of the original. Therefore, it appears that the Alaska Rules of Evidence provide for the introduction of electronic information by hard copy. However, the rules may not be express enough for your purposes.

2. Requirement of "legibility". Does the regulatory requirement (7 AAC 12.770(b)) that medical records be maintained in a "legible" form mean only a "written" format, or does it include an electronic format as well? The term, "legible," is not defined for the regulation. Webster's Ninth New Collegiate Dictionary (1991) defines the term as "capable of being read or deciphered." Under that definition, "legible" would include electronic records since they

Representative Gary Davis

December 14, 1994

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can be "read." The apparent purpose of the regulation would be served by this interpretation. That subsection reads as follows:

(b) A facility must keep records on all patients admitted or accepted for treatment. Originals or accurate reproductions of the contents of the originals of all records, including x-rays, must be maintained in a form which is legible and readily available upon the request of the attending physician, medical staff, representative of the department, or, upon the patient's written request, to other practitioners.

Aside from making the information available for regulatory purposes, it appears that the purpose of the legibility requirement is to expedite and facilitate the treatment of patients. Therefore, if one can obtain and read the information, whether written or not, it should be adequate. This requirement, therefore, does not prohibit the use of electronic medical records without hard copies.

Some of the other terminology and requirements in 7 AAC 12.770(c) suggest that some written documents have to be held and that "legible" might be interpreted to require a hard-copy back-up: the reference to "identification sheet," in 7 AAC 12.770(c)(1) and "order sheet" in 7 AAC 12.770(c)(4); the inclusion of court orders and consent forms (which involve patient signatures; and the signature of a person who administers medication or treatment in 7 AAC 12.770(c)(6)(E)). However, the regulation allows the facility to maintain "accurate reproductions" of the records (7 AAC 12.770(b)), and this would accommodate electronic filing without hard-copy back-up.

Assuming that no hard copy is required, the electronic system must still meet the requirements of the regulation: legibility and availability. In other words, the system must be designed to have these attributes. For example, since computers are notorious for "going down," it would seem that the electronic system must do whatever is necessary to insure that the records are legible and available at all times, e.g. back-up systems, other computer access, etc.

3. Use of fingerprint-based security system. The regulatory record security requirement does not either prohibit or allow the use of a fingerprint-based security system. 7 AAC 12-770(d) merely requires a facility to maintain procedures to protect the information in medical records from loss, defacement, tampering, or access by unauthorized persons. Even assuming a hard-copy back-up is required, a fingerprint security system could be used if it met the requirements of the regulation.

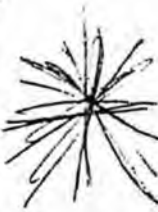
4. Authentication by computer key. You have suggested that the existence of a regulation (7 AAC 12.770(e)) authorizing authentication by computer key may indicate that clarification is necessary to confirm the ability to keep medical records by electronic means. This provision is necessary only because the regulation itself requires generally that the attending physician or dentist authenticate or sign the record. This provision tends to reinforce the ability to keep

Representative Gary Davis

December 14, 1994

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medical records electronically without hard copies, because it establishes an alternative to making a signed hard copy.



5. General question. I have not found any statute or regulation that expressly allows or prohibits the keeping of medical records electronically without a hard-copy back-up, except that AS 18.20.085(a) does specifically address the retention of x-ray film. However, the court rule appears to be compatible with this proposed approach. The regulation appears also to be compatible with this approach, although it is not a clear conclusion, and I cannot say with any finality that a health care provider may maintain only electronic records without a hard-copy back-up.

6. Need for legislation or regulation and court rule change. In light of the conflicting signals provided by the regulation, it would seem advisable to obtain express permission for keeping electronic medical records without hard-copy back-up, and for any other connected potential problem areas. You may be able to approach this through regulation, since the Department of Health and Social Services appears to have quite a bit of authority to adopt regulations in this area (see AS 18.20.060 and 18.20.085). With regard to the admission of records in court, amendments can be handled either by amendment of the court rules by the Alaska Supreme Court, which periodically amends the court rules to accommodate changing needs, or by statutory change. The Alaska Supreme Court has standing committees that advise it on changes necessary for the court rules.

This analysis has been done very quickly to enable you to have some guidance before I leave the office for a few days. Therefore, if you need further research done, or if I can help with another aspect of this matter, please advise.

TLB:glc
95-005.glc