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protecting teacher bargaining rights, AFT cooled on the idea.

But in the meantime, Minnesota reformers kept the idea alive. The charter school idea was enacted in that state in 1991, and California followed with its own plan for 100 charter schools in 1992. During 1993, charter bills have been approved in Georgia, New Mexico, Colorado, Massachusetts, and Wisconsin. Legislators in Illinois and Michigan also have the idea under discussion.

"Second-order effects are beginning to appear," notes Ted Kolderie, of the Center for Policy Studies in Minneapolis, an early architect of the charter school plan. "Districts respond quickly to the prospect that some other public body might offer public education in the community. Locally, some are moving to make changes they had resisted before. Legislatively, some are seeking authority to charter existing schools."

In its introduction to the idea in the ESEA reauthorization plan, the Administration states that one of the prime reasons for charter schools is the sense of personal responsibility and ownership "that the charter school concept seeks to build into public education, because each charter school would be created by teachers, parents, and other key stakeholders."

Community Service

The Corporation for National Service came into being on October 1, combining new initiatives of the Clinton Administration and existing community service programs. Receiv-

ing the most attention was the new avenue for helping to finance postsecondary education by placing youth in community service positions, allowing them to earn almost \$10,000 for a total of two years of service, with the money to be available for further education.

The young people, starting at age 17, may serve in the fields of education, the environment, public safety, and health and human services. The \$300 million appropriation for the first year of AmeriCorps would fund 22,000 enrollees. Increases are authorized up to \$700 million by the third year of the program.

Of more interest to schools, however, is separate funding for service learning projects within schools. This is the Serve America part of the program. About \$40 million has been set aside for it, largely based on what originally was separate legislation proposed by several senators to encourage greater use of service learning integrated into the regular school program. This is seed money for local projects, either from schools or community-based organizations, with applications going to a state commission for approval. The program emphasizes curriculum development and teacher training.

The new corporation, headed by Eli Segal, a domestic policy advisor to President Clinton who helped shepherd the bill through Congress, focuses in other programs. These include VISTA, the Points of Light Foundation, and service programs in higher education. A new Civilian Community Corps will provide service oppor-

tunities in areas which have been adversely affected by defense cutbacks. And a new Investment Fund for Quality and Innovation will support models and activities to ensure high quality service programs.

Basically, the Commission on National and Community Service has gone out of business. Created by the community service legislation of three years ago, it laid the groundwork for many of the policies in the new legislation, funding projects in 47 states and selecting eight states as "leaders" in developing models for youth community service.

The Commission had recommended that service be a central practice across the curriculum at all levels of schooling, also indicating that all middle school students should have the opportunity to participate, ideally during the summer, in an intensive community service program, or at least once before high school.

Teacher Profile

The characteristics of the teaching profession in this country seem to have changed little while all around it, everything is changing. While it is true that teachers hold more advanced degrees, they are still moving in and out of teaching as they have traditionally. It is a profession which is still dominated by women and represents few minorities, and a large percentage of those who get teaching degrees never apply to teach.

Analyzing six major surveys of teachers which had been conducted during the 1987-88 school year (research studies which come out of the

Department of Education usually take a long time to surface), the National Center for Education Statistics came up with a lengthy profile of teachers. It is titled *America's Teachers: Profile of a Profession*. Among the highlights contained in the report are the following:

- Seventy-one percent of all teachers were female, their average age was 40, 87 percent of female teachers and 90 percent of male teachers were non-Hispanic whites.

- Eight percent of teachers were coming into the profession as new members, and 7 percent were returning to teaching following an absence of one year or longer; 28 percent of new teachers did not apply for teaching jobs, but 50 percent of public school administrators reported that they had no difficulty in terms of filling vacancies; and relatively few public school districts or private schools offered teachers incentives for teaching in locations or fields of shortage.

- Thirty-nine percent of teachers majored in general education for their bachelor's degree; on average, teacher educators and other education faculty had lower base salaries and earned less income overall than did postsecondary faculty in other fields.

- Teachers in grades K-4 reported teaching math for fewer than 5 hours a week and science only 2.5 hours a week; 21 percent of eighth-graders in 1988 had science teachers who never actually conducted science experiments or conducted them less than once a month; a majority of the eighth-graders said that their teachers as-

The Promise of Charter Schools

Louann A. Pierlein and Lori A. Mulholland

Charter schools offer a radically different approach to providing and managing public education, but not necessarily a smooth road.

Charter schools are not for the faint of heart. Their creation, governance, and day-to-day operation require a large

investment of time and energy, and a high tolerance for ambiguity. Significant education reform undertakings are, after all, uncharted waters.

Yet, perhaps more than most reforms, charter schools force educators to question the wisdom of conventional practices and may create the dynamics that will foster change within the entire school system. Such potential exists because charter schools integrate various reform ideas that, by themselves, have not produced desired systemic changes. Charter schools hold a key to:

- resolving the school autonomy struggle in a way that traditional site-based decision making has not;
- creating additional "real" choices within the public school arena for students, parents, and teachers;
- offering new professional opportunities for teachers;
- enabling local school boards to overcome micro-management tendencies and become true policy boards;
- eliminating many real and perceived barriers to innovation through blanket waivers of most state laws and local policies; and
- focusing educational energies on outcomes, not inputs.

While charter schools hold great promise, as with any reform, they present formidable challenges. First, we'll look at what charter schools are, their current status across the country, and, finally, key issues that arise when establishing them.

A "Model" Structure

In its purest form, a charter school is an autonomous educational entity operating under a contract negotiated between the *organizers* who manage the school (teachers, parents, or others from the public or private sector), and the *sponsors* who oversee the provisions of the charter (local school boards, state education boards, or some other public authority).

Charter provisions address such issues as the school's instructional plan, specific educational outcomes and their measurement, and

management and financial issues. A charter school may be formed from a school's existing personnel and facilities or from a portion thereof (for example, a school-within-a-school); or it may be a completely new entity with its own facilities.

Once approved, a charter school is an independent legal entity with the ability to hire and fire, sue and be sued, award contracts for outside services, and control its own finances. Funding is based on student enrollment, as it would be for a school district. With a focus on educational outcomes, charter schools are freed



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Those who believe in the charter school concept and can meet the challenging workload will reap rewards not possible in other schools.

from many (or all) district and state regulations often perceived as inhibiting innovation—for example, excessive teacher certification requirements, collective bargaining agreements, Carnegie units, and other curriculum requirements.

To renew its contract, a charter school must show that it has met identified student outcomes, has not violated any laws or grossly mismanaged its affairs or budget, and continues to attract students, parents, and teachers. Failure in any of these areas puts the school out of business. Although charter schools vary, certain components they have in common improve learning environments and positively affect the overall system. "Model" elements are as follows:¹

1. At least one other public authority besides the local school

board is able to sponsor the school (for example, a county board, state board, or university).

2. The state allows a variety of public or private individuals/groups the opportunity to organize, seek sponsorship, and operate a charter school.

3. The charter school is a discrete legal entity.

4. The charter school, as a public entity, embraces the ideals of the common school. It is nonsectarian in programs and operations, tuition-free, nonselective in admissions, nondiscriminatory in practices, and accountable to a public body.

5. Each charter school is accountable for its performance, both to parents and to its sponsoring public authority.

6. In return for stricter accountability, states exempt charter schools from all state and local laws and regu-

lations except those related to health, safety, and nondiscrimination practices, and those agreed to within the charter provisions.

7. A charter school is a school of choice for students, parents, and teachers; no one is forced to be there.

8. Each charter school receives the full operating funds associated with its student enrollment (that is, fiscal autonomy).

9. Within a charter school, teachers may be employees or owners and/or subcontractors. If previously employed in a district, they retain certain "leave" protections (seniority, retirement benefits, and so on) should they choose to return within a designated time frame.

These nine elements describe what some believe to be an ideal situation. In practice, however, charter school legislation varies widely.

Charters: An Invitation to Change

Ted Kolderie

Wayne Howell was frustrated. An education researcher formerly with the Kettering Foundation, he had developed a general framework for learning that bridges all content areas. The local district used it in a K-5 school last year. Student achievement rose significantly. It may be in another school next year.

But, Howell told Phi Delta Kappa's Jack Frymier, "if it's going to grow it has to get outside the bureaucratic framework."

"You need to know about the charter idea," Frymier said.

At the University of Minnesota, brothers David Johnson and Roger Johnson have worked for years on cooperative learning. The idea of students helping one another is simple and appealing. But, David said recently, only a tiny proportion of those interested really do it: one in a thousand, perhaps.

Overcoming System Resistance

To overcome the system-resistance to innovation, inventors have tried almost everything. Some try coming in from the top, hoping state or district officials will order it done. But changes mandated from the top do not always reach the classroom—or may not be implemented faithfully or consistently.

Others try disseminating their idea directly to teachers. They give workshops, gather disciples. Some look for publishers to promote their materials. Some become publishers. But it is hard to get bottom-up change in a top-down organization: Teachers and schools lack authority, especially over resources. Grants offer hope. Superintendents will often approve what somebody else will pay for. But grants run out. What then?

The problem is in the system. As John Goodlad concluded in *A Place Called School*, "The cards are stacked against innovation." A district's

success does not depend on whether its students learn. And an organization that can take its customers for granted knows improvement is optional. Opportunities may be lost, but the district suffers no adverse consequences from not implementing new curriculums, methods, or technology. For change to occur, the district must have a reason to do it.

A Reason to Change

The charter idea creates both an opportunity for dramatically different schools to open, and incentives for districts to follow with changes in their own schools.

As Louann Bierlein and Leon Mulholland (see "The Promise of Charter Schools," p. 34) explain, charters provide an institutional bypass around the status quo.

Today when something new is proposed, the district thinks about what will happen if it says yes—and about what will happen if it says no. If it says yes, there will be other questions: *Where are we*

going to put it? Who's going to run it? How will we pay for it? If the district says no, that will be the end of the reform.

A charter law changes the calculus. If the district says no, somebody else may say yes—and students will be able to go to the new school if they choose. So the question for the board and superintendent becomes: "Do we want somebody else offering this here, or would we rather do it ourselves?"

The answer is likely to be: *We'll do it.*

With the right incentives, improvement will happen.

If you have an idea about new curriculums, technology, or methods, talk to the people forming charter schools, or to legislators interested in passing such laws. ■

J. Goodlad, (1984), *A Place Called School*, (New York: McGraw-Hill).

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Where to Take Your Ideas

To find opportunities to introduce new ideas, look in the states where the charter laws are most open to innovation. A few suggestions:

Arizona: Nancy Fuller, Charter Specialist, Department of Education, 1535 W. Jefferson, Phoenix, AZ 85007; (602) 542-5837.

California: Eric Premack, Charter Specialist with Berman/Weiler Associates, 819 Bancroft Way, Berkeley, CA 94710; (510) 853-8574.

Colorado: Barbara O'Brien, Executive Director, Colorado Children's Campaign, 1600 Sherman St., Denver, CO 80203; (303) 839-1580.

Massachusetts: Piedad Robertson, Secretary of Education, One Ashburton Place, #1401, Boston, MA 02108; (617) 727-1313.

Michigan: Barbara Barrett, Executive Director, Michigan Center for Charter Schools, 913 W. Holmes, Lansing, MI 48190; (517) 335-0561.

Minnesota: Peggy Hunter, Charter Specialist, Designs for Learning, 2550 University Ave. West, St. Paul, MN 55114; (612) 645-0200.

For a list of states considering charter bills, contact Connie Koprowicz, National Conference of State Legislatures, 1560 Broadway, #700, Denver, CO 80202; (303) 832-3444.

A charter school is an independent legal entity with the ability to hire and fire, sue and be sued, and control its own finances.

Of the 11 charter school laws enacted as of July 1994, none encompassed every element, primarily because the radical nature of the concept demanded many political compromises. Four areas raise the most concern: (1) sponsorship options (especially by groups other than the local school board), (2) legal autonomy, (3) funding formulas, and (4) protection given to teachers.

Next we'll look at existing charter school legislation and a progress report on charter school start-ups to date.

Pioneering Charter Schools

Ray Budde, an expert on school district organization, is credited with introducing the charter school concept during the late 1980s. Budde based his work on explorer Henry Hudson's charter with the East India Company to find a new passage to the Orient (Stuart 1994, Mulholland and Amsler 1992). Albert Shanker, president of the American Federation of Teachers, furthered the idea by proposing that groups of teachers be allowed to start their own schools under a charter process.

The first state to translate the idea to practice was Minnesota, where after a tough political struggle, charter school legislation was passed in 1991. The next year, California followed with its own law, and by the end of 1993, six more states—Colorado, Massachusetts, Michigan, Wisconsin, New Mexico, and Georgia—had also passed charter school legislation (Bierlein and Mulholland 1994). By summer 1994, Arizona, Kansas, and Hawaii joined the list, with active legislation pending in a number of other states.

To better understand the concept, we will take a look at charter laws and a few schools in Minnesota, California, and Massachusetts.²

Minnesota. Building

upon existing public school choice programs, Minnesota initiated its program in 1991, called "outcome-based schools." This law initially authorized creation of up to eight legally and financially autonomous schools as organized by certified teachers and sponsored by school boards. By the end of the 1992-93 school year, two charter schools were in operation. City Academy, located in a donated city recreation building in St. Paul, offers a year-round program for approximately 40 at-risk students ages 13-21. Bluffview Montessori, a private K-6 school, converted to charter status in March 1993.

During 1993-94, five additional schools with diverse program offerings began operating under Minnesota charters. For example, Metro Deaf, a school for deaf and hearing impaired students, emphasizes deaf language, culture, and history. Skills for Tomorrow, a vocational/technical school supported by the Teamsters Union and the Minnesota Business Partnership, emphasizes applied learning through internships. A third example is New Heights Schools, Inc., a pre-K-12 school for at-risk students.

In 1993 and 1994, Minnesota modified its legislation to allow up to 35 charter schools across the state. An appeals process to the state board of education was also added.

California. In September 1992, California adopted the nation's second charter schools law, partly as a defense against the possible passage of a private school voucher ballot measure. The law allows up to 100 charter schools in the state, and permits any individual to initiate a charter school

petition. Potential sponsors include the local school district or, if an appeal is sought, the applicable county board of education. By law, California charter schools must be financially autonomous, but the extent of each school's legal autonomy is determined within its specific charter agreement. About half of the 100 schools allowed by law have been approved thus far, though many are not currently operating.

California charter school proposals encompass a wide variety of innovative strategies. For example, Bennett Valley Charter School employs a home-based independent learning approach; Options for Youth Charter School focuses on dropouts and those at risk of dropping out; and Bowling Green Elementary School practices W. Edwards Deming's Total Quality Management. Unlike their counterparts in Minnesota, however, many California charter schools were converted from existing schools rather than created entirely new.

Massachusetts. As part of a broader reform package, Massachusetts passed legislation in 1993 that encompasses nearly all of the key charter school elements. Under this law, 25 public charter schools are permitted. Each may be organized by two or more certified teachers, 10 or more parents, or by any individual or group that successfully enters into a charter agreement with the state secretary of education. The state automatically grants charter schools legal and financial autonomy.

The initial charter school application process yielded 64 proposals, of which 15 obtained preliminary approval. Three of these involve a partnership with the Edison Project, a for-profit enterprise. These schools will have a rigorous curriculum, an extended school day and year, and rely heavily on technology (Walsh 1994). Other approved proposals include one from Boston University for a residen-

Under charter school legislation, local boards and district offices may find their roles and responsibilities greatly altered.

tial high school serving homeless children and wards of the state, and the Benjamin Franklin Classical School, which will provide a classical education for grades K-8.

New Challenges and Opportunities

Educators have long operated under a system of rules and regulations that have not rewarded deep change. Thus, any serious move from the status quo is difficult. There are, however, a few leadership challenges that are particularly germane to charter schools.

■ *Charter schools require new relationships between school boards and schools.* School boards have historically been the sole providers of, and primary decision makers for, public education in their communities. Many charge that such boards try to micro-manage events, rather than set broad policy direction. Under charter school legislation, local boards and district offices may find their roles and responsibilities greatly altered. For example, some states limit board authority over charter schools to contract oversight, while other states eliminate board authority completely if the school's sponsor is not the local board. To date, school board associations have resisted legislation that either allows sponsorship by authorities other than local boards or declares charter schools legally and financially autonomous.

Some school board members, however, see a brighter side to the charter school picture, especially as an alternative to private school vouchers. Randy Quinn (1993), executive director of the Colorado Association of School Boards, writes that charter schools represent

... a dramatic, very fundamental difference, one that forces the school board to reexamine its role. Rather than

serving as provider, the board has an opportunity to become the *purchaser* of education services on behalf of the citizens of the community served by the board.

He further suggests that boards may want to aggressively solicit charter proposals to create a diversity of schools within their district.

Paul Hill (1994), a senior social scientist at RAND, takes Quinn's concept one step further. He suggests that *every* public school (especially within a large city setting) should be under contract to a local school board. Such contracting, Hill believes, would provide necessary market incentives for teachers and administrators, while maintaining enough "public" oversight by local boards to preserve the ideals of the common school.

■ *Charter schools utilize true site-based decision making.* Despite frequent lip service paid to site-based decision making practices in many districts, most current school-based decisions focus on curriculum and involve only a small amount of discretionary funding. This is true, in part, because school boards remain legally responsible for decisions. Further, except for salary negotiations, many school staff members prefer not to become involved in personnel and other major decisions.

Charter schools address decentralization and empowerment issues in a way that current site-based management may not. Ideally, charter schools are legally and financially autonomous. However, even if the local board remains legally liable, charter school personnel gain substan-

tial budgetary control, thus realizing greater control over their professional lives and the education of their students.

Expanded decision-making authority, however,

presents a serious leadership concern even for those eager to assume such responsibility. Are school personnel adequately prepared to manage what is, essentially, a small business? Perhaps not. Most principals currently focus their energies on instructional activities, not financial and management matters; and most teachers are justifiably hesitant to make personnel or budgetary decisions for which they have no training and that take time away from the classroom.

There is no easy solution to this concern. Without proper training and outside technical support, principals and teachers will find it difficult to envision their schools, and their roles in those schools, in ways that are radically different from the present. Unfortunately, few state legislatures have appropriated funding for support activities (though some state departments and private organizations have risen to the challenge). For this and other reasons, the choice (or voluntary) aspect of charter schools must be preserved because many educators may never want to participate in such an endeavor and should not be forced to do so.

■ *Charter schools provide new roles for teachers.* Charter schools offer teachers a chance to work in autonomous and innovative schools, with many attempting to use new philosophical approaches, teaching methods, and assessment tools. Teachers also have the opportunity to become directly involved in all phases of school operations, from curriculum planning to management. That may be as far as many teachers want to go in



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expanding their roles. Some, however, may want to go further.

Charter schools could open the door for teachers to become school "owners," rather than employees, with an owner's chance to earn profits or build equity. Kolderie (1993) notes that groups of teachers in a cooperative or partnership arrangement could either contract with a sponsor or subcontract with a charter school management team to organize and run an instructional program at a charter school. As a professional group, these teachers would control curriculum, personnel, and financial decisions. Kolderie suggests that this arrangement would give teacher-owners a strong incentive to use innovative instructional methods and technologies and to modify existing patterns of expenditures. And, because these teachers would be their own employer, bargaining issues would be minimized or eliminated. Although this concept runs counter to current practice, growing support for charter or contract services makes it plausible.

Such empowerment of individual schools and teachers, while hailed by many educators, introduces some

perceived threats to teacher unions. An issue brief prepared by the National Education Association (1993) states that only "*under the right conditions, [italics added]* charter schools could become change agents promoting new and creative ways of teaching and learning...." Two of these conditions are that all teachers be licensed practitioners and that district collective bargaining provisions remain applicable. In an ideal charter school situation, the organizers may desire these two conditions and make them a part of the charter, but they would not be mandated by statute.

Teacher unions are also concerned that charter school provisions could become a "back door" for private school vouchers. Stuart (1994) notes that one reason the Minnesota Federation of Teachers lobbied against that state's charter school legislation is that it allowed private, nonsectarian schools to become public charter schools. These issues and the concern over the loss of collective bargaining power have caused unions to lobby against charter school legislation in many states.

Lessons from Charter Schools

What can we learn from those already working in charter schools? Start-up is one of the most time-consuming tasks, according to organizers and staff in several states. Many problems are similar to those that confront any new small business owner. First, organizers and staff must be prepared to translate their vision of the school into reality. This entails securing additional start-up funding (foundation

grants or other contributions) and developing community contacts to help create the educational environment they envision and obtain appropriate facilities. Finally, they must constantly reevaluate their process and results, making adjustments as necessary. Activities such as these are challenging and result in longer-than-normal teacher and administrator workdays. The bottom line is that, while some may view these new tasks as stimulating, others may find implementing charter schools overwhelming. In short, charter schools are not for everyone.

However, even in the early stages, the charter school participants we interviewed made the following point clear: Those who believe in the charter school concept and can meet the challenging workload will reap rewards not possible in other schools. The tremendous emphasis on collaboration, alone, is a welcome change to many. In the words of Milo Cutter at the City Academy charter school in St. Paul (1994), a charter school is "the best opportunity for teamwork. It's a natural outlet for diversity and inclusion."

Nevertheless, many questions remain: Will charter schools become just another fad, or will they successfully integrate a number of promising reform ideas? And if charter schools do succeed, will they dramatically change learning environments for a great number of students and teachers, or will they affect only those within their halls? It is too early to tell, but many educators, policymakers, and community members believe that charter schools represent a bold reform attempt that holds great promise. ■

¹We have extracted these elements from the work of Ted Kolderie (1993), a senior associate at the St. Paul-based Center for Policy Studies, and others active in the

charter school movement.

²For more in-depth descriptions of the legislation and progress in other charter school states, please contact the authors.

References

- Bierlein, L., and L. Mulholland. (February 1994). *Charter School Update: Expansion of a Viable Reform Initiative*. Tempe, Ariz.: Morrison Institute for Public Policy.
- Cutter, M. (April 28, 1994). Telephone conversation with author, St. Paul, Minn.
- Hill, P. T. (January 1994). "Reinventing Urban Public Education." *Phi Delta Kappan* 75, 5: 396-401.
- Kolderie, T. (November 1993). "The States Begin to Withdraw the 'Exclusive.'" *Changing Schools* 21, 3: 1-8.
- Mulholland, L., and M. Amsler. (October 1992). *The Search for Choice in Public Education: The Emergence of Charter Schools*. San Francisco: Far West Labo-

ratory for Educational Research and Development.

- National Education Association. (June 1993). "Are Charter Schools Better?" *Issue Brief*. Washington, D.C.: NEA.
- Quinn, R. (August 1993). "Charter Schools: Now What?" *CASB Agenda*: 2.
- Stuart, E. (April 1994). "Chartering a New Course." *State Government News*: 8-11.
- Walsh, M. (March 23, 1994). "3 Edison Plans Win Charter-School Backing in Mass." *Education Week* XIII, 26: 13.

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A Progress Report On California's Charter Schools

Linda Diamond

Innovative staffing procedures, new uses of technology, teaming, and community involvement are some of the stand-out features in the California charter school movement.

In 1992, when the California legislature approved the establishment of 100 charter schools, many educators expected that long lines of staff and community members would be eagerly waiting to sign on by the legislation's effective date of January 1993. The deluge never happened. At first only a few schools sought charter status. But interest grew, and now California has almost 50 charters, with more in progress. But why has the movement been so slow? To answer this question, one needs to consider the fiscal and educational milieu in which schools have operated.

Mindless adherence to rules has been the norm in factory-model schools. Teachers who have wished to experiment with new models have often been hampered by pressure from local labor leaders, both teaching and non-teaching. Fears about seniority, tenure, and hiring rights have been the issues leaders focus on. In some cases, anonymous mailings threatening teachers who wish to pursue charters with loss of retirement benefits and other benefits have been enough to stop the development of a school.

In other cases, parents who fear the lack of external regulation have stymied charter develop-

ment. But most often, it has been the inability to envision the possibilities that has proven the largest barrier to becoming a charter school. Only a few schools have been able to imagine that vision; yet the potential that exists within the charter movement is enormous. A charter school is an alternative, not only for students but for parents and staff as well.

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Hallmarks of Charter Schools

To become a charter school in California, each school must address 13 points: educational design, outcomes, assessment methodology, governance, staffing qualifications, procedures to ensure health and safety, strategies to achieve racial and ethnic balance, admission requirements, retirement benefits, rights of employees to return to the regular district, procedures to conduct an annual financial and programmatic audit, procedures for pupil suspension and expulsion, and attendance alterna-

tives for those who choose not to attend.

As schools identify their reasons for developing charters, most express frustration with the existing system. Many wish to change the hours and the ways credits are determined.

Others wish to select

their own instructional materials and supplies, and almost all desire autonomy in the hiring and firing process.

Charter schools often see significant fiscal savings in new staffing arrangements, especially when the credentialed teacher serves as a leader and coach managing a team of non-credentialed staff. Schools also find that they can reduce the adult-child ratio by hiring more non-credentialed adults at lower cost.

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Start-Up Experiences: A Survey

Marcella R. Dianda and Ronald G. Corwin

The start-up experiences of California charter schools are instructive for anyone who is thinking about going charter. In a survey administered to the 44 schools that were chartered in 1993, we asked about their reasons for seeking charter status as well as the challenges they faced. Thirty-four charter schools completed surveys (response rate, 77 percent). Half were located in metropolitan communities and school districts. Three-quarters were existing schools that converted to charter status. Most were elementary schools, spread across the state. All were sponsored by local school boards.

We found that California's charter schools movement is being shaped by the special features of the state's charter law—exclusive local oversight of charter schools and ambiguity about the schools' legal status. California does not specify whether charter schools are to function autonomously, so each school must negotiate how it will deal with its local school board, its local teachers' unions, and its lack of start-up funding and technical assistance from the state.

Most Charters Seek Freedom, Not Autonomy

Most of the schools indicated they had petitioned for a charter to free themselves from rules and regula-

tions (28 schools) and to gain control over decisions related to curriculum and instruction (26 schools). In sharp contrast, only one-third wanted to become legally autonomous.

With respect to operational and fiscal autonomy, most of the schools (80 percent) controlled internal decisions over staffing, curriculum, instruction, and student conduct (for example, the courses offered to students, the kinds of staff development provided to teachers, grading policies, and methods of assessing student progress). In addition, 70 percent controlled important aspects of school staffing, including selecting the principal and school staff. The schools exercised less control over student conduct and staffing decisions that had implications for other schools. For example, less than one-third could establish rules regulating student suspensions or expulsions. Only half had the authority to reassign or transfer teachers. Similarly, only about half reported managing their own budgets and controlling expenditures and purchases.

Charters Maintain Ties with Unions

Charter schools have the option to break traditional ties with the local teacher's union: a charter school may

choose not to bargain, it may become its own bargaining unit, or it may follow the terms of district negotiated employee contracts. But only seven schools chose to become their own bargaining units, while three were still considering the issue of local representation at the time they were surveyed. In the other schools, teachers were covered by agreements bargained between unions and spon-

Only one-third of the charter schools wanted to become legally autonomous.

soring districts, in many cases with the possibility of waiving specific contract provisions. For example, one school negotiated waivers that gave it increased control and flexibility in teacher evaluation and teacher assignment. Another school's charter included provisions to decrease class size and increase teachers' planning time (provided the school secured additional funding for these purposes).

Overall, at least two-thirds of the schools claimed jurisdiction over staff hiring and reassigning or transferring teachers. In addition, most charter schools (25 schools) reported using non-certificated community members and parents as classroom instructors.

New uses for technology, including distance learning as a cost-saving strategy, are part of most charter efforts. For example, one school committed to teaching its students several languages uses distance technology to connect students with foreign language

teachers located at other schools.

Finally, charter schools provide a public-sector alternative to the voucher proposals surfacing in many states. Charters give parents and staff choice without taking away substantial amounts of money from the public schools. In most charter schools, and

in all of the ones in California, teachers may choose to stay or leave, and all parents are free to move their children in or out of a school. For students, the potential exists for more powerful learning because the educators are freed from the regulations that have thwarted their reform efforts in

Schools Need Start-Up Funds

While charter schools offer the prospect of educational reform without cost to taxpayers, nearly half the schools we surveyed (44 percent) reported that lack of start-up funding was a major obstacle. In fact, one school relinquished its charter designation early in 1994, after struggling unsuccessfully to secure start-up funding.

Although these newly-founded schools were few in number (eight schools), six reported that lack of funding was a great obstacle. It also was a problem for almost two-thirds of the schools in metropolitan areas. Funding was even a problem for one-third of the existing schools that converted to charter status. In reality, much of the cost of "going" charter was borne by those who were involved in the schools' planning and operations. In addition to start-up funding, many schools needed assistance with fiscal, legal, and operational questions and problems. Equally important, they needed fiscal resources that would enable them to gain access to such assistance.

Metropolitan Schools Have Special Problems

Charter schools in metropolitan districts were most likely to seek independence from their districts and thus less likely to receive

support from their local boards. Compared to the charters located in small towns and rural districts, charters in metropolitan areas reported their districts were less likely to maintain good communication with the schools; provide visibility and recognition for the schools; promote the schools' programs; or encourage others to adopt the charter schools' practices.

By shifting the locus of control to local school boards, California's charter law provides for opportunities to restructure schools and to try out innovative educational approaches. However, it also thrusts local boards into new and unfamiliar roles.

All in all, the reports of California's charter schools during their first year suggest patterns that are well worth tracking over time. ■

M. R. Dianda, and R. G. Corwin, (May 1994), "Vision Versus Reality: A First-Year Look at California's Charter Schools," Los Alamitos, Calif.: Southwest Regional Library.

Marcella R. Dianda is a Senior Researcher, and Ronald G. Corwin is Director, Metropolitan Educational Trends and Research Outcomes Center, Southwest Regional Laboratory, 4665 Lampson Ave., Los Alamitos, CA 90720.

the past. So what are some schools doing with this newfound freedom?

Darnall—New Requirements for Teachers

Darnall E-Campus in the San Diego City Unified School District has completely redesigned its organiza-

tion, governance, and fiscal practices. Responsible for employing its own staff, Darnall requires teachers to be committed to a developmental learning model and work as part of a team. Although they do not necessarily need to possess teaching credentials to be hired, teachers must main-

A charter school is an alternative, not only for students but for parents and staff as well.

tain portfolios to document their performance at Darnall. The Darnall teachers hope to be sheltered from the district's staff reduction process, thus creating an oasis of stability that will enable the school to sustain its change efforts.

Organized in multi-age, developmental teams, students progress through Darnall based on performance and skill need. Instruction emphasizes thematic integration and active learning. Within the regular school day, teachers have ongoing planning time to refine their lessons and meet with colleagues. Darnall's development as a charter school was not clear sailing—union representatives informed the classified staff that they would no longer receive their benefits or seniority rights if they stayed with a charter school. The staff was not deterred.

Jingletown—Community Haven

For Jingletown Middle School in the Oakland Unified School District, becoming a charter school has also been challenging. Parents and some staff members at Lazear Elementary broke away from the district in order to create a special environment for the largely Latino middle grade students. The teachers wanting a charter were deeply concerned that their school

district lacked a transition program that would sufficiently ensure that their Spanish-speaking students would learn English while maintaining their own language and learning about their culture.

Despite strong district resistance, former Lazear principal Clementina Duron led the charge and last fall opened her charter school in some vacant rooms in a neighborhood church.

Unlike Darnall, Jingtowntown started from scratch, securing its own facilities, hiring staff, and negotiating legal and fiscal agreements. Jingtowntown is unique, not only as a school, but also as a very old and closely knit community within the urban confines of Oakland. Gang problems, drugs, and poverty plague the students and their families, so Duron wanted to create a haven within the community that would not only educate children but also would provide positive models.

The first significant change was to require all students to wear uniforms. As one student said, "Now, no one is wearing gang colors." In addition, the school is organized into interdisciplinary teams with an emphasis on cooperative learning and real-life activities taking place in the community. A bilingual transition program enables students to continue learning all subjects using their native language while also learning English.

Jingtowntown staffing is also unique. Of the five full-time teachers, two hold credentials and were teachers in the Oakland system, while three have

For students, the potential exists for more powerful learning because the educators are freed from the regulations that have thwarted their reform efforts in the past.

neither teaching experience nor credentials. Under an innovative partnership with a local university, the three non-credentialed teachers have been participating in student teaching seminars. The university will also place its teachers-in-training at Jingtowntown, thus significantly reducing the teacher-student ratio.

With funding another significant challenge, the principal has garnered corporate support to pay start-up costs, and the school opened as a nonprofit organization with a formal board of directors. Recently, however, governance struggles have hampered the school's efforts. Jingtowntown will continue to operate in the 1994-95 school year, but with significant staff turnover.

Jingtowntown's struggles have shown the need for advanced planning for schools that start from scratch. With adequate upfront time, Jingtowntown would have been able to carefully select and train staff and set up its fiscal and governance practices. Instead, it was forced to operate and organize at the same time.

San Carlos—Business Partnerships

Slated to open in the fall, San Carlos Elementary District is a K-12 school that is based in the business community but draws a diverse population from several neighboring cities.

This school is the product of superintendent Don Shalvey and an active community base of leading citizens.

Because there is no

high school in San Carlos, 53 percent of San Carlos children transfer to private high schools after completing the 8th grade. Shalvey hopes to alter that trend by establishing a school that will include joint ventures with community businesses. Plans include housing a student-run branch of the local bank in the school and working with city agencies to provide the school with before-and-after care as well as instructional programs.

Written into the charter school's design is another unique staffing arrangement: 40 students to 3 teachers (one professional educator and two "associates" with a differentiated pay scale). Finding the instructional staff has been a creative process. San Carlos has been holding "Grand Conversations," much like jazz sessions, to bring interested educators together with the original charter designers. Through these informal dialogues, the charter planners will choose their "Founding Educators."

Superintendent Shalvey views the charter school as a laboratory for innovative practices, freed from regulations. He believes that the district as a whole will learn from the charter school and the resulting knowledge will inform future practices throughout the San Carlos schools.

San Carlos has been holding "Grand Conversations," much like jazz sessions, to bring interested educators together with the original charter designers.

Where Charter Schools Are Going

Some charter schools are doing well, saving money on operations, and investing more in instruction. Others, like Jingtletown, are struggling to survive. Still, interest remains high, and with the number of permissible California charters growing, private citizens and even businesses are attempting to open their own charter schools.

The success of the charter school movement will depend on the quality of education provided by the first pioneers and visionary leaders. It will require a covenant among all segments of the educational community—unions, boards, teachers, and administrators—to do the business of education in a new way, focused on the needs of children, not on the needs of old bureaucracies. ■

Linda Diamond is a Senior Analyst at BW Associates, a research and policy analysis company that is currently working to support charter school development in California. She can be reached at 819 Bancroft Way, Berkeley, CA 94710.

The *Theory Into Practice* editors are pleased to announce a special issue on the topic

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Guest edited by Allan Ornstein and dated Spring, 1994 (Vol. 33, No. 2), this issue features the following articles:

- Rethinking American Schools in the Post-Cold War Era
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- In Search of Cost-Effective Schools
Mary Anne Raywid & Thomas Shahan
- Educational Productivity: Urgent Needs and New Remedies
Herbert Walberg
- Ethical Considerations in an Era of Financial Security
Raymond Calabrese & Sheldon Marcus
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Martha McCarthy
- After the Victory: Making Funding Equity Make a Difference
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Alaska State Legislature
 House of Representatives
 COMMITTEE ON HEALTH, EDUCATION
 AND SOCIAL SERVICES

PLEASE PROVIDE
 ALL REQUESTED
 INFORMATION.

SUBJECT OF MEETING:
 SB 88: Pilot Program
 for Charter Schools

DATE: MAY 2

PLACE: Capitol Room 106

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Carl Ross	AASB	316 W 15th St	99801	6-1083		<input checked="" type="radio"/>	N	HB 88
						Y	N	
Linda Sharp	parent	2060 Esquire	99517	278-6951		<input checked="" type="radio"/>	N	
Shela Peterson	DOE	801 W 16th Ave, Suite 200	99801	463-3863	465-4156	Y	N	
Robert Goffstein	State School Bd	630 W 4th Ave #300	99501	257-5601		<input checked="" type="radio"/>	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	
						Y	N	

SB

91

Alaska State Legislature

Chairman,
Judiciary Committee

Vice Chairman,
Transportation Committee

Member,
Resources Committee
Western Legislative Forestry Task Force



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Fax: (907) 465-3922

352 Front Street
Ketchikan, Alaska 99901
(907) 225-8088
Fax: (907) 225-0713

Senator Robin L. Taylor

Sponsor Statement

Senate Bill 91

Senate Bill 91 was introduced with the goal of putting Alaska in a pro-active position when it comes to dealing with individuals who knowingly place others at risk of HIV infection. SB 91 is intended to be preventative as well as punitive and is intended to render a criminal rather than moral judgement.

As of December 31, 1994, 272 Alaskans have been confirmed to have AIDS. That's since tracking began in 1982. Of these cases, 152 are known to have died.

The Epidemiology section of the Division of Public Health reports that as of December 31, 1994, 540 Alaskans have tested positive for HIV infection. That number represents only those who were voluntarily tested through the State Section of Laboratories.

The statistics show that HIV/AIDS affects both male and female, across all age groups and without respect to race or residence. The sad fact is that the rate of infection in Alaska is growing.

If someone intentionally sets out to kill another person by infecting them with the AIDS virus, they can be charged under state law with attempted first degree murder. But what do we do with the person who does not "intend" to kill, but still places others in jeopardy? In 1990, the Attorney General's office reviewed that question and suggested that...quote..."it may be possible to prosecute the person for reckless endangerment", end quote. That is a class A misdemeanor prohibiting reckless conduct which creates a "substantial risk of serious physical injury".

Sponsor Statement - SB 91

Page Two

Most people would equate becoming infected with HIV as something more than a "serious injury".

Twenty six other states have seen fit to adopt specific laws dealing with criminal penalties for knowingly transmitting or exposing another to HIV infection. It would only be prudent for Alaska to have such a statute on the books.

SB 91 is brief and to the point. It creates the crime of criminal transmission of HIV and covers actions and conduct known to transmit the disease.

The bill also provides an affirmative defense when the person exposed knows beforehand that the action could result in infection. It was amended in the Senate HES Committee to add a provision excluding perinatal transmission of the virus and to assure that the an individual is not prosecuted for an involuntary act.

SB 91 is not intended to punish those who have contracted HIV. It is intended to protect others who may be unknowingly exposed to the virus by what should be a criminal act of irresponsibility.

MEMORANDUM

NOV 16 1990

State of Alaska

Department of Law

November 16, 1990

TO: Elizabeth L. Shaw
 Assistant Attorney General
 Department of Law - Civil Div.

DATE:

FILE NO.:

TEL NO.:

SUBJECT:

465-3428

Criminal liability for
 having unprotected sex
 while infected with HIV
 or AIDS

FROM:

Dean J. Guaneli
 Assistant Attorney General
 Criminal Division, Central Office

At the request of Chief Prosecutor Laurie Otto, I briefly reviewed the question of possible criminal liability for someone who intends to spread the HIV virus by having unprotected sex with another person, or by donating blood. In short, I believe we can certify that prosecution under state law is possible for both intentional or reckless conduct.

If someone intends to kill another person by infecting them with the AIDS virus, it could be prosecuted as attempted first degree murder.¹ This holds even if infection is, as a factual matter, unlikely or impossible, since impossibility is not a defense as long as the actor believes that death will occur. AS 11.31.100(b); see also Gargan v. State, 436 P.2d 968 (Alaska 1968) (factual impossibility which was not apparent to the actor should not, as a matter of policy, insulate him from conviction for attempting commission of the offense). This view is shared by Barry Stern, Professor of Law at Western New England Law School, who was one of the principal drafters of the revised criminal code. It would also be possible to charge an attempted assault, if the person only intended serious injury, rather than death.²

The more interesting problem, and the one more likely to occur, is when a person is aware of the infection and has, or attempts to have, unprotected sex with a partner who is unaware. The mental state would probably not be "intentional" (since the

¹ The Alaska Court of Appeals has held there is no such crime as attempted second degree murder, Huitt v. State, 678 P.2d 415 (Alaska App. 1984), and based on that opinion, there are no such crimes as attempted manslaughter or negligent homicide.

² The U.S. Supreme Court recently denied review of an opinion from a military court (attached) where the person was convicted of attempted aggravated assault (by means likely to cause death or bodily harm) by trying to have unprotected sex knowing he was infected by HIV. United States v. Johnson, 30 M.J. 53 (U.S. Ct. of Mil. Appeals, April 12, 1990), cert. den. 48 CrI. 3037 (Oct. 15, 1990).

Elizabeth L. Shaw
Criminal liability for

November 16, 1990
Page 2

actor no doubt would not intend to pass the infection), nor would it be "knowing" (because the person may not believe infection was a substantial probability). However, the person is consciously disregarding a risk of infection, and most juries would find such a risk to be substantial and unjustifiable. Thus the mental state would be "reckless" under AS 11.81.900(a)(3), and it may be possible to prosecute the person for reckless endangerment, a class A misdemeanor (AS 11.41.250), that prohibits recklessly engaging in conduct which creates a substantial risk of serious physical injury.

Please let me know if a more detailed review of the law is necessary.

KNOWING EXPOSURE/TRANSMISSION
5/25/93

CRIMINAL PENALTIES FOR KNOWINGLY TRANSMITTING/EXPOSING
ANOTHER TO HIV INFECTION

Alabama, HB 338, Act 87-574 (87) - misdemeanor - "risks transmitting or conducts himself in a manner likely to transmit the disease)

Arkansas, HB 1486, Act 814 (88) - felony - "sexual intercourse" (without 1st informing others)

California, SB 1002, Chapter 1164 (88) - felony, blood donation

Colorado, HB 1255 (90) - class 6 felony for knowingly performing, offering or agreeing to perform certain sexual acts with persons other than their spouses in exchange for money or any other thing of value. Persons who are knowingly infected with HIV who patronize prostitutes are guilty of a class 6 felony

Delaware, HB 637, Chapter 335 (88) - felony, blood donation

Florida, HB 1313, Chapter 88-220 (88) - misdemeanor "sexual intercourse"; (88) - misdemeanor (if person has been informed of modes of transmission); HB 1519 (88) - felony of the third degree, blood/body fluids donation;

Georgia, HB 1281, Act 1440 (88) - felony (after obtaining knowledge of infection) knowing intercourse, donation, sharing syringes

Idaho, HB 653, Chapter 70 (88) - prohibits knowing or willful exposure; HB 433 (88) - felony (provides affirmative defense if sexual activity occurred between consenting adults); - felony, knowing transmission or transmit with the intent of infection

✓ Illinois, HB 1671 (89) - class 2 felony for criminal transmission. = intimate contact; blood, semen, tissue or organ donation; sell, exchange, etc. non-sterile IV drug paraphernalia. Provides an affirmative defense if the person exposed knew that the infected person was infected with HIV, knew that the action could result in HIV infection and consented to the action with that knowledge.

Indiana, SB 9, Public Law 88-123 (88) - Class C felony, blood donation

Kansas, HB 2841 (92) - Class A misdemeanor for individuals with a life threatening communicable disease to knowingly engage in sexual intercourse or sodomy, sell or donate blood, semen, tissue or other body fluids, or share hypodermic needles with intent to expose another to the disease.

Kentucky, HB 50 (88) - Class C felony, blood donation (also any health facility, physician or health care worker who knowingly transfuses untested blood when there is not an emergency situation is guilty of Class C felony)

HB 425 (90) - felony for donating organs, skin or other human tissue; class A misdemeanor for persons who commits prostitution; class D felony for committing prostitution or who procures another to commit prostitution by engaging in sexual activity in a manner likely to transmit HIV infection.

Source: AIDS Policy Center, Intergovernmental Health Policy Project, The George Washington University, June 1993.

ADDITIONAL INFORMATION
PENALTIES IN OTHER
STATES

KNOWING EXPOSURE/TRANSMISSION
PAGE 2

SB 244 (92) - Makes it a felony for any person to commit, offer, or agree to commit prostitution by engaging in sexual activity when he or she knew or had been informed that he or she could possibly transmit the virus through sexual activity.

Louisiana, HB 1728, Act 663 (87) - fine of not more than \$5,000, imprisonment with or without hard labor for not more than 10 years "sexual contact" without knowing consent of other person

Maryland, SB 719, Chapter 709 (89) - misdemeanor (may not knowingly transfer or attempt to transfer)

✓ Michigan, HB 5026, Public Act 480 (88) - felony, sexual penetration (if they do not inform other person of the presence of disease)

Mississippi, HB 515, chapter 557 (88) - knowingly and willfully violating health department orders

Missouri, HB 1151 and 1044 (88) - Class D felony, donation of blood, organ, sperm, tissue; sexual contact

Nevada, AB 550, Chapter 762 (87) - Provides that any person who practices prostitution after testing positive for HIV is guilty of a felony and will be imprisoned in the state prison for not less than 1 year, not more than 20 years and/or fined up to \$10,000. An owner of a house of prostitution who continues to employ HIV+ prostitutes is liable for any damages caused by HIV exposure as a result of the employment; SB 73 (89) - subject to confinement by court order as well as other penalties (which are not specified)

Ohio, HB 571 (88) - felony of the 3rd. degree, sell or donate blood plasma, blood product

Oklahoma, HB 1798 (88) - felony (with intent to infect); HB 1012 (91) - felony punishable by a maximum of 3 years of imprisonment for knowingly engaging with intent to infect in conduct reasonably likely to result in transfer of blood or bodily fluids into the bloodstream or through the skin or other membranes of a person except during in utero transmission.

✓ South Carolina, HB 2807, Ramification 547 (88) - sale, donation, exchange of blood products; "exposing another person to HIV without first informing"; SB 1166 (90) - felony (upon conviction must be fined not more than \$5,000 or imprisoned for not more than 10 years) for engaging with or without consent in sexual intercourse (vaginal, anal or oral) without first informing in prostitution, selling or donating blood or other body fluids or sharing needles

Tennessee, HB 461, Chapter 281 (91) - class C felony for committing prostitution when a person knows that he or she is HIV+

Texas, SB 969 (89) - felony for "engaging in conduct likely to transfer"

Utah, HB 24 (93) - Mandates HIV testing for persons convicted of prostitution or patronizing or sexually soliciting a prostitute. Provides enhanced penalties (3rd. degree felony) if these individuals test positive for HIV, know their test results and have received written personal notice of their positive test results from a law enforcement agency.

Virginia, HB 1974 (89) - class 0 felony, donating or selling blood, body fluids, organs or tissues

Washington; SB 6221, Chapter 206 (89) - assault in the second degree for a person who has exposed or transmitted HIV to another person with intent to inflict bodily harm

TOTAL = 28 STATES

Man pleads guilty to HIV transmission

By Jennifer Liberto
Daily Staff Writer

The Chicago man charged with criminal transmission of HIV after an alleged sexual assault at Elder Hall last October pleaded guilty at a hearing at Circuit Court in Skokie yesterday.

Anthony M. Carr of the 5200 block of South Federal Street in Chicago was sentenced to 48 months probation on the condition that he serve it in a hospital, said prosecutor Cathy Crawley of the State's Attorney Office. Carr now has full-blown AIDS.

"I'm not really bitter about his light sentence because he's dying," the victim said. "At this point there is nothing else I can do."

The victim's attorney told him Carr has only six to eight months to live.

Carr was arrested on the morning of Oct. 4 after a fight broke out at Elder Hall, 2400 Sheridan Road, according to University Police reports. Carr had engaged in "intimate contact" with a Northwestern junior, police said.

Carr could have served seven years in prison for criminal transmission of HIV, which is a Class 2 felony in Illinois.

At the hearing, the public defender asked for a conference to discuss the sentence Carr would receive if he were to plead guilty, Crawley said. Carr chose to accept the relatively light sentence. There was no plea-bargaining.

The victim, who has dropped out of NU, was present at the hearing, Crawley said. He waived his right to give a "victim of violent crime impact" statement before Carr was sentenced. The statement, in which victims tell how crimes have affected their lives, is given after the sentencing so it will not influence the severity of a judge's sentence.

"No matter what I would have said, the judge had already made his decision," the victim said. "It would have only caused more pain and embarrassment."

The victim continues to test negative for HIV, and his last test is later this week. He has not yet showed any signs of AIDS, which can often takes years to fully develop.

"I get so nervous when I get a sore throat or a cough," he said. "So far, it has always turned out to be a cold."

Illinois is one of 27 states with a law against knowingly transmitting HIV. The law went into effect in September 1989.

Carr may be the first person in Illinois to be sentenced by this new law, said Allan Robinson, a Northwestern criminal law professor.

"It's a pretty tough case to sentence," Robinson said. "Nobody's thrilled to sentence someone who is dying already."

Robinson said the sentence had probably been discussed for some time, since the defendant did not bargain for a reduced probation sentence and changed his plea from innocent to guilty so quickly.

The victim said he wants to return to school, but he may not be able to until next fall because of financial problems and a death in the family.

"I'm a little nervous to come back," the victim said. "I really hope no one looks at me differently, but if they do, then they're not my real friends."

TALE OF REVENGE STIRS AIDS FUROR

Woman Claims She's Trying to Infect Men, Prompting a Surge of Concern

Special to The New York Times

DALLAS, Sept. 29 — In a chilling radio interview on Sept. 4, a woman who said she had AIDS told how she was trying to spread the virus out of revenge on the man who had infected her.

Whether the woman, who calls herself C. J. but has kept her identity secret, is telling the truth is a subject of debate. But her assertion has sent a shock wave through this city.

Attendance has swelled at AIDS education seminars, talk shows are inundated with concerned callers and health clinics are seeing a surge in requests for AIDS virus testing.

The furor began with a letter, published in the September issue of *Ebony* magazine, from someone who wrote that since contracting the AIDS virus she had become compulsively promiscuous, frequently picking up men in nightclubs. "I feel if I have to die of a horrible disease I won't go alone," the letter said. It was signed, "C. J., Dallas, Texas." *Ebony's* managing editor, Hans J. Massaquoi, said that although the letter was not verified it was printed as a warning to readers.

A Previous Letter

Willis Johnson, a talk show host at radio station KKDA here, said the letter quickly provoked a storm of calls to his program. He issued a plea to the writer to call him, and on Aug. 31, he said, a female caller identified herself off the air as C. J. and agreed to the Sept. 4 on-air interview.

But Mr. Johnson said in an interview on Thursday that he was certain it was not his first contact with the woman.

"I got the exact same letter that was in *Ebony* about two years ago," said Mr. Johnson, who is 37 years old and has been with KKDA for 15 years.

Shortly after he received the first letter, he said, a black, "very beautiful, light-skinned woman, about 5-foot-5 and 120 pounds," approached him at a nightclub and introduced herself as C. J. "She was obviously eaten up with anger," Mr. Johnson said. "I never told anyone about the incident, but when she called Aug. 31, she reminded me of that earlier meeting. So I know it is the same woman."

Speaking quietly in the radio interview, the woman told of frequenting nightclubs in Dallas and nearby Fort Worth, of meeting men, some of them married, and having unprotected sex with them in "revenge."

The woman, who said the initials C. J. are not her own, said she felt no remorse. "I blame it on men, period,"



Mark Peterson for The New York Times

In an on-the-air interview last month, a woman told Willis Johnson, a Dallas radio personality, that she has AIDS and is methodically trying to spread the virus out of revenge on the man who infected her.

A hoax, perhaps, but it has started healthy debates.

she said, adding, "I'm doing it to all the men because it was a man that gave it to me."

During the interview, Mr. Johnson repeatedly urged the woman to seek counseling. She continues to call him, he said Thursday. Once she told him she contracted the AIDS virus from a white bisexual man, he said. He said he arranged for her to talk with a minister, but "I don't think we have made a lot of headway with her."

Some people who call Mr. Johnson argue that C. J.'s story is a hoax.

Charles O'Neal, publisher of *The Dallas Examiner*, a weekly newspaper whose readership is largely black, said that though no one can be sure whether it is a hoax he believes that the story has stirred intense public discussion among blacks about heterosexual AIDS transmission. "I am certain there is some communitywide consternation that C. J. is one of a number of people who are out there wreaking havoc with this disease," he said.

Health officials said the number of heterosexual men seeking information about AIDS has greatly increased in recent weeks in Dallas County.

"In the past, people seemed to be a lot more judgmental about people who get this disease," said Phillip Mathews, director of minority services at the

AIDS Interfaith Network. "Now they are showing serious concern because it could hit very close to home. C. J. could be a blessing, in a sad sort of way."

At R. J.'s on the Lake, a fashionable disco on Dallas's northwest side, the manager, Jerry Sanders, said business was as brisk as ever but "people's attitudes about high-risk behavior have changed enormously, thanks to C. J."

Drop in Promiscuity

Many of those at the bar agreed. "If what this woman says is true, we are talking about a form of genocide," said Levi Peterson 3d, a 32-year-old accountant. "It is serial killing. But true or not, promiscuity has de-elevated, believe me."

Coincidentally, the Dallas City Council voted Wednesday to allot \$118,650 for AIDS education and assistance programs. Although the Council budgeted \$167,000 for similar programs in the 1991 fiscal year, its new budget originally provided no AIDS money; some was added after pressure from advocates for people with AIDS. Dallas ranks 12th nationally in cities with AIDS, with 3,200 cases recorded as of Sept. 1.

Under Texas law, knowingly trying to transmit the AIDS virus is a third-degree felony, punishable by up to 10 years in prison and a \$5,000 fine. A spokesman for the Dallas Police Department, Edward Spencer, said the department is aware of C. J.'s claims but is not investigating them because no one has filed a complaint.

Many Sense Politic

By ROBERT REINHOLD
Special to The New York Times

LOS ANGELES, Sept. 30 — In vetoing a bill intended to protect homosexuals against job discrimination, Gov. Pete Wilson said Sunday that he was trying to protect California businesses from added costs, rather than playing electoral politics.

But the consensus today among both Republicans and Democrats in California was that the veto by Mr. Wilson, a moderate Republican who has sought the gay vote in the past, was indeed a political act. Many people here believe the Governor sought to protect himself and the man he appointed to succeed him in the United States Senate, John Seymour, against the wrath of his own party's conservative wing.

The veto dealt a sharp blow to the gay rights movement, whose leaders angrily vowed today to work for the defeat of both Governor Wilson and Senator Seymour. There were noisy demonstrations by homosexuals Sunday night in West Hollywood and San Francisco. There also were protests this afternoon at the Ronald Reagan State Building in downtown Los Angeles, where the state police reported at least two arrests.

The bill would have made California the fifth state, and by far the largest, to add sexual orientation to laws barring job discrimination on the basis of race, national origin, creed and other categories. The states that already have this provision are Connecticut, Hawaii, Massachusetts and Wisconsin.

Emotional Political Issue

The bill had presented Mr. Wilson with what was probably the most emotional political problem he has faced since taking office last January. He has been fighting a rebellion by his own party over his agreement to raise state taxes by \$7 billion this summer. The gay rights bill stirred even deeper emotions, prompting 111,000 telephone calls and letters to the governor's office, his aides said, with the overwhelming majority against the bill. Similarly, at the Republicans' state convention in Anaheim recently, party delegates voted overwhelmingly against the bill.

"It is no secret the Governor has serious problems with a large element of the Republican base," said Steven A. Merksamer, a Sacramento lawyer who is a leading Republican strategist. "Had he signed this bill those problems would have gotten worse. It was both a good policy and political decision."

Several political experts said the decision to veto the bill was motivated by two factors. Most immediately, Senator Seymour faces a tough primary challenge in June from Representative William E. Dannemeyer of Orange County, an outspoken opponent of gay rights. The Senator was further endangered by a gathering move by the Traditional Values Coalition, led by the Rev. Louis P. Sheldon of Anaheim, to put a measure on the same ballot to

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Jet June 10, 1991

Page 18

CRIME

AIDS Victim On Mission To 'Take All The Women ... He Can' Before Dying

Police say William Lucas Barker of Oakland is on a deadly mission. They say he has tested positive for the AIDS virus and threatened to "take all the women with him that he can" before he dies. Barker, who denies the accusation, is in jail charged with four counts of assault with a deadly weapon stemming from repeated sexual encounters even though he knew he was infected.

But authorities fear the 25-year-old, who was paroled in March following convictions on charges of second-degree burglary and robbery, may go free and resume his grim task if the only woman who has agreed to testify against him backs down, for fear of being identified by the media. The 22-year-old Oakland woman "is indicating that she is reticent to appear (if her name or picture are going to appear in the press)," police officer

Lt. Craig Stewart, said.

The charges against Barker stem from four encounters of consensual sex with the woman. He could be charged with a fifth count for allegedly throwing blood from a self-inflicted wound at a cellmate, police said.

Police believe Barker has had sexual relations with several women since he allegedly boasted while in prison that he would "take all the women with him that he can" before he dies from the deadly virus. "I never said that," Barker said in a jail interview published in the Oakland Tribune. "I love women dearly. There's no way I would come out and do anything to harm them."

He also said he has been tested for the human immunodeficiency virus which causes AIDS, more than once and the results have been inconclusive. Police say he was diagnosed with the virus while in custody.

Barker was arrested April 9 after a parole officer received a tip that Barker was deliberately trying to infect women with AIDS, Stewart said. Police found Barker and the woman in a motel room. She became hysterical when officers told her Barker had AIDS, Stewart said.

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(Title 17 U.S. Code)



■ Citizen Arrest: A resident of the Mount Pleasant neighborhood of Washington, D.C. asks for help from police after area residents tied him to a sapling tree during a recent outbreak of violence that erupted after a police officer shot a Hispanic youth. Officers untied the man and let him go free.

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 AIDS-TRANSMISSION CONVICTION REAFFIRMED
 USA Today (US) - TUESDAY October 16, 1990
 By: Tony Mauro
 Edition: FINAL Section: NEWS Page: 07A
 Word Count: 395

MEMO:
 NOTES: Accompanies: SUPREME COURT

TEXT:
 A brief homosexual encounter in Tacoma, Washington nearly three years ago left a trail of AIDS-related controversy that ended at the Supreme Court Monday.

The result, gay rights advocates fear, may be a rise in criminal laws to punish those suffering from AIDS.

On Monday the court refused to hear the case of Nathaniel Johnson, an Air Force sergeant who learned in 1987 that he was HIV-positive - an AIDS indicator - and received counseling at Lackland Air Force Base in Texas. He then returned to duty at McChord Air Force Base in Washington.

According to trial records, it was there that Johnson met a 17-year-old boy and returned to his apartment, where they had drinks and sex.

When the boy later reported the incident, Johnson was court-martialed not only on sodomy charges but - because he was HIV-positive - on an aggravated assault charge.

Because he had unprotected sex while knowing he might be carrying a potentially fatal virus, the government claimed, in essence, that he should be in the same category as someone swinging an ax at another.

The government said Johnson knew "he was likely to transmit HIV" if he engaged in sex without a condom.

Johnson was convicted and sentenced to 10 years. He appealed, claiming the law and Air Force policy were vague.

The high court's action affirms his conviction.

Cases like Johnson's are increasingly common, legal experts say. In recent years, AIDS patients have been prosecuted for biting, spitting, or donating blood.

More than a dozen states have enacted laws specifically to make "intentional" AIDS transmission a criminal act.

"What would otherwise be no crime at all becomes a serious crime," says Paul DiDonato, legal director of San Francisco-based National Gay Rights Advocates.

Only if it could be proved that someone went out with a clear intent to infect someone else, says William Rubenstein of the American Civil Liberties Union, could criminal laws possibly come into play.

"AIDS is a health problem, best handled by the public health community," says Rubenstein. "Handling it as a crime is not very effective."

FOCUS

A mainstay of U.S. justice is that every citizen has the right to his or her day in court - and can take that issue "all the way to the Supreme Court." Here's a look at one journey to the high court.

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HIGH COURT UPHOLDS LAW BANNING INTENTIONAL SPREAD OF AIDS VIRUS

Chicago Tribune (CT) - FRIDAY, January 21, 1994

By: Jan Crawford, Tribune Legal Affairs Writer.

Edition: NORTH SPORTS FINAL Section: CHICAGOLAND Page: 2

Word Count: 386

TEXT:

A state law prohibiting people with the AIDS virus from engaging in any behavior that could spread the disease is not unconstitutional, the Illinois Supreme Court ruled Thursday.

With the decision, prosecutors now are free to bring criminal

charges against people suspected of spreading HIV.

Opponents had argued that the law was so broad and vaguely written that a woman with the virus could be arrested for breastfeeding her baby. But the court, in a terse, three-page unanimous opinion, dismissed those and other arguments with little discussion. Further, it said it was unconcerned that opponents were able to conjure up possible ways the law might open up innocent conduct to possible prosecution.

"Vagueness, like beauty, may be in the eye of the beholder," wrote Justice James Heiple.

"We, however, read the statute as being sufficiently clear and explicit so that a person of ordinary intelligence need not have to guess at its meaning or application."

The decision reversed the opinions of two Downstate Illinois trial judges, who found the law unconstitutional in separate criminal cases.

In one of the cases, a woman was charged with knowingly spreading the virus when she had sex without telling her partner. In the second case, a man was charged with raping a woman when he knew he was infected with the virus.

Those charges now will be reinstated, said Gerry Arnold, a staff attorney in the state appellate prosecutor's office who defended the law last November in arguments before the court.

"The court did not seem to have any trouble deciding the issue," Arnold said. "We're obviously grateful the court reached the decision it did."

Only a few people have been charged under the law since it was passed in 1989.

Under the law, the state can bring felony charges against anyone who, knowing he or she has HIV, nevertheless engages in activities that could transmit AIDS, such as intimate contact, donating blood or sharing dirty needles. Those convicted face 3 to 7 years in prison.

The key issue in the court challenge was whether the phrase "intimate contact" provided enough notice for people to know what is prohibited.

The American Civil Liberties Union, which helped challenge the law on the defendants' behalf, argued it was unconstitutionally vague because it didn't clearly state what kind of activity it prohibited.

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Edgar defends clemency choice for re-arrested AIDS sufferer
Chicago Tribune (CT) - FRIDAY February 7, 1992
By: Rick Pearson, Chicago Tribune
Edition: NORTH SPORTS FINAL Section: CHICAGOLAND Page: 2
Word Count: 288

TEXT:

SPRINGFIELD - Gov. Jim Edgar said Thursday he still believes he made the right decision in granting clemency last October to an AIDS-infected Rockford woman, despite her arrest this week on charges of criminal transmission of the deadly virus and prostitution.

Tracy Eichman, 34, was arrested by Rockford police on Tuesday after offering to perform sexual acts for a police officer for \$20, authorities said. She was being held in the Winnebago County Jail on \$25,000 bond, sheriff's officials said.

She faces one to three years in prison if convicted on the new charges, officials said.

In February 1991, Eichman was sentenced to 3 years in prison after being convicted of criminal transmission of the AIDS-causing HIV virus.

Edgar initially rejected requests that he approve clemency for Eichman, even as her health deteriorated.

But as Eichman's condition grew worse, and in the belief that she would soon die, the governor agreed to grant pleas for clemency from her family and from members of the First Evangelical Free Church of Rockford.

Edgar said that despite Eichman's arrest, he thought the procedures his administration used in granting clemency were correct.

"Why she made a miraculous recovery is beyond me," Edgar said. "I don't claim to be a medical expert. The medical experts we had to deal with indicated to us that she was bedridden and near death.

"I thought from a humane point of view that it was the right thing to do and I still do think I made the right decision," he said. "I suspect in the future that we'll probably put some provisions in the clemency so in case the person does improve, that we know that they are not going to be a

threat to society."

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Georgia

OPINIONS OF THE ATTORNEY GENERAL

Authority of Georgia Crime Information Center to maintain records. — The Georgia Crime Information Center is authorized to maintain records of reported crime and, in some instances, to record information identifying persons charged with the commission of crime; however,

the center is not authorized to maintain records identifying persons charged with disorderly conduct except when the charge is directly connected with or directly related to certain statutory offenses including interference with custody. 1976 Op. Att'y Gen. No. 76-33.

RESEARCH REFERENCES

C.J.S. — 1 C.J.S., Abduction, § 1 et seq., 51 C.J.S., Kidnapping, § 4.

of parent or one in loco parentis, 20 ALR4th 823.

ALR. — Violation of state court order by one other than party as contempt, 7 ALR4th 893.

Liability of legal or natural parent, or one who aids and abets, for damages resulting from abduction of own child, 49 ALR4th 7.

Kidnapping or related offense by taking or removing of child by or under authority

ARTICLE 4

RECKLESS CONDUCT

Cross references. — Reckless driving, § 40-6-390.

16-5-60. Reckless conduct causing harm to or endangering the bodily safety of another; conduct by HIV infected persons.

(a) Any term used in this Code section and defined in Code Section 31-22-9.1 shall have the meaning provided for such term in Code Section 31-22-9.1.

(b) A person who causes bodily harm to or endangers the bodily safety of another person by consciously disregarding a substantial and unjustifiable risk that his act or omission will cause harm or endanger the safety of the other person and the disregard constitutes a gross deviation from the standard of care which a reasonable person would exercise in the situation is guilty of a misdemeanor.

(c) A person who is an HIV infected person who, after obtaining knowledge of being infected with HIV:

(1) Knowingly engages in sexual intercourse or performs or submits to any sexual act involving the sex organs of one person and the mouth or anus of another person and the HIV infected person does not disclose to the other person the fact of that infected person's being an HIV infected person prior to that intercourse or sexual act;

(2) Knowingly allows another person to use a hypodermic needle, syringe, or both for the introduction of drugs or any other substance

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into or for the withdrawal of body fluids from the other person's body and the needle or syringe so used had been previously used by the HIV infected person for the introduction of drugs or any other substance into or for the withdrawal of body fluids from the HIV infected person's body and where that infected person does not disclose to the other person the fact of that infected person's being an HIV infected person prior to such use;

(3) Offers or consents to perform with another person an act of sexual intercourse for money without disclosing to that other person the fact of that infected person's being an HIV infected person prior to offering or consenting to perform that act of sexual intercourse;

(4) Solicits another person to perform or submit to an act of sodomy for money without disclosing to that other person the fact of that infected person's being an HIV infected person prior to soliciting that act of sodomy; or

(5) Donates blood, blood products, other body fluids, or any body organ or body part without previously disclosing the fact of that infected person's being an HIV infected person to the person drawing the blood or blood products or the person or entity collecting or storing the other body fluids, body organ, or body part,

is guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not more than ten years. (Code 1933, § 26-2910, enacted by Ga. L. 1968, p. 1249, § 1; Ga. L. 1988, p. 1700, § 3.)

Editor's notes. — Ga. L. 1988, p. 1799, § 1, provides: "The General Assembly finds that Acquired Immunodeficiency Syndrome (AIDS) and its causative agent, including Human Immunodeficiency Virus (HIV), pose a grave threat to the health, safety, and welfare of the people of this state. In the absence of any effective vaccination or treatment for this disease, it threatens almost certain death to all who contract it. The disease is largely transmitted through sexual contacts and intravenous drug use, not through casual contact, and, while deadly, is therefore preventable. The key component of the fight against AIDS is education. Through public education and counseling our citizens can learn how the disease is transmitted and, thus, how to protect themselves and prevent its spread. The Department of

Human Resources is encouraged to continue its efforts to educate all Georgians about the disease, its causative agent, and its means of transmission. In addition, voluntary testing should be encouraged for anyone who feels at risk of infection. While education, counseling, and voluntary testing are vital to the elimination of this epidemic, other measures are needed to protect the health of our citizens, and it is the intention of the General Assembly to enact such measures in the exercise of its police powers in order to deal with AIDS and HIV infection."

Law reviews. — For survey article on criminal law and procedure, see 34 Mercer L. Rev. 89 (1982). For annual survey of criminal law, see 38 Mercer L. Rev. 129 (1986).

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Illinois

720 ILCS 5/12-16

Note 400

400. Excessive sentence and punishment
Five-year sentences on each of four counts of aggravated criminal sexual abuse was not excessive; sentences were midrange for offense, defendant had previous criminal record and was on parole at time of offense and victim had sustained psychological harm. People v. Edwards, App. 2 Dist.1990, 142 Ill.Dec. 8, 195 Ill.App.3d 454, 552 N.E.2d 358.

VIII. REVIEW

Subdivision Index

- In general 451
Plain error 453
Preservation of grounds for review 452

451. In general, review

Appropriate standard of review of challenge to conviction for sex offense is whether, after viewing evidence in light most favorable to prosecution, any rational trier of fact could have found essential elements of crime beyond reasonable doubt. People v. Haun, App. 5 Dist. 1991, 163 Ill.Dec. 710, 221 Ill.App.3d 164, 581 N.E.2d 864, disagreed with 165 Ill.Dec. 739, 585 N.E.2d 135.

Standard of review for determining sufficiency of evidence to support sex offense convictions was the traditional test applicable in other criminal cases, of whether evidence viewed in light most favorable to State would support rational trier of fact's determination that essential elements of crime had been proven beyond reasonable doubt, rather than heightened requirement that evidence against defendants be clear and convincing or substantially corroborated, and accordingly, the issue

5/12-16.1. § 12-16.1. Repealed by P.A. 85-1433, § 6, eff. Jan. 11, 1989

Historical and Statutory Notes

The repealed section made it a crime to permit the sexual abuse of children. See, now, 720 ILCS 150/5.1.

5/12-16.2. Criminal transmission of HIV

§ 12-16.2. Criminal Transmission of HIV. (a) A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV:

- (1) engages in intimate contact with another;
(2) transfers, donates, or provides his or her blood, tissue, semen, organs, or other potentially infectious body fluids for transfusion, transplantation, insemination, or other administration to another; or
(3) dispenses, delivers, exchanges, sells, or in any other way transfers to another any nonsterile intravenous or intramuscular drug paraphernalia.
(b) For purposes of this Section:

872

CRIMINAL CODE OF 1961

to be resolved was whether State's evidence was so unsatisfactory or improbable that there remained reasonable doubt of defendants' guilt. People v. Allen, App. 1 Dist.1991, 162 Ill.Dec. 872, 220 Ill.App.3d 772, 580 N.E.2d 1291.

452. Preservation of grounds for review

Defendant in child sexual abuse case waived issue whether circuit court erred in allowing pediatric nurse to testify that, in her opinion, victim was being truthful in describing assault, where defendant did not object to testimony either at trial or in written posttrial motion, and specifically questioned witness about her statement at length. People v. Davis, App. 5 Dist.1991, 153 Ill.Dec. 82, 208 Ill.App.3d 33, 566 N.E.2d 932.

Issue of whether examining clinical psychologist's opinion of credibility of minor who was allegedly victim of sexual abuse should not have been admitted was waived, where defendant did not object to court's questioning of psychologist at trial or raise the matter in posttrial motion. People v. Hickox, App. 2 Dist.1990, 143 Ill.Dec. 180, 197 Ill.App.3d 205, 553 N.E.2d 1166, appeal denied 149 Ill.Dec. 330, 133 Ill.2d 565, 561 N.E.2d 700.

453. Plain error, review

Any error in considering examining clinical psychologist's opinion of credibility of minor who was allegedly victim of sexual abuse by her father was not of such magnitude as to require plain error review. People v. Hickox, App. 2 Dist.1990, 143 Ill.Dec. 180, 197 Ill.App.3d 205, 553 N.E.2d 1166, appeal denied 149 Ill.Dec. 330, 133 Ill.2d 565, 561 N.E.2d 700.

BODILY HARM

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(e) A person who con felony.

Laws 1961, p. 1983, § 12-; Formerly Ill.Rev.Stat.1991, ch

AIDS investigation information

Are AIDS-transmission lav abortion? Michael L. Closen Isaacman, 76 ABA J. 76 (1990)

Criminal sanctions for n AIDS—Analysis of new Illin Jeffrey Deutschman, 4 CBA-I

Words and Phrases (Perm.Ed

5/12-17. Defenses

§ 12-17. Defenses.

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Laws 1961, p. 1983, § 12-17, by P.A. 83-1117, § 1, eff. July § 1, eff. Jan. 1, 1992; P.A. 87- Aug. 14, 1992. Formerly Ill.Rev.Stat.1991, ch. 38,

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BODILY HARM.

720 ILCS 5/12-17

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ay transfers to paraphernalia.

"HIV" means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

"Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.

"Intravenous or intramuscular drug paraphernalia" means any equipment, product, or material of any kind which is peculiar to and marketed for use in injecting a substance into the human body.

(c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV.

(d) It shall be an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection with HIV, and consented to the action with that knowledge.

(e) A person who commits criminal transmission of HIV commits a Class 2 felony.

Laws 1961, p. 1983, § 12-16.2, added by P.A. 86-897, § 1, eff. Sept. 11, 1989. Formerly Ill.Rev.Stat.1991, ch. 38, § 12-16.2.

Cross References

AIDS investigation information, confidentiality, see 410 ILCS 325/3.5.

Law Review Commentaries

Are AIDS-transmission laws encouraging abortion? Michael L. Cloven and Scott H. Isaacman, 76 ABA J. 76 (1990).

Neonatal HIV testing: Governmental inspection of the baby factory. Scott H. Isaacman, 24 J. Marshall L.Rev. 571 (1991).

Criminal sanctions for transmission of AIDS—Analysis of new Illinois legislation. Jeffrey Deutschman, 4 CBA Rec. 32 (1990).

Proposal to repeal the Illinois HIV transmission statute. Michael L. Cloven and Jeffrey S. Deutschman, 78 ILBJ. 592 (1990).

Library References

Words and Phrases (Perm.Ed.)

5/12-17. Defenses

§ 12-17. Defenses.

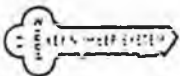
(a) It shall be a defense to any offense under Section 12-13 through 12-16 of this Code where force or threat of force is an element of the offense that the victim consented. "Consent" means a freely given agreement to the act of sexual penetration or sexual conduct in question. Lack of verbal or physical resistance or submission by the victim resulting from the use of force or threat of force by the accused shall not constitute consent. The manner of dress of the victim at the time of the offense shall not constitute consent.

(b) It shall be a defense under subsection (b) and subsection (c) of Section 12-15 and subsection (d) of Section 12-16 of this Code that the accused reasonably believed the person to be 17 years of age or over.

Laws 1961, p. 1983, § 12-17, added by P.A. 83-1067, § 1, eff. July 1, 1984. Amended by P.A. 83-1117, § 1, eff. July 1, 1984; P.A. 85-651, § 1, eff. Jan. 1, 1988; P.A. 87-438, § 1, eff. Jan. 1, 1992; P.A. 87-457, § 1, eff. Jan. 1, 1992; P.A. 87-895, Art. 2, § 2-19, eff. Aug. 14, 1992. Formerly Ill.Rev.Stat.1991, ch. 38, § 12-17.

Remand this cause to the circuit court of Cumberland County to allow defendant to file a new motion to withdraw his guilty plea and to a hearing on that motion in full compliance with Rule 604(d). If, upon completion of the proceedings on remand, defendant's motion to withdraw his guilty plea is denied, this court will address, at defendant's request, the correctness of that decision and the remaining issues raised herein. See *People v. Givert* (1990), 130 Ill.2d 189, 195, 151 Ill.Dec. 329, 564 N.E.2d 784.

Casey court reversed in part; cause remanded with instructions.



1

153 Ill.2d 509

196 Ill.Dec. 629

PEOPLE, State of Illinois, Respondent,

v.

Johnny GILSON, Petitioner,

No. 76090,

Supreme Court of Illinois.

April 6, 1994.

Prior Report: 246 Ill.App.3d 564, 616 N.E.2d 647.

Petition for leave to appeal allowed.

In the exercise of this Court's supervisory authority, this cause is *REMANDED* to the Appellate Court, Third District. The appellate court is ordered to reconsider its judgment in case Nos. 3-92-0901, 3-92-0902 and 3-92-0903 in light of *People v. Janes* (1994), 153 Ill.2d 27, 196 Ill.Dec. 625, 630 N.E.2d 790.



2

153 Ill.2d 22

196 Ill.Dec. 529

The PEOPLE of the State of Illinois, Appellant,

v.

Caretha RUSSELL, Appellee.

The PEOPLE of the State of Illinois, Appellant,

v.

Timothy LUNSFORD, Appellee.

Nos. 76721, 74443.

Supreme Court of Illinois.

Jan. 20, 1994.

Defendants were charged, in separate prosecutions, with knowingly transmitting human immunodeficiency virus (HIV) to another person through intimate contact. The Circuit Court, St. Clair County, James Donovan, J. and the Circuit Court, Coles County, Ashton C. Waller, Jr., J. declared criminal statute prohibiting knowing transmission of HIV to another through intimate contact unconstitutional. State appealed and cases were consolidated. The Supreme Court, Heiple, J. held that: (1) statute did not violate state and federal constitutional protections for free speech; (2) statute did not violate state and federal constitutional protections for free association; and (3) statute was not unconstitutionally vague.

Reversed and remanded.

1. Constitutional Law §90.1(1)
Health and Environment §21

Criminal statute prohibiting knowing transmission of human immunodeficiency virus (HIV) to another through intimate contact was not unconstitutionally overbroad or vague with respect to protected speech; neither statute nor two cases in which it was applied, which involved defendant charged with engaging in consensual sexual intercourse knowing that she was infected without telling her partner, and defendant charged with raping woman knowing that he was infected, had any connection with free

S.H.A. 720 ILCS 5-12-16.2; S.H.A. Const. Art. 1, § 4; U.S.C.A. Const. Amend. 1.

1. Constitutional Law ☞91

Health and Environment ☞21

Criminal statute prohibiting knowing transmission of human immunodeficiency virus (HIV) to another through intimate contact did not violate defendants' federal or state constitutional rights of free association; statute did not implicate any alleged right of intimate association as one defendant was charged with engaging in consensual sexual intercourse knowing that she was infected without telling her partner and other defendant was charged with raping woman knowing that he was infected. S.H.A. 720 ILCS 5-12-16.2; S.H.A. Const. Art. 1, § 4; U.S.C.A. Const. Amend. 1.

3. Health and Environment ☞21

Criminal statute prohibiting knowing transmission of human immunodeficiency virus (HIV) to another through intimate contact was not unconstitutionally vague; statute was sufficiently clear and explicit and provided sufficiently definite standards for law enforcement and triers of fact, and that statute might open innocent conduct of others to prosecution was matter of pure speculation given specific conduct of two defendants, one of whom was charged with engaging in consensual sexual intercourse knowing that she was infected without telling her partner and one of whom was charged with raping woman knowing that he was infected. S.H.A. 720 ILCS 5-12-16.2; S.H.A. Const. Art. 1, § 2; U.S.C.A. Const. Amend. 14.

Roland W. Burris, Atty. Gen., Springfield, Robert Haida, State's Atty., Belleville, and C. Steve Ferguson, State's Atty., Charleston (Norbert J. Goetten, Stephen E. Norris and Gerry R. Arnold, Office of the State's Attys. Appellate Prosecutor, Mt. Vernon, of counsel), for the People.

Carrie J. Hightman, Stuart I. Graff and Judith M. Feller, of Schiff, Hardin & Waite, and John R. Hammell, Harvey Grossman, Colleen K. Connell, Mathew S. Nosanchuk and Pilar Penn, Chicago, for appellee in No. 73721.

James D. Holzhauser, Timothy S. Bishop and Jesse A. Witten, of Mayer, Brown & Platt, Chicago, for amici curiae American Public Health Ass'n et al.

Susan J. Curry, and Mark E. Wojcik, Chicago, for amicus curiae AIDS Legal Council of Chicago.

Gregg W. Boneili, of Mattoon, and Michael L. Cloesen, Chicago, for appellee in No. 74443.

Justice HEIPLE delivered the opinion of the court:

In 1989, the Illinois General Assembly made it a crime for a knowing carrier of the HIV virus to transmit this virus to another person through intimate contact. The stated offense is designated as a Class 2 felony which, though subject to probation, carries a possible sentence of imprisonment from three to seven years. (Ill. Rev. Stat. 1989, ch. 38, par. 12-16.2(a)(1) (now 720 ILCS 5-12-16.2(a)(1) (West 1992)). We take judicial notice of the fact that the HIV virus is a precursor to AIDS, a progressive and inevitably fatal disease syndrome. We further take judicial notice of the fact that intimate sexual contact whereby blood or semen of an infected person is transferred to an uninfected person is a primary method of spreading the infection.

The statute is now before us for consideration because two Illinois trial judges in separate criminal proceedings have declared the statute to be unconstitutional, ostensibly on the basis of vagueness. For purposes of appeal, these cases are here consolidated. We reverse and remand.

Neither of the court orders below indicates whether the statute is violative of either the State or Federal Constitutions. No article, section or clause of either constitution is alluded to. It could be the Constitution of the United States. It could be that of Illinois. It could be both. We are left to surmise which constitution or which portion thereof the trial judges may have had in mind.

From the defendants/appellees' briefs, however, we are informed that both the Federal and State Constitutions are allegedly

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charged, in separate proceedings, with knowingly transmitting the virus (HIV) to another person through intimate contact. The Illinois Appellate Court, Coles County, in No. 73721, declared criminal statute prohibiting knowing transmission of HIV through intimate contact unconstitutional and cases were remanded. The Supreme Court, in No. 74443, held that statute did not violate constitutional provisions: (1) statute did not violate constitutional provision; (2) statute did not violate constitutional provision; and (3) statute was not unconstitutionally vague.

☞90.1(1)

Government ☞21

Prohibiting knowing transmission of human immunodeficiency virus through intimate contact is not constitutionally overbroad or protected speech; neither cases in which it was held that defendant charged with engaging in consensual sexual intercourse knowing that she was infected without telling her partner and other defendant charged with raping woman knowing that he was infected without telling her partner in connection with free

violated by the statute for reasons of free speech and association (U.S. Const., amend. I; Ill. Const. 1970, art. I, §§ 4, 5); and that the statute is so vague as to deny the defendants due process of law. (U.S. Const., amend. V; Ill. Const. 1970, art. I, § 2). These arguments are without merit.

In one of the cases before us, the criminal complaint charges that the defendant Carena Hassel knew that she was infected with the HIV virus when she engaged in consensual sexual intercourse with Daren Smith without telling Smith of her infection. In the other case, defendant Timothy Lunstord is charged with raping a woman at a time when he knew he was infected with the HIV virus.

(1) Neither the statute nor the cases before us have even the slightest connection with free speech. Consequently, pursuant to constitutional interpretations of the United States Supreme Court, defendants' overbreadth argument and their argument of facial vagueness are inapplicable. *Bates v. State Bar* (1977), 433 U.S. 350, 350, 97 S.Ct. 2691, 2707, 53 L.Ed.2d 310, 333; *Smith v. Goguen* (1974), 415 U.S. 566, 94 S.Ct. 1242, 39 L.Ed.2d 605; *Broadrick v. Oklahoma* (1973), 413 U.S. 601, 611-17, 93 S.Ct. 2908, 2915-18, 37 L.Ed.2d 830, 839-43; *Grayned v. City of Rockford* (1972), 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d 222; *People v. Garrison* (1980), 82 Ill.2d 444, 45 Ill.Dec. 132, 412 N.E.2d 483.

(2,3) Additionally, the defendants' cases do not infringe on any supposed right of intimate association as claimed. In fact, we know of no such right. The facts are that in the first of the two cases, the victim did not know that his sexual partner had HIV. In the second of the two cases, the HIV transmission charge is appendant to a charge of forcible rape. It is preposterous to argue that the statute constitutes a violation of either of the defendants' supposed right to intimate association in these situations. Finally, the vagueness argument is in error both facially and factually. Reference to the specific language of the statute makes this clear.

The subject statute provides in pertinent part:

"Criminal Transmission of HIV. (a) A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV:

1. engages in intimate contact with another;

(b) For purposes of this section:

"Intimate contact with another" means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV." 720 ILCS 5/12-16.2 West 1992).

Vagueness, like beauty, may be in the eye of the beholder. We, however, read the statute as being sufficiently clear and explicit so that a person of ordinary intelligence need not have to guess at its meaning or application. Also, it provides sufficiently definite standards for law enforcement officers and triers of fact so that its application need not depend merely on their private conceptions. *Smith v. Goguen* (1974), 415 U.S. 566, 94 S.Ct. 1242, 39 L.Ed.2d 605; *Grayned v. City of Rockford* (1972), 408 U.S. 104, 92 S.Ct. 2294, 33 L.Ed.2d 222; *Interstate Circuit, Inc. v. City of Dallas* (1965), 390 U.S. 676, 88 S.Ct. 1298, 20 L.Ed.2d 225.

That the statute might open the innocent conduct of others to possible prosecution is a matter of pure speculation and conjecture which is not before us in these consolidated cases. We are here concerned only with the specific conduct of these defendants and the application of the statute to them. *People v. Garrison* (1980), 82 Ill.2d 444, 453-57, 45 Ill.Dec. 132, 412 N.E.2d 483.

For the foregoing reasons, we hold that the statute in question is not violative of either the Illinois or the United States Constitution. Accordingly, we reverse the judgments of the courts below and remand these causes for further proceedings.

Reversed and remanded.



242 Ill.App.3d 568

182 Ill.Dec. 754

The PEOPLE of the State of Illinois,
Plaintiff-Appellee,

v.

Randall Lee DEMPSEY, Defendant-
Appellant.

No. 5-91-0023.

Appellate Court of Illinois,
Fifth District.

March 19, 1993.

Defendant was convicted in the Circuit Court, Williamson County, Snyder Howell, J., of aggravated criminal sexual assault and criminal transmission of human immunodeficiency virus (HIV), and he appealed. The Appellate Court, Welch, J., held that: (1) victim's testimony was admissible even though no pretrial competency hearing had been held; (2) victim's recantation of accusation after incident but prior to trial did not render evidence inadmissible in part conviction; and (3) statute making knowing transmission of HIV criminal was not unconstitutionally vague as applied to defendant.

Affirmed in part; vacated in part; remanded with directions.

Criminal Law §1170½(1)

If child witness is properly found competent to testify after motion to strike testimony, there can be no prejudice to defendant as result of failure to hold pretrial competency hearing; any error in failing to hold pretrial competency hearing is harmless. Ill.Rev.Stat.1989, ch. 38, § 1106A-5, 115-14(b)(2).

2. Criminal Law §117(2)**Witnesses** §79(1)

Question of witness competency is to be determined by trial judge, and reviewing court may not disturb the determination unless it is clear that trial judge abused discretion or misapprehended legal principle.

3. Criminal Law §115(2)

Although decisions as to competency of witness are reviewable, competency determinations will be overturned only if it appears that trial judge has abused his discretion.

1. Witnesses §10(1)

Child witness may be deemed competent even if child does not give perfect answers to questions asked during competency determination or at trial; imperfect response to questions does not invalidate finding of competency if totality of responses indicate competence.

5. Witnesses §10(1)

Fact that nine-year-old male victim of sexual abuse testified that he did not know difference between the truth and a lie did not automatically make witness incompetent where victim testified that he knew he would "go to the devil" if he told a lie and that he would be spanked if he lied to his mother.

6. Witnesses §79(1)

Trial court may determine witness' competency to testify by observing demeanor and ability to testify during trial.

7. Sodomy §6

Fact that nine-year-old male victim of sexual assault had repeatedly denied that assault occurred did not make victim's testimony at trial that assault did occur unworthy of belief; jury had been fully advised as to circumstances under which victim made accusations and circumstances under which he recanted them.

8. Criminal Law §942(2)

Evidence of recantation is inherently unreliable and insufficient to warrant new trial other than in extraordinary and unusual cases.

9. Criminal Law §474.4(4)

Expert testimony concerning child sexual abuse accommodation syndrome was admissible in light of sufficient foundation established by testimony that it was form of posttraumatic stress syndrome and was accepted theory in psychological community. Ill.Rev.Stat.1989, ch. 38, § 115-7.2.

statements. We do not think this was unduly prejudicial to defendant, as we explained in *Neison*; it is only the defendant's own actions which will necessitate the use of the syndrome testimony. The evidence will not be admissible simply to bolster the victim's testimony unless the victim's credibility has first been brought into question.

In the instant case, the subject of the victim's recantation was first raised by defendant in his cross-examination of the victim during the State's case-in-chief. Accordingly, in the instant case, we find no error in the admission during the State's case-in-chief of evidence of the child sexual abuse accommodation syndrome.

[11] Defendant's fourth argument on appeal is that his conviction for criminal transmission of HIV must be vacated because the statute upon which it is based, section 12-16.2(a)(1) of the Criminal Code of 1961 (Ill.Rev.Stat.1989, ch. 38, par. 12-16.2(a)(1)), is unconstitutionally vague and therefore invalid. Section 12-16.2 provides in pertinent part as follows:

Criminal Transmission of HIV. (a) A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV:

(1) engages in intimate contact with another;

(b) For purposes of this Section:

'HIV' means the human immunodeficiency virus or any other identified causative agent of acquired immunodeficiency syndrome.

'Intimate contact with another' means the exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV.

(c) Nothing in this Section shall be construed to require that an infection with HIV has occurred in order for a person to have committed criminal transmission of HIV. Ill.Rev.Stat.1989, ch. 38, par. 12-16.2.

Defendant argues that the statute is unconstitutionally vague because the term

"bodily fluid" is insufficiently defined and that, because the use of the word "could" in the definition of intimate contact encompasses such a broad range of conduct, it fails to clearly indicate what behavior is prohibited. As a result, the term "intimate contact with another" is not adequately defined and is vague. Defendant argues that because the term "bodily fluid" is not defined, the jury could conclude that saliva and tears could transmit the virus, when experts in the field assert that these are not bodily fluids capable of transmitting the virus. Furthermore, because the word "could" encompasses such a broad range of conduct, a jury could conclude that some sexual act short of penetrative oral, anal or vaginal intercourse could transmit the virus when experts assert that only these penetrative sexual acts could transmit the virus. Defendant further argues that one must speculate whether biting or spitting on another while knowingly infected with HIV constitutes criminal transmission of HIV because the statute does not define what bodily fluids are possible transmitters of the virus. Defendant argues that these uncertainties in the statute render it unconstitutionally vague in that it fails to give adequate notice to as to what acts are prohibited and allows arbitrary and discriminatory application.

Defendant's argument must fail because, not only does he lack standing to raise the constitutionality of the statute as applied to other acts and actors, the statute is not vague and unconstitutional as applied to him. It is well settled that vagueness challenges to statutes which do not involve first amendment freedoms must be examined in light of the facts of the case at hand. (*People v. Jihan* (1989), 127 Ill.2d 379, 385, 130 Ill.Dec. 422, 425, 537 N.E.2d 751, 754.) Thus, to prevail in a vagueness challenge to a statute that does not implicate first amendment concerns, a party must demonstrate that the statute is vague as applied to the conduct for which the party is being prosecuted. (*Jihan*, 127 Ill.2d at 385, 130 Ill.Dec. at 425, 537 N.E.2d at 754.) The party must show that the statute did not provide clear notice that the

ciently defined and of the word "could" late contact encouragement of conduct, it is what behavior is the term "intimate" is not adequately Defendant argues "bodily fluid" is not conclude that saliva mit the virus, when assert that these are ble of transmitting re, because the word uch a broad range of conclude that some trative oral, anal or ul' transmit the v-ert that only these s could transmit the ther argues that one r biting or spitting wingly infected with inal transmission of tute does not define possible transmitters ant argues that these atute render it uncon- that it fails to give s to what acts are s arbitrary and dis- n.

ent must fail because, standing to raise the e statute as applied to s, the statute is not tional as applied to d that vagueness chal- which do not involve edoms must be exam- facts of the case at han (1989), 127 Ill.2d 122, 425, 537 N.E.2d prevail in a vagueness e that does not impli- nt concerns, a party at the statute is vague onduct for which the ecutied. (Jihan, 127 Dec. at 425, 537 N.E.2d must show that the be clear notice that the

Cite as 517 N.E.2d 208 (Ill.App.5 Dist. 1993)

party's conduct was prohibited. *Jihan*, 127 Ill.2d at 425, 130 Ill.Dec. at 425, 537 N.E.2d at 751.) The right to challenge a statute as being vague on its face where the statute clearly applies to the conduct of the party making the challenge does not exist unless first amendment concerns are involved. *Jihan*, 127 Ill.2d at 426, 130 Ill. Dec. at 425, 537 N.E.2d at 754.

[12] In the instant case, defendant does not argue, nor could he successfully argue, that any first amendment rights are implicated. Thus, defendant must demonstrate that the statute is vague not as applied to someone else, or some act other than that which he committed, but as applied to him and the act he committed. Thus, the issue before us is whether the statute clearly proscribed the conduct engaged in by defendant in this case.

A statute need only be sufficiently certain to give a person of ordinary intelligence fair notice that his contemplated conduct is forbidden by law. (*People v. Lowe* (1990), 202 Ill.App.3d 648, 653, 148 Ill.Dec. 136, 139, 560 N.E.2d 438, 441.) A person should not be subjected to a penalty for certain conduct unless the words of the statute clearly describe the conduct prohibited. (*People v. Taylor* (1990), 138 Ill.2d 204, 211, 149 Ill.Dec. 297, 300, 561 N.E.2d 667, 670.) However, a defendant may be prosecuted under a statute without violating his right of due process if his conduct falls squarely within the statute's proscriptions, even though the statute may be vague as applied to other conduct. (*Taylor*, 138 Ill.2d at 211, 149 Ill.Dec. at 300, 561 N.E.2d at 670.) The fact that there may be borderline cases wherein a degree of uncertainty exists as to the applicability of a statute does not render the statute unconstitutional as to conduct about which no uncertainty exists. *People v. Witzkowski* (1972), 53 Ill.2d 216, 219, 290 N.E.2d 236, 239.

In the instant case, defendant placed his penis in the mouth of the victim and ejaculated semen. Defendant acknowledges that semen is a bodily fluid well known as a transmitter of HIV. Oral sexual intercourse is a penetrative sexual contact

which is recognized as allowing transmission of the virus. Thus, defendant clearly exposed the body of another to his bodily fluid in a manner that could result in the transmission of HIV. A penal statute need only convey sufficiently definite warning as to the proscribed conduct when measured by common understanding and practices. (*Taylor*, 138 Ill.2d at 217, 149 Ill. Dec. at 303, 561 N.E.2d at 673.) Defendant's conduct clearly fell within the proscription of the statute. Section 12-16.2(a)(1) is not unconstitutionally vague as applied to defendant in this case, and defendant has no standing to raise the constitutionality of the statute as it may be applied to other individuals and other acts.

Defendant's next argument on appeal is that the testimony of defendant's physician, Dr. Hyde, was improperly admitted in that the physician-patient privilege barred his testimony and no exception to that privilege applied. The State sought to introduce Dr. Hyde's testimony to establish that defendant had knowledge that he was infected with HIV, an essential element of the offense of criminal transmission of HIV. The court allowed Dr. Hyde to testify over defendant's objection, finding that there was a compelling need for the testimony. Defendant argues that the trial court improperly allowed Dr. Hyde to testify over defendant's assertion of the physician-patient privilege.

The physician-patient privilege is established by statute as follows:

"No physician or surgeon shall be permitted to disclose any information he or she may have acquired in attending any patient in a professional character, necessary to enable him or her professionally to serve the patient * * ." (Ill.Rev. Stat.1989, ch. 110, par. 8-802.)

The statute sets forth several exceptions to the privilege, among them the following:

(4) in all actions brought by or against the patient, his or her personal representative, a beneficiary under a policy of insurance, or the executor or administrator of his or her estate wherein the patient's physical or mental condition is an issue. * * *. (7) in actions, civil or crim-



Department of Health and Social Services
Karen Perdue, Commissioner

Division of Public Health
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Bulletin No. 3 January 31, 1995

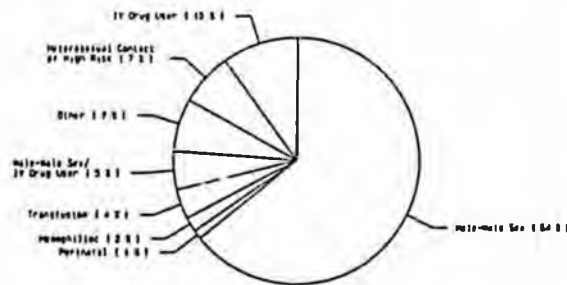
AIDS - ALASKA

Through December 31, 1994, 272 Alaskans have been confirmed to have AIDS. Of these, 152 are known to have died. Of the 272 AIDS cases, 241 are in males and 31 in females. Data below employ the 1993 Expanded Case Definition for AIDS. All cases are shown as diagnosed in the year the person first met the revised case definition. Residence at time of diagnosis is shown by census area.

Year of Diagnosis, N = 272

Year	Cases	Known Deaths
1982	1	1
1983	2	2
1984	4	3
1985	13	12
1986	16	14
1987	17	17
1988	19	18
1989	19	16
1990	18	13
1991	33	24
1992	38	20
1993	42	9
1994	50	3
Total	272	152

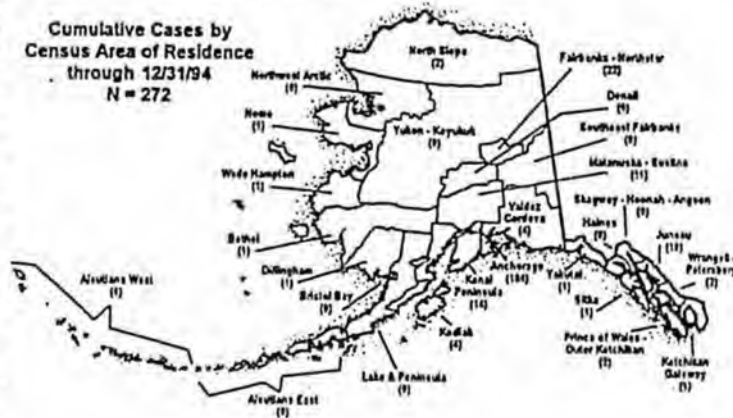
Risk Category, N = 272



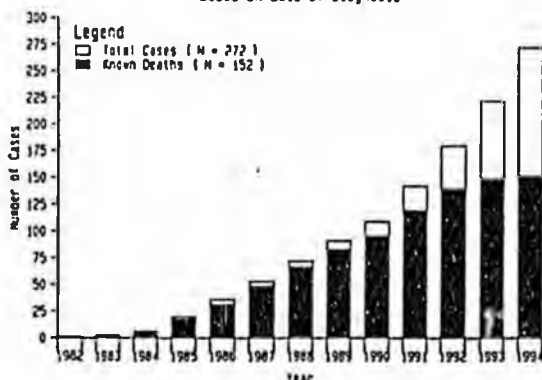
Age in Years at Diagnosis, N = 272

Age Group	Cases	Known Deaths
00-04	3	2
05-09	0	0
10-14	1	1
15-19	1	1
20-24	19	9
25-29	45	25
30-34	66	36
35-39	57	28
40-44	34	22
45-49	23	14
50-54	11	6
55-59	4	2
60-64	3	2
65+	4	4
Total	272	152

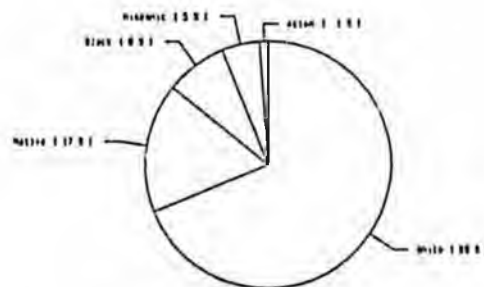
Cumulative Cases by
Census Area of Residence
through 12/31/94
N = 272



Cumulative Cases
Based on Date of Diagnosis



Race of Cases, N = 272



¹The category "other" is defined nationally to include heterosexual contact with person(s) of unknown risk, occupationally exposed health care workers, and persons for whom risk factor has not been determined.



Department of Health and Social Services
Karen Perdue, Commissioner

Division of Public Health
Peter M. Nakamura, MD, MPH, Director

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Bulletin No. 4 February 1, 1995

HIV INFECTION - ALASKA

There are three main sources of data on the prevalence of HIV infection in Alaska. Data from two of these sources, HIV antibody testing conducted through the State Section of Laboratories and Department of Defense data on civilian applicants for military service in Alaska, are shown below. Data from the third source, the Alaska Survey in Childbearing Women, will be reported in a separate *Epidemiology Bulletin* late in 1995. HIV infection without AIDS is not currently reportable in Alaska. The data below do not include HIV tests sent by providers to laboratories other than State or Department of Defense laboratories.

State Section of Laboratories

Through December 31, 1994, 540 (0.7%) of 75,826 individuals voluntarily tested through the Section of Laboratories, Division of Public Health, are positive for HIV infection.

HIV Testing by Race/Ethnicity			HIV Testing by Sex		
Race/Ethnicity	No. Tested	Positive (%)	Sex	No. Tested	Positive (%)
White	48726	359 (0.7%)	Male	35584	473 (1.3%)
Alaska Native	17318	83 (0.5%)	Female	32863	63 (0.2%)
Black	4302	53 (1.2%)	Not Specified	379	4
Hispanic	1719	34 (2.0%)	Total	75826	540 (0.7%)
Other	1833	9 (0.5%)			
Not Specified	1908	5 (0.3%)			
Total	75826	540 (0.7%)			

HIV Testing by Age			HIV Testing by Risk			
Age	No. Tested	Positive (%)	Risk Category	Men-Native	Native	Total*
0-9	550	2 (0.4%)	Menstrual/Oral Sex	245/1665 (14.5%)	25/209 (12.0%)	271/1874 (14.5%)
10-19	8531	22 (0.3%)	IV Drug User	33/2291 (1.4%)	0/513 (0.0%)	34/2804 (1.2%)
20-29	28087	227 (0.8%)	Menstrual Contact of Person with/ or at risk of AIDS	8/2418 (0.3%)	5/458 (1.1%)	13/2876 (0.4%)
30-39	24263	205 (0.8%)	Menopausal	7/21 (33.3%)	0/3 (0.0%)	7/24 (29.2%)
40-49	10308	72 (0.7%)	Transmission with Blood/ Blood Products	8/1102 (0.7%)	4/329 (1.2%)	12/1431 (0.8%)
50+	3958	12 (0.3%)	All Others	154/48943 (0.3%)	41/15746 (0.3%)	195/64689 (0.3%)
Not Specified	19	0	Total	453/25288 (1.8%)	62/17234 (0.4%)	515/42522 (1.2%)
Total	75826	540 (0.7%)				

*Total includes unknown race

Department of Defense

Since October 1985, all persons applying for active duty or reserve military service, the service academies, and the Reserve Officer Training Corps (ROTC) have been screened for HIV infection as part of their entrance evaluation. The Department of Defense shares the resulting statistical data with states for HIV surveillance purposes. Of 12,919 individuals (10,833 males and 2,086 females) screened in Alaska from October 1985 through September 1994, 3 (0.02%) have tested positive for HIV infection. Characteristics of those with HIV infection follow.

Sex	Race/ethnicity
Males 3	White..... 1
Females..... 0	Black..... 1
.....	Unspecified..... 1
Age	Total number tested.....12,919
20-24 years 1	Total number HIV positive.....3
30+ years..... 2	



Charlotte Observer photo

LaGena Lookabill Greene, shown in a January 1995 photo, is now dying of AIDS. She was the fiancée of race car driver Tim Richmond, who died of the disease in August 1989 and left behind a haunting legacy of dying women.

Lady Killer

Tim Richmond was a good-looking, hard-driving racing star. When he died of AIDS in 1989, he was mourned as a tragic figure. More tragic still is the line of women following him to the grave.

By KEN RODRIGUEZ
Miami Herald

Beyond the grave of Tim Richmond lies a trail of pretty women following him into the ground.

Freshly buried is the tombstone of one former lover: A second ex-girlfriend, still fighting for her life, has picked out her casket. At least two former partners are in seclusion on the East Coast, awaiting the inevitable. Others — friends suspect a dozen or more — have passed on quietly, hoping to take this secret with them. Richmond, the late auto racing star, infected them with the virus that causes AIDS.

Public seized women across the country when media reports linked the cause of Richmond's death in August 1989. LaGena Lookabill Greene, Richmond's former fiancée now dying of AIDS in Charlotte, N.C., received more than two dozen calls.

"From those calls alone — only counting the ones from Charlotte — I could have started a support group of women exposed to HIV from Tim," said Greene, 35. "There would be about 30 in that support group. They told me they were exposed, that they had had sex with Tim and they were worried."

Richmond's infectious-disease specialist, Dr. David Dodson, can only guess when his late patient might have become infected.

"Perhaps in the late '70s," Dodson said.

Please see Page C-2, RICHMOND

RICHMOND: Women follow dead race car driver to the grave

Florida State. LaGena dated Danny for a while, broke up, then returned to Charlotte. Once home, she resumed her relationship with Richmond, a former football star himself at now-closed Miami Military Academy.

Tim's father, Al, does not believe that his late son infected LaGena Greene. "I don't think there is anything to it," said Al, who lost his wife, Evelyn, to cancer after Tim's death. "I don't remember her."

LaGena says she and Al spoke on the phone many times. "LaGena," she recalled Al telling her, "Tim says you're the keeper. The first time he said that, I asked what he meant. He said, 'You're the one Tim wants to marry.'"

Jackie Lookabill, Greene's mother, also remembers Al Richmond. "On Sept. 10, 1988, I brought my daughter to Charlotte Municipal Airport," Jackie said. "And Evelyn and Al Richmond brought Tim. We chatted inside the lobby. Tim and LaGena were on the way to Maryland for Tim to have a press conference with USA Today."

After the news conference, Richmond asked Greene to fly with him to New York for dinner, hinting he wanted to discuss something special.

Richmond rented a hotel suite, saying he wanted to freshen up. Moments after they arrived, a bellman delivered pink roses. Outside the window, Central Park in resplendent autumn colors. Inside the room, a man promising to be a devoted husband and father.

Richmond proposed, LaGena accepted. They consummated their relationship.

"I believed that by giving myself to Tim physically, our union marked the beginning of a lifetime of mutual commitment," she said. "We never made love again. Now I see that day as the end of my life as I had known it."

WHY NOW?

The odds of a woman contracting HIV from a single sexual encounter with an infected man are limited. But the chances increase when the man is in the late stages of the disease.

Richmond, by his own doctor's estimate, may have been carrying the virus for eight years when he had sex with LaGena. Jemsek, her infectious-disease specialist, says he believes his patient's account.

"Because of the timing of her sexual encounter and the subsequent development of medical problems, it all makes perfect sense," Jemsek said.

A former friend of Richmond, who did not want to be identified, confirms that LaGena was with Richmond that day in the hotel suite. The woman told The Miami Herald she called Richmond's room and LaGena answered.

After leaving New York, LaGena and Richmond remained in touch by telephone. "Tim wanted to spend Thanksgiving with me in Los Angeles," she said. "We made plans, he didn't show up, and he didn't call for the next two years and four months."

A sports agent called LaGena, wanting to know about whispers that Richmond had AIDS. A vicious rumor, she said. No way it could be true.

"After hanging up with the sports agent, my mind began to swirl with memories of Tim's proposal," she said. "I pictured Tim's face and his eyes, which were filled with tears saying, 'Why now? Why are you saying yes now? Why not earlier?' I became concerned that I needed

to get tested, even though AIDS was known as a gay man's disease. The test came back negative. But I had only been exposed 11 weeks earlier. What doctors know now that they didn't know then is there can be a window of three to six months in which a person can be infected with HIV and test negative."

Nine months after the test, a sports writer called. He said Richmond was in the hospital and wondered if LaGena could confirm that Richmond had AIDS.

"I only said what a great race driver he was and I could not confirm any rumor," she said. "But I went and got tested again. This time, I was positive."

LaGena suffered privately for eight years until Jemsek, her doctor, persuaded her to speak at a Charlotte AIDS seminar. The only other woman to publicly say an American sports hero infected her is Waymer Moore. She sued Magic Johnson for \$2.2 million, claiming he had infected her with HIV in 1990. The case has been settled out of court.

After a failed suicide attempt, LaGena went to church with Danny Greene. At the altar, she repented for the sin of premarital sex and rededicated her life to Jesus Christ.

Two years later, Danny proposed, knowing he and LaGena would never have children. They were married on Valentine's Day 1990.

ARE THERE OTHERS?

LaGena wanted an apology from Richmond after learning she had been infected. In March 1989, Richmond began calling. "But it wasn't to apologize and it wasn't to admit he had AIDS," she said. "He denied for the next four months that he had AIDS."

The Richmond family also denied the illness.

"Then, in what turned out to be our last conversation, I realized that Tim lacked the capacity to be truthful," LaGena said. "So, I told him, 'I know you gave me this disease and that you knew that you had AIDS when you asked me to marry you. But I forgive you.' He thanked me."

A few days later, he died in West Palm Beach at age 34.

LaGena now speaks at churches, high schools and colleges across the country, telling her story and crusading for abstinence. She does not neglect to drop a word or two about hero worship.

"The line is crossed when people begin to equate athletic ability with good character," LaGena said. "Those are two different things."

Jackie Lookabill knows.

"LaGena lived in secrecy for so long and we were so pained and here's this sports figure, who gets all this adulation," Jackie said. "Here is this man who has taken my child's life, and he is put so far above . . . while my child has a death sentence."

" . . . How can a human being do this to someone, knowingly infect another person? And I say knowingly. I have no doubt."

Sometimes LaGena Lookabill Greene wonders how many others like her are out there.

Dawn Freeman, Tommy Morrison's fiancée? She has tested negative for HIV. LaGena did, too. The first time.

□ Miami Herald researcher Elisabeth Donovan contributed to this report.

S B

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(7) HOUSE COMMITTEE REPORT

Date Referred to Committee: April 26, 1996

FURTHER REFERRALS:

Finance
Majority Leader's Desk

Date of Committee Action: 4/27/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

CSSB 98(RLS)

CS FOR SENATE BILL NO. 98(RLS)

PERSONAL RESPONSIBILITY ACT

"An Act making changes related to the aid to families with dependent children program (AFDC); relating to the duties of the Department of Health and Social Services; establishing a workfare pilot project for AFDC recipients; establishing a diversion program for AFDC applicants; directing the Department of Health and Social Services to seek waivers of applicable federal laws; establishing and relating to the Alaska temporary assistance program and repealing the AFDC and job opportunity and basic skills programs upon the establishment of federal welfare reform; relating to work activities required under the Alaska temporary assistance program; authorizing qualified entities to contract with the state to administer all or part of the Alaska temporary assistance program; relating to child support; relating to certain licenses and applications for a license for persons who are not in substantial compliance with orders, judgments, or payment schedules for child support; relating to an exemption to the State Procurement Code for certain services and contracts under the Alaska temporary assistance program; relating to disclosure of information that relates to day care assistance and the Alaska temporary assistance program; relating to eligibility for day care benefits administered by the Department of Community and Regional Affairs; amending Rule 90.3(c) and (h)(2), Alaska Rules of Civil Procedure; and providing for an effective date."

recommends it be replaced

with the following committee substitute HCS CSSB 98 (HES)

the same title
 a new title

additional referral to _____ Committee

attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

fiscal note(s) _____

zero fiscal note(s) _____

APPROVES PREVIOUS:

(Dept/Date)

fiscal note(s) Revenue/4-22-96, Educ. 4/22/96, Labor/4/22/96, Pub Saf 4/22/96, CED, FHG, H+SS 4/22/96 ⁽²³⁾

zero fiscal note(s) Labor/4-22-96 ⁽²⁾
H+SS/4-22-96

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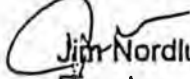
CHAIR'S SIGNATURE

[Signature]

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF PUBLIC ASSISTANCE

P.O. BOX 110640
JUNEAU, ALASKA 99811-0640
PHONE: (907) 465-3347

Date: January 25, 1996
TO: Interested Parties
From:  Jim Nordlund
Director
Division of Public Assistance
Subject: Cato Institute Report

The following are comments on the Cato Institute report on the value of welfare benefits. We have analyzed the report and offer some general comments and differing conclusions about the assumptions and methodology used in the report.

To arrive at a benefit package value, Cato totaled the cash value of Aid to Families with Dependent Children (AFDC), food stamps, and the cost of medical coverage, housing subsidy, utility assistance, Women, Infants and Children (WIC), and food commodity benefits. They derived from this total an hourly pre-tax equivalent wage. Cato concluded from these calculations that the welfare package is so attractive that recipients will choose welfare over work.

We certainly agree that the welfare system must not encourage dependency and we should not allow people to choose welfare over work. We do not dispute the benefit figures they used for each program; their research in that area was accurate. However, based on the reality in Alaska, we must make a different basic assumption and reach another conclusion.

The Cato report assumption that a typical AFDC family consists of a mother with two children is reasonable. However, they also assume that a typical AFDC family also receives all benefits available through Food Stamps, housing, utility, WIC and food commodity programs. This assumption is the primary basis of their conclusions and is not supported by Alaska data. Our research demonstrates that few families receive all these benefits. A majority of families receive only AFDC, Medicaid and food stamps as the following chart shows.

Percentages of AFDC recipients receive other benefits:

Food Stamps	70%
Medicaid	100%
Housing	33%
Utility	36%
WIC	30%

Based on this information, it is unreasonable to characterize a family receiving all these benefits as typical.

We also do not believe it is appropriate to include the value of medical insurance in the welfare benefit package as in the Cato report. This methodology does not reflect reality. Most insured workers are not required to purchase their own health insurance. Hourly wage calculations generally do not include the cost of employer-provided health insurance. Even for families who have medical coverage, the use of the benefits is uneven; some people may use a large amount of health care resources, others may use little or none. It should also be noted that in Alaska, 35% of our AFDC recipients are Alaska Native who receive free medical care through the Indian Health Services, so for this group health care benefits are not an inducement to remain on AFDC, nor could they be of any additional value.

We recognize that the lack of health insurance is a problem for families, especially for people entering the workforce at the lower pay ranges where health insurance is generally not offered by the employer. For this reason, transitional Medicaid benefits are provided to working families moving off of welfare and Medicaid is an important part of the proposed diversion program.

In Alaska, it is more accurate to use AFDC and food stamp benefit amounts to evaluate the benefit package for a typical family of three because food stamps is the only other program that a majority of the AFDC caseload actually receives. If such a family had no other income and lived in an urban area, they would receive monthly benefits of \$923 AFDC and average of \$257 in food stamps. Using the Cato report methodology to establish a pre-tax hourly wage, it equates to about \$6.35 an hour, or \$13,191 annually, 16% below the federal poverty level for a family of three.

The Cato report speaks briefly to the provisions of welfare reform and rather summarily dismisses most reforms as ineffective. We are committed to changing the system so that welfare is not allowed to be a lifestyle. With a five year time limit and other work requirements being imposed on those who can work, it seems that the concern about welfare being more attractive than work is largely moot. On the other hand, those who cannot work and will be exempted from work requirements will pay the full penalty of lowered support.

We believe that children in needy families must be protected from the impacts of poverty by providing their families with the means to provide the basic needs of food, shelter, clothing, and medical care during the time the family must rely on our programs. Currently, the value of food stamps and AFDC benefits received by the typical family described here provides a standard of living just under the federal poverty guideline, protecting children from being hungry and homeless. It is essential our programs continue to do this while we attack dependency from a myriad of other angles, including offering a diversion program, increasing child support collections, setting time limits, imposing work requirements, sanctions for non-compliance, and an overall non-acceptance of use of welfare as a way of life.

If you have any questions, please contact Jim Nordlund, Director, Division of Public Assistance at 465-2680.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
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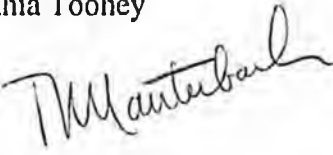
130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM

April 27, 1996

SUBJECT: Overinclusive Title in Welfare Reform Bill (CSSB 98(RLS))

TO: Representative Cynthia Toohey

FROM: Terri Lauterbach
Legislative Counsel 

I need to bring to your attention a flaw in CSSB 98(RLS) that could be fixed in your committee.

The flaw is an overinclusive bill title. It includes a reference to a matter that is not contained in the body of the bill itself. The extra words are on page 2, lines 3 - 4: "**day care assistance and.**" There was at one time a version of SB 98 that included a provision relating to disclosure of information relating to day care assistance, but that provision is no longer in the bill, so this part of the bill title is inaccurate. If the flaw is not fixed, there is some risk that a challenge to the validity of the bill could be made in court because the constitution requires that the subject of the bill be expressed in its title. (Art. II, sec. 13, Constitution of the State of Alaska) I cannot say with certainty that such a challenge would be successful in this particular case, but, given the sensitivities surrounding this bill and its wide impact on citizens of the state, any flaw could be seized upon with attendant litigation costs and potential delays.

You have two options for correcting the flaw: amend the title to take out the extra words ("**day care assistance and**") or amend the bill so that the title becomes accurate.

The first option would not require a two-thirds majority because it would be a technical correction to make the bill title match its contents. However, if you choose this option, every time the bill was read or printed on a calendar in the future, it would be noted that there was a new title. Again, given the sensitivities surrounding this bill, the notation of having a new title might be a controversy you want to avoid so that suspicions are not unnecessarily aroused as to what other changes in the title or the body of the bill might have been made.

The second option, which avoids the title change controversy, would be to make a nonsubstantive "clarifying" amendment that would make the title accurate. Such an amendment could be the following:

Representative Cynthia Toohey

April 27, 1996

Page 2

Page 45, line 27:

Delete "authorized"

Insert: "administered through the Department of Community and
Regional Affairs [AUTHORIZED]"

Please let me know if you have further questions about this matter or if you want a more formal amendment drafted.

TML:pl

96-139.plm

AMENDMENT |

OFFERED IN THE HOUSE

TO: CSSB 98(RLS)

By Rep. Robinson

1 Page 32, line 17:

2 Delete "and who have received"

3 Insert ". The agency may not include an obligor on the list unless the agency has sent
4 to the obligor, at the obligor's most recent address on file with the agency, written"

5 Page 38, line 26:

6 Delete ","

7 Insert "and"

8 Page 38, line 27:

9 Delete ", and have not received"

10 Insert ". The agency may not include an obligor on the list unless the agency has sent
11 to the obligor, at the obligor's most recent address on file with the agency, written"

AMENDMENT 2

OFFERED IN THE HOUSE BY REPRESENTATIVE ROBINSON
TO: CSSB 98(RLS)

- 1 Page 45, lines 3 - 22:
- 2 Delete all material.

- 3 Renumber the following bill sections accordingly.

- 4 Page 45, line 25:
- 5 Delete "as provided in (b) of this section and"

- 6 Page 46, lines 4 - 19:
- 7 Delete all material.

- 8 Renumber the following bill sections accordingly.

- 9 Pages 48 - 52:
- 10 Correct internal references to bill sections to reflect the renumbering of bill sections.

AMENDMENT 3

OFFERED IN THE HOUSE
TO: CSSB 98(RLS)

By Rep Robinson

- 1 Page 52, line 4:
- 2 Delete "sec. 57"
- 3 Insert "sec. 61"

Sec.	Page/Line	Provisions IN CSSB 98 (RLS)	In HB78	Comments
		WAIVER PROVISIONS		
1	2/10	Sec. 47.25.301 WAIVER APPLICATION - requires dept. to implement workfare project in at least three areas of the state.	Y	Language is from HB 78, however SB 98 only requires one control group and at least three experimental groups.
		SECTION 47.25.302 EARNED INCOME DISREGARD; WAIVER OF 100 HOUR RULE; AUTO ALLOWANCE		
	3/10	(a) disregard \$200 & 1/3 of income when determining eligibility		Language taken directly from HB 78
	3/19	(b) exempt 2 parent families from 100 hour work rule		Language taken directly from HB 78
	3/22	(c) increase auto allowance from \$1,500 to \$5,000		Language taken directly from HB 78
	3/29	Sec. 47.25.303 WORKFARE - Requires individual to work 20 hours paid activity or perform community work activities for 21 hours.	Y	HB 78 only required participant to work 15 hours of paid activity, SB 98 increased amount to 20 hours.
	6/31	Sec. 47.25.309 DIVERSION PROGRAM - allows job ready individuals to apply for a lump-sum payment to help keep them off of long term assistance.	Y	Language from HB 78. Modified lump-sum amount to equal two months of what the family would otherwise be eligible for.
2		Sec. 47.25.311 INELIGIBILITY FOR ASSISTANCE		
	8/17	(a) disqualifications for welfare fraud		HB 78 included a permanent ineligibility for fraud convictions
	8/26	(b) ineligibility due to the transferring of assets		New provision added in Senate Finance
	9/2	(c) job quit penalties		Gov's bill included job quit penalties
	9/15	Sec. 47.25.315 ASSISTANCE TO MINORS WITH CHILDREN - (a) as a condition of eligibility minor parents must reside with an adult relative	Y	Language taken from SB 98, but also in HB 78 & Gov's bill
	10/3	(b) requires department, where possible to pay assistance to adult relative.		
3	10/25	Sec. 47.25.320 (h) - modifies benefits based upon actual household expenses.		Expanded provision from Gov's bill to reduce benefits to families that pay little or no shelter costs.
	11/11	Sec. 47.25.320 (i) - establishes a seasonal benefit reduction to 2 parent families.		Expanded provision from Gov's bill. Reduces benefits by 50% for months of July, August & Sept. for two parent families.
4	11/21	Technical change		
5	11/28	Sec. 47.25.364 TIME LIMITS ON BENEFITS - limits benefits to 24 months in a consecutive 60 month period (with exemptions).	Y	HB 78 established a two year time limit to those participants of the workfare project and the JOBS program.
6	12/31	Sec. 47.25.366 SCHOOL ATTENDANCE - requires minor parents, as a condition of eligibility to maintain adequate levels of school attendance.		Modified version of SB 98 (last year), also in Gov's bill.
	13/12	COMPREHENSIVE REFORM PROVISIONS		
7		Sec. 47.25.005 establishes the ALASKA TEMPORARY ASSISTANCE PROGRAM		
	13/13	Sec. 47.27.005 DUTIES OF THE DEPARTMENT		
	14/8	Sec. 47.27.010 sets ELIGIBILITY STANDARDS for ATAP		
		Sec. 47.27.015 sets the DISQUALIFYING CONDITIONS for ATAP		
	14/17	(a)(1) a family may not receive assistance for more than 5 cumulative years	Y	5 year language is a modified version of HB 78
	15/3	(a)(2) a family is ineligible if determined to be fleeing to avoid prosecution.		New provision - out of federal welfare reform measure
	15/7	(b) a family is ineligible for 120 months following conviction of fraudulently misrepresenting their state of residence.		New provision - out of federal welfare reform measure

✓ - Indicates Cost Savings

Sec.	Page/Line	Provisions IN CSSB 98 (RLS)	In HB 78	Comments
	15/13	(c) establishes ineligibility period for leaving employment without good cause.		Same language as in waiver provision, sec. 2
	15/22	(d) establishes ineligibility periods for transferring of assets.		Same language as in waiver provision, sec. 2
	15/29	(e) establishes ineligibility periods for other fraud cases.		Same language as in waiver provision, sec. 2
	16/6	Sec. 47.27.020 sets the APPLICATION AND REQUIREMENTS FOR ASSISTANCE		
	17/13	SEC. 47.27.025 FAMILY ASSISTANCE - (b) establishes benefit levels.		
	17/23	(c) establishes a seasonal benefit reduction to 2 parent families.		Same language as in waiver provision, sec. 3
	17/31	(d) modifies benefits based upon actual household expenses.		Same language as in waiver provision, sec. 3
	18/16	(e) permit dept. to use cash assistance as a wage subsidy.	Y	Similar provision in HB 78
	18/26	Sec. 47.27.026 DIVERSION PAYMENTS - allows job ready individuals to apply for a lump-sum payment to help keep them off of long-term assistance.	Y	Same language as in waiver provision
	19/28	Sec. 47.27.027 - ASSISTANCE TO MINORS - (a) requires applicants under 18 to live under adult supervision.	Y	Same language as in waiver provision
	20/12	(b) requires minor parents, as a condition of eligibility to maintain adequate levels of school attendance.		
	20/19	Sec. 47.27.030 FAMILY SELF-SUFFICIENCY PLAN - requires participants to develop and sign a Self-Sufficiency Plan.		From Gov's bill & was also in the U.S. Senate version of the federal welfare reform.
	21/15	Sec. 47.27.035 - PARTICIPATION IN WORK ACTIVITIES - requires ATAP recipients to participate in a work activity within two years or lose eligibility.		New provision added in Senate Finance. Place emphasis on work.
	22/23	Sec. 47.27.040 - ASSIGNMENT OF SUPPORT RIGHTS - requires participants to cooperate with the dept. of revenue in establishing paternity and assigns the dept. all rights to child support owed to the participant.		Existing state law.
	23/13	Sec. 47.27.045 - ALIENATION & ATTACHMENT - makes benefits non-transferrable and exempt from garnishment.		
	23/16	Sec. 47.27.050 - GRANTS & CONTRACTS FOR SERVICES - allows the dept to contract with or award grants to qualified entities in the state to administer an ATAP or a distinct part of the ATAP.		Language from Gov's bill.
	23/31	Sec. 47.27.055 - AGENCY COLLABORATION - requires the dept. to coordinate with other state agencies to provide benefits & services to eligible participants, including co-location of facilities to improve service delivery.		Language from Gov's bill.
	24/22	Sec. 47.27.060 - JOB DEVELOPMENT - allows the dept. to establish cooperative agreements with other agencies and private sector organizations to promote job development.		Language from Gov's bill.
	24/28	Sec. 47.27.065 requires FEDERAL-STATE COOPERATION of the dept. to implement public assistance block grants, & allows dept. to implement modifications not directly authorized, w/approval of Fed, Gov, commiss.		Similar to provision in existing law.
	25/6	Sec. 47.27.070 AK NATIVE ORGANIZATIONS - Allows the dept. to coordinate with AK Native organizations to develop similar & equal programs.		Language modified in Senate Finance to parallel federal reform.

Sec.	Page/Line	Provisions IN CSSB 98 (RLS)	In HB 78	Comments
	26/4	Sec. 47.27.075 - Establishes an EMERGENCY ACCOUNT within the with in the general fund subject to legislative appropriation.		Senate finance amended Gov's language to require legislative appropriation of funds, not commissioner's discretion.
	26/11	Sec. 47.27.080 - Allows for an APPEAL to dispute a determination by the dept. that denies, limits or modifies assistance for an applicant.		Similar to existing law.
	26/21	Sec. 47.27.085 SANCTIONS - (a) establishes penalties for applicants who fail to participate in work activities or self-sufficiency plan.		Modified version of Gov's language ✓
		(b) establishes penalties for applicants who fail to cooperate with the establishment of paternity.		Requirement of federal reform ✓
		(c) allows dept. to recover costs of benefits paid to participants not entitled to them.		Parallel to existing law. ✓
	27/20	Sec. 47.27.900 - Sets the DEFINITIONS		
	28/17	Sec. 47.27.990 SHORT TITLE		
8	28/19	Amends AS 15.07.055(a) to designate ATAP a voter registration agency.		Technical change
9	28/31	Amends AS 23.10.055 (AK Wage & Hour Act) to exempt unpaid ATAP work program participants from minimum wage standards.		Gov's language
10	29/6	Sec. 23.40.075 ITEMS NOT SUBJECT TO BARGAINING - establishes the authority of the dept. to assign participants to a work activity as not subject to bargaining.		Gov's language
11	29/19	Amends AS 25.20.050(f) to change assistance to aid, & AFDC to ATAP		Technical change
12	29/27	Sec. 25.27.025 RATE OF INTEREST - reduces interest rate on CSED arrears at 6%		Senate Finance Committee amendment added this provision.
13	30/1	Amends AS 25.57.040(a) to change assistance to aid, & AFDC to ATAP		Technical change
14	30/11	AS 25.27.065(b) changes references from AFDC to ATAP		Technical change
15 - 21	30/17-31/25	Technical - changes references from AFDC to new programs		
22	31/26	Sec. 25.27.195 RELIEF FROM ADMINISTRATIVE ORDER - Allows CSED to administratively vacate an order based upon a default amount upon the motion of an obligor.		New provision - modified version of CSED's request, added in Senate Finance Committee.
23	32/13-38/23	Sec. 25.27.244 ADVERSE ACTION AGAINST DELINQUENT OBLIGOR'S OCCUPATIONAL LICENSE - Section takes effect only when mandated by fed. gov., sunsets in 2 yrs.	Y	Language was taken from HB 78. (S) FIN amended exemptions ✓
	38/24-43/1	Sec. 25.27.246 ADVERSE ACTION AGAINST DELINQUENT OBLIGOR'S DRIVERS LICENSE - Section takes effect only when mandated by fed. gov., sunsets in 2 yrs.	Y	Language was taken from HB 78. ✓
24	43/2	Sec. 36.30.850 (b)(11) Technical change removing reference to AFDC		
25	43/6	Amends AS 39.25.110 to add ATAP as an exemption from the State Personnel Act.		Gov's language
26	43/10	Amends AS 44.19.626 - add work activities to list of activities the AK Human Resource Investment Council can coordinate in the state.		
27	43/16	Amends AS 44.29.020(a) to add ATAP to the duties of the Department of Health & Social Services, in place of AFDC.		Technical change
28	44/3	Amends Section 44.47.280, directing department to determine eligibility for day care asst. based on inc. not net income, of sources.		Conform Alaska statutes with federal reform.

Sec.	Page/Line	Provisions IN CSSB 98 (RLS)	In HB 78	Comments
29	44/15	Conform statutes with AFDC language to ATAP.		
30	44/20	Conforms statutes with AFDC language to ATAP, or federal successor.		
31	44/25	Conforms statutes with AFDC language to ATAP, or federal successor.		
32	44/30	Sec. 47.05.010 Adds an additional general authority to dept. to reduce the number of out-of-wedlock pregnancies in the state.		Federal reform measure provides incentives (increased grants) for states meeting goals.
33	45/3	Sec. 47.05.020 REGULATIONS TO PROTECT CONFIDENTIAL PUBLIC ASSISTANCE RECORDS - requires dept. to write regulations concerning the disclosure of information to a legislator.		Added In Senate Finance
34	45/23	Sec. 47.05.030 MISUSE OF PUBLIC ASSISTANCE LISTS AND RECORDS - Technical change to reference exemption of (b) in Sec. 35.		
35	46/4	Sec. 47.05.030(b) MISUSE OF PUBLIC ASSISTANCE LISTS AND RECORDS - Allows financial information concerning an eligibility determination of a day care assistance or ATAP applicant or recipient to be disclosed to a legislator.		Amended In Senate Finance to exclude legislators as a misuse of information.
36	46/14	Sec. 47.05.032 DISCLOSURES TO LEGISLATORS - states a legislator is not subject penalties for the disclosure of information unless notification was given as to the confidentiality of that information.		New Section added In Senate Finance.
37	46/20	Technical change		
38-43	46/27-47/27	References the successor to the AFDC program		
44	47/28	Amends Court Rule 90.3 authorizing the courts to calculate income from the natural or adoptive parent of the minor parent when determining the order.	Y	Modified version of HB 78. Senate Finance set limit on order and gave courts discretion of waiving obligation.
45	48/13	Repeals Sec. 23 (CSED Provisions) of this act 2 years after the effective date of act.		Added In Senate Finance
46	48/14	Repeals AS 43.05.225(2)(B) establishing a 12% interest rate for CSED arrears.		
47	48/15	Repeals AS 47.25.310(c) prohibiting the dept. from requiring a minor to reside in a particular type of household or institutional setting.		Conforming amendment to changes made to AS 47.25.315 & 47.27.027.
48	48/16	Repeals Workfare and Diversion Projects in 2003.		
49	48/18	Repeals AFDC and JOBS statutes the day Congressional reform is enacted.		
50	48/22	Amends Court Rule 90.3(h)(2) allowing retroactive modification of child support arrearages when the order was based upon a default amount rather than the obligor's ability to pay.		Authorizes change in section 22 of this act.
51	48/51	States that the Court Rule changes in Sec. 22, 44, and 50 of this act take effect with a majority of the membership of each house.		
52	48/30	Directs the dept. to apply to the federal government for waivers to implement sec. 1, or any part of secs. 2 - 6 or 47 of this act.		
53	49/4	Requires CSED to issue a report to the Governor based on data collected by licensing entities.		
54	49/31	REDETERMINATION OF ASSISTANCE LEVELS - Directs the dept. to submit a study to		New provision added In Senate Finance. ✓

Sec.	Page/Line	Provisions IN CSSB 98 (RLS)	In HB 78	Comments
		the Legislature on the first day of the 21st Alaska State Legislature regarding the benefit levels in Alaska. If no action is taken by the Legislature to adjust the benefit levels the benefit levels will be reduced by the percentage of increased GF allocated in FY 99 over FY 97.		
55	50/13	TRANSITION - Allows the dept. to begin developing regulations for implementation of the provisions in this act.		
56	51/3	APPLICABILITY - Limits ineligibility to disqualifications imposed on or after the effective date of those sections.		
57	51/14	Establishes an immediate effective date for secs. 1, 52, 55(a) & (b), and 56		
58	51/16	Establishes Oct. 1, 1996 as the effective date for secs. 12,22,44,46,50,51,55(c) and 55(d).		
59	51/18	Establishes Oct. 1, 1996 or the date of Congressional reform as the effective date of secs. 7-11, 13-21, 24-43, and 49 of this act.		
60	51/25	Establishes an effective date for the waiver provisions in this act as the day the federal government approves such a waiver.		
61	51/31	Establishes an effective date for secs. 23 & 53 (CSED Provisions) on the day federal law requires the state to have such provisions.		
62	52/3	Establishes an effective date for sec. 45 as 2 years after the effective date of sec. 57		
63	52/5	Requires the Commissioner of H & SS to notify the revisor of statutes and the lieutenant governor as to the effective date of sections covered under sec. 60		
64	52/11	Establishes July 1, 2003 or the effective date of sec. 59 as the effective date of sec. 48 of this act.		

All Agency Fiscal Impact
CSSB 98(FIN) - Comprehensive Track
 Prepared by the Department of Health Social Services
 Division of Public Assistance
 4/22/96

Occupational & Driver's Licensing

Expenditures:	FY97	FY98	FY99	FY00	FY01	FY02	TOTAL
Commerce & Economic Dev.	\$ 138.6	\$ 122.7	\$ 26.6	\$ -	\$ -	\$ -	\$ 287.9
Education	\$ 16.4	\$ 17.8	\$ 4.4	\$ -	\$ -	\$ -	\$ 38.6
Labor	\$ 108.8	\$ 78.1	\$ 40.8	\$ -	\$ -	\$ -	\$ 227.7
Health & Social Services	\$ 11.4	\$ 1.4	\$ 1.4	\$ -	\$ -	\$ -	\$ 14.2
Public Safety	\$ 159.7	\$ 85.9	\$ 20.8	\$ -	\$ -	\$ -	\$ 266.4
Fish & Game	\$ 131.6	\$ 94.3	\$ 40.3	\$ -	\$ -	\$ -	\$ 266.2
Revenue	\$ 710.2	\$ 818.9	\$ 169.4	\$ -	\$ -	\$ -	\$ 1,698.5
Gross Project Costs	\$ 1,276.7	\$ 1,219.1	\$ 303.7	\$ -	\$ -	\$ -	\$ 2,799.5
Less Federal Receipts for Project Costs	\$ (842.6)	\$ (804.6)	\$ (200.4)	\$ -	\$ -	\$ -	\$ (1,847.6)
Less Federal Incentive Payments	\$ (255.3)	\$ (243.8)	\$ (60.7)	\$ -	\$ -	\$ -	\$ (559.8)
Net GF/GF Match Project Costs	\$ 178.8	\$ 170.7	\$ 42.6	\$ -	\$ -	\$ -	\$ 392.1

DHSS Family Assistance Program

Operating Expenditures:

AFDC/ATAP Payments	\$ (1,489.7)	\$ (5,057.1)	\$ (9,994.9)	\$ (11,692.7)	\$ (11,892.8)	\$ (11,990.4)	\$ (52,117.6)
PA Admin	\$ 220.5	\$ 415.5	\$ 325.5	\$ 325.5	\$ 325.5	\$ 325.5	\$ 1,938.0
PA Data Processing	\$ 543.0	\$ 543.0	\$ 543.0	\$ 543.0	\$ 543.0	\$ 543.0	\$ 3,258.0
Teen Parent Investigations (DFYS)	\$ 100.2	\$ 93.8	\$ 93.8	\$ 93.8	\$ 93.8	\$ 93.8	\$ 569.2
Gross Project Costs	\$ (626.0)	\$ (4,004.8)	\$ (9,032.6)	\$ (10,730.4)	\$ (10,930.5)	\$ (11,028.1)	\$ (46,352.4)
Federal Receipts	\$ (396.3)	\$ (1,973.9)	\$ (4,260.7)	\$ (5,031.5)	\$ (5,122.3)	\$ (5,166.6)	\$ (21,951.3)
PFD Hold Harmless Savings	\$ (137.1)	\$ (465.3)	\$ (919.5)	\$ (1,075.7)	\$ (1,094.1)	\$ (1,103.1)	\$ (4,794.8)
GF/Program Receipts (Savings from Child Support Collections)	\$ 1,022.6	\$ 2,269.4	\$ 642.8	\$ -	\$ -	\$ -	\$ 3,934.8
Net GF/GF Match Budget Impact	\$ (1,115.2)	\$ (3,835.0)	\$ (4,495.2)	\$ (4,623.2)	\$ (4,714.1)	\$ (4,758.4)	\$ (23,541.1)

Gross (Federal & GF) Project Costs/Savings:

Occupational Lic Gross Costs/Savings	\$ 1,276.7	\$ 1,219.1	\$ 303.7	\$ -	\$ -	\$ -	\$ 2,799.5
DHSS Gross Costs/Savings	\$ (626.0)	\$ (4,004.8)	\$ (9,032.6)	\$ (10,730.4)	\$ (10,930.5)	\$ (11,028.1)	\$ (46,352.4)
Total Gross Project Costs/Savings	\$ 650.7	\$ (2,785.7)	\$ (8,728.9)	\$ (10,730.4)	\$ (10,930.5)	\$ (11,028.1)	\$ (43,552.9)

NET (GF) Project Costs/Savings:

Occupational Lic Net Costs/Savings	\$ 178.8	\$ 170.7	\$ 42.6	\$ -	\$ -	\$ -	\$ 392.1
DHSS Net Costs/Savings	\$ (1,115.2)	\$ (3,835.0)	\$ (4,495.2)	\$ (4,623.2)	\$ (4,714.1)	\$ (4,758.4)	\$ (23,541.1)
Total Net GF Project Costs/Savings	\$ (936.4)	\$ (3,664.3)	\$ (4,452.6)	\$ (4,623.2)	\$ (4,714.1)	\$ (4,758.4)	\$ (23,149.0)

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: CSSB 98 (FIN)
(S) Publish Date: 4-22-96

Revision Date: _____ Dept. Affected: Revenue
Title: Personal Responsibility Act BRU: Child Support Enforcement Division
Component: Child Support Enforcement Division
Sponsor: HES Committee
Requestor: Senate Finance COMPONENT SERIAL NO. 111

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	356.4	475.2	118.8			
TRAVEL	38.1	57.1				
CONTRACTUAL	771.8	678.0	182.7			
SUPPLIES	6.6	8.8	2.2			
EQUIPMENT	103.8					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,276.7	1,219.1	303.7	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	1,022.8	2,269.4	642.8	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	842.6	804.6	200.4			
1003 GF Match	178.7	170.7	42.5			
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1016 Federal Incentive Payments	255.3	243.8	60.7			
TOTAL	1,276.7	1,219.1	303.7	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	11	11	11			
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Occupational licensing legislation is expected to increase collections by approximately 25%. In the first full year these increased collections will generate \$2,727,000 in AFDC reimbursements, one half of which will be retained by the State. The period covered by this fiscal note is October 1, 1996 through September 30, 1998, which covers at least a portion of 3 State fiscal years.

National statistics reveal that about 45% of the population is employed in non-traditional occupations and their wages are not reported to states' Departments of Labor. Self-employed obligors have a very low child support payment compliance rate. Currently 54% of Alaskans with child support orders pay nothing. More than half of these individuals have the ability to pay, but work in a cash or self-employed position. This legislation will insure that self-employed obligors establish a payment plan or pay their arrears to obtain or retain their occupational and/or driver's licenses. Similar legislation has been successfully enacted in at least 32 states and is pending in Congress. (Continued on additional page)

Prepared by: Glenda Straube, Director
Division: Child Support Enforcement Division
Approved by: [Signature]
Commissioner: Wilson Condon
Agency: Dept. of Revenue

Phone: 269-6801
Date: 4/19/96
Date: 4/21

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ANALYSIS, CONTINUED:

This analysis assumes an effective date of 10/1/96. Implementation of occupational licensing restrictions is expected to require 8 Child Support Enforcement Officer I's (CSEO I's) who will ensure prompt review of proposed license denials and expedient processing of the additional program receipts. Approximately one third of total costs include estimated interdepartmental expenditures obtained from various affected agencies. Internal operating expenditures are based on estimates used in CSED's FY 96 operating budget. (See attached worksheets.) Equipment costs are reflected in FY 97 only. The State General Fund contribution rate used in funding estimates is consistent with that used in the CSED FY 97 operating budget. Revenue projections are based on results of comparable programs implemented in other states. The second portion of this proposed legislation involves the readjustment of existing CSED default orders. These orders originate when obligors refuse to provide necessary income information to CSED and are consequently assigned a liberal default amount, which often exceeds their ability to pay. Many defaults originate in rural Alaska and often, if an obligor is unable to meet the default amount, the individual is likely to remit no payment at all. This legislation would allow for the hiring of 3 additional CSEO I's who would travel to communities outside of Anchorage, Juneau and Fairbanks, meeting with obligors to update income status and adjust orders to more reasonable levels. In addition to staff costs, short-term travel expenditures will rise, until all default orders have been reviewed. Long-term revenues are expected to increase since CSED anticipates smaller order amounts but a substantial increase in the percentage of cases with payments.

Prepared by:	<u>Glenda Straube</u> <i>Glenda Straube</i>	Phone:	<u>269-6801</u>
Division:	<u>Child Support Enforcement Division</u>	Date:	<u>4/19/96</u>
Approved by	<i>[Signature]</i>	Date:	<u>4/21</u>
Commissioner:	<u>Wilson Condon</u>		
Agency:	<u>Revenue</u>		

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FISCAL NOTE

Bill Version: CSSB 98 (FIN)

(S) Publish Date: 4-22-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: 4/19/96

Title: Personal Responsibility Act of 1995

Sponsor: Senate HESS Committee

Requester: Senate Finance Committee

Department Affected: Education

BRU: Teaching and Learning Support

Component: Teacher Certification

COMPONENT SERIAL NO. 1240

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	13.4	17.8	4.4	0.0	0.0	0.0
TRAVEL	2.0					
CONTRACTUAL	1.0					
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	16.4	17.8	4.4	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
Other	16.4	17.8	4.4	0.0	0.0	0.0
TOTAL	16.4	17.8	4.4	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME	1					
TEMPORARY						

Estimate of current year (FY96) impact: \$ 0.0

ANALYSIS: The proposed legislation will require the Department of Education's Teacher Certification Office to daily compare each initial and renewal certificate applicant received against a consolidated list of persons in noncompliance provided by Department of Revenue. The Teacher Certification Office is transferred to the Division of Teaching & Learning Support in the FY97 budget. DOE will need a new part-time Administrative Clerk II position to assist with the additional processing required in this legislation. The legislation also requires the State Board of Education to adopt regulations, and there will be related travel and advertising costs. Teacher Certification staff will be involved in developing DOE regulations needed as a result of this legislation. Funding would come through Dept. of Revenue, Child Support Enforcement Division (CSED), contingent upon approval of the fiscal note for a RSA with CSED.

Prepared by: Kimberly Homme, Special Assistant

Phone: 465-2803

Division: Commissioner's Office

Date: April 19, 1996

Approved by Commissioner: [Signature]

Richard S. Cross, Deputy Commissioner

Agency: Education

Date: April 19, 1996

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FISCAL NOTE

No. 4

Bill Version: CSSB 98(CFIN)

(S) Publish Date: 4-22-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____

Title: Personal Responsibility Act

Sponsor: Senate HESS

Requestor: Senate Finance

Department Affected: Labor

BRU: Labor Standards & Safety

Component: Mechanical Inspection

COMPONENT SERIAL NO. 346

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	37.1	38.7	20.2	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	14.5	6.2	3.2	0.0	0.0	0.0
SUPPLIES	0.7	0.5	0.3	0.0	0.0	0.0
EQUIPMENT	6.5	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	58.8	45.4	23.7	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
1007 I/A	58.8	45.4	23.7	0.0	0.0	0.0
TOTAL	58.8	45.4	23.7	0.0	0.0	0.0

POSITIONS:

FULL-TIME	1.0	1.0	1.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)
 This fiscal analysis assumes inflation at 4.38% and an effective date of 10/1/96. Lead time for complete program implementation is six months. (While the effective date is 10/1/96, full implementation will not be possible until 1/1/97.) Three months funding has been included in FY 99 for program shut down and increased workload associated with issuing previously denied licences. Interagency Receipts: RSA with Department of Revenue, Child Support Enforcement Division. Please see additional analysis attached.

Prepared by: Alan W. Dwyer, Director *[Signature]* Phone: 269-4914
 Division: Labor Standards and Safety Date: 4/19/96

Approved by Commissioner: Tom Cashen, Commissioner *[Signature]*
 Agency: Department of Labor Date: 4/19/96

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Page 4 of A

Analysis:

This legislation will require additional administrative and clerical time and costs for the Mechanical Inspection component as follows:

(1) When individuals apply in person for new or renewal certificates of fitness at any of four offices (Anchorage, Juneau, Fairbanks, and Sitka): the estimated increase in processing time will be 15 minutes per individual who is in substantial non-compliance with a support order. This does not include testing, proctoring, scoring or discussion of tests.

(2) Renewal letters are mailed out monthly. New programming, different procedures, forms, and additional mailing and reporting costs will be incurred to provide the "temporary" renewal letters and to answer phones calls regarding the change.

(3) Additional time will be required to process the releases and the permanent certificates, as individuals submit those to our office.

(4) Six weeks programming time will be required to respond to the bill's requirements.

We have approximately 2,600 renewal or new licenses requested per year by electricians and plumbers, and approximately 700 boiler operator renewals per year. Of these, we are estimating that 10% may be in arrears on their child support, due to the seasonal nature of many of these positions in Alaska.

Costs for this section to implement this legislation include:

	FY97	FY98
Line 100 - Personal Services		
1 PFT Admin Clerk III (10 A/B) Anchorage		
Salary	25.5	26.6
Benefits	11.6	12.1
TOTAL	37.1	38.7
 Line 200 - Travel	 0.0	 0.0
 Line 300 - Contractual Services		
Professional Services-DP Programming (FY97 one-time)	9.0	0.0
Postage @ 2.52 x 2 x 3,300 x 10% (6 months FY97)	0.8	1.7
Printing - Forms, Notices, and Letterhead	0.3	0.3
DP Operations Overhead	1.2	1.2
Telephone Installation (FY97 one-time)	0.3	0.0
Telephone Base Cost	0.3	0.3
Indirect Costs @ 10% of Salaries	2.6	2.7
	14.5	6.2
 Line 400 - Commodities		
Office and DP Supplies	0.7	0.5
 Line 500 - Equipment		
Workstation, chair, and computer with software (FY97 one-time)	6.5	0.0
TOTAL	58.8	45.4

FISCAL NOTE

No. 5

Bill Version: CSSB 98(FIN)

(S) Publish Date: 4-22-96

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Revision Date: _____

Title: Personal Responsibility Act

Sponsor: Senate HESS

Requestor: Senate Finance

Department Affected: Labor

BRU: Labor Standards & Safety

Component: Occupational Safety & Health

COMPONENT SERIAL NO. 970

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	24.3	25.4	13.3	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	25.2	6.8	3.5	0.0	0.0	0.0
SUPPLIES	0.5	0.5	0.3	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	50.0	32.7	17.1	0.0	0.0	0.0

CAPITAL						
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CHANGE IN REVENUE FUND SOURCE #						
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
1007 I/A Receipts	50.0	32.7	17.1	0.0	0.0	0.0
TOTAL	50.0	32.7	17.1	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

This fiscal analysis assumes inflation at 4.38% and an effective date of 7/1/96. Lead time for complete program implementation is six months. (While the effective date is 7/1/96, full implementation will not be possible until 1/1/97.) Three months funding has been included in FY 99 for program shut down and increased workload associated with issuing previously denied licences. Interagency Receipts: RSA with Department of Revenue, Child Support Enforcement Division. Please see additional analysis attached.

Prepared by: Alan W. Dwyer, Director *for [Signature]* Phone: 269-4914
 Division: Labor Standards and Safety Date: 4/19/96

Approved by Commissioner: Tom Casher, Commissioner
 Agency: Department of Labor Date: 4/19/96

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Analysis:

This legislation will require additional administrative and clerical time and costs for the Occupational Safety and Health component as follows:

(1) When individuals apply in person for new or renewal certificates of fitness at any of five offices (Anchorage, Juneau, Fairbanks, Ketchikan, and Kenai) or at approved asbestos abatement worker training courses state-wide, the estimated increase in processing time will be 15 minutes per individual who is in substantial non-compliance with a support order. This does not include testing, proctoring, scoring or discussion of tests. Additional time will be required of program managers, when needed to assist applicants who have special concerns.

(2) New programming, different procedures, forms, and additional mailing and reporting costs will be incurred to provide the "temporary license" renewal letters and to answer phone calls regarding the change.

(3) Additional time will be required to process the releases and the permanent certificates, as individuals submit those to our office.

(4) Three months programming time will be required to convert to the automated system used by Mechanical Inspection and to modify it to respond to the bill's requirements.

We have approximately 2,350 renewal or new licenses requested per year by asbestos workers, explosives handlers, and painters using hazardous materials. Of these, we are estimating that approximately 10% may be in arrears on their child support, due to the seasonal nature of many of these positions in Alaska.

In the interest of efficiency, the division is adding only one new PFT position, which will be established in the Mechanical Inspection Section where photo ID equipment is located. However, some additional time will be required of the program staff in OSH, and it will be necessary to increase the range of the administrative clerk who works with these applicants, from a range 08 to a range 10, because of the complexity of issues.

Line 100 - Personal Services	FY97	FY98
Annual overtime for 1 PFT Admin Clerk III (10F) at 5 hrs per week		
Reclass Admin Clerk II (08) to Admin Clerk III (10)		
Salary	8.8	9.2
Benefits	2.4	2.5
Annual overtime for 1 PFT OSH IH Consultant (19E/F) at 5 hours per week		
Salary	10.4	10.9
Benefits	2.7	2.8
TOTAL	24.3	25.4
 Line 200 - Travel	 0.0	 0.0
 Line 300 - Contractual Services		
Professional Services-DP Programming (FY97 one-time)	18.0	0.0
Postage @ 2.52 x 2 x 2,350 x 10% (6 months in FY97)	0.6	1.1
Long Distance, including additional incoming toll free calls	1.0	2.0
Printing - Card Stock, Forms, Notices, and Letterhead	2.5	0.5
DP Operations Overhead	1.2	1.2
Indirect Costs @ 10% of Salaries	1.9	2.0
	25.2	6.8
 Line 400 - Commodities		
Office and DP Supplies	0.5	0.5
	0.5	0.5
 Line 500 - Equipment	 0.0	 0.0
TOTAL	50.0	32.7

FISCAL NOTE

No. 6

Bill Version: CSSB 98 (FIN)

STATE OF ALASKA
1996 LEGISLATIVE SESSION

(S) Publish Date: 4-22-96

Revision Date: _____
Title: Personal Responsibility Act

Department Affected: Labor
BRU: Labor Standards & Safety

Sponsor: Senate HESS
Requestor: Senate Finance

Component: Wage and Hour Administration

COMPONENT SERIAL NO. 345

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
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						
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CHANGE IN REVENUE FUND SOURCE #						
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FUNDING:

(Thousands of Dollars)

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:

	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY96) impact: \$ None

ANALYSIS: (Attach a separate page if necessary)

Because there are only five employment agencies in the state and new applications are extremely rare, this bill would have minimal impact on the Wage and Hour Administration component's workload.

Prepared by: Alan W. Dwyer, Director *[Signature]* Phone: 269-4914
Division: Labor Standards and Safety Date: 4/19/96

Approved by Commissioner: Tom Cashen, Commissioner *[Signature]*
Agency: Department of Labor Date: 4/19/96

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FISCAL NOTE

No. 7

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Bill Version: CSSB 98(FIN)

(S) Publish Date: 4-22-96

Revision Date: April 19, 1996 Dept. Affected: Public Safety
 Title: Personal Responsibility Act BRU: Motor Vehicles
 Component: Driver Services/Field Services
 Sponsor: S. HES
 Requestor: S. FIN COMPONENT SERIAL NO. 0500 & 0502

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	156.2	83.4	20.1			
TRAVEL	1.5	1.5	4			
CONTRACTUAL						
SUPPLIES	2.0	1.0	3			
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	159.7	85.9	20.8	-0-	-0-	-0-

CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
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CHANGE IN REVENUE (1004) Revenue Code	582.8	183.2	45.8	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts						
1006 GE/MHTIA						
Inter-agency receipts CSED	159.7	85.9	20.8			
TOTAL	159.7	85.9	20.8	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

FULL-TIME	4	2	2	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.)

SEE ATTACHED

Prepared By: Juanita Hensley Phone: 465-2650
 Division: Motor Vehicles Date: April 19, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 4/19/96
 Agency: Ronald L. Otte, Dept. of Public Safety

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This bill impacts the Division of Motor Vehicles by requiring the suspension of a driver's license of any person who is not in substantial compliance with a child support order. Under the provisions of this bill, the Division of Child Support Enforcement will be required to send the notice of driver license suspension to a person who is found to be in non-compliance with a child support order. The notice will give the person 150 days to comply with the order. If after the 150 days the person is not in compliance, the Division of Child Support Enforcement will notify DMV to suspend the driver's license. Once notice is received, from CSED, DMV will take action to suspend the driver's license.

The impact to DMV will be the actual suspending of the driver's license and the process of re-issuing of the license once the person is in compliance with the child support order.

In March 1995, CSED notified DMV there are approximately 10,702 obligors who are in excess of \$2500.00 or more in arrears. DMV verified through a computer verification that approximately 35% of the obligors driver's licenses are currently suspended, revoked or have warrants for their arrest for some reason. Because of this, it is estimated 3,500 driver's license suspensions will be generated the first year. It is further estimated after the first year's initial suspension action, the number of driver license suspensions will be reduced. It is estimated in the future years, 1,000 driver's licenses will be suspended for non-support.

The impacts from this bill will result in 7,000 updates to the driving record of the persons whose license is being suspended. One computer entry to add the suspension to the driving record; and another entry to end the suspension once the person has complied. Reinstating the driver's license will also impact the DMV field offices. The Motor Vehicle Representative will be required to see proof from CSED that the person is in compliance with their child support order before reinstating the driver's license. It is estimated 90 percent of all persons whose license is suspended will reinstate their driver's license. A \$100.00 reinstatement fee is charged anytime a person has had their license suspended or revoked within a 10 year period preceding application for a driver's license. It is estimated 1,575 individual's will pay the \$100. If the license is suspended or revoked more than one time within a 10 year period preceding application, a \$250 restatement fee is required. It is estimated 1,575 individual's will be required to pay the \$250. It is estimated the amount of additional new general fund program receipt revenue generated by this bill is approximately \$582.8 for FY 97 and \$183.2 the following years.

Total number of suspension notices received from CSED by DMV	3,500
Total number of suspension notices being ended when a person complies	3,150
Total number of license reinstatements	3,150

<u>OPERATING</u>	<u>FY 97</u>	<u>FY 98</u>
<u>Personal Services</u>	Salary and Benefits	
1 Driver Services Supervisor R14 (Juneau)	\$ 47.0	\$ 47.0
1 Motor Vehicle Representative II (Juneau)	\$ 36.4	
2 Motor Vehicle Representative II (Anch) (2 FY 97 @\$36.4)	\$ 72.8	\$ 36.4
TOTAL PERSONAL SERVICES	\$156.2	\$ 83.4
<u>Travel</u>		
Administrative Travel for mainline supervisor	\$ 1.5	\$ 1.5
<u>Supplies</u>		
Routine office supplies	\$ 2.0	\$ 1.0
TOTAL OPERATING	\$159.7	\$ 85.9
<u>REVENUE</u>	<u>FY 97</u>	<u>FY 98</u>
3,150 Reinstatements 1,575 @100, 1,575 @ \$250	\$551.3	
3,150 Duplicate license fees @\$10	\$ 31.5	
990 Reinstatements 495 @100, 495 @250		\$173.3
990 Duplicate license fees @10		\$ 9.9
TOTAL REVENUE	\$582.8	\$183.2

**Contractual and Equipment costs were not included in this fiscal note. FY 97 Operating Budget submission eliminates positions, therefore, the existing equipment will be utilized for the requested positions associated with this bill.

FISCAL NOTE

No. 8

Bill Version: CSSB 98(CFIN)

(S) Publish Date: 4-22-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date 4/19/96

Title: Personal Responsibility Act

Department: Commerce and Economic Development

BRU: Banking, Securities and Corporations

Component: Banking, Securities and Corporations

Sponsor: HESS Committee

Requestor: Senate Finance

COMPONENT SERIAL NO. 1233

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	29.1	24.3	8.1			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	29.1	24.3	8.1	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	29.1	24.3	8.1			

FUND SOURCE	(Thousands of Dollars)					
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts	29.1	24.3	8.1			
TOTAL	29.1	24.3	8.1	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 \$26.0 for FY 97 and \$21.2 for the remaining years will be used to fund one-third of an analyst/programmer for the Dept. of Commerce and Economic Development. This person will be shared by the Div. of Banking, Securities and Corporations, Div. of Insurance, and the Div. of Occupational Licensing. This position is necessary to program and maintain the programs for matching records. \$3.1 is the cost of receiving a 9-track ASCII tape, bimonthly, from the Central Registration Depository (CRD). The CRD is the central national agency for licensing security agents and broker dealers. The cost is \$510 per tape x 6 tapes per year. REVENUE - Inter-Agency Receipts to cover program costs. This bill begins October 1, 1996 and ends September 30, 1998. Programming costs in preparation of the bill will begin July 1, 1996.

Prepared by: Willis F. Kirkpatrick, Director
 Division: Banking, Securities and Corporations
 Approved by Commissioner: William L. Hensley
 Agency: Commerce and Economic Development

Phone: 465-2521
 Date: _____
 Date: 4-19-96

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No. 9

FISCAL NOTE

Bill Version: CS SB 98 CFM

(S) Publish Date: 4-22-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: April 19, 1996

Department: Commerce and Economic Development

Title: Personal Responsibility Act

BRU: Occupational Licensing

Component: Operations

Sponsor: HESS Committee

Requestor: Senate Finance

COMPONENT SERIAL #: 1844

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	41.5	41.5	10.5			
TRAVEL	5.0	5.0	0.0			
CONTRACTUAL	29.7	29.7	2.4			
SUPPLIES	1.0	1.0	0.3			
EQUIPMENT	6.3					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	83.5	77.2	13.2	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	83.5	77.2	13.2			0.0
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (Inter Agency Receipts)	83.5	77.2	13.2	0.0	0.0	0.0
TOTAL	83.5	77.2	13.2	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME	1	1	1	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The bill prohibits the division of occupational licensing from issuing or renewing a license for a person who is not in compliance with orders, judgments, or payment schedules for child support. To comply with this bill, the division will be responsible for adapting the division's computerized licensing records to compare with the records provided by the child support enforcement division, coordinating the notification of applicants who are not in compliance, issuing the temporary licenses provided for in the bill, and responding to inquiries and complaints made to the division for refusing to issue or renew a license. The bill identifies an ending date for the program of September 30, 1998. Therefore, this fiscal note identifies full funding for FY 97 and FY 98, and three months into FY 99.

Prepared by: Jennifer Strickler, Admin. Officer

Phone: 465-2144

Division: Occupational Licensing

Date: April 19, 1996

Approved by Commissioner: William L. Hensley

Date: 4-19-96

Agency: Commerce and Economic Development

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO.: CSSB 98(FIN)

ANALYSIS: (Continued)

DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT FISCAL NOTE CALCULATIONS

Two years ago, the child support enforcement division estimated the number of licensees not in compliance with child support requirements to be between 1,350 and 5,000. A preliminary match of occupational licensees against the child support database reported a 5,200 match in names although not all of these individuals may be in violation of child support requirements. Therefore, this fiscal note is based on the lower estimate of 1,350.

The estimated costs to the division of occupational licensing to implement the bill are as follows:

PERSONAL SERVICES:

\$ 41.5

The request of one position identified below assumes that an existing Paralegal position, PCN 08-2086 authorized to implement the student loan default program (a program with similar responsibilities to those established in this bill) to be utilized to support the child enforcement program as well. The one position shown below is needed in addition to fully implement the provisions of this bill. The division is unable to absorb further responsibilities without additional staff resources.

1.- Occupational Licensing Examiner I, Range 12, PFT, Juneau

This position will analyze the 1,350 applicant' matched by computer with the child support enforcement data and provide further manual analysis to determine which applicants are not in compliance with child enforcement requirements; send notices to the applicants; communicate with child support enforcement for release information; coordinate with other licensing staff for the issuance of a temporary license; coordinate withholding of licenses with enforcement staff, etc.

TRAVEL:

\$ 5.0

The travel will allow staff to check on licensees who continue to practice without a license after expiration of the 150 day temporary permit. The cost identified is based on four two-day trips between Anchorage and Juneau, three two-day trips between Anchorage and Fairbanks; and trips to other areas of the state as necessary.

CONTRACTUAL:

\$ 29.7

Costs for contractual services covers;

Printing of temporary permits and licenses, \$1.0

Telephone and fax costs, \$3.5

Certified mail and other postage costs, \$4.5

Computer programming costs, \$20.7 (this funding is based on one-third of a programmer position of which full costs are anticipated to be shared with two other divisions)

SUPPLIES:

\$1.0

The cost of supplies is estimated to be \$1.0 for the new position.

EQUIPMENT: (One-time costs)

\$ 6.3

This is a one-time cost for equipment and office set-up for the new position.

TOTAL:

\$83.5

REVENUE: Inter-Agency Receipts to cover program costs.

FUND SOURCE: The division anticipates funding to be provided by inter-agency receipts from the Department of Revenue, which may include federal funding received by that department.

Fees collected by licensees affected by this bill can be used to offset the amount of inter-agency receipts from the Department of Revenue. Unlike the general fund program receipts from other licensing programs, the requirements of this bill do not relate to "regulation of the profession", therefore, licensing fees of an occupation will *not* be increased to pay for compliance with the requirements of this bill.

No. 10

Bill Version: CS SB 98 (FIN)

FISCAL NOTE

(S) Publish Date: 4-22-96

STATE OF ALASKA 1996 LEGISLATIVE SESSION

Revision Date: April 19, 1996 Department: Commerce and Economic Development
 Title: Personal Responsibility Act BRU: Insurance
 Component: Operations
 Sponsor: Senate HESS Committee
 Requestor: Senate Finance Committee COMPONENT SERIAL NO. #354

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	26.0	21.2	5.3			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	26.0	21.2	5.3	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES	26.0	21.2	5.3			
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other 1007 Interagency Receipts	26.0	21.2	5.3			
TOTAL	26.0	21.2	5.3	0.0	0.0	0.0

Estimate of any current year (FY 96) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)
 There are three divisions impacted by this legislation within the Department of Commerce & Economic Development: Insurance; Banking, Securities, & Corp.; and Occupational Licensing. Each division is preparing a fiscal note which reflects one-third of the cost of an Analyst/Programmer IV, R-19 since each of our licensing programs will have to be modified and maintained for the new licensing and notice requirements to be implemented by this legislation. It is the intent of each division to RSA these funds to DCED's Division of Administrative Services since the data processing unit for the department is within that division. The change in revenue reflects the interagency receipts to be received from the Dept. of Revenue, which will then be RSAed to DCED's Div. of Admin. Ser.

Prepared by: Joan Brown, Administrative Officer Phone: 465-2597
 Division: Insurance Date: 4/19/96
 Approved by Commissioner: William L. Hensley Date: 4-19-96
 Agency: Commerce and Economic Development

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FISCAL NOTE

Bill Version: CSSB 98(FIN)

(S) Publish Date: 4-22-96

STATE OF ALASKA
1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Fish and Game
 Title: Personal Responsibility Act BRU: Administration
 Component: Administration
 Sponsor: Senate HESS Committee
 Requester: Senate Finance COMPONENT SERIAL NO. 479

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	28.0					
TRAVEL						
CONTRACTUAL	63.0	74.0	20.0			
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	91.0	74.0	20.0	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
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
1002 Federal Receipts						
1003 GF Match						
1004 GF	91.0	74.0	20.0			
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	91.0	74.0	20.0	0.0	0.0	0.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME						
PART-TIME	1	0	0			
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Expenditures include a half time position during the first year to minimize the confusion and problems 400+ vendors located throughout the state will have. A new parttime position will be responsible for answering questions from vendors about the process, dealing with angry licensees, distributing the list monthly to vendors, and working with the agency on resolution to problems that arise. Other expenses include producing a manual that vendors can refer to on correct procedures, and postage and printing costs to get the list out monthly to vendors. It is impractical to send a magnetic medium to most vendors since they will not have the hardware to read it.

This legislation will place significant new burdens on the vendors. It is impossible to estimate their costs, but it should be recognized that such costs will be incurred. In response some vendors may choose to stop selling crew member licenses, which in turn will cause delays in hiring crew in the fishing industry.

Prepared by: Kevin Brooks, Director
 Division: Administration
 Approved by Commissioner: Frank Rus
 Agency: Fish and Game

Phone: 465-5999
 Date: 4/18/96
 Date: 4/18/96

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FISCAL NOTE

No. 12

Bill Version: CSSB 98 (FIN)

(S) Publish Date: 4-22-96

**STATE OF ALASKA
1996 LEGISLATIVE SESSION**

Revision Date: _____ Dep't. Affected: Fish and Game
 Title: Personal Responsibility Act of 1995 BRU: Commercial Fisheries (Limited) Entry Commission
 Sponsor: Senate Finance Committee Component: Limited Entry Program Administration
 Requester: Senate HESS Committee COMPONENT SERIAL NO. 0471

Expenditures/Revenues	(Thousands of Dollars)					
OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	38.1	17.8	17.8	17.8	17.8	17.8
TRAVEL						
CONTRACTUAL	2.5	2.5	2.5	2.5	2.5	2.5
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	40.6	20.3	20.3	20.3	20.3	20.3
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 - Interagency Transfers	40.6	20.3	20.3	20.3	20.3	20.3
TOTAL	40.6	20.3	20.3	20.3	20.3	20.3

Estimate of any current year (FY96) cost: \$ 0.0

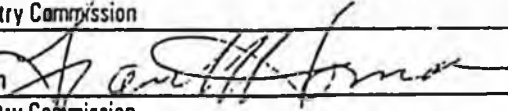
POSITIONS						
FULL-TIME						
PART-TIME	1	1	1	1	1	1
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See Attachments

This bill will affect all commercial fishing vessel licenses which includes sport fishing charter operations.

Prepared By: Roger Kolden Phone: 789-6160
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 4/19/96

Approved by Commissioner: Frank Homan 
 Agency: Commercial Fisheries (Limited) Entry Commission Date: 4/19/96

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 (Rev 10/94) 95113no.11s/DBR

CSSB 98 (Finance)

One-time Requirements

- (1) Data Processing staff write programs to:
 - (a) merge monthly lists with CFEC database, and
 - (b) provide edits in existing revenue programs to check applicants against CSED list, and
 - (c) develop mechanism for issuing temporary vessel licenses and tracking the 150 day period for which they are valid; and
 - (d) develop a mechanism for recording releases
- (2) Develop the required "notice" to be sent to applicants.
- (3) Establish fee for temporary licenses, develop procedures to collect fees for temporary licenses, issue temporary licenses and issue regular licenses upon receipt of releases from CSED - manual processing will be necessary as CFEC's automated licensing procedures will not be able to handle these exceptions.
- (4) Prepare specifications for temporary vessel license receipts and annual stickers.
- (5) Publish ads and mail notices to inform fishermen, processors and ADF&G and FWP personnel of these changes.

Monthly Requirements

- (1) Data processing merges CSED list with CFEC licensing database.

Ongoing Requirements

- (1) Licensing staff check each applicant for a vessel license against the CSED list.
- (2) If applicant is on the list:
 - (a) collect the fee for the temporary vessel license
 - (b) issue a 150 day vessel license
 - (c) prepare and send required the notice with the vessel license
- (3) When a release is received from CSED:
 - (a) record the release on computer system
 - (b) issue the regular vessel license
- (4) If a release is not received:
 - (a) process a refund of the fee for the license withheld
- (5) Send notices advising any permit applicants intending to fish the vessel that their permits cannot be issued if the vessel license is withheld and informing them if the vessel has only been issued a temporary license.

Annual Requirements

- (1) Prepare specifications and solicit bids for temporary license materials.

Costs to CFEC

3.0 months of programmer time to write and test the programs: \$20.3

0.5 months of programming time to load files merging monthly lists and generate annual statistical reports: \$3.4

0.5 months to coordinate and set up procedures, and to notify fishermen, ADF&G, FWP, etc., of change: \$2.2

4.0 months - 1 part-time seasonal licensing position (CFPC II, range 10, working 20 hrs/wk, 8 mos/yr) to specialize in CSE-related activities. This is necessary in order to prevent negatively impacting the quality of service provided to other applicants: \$12.2

Ad publication for alerting fishermen, and staff of ADF&G and F&WP: \$2.5

Assumptions:

The Entry Commission licenses approximately 16,500 vessels annually. Vessels may be owned by individuals, companies, partnerships or other business entities, but any person may submit the application as an agent for the owner.

CFEC has no hard information available to predict how many vessels may have to have licenses withheld and be issued temporary licenses, but data previously provided by CSED suggests possibly 5% or 825. However, far more people than just the applicant will be impacted by the legislation and the effect on CFEC will be compounded because permits cannot be issued unless and until the vessel is licensed. Delays in licensing vessels or issuing temporary vessel licenses will also delay issuance of permits to all fishermen associated with the vessel. Many vessels are leased and fished by different individuals in different fisheries throughout the year so the impact on others may be substantial.

If approximately 825 vessel licenses are withheld annually, then the permits of at least 825 fishermen will also be affected. On an annual basis, at least 1,650 applicants will require some action to be taken by CFEC staff. Assuming it takes .5 hour to review and process each application and issue the temporary permit and notice, this is 825 hours per year. Most of this activity would occur during the 8 months of peak licensing volume, Nov. through June, resulting in approximately 25 hours/week of increased licensing staff time.

In reality, once aware of these provisions, any vessel owner who is a delinquent child support obligor will probably have someone else apply for the vessel license as an obvious way around the problem, so including vessel licenses in the legislation may prove to have a negligible impact and/or benefit.

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CSSB 98(FIN)
COST/SAVINGS ANALYSIS
WAIVER APPROACH
 Department of Health and Social Services
 Prepared 4/20/96

Packet B: Waiver Approach

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02	TOTAL
AFDC Policy Provisions	\$ (690.4)	\$ (4,297.0)	\$ (6,101.7)	\$ (6,857.5)	\$ (7,057.4)	\$ (7,170.7)	\$ (32,174.7)
PA Administration	\$ 297.2	\$ 532.0	\$ 412.0	\$ 412.0	\$ 412.0	\$ 412.0	\$ 2,477.2
Alaska Work Programs	\$ -	\$ -	\$ 308.0	\$ 615.0	\$ 615.0	\$ 615.0	\$ 2,153.0
PA Data Processing	\$ 543.0	\$ 543.0	\$ 543.0	\$ 543.0	\$ 543.0	\$ 543.0	\$ 3,258.0
Child Care Benefits	\$ -	\$ -	\$ 215.8	\$ 438.4	\$ 448.7	\$ 460.5	\$ 1,563.4
Family and Youth Services	\$ 100.2	\$ 93.8	\$ 93.8	\$ 93.8	\$ 93.8	\$ 93.8	\$ 569.2
Total Operating	\$ 250.0	\$ (3,128.2)	\$ (4,529.1)	\$ (4,755.3)	\$ (4,944.9)	\$ (5,046.4)	\$ (22,153.9)
Less Federal Receipts	\$ 27.0	\$ (1,545.5)	\$ (2,162.9)	\$ (2,241.3)	\$ (2,326.9)	\$ (2,372.5)	\$ (10,622.1)
Less I/A Receipts (PFD Hold Harmless)	\$ (63.5)	\$ (395.3)	\$ (561.4)	\$ (630.9)	\$ (649.3)	\$ (659.7)	\$ (2,960.1)
Net GF/GF Match Budget Impact	\$ 286.5	\$ (1,187.4)	\$ (1,804.8)	\$ (1,883.1)	\$ (1,968.7)	\$ (2,014.2)	\$ (8,571.7)

FEDERAL RECEIPTS	FY97	FY98	FY99	FY00	FY01	FY02	TOTAL
AFDC Policy Provisions	\$ (313.4)	\$ (1,950.8)	\$ (2,770.1)	\$ (3,113.3)	\$ (3,204.0)	\$ (3,255.5)	\$ (14,607.1)
PA Administration	\$ 96.1	\$ 161.0	\$ 101.0	\$ 101.0	\$ 101.0	\$ 101.0	\$ 661.1
Alaska Work Programs	\$ -	\$ -	\$ 154.0	\$ 307.5	\$ 307.5	\$ 307.5	\$ 1,076.5
PA Data Processing	\$ 244.3	\$ 244.3	\$ 244.3	\$ 244.3	\$ 244.3	\$ 244.3	\$ 1,465.8
Child Care Benefits	\$ -	\$ -	\$ 107.9	\$ 219.2	\$ 224.3	\$ 230.2	\$ 781.6
Total Federal Receipts	\$ 27.0	\$ (1,545.5)	\$ (2,162.9)	\$ (2,241.3)	\$ (2,326.9)	\$ (2,372.5)	\$ (10,622.1)

DHSS FISCAL NOTE DISCUSSION
CSSB 98(FIN): WAIVER TRACK

Background

This legislation provides two possible tracks for implementation, and we have developed a separate set of fiscal notes for each track, using different assumptions.

Section 7 of the bill provides for the establishment of a new Alaska Temporary Assistance program (AFDC) to replace the AFDC and Job Opportunities and Basic Skills Training (JOBS) programs upon enactment of pending federal welfare reform block grant legislation. Fiscal notes labeled DPA Comprehensive assume that the Temporary Assistance program takes effect on October 1, 1996, concurrent with repeal of the existing state and federal AFDC and JOBS programs. The federal legislation is expected to include a five-year limit on benefits for most families; a five-year limit based on the proposed federal language is included in section 7 of this legislation. This discussion and this set of fiscal notes do not cover the comprehensive track.

Sections 1 - 6 of the bill amend existing statutes for the Aid to Families with Dependent Children (AFDC) program and provide for the adoption of certain AFDC options under existing federal law, along with implementation of a series of AFDC waiver provisions under federal demonstration project authority. Fiscal notes labeled DPA Waiver assume that federal AFDC law does not change. This discussion and this set of fiscal notes cover the waiver track.

Federal Waivers

This legislation includes AFDC provisions that are state options under existing law, and provisions that are permissible only under federally approved policy waivers for experimental purposes. The waivers are required to be implemented in the context of a demonstration project that is subject to statistical and qualitative evaluation. Demonstration projects must be cost-neutral to the federal government, and the state must reimburse the federal government for costs that exceed the cost-neutral level.

Project design must include geographically coincident, randomly assigned experimental and control groups; the experimental group is subject to the provisions of the waiver, while the control group is subject to normal AFDC rules under the AFDC State Plan. The project outcomes must be evaluated by an independent contractor. Waivers are temporary, granted only for a duration long enough to conduct the experiment; most AFDC demonstration projects are approved for five to eight years.

In effect, the demonstration project methodology requires the state to establish two different, parallel programs with different eligibility rules, and to maintain parallel sets of data so the experimental and control group outcomes can be compared. These rigid federal project requirements constrain the states from doing comprehensive welfare reform and generate substantial operating costs.

Waiver Track: Fiscal Note Summary

This bill includes a number of policy provisions. Only provisions that generate substantial costs or savings are discussed in this fiscal note package.

Assumptions: Waiver Track

We assume in this analysis that:

- Federal legislation that would trigger the comprehensive track does not occur, so that this legislation is implemented under the waiver track.
- The necessary data system and regulation changes to implement the demonstration are in place by July 1998, and the demonstration begins on July 1, 1998.
- All provisions of the legislation that involve waivers are implemented together as a single project in at least three locations in the state. The experimental group includes 4,400 randomly assigned families, which are subject to the waivers provisions. The control group includes 1,500 randomly assigned families, which are subject to normal AFDC program rules. The balance of the AFDC caseload (roughly 6,600 families) is not involved in the demonstration project and is subject to normal AFDC rules.
- Provisions that do not require federal waivers will impact the entire AFDC caseload. Implementation dates for these provisions are specified in the fiscal notes.
- This project will place substantial additional demands on Division of Public Assistance field Eligibility Determination staff. The fiscal note package does not include any additional funding in the Eligibility Determination component, based on our assumption of full funding of the Governor's FY 97 budget request for the Eligibility Determination component.

1. AFDC Component

Sections 1 - 6 of this legislation establish a demonstration project and a number of AFDC policy waiver provisions and amend existing AFDC law to adopt options under existing federal law.

Waiver/Demonstration Project Provisions

Workfare project

Section 1 of the bill establishes an AFDC Workfare demonstration project. Members of the experimental group are, with specified exceptions, required to perform unpaid community service work for up to 21 hours per week.

Members of the experimental group are also subject to policy waiver provisions that are designed to increase incentives for paid employment, including:

- The earned income disregard is increased to the first \$200 of earnings plus 1/3 of the remainder for 24 cumulative benefit months, under a waiver.

The earned income "disregards" (the amounts of money a family may earn before the earnings are counted against their assistance benefit) are designed to make work pay and encourage AFDC parents to work and gain job experience by allowing working families to keep some of the income they earn. Currently, the first \$90 per month of earnings are disregarded for all families. For the first four months an individual has earnings, an additional \$ 30 per month plus one-third of the remainder is disregarded. After the applicable disregards are applied, the remaining income reduces the family's monthly grant by 89.87 cents for every dollar of income.

- The AFDC "100-hour rule" for Unemployed Parent cases is waived. The federal 100-hour-rule limits the number of hours the primary earner in a two-parent household may work without losing eligibility. This waiver of this rule eliminates another significant disincentive to work.
- The automobile allowance is increased from \$1,500 on one vehicle to \$5,000 on all vehicles owned, under waivers. Existing federal AFDC rules require that all but the first \$1,500 in the equity value of a family's vehicle be counted against the \$1000 AFDC asset limit. This policy is a significant disincentive and barrier to work, since families cannot own a reliable car that would help them find a job and keep working.

These work requirements and work incentives initially incur some additional costs because some families which would otherwise be ineligible would become eligible, and are projected to generate a net savings in the long term as more recipients move into employment and work longer hours, resulting in smaller assistance grants for families as their earnings increase, and in some families leaving the caseload because their earnings make them ineligible.

24-month time limit

Section 5 of the bill establishes a limit of 24 cumulative months of benefits in a 60-month period for specified families, under waivers. Families that reach the end of the 24-month period will be ineligible for the subsequent 36 months unless they have complied with Workfare and the JOBS program and are still unable to secure adequate employment. This provision produces program savings as families begin lose AFDC eligibility in the third year of the project.

Diversion project

Section 1 of the bill also establishes a diversion program demonstration under federal waivers. This provision will give families an alternative to long-term AFDC dependency by offering eligible, job-ready AFDC applicants a one-time lump-sum payment in lieu of ongoing eligibility, to meet critical needs while they obtain employment and/or child support. The Diversion payment amount will be based on actual, immediate needs and is limited to a maximum of two months' worth of regular benefits. Families that opt for a

diversion payment will have the diversion payment counted as income if they reapply for AFDC within 3 months. The Diversion program produces program savings by enabling a quick return to the work force for applicants who might otherwise need assistance for several months.

Seasonal Benefit Reduction for Two-Parent Families

Section 3 of the bill includes a waiver provision to limit the assistance payment to most two-parent families to 50 percent of the normal maximum benefit during the months of July, August, and September when work is available. The reduction does not apply to two-parent families if either parent is physically or mentally incapacitated.

Federal Option Provisions

Benefits Based on Household Expenses

Section 3 adopts an existing federal option for the establishment of payment standards that take into account a family's income, assets, and other resources. DHSS will establish standards whereby families with lower living costs will receive smaller benefit payments than similar families paying full market price for living costs. This provision will be implemented gradually beginning in January 1997. By January 1998, the benefits of most families with low housing and basic utility costs will be reduced by up to 30 percent of the maximum assistance payment. At full implementation, approximately 2,600 families per month will receive a reduced benefit because they have low living expenses.

Assistance to Minors

Bill section 2 provides that, with specified exceptions, unmarried minor parents must live with a parent, another adult relative, or a legal guardian. If no such safe living arrangement is available, they must live in another adult-supervised living arrangement. Teen parents who do not cooperate with these requirements are ineligible for AFDC benefits. This provision produces savings by reducing the number of eligible teen parents. Teen parents who cooperate with the requirements will receive intensive case management services and some will need help to secure appropriate housing; the costs of these additional services are covered in the Public Assistance Administration component.

Sanctions

The bill sections that prohibit transferring assets to become eligible (a federal option, bill section 2); disqualify families if a family member refuses or quits a job without good cause (a waiver, bill section 2), require participation in Workfare, and require teen parents to attend school (a waiver, bill section 6) all impose financial penalties on families that fail to comply with certain program requirements. These penalties produce savings in program costs.

2. PFD Hold Harmless Component

PFD hold harmless program benefits replace public assistance benefits when receiving the dividend causes individuals to lose eligibility or have benefits reduced. PFD hold harmless funds approximately 10 percent of annual AFDC benefit costs. The AFDC component savings produced by this legislation produce proportionate savings in the PFD hold harmless component.

3. Public Assistance Administration Component

Waiver project staff

Project development staff are necessary to develop, apply for, and monitor the demonstration project authorized by this legislation. Project staff will coordinate data system and program changes, oversee an evaluation contractor, coordinate policy and training, and maintain relationships with federal project oversight officials.

Evaluation contractor

The federal government requires that demonstration projects be evaluated by an independent contractor. The evaluation contractor must be involved beginning with project development throughout the project, participating in the design of the data system changes needed for evaluation data and assignment of participants, monitoring compliance with federal cost-neutrality requirements, and producing interim and final reports on project outcomes.

Services for Teen Parents

Section 2 of the bill, requires an unmarried minor custodial parent must to live with a parent or another relative. If no such safe home is available, teen parents are required to live in an approved, adult-supervised, supportive setting.

- **Alternate Housing**

Teen parents will have to find alternate housing if they cannot live at home. These community grant funds will be used to develop a supply of alternate housing for teen parents who cannot live at home. Grantees will provide "Second Chance Homes", which will provide shelter, as well as parenting, life skills, health and pregnancy prevention services to teen mothers.

- **Case management services for teen parents and their children**

These grants will procure intensive case management services to help teen parents who cannot live at home identify and arrange for alternative, adult-supervised, safe living arrangements.

4. Alaska Work Programs Component

The Workfare demonstration requires development of unpaid community work slots, case management of workfare participants, payment of transportation and payment of transportation and other expenses. Contractual funds are required to pay for these services.

5. Public Assistance Data Processing Component

The Eligibility Information System (EIS) is central to the administration of all public assistance programs. DPA field workers enter basic information on recipients, maintain case records, make eligibility determinations and benefit authorizations, and correspond with their clients using EIS. EIS generates benefit payments and stores and compiles management information.

Extensive modifications to the existing AFDC and JOBS structures in EIS are necessary to implement, administer, and monitor the demonstration project and other provisions of this legislation. Funding is needed to provide sufficient programming resources for the necessary EIS modifications.

6. Child Care Benefits Component

DHSS is required to pay for any child care needed by Workfare participants. Funding is needed to provide these services.

7. Family and Youth Services, DFYS Central Office Component

Teen Parent Living Arrangement Investigations Section 2 of the bill requires a minor parent to live with a parent or another relative unless no such safe home is available. Funds are necessary administer and pay for contract investigations of the appropriateness of the family home when minor parents claim it is unsafe or inappropriate.