

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8603 HOUSE • JUDICIARY •

HB

219

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE MULDER

TO: CSHB 219(), "G" version, draft dated 3/23/95

- 1 Page 1, line 3, following "disabled":
- 2 Insert "or quadriplegic"

- 3 Page 3, line 8, following "disabled":
- 4 Insert "or a quadriplegic"

- 5 Page 3, line 10, following "disabled":
- 6 Insert "or a quadriplegic"

9-LS0810G
Luckhaupt
3/23/95

CS FOR HOUSE BILL NO. 219()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MULDER, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to medical care for prisoners; relating to payment for drug
2 testing for persons in prison, on probation, or on parole; and authorizing special
3 medical parole for severely medically disabled prisoners."

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

5 * Section 1. AS 11.61.127(b) is amended to read:

6 (b) This section does not apply to persons providing plethysmograph
7 assessments in the course of a sex offender treatment program that meets the minimum
8 standards under AS 33.30.011(a)(5) [AS 33.30.011(6)].

9 * Sec. 2. AS 12.55.100 is amended by adding a new subsection to read:

10 (d) As a condition of probation, the court shall order the defendant, to the
11 extent the defendant has the ability to pay, to reimburse the Department of Corrections
12 for all the costs of drug testing during the period of probation.

13 * Sec. 3. AS 33.16.010(d) is amended to read:

14 (d) A prisoner released on special medical, discretionary, or mandatory parole

1 is subject to the conditions of parole imposed under AS 33.16.150. Parole may be
2 revoked under AS 33.16.220.

3 * Sec. 4. AS 33.16.010 is amended by adding a new subsection to read:

4 (e) A prisoner eligible under AS 33.16.085 may be released on special medical
5 parole by the Parole Board.

6 * Sec. 5. AS 33.16.060 is amended to read:

7 Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall

8 (1) serve as the parole authority for the state;

9 (2) upon receipt of an application, consider the suitability for parole of
10 a prisoner who is eligible for special medical or discretionary parole;

11 (3) impose parole conditions on all prisoners released under
12 discretionary or mandatory parole;

13 (4) under AS 33.16.210, discharge a person from parole when custody
14 is no longer required;

15 (5) maintain records of the meetings and proceedings of the board;

16 (6) recommend to the governor and the legislature changes in the law
17 administered by the board;

18 (7) recommend to the governor or the commissioner changes in the
19 practices of the department and of other departments of the executive branch necessary
20 to facilitate the purposes and practices of parole;

21 (8) upon request of the governor, review and recommend applicants for
22 executive clemency; and

23 (9) execute other responsibilities prescribed by law.

24 (b) The board shall adopt regulations under the Administrative Procedure Act
25 (AS 44.62)

26 (1) establishing standards under which the suitability of a prisoner for
27 special medical or discretionary parole shall be determined;

28 (2) providing for the supervision of parolees and for recommitment of
29 parolees; and

30 (3) governing procedures of the board.

31 * Sec. 6. AS 33.16 is amended by adding new sections to read:

1 Sec. 33.16.085. SPECIAL MEDICAL PAROLE. (a) Notwithstanding a
2 presumptive, mandatory, or mandatory minimum term a prisoner may be serving or
3 any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term
4 of at least 181 days, may, upon application by the prisoner or the commissioner be
5 released by the board on special medical parole if the board determines

6 (1) for a prisoner convicted of

7 (A) an offense other than a violation of AS 11.41.434 -
8 11.41.438, that the prisoner is severely medically disabled ^{or quadriplegic} (as certified in
9 writing by a physician licensed under AS 08.64, was not severely medically
10 disabled ^{or quadriplegic} (at the time the prisoner committed the offense or parole or probation
11 violation for which the prisoner is presently incarcerated; or

12 (B) a violation of AS 11.41.434 - 11.41.438, that the prisoner
13 is a quadriplegic as certified by a physician licensed under AS 08.64 and was
14 not a quadriplegic at the time the prisoner committed the offense or parole or
15 probation violation for which the prisoner is presently incarcerated; and

16 (2) that a reasonable probability exists that

17 (A) the prisoner will live and remain at liberty without violating
18 any laws or conditions imposed by the board;

19 (B) because of being severely medically disabled or a
20 quadriplegic, the prisoner will not pose a threat of harm to the public if
21 released on parole; and

22 (C) release of the prisoner on parole would not diminish the
23 seriousness of the crime.

24 (b) If the board finds a change in circumstances or discovers new information
25 concerning a prisoner who has been granted a special medical parole release date, the
26 board may rescind or revise the previously granted parole release date.

27 (c) The board shall issue its decision to grant or deny special medical parole,
28 or to rescind or revise the release date of a prisoner granted special medical parole, in
29 writing and provide a basis for the decision. A copy of the decision shall be provided
30 to the prisoner.

31 Sec. 33.16.087. RIGHTS OF CERTAIN VICTIMS IN CONNECTION WITH

1 SPECIAL MEDICAL PAROLE. (a) If the victim of a crime against a person or
2 arson in the first degree requests notice of a scheduled hearing to review or consider
3 special medical parole for a prisoner convicted of that crime, the board shall send
4 notice of the hearing to the victim at least 30 days before the hearing. The notice
5 must be accompanied by a copy of the prisoner's or commissioner's application for
6 parole submitted under AS 33.16.085. However, the copy of the application sent to
7 the victim may not include the prisoner's proposed residence and employment
8 addresses.

9 (b) A victim who requests notice under this section shall maintain a current,
10 valid mailing address on file with the board. The board shall send the notice required
11 by this section to the last known address of the victim. The victim's address may not
12 be disclosed to the prisoner or the prisoner's attorney.

13 (c) The victim has a right to attend meetings of the parole board in which the
14 status of the prisoner convicted of the crime against that victim is officially
15 considered and to comment, in writing or in person, on the proposed action of the
16 board. Copies of any written comments shall be provided to the prisoner and the
17 prisoner's attorney before action by the board.

18 (d) The board shall consider the comments presented under (c) of this section
19 in deciding whether to release the prisoner on special medical parole.

20 (e) If the victim requests, the board shall make every reasonable effort to
21 notify the victim as soon as practicable in writing of its decision to grant or deny
22 special medical parole. The notice under this subsection must include the expected
23 date of the prisoner's release, the geographic area in which the prisoner is required to
24 reside, and other pertinent information concerning the prisoner's conditions of parole
25 that may affect the victim.

26 * Sec. 7. AS 33.16.140 is amended to read:

27 Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by the
28 board, setting out the conditions imposed under AS 33.16.150(a) and (b) [,] and the
29 date parole custody ends, shall be furnished to each prisoner released on special
30 medical, discretionary, or mandatory parole.

31 * Sec. 8. AS 33.16.150(a) is amended to read:

1 (a) As a condition of parole, a prisoner released on special medical,
2 discretionary, or mandatory, parole ~~or~~

3 (1) shall obey all state, federal, or local laws or ordinances, and any
4 court orders applicable to the parolee;

5 (2) shall make diligent efforts to maintain steady employment or meet
6 family obligations;

7 (3) shall, if involved in education, counseling, training, or treatment,
8 continue in the program unless granted permission from the parole officer assigned to
9 the parolee to discontinue the program;

10 (4) shall report

11 (A) upon release to the parole officer assigned to the parolee;

12 (B) at other times, and in the manner, prescribed by the board
13 or the parole officer assigned to the parolee;

14 (5) shall reside at a stated place and not change that residence without
15 notifying, and receiving permission from, the parole officer assigned to the parolee ;

16 (6) shall remain within stated geographic limits unless written
17 permission to depart from the stated limits is granted the parolee;

18 (7) may not use, possess, handle, purchase, give, distribute, or
19 administer a controlled substance as defined in AS 11.71.900 or under federal law or
20 a drug for which a prescription is required under state or federal law without a
21 prescription from a licensed medical professional to the parolee and shall, to the
22 extent the prisoner has the ability to pay, reimburse the department for all costs
23 for drug testing during the period of parole;

24 (8) may not possess or control a firearm; in this paragraph, "firearm"
25 has the meaning given in AS 11.81.900;

26 (9) may not enter into an agreement or other arrangement with a law
27 enforcement agency or officer that will place the parolee in the position of violating
28 a law or parole condition without the prior approval of the board;

29 (10) may not contact or correspond with anyone confined in a
30 correctional facility of any type serving any term of imprisonment or a felon without
31 the permission of the parole officer assigned to a parolee;

1 (11) shall agree to waive extradition from any state or territory of the
2 United States and to not contest efforts to return the parolee to the state.

3 * Sec. 9. AS 33.16.150(b) is amended to read:

4 (b) The board may require as a condition of special medical, discretionary, or
5 mandatory parole, or a member of the board acting for the board under (e) of this
6 section may require as a condition of mandatory parole, that a prisoner released on
7 parole

8 (1) not possess or control a defensive weapon, a deadly weapon other
9 than an ordinary pocket knife with a blade three inches or less in length, or
10 ammunition for a firearm, or reside in a residence where there is a firearm capable of
11 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
12 weapon," "defensive weapon," and "firearm" have the meanings given in
13 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

14 (2) refrain from possessing or consuming alcoholic beverages;

15 (3) submit to reasonable searches and seizures by a parole officer, or
16 a peace officer acting under the direction of a parole officer;

17 (4) submit to appropriate medical, mental health, or controlled
18 substance or alcohol examination, treatment, or counseling;

19 (5) submit to periodic examinations designed to detect the use of
20 alcohol or controlled substances;

21 (6) make restitution ordered by the court according to a schedule
22 established by the board;

23 (7) refrain from opening, maintaining, or using a checking account or
24 charge account;

25 (8) refrain from entering into a contract other than a prenuptial contract
26 or a marriage contract;

27 (9) refrain from operating a motor vehicle;

28 (10) refrain from entering an establishment where alcoholic beverages
29 are served, sold, or otherwise dispensed;

30 (11) refrain from participating in any other activity or conduct
31 reasonably related to the parolee's offense, prior record, behavior or prior behavior,

1 current circumstances, or perceived risk to the community, or from associating with
 2 any other person that the board determines is reasonably likely to diminish the
 3 rehabilitative goals of parole, or that may endanger the public; in the case of special
 4 medical parole, for a prisoner diagnosed with a communicable disease, comply
 5 with conditions set by the board designed to prevent the transmission of the
 6 disease.

Added to this draft

7 * Sec. 10. AS 33.16.200 is amended to read:

8 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in
 9 AS 33.16.210, the board retains custody of special medical, discretionary, and
 10 mandatory parolees until the expiration of the maximum term or terms of
 11 imprisonment to which the parolee is sentenced.

12 * Sec. 11. AS 33.16.900(6) is amended to read:

13 (6) "discretionary parole" means the release of a prisoner by the board
 14 before the expiration of a term, subject to conditions imposed by the board and subject
 15 to its custody and jurisdiction; "discretionary parole" does not include "special
 16 medical parole";

new to draft

17 * Sec. 12. AS 33.16.900 is amended by adding new paragraphs to read:

18 (11) "severely medically disabled" means that a person has a medical
 19 condition that requires the person suffering from the condition to be confined to bed
 20 and the person is likely to

or Before it was added

21 (A) be confined to bed throughout the entire period of parole;
 22 (B) to die from the condition;

23 (12) "special medical parole" means the release by the board before the
 24 expiration of a term, subject to conditions imposed by the board and subject to its
 25 custody and jurisdiction, of a prisoner who is severely medically disabled or a
 26 quadriplegic.
 27

28 * Sec. 13. AS 33.30.011 is amended to read:

29 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

30 (1) establish, maintain, operate, and control correctional facilities
 31 suitable for the custody, care, and discipline of persons charged or convicted of

1 offenses against the state or held under authority of state law;
 2 (2) classify prisoners;
 3 (3) for persons committed to the custody of the commissioner, establish
 4 programs, including furlough programs that are reasonably calculated to
 5 (A) protect the public;
 6 (B) maintain health;
 7 (C) create or improve occupational skills;
 8 (D) enhance educational qualifications;
 9 (E) support court-ordered restitution; and
 10 (F) otherwise provide for the rehabilitation and reformation of
 11 prisoners, facilitating their reintegration into society;
 12 (4) provide necessary
 13 (A) medical services for prisoners in correctional facilities or
 14 who are committed by a court to the custody of the commissioner, including
 15 examinations for communicable and infectious diseases;
 16 (B) [(5) PROVIDE NECESSARY] psychological or psychiatric
 17 treatment if a physician or other health care provider, exercising ordinary skill
 18 and care at the time of observation, concludes that
 19 (i) [(A)] a prisoner exhibits symptoms of a serious
 20 disease or injury that is curable or may be substantially alleviated; and
 21 (ii) [(B)] the potential for harm to the prisoner by reason
 22 of delay or denial of care is substantial;
 23 (5) [(6)] establish minimum standards for sex offender treatment
 24 programs offered to persons who are committed to the custody of the commissioner;
 25 (6) [AND (7)] provide for fingerprinting in correctional facilities in
 26 accordance with AS 12.80.060; and
 27 (7) develop a program to require all prisoners, to the extent each
 28 prisoner has the ability to pay, to reimburse the department for all costs
 29 associated with drug testing.

*new with
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30 * Sec. 14. AS 33.30 is amended by adding a new section to read:
 31 Sec. 33.30.028. RESPONSIBILITY FOR COSTS OF MEDICAL CARE. (a)

1 Notwithstanding any other provision of law, the liability for payment of the costs of
2 medical, psychological, and psychiatric care provided or made available to a prisoner
3 committed to the custody of the commissioner is, subject to (b) of this section, the
4 responsibility of the prisoner and the

5 (1) prisoner's insurer if the prisoner is insured under existing individual
6 health insurance, group health insurance, or any prepaid medical coverage;

7 (2) Department of Health and Social Services if the prisoner is eligible
8 for assistance under AS 47.07 or AS 47.25.120 - 47.25.310;

9 (3) United States Department of Veterans Affairs if the prisoner is
10 eligible for veterans' benefits that entitle the prisoner to reimbursement for the medical
11 care or medical services;

12 (4) United States Public Health Service, the Indian Health Service, or
13 any affiliated group or agency if the prisoner is a Native American and is entitled to
14 medical care from those agencies or groups; and

15 (5) parent or guardian of the prisoner if the prisoner is under the age
16 of 18.

17 (b) The commissioner shall require prisoners who are without resources under
18 (a) of this section to pay the costs of medical, psychological, and psychiatric care
19 provided to them by the department. At a minimum, the prisoner shall be required to
20 pay a portion of the costs based upon the prisoner's ability to pay.

21 * Sec. 15. AS 33.30.071(a) is amended to read:

22 (a) Notwithstanding AS 33.30.011(1), the commissioner of public safety shall
23 provide for the custody, care, and discipline of prisoners pending arraignment,
24 commitment by a court to the custody of the commissioner of corrections, or
25 admission to a state correctional facility. Except as provided in (c) of this section, the
26 responsibility for providing necessary medical services for prisoners remains with the
27 commissioner of corrections under AS 33.30.011(4), subject to the responsibility for
28 payment under AS 33.30.028. The commissioner of corrections and the
29 commissioner of public safety are not responsible for providing custody, care, and
30 discipline for a person detained under AS 47.30.705 or AS 47.37.170 [,] unless the
31 person is admitted into a state correctional facility.

CS FOR HB 219
SECTIONAL ANALYSIS

Section 1. Amends AS 11.61.127(b) to accommodate number change in Section 12 of the bill. No substantive effect.

Section 2. Requires a prisoner to reimburse the Department of Corrections for drug testing during probation, to the extent the person can pay.

Section 3. Adds "special medical" to those subject to the conditions of parole imposed under AS 33.16.150.

Section 4. Adds prisoners eligible for special medical parole to those the Parole Board may release.

Section 5. Adds consideration of special medical parole to the duties of the Parole Board.

Section 6. Permits special medical parole and sets out limitations for those convicted of child sex offenses. A person convicted of a child sex offense would have to be a quadriplegic to qualify for special medical parole. Sets out the rights of the victims to be informed of the parole hearing, to be present and comment at the hearing, and to be informed of the decision to grant or deny parole.

Section 7. Requires conditions for parole to be provided to the prisoner.

Section 8. Includes prisoners on special medical parole in the required general conditions for parole. Requires that prisoner pay the cost of drug testing as a condition of parole, to the extent the prisoner has the ability to pay.

Section 9. Includes prisoners on special medical parole in those who may be required to abide by other conditions of parole imposed by the Parole Board. It adds the ability for the Parole Board to require special conditions of those paroled with communicable disease.

Section 10. Includes special medical parolees in those under custody of the Parole Board.

Section 11. Provides that "special medical" parole is not "discretionary parole"

Section 12 Defines severely medically disabled as a condition that requires a person likely to be confined to bed and to die from the condition, or seriously incapacitated and likely to remain so through the parole period.

Defines special medical parole as release on parole of a person who is medically disabled.

Section 13. Adds a provision for the Commissioner to develop a charge system for drug testing of prisoners.

Section 13 Makes any other coverage available to a prisoner primary to the Department of Corrections. For those prisoners without other coverage, the Commissioner shall develop a program for the prisoners to pay a nominal fee for medical and psychological services.

Section 14. Requires the Commissioner of Public Safety to implement a program requiring other coverage of the prisoner to pay for health care provided in community jails. This will change to the Commissioner of Corrections if HB 200 (moving Community Jails to Corrections) passes.



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

Region X
M/S _____
2201 Sixth Avenue
Seattle, WA 98121

March 8, 1995

Kathy Tibbles
Acting Director
DHSS/DFYS
PO Box 11601
Juneau, AK 99811-0630

Dear Ms. Tibbles:

This is in response to your request for information on the Title IV-E and Title IV-B requirements for the safeguarding of information. We referred this issue to our Central Office in Washington, D.C. for clarification and have received the attached response.

We hope this information will be of use to you as you address these issues with your legislature. Please contact Carol Overbeck, at (206) 615-2558 if we can be of further assistance.

Sincerely,

Richard D. McConnell
Chief, CCWD&R



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for Children and Families
Administration on Children, Youth and Families
330 C Street, S.W.
Washington, D.C. 20201

MAR - 8 1995

To: Richard McConnell
Branch Chief, CWD
Region X

From: Associate Commissioner
Children's Bureau

Subject: Confidentiality Requirements of Title IV-E and IV-B

This is in response to your request for clarification on the confidentiality requirements of title IV-E and title IV-B. The confidentiality requirements for title IV-B and title IV-E are identified in the provisions in 45 CFR 205.50.

Question 1: Do the title IV-B and title IV-E confidentiality requirements apply to court records of children served by the title IV-B agency?

Answer: Yes, to the extent that the records contain information obtained from the IV-B agency. In Section 471(a)(8) of the Social Security Act, the title IV-E agency is required to have safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State Plan for Foster Care and Adoption. The release of information from the State IV-E agency can only be for the reasons identified in the statute. Further clarification regarding these safeguards is contained in 45 CFR 205.50. While the State Plan for Child Welfare Services in Section 422 of the Social Security Act does not identify confidentiality restrictions, title IV-B services are also subject to confidentiality regulatory restrictions identified in 45 CFR 205.50.

Other parties, including the court, are prohibited from redisclosure of information gained from the child welfare agency in 45 CFR 205.50(a)(2)(ii), except in the same circumstances as identified in 45 CFR 205.50(a)(1)(i). This prohibition would be for any information gained from the child welfare agency. The information to be safeguarded may be either written information or testimonials. In addition to the examples provided in 45 CFR

Page 2 - Richard McConnell

205.50(a)(2)(i), examples of child welfare information safeguarded include but are not limited to the following: referrals from other agencies to the child welfare agency, services provided by the child welfare agency to the child or family, referrals by the child welfare agency to other parties requesting services be provided to the child or family.

Question 2: Because the bill provides for the release of information only on children who have previously offended, can we prohibit this release because the information on a previous offense is part of a child welfare record? Such release would indirectly inform the public that this child had previously offended.

Answer: No. The court is prohibited from redisclosing information that is gained from the child welfare agency. The provisions of confidentiality of information cannot be extended to information that the court has gained from sources other than the child welfare agency. The court is required to abide by its own governing legislation on matters of safeguarding of information.

For example, if the police, school officials, or some other party refers a child to the child welfare agency, the child welfare agency would treat information about the referral as confidential. If the child welfare agency informed the court about this referral, the court would be prohibited from redisclosing the information. If the police, the school official, or some other party went to the court then the confidentiality provisions do not apply. If the court became aware of the police, the school, or other party involvement through a source other than the child welfare agency, the confidentiality provisions in Section 471(a)(8) and 45 CFR 205.50 would not apply.

Question 3: Who can release information? In particular, can parties other than the state title IV-B agency (such as the court) release information?

Answer: Any party (including the court) is prohibited from releasing information which was gained from the child welfare agency, except in the same circumstances as identified in 45 CFR

Page 3 - Richard McConnell

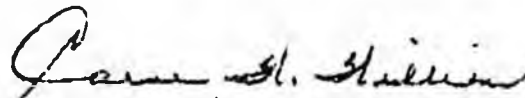
205.50(a)(1)(i).

Question 4: What information can be released? In particular, what information is child welfare information when a child is placed as a result of a juvenile offense?

Answer:

The issue of confidentiality is not focussed around the specific nature of the information, but rather the source of the information. No information that is gained from the child welfare agency may be released, except as noted in Question 3. If the court gained information regarding a juvenile from the child welfare agency, this information shall remain confidential. Should the court gain information about a juvenile in a proceeding that does not involve the child welfare agency, the confidentiality provisions of Section 471(a)(8) do not apply. Other parties would abide by their own confidentiality restrictions.

Thus, in a court proceeding, if a psychologist is requested to testify on behalf of the child welfare agency, the information is safeguarded under the provisions of Section 471(a)(8). If the psychologist's awareness of the child did not involve the child welfare agency, Section 471(a)(8) does not apply.


Carol W. Williams, D.S.W.

9-LS0810F
Luckhaupt
3/21/95

CS FOR HOUSE BILL NO. 219()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MULDER, Foster

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to medical care for prisoners; relating to payment for drug
2 testing for persons in prison, on probation, or on parole; and authorizing special
3 medical parole for severely medically disabled prisoners."

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

5 * Section 1. AS 11.61.127(b) is amended to read:

6 (b) This section does not apply to persons providing plethysmograph
7 assessments in the course of a sex offender treatment program that meets the minimum
8 standards under AS 33.30.011(a)(5) [AS 33.30.011(6)]. *& setting out conditions*

9 * Sec. 2. AS 12.55.100 is amended by adding a new subsection to read: *of probation*

10 (d) As a condition of probation, the court shall order the defendant, to the
11 extent the defendant has the ability to pay, to reimburse the Department of Corrections
12 for all the costs of drug testing during the period of probation.

13 * Sec. 3. AS 33.16.010(d) is amended to read:

14 (d) A prisoner released on special medical, discretionary, or mandatory parole

*Parole
Administration*

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(e) A prisoner eligible under AS 33.16.085 may be released on special medical
parole by the Parole Board.

* Sec. 5. AS 33.16.060 is amended to read:

Sec. 33.16.060. DUTIES OF THE BOARD. (a) The board shall

- (1) serve as the parole authority for the state;
- (2) upon receipt of an application, consider the suitability for parole of
a prisoner who is eligible for special medical or discretionary parole;
- (3) impose parole conditions on all prisoners released under
discretionary or mandatory parole;
- (4) under AS 33.16.210, discharge a person from parole when custody
is no longer required;
- (5) maintain records of the meetings and proceedings of the board;
- (6) recommend to the governor and the legislature changes in the law
administered by the board;
- (7) recommend to the governor or the commissioner changes in the
practices of the department and of other departments of the executive branch necessary
to facilitate the purposes and practices of parole;
- (8) upon request of the governor, review and recommend applicants for
executive clemency; and
- (9) execute other responsibilities prescribed by law.

(b) The board shall adopt regulations under the Administrative Procedure Act
(AS 44.62)

- (1) establishing standards under which the suitability of a prisoner for
special medical or discretionary parole shall be determined;
- (2) providing for the supervision of parolees and for recommitment of
parolees; and
- (3) governing procedures of the board.

* Sec. 6. AS 33.16 is amended by adding new sections to read:

*Conditions
for all
parolees*

*Revocation
of Parole*

*new
Special
Medical
Parole*

*adds
word of
Special
Medical
Parole to
Subsect
Board*

1 Sec. 33.16.085. SPECIAL MEDICAL PAROLE. (a) Notwithstanding a
 2 presumptive, mandatory, or mandatory minimum term a prisoner may be serving or
 3 any restriction on parole eligibility under AS 12.55, a prisoner who is serving a term
 4 of at least 181 days, may, upon application by the prisoner or the commissioner be
 5 released by the board on special medical parole if the board determines

6 (1) for a prisoner convicted of

7 (A) an offense other than a violation of AS 11.41.434 -
 8 11.41.438, that the prisoner is severely medically disabled as certified in
 9 writing by a physician licensed under AS 08.64, was not severely medically
 10 disabled at the time the prisoner committed the offense or parole or probation
 11 violation for which the prisoner is presently incarcerated; or

12 (B) a violation of AS 11.41.434 - 11.41.438, that the prisoner
 13 is a quadriplegic as certified by a physician licensed under AS 08.64 and was
 14 not a quadriplegic at the time the prisoner committed the offense or parole or
 15 probation violation for which the prisoner is presently incarcerated; and

16 (2) that a reasonable probability exists that

17 (A) the prisoner will live and remain at liberty without violating
 18 any laws or conditions imposed by the board;

19 (B) because of being severely medically disabled or a
 20 quadriplegic, the prisoner will not pose a threat of harm to the public if
 21 released on parole; and

22 (C) release of the prisoner on parole would not diminish the
 23 seriousness of the crime.

24 (b) If the board finds a change in circumstances or discovers new information
 25 concerning a prisoner who has been granted a special medical parole release date, the
 26 board may rescind or revise the previously granted parole release date.

27 (c) The board shall issue its decision to grant or deny special medical parole,
 28 or to rescind or revise the release date of a prisoner granted special medical parole, in
 29 writing and provide a basis for the decision. A copy of the decision shall be provided
 30 to the prisoner.

31 Sec. 33.16.087. RIGHTS OF CERTAIN VICTIMS IN CONNECTION WITH

sexual abuse of a minor Statutes
sexual assault on a minor

??
on murder (1 month - 1 year) would not be necessary? in some cases, person

1 SPECIAL MEDICAL PAROLE. (a) If the victim of a crime against a person or
 2 arson in the first degree requests notice of a scheduled hearing to review or consider
 3 special medical parole for a prisoner convicted of that crime, the board shall send
 4 notice of the hearing to the victim at least 30 days before the hearing. The notice
 5 must be accompanied by a copy of the prisoner's or commissioner's application for
 6 parole submitted under AS 33.16.085. However, the copy of the application sent to
 7 the victim may not include the prisoner's proposed residence and employment
 8 addresses.

}
 similar
 to other
 victims
 rights
 §

9 (b) A victim who requests notice under this section shall maintain a current,
 10 valid mailing address on file with the board. The board shall send the notice required
 11 by this section to the last known address of the victim. The victim's address may not
 12 be disclosed to the prisoner or the prisoner's attorney.

13 (c) The victim has a right to attend meetings of the parole board in which the
 14 status of the prisoner convicted of the crime against that victim is officially
 15 considered and to comment, in writing or in person, on the proposed action of the
 16 board. Copies of any written comments shall be provided to the prisoner and the
 17 prisoner's attorney before action by the board.

18 (d) The board shall consider the comments presented under (c) of this section
 19 in deciding whether to release the prisoner on special medical parole.

20 (e) If the victim requests, the board shall make every reasonable effort to
 21 notify the victim as soon as practicable in writing of its decision to grant or deny
 22 special medical parole. The notice under this subsection must include the expected
 23 date of the prisoner's release, the geographic area in which the prisoner is required to
 24 reside, and other pertinent information concerning the prisoner's conditions of parole
 25 that may affect the victim.

26 * Sec. 7. AS 33.16.140 is amended to read:

27 Sec. 33.16.140. ORDER FOR PAROLE. An order for parole issued by the
 28 board, setting out the conditions imposed under AS 33.16.150(a) and (b) [,] and the
 29 date parole custody ends, shall be furnished to each prisoner released on special
 30 medical, discretionary, or mandatory parole.

31 * Sec. 8. AS 33.16.150(a) is amended to read:

*Number -
to Conditions
of parole*

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(a) As a condition of parole, a prisoner released on special medical discretionary, or mandatory parole

(1) shall obey all state, federal, or local laws or ordinances, and any court orders applicable to the parolee;

(2) shall make diligent efforts to maintain steady employment or meet family obligations;

(3) shall, if involved in education, counseling, training, or treatment, continue in the program unless granted permission from the parole officer assigned to the parolee to discontinue the program;

(4) shall report

(A) upon release to the parole officer assigned to the parolee;

(B) at other times, and in the manner, prescribed by the board or the parole officer assigned to the parolee;

(5) shall reside at a stated place and not change that residence without notifying, and receiving permission from, the parole officer assigned to the parolee;

(6) shall remain within stated geographic limits unless written permission to depart from the stated limits is granted the parolee;

(7) may not use, possess, handle, purchase, give, distribute, or administer a controlled substance as defined in AS 11.71.900 or under federal law or a drug for which a prescription is required under state or federal law without a prescription from a licensed medical professional to the parolee and shall, to the extent the prisoner has the ability to pay, reimburse the department for all costs for drug testing during the period of parole;

(8) may not possess or control a firearm; in this paragraph, "firearm" has the meaning given in AS 11.81.900;

(9) may not enter into an agreement or other arrangement with a law enforcement agency or officer that will place the parolee in the position of violating a law or parole condition without the prior approval of the board;

(10) may not contact or correspond with anyone confined in a correctional facility of any type serving any term of imprisonment or a felon without the permission of the parole officer assigned to a parolee;

new

1 (11) shall agree to waive extradition from any state or territory of the
2 United States and to not contest efforts to return the parolee to the state.

3 * Sec. 9. AS 33.16.150(b) is amended to read:

discretionary parole conditions

4 (b) The board may require as a condition of special medical, discretionary, or
5 mandatory parole, or a member of the board acting for the board under (e) of this
6 section may require as a condition of mandatory parole, that a prisoner released on
7 parole

8 (1) not possess or control a defensive weapon, a deadly weapon other
9 than an ordinary pocket knife with a blade three inches or less in length, or
10 ammunition for a firearm, or reside in a residence where there is a firearm capable of
11 being concealed on one's person or a prohibited weapon; in this paragraph, "deadly
12 weapon," "defensive weapon," and "firearm" have the meanings given in
13 AS 11.81.900, and "prohibited weapon" has the meaning given in AS 11.61.200;

14 (2) refrain from possessing or consuming alcoholic beverages;

15 (3) submit to reasonable searches and seizures by a parole officer, or
16 a peace officer acting under the direction of a parole officer;

17 (4) submit to appropriate medical, mental health, or controlled
18 substance or alcohol examination, treatment, or counseling;

19 (5) submit to periodic examinations designed to detect the use of
20 alcohol or controlled substances;

21 (6) make restitution ordered by the court according to a schedule
22 established by the board;

23 (7) refrain from opening, maintaining, or using a checking account or
24 charge account;

25 (8) refrain from entering into a contract other than a prenuptial contract
26 or a marriage contract;

27 (9) refrain from operating a motor vehicle;

28 (10) refrain from entering an establishment where alcoholic beverages
29 are served, sold, or otherwise dispensed;

30 (11) refrain from participating in any other activity or conduct
31 reasonably related to the parolee's offense, prior record, behavior or prior behavior,

1 current circumstances, or perceived risk to the community, or from associating with
2 any other person that the board determines is reasonably likely to diminish the
3 rehabilitative goals of parole, or that may endanger the public.

4 * Sec. 10. AS 33.16.200 is amended to read:

5 Sec. 33.16.200. CUSTODY OF PAROLEE. Except as provided in
6 AS 33.16.210, the board retains custody of special medical, discretionary, and
7 mandatory parolees until the expiration of the maximum term or terms of
8 imprisonment to which the parolee is sentenced.

best

9 * Sec. 11. AS 33.16.900 is amended by adding new paragraphs to read:

new to CS - at least 4 provided

10 (11) "severely medically disabled" means that a person has a medical
11 condition that

12 (A) requires the person suffering from the condition to be
13 confined to bed and the person is likely to be permanently confined to bed and
14 to die from the condition; (or)

15 (B) makes a person seriously physically incapacitated and the
16 person is likely to remain so throughout the entire period of parole;

17 (12) "special medical parole" means the release by the board before the
18 expiration of a term, subject to conditions imposed by the board and subject to its
19 custody and jurisdiction, of a prisoner who is severely medically disabled (or) a
20 quadriplegic.

21 * Sec. 12. AS 33.30.011 is amended to read:

Prison facilities & prisoners

22 Sec. 33.30.011. DUTIES OF COMMISSIONER. The commissioner shall

new to CS

23 (1) establish, maintain, operate, and control correctional facilities
24 suitable for the custody, care, and discipline of persons charged or convicted of
25 offenses against the state or held under authority of state law;

26 (2) classify prisoners;

27 (3) for persons committed to the custody of the commissioner, establish
28 programs, including furlough programs that are reasonably calculated to

29 (A) protect the public;

30 (B) maintain health;

31 (C) create or improve occupational skills;

- (D) enhance educational qualifications;
- (E) support court-ordered restitution; and
- (F) otherwise provide for the rehabilitation and reformation of prisoners, facilitating their reintegration into society;

(4) subject to responsibility for payment under AS 33.30.028,
provide necessary

(A) medical services for prisoners in correctional facilities or who are committed by a court to the custody of the commissioner, including examinations for communicable and infectious diseases;

(B) [(5) PROVIDE NECESSARY] psychological or psychiatric treatment if a physician or other health care provider, exercising ordinary skill and care at the time of observation, concludes that

(i) [(A)] a prisoner exhibits symptoms of a serious disease or injury that is curable or may be substantially alleviated; and

(ii) [(B)] the potential for harm to the prisoner by reason of delay or denial of care is substantial;

(5) [(6)] establish minimum standards for sex offender treatment programs offered to persons who are committed to the custody of the commissioner;

(6) [AND (7)] provide for fingerprinting in correctional facilities in accordance with AS 12.80.060; and

(7) develop a program to require all prisoners, to the extent each prisoner has the ability to pay, to reimburse the department for all costs associated with drug testing.

* Sec. 13. AS 33.30 is amended by adding a new section to read:

Sec. 33.30.028. RESPONSIBILITY FOR COSTS OF MEDICAL CARE. (a) Notwithstanding any other provision of law, the liability for payment of the costs of medical care or medical services provided or made available to a prisoner committed to the custody of the commissioner is the responsibility of the prisoner and the

(1) prisoner's insurer if the prisoner is insured under existing individual health insurance, group health insurance, or any prepaid medical coverage;

(2) Department of Health and Social Services if the prisoner is eligible

*new -
below*

*How would
this apply*

1 for assistance under AS 47.07 or AS 47.25.120 - 47.25.310;

2 (3) United States Department of Veterans Affairs if the prisoner is
3 eligible for veterans' benefits that entitle the prisoner to reimbursement for the medical
4 care or medical services;

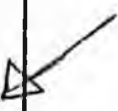
5 (4) United States Public Health Service, the Indian Health Service, or
6 any affiliated group or agency if the prisoner is a Native American and is entitled to
7 medical care from those agencies or groups;

8 (5) parent or guardian of the prisoner if the prisoner is under the age
9 of 18.

10 (b) The commissioner shall develop a program for those prisoners that are
11 without resources under (a) of this section to pay the costs of medical, psychological,
12 and psychiatric care provided to them by the department. At a minimum, the program
13 shall provide for the prisoner to pay, based upon the prisoner's ability to pay, a portion
14 of the costs of the care provided or a nominal fee, that involves the prisoner in the
15 decision to seek and provide the care and the responsibility for that care.

16 * Sec. 14. AS 33.30.071(a) is amended to read:

17 (a) Notwithstanding AS 33.30.011(1), the commissioner of public safety shall
18 provide for the custody, care, and discipline of prisoners pending arraignment,
19 commitment by a court to the custody of the commissioner of corrections, or
20 admission to a state correctional facility. Except as provided in (c) of this section, the
21 responsibility for providing necessary medical services for prisoners remains with the
22 commissioner of corrections under AS 33.30.011(4), subject to the responsibility for
23 payment under AS 33.30.028. The commissioner of corrections and the
24 commissioner of public safety are not responsible for providing custody, care, and
25 discipline for a person detained under AS 47.30.705 or AS 47.37.170 [,] unless the
26 person is admitted into a state correctional facility.



new to CS

*Correc
tion
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responsibility
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*Emergency
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*Detention?
persons
what or intent
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SPONSOR STATEMENT HOUSE BILL 219

House Bill 219 provides the Department of Corrections additional "tools" to control spiraling inmate health care costs by allowing special medical parole for terminally ill and severely disabled prisoners and charging for medical services and drug testing.

This legislation creates a new category of parole called "special medical parole" for inmates who are suffering from terminal diseases or are severely disabled. The classification only allows parole -- it does not guarantee parole. The judgment will still rest with the Parole Board.

The Alaska Sentencing Commission has recommended that parole statutes be amended to allow special medical parole for terminally ill offenders. The Commission's report found that many offenders have serious medical problems that cost the Department of Corrections significant amounts of money each year. The Commission expressed concern that as the inmate population ages and as the number of HIV infected inmates increase, the Department will face even higher inmate health costs. A recent case cost the Department of Corrections over \$500,000 for two months of medical care before the inmate died.

"Special medical parole" should not pose a risk to public safety. Those who qualify will do so because they are debilitated to an extent that they cannot present any risk to the general public. Should the person have a communicable disease, the condition of parole would certainly include appropriate containment. If a prisoner becomes a

quadriplegic while in prison, the risk to society is likely to be substantially reduced.

Currently, the Department of Corrections can furlough a terminally ill or severely disabled inmate, but the Department remains responsible for medical expenses. Medicare and Medicaid will step in only after the Department of Corrections releases the person from its custody. If the offender can secure Medicaid or Medicare eligibility, those programs will help fund the cost of medical care.

We believe that there may, in the past year or so, be 5-10 prisoners that would be eligible for this program. It could save the Department of Corrections and the State of Alaska a few million dollars in a very short time.

The Department of Corrections also needs the ability to bill any "other coverage" a prisoner has and to charge for medical care and drug testing. This is especially important when a prisoner is on work furlough, or in a half way house and working in the community. If they have insurance, it should be primary, not the Department of Corrections.

Today, prisoners in our institutions receive health care at no cost to themselves. I believe that a nominal fee associated with "sick call" will act as a deductible does in the insured population. It will encourage users to consider if there is a real health care need.

This bill allows the department to establish charges for the health care it provides. It also requires insurance or any other coverage available to the individual to be primary rather than the Department of Corrections. It is true that we may have a problem with some federal programs paying for prisoner's health care in institutions. However, those prisoners in community settings can go to their own providers and get the coverage they are entitled to.

The bill requires the department to charge prisoners, parolees and those on probation for the cost of drug testing. The Commissioner is directed to consider the person's financial situation when charging for the testing.

HB 219 will reduce some of the costs of inmate health care and allow the Department of Corrections to focus its limited budget on its true mission.

CS FOR HB 219 SECTIONAL ANALYSIS

Section 1. Amends AS 11.61.127(b) to accommodate number change in Section 12 of the bill. No substantive effect.

Section 2. Requires a prisoner to reimburse the Department of Corrections for drug testing during probation, to the extent the person can pay.

Section 3. Adds "special medical" to those subject to the conditions of parole imposed under AS 33.16.150.

Section 4. Adds prisoners eligible for special medical parole to those the Parole Board may release.

Section 5. Adds consideration of special medical parole to the duties of the Parole Board.

Section 6. Permits special medical parole and sets out limitations for those convicted of child sex offenses. A person convicted of a child sex offense would have to be a quadriplegic to qualify for special medical parole. Sets out the rights of the victims to be informed of the parole hearing, to be present and comment at the hearing, and to be informed of the decision to grant or deny parole.

Section 7. Requires conditions for parole to be provided to the prisoner.

Section 8. Includes prisoners on special medical parole in the required general conditions for parole. Requires that prisoner pay the cost of drug testing as a condition of parole, to the extent the prisoner has the ability to pay.

Section 9. Includes prisoners on special medical parole in those who may be required to abide by other conditions of parole imposed by the Parole Board.

Section 10. Includes special medical parolees in those under custody of the Parole Board.

Section 11. Defines severely medically disabled as a condition that requires a person likely to be confined to bed and to die from the condition, or seriously incapacitated and likely to remain so through the parole period.

Defines special medical parole as release on parole of a person who is medically disabled.

Section 12. Adds responsibility for the prisoner to pay for medical services and psychiatric services. Adds a provision for the Commissioner to develop a charge system for drug testing of prisoners.

Section 13 Makes any other coverage available to a prisoner primary to the Department of Corrections. For those prisoners without other coverage, the Commissioner shall develop a program for the prisoners to pay a nominal fee for medical and psychological services.

Section 14. Requires the Commissioner of Public Safety to implement a program requiring other coverage of the prisoner to pay for health care provided in community jails. This will change to the Commissioner of Corrections if HB 200 (moving Community Jails to Corrections) passes.

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FISCAL NOTE

STATE OF ALASKA
1995 LEGISLATIVE SESSION

BILL NO. HB 219

Revision Date: _____
 Title: "An Act authorizing special medical parole for terminally ill prisoners."
 Sponsor: Rep. Mulder
 Requestor: (H) JUD

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill will not have a fiscal impact on the Public Defender Agency.

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

Phone: 264-4400
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Date: 3/20/95

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HB

226

V

CS FOR HOUSE BILL NO. 26(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Rokeberg

A BILL

FOR AN ACT ENTITLED

1 "An Act permitting the provision of different retirement and health benefits to
2 employees based on marital status except to marital or domestic partners of
3 employees."

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

5 * Section 1. AS 18.80.220(a) is amended to read:

6 (a) Except as provided in (c) of this section, it [IT] is unlawful for

7 (1) an employer to refuse employment to a person, or to bar a person
8 from employment, or to discriminate against a person in compensation or in a term,
9 condition, or privilege of employment because of the person's race, religion, color, or
10 national origin, or because of the person's age, physical or mental disability, sex,
11 marital status, changes in marital status, pregnancy, or parenthood when the reasonable
12 demands of the position do not require distinction on the basis of age, physical or
13 mental disability, sex, marital status, changes in marital status, pregnancy, or
14 parenthood;

1 (2) a labor organization, because of a person's sex, marital status,
2 changes in marital status, pregnancy, parenthood, age, race, religion, physical or mental
3 disability, color, or national origin, to exclude or to expel a person from its
4 membership, or to discriminate in any way against one of its members or an employer
5 or an employee;

6 (3) an employer or employment agency to print or circulate or cause
7 to be printed or circulated a statement, advertisement, or publication, or to use a form
8 of application for employment or to make an inquiry in connection with prospective
9 employment, that expresses, directly or indirectly, a limitation, specification, or
10 discrimination as to sex, physical or mental disability, marital status, changes in marital
11 status, pregnancy, parenthood, age, race, creed, color, or national origin, or an intent
12 to make the limitation, unless based upon a bona fide occupational qualification;

13 (4) an employer, labor organization, or employment agency to
14 discharge, expel, or otherwise discriminate against a person because the person has
15 opposed any practices forbidden under AS 18.80.200 - 18.80.280 or because the person
16 has filed a complaint, testified, or assisted in a proceeding under this chapter;

17 (5) an employer to discriminate in the payment of wages as between
18 the sexes, or to employ a female in an occupation in this state at a salary or wage rate
19 less than that paid to a male employee for work of comparable character or work in
20 the same operation, business, or type of work in the same locality; or

21 (6) a person to print, publish, broadcast, or otherwise circulate a
22 statement, inquiry, or advertisement in connection with prospective employment that
23 expresses directly a limitation, specification, or discrimination as to sex, physical or
24 mental disability, marital status, changes in marital status, pregnancy, parenthood, age,
25 race, religion, color, or national origin, unless based upon a bona fide occupational
26 qualification.

27 * Sec. 2. AS 18.80.220 is amended by adding new subsections to read:

28 (c) Notwithstanding the prohibition against employment discrimination on the
29 basis of marital status under (a) of this section,

30 ~~(1) an employer~~ ^(a public employer) may, without violating this chapter, refuse to provide
31 benefits to a person based on marital status unless the person

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(A) is legally married to an employee; or

(B) is the domestic partner of an employee as established under

(d) of this section: and

with respect to employees of a

(2) a labor organization may, without violating this chapter, negotiate to preclude or may directly preclude the provision of benefit to a person based on marital status unless the person

Public Employer

(A) is legally married to an employee; or

(B) is the domestic partner of an employee as established under

(d) of this section.

(d) An employee may not establish a domestic partnership for purposes of this section unless both the employee and the individual with whom the domestic partnership is established are unmarried, at least 18 years of age, and mentally competent to consent to contract.

(e) In this section, "domestic partner" means an individual who

(1) is an employee's only domestic partner and who intends, and who is intended by the employee, to remain the employee's domestic partner indefinitely;

(2) is not related to the employee by blood to a degree that would prohibit legal marriage in the state;

(3) resides in the same residence as the employee and intends, and is intended by the employee, to do so indefinitely;

(4) is, as established by at least five of the ~~criteria~~ criteria set out in this paragraph, jointly responsible with the employee for the employee's common welfare and financial obligations and for whom the employee is jointly responsible in similar fashion: the criteria are

(A) having entered into a legally binding domestic partnership agreement with the employee;

(B) holding a joint deed, mortgage agreement, or lease of real property with the employee;

(C) holding joint ownership of a motor vehicle with the employee;

(D) having a joint bank account with the employee;

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(E) having a joint credit account or other joint liabilities with the employee:

(F) having a co-parenting agreement with the employee, having adopted a child of the employee, or being the natural parent of a child of the employee:

(G) being designated by the employee as primary beneficiary on the employee's life insurance:

(H) being designated by the employee as primary beneficiary of the employee's retirement benefits in case of the employee's death:

(I) being designated as the primary beneficiary under the employee's will; and

(J) being named by the employee under a durable health care or property power of attorney.

Amendment

Offered in the house

By: Representative Pete Kelly

To: CSHB 226 (HESS)
or: HB 226

AS 18/80.210 is amended by adding the following:

A loss of civil rights on the basis of marital status arises when an individual is denied employment, credit and financing, public accommodations, housing accommodations, and other property through discriminatory actions because that individual is married, divorced, separated, or widowed.

Amendment

AS 18.80.200 is amended to include the following:

(c) Discrimination on the basis of marital status arises when an individual is denied employment, credit and financing, public accommodations, housing accommodations, and other property through discriminatory actions because that individual is married, divorced, separated, or widowed.

Amendment

AS 18.80.300 is amended by adding a new section:

(17) Marital status discrimination is defined as the denial of employment, credit and financing, public accommodations, housing accommodations, and other property because that individual is married, divorced, separated, or widowed.

SCHENDEL & CALLAHAN

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Mailing Address
P.O. Box 72137
Fairbanks, Alaska 99707

William B. Schendel
Daniel L. Callahan

April 24, 1995

FAX: 465-2108

Rep. Robinson's Office
ATTN: Carla

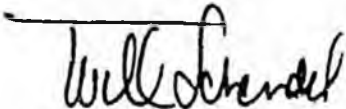
Re: HB 226

Dear Carla,

Mark Tumeo asked me to forward you this memo concerning ERISA pre-emption and HB 226. He advised you'd take care of distributing it appropriately.

Thank you very much for all the great work I've heard you've been doing. It's much appreciated.

Sincerely,



William B. Schendel
Attorney at Law

WBS:dde
Encl.

SCHENDEL & CALLAHAN

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(907) 458-1138

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Mailing Address
P.O. Box 72137
Fairbanks, Alaska 99707

William B Schendel
Daniel L Callahan

April 24, 1995

Mark Tumeo, Ph.D.
1324 Summit Drive
Fairbanks, AK 99712

Re: House Bill 226

Dear Mr. Tumeo,

I understand that a question has arisen concerning the applicability of House Bill 226 to benefit programs sponsored by non-governmental (private sector) employers. As your attorney in the Superior Court case which has triggered this discussion, allow me to offer the results of my research into this question.

The answer to the question was given a number of years ago by the United States Supreme Court in Shaw v. Delta Air Lines, Inc., 463 U.S. 85 (1983). In that case, the Supreme Court construed the pre-emption provision of the Employee Retirement Income Security Act ("ERISA") and held that a state's anti-discrimination law

is pre-empted with respect to ERISA benefit plans only insofar as it prohibits practices that are lawful under federal law.

Id. at 108. The issues, then, are 1) whether the program is governed by ERISA; and 2) if so, whether the state law prohibits practices that are lawful under federal law.

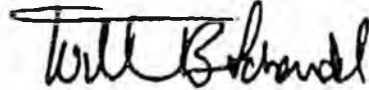
Concerning the first issue, all benefit programs sponsored by governmental entities (such as the State of Alaska, the University of Alaska, and the various municipalities) are outside the scope of ERISA. 29 USC § 1003(b)(1). Governmental benefit programs are, thus, not impacted by the Shaw decision, and state anti-discrimination laws are fully effective with regard to those governmental programs.

As to the second issue, the 1983 opinion in Shaw holds that private employers' plans are exempt from state anti-discrimination statutes to the extent that state laws are more restrictive (more pro-employee) than federal anti-discrimination laws (for instance, Title VII and the Age Discrimination Act). It has long been established that federal law does not bar employment discrimination based on marital status. See, Harper v. Trans World Airlines,

Inc., 525 F.2d 409 (8th Cir. 1975).¹ Thus, any state law (such as Alaska's Human Rights Act) which does bar employment discrimination on marital status is pre-empted by ERISA to that extent, under the Shaw decision.

In short, the domestic partnership amendments recently adopted by the House HESS committee would govern governmental benefit plans, but would not govern benefit plans sponsored by private employers.

Sincerely yours,



William B. Schendel
Attorney at Law

WBS:dde

¹The Harper court noted that if discrimination on the basis of marriage disproportionately affects women, it might violate Title VII's ban on sex discrimination.

A M E N D M E N T

#2 ✓

OFFERED IN THE HOUSE

BY REPRESENTATIVE KELLY

TO: CSHB 226(HES)

Amended

- 1 Page 1, line 2:
- 2 Delete "marital or domestic partners"
- 3 Insert "spouses"

- 4 Page 2, line 30, after "provide":
- 5 Insert "health or retirement"

- 6 Page 2, line 31, after "unless the person":
- 7 Insert "is legally married to an employee; and"

- 8 Page 3, lines 1 - 3:
- 9 Delete all material.

- 10 Page 3, line 5, after "provision of":
- 11 Insert "a health or retirement"

- 12 Page 3, line 7, through page 4, line 13:
- 13 Delete all material.
- 14 Insert "is legally married to an employee."

POSITION PAPER ~ Supporting CS-226 ~ April 20, 1995

For University health benefits for Married & Domestic Partner Couples

Organization: Committee for Equality -- Statewide organization.
PO Box 34202, Juneau, AK 99803

Board Contacts: Anchorage: Jackie Buckley, 279-5001 (w); 279-5437 (fax); 562-0046 (h).
Fairbanks: Louise Barnes, 479-0618 (w/h).
Juneau: Sara Boesser, 586-5230 (w); 789-7450 (home fax); 789-9604 (h).

Position: CFE Supports House CS-226 as written, with domestic partners language intact.
Either support this bill as presented, with equal protection of married and domestic partner couples, or let it die entirely.

As written, the bill will save the state money. If domestic partners were deleted, the bill would illegally discriminate on the basis of marital status, thus would cost the state money to defend court cases that would surely rise.

Committee for Equality is pleased to support CS-226 as written. By incorporating financially interdependent domestic partners into the University's health benefits plan, this bill no longer illegally discriminates on the basis of marital status. Including domestic partners is one of the recommendations made by Superior Court Judge Greene, and it is wise of this body to follow non-discrimination law in this case.

It is important for you to know that **this bill will not cost the state money. In fact, it may well save money**, because by allowing more employees to pay for the health care coverage of their financially interdependent partners, more Alaskans will be covered by private health care coverage, and **there will be fewer citizens left to seek Medicaid** at state expense.

This bill does not, as a very few opponents suggest, portend either large numbers of people joining the health care plan or significantly increased premium costs to the University. You have access to studies done by many businesses and universities. All find from 1-3% increase in enrollment -- with **no negligible premium increase**. AETNA serves over 25 universities and businesses, and their study finds only 2% enrollment increase the first year, and less than 1% each year following; **AETNA sees no increase in premiums as a result of domestic partners inclusion.**

So -- get more people off Medicaid and paying for their health care coverage -- at no premium increase.

And, as an aside, this will save the state even more money by not passing a bad bill, such as HB-226 originally was without the domestic partners language -- because, had HB-226 passed, the state would then have been subject to more marital discrimination lawsuits. CS-226 does not discriminate on the basis of marital status, so its passage won't cost the state more wasted time and money on discrimination cases.

Representative Kelly has in the past attempted to suggest that the domestic partners language discriminates on the basis of economic status. Sara Boesser's testimony to House HESS is attached, debunking that claim. In fact, since **CS-226 addresses employees** (not indigent people, not unemployed people), any *employee* regardless of income level could qualify for at least five of the criteria -- all that is needed for domestic partner status -- at no cost. **So for employees, there is no economic barrier** to receiving health benefits for a domestic partner.

At the end of the HESS meeting, Representative Kelly attempted to suggest further that the domestic partners language might somehow discriminate on the basis of race, or on the number of children a person might have. It is unfathomable what he had in mind with his comments. Because, once again, CS-226 deals with all employees. It doesn't say employees of only certain races receive health benefits for their domestic or married partners. It doesn't say that employees with or without certain numbers of children receive health benefits for their domestic or married partners. Quite the contrary: it clearly says the university must offer health benefits to *all* employees' married or domestic partners. All. Equally. That's what is good about this CS-226 law: it's about fairness, not about special benefits only for married people.

So, please either pass HB-226 as written, or if the domestic partners language is deleted, defeat the bill outright. Either way, you will be upholding state human rights law, and saving the state money.

[testimony attached]

Sara Boesser
Committee for Equality Board Member
9365 View Drive, Juneau, AK, 99801; 586-5230

**Testimony on HB-226 [University benefits]
given in House HE&SS, 4-18-95**

I totally support Amendment #1[for inclusion of domestic partners], plus clarification for health benefits as stipulated by the Human Rights Commission, and hope you will too. **If you don't, the bill should die here, today.**

In my few minutes, I want to correct a misconstruction of the amendment that Representative Kelly has made. He implied -- very wrongly let me assure you -- that this amendment would discriminate against possible domestic partners on the basis of their economic status. He could not be more wrong.

Since you've had time to read the amendment, by now you should know what the truth is too. Far from discriminating on a financial basis, **a domestic partnership can be formalized at no cost** (while a marriage license costs \$25).

You see, **Amendment #1 lists 10 potential criteria.** And to be a qualified domestic partner, a couple has to meet **"at least five"** of those criteria. Well, for employees -- and this amendment addresses employees -- **six of the criteria are absolutely free. They are:**

- 1) Having entered into a legally binding domestic partnership agreement;
- 2) Being designated by the employee as a primary beneficiary of life insurance;
- 3) Being designated by the employee as primary beneficiary of the retirement benefits in case of the employee's death;
- 4) Being designated as the primary beneficiary under the employee's will;
- 5) Being named under a durable health care or property power of attorney.
- 6) Having a co-parenting agreement with an employee.

There you have it -- six criteria -- all free. Therefore, protests that this amendment might economically discriminate against anyone must be firmly disregarded.

I'd like to add that the remaining four criteria are also potentially of little or no cost to an employed person. For example, everyone lives somewhere -- so adding a partner's name to a lease or deed is not a large expense. Joint bank accounts can be entered into for as little as \$5. Most employees have a car -- adding a partner's name to that deed is not a big expense. And for employees with credit, adding another person to an account or to a liability is not an expense.

That covers it -- **all ten criteria -- and any employee could meet at least five with little to no money.** Even so, despite the no cost feature, not "just anybody" will sign up -- the studies you've heard show just 1-3% sign up. Why? Because taking financial responsibility for someone is not something anyone takes lightly. It's a very serious venture, and "not just anyone" will do so.

In conclusion, this amendment should be welcomed by you all. It will guarantee more people paying for health care and fewer people on medicaid; it doesn't challenge the institution of marriage at all because *all* it grants is health benefits; extensive research shows it has had no economic impact in other states; and by passing this you won't gut State Human Rights law.

Please pass Amendment #1, for domestic partners. Without it, 226 must die. Thank you.

JUDICIARY COMMITTEE TESTIMONY ON CS 226
PFLAG JUNEAU
April 24, 1995

Mister Chair and Members of the House Judiciary Committee:

I am Marsha Buck, President of PFLAG Juneau. PFLAG stands for Parents, Families and Friends of Lesbians and Gays. I am active in PFLAG as a parent.

PFLAG Juneau supports the HESS CS for 226 as it is currently written.

PFLAG Juneau was opposed to the original HB 226 because we believed that it discriminated against our sons, daughters, and friends on the basis of their marital status. To have proceeded in this Legislature with a bill that was openly discriminatory and flew in the face of the Alaska Constitution, appeared to us to be unthinkable and reminiscent of governments in other countries, past and present, which acted with blatant discrimination against the human rights of the people they were intended to serve.

We are pleased, however, that the CS removes the discriminatory language and allows our daughters, sons, and family members who enter into committed, long term, domestic partnerships access to benefits equal to those available for persons in the partnerships that we call marriage. We would not come to you to seek special rights for our family members and friends, but we do insist upon equal rights for them.

The sponsors of this bill have stated publicly that the bill is financially motivated. If this is indeed true we believe that the bill now defines and places reasonable parameters on the couples for whom benefits would be available and does so in a manner that does not discriminate against people simply because they are homosexual or because they choose to live as committed domestic partners rather than marital partners. PFLAG supports the CS 226 that would indeed limit frivolous partnerships. My personal experience in this issue is with the State of Oregon where my daughter is covered by her partner's health insurance and found that coverage to be crucial when they first moved to Oregon and she had severe allergy problems and no job yet, therefore no health coverage of her own. The coverage at Oregon State entails less stringent criteria than that specified in CS 226 and yet Oregon, with its own financial difficulties, has not found their criteria to be burdensome.

In summary, PFLAG Juneau would like to go on record in support of the HESS CS 226 and also in opposition to HB 226 as it was originally written. Thank you for your time and attention.

Marsha Buck

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address

109 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161



White in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327

House District 31

House Of Representatives

Sponsor Statement

House Bill 226

A recent court decision ordered the University of Alaska to extend health insurance coverage and benefits to domestic partners. HB 226 addresses this decision by reasserting the rights of employers, including the state, to exclude domestic partners from health insurance benefits, unless they choose otherwise.

Various labor and union contracts negotiate pension funds and health benefits as a part of the compensation package for workers. Now we find the workers benefit package is targeted for distribution to an unknown panoply of partners not recognized by existing contractual relationships, such as marriage.

HB 226 also intends to reduce the uncertainty employers now face in planning their group insurance program. Without HB 226, the court suggests employers in Alaska "could simply refuse to provide health care coverage for spouses." Or, their "health care plan could be rewritten to indicate that health care coverage would be available for all employees domestic partners."

The court decision leaves unclear who is, and who is not, entitled to family benefits. Employers may find themselves in court determining how many "partners", roommates, cohabitants, associates, boy or girl friends, acquaintances, or relatives have the same status as married persons. HB 226 seeks to close the door on a possible onslaught of domestic partnerships created just to gain benefits.

I urge your support of House Bill 226.

**Position Paper
of
Equality Under Alaskan Law (EQUAL)
Regarding
Domestic Partnership**

Equality Under Alaskan Law (EQUAL) of Fairbanks would like you to consider a proposed amendment to House Bill 226 (attached). As it is currently written, House Bill 226 creates special rights for a closed group of people. By writing into law the right of the state and private businesses to discriminate against individuals based on their marital status, a dangerous precedent is being set- a precedent that may allow the majority to create special rights for one group at the expense of others.

It seems that the main goal of House Bill 226 is to promote committed, long-lasting relationships between two people. The proposed amendment not only helps to support those individuals who chose to enter into a committed relationship, it also shows that the Alaska State Legislature supports equality and civil rights for all of Alaska's citizens, regardless of marital status.

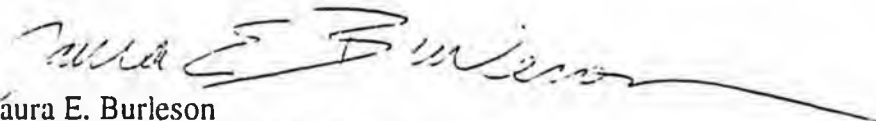
This amendment will help to eliminate possible abuses of domestic partnership benefits. By defining domestic partnership by a specific set of criteria, frivolous application of domestic partnership benefits programs will be eliminated.

Enclosed in this packet is draft language for the proposed amendment to House Bill 226. If this amendment is passed, not only will all parties involved be protected from abuse of domestic partnership programs, but non-discrimination based on marital status will be assured. This not only furthers the intent of the Human Rights laws of Alaska, it protects the State and its businesses from an explosion in frivolous benefits costs and it helps to support stable, long-term relationships.

Also enclosed in this packet is some general information on domestic partnership programs that have been implemented in other states and the costs involved.

We hope that you will support the proposed amendment to HB 226. If you have any questions please feel free to call me at (907) 474-6036 or fax (907) 474-5157.

Sincerely,


Laura E. Burleson
Vice-Chair of EQUAL (Fairbanks Chapter)

Proposed Amendments

1. Strike "based on marital status" from the title.
2. After the words "not legally married to" in Section 2(c)(1) [line 30, page 2] add the following:
"or a domestic partner of, as defined in section (c)(3) below)"
3. After the words "not legally married to" in Section 2(c)(2) [line 3, page 3] add the following:
"or a domestic partner of, as defined in section (c)(3) below)"
4. Add the following to the proposed bill as section (c)(3):

(c)(3) a domestic partner shall be defined as any two individuals who

- (i) are each other's sole domestic partner and intend to remain so indefinitely;
- (ii) are not married;
- (iii) are at least 18 years of age and are mentally competent to consent to contract;
- (iv) are not related by blood to a degree that would prohibit legal marriage in Alaska;
- (v) reside together in the same residence and intend to do so indefinitely;
- (vi) are jointly responsible for each other's common welfare and financial obligations, as proved by at least five of the following:
 - (a) A legally binding domestic partnership agreement ;
 - (b) Joint deed, mortgage agreement, or lease;
 - (c) Joint ownership of a motor vehicle;
 - (d) Joint bank account;
 - (e) Joint credit account or other liabilities;
 - (f) Co-parenting agreement or adoption decree;
 - (g) Designation of domestic partner as primary beneficiary on life insurance;
 - (h) Designation of domestic partner as primary beneficiary of retirement contract;
 - (i) Designation of domestic partner as primary beneficiary in will;
 - (j) Durable property or health care power of attorney.

Facts on Domestic Partnership Benefit Programs

Domestic partnership benefits are not only politically feasible, they are a reality in over 50 cities and municipalities around the country. Three states, Massachusetts, Vermont and New York, offer state workers domestic partnership benefits. Over 100 companies, from Levi Strauss employing over 30,000 to small businesses, offer benefits to domestic partners the same as to married couples. Over 60 Universities offer some sort of domestic partnership benefits, including Harvard, The University of Iowa, The University of South Dakota, the University of Colorado, The State Universities of New York, and Duke University.

Benefit packages are traditionally used to attract and retain good employees, and domestic partnership benefits are doing just that. In the cases where domestic partnership benefits have been approved for only same-sex partners, the average increase in enrollment is less than 0.3%. In those instances where domestic partner benefits were offered to same-sex and different sex couples, the average increase is approximately 2%. This indicates that predominantly different sex couples benefit from the institution of domestic partnership benefits. In 16 organizations surveyed (5 companies, 5 municipalities, 5 universities and 1 hospital), only 3 indicated there had been a premium increase associated with the establishment of a domestic partnership benefits program.

Municipalities, Companies and Universities with Domestic Partnership Plans

Last update: October 20, 1994

Note: Every institution listed below requires some form of registration for domestic partners before benefits are granted. The (R) in the public sector plans means that there is some form of registration granted to non-employees. (For example, Cambridge lets city residents who are not employees register in order to get access to school records of the partner's children.) Note that in many cases when the plan is identical to that provided to spouses, not all aspects may be listed.

PUBLIC SECTOR PLANS

Key:

- | | |
|--|---|
| (A) Access to school records | (R) Registration of partnership |
| (B) Bereavement and family leave policies | (r) use of recreational areas |
| (C) County plan | (S) Sick Leave |
| (c) City plan | (s) State Plan |
| (D) Dental Insurance Only | (T) Tax benefits for companies in the city
which recognize DPs |
| (f) Family leave policy for domestic partners is same as married partners under the Family Medical Leave Act | (U) Policy derived from collective bargaining |
| (f-) two different policies exist for family leave | (V) visitation in prisons, hospitals, etc. |
| (M) Medical Benefits | (=) no benefits available to spouses are excluded |
| (P) Parenting leave | (-) some benefits available to spouses are excluded |
| (p) Pension benefits | (?) specifics of plan unknown |

<u>Government</u>	<u>Benefits Key</u>	<u>Government</u>	<u>Benefits Key</u>
Alameda, CA	(c) (B) (S)	New Orleans, LA	(c) (M) (R)
Ann Arbor, MI	(c) (B) (S)	New York, NY [417,000]	(c) (B) (M) (P) (R)
Atlanta, GA	(c) (R)	New York	(s) (M) (O) (U)
Baltimore, MD	(M)	Oak Park, IL	(c) (?)
BART [2,600]	(B) (M)	Oakland, CA	(M)
Berkeley, CA [1,550]	(c) (R) (B) (P) (S) (M)	Ontario, Canada *	(M) (p)
Boston, MA	(B)	Ottawa, Canada	(?)
Brookline, MA	(R)	Portland, OR	(c) (M)
Burlington, VT	(c) (?)	Rochester, NY	(c) (O) (R) (?)

PUBLIC SECTOR PLANS (continued)

<u>Government</u>	<u>Benefits Key</u>	<u>Government</u>	<u>Benefits Key</u>
Cambridge, MA	(c) (A) (B) (M) (P) (=)	Sacramento, CA	(R) (M)
Carrboro, NC	(c) (B) (M) (R) (r) (S) (-)	San Diego, CA	(c)(M)
Chicago, IL	(c) (B)	San Francisco, CA [23,000]	(c) (R) (M)
Dane County, WI	(M)	San Mateo County, CA	(C) (S) (D)
Delaware, NJ	(M)	Santa Cruz, CA [650]	(c) (B) (S) (M)
East Lansing, MI	(c) (B) (S) (M)	Seattle Metro [4,000]	(C) (B) (S) (M) (=)
Hartford, CT	(R) (M)	Seattle, WA [11,000]	(c) (B) (S) (M)
Iowa City, IA	(M)	Shorewood Hills, WI	(c) (r)
Ithaca, NY	(c) (R)	Takoma Park, MD	(c) (B) (S)
King County, WA	(M)	Toronto, Ontario *	(?)
Laguna Beach, CA [560]	(c) (R)	Travis County, TX	(C) (B) (R) (S)
Los Angeles, CA [46,000]	(c) (B) (S)	Washington, DC [48,000]	(c) (M)
Madison, WI	(c) (R) (B) (S)	West Hollywood, CA [125]	(c) (R) (B) (S) (M)
Marin County, CA	(C) (?)	West Palm Beach, FL	(c) (B)
Massachusetts [23,800]	(s) (B) (V)	Vermont	(s) (M) (D)
Minneapolis, MN [6,000]	(c) (R) (B) (S) (M)	Yukon Territory †	(?)
Multnomah County, OR	(C) (M)		

† A 1991 ruling by a British Columbia court extended Canada's National Health Insurance to same-sex partners.

* A 1992 court order granted medical and pension benefits to employees of the Ontario government.

PRIVATE SECTOR PLANS

Key:

- | | |
|--|---|
| (A) Adoption benefits | (r) use of health and fitness programs |
| (B) Bereavement and family leave policies | (R) relocation policy |
| (b) Child care | (S) Sick Leave |
| (C) COBRA benefits | (U) Policy derived from collective bargaining |
| (D) Dental Insurance | (v) Vision medical insurance included |
| (f) Family leave policy for domestic partners is same as married partners under the Family Medical Leave Act | (O) benefits offered to same-sex and opposite-sex couples |
| (f-) two different policies exist for family leave | (=) no benefits available to spouses are excluded |
| (L) Dependent Life Insurance | (-) some benefits available to spouses are excluded |
| (M) Medical Benefits | (?) specifics of plan unknown |
| (P) Parenting leave | [n] number of employees shown in brackets |

<u>Company</u>	<u>Benefits</u>	<u>Company</u>	<u>Benefits</u>
AMTRAK	(?)	AMTRAK	(?)
Adamation Inc., Oakland CA [10]	(O)	Columbia University clerical workers, NYC	(B) (U)
Advanced Micro Devices	(M) (D)	Committee of Interns and Residents Staff Union, NYC	(U)
American Association of University Professors	(M - stipend) (O)	Consumers United Insurance Company [15]	(?)
American Automobile Association [3,200]	(?)	DEC-Belgium	(D) (M) (O) (-)
ACLU, SF Office	(?)	Episcopal Church of Newark	(M)
American Friends Service Committee [350]	(?)	Frame Technology [303]	(D) (M) (O)
American Psychological Association [1,500]	(?)	Fred Hutchinson Cancer Research Center (Seattle)	(M)
Apple Computer, Inc. [11,500]	(M) (A) (B) (b) (C) (D) (f) (O) (P) (R) (r) (S) (v)	Gardener's Supply Co.	(?)
Autodesk	(M) (B) (C) (D) (f) (R) (=)	Genetech	(M)
Banyan Systems	(M) (C) (D)	Greenpeace	(?)

PRIVATE SECTOR PLANS (continued)

<u>Company</u>	<u>Benefits</u>	<u>Company</u>	<u>Benefits</u>
Beacon Journal (Ohio)	(?)	Group Health Coop (Seattle) [9000]	(M)
Ben & Jerry's [300]	(?) (=)	HBO [1600]	(M) (?)
Beth Israel Medical Center, New York	(?)	Howard Rice Canady Nemerovski Robertson & Falk	(?)
Beth Israel Hospital, Boston	(M) (=)	Human Rights Campaign Fund	(?)
Blue Cross/Blue Shield of Mass	(M) (O)	IDG [530]	(M) (f)
Borland [986]	(D) (M)	Interleaf [800]	(D) (M) (=)
Boston's Children's Hospital	(D) (L) (M) (f) (=)	Intermedia Partners	(M) (?)
Boston Hotel Workers Union	(?)	Irell & Manella	(M) (?)
Boston Globe [3445]	(M) (B)	Jewish Board of Family & Children Services, NY	(M) (O) (?)
Bureau of National Affairs (BNA)	(?)	Kaiser Permanente	(M) (?) (U pending)
Cadance	(D) (M) (v) (O)	KQED, San Francisco	(M)
Canadian Press and Broadcast News [440]	(B) (D) (M) (U)	Lambda Legal Defense & Education Fund	(?)
Capital Cities / ABC [19,200]	(M)	Legal Aid Society of New York	(?)
Celestial Seasonings	(M) (=)	Levi Strauss [31,000]	(B) (U) (L) (M) (=)
Lilienthal & Fowler	(?)	St. Paul Companies	(D) (M) (O) [1/95]
LA Philharmonic	(M) (?)	Santa Cruz Operation [1,300]	(O)
Lotus Development Corporation [3,500]	(B) (b) (C) (D) (f) (M) (P) (r) (R) (S) (v) (=)	SAS, Inc.	(A) (B) (b) (P) (r) (R) (s) (O) (-)
MCA/Universal [18,000]	(M) (C)	Schiff Harden & Waite	(?)
Microsoft [12,000]	(M) (R) (S)	Sears (Canada)	(M) (=)
Milbank, Tweed, Hadley & McCloy	(M)	Seattle Mental Health Institute	(M)
MN Public Radio [218]	(?)	Seattle Public Library	(M)
Montefiore Medical Center, New York City	(?)	Seattle Times [2500]	(M) (D) (F)
Morrison & Foerster	(?)	Segal Company	(M)

PRIVATE SECTOR PLANS (continued)

<u>Company</u>	<u>Benefits</u>	<u>Company</u>	<u>Benefits</u>
Mt. Sinai Hospital Nurses, New York City	(B) (U)	San Francisco Giants	(M)
Museum of Modern Art, New York City	(B) (U)	Silicon Graphics Inc. [3100]	(A) (B) (D) (M) (R) (=)
NYNEX (NY - NJ telephone Co. [93,800]	(U)	Sony Corp	(M)(?)
National Gay/Lesbian Task Force Policy Institute	(?)	Sun Microsystems [11,000]	(7/93) (B) (D) (M) (O)
NOW	(?)	Sybase [2100]	(B) (D) (M) (O) (P) (R)
NeXT Computer Inc	(M)	Tattered Cover Bookstore	(M) (=)
New York Times Co.	(?)	Thinking Machines [500]	(M) (B) (D) (v) (R)
National Public Radio	(M) (=)	Time Inc	(M)
Northern States Power	(D) (M) (O) [1/95]	Unitarian Universalist Association	(?)
Northern Telecom/Bell - Northern Research	(M) (O) (=)	Unitarian Universalist Service Committee	(?)
Oil Chemical and Atomic Workers	(U)	Viacom [5,000]	(M) (C?)
Oracle	(C) (D) (M) (v)	Village Voice newspaper [226]	(M)
Orrick, Herrington & Sutcliffe (law firm) [761]	(M)	Warner Bros.	(M)
Pacific Gas & Electric	(?)	Wilder Foundation	(D) (M) (O) [1/95]
Park Nicollet Medical Center	(D) (M) (C) [pending]	WGBH [800]	(M)
Planned Parenthood	(D) (M) (?)	WQED, Pittsburgh Public Television	(M) (=)
Quark, Inc. [375]	(M)	Woodward and Lothrop Department Stores [16,000]	(?)

COLLEGES AND UNIVERSITIES

Key:

- | | |
|--|---|
| (B) Bereavement and Sick Leave | (P) pension plan |
| (c) child care | (M) offers medical benefits |
| (F) Faculty/staff only | (T) tuition waiver |
| (f) Family leave policy for domestic partners is same as married partners under the Family Medical Leave Act | (O) benefits offered to same-sex and opposite-sex couples |
| (f-) two different policies exist for family leave | (S) students only |
| (H) Student housing only | (=) no benefits available to spouses are excluded |
| (h) Home purchase loan | (-) some benefits available to spouses are excluded |
| (I) informal policy -- not in writing | (?) specifics of plan unknown |
| (ID) issues university identification | [m/n] number of faculty/students |

<u>Institution</u>	<u>Benefits</u>	<u>Institution</u>	<u>Benefits</u>
Albert Einstein College of Medicine	(?)	Grinnell College, IA [131/1291]	(H)
Bowdoin College	(H) (S) (P)	Harvard Law School	(H)
Bradford College	(?)	Harvard University	(M)
Brown University	(S) (P) (M) (D)	Ithaca College	(H)
Carnegie Mellon University [616/5000]	(ID) (B) (f-) (O) (-)	Middlebury College	(M) (O) (=)
Clark University	(B) (D) (M) (T)	MIT [1000/9564]	(F) (f) (M)
Colby College, ME [140/1880]	(ID) (T)	Moorehead State University	(P)
Columbia University	(H) (ID) (M) (P)	New York University	(M) (P)
City University of NY	(M) (B) (S) (f+)	North Dakota University [532/9711]	(H) (S)
Cornell University (7/1/94)	(M*)(T)(ID) [* employees of state schools not eligible for medical]	Northeastern	(M)
Dartmouth College [proposed only 8/10/93]	(M)	Oberlin College, OH [185/1783]	(ID) (T)
DeAnza Community College	(M)	Occidental College, CA [125/1680]	(ID) (T)
Duke University	(M)	Ohio State University [3097/51,000]	(B) (P)

COLLEGES AND UNIVERSITIES (CONTINUED)

<u>Institution</u>	<u>Benefits</u>	<u>Institution</u>	<u>Benefits</u>
Georgia State University [746/24247]	(S) (P)	Pitzer College [80/750]	(F) (M)
Ponoma College	(F) (ID) (h) (M) (T) (=)	Univ. of Minnesota †	(B) (c) (M*) (P)
Princeton University [671/6200]	(ID) (H) (M 7/94)	University of New Brunswick	(M)
Rutgers University [1964/48,000]	(ID) (?)	University of New Mexico	(B) (M) (T) (=)
Simmons College	(M) (?)	University of Pennsylvania	(M) (P) (T)
Smith College	(M) (?)	Univ. of Pittsburgh, PA [3447/34,336]	(ID) (B) (T) (-)
SUNY at Purchase, NY [129/2999]	(H)	University of Toronto	(ID) (M) (D) (T)
State Universities of New York	(M) (O)	University of Vermont	(M)
Stanford University [650/6500]	(S) (ID) (M) (D)	University of Waterloo	(M)
Swarthmore College [135/1320]	(ID) (T) (M) (?)	University of Windsor	(M) (T)
Union Theological Seminary	(H) (S) (P)	University of Wisconsin [7200/162,330]	(H)
University of British Columbia	(M)	Wellesley College	(?)
Univ. of CA at Irvine [957/15,776]	(ID)	Wesleyan University [284/1833]	(ID) (T) (H) (M) (D)
Univ. of CA at Santa Cruz [405/2036]	(ID)	Wilfred Laruer University	(M) (T)
Univ. of Chicago, IL [120/9000]	(ID) (F) (H) (M) (T)	Williams College	(?)
Univ. of Colorado [4500/41,689]	(ID) (H) (M) (S)	Wright State University	(B) (M,S)(ID)
Univ. of Iowa [1600/28,000]	(M)	Yale University [2239/9800]	(ID) (I)
Univ. of Michigan [3035/42,673]	(ID) (S) (P)	York University	(M)

(†) The University of Minnesota was unable to get an insurance carrier to write policies for domestic partners. The University has instead issued stipends of up to \$2500 to apply toward the purchase of individual health and dental insurance policies.

UTILIZATION OF BENEFITS

Company name	Total Employees	Total Registered couples	# same-sex registered
American Friends Service Committee	350		5
American Psychological Association	1500	10	5
Apple Computer	9000	45	45
Ben and Jerry's	300	15	1
Berkeley	1475	116	19
Levi Strauss ¹	23000	138	138
Lotus Development	3100	12	12
Montefiore Medical Center (New York)	4500		14
San Francisco	31000	594	594
Santa Cruz	700	20	3
Stanford University	11,000	29	29
Seattle ²	10,000	412	125
West Hollywood	175		5
University of Chicago	6400	25	25
University of Pittsburgh	7500	20	20
Village Voice	226	15	5

1 Approximate numbers. Enrollment is 0.6%.

2 Of the 412 enrollees, 230 have applied for medical benefits

EXPERIENCE OF OTHER EMPLOYERS (All data provided by Harvard University)

	Year Implemented	Same-Sex Only	Total Employees	Enrollment Increase	Premium Increase
UNIVERSITIES & HOSPITALS					
Chicago	1993	yes	6,060	0.1%	no ^a
Children's Hosp. (Boston)	1992	yes	4,300	0.4%	mixed ^b
Harvard	1993	yes	10,400	note c	no
Iowa	1993	yes	8,000	0.2%	no ^a
Montefiore (New York)	1991	yes	8,500	0.3%	no
Stanford	1993	yes	9,760	0.2%	yes
MUNICIPALITIES					
Berkeley, CA	1985	no	1,475	7.9%	no
Cambridge, MA	1993	no	900	1.9%	no
San Francisco, CA	1991	no	32,500	0.5%	no
Santa Cruz, CA	1986	no	700	2.8%	no ^a
Seattle, WA	1990	no	10,000	2.8%	no
COMPANIES					
Ben & Jerry's	1989	no	350	4.0%	no
International Data Group	1993	no	1,500	2.3%	no ^a
Levi Strauss	1992	no	23,000	0.6%	yes
Lotus	1991	yes	3,100	0.4%	yes
The Village Voice	1982	no	230	7.8%	no

a Self-insured, not offered under HMO plans.

b Offers four plans, only one increased premiums.

c Harvard shift data not yet available.

DIVISION OF LEGAL SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 5101


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

MEMORANDUM

April 20, 1995

SUBJECT: Sectional Summary of CSHB 226(HES). (Marital status and employment benefits)

TO: Representative Pete Kelly
Attn: Bruce Campbell

FROM: Teresa B. Cramer 
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Sections 1 and 2 establish an exemption from the prohibition against discrimination in compensation based on marital status. Under proposed sec. 18.80.220(c), an employer would be permitted to decline to provide benefits because of a person's marital status. However, the employer could not decline to provide benefits because a person was legally married to an employee or was the domestic partner of the employee. Proposed subsection (d) prohibits persons under 18 years of age from establishing a domestic partnership. Proposed subsection (e) defines "domestic partner."

TC:klb
95-281.klb

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

Mailing Address
119 N. Cushman, Suite 203
Fairbanks, Alaska 99701
(907) 456-8161



White at Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-2327
House District 31

House Of Representatives

Hearing Request

To: The Honorable
Representative Brian Porter
Chairman, House Judiciary

From: Representative Pete Kelly *PK*

Date: April 20, 1995

Regarding: House Bill 226

Please schedule a hearing for HB 226 at your earliest convenience.

Frank statement of support and opposition to HB 226:

HB 226 was heard and passed through House State Affairs Committee. The version passing through State Affairs was supported by businesses, the University of Alaska, the State of Alaska, and many individuals. This version was opposed by the gay rights community/

It was substantially amended in House Health, Education and Social Services. This version was requested by the gay rights community. I believe this version will not receive active support by business, the University, or many individuals.

HB

227

April 5, 1995

Rep. Cynthia Toohey
State Capitol Building
Juneau, Ak. 99801

Dear Representative Toohey:

I want you to know that I appreciate the way in which you handle meetings. You are a good listener and a good moderator and as a woman I am proud you are in that slot. I'm here today because I'm concerned about HB226. I hope it can either be dropped completely or passed with Robinson's amendment.

I agree with you about the bottom line these days being how much something will cost. It is my understanding that ~~this bill~~ will not cost the state anything, as people receiving benefits actually pay into the system themselves. In fact, the cost may be less, as domestic partners with no health insurance when they get sick may not have the means of paying for their care and so would fall back on public assistance.

→ letting the U. of A. ruling stand

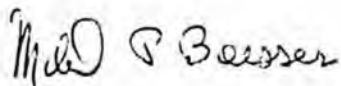
I have lived in Alaska for 36 years, am 70 years old, the mother of 4 children and grandmother of 4. I am a Christian and have been married for 47 years to a Christian pastor.

All the rhetoric around HB226 and HB227 is a smokescreen which unsuccessfully hides the fact that they are both aimed directly at homosexuals. My husband and I are parents of 3 heterosexual daughters and 1 lesbian daughter and we are equally proud of each of them. We have come to firmly believe that each was born the way she is. They are all honest, faith-full, caring contributing adults in this state and it is unthinkable to me that anyone would want to penalize and ostracize and legally discriminate against any one of them. Having lived through the days of Hitler, I am keenly watchful over any attempt to treat one group of people as outside the protection of the state.

As a Christian, I believe that the Church's stand against homosexuality is based on a false interpretation of those few Biblical passages which mention it and that, legislation notwithstanding, eventually the Church will admit we've been working against God's will on this subject, just as we did on the subject of slavery (long endorsed by the Church as "the will of God").

I beg you to concentrate on the things you are rightly trying to address: welfare reform, budget reduction, strengthening families in every way possible. On the latter, remember that families come in many different forms, all of which need strengthening if this nation is to survive. Our lesbian daughter has lived faithfully with her partner for 13 years. They own property together and are mutually responsible for each other. This is a "family" and it in no way undermines the traditional family, in spite of the stereotype which gives rise to needless and harmful prejudice, kept alive by inflammatory rhetoric which is leading to an increased level of violence. That such a family can be denied the benefits of traditional families (and in the UAF case, even if they pay for those benefits) amounts to giving special rights to one group of people: married people! I do not think the majority of Alaskans feel that the great state of Alaska needs to get into this arena, and I'm surprised that Republicans are presenting such a bill, when one of the campaign promises was to keep government out of our private lives. Please let HB 227 die completely, and only pass HB226 if Robinson's amendment is accepted.

Sincerely,



Mrs. Mark A. Boesser
17585 Lena Loop
Juneau, Alaska 99801

(907)789-1445

Testimony urging a NO vote on House Bills Number 226 & 227

from the Rev. Mark A. Boesser
Priest of the Episcopal Church
Archdeacon of Southeast Alaska
17585 Lena Loop Road.
Juneau, Alaska, 99801
Phone # (907) 789-1445

What these appear to be is a thinly disguised attack against gay and lesbian citizens of Alaska on the part of those who possibly think

- that homosexuality is sick or wrong,
- that homosexual activity is evil,
- that same sex unions should not be legally permitted,
- that gay and lesbian persons are undeserving of respect and protection from discrimination under the law,

For, disguised though they be, these bills would plainly be discriminatory against gay and lesbian persons and, in my opinion, would be illegal for that very reason.

The fact is that there is a growing consensus among medical personnel, serious Bible scholars and Christian theologians that true homosexuality is neither a sickness needing to be healed, nor sin needing to be forgiven, nor is it some kind of evil bondage from which one needs to be delivered. Rather it is increasingly coming to be appreciated as an orientation, a given, a bestowed identity, not a self-chosen behavior pattern. A growing body of scientific research supports the claim that from time immemorial 10 to 15 percent of the human species come into life with a homosexual stamp of identity. Insofar as this represents historic human reality, then even compassion is not adequate as a societal stance toward the gay community. We must move to include justice as we have done in the case of women and blacks and all other human beings whose identity we honor.

Homosexual persons, therefore, have a full and equal claim with all other persons upon acceptance and protection from discrimination of both church and society. If laws are to be passed, they should be to the effect that such protection be provided in actuality and not further compound the already harmful and prejudicial views that cause this segment of our community such undeserved pain..

I urge you to vote NO on House Bills #226 & #227.



Mark A. Boesser

MENDEL & HUNTINGTON
ATTORNEYS AT LAW

845 "K" STREET
ANCHORAGE, ALASKA 99501

TELEPHONE (907) 279-5001
FAX (907) 279-5437

ALLISON E. MENDEL, PARTNER
LAWRENCE E. MENDEL, PARTNER
KARLA F. HUNTINGTON, PARTNER
LYNDA A. LIMÓN, ASSOCIATE

April 4, 1995

Honorable Rep. Robinson
House of Representatives
Juneau, AK 99801

RE: HB-226 & HB-227

Dear Representative Robinson:

I am writing to you to urge you NOT to support House Bills 226 and 227.

I am opposed to HB-227 because it is unnecessary and a waste of the legislature's time. The State has a clear policy of not issuing marriage licenses to same-sex couples, and that seems unlikely to change in the near future. There are plenty of real issues for you to deal with, without creating nonissues.

The only purpose I can see in this bill is, unfortunately, the usual purpose in gay-bashing. It has proved to be a reliable means of garnering conservative support, and of splintering the community in new ways. I am very disappointed at this cynical use of some people's emotional reactions to the subject of homosexuality for the purpose of political gain. I hope you will not be a party to it.

I am opposed to HB-226 for the same reasons, and because the bill is generally ill-conceived. I oppose chipping away at the Human Rights Act to deny protection to certain disfavored groups in certain situations. This is completely contrary to the purpose of giving equal rights to everyone. It is a very dangerous precedent. Further, there is no evidence that permitting health or other benefits to be extended to the families of all employees is detrimental to the public good. There is no evidence of a negative financial impact on the state. Further, treating employees equally and fairly tends to increase productivity and employee loyalty.

I urge you not to underestimate the number or interest of gay and gay-friendly voters. I am gay, I vote in every election, I donate to candidates and causes, and I am active politically. Because of the hostility which bills like these express, gay voters are likely to be low-profile. That does not mean we are not out here in numbers you may not expect, and in places you might not expect. Some of your best friends might be gay, and you may not know it.

Letter to Honorable Rep. Robinson
April 4, 1995
Page 2

We are not monsters who can be identified at a glance. We are voters and citizens just like you.

Sincerely,

MENDEL & HUNTINGTON

A handwritten signature in cursive script that reads "Allison Mendel". The signature is written in dark ink and is positioned above the printed name.

Allison Mendel

HUMAN RIGHTS COMMISSION

300 A STREET, SUITE 204
ANCHORAGE, ALASKA 99501-3669
PHONE: (907) 274-4692 / 276-7474
TTY/TDD: (907) 276-3177
FAX: (907) 278-8588

March 14, 1995

The Honorable Pete Kelly
The Honorable Norman Rokeberg
House of Representatives
State Capitol
Mail Stop 3101
Juneau, Ak. 99801-1182

RE: House Bill 226 and House Bill 227

Dear Representatives Kelly and Rokeberg:

Last week's Representative Kelly's aide, Bruce Campbell, contacted the Commission's executive director and indicated that you would appreciate knowing the agency's position on House Bills 226 and 227, and any suggestions that the Commission might have. At its meeting on March 9 and 10, 1995, in Anchorage the Commission considered the legislation.

The Commissioners reviewed the bills and passed the following motion with regard to House Bill 226:

Motion: The Commission supports House Bill 226 with the following change: the term 'benefits' be clearly defined as health insurance benefits.

Motion By: Commissioner Hamilton; Second by Commissioner Dyson.
Motion passed unanimously.

The Commission takes no position on House Bill 227 because it doesn't directly effect A.S. 18.80 et seq. the Commission's enforcement statute. The current commission has taken this practice when considering legislation.

If you have questions, please contact either me at 745-3362 or Executive Director Paula M. Haley at 1-907-276-7474, extension 241.

Sincerely,



Edna DeVries, Chairman

3181 Anella AV.
Fairbanks, AK 99709
14 January 1995

Representative Pete Kelly
State Capitol
Juneau, AK 99801-1182

Dear Mr. Kelly:

The recent decision by Judge Greene in Fairbanks saying that unmarried couples are entitled to the same benefits as accorded to married couples opens Pandora's box to litigation and regulation writing about who is and who is not entitled to family benefits. More important, I view the decision as another step in the dissolution of the fabric that holds our society together.

The next generation of responsible citizens should be recruited from the stable families formed by committed heterosexual couples. The continuation of our society is dependent on the formation of families.

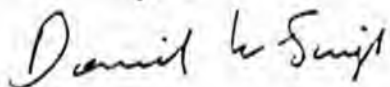
We have all lamented the social ills that have accompanied the breakdown of family life. The State therefore has a compelling interest in formation of families, and is thereby justified in adopting policies that provide special benefits to traditional families. I would therefore urge the adoption of legislation that clearly states that spousal benefits for any state employee shall apply to only those who are legally married. I would further urge that no unmarried person may use the state courts to sue for family benefits.

According to the January 13 *News Miner* article Judge Greene referred to the precedent set by an Equal rights Commission ruling that landlords cannot refuse to rent to unmarried cohabiting heterosexual couples. I would further urge that adoption of legislation asserting the unconditional rights of landlords to evict or refuse to rent to unmarried heterosexual partners.

Please do not construe this letter as being anti-homosexual. I have backed homosexual rights. My interest in writing this letter is that I think it is time for us to send a message to the coming generation that the formation of families is good, and promiscuity and having children out of wedlock is bad.

I thank you for your consideration.

Sincerely yours,



Daniel W. Swift

ALASKA CIVIL LIBERTIES UNION

An Affiliate of the American Civil Liberties Union
P. O. Box 201844 Anchorage, AK 99520-1844
Phone: 1-907-258-0044 Fax: 1-907-258-0288

March 20, 1995

The Honorable Brian Porter
Chair, House Judiciary Committee
Alaska House of Representatives
State Capitol - Room 118
Juneau, AK 99801-1182

Dear Representative Porter:

I am writing on behalf of the Alaska Civil Liberties Union (AkCLU) to express our opposition to House Bill 227.

First and foremost, we see no stated reason or rationale for this legislation. There are not, nor have there ever been, legal marriages conducted in this state between other than women and men. We ask: why is the Legislature, at a time when we thought "less government" was preferable, expending state funds on a bill that attempts to repair a problem that does not exist?

Secondly, the suggestion -- by the bill's sponsor before the House Health, Education and Social Services Committee -- that the Reviser of Statutes erred in 1974 when he made the marriage statute gender-neutral, *like all other state statutes*, is without merit. The only possible reason *not* to leave the provisions of AS 25.05.011(a) gender-neutral is to allow for discrimination on the basis of sex, something the people of the State of Alaska specifically voted not to allow in 1972, when they amended our constitution to prohibit discrimination on the basis of sex.

We further believe that enacting legislation such as this essentially begs for litigation. Again we ask: why is the Legislature willing to risk exposing the state to costly lawsuits?

The AkCLU certainly supports legal representation of lesbian and gay relationships, including the right to marry. In our opinion, such recognition is imperative for the complete equality of lesbian and gay individuals.

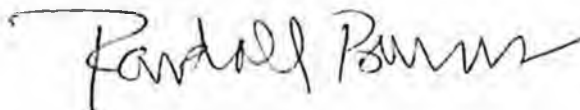
However, as this committee is no doubt aware, no state recognizes a marriage between people of the same sex. While we believe a variety of constitutional arguments can be made to allow same-sex marriages, including the First Amendment right of freedom of association, the right to privacy, and the right to equal protection of the laws, no state supreme court has upheld a final challenge by a same-sex couple to a marriage license.

To date, the state courts have held that the couples did not have a right to obtain a license because the drafters of the applicable legislation contemplated heterosexual marriages only. In Hawaii, this issue is presently back before a lower court, on remand from the state's supreme court. The U. S. Supreme Court has never explicitly ruled on this question.

Because Alaska's present law has presented no risk of allowing same-sex marriages (an event of apparent concern to the bill's sponsor), because removing the statute's gender-neutral language can only be done so in the name of discrimination (something the state must be opposed to), and because amending the marriage provisions will only invite lawsuits (not discourage them), we urge the Legislature to defeat passage of this bill.

We ask again: in this age of dwindling funds, why are state resources being spent to fix what ain't broke?

Respectfully yours,



Randall P. Burns
Executive Director

cc: AkCLU Board of Directors
Margaret W. Berck
All members, AkCLUF Litigation Committee

Dear Representative

Hello my name is Patricia
H. Douglas of Chugiak.

I am writing this letter in reference
to House bills 226/227. Bill 226 states
that employers have the right to choose
who will receive their health benefits
on the basis of marriage. So 227 goes
along with this to define what a
marriage is 1 man, 1 woman.

These two bills working together
will allow no misunderstanding of what
is allowed, as in reference to health care
for spouses only. Also this will give all
Alaskans a clear definition of what
marriage is.

I urge you to support these bills!
If we allow these to be forgotten
simply because it's an uncomfortable
issue, Alaska's voters will see this
as you "drawing a line of political
safety". We need to address all
issues that affect the traditional
family. We need people in Juneau
that are not afraid to stand up
for what is right, not what is "politically
correct".

Sincerely
Patricia H. Douglas

Fax #2040

- Please include in
Bill packets for comm.
- Make sure each
committee member
gets one.
- 227 - an act for provision of employ.
benefits lasts on marr. states
227 marriage bill (see context)

FAX MESSAGE
465-3834

PAGE 1 OF 1

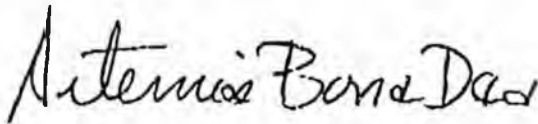
March 15, 1995

Representative Brian Porter:

I would like to share my thoughts on HB-226 and HB-227, currently before you for consideration. I am quite saddened, though not surprised to see these bills introduced and discussed; it seems there will always be those who seek to consolidate their own positions of power by denying equal benefits to others. In the past it has been women and people of color, now it is heterosexual people who choose to remain outside the legal structure and lesbian women and gay men who do not even have the option of becoming part of the legal structure. Regardless who is affected, it is wrong to deny the full benefits of a society to its fully participating members.

It is clear that recent the decision against the University of Alaska for withholding health benefits and the State of Hawaii allowing same sex marriages are the basis for these two bills even though proponents of these bills say their position is not aimed at any particular group. Their actions are clearly focused on non-married heterosexual people and lesbian women and gay men, all groups that remain outside the prevalent power structure. Regardless of these groups choices or orientations, it is wrong to restrict their choices to have the full lives we all deserve.

Thank you for your time.



Artemis BonaDea
Box 22582
Juneau, AK 99802

586-8056



Committee for Equality
PO Box 34202
Juneau, AK 99803

CFE is a statewide organization.
Call Sara Boesser in Juneau at
586-5230 (w); 789-9604 (h);
789-7450 (home fax).

Representative Brian Porter
Member, House State Affairs
Alaska Legislature

March 9, 1995

Re: HB-227 Discriminates on the basis of gender.
Please stop it in House Affairs.

Dear Representative Porter:

I am writing against HB-227, to urge you to stop it in your committee, because **I believe it illegally discriminates on the basis of gender.**

Why does HB 227 discriminate illegally on the basis of gender? It's true that both men and women are allowed to marry, so it obviously doesn't discriminate in that aspect. However, if a person does choose to seek a legal marriage license from the state, under HB-227 that person would be forced to choose only a person of the opposite gender for that contract, or be denied the state's license. **Limiting the marriage license applicant's choice to only one gender is obvious gender discrimination.**

To force a person to discriminate on the basis of gender in order to receive a state service or benefit violates state law.

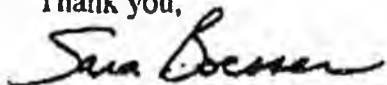
Therefore, I believe you, the legislature and the public would be best served by stopping this bill before it goes any further. It would certainly be a hotly debated bill if it did enter the public process, and I urge you to avoid that since in the end I believe it would only go to the courts for resolution. Furthermore, I believe legislative passage would be overturned by the courts for the reasons discussed above. Alaska has had too many bills pass that turned out to fall short of meeting state law. Such an emotionally charged issue as this should not have to face such a dead-end path.

Certainly it is true that same-gender legal marriage is not the norm in Alaska (nor anywhere else to date), and it is true that people have many and mixed opinions about such a possibility. But this bill won't resolve that scenario. Because whether or not HB-227 passes, it is only a matter of time until some citizens in Alaska do challenge the current state practice of denying marriage licenses on the basis of gender. Passage of HB-227 won't stop those legal pursuits. And only the courts will determine the final outcome, as the courts would have to determine whether or not this bill is lawful in the face of its discriminatory stance.

So, the question of same-gender marriage will certainly some day rise -- the question is do you want the legislature to lead the charge with a bill that I believe will be over-ruled by the courts, or would you rather let the action go directly from public individuals to the courts?

I believe the legislature should leave AS 25.05.011 alone, and quickly abandon HB-227. The public discussion of who can enjoy legal marriage, with all the benefits it provides, should be left to the courts. The legislature should spend its short 120 days solving genuine priority issues like the budget, health care, economic stability, welfare concerns, etc -- and not consume its and the public's time with this discriminatory legislation.

Thank you,


Sara Boesser, Board Member

cc: Bruce Botelho, Attorney General
House State Affairs members
Bill Sponsors

HB

229

CS FOR HOUSE BILL NO. 229(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES ROKEBERG, Toohey, Bunde

A BILL

FOR AN ACT ENTITLED

**1 "An Act prohibiting certain amplified sounds from automobiles; and providing for
2 an effective date."**

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

4 * Section 1. AS 28.35 is amended by adding a new section to read:

**5 Sec. 28.35.185. PROHIBITED SOUND SYSTEMS. (a) A person may not
6 operate or permit operation of a sound amplification system in a motor vehicle when
7 the motor vehicle is operated on or is parked next to a highway, vehicular way, or
8 other public area if the sound amplification system is audible from a distance of 50 or
9 more feet. This subsection does not apply to**

**10 (1) a person operating a sound amplification system to request
11 emergency assistance or to warn of a hazardous condition;**

12 (2) an emergency or police motor vehicle; or

13 (3) a motor vehicle engaged in advertising otherwise permitted by law.

14 (b) A person who violates this section is guilty of an infraction and may be

1 punished as provided under AS 28.40.050(c) and (d).

2 * Sec. 2. This Act takes effect July 1, 1996.

1996 LEGISLATIVE SESSION

Revision Date: 1/18/96 Dept. Affected: Public Safety
 Title: Prohibit loud vehicle sound systems DPS Statewide Support
 Component: Commissioner's Office
 Sponsor: Representative Toohy
 Requestor: (H) State Affairs COMPONENT SERIAL NO. 0523

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Sandy Perry-Provost, Special Assistant to the Commissioner Phone: 465-4322
 Division: Commissioner's Office Date: 1/18/96
 Approved by Commissioner: *Ronald L. Ote* Date: 1/18/96
 Agency: Ronald L. Ote, Dept. of Public Safety

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CSHB 229 (ver. C)
Amendment proposed by Rep. Bettye Davis
House Judiciary Committee
January 31, 1996

AMENDMENT 1

Page 1, Lines 9-14 are amended as follows:

more feet [or the system disturbs the peace and tranquillity of another person]. This subsection does not apply to

(1) a person operating a sound amplification system to request emergency assistance or to warn of a hazardous condition; or

(2) an emergency or police motor vehicle.]; or

(3) a motor vehicle engaged in advertising otherwise permitted by law.]

CSHB 229 (ver. C)
Amendment proposed by Rep. Bettye Davis
House Judiciary Committee
January 31, 1996

AMENDMENT 2

Page 2, Line 3 is amended as follows:

* Sec. 2. This Act takes effect July 1, 1996[5].

CS FOR HOUSE BILL NO. 229()
IN THE LEGISLATURE OF THE STATE OF ALASKA
NINETEENTH LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES ROKEBERG, Toohy, Bunde

A BILL

FOR AN ACT ENTITLED

1 "An Act prohibiting certain amplified sounds from automobiles; and providing for
2 an effective date."

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

4 * Section 1. AS 28.35 is amended by adding a new section to read:

5 Sec. 28.35.185. PROHIBITED SOUND SYSTEMS. (a) A person may not
6 operate or permit operation of a sound amplification system in a motor vehicle when
7 the motor vehicle is operated on or is parked next to a highway, vehicular way, or
8 other public area if the sound amplification system is audible from a distance of 50 or
9 more feet or the system disturbs the peace and tranquillity of another person. This
10 subsection does not apply to

- 11 (1) a person operating a sound amplification system to request
- 12 emergency assistance or to warn of a hazardous condition;
- 13 (2) an emergency or police motor vehicle; or
- 14 (3) a motor vehicle engaged in advertising otherwise permitted by law.

2

punished as provided under AS 28.40.050(c) and (d).

3

• Sec. 2. This Act takes effect July 1, 1995.

ALASKA STATE LEGISLATURE
House of Representatives

COMMITTEE ASSIGNMENTS

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LABOR & COMMERCE VICE CHAIR
ADMINISTRATIVE REGULATION REVIEW VICE CHAIR
HEALTH EDUCATION & SOCIAL SERVICES MEMBER
ECONOMIC DEVELOPMENT MEMBER



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Representative Norman Rokeberg

MEMORANDUM

TO: Representative Brian Porter, Chair
House Judiciary Committee

FROM: Representative Norman Rokeberg *NJR*

DATE: April 26, 1995

SUBJECT: Committee Hearing Request for HB 229 - "An Act prohibiting certain amplified sounds from automobiles; and providing for an effective date."

I respectfully request that a committee hearing be scheduled for HB 229. HB 229 is patterned after the original California vehicle noise statute. In addition Georgia has had an amplified, vehicle, noise statute on the books since 1981. Other states have variations of vehicle noise statutes and several are included in the bill packet.

Attached is a CS for HB 229 and a committee packet. The Department of Public Safety has agreed to be available for questions. Thank you for your consideration in this matter. If you have any questions please contact myself or my staff person, Shirley Armstrong at 465-4968.

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

DR. S. JACOBSON
JASON K. SUMMERS, VICE CHAIR
ADAPTIVE REGULATORY REVIEW COMMITTEE
HEALTH CARE ADMINISTRATION & SOCIAL SERVICES COMMITTEE
ECONOMIC DEVELOPMENT MEMBER



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Representative Norman Rokeberg

SPONSOR STATEMENT

HB 229 - "An Act prohibiting certain amplified sounds from automobiles; and providing for an effective date."

HB 229 is a bill that gives law enforcement a number of tools to enforce the peace and tranquillity of our neighborhoods. The primary purpose is to limit amount of amplified noise that can be transmitted outside of a vehicle.

Secondly, it reduces the driving hazards of emergency vehicles traversing through traffic by drivers who are unable to hear emergency vehicle warning signals.

Thirdly, residents will not be subjected to loud amplified sounds by vehicles cruising the streets in their neighborhoods.

Fourthly, it allows law enforcement the opportunity to caution and interview violators to make sure no additional laws are being broken.

Lastly, elderly individuals and others will no longer be frightened by groups of people who use loud music to intimate.

There is no question HB 229 is a neighborhood friendly bill that will alleviate unwanted noise and provides individuals with a means of recourse. Violation of this provision is an infraction, up to a \$300.00 fine, but is not considered a criminal offense and does not add points against a person's driving record.

STATE OF ALASKA
1995 LEGISLATIVE SESSION

AL NOTE

BILL NO: HB 229

Revision Date: _____ Dept. Affected: Public Safety
 Title: Prohibit loud vehicle sound systems DPS Statewide Support
 Component: Commissioner's Office
 Sponsor: Representative Toobey
 Requestor: (H) State Affairs COMPONENT SERIAL NO. 0523

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

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

FUNDING: (Thousands of Dollars)

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

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

No fiscal impact is anticipated to the Department of Public Safety

Prepared By: Lee Ann Lucas, Special Assistant to the Commissioner Phone: 465-4322
 Division: Commissioner's Office Date: 3/30/95
 Approved by Commissioner: *Ronald L. Ore* Date: 3/30/95
 Agency: Ronald L. Ore, Dept. of Public Safety

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