

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8622 HOUSE JUDICIARY

1 court is coextensive with the boundaries of the municipality in which the youth court
2 is located. Only one youth court may be established within the boundaries of a
3 municipality. Nothing in this subsection prohibits two or more municipalities from
4 operating a single youth court for the municipalities by agreement between them.

5 (c) A nonprofit corporation may obtain recognition from the commissioner to
6 serve as a youth court. The corporation may exercise only the powers that are
7 delegated to a youth court by the commissioner, and shall exercise those powers as
8 authorized by the corporation's articles of incorporation and bylaws. The bylaws of
9 the corporation must set out standards and procedures by which the corporation, in its
10 capacity as a youth court,

11 (1) establishes a system by which the minor may be held accountable
12 for the conduct that brings the minor within the jurisdiction of the youth court by
13 being tried, represented, and adjudicated by the minor's peers;

14 (2) guarantees the constitutional rights of the minor that are guaranteed
15 by the state and federal constitutions;

16 (3) may secure jurisdiction over a minor; the youth court may secure
17 jurisdiction over the minor only with the consent of the minor and the agreement of
18 the minor's legal custodian;

19 (4) sets out the process for disposing of matters referred to it for
20 resolution;

21 (5) provides a process for appeal of a verdict or sentence, and defines
22 the basis for appeals;

23 (6) reserves the right to refer to the department, under AS 47.12.060(a),
24 a matter transmitted to the youth court for disposition in which the minor fails, without
25 good cause, to comply with all requirements ordered by the youth court as a part of
26 sentence imposed on the minor; and

27 (7) prepares and delivers a report of the disposition of the matter
28 referred to it for resolution to the commissioner.

29 (d) Subject to the privileges that witnesses have in the courts of this state, the
30 commissioner may compel by subpoena, at a specified time and place, the

31 (1) appearance and sworn testimony of a person who the commissioner

1 reasonably believes may be able to give information relating to a matter before a youth
2 court; and

3 (2) production by a person of a record or object that the commissioner
4 reasonably believes may relate to a matter before a youth court.

5 (e) If a person refuses to comply with a subpoena issued under (d) of this
6 section, the superior court may, upon application of the commissioner, compel
7 obedience by proceedings for contempt in the same manner as in the case of
8 disobedience to the requirements of a subpoena issued by the court or refusal to testify
9 in the court.

10 (f) The commissioner shall make and keep records of all cases referred to a
11 youth court. The records of a youth court proceeding

12 (1) relating to a minor who complies with all requirements ordered by
13 the youth court as a part of sentence imposed on the minor shall be sealed by the
14 commissioner and may not be used for any purpose; and

15 (2) except as to a record described in (1) of this subsection, shall be
16 afforded at least the same protection and are subject to at least the same procedural
17 safeguards in matters relating to access, use, and security as they would be under
18 AS 47.12.310.

19 ARTICLE 4. GENERAL PROVISIONS.

20 Sec. 47.12.980. GRANTS-IN-AID. The department may accept grants-in-aid
21 from the federal government or private foundations and may accept other gifts
22 consistent with the purposes of this chapter.

23 Sec. 47.12.990. DEFINITIONS. In this chapter, unless the context otherwise
24 requires,

25 (1) "commissioner" means the commissioner of health and social
26 services;

27 (2) "court" means the superior court of the state;

28 (3) "crime against a person" means an offense set out in AS 11.41;

29 (4) "delinquent minor" means a minor found to be within the
30 jurisdiction of the court under AS 47.12.020;

31 (5) "department" means the Department of Health and Social Services;

1 (6) "juvenile detention facility" means separate quarters within a city
2 jail used for the detention of delinquent minors;

3 (7) "juvenile detention home" or "detention home" is a separate
4 establishment, exclusively devoted to the detention of minors on a short-term basis and
5 not a part of an adult jail;

6 (8) "juvenile work camp" means a separate residential establishment,
7 exclusively devoted to the detention of minors, in which the minors who are 16 years
8 of age or older and committed to the custody of the department and placed in the
9 facility may be required to labor on the buildings and grounds or perform any other
10 work or engage in any activities that do not conflict with regulations adopted by the
11 Department of Health and Social Services under this chapter for the care,
12 rehabilitation, education, and discipline of minors in detention;

13 (9) "minor" means a person under 18 years of age;

14 (10) "peace officer" has the meaning given in AS 11.81.900;

15 (11) "treatment facility" means a hospital, clinic, institution, center, or
16 other health care facility that has been designated by the department for the treatment
17 of juveniles;

18 (12) "victim" has the meaning given in AS 12.55.185.

19 * Sec. 51. AS 47 is amended by adding a new chapter to read:

20 CHAPTER 14. JUVENILE PROGRAMS AND INSTITUTIONS.

21 ARTICLE 1. JUVENILE INSTITUTIONS.

22 Sec. 47.14.010. GENERAL POWERS OF DEPARTMENT OVER JUVENILE
23 INSTITUTIONS. The department may

24 (1) purchase, lease, or construct buildings or other facilities for the
25 care, detention, rehabilitation, and education of children in need of aid or delinquent
26 minors;

27 (2) adopt plans for construction of juvenile homes, juvenile work
28 camps, juvenile detention facilities, and other juvenile institutions;

29 (3) adopt standards and regulations for the design, construction, repair,
30 maintenance, and operation of all juvenile detention homes, work camps, facilities, and
31 institutions;

1 (4) inspect periodically each juvenile detention home, work camp,
2 facility, or other institution to ensure that the standards and regulations adopted are
3 being maintained;

4 (5) reimburse cities maintaining and operating juvenile detention
5 homes, work camps, and facilities;

6 (6) enter into contracts and arrangements with cities and state and
7 federal agencies to carry out the purposes of AS 47.10, AS 47.12, and this chapter;

8 (7) do all acts necessary to carry out the purposes of AS 47.10,
9 AS 47.12, and this chapter;

10 (8) adopt the regulations necessary to carry out AS 47.10, AS 47.12,
11 and this chapter;

12 (9) accept donations, gifts, or bequests of money or other property for
13 use in construction of juvenile homes, work camps, institutions, or detention facilities;

14 (10) operate juvenile homes when municipalities are unable to do so;

15 (11) receive, care for, and place in a juvenile detention home, the
16 minor's own home, a foster home, or a correctional school, work camp, or treatment
17 institution all minors committed to its custody under AS 47.10, AS 47.12, and this
18 chapter.

19 Sec. 47.14.020. DUTIES OF DEPARTMENT. The department shall

20 (1) accept all minors committed to the custody of the department and
21 all minors who are involved in a written agreement under AS 47.14.100(c), and
22 provide for the welfare, control, care, custody, and placement of these minors in
23 accordance with this chapter;

24 (2) require and collect statistics on juvenile offenses and offenders in
25 the state;

26 (3) conduct studies and prepare findings and recommendations on the
27 need, number, type, construction, maintenance, and operating costs of juvenile homes,
28 work camps, facilities, and the other institutions, and adopt and submit a plan for
29 construction of the homes, work camps, facilities, and institutions when needed,
30 together with a plan for financing the construction programs;

31 (4) examine, where possible, all facilities, institutions, work camps, and

1 places of juvenile detention in the state and inquire into their methods and the
2 management of juveniles in them.

3 Sec. 47.14.030. USE OF STANDARDIZED FORM BY FACILITIES. For the
4 purpose of collecting statistics, the department shall establish and require state and
5 local agencies that operate a jail or other detention facility to use a standardized form
6 to keep a record and report the admission of a minor. The record shall be limited to
7 the name of the minor admitted, the minor's date of birth, the specific offense for
8 which the minor was admitted, the date and time admitted, the date and time released,
9 the sex of the minor, the ethnic origin of the minor, and other information required by
10 federal law. Except for the notation of the date and time of the minor's release, the
11 record shall be prepared at the time of the minor's admission. Unless otherwise
12 provided by law, information and records obtained under this subsection are
13 confidential and are not public records. They may be disclosed only for the purpose
14 of compiling statistics and in a manner that does not reveal the identity of the minor.

15 Sec. 47.14.040. AUTHORITY TO MAINTAIN AND OPERATE HOME,
16 WORK CAMP, OR FACILITY. (a) A city may maintain and operate a juvenile
17 detention facility, and a city or a nonprofit corporation may maintain and operate a
18 juvenile detention home or a juvenile work camp.

19 (b) The city or nonprofit corporation may receive grants-in-aid from the state
20 for costs of operation of the homes, work camps, or facilities maintained and operated
21 under (a) of this section.

22 Sec. 47.14.050. OPERATION OF HOMES AND FACILITIES. (a) The
23 department shall adopt standards and regulations for the operation of

24 (1) juvenile detention homes and juvenile detention facilities in the
25 state; and

26 (2) juvenile work camps in the state; the regulations adopted under this
27 paragraph must provide a means by which to ensure that a minor who is placed in a
28 work camp

29 (A) is in good physical and mental condition and able to
30 perform the work and engage in the activities that may be required of the
31 minor;

1 (B) Does not present a danger to the physical safety of other
2 minors who are placed in the work camp.

3 (b) The department may enter into contracts with cities and other governmental
4 agencies for the detention of juveniles before and after commitment by juvenile
5 authorities. A contract may not be made for longer than one year.

6 ARTICLE 2. CARE OF CHILDREN.

7 Sec. 47.14.100. POWERS AND DUTIES OF DEPARTMENT OVER CARE
8 OF CHILD. (a) Subject to (e) and (f) of this section, the department shall arrange for
9 the care of every child committed to its custody by placing the child in a foster home
10 or in the care of an agency or institution providing care for children inside or outside
11 the state. The department may place a child in a suitable family home, with or without
12 compensation, and may place a child released to it, in writing verified by the parent,
13 or guardian or other person having legal custody, for adoptive purposes, in a home for
14 adoption in accordance with existing law.

15 (b) The department may pay the costs of maintenance that are necessary to
16 assure adequate care of the child, and may accept funds from the federal government
17 that are granted to assist in carrying out the purposes of this chapter, or that are paid
18 under contract entered into with a federal department or agency. A child under the
19 care of the department may not be placed in a family home or institution that does not
20 maintain adequate standards of care.

21 (c) The department may receive, care for, and make appropriate placement of
22 minors accepted for care for a period of up to six months on the basis of an individual
23 voluntary written agreement between the minor's parent, legal guardian, or other
24 person having legal custody and the department. The agreement must include
25 provisions for payment of fees under AS 44.29.022 to the department for the minor's
26 care and treatment. The agreement entered into may not prohibit a minor's parent,
27 legal guardian, or other person who had legal custody from regaining care of the minor
28 at any time.

29 (d) In addition to money paid for the maintenance of foster children under (b)
30 of this section, the department

31 (1) shall pay the costs of caring for physically or mentally handicapped

1 foster children, including the additional costs of medical care, habilitative and
2 rehabilitative treatment, services and equipment, special clothing, and the indirect costs
3 of medical care, including child care and transportation expenses;

4 (2) may pay for respite care; in this paragraph, "respite care" means
5 child care for the purpose of providing

6 (A) temporary relief from the stresses of caring for a foster
7 child who has a physical or mental disability or a physical or mental
8 impairment; in this subparagraph,

9 (i) "physical or mental disability" has the meaning given
10 in AS 18.80.300(12)(A), (B), and (D); and

11 (ii) "physical or mental impairment" has the meaning
12 given in AS 18.80.300; and

13 (B) protection for the child when the foster parent is

14 (i) away from the home because of an emergency and
15 other care is not available for the child; or

16 (ii) on vacation and the child, because of age or
17 infirmity, cannot be placed in any other type of temporary care facility;
18 and

19 (3) may pay a subsidized guardianship payment under AS 25.23.210
20 when a foster child's foster parents or other persons approved by the department
21 become court-appointed legal guardians of the child.

22 (e) A child may not be placed in a foster home or in the care of an agency or
23 institution providing care for children if a blood relative exists who requests custody
24 of the child. However, the department may retain custody of the child and provide for
25 its placement in the same manner as for other children if it makes a determination,
26 supported by clear and convincing evidence, that the custody of the child by the blood
27 relative will result in physical or emotional damage. In making that determination,
28 poverty, including inadequate or crowded housing, on the part of the blood relative,
29 is not considered prima facie evidence that physical or emotional damage to the child
30 will occur. This determination may be appealed to the superior court to hear the
31 matter de novo.

1 (f) If a blood relative of the child specified under (e) of this section exists and
2 agrees that the child should be placed elsewhere, before placement elsewhere, the
3 department shall fully communicate the nature of the placement proceedings to the
4 relative. Communication under this subsection shall be made in the relative's native
5 language, if necessary. Nothing in this subsection or in (e) of this section applies to
6 child placement for adoptive purposes.

7 (g) The department may enter into agreements with Alaska Native villages or
8 Native organizations under 25 U.S.C. 1919 (Indian Child Welfare Act of 1978)
9 respecting the care and custody of Native children and jurisdiction of Native child
10 custody proceedings.

11 (h) The department may not pay for respite care, as defined in (d) of this
12 section, unless the department or the entity that has contracted with the department to
13 provide the respite care requests records under AS 12.62.035(a) for the individual who
14 provides the respite care within 10 business days after the individual is hired to
15 provide respite care and reviews the records within five business days after receiving
16 them.

17 Sec. 47.14.110. DEPARTMENT INSPECTIONS; REPORTS BY FOSTER
18 HOMES AND INSTITUTIONS. (a) A representative of the department shall visit,
19 as often as is considered necessary, every foster home or institution in which a child
20 is placed, and, if not satisfied as to the care given, may remove the child from the
21 foster home or institution and place the child elsewhere.

22 (b) The person or institution receiving a child shall submit the reports the
23 department requires as to the education, health, and welfare of the child and the
24 conditions under which the child is living.

25 Sec. 47.14.120. STANDARDS OF CARE. The department shall establish
26 standards of care and adopt regulations desirable for the welfare of every child under
27 its care.

28 Sec. 47.14.130. PAYMENT OF COSTS. The department shall pay the proper
29 and necessary costs of the court and witnesses and other expenses necessarily incurred
30 in the enforcement of AS 47.14.100 - 47.14.130.

31 ARTICLE 3. CITIZENS' REVIEW PANEL FOR

PERMANENCY PLANNING.

1
2 Sec. 47.14.200. CITIZENS' REVIEW PANEL FOR PERMANENCY
3 PLANNING. (a) There is created in the Department of Administration the Citizens'
4 Review Panel for Permanency Planning. The state panel consists of five voting
5 members appointed by the governor from among present members of local citizen
6 review panels established under AS 47.14.220. The governor shall appoint at least one
7 voting state panel member from each judicial district. The governor may not appoint
8 a person who has committed a felony or violated AS 11.51.130 or a law with
9 substantially similar elements. The panel also includes the following five nonvoting
10 members who serve ex officio or their designees: the commissioner of health and
11 social services, the director of the office of public advocacy, the attorney general, the
12 public defender appointed under AS 18.85.030, and the chief justice of the Alaska
13 Supreme Court.

14 (b) Appointed members of the state panel serve at the pleasure of the governor
15 for staggered terms of three years or until their successors are appointed.

16 (c) The voting members of the state panel shall elect from among the voting
17 members a chair who shall serve for one year. Three voting members of the state
18 panel constitute a quorum for the transaction of business. The panel may not take
19 official action without the affirmative vote of at least three of its members.

20 (d) Members of the state panel are entitled to reimbursement for actual
21 expenses necessary to perform their duties as state panel members. The reimbursement
22 may not exceed the amount of per diem and expenses authorized for boards and
23 commissions under AS 39.20.180.

24 (e) The state panel shall meet twice annually. Meetings may take place
25 telephonically.

26 (f) The state panel may employ a program coordinator who shall serve at the
27 pleasure of the state panel. The program coordinator shall employ staff as necessary
28 to carry out the program coordinator's duties under state panel directives and to
29 provide clerical assistance to local panels.

30 Sec. 47.14.210. DUTIES OF THE STATE PANEL. The state panel shall

31 (1) by regulation adopt policies and procedures to carry out its duties

1 and to govern the performance of the duties of the local panels established under
2 AS 47.14.220;

3 (2) ensure that local panel members receive the minimum level of
4 training necessary to effectively carry out their duties;

5 (3) coordinate and review the activities of the local panels and make
6 recommendations to the governor on appointments to the local panels;

7 (4) prepare a report annually, by the 10th day of each regular session
8 of the legislature, concerning the activities of the state and local panels during the
9 previous fiscal year; the report must include the number of cases reviewed by each
10 local panel, a description of the characteristics of the children whose cases were
11 reviewed by the panels, the number of children reunited with their families, the number
12 of children placed in other permanent homes, and recommendations and justifications
13 for program improvement, including recommendations relating to state agencies and
14 to the panel review system; the report may contain other information on the experience
15 of the local panels; the state panel shall notify the legislature that the report is
16 available.

17 Sec. 47.14.220. APPOINTMENT OF LOCAL PANELS. (a) The governor
18 shall appoint for each judicial district a local citizen out-of-home care review panel
19 composed of five members and two alternates who are residents of the judicial district.
20 Members shall serve three-year terms except that, when a local panel is initially
21 appointed, two members shall be appointed for three-year terms, two members for two-
22 year terms, and one member for a one-year term. Alternates shall be appointed to
23 three-year terms.

24 (b) The governor shall appoint to a local panel persons who have training,
25 experience, special knowledge, or a demonstrated interest in the welfare of children.
26 An out-of-home care provider or a person employed by the court system, the
27 department, the office of public advocacy, the Public Defender Agency, or the
28 Department of Law may not serve as a member or alternate member of a local panel.
29 The governor may not appoint a person who has committed a felony or violated
30 AS 11.51.130 or a law with substantially similar elements.

31 (c) The composition of a local panel must be reasonably representative of the

1 various social, economic, racial, ethnic, and cultural groups of the district from which
2 the members are appointed.

3 (d) If the state panel determines that additional local panels are necessary in
4 a judicial district because of excessively large or complex caseloads for review or
5 because of the demographics of cases, or determines that a local panel is not necessary
6 because of a reduced caseload, the governor may create or dissolve a local panel. The
7 governor may not reduce the number of panels in a judicial district to fewer than one.
8 Appointments to a panel established under this subsection are governed by (a) - (c) of
9 this section.

10 (e) When a person is appointed to serve on a local panel, the person shall
11 swear or affirm to keep confidential all information that comes before the local panel
12 except for nonidentifying case information included in a report to the state panel,
13 information for reports required under AS 47.17, or as required by court order for good
14 cause shown. A local panel member may also share confidential information with
15 other members of the local panel and staff who serve the local panel.

16 Sec. 47.14.230. MEETINGS; EXPENSES. (a) A local panel shall conduct
17 its meetings in the judicial district in which its members reside.

18 (b) The local panel shall elect one of its members to serve as chair for a term
19 of one year.

20 (c) A majority of the members of a local panel constitutes a quorum. A panel
21 may not take official action without the affirmative vote of at least three of its
22 members.

23 (d) A local panel member is not eligible for travel expenses, per diem, or other
24 expenses for service on the local panel unless the state panel requires a local panel
25 member to travel to attend a meeting. If the state panel requires a local panel member
26 to travel to attend a meeting, the local panel member is entitled to reimbursement for
27 actual expenses incurred by the member in attending the meeting, except that the
28 reimbursement may not exceed the amount of per diem and expenses authorized for
29 boards and commissions under AS 39.20.180.

30 Sec. 47.14.240. DUTIES OF LOCAL PANEL. (a) A local panel shall review
31 the case plan of each child in the custody of the department who is in a placement

1 other than the child's own home under AS 47.10.080(c)(1) or (3), 47.10.142,
2 AS 47.12.120(b)(3), or AS 47.14.100(c) if the case is under the jurisdiction of a court
3 in the judicial district served by the panel. A local panel may request a local panel in
4 another judicial district to conduct a review and make a report if that local panel is
5 more convenient for the child and other persons involved.

6 (b) The local panel shall review a case as required under 42 U.S.C. 671 - 675
7 (P.L. 96-272) within 180 days after the day the child is initially removed from the
8 child's home and every six months thereafter. A court review may be substituted for
9 a review required under this subsection if the court review meets the requirements of
10 this subsection.

11 (c) At least 30 days before it begins a review, the local panel shall provide
12 written notice to the following persons that a review will be conducted and that each
13 person notified may participate in the review:

- 14 (1) the department;
- 15 (2) the child or the child's legal representative;
- 16 (3) the child's parents;
- 17 (4) the child's guardian;
- 18 (5) the child's guardian ad litem;
- 19 (6) the child's out-of-home care provider; and
- 20 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child

21 Welfare Act),

22 (A) the child's Indian custodian; and

23 (B) the designated representative of the child's Indian tribe if
24 the tribe has intervened in the case.

25 (d) In reviewing a case, the local panel shall consider the case plan and any
26 progress report of the department or the child's guardian ad litem, court records, and
27 other relevant information about the child and the child's family. The local panel shall
28 also provide to the following persons an opportunity to be interviewed by the panel in
29 person or by telephone or to provide written material to the panel:

30 (1) the child whose case is being reviewed if the child is 10 years of
31 age or older;

- 1 (2) the parents, custodians, or other relatives of the child;
2 (3) the child's out-of-home care provider;
3 (4) the child's guardian;
4 (5) the child's guardian ad litem;
5 (6) the case worker or social worker assigned to the case;
6 (7) if the case is governed by 25 U.S.C. 1901 - 1963 (Indian Child
7 Welfare Act),

- 8 (A) the child's Indian custodian; and
9 (B) the designated representative of the child's Indian tribe if
10 the tribe has intervened in the case; and

- 11 (8) other persons with a close personal knowledge of the case.

12 (e) At the discretion of the child's guardian ad litem, if the child whose case
13 is being reviewed is under 10 years of age, the child may be present at interviews
14 conducted under (d) of this section and during review by the panel, or may be
15 interviewed. At the child's request, a child who is 10 years of age or older shall be
16 allowed to be present at interviews or a review of the local panel that concerns the
17 child's case unless the panel determines that for good cause the child's presence would
18 be contrary to the best interests of the child or there is other good cause for denying
19 the child's request.

20 (f) During a review under (a) of this section, a local panel shall

21 (1) determine whether the child has a case plan designed to achieve
22 placement in the least restrictive, most family-like setting available in close proximity
23 to the home of the child's parents that is consistent with the best interests of and
24 special needs and circumstances of the child;

25 (2) evaluate the continuing necessity and appropriateness of the child's
26 placement, the extent of the compliance with the child's case plan, and the extent of
27 progress that has been made toward mitigating the causes that necessitated placement
28 away from the child's parents;

29 (3) ascertain the date by which it is likely the child may be returned
30 to the home or placed for adoption or legal guardianship;

31 (4) determine whether there has been compliance with applicable

1 provisions of 25 U.S.C. 1901 - 1963 (Indian Child Welfare Act) and other applicable
2 state and federal laws; and

3 (5) determine whether there has been compliance with court review
4 requirements of AS 47.10.080(f) and (l), 47.10.142(h), and AS 47.12.120(d) and (g).

5 (g) The local panel shall within 30 days after reviewing the case submit a
6 written report to the persons listed in (c) of this section.

7 (h) The report required under (g) of this section must make advisory
8 recommendations based on the best interests of the child in accordance with
9 AS 47.10.082 and must include notification of the right to request court review under
10 AS 47.10.080(f) or AS 47.12.120(d), as appropriate. If the court has scheduled the
11 case for review, the local panel shall submit its report at least 20 days before the
12 hearing.

13 (i) The local panel shall report to the state panel information needed by the
14 state panel to prepare the report required under AS 47.14.210.

15 Sec. 47.14.250. COOPERATION WITH STATE AND LOCAL PANELS. The
16 department, Department of Law, public defender, office of public advocacy, and court
17 system shall cooperate with the state panel and the local panels to facilitate timely
18 review of plans for children whose cases are under the jurisdiction of the panels.

19 Sec. 47.14.260. RECORDS: COMMUNICATIONS. (a) Notwithstanding
20 AS 47.10.090, 47.10.093, AS 47.12.300, and 47.12.310, at the request of a local panel,
21 the department, the child's guardian ad litem, and the court shall furnish to the local
22 panel relevant records concerning a child and the child's family who are the subjects
23 of a local panel review. At the conclusion of a review, all copies of records provided
24 to a local panel under this section shall be returned to the staff that serves the local
25 panel or to the agency from which the original copy was obtained unless the panel
26 members need the copies to prepare the reports required under AS 47.14.240(g) - (i).
27 Copies retained for preparation of the reports shall be returned to the staff that serves
28 the local panel or to the originating agency upon completion of the reports.
29 Notwithstanding AS 44.62.310, records and reports of the local panel, testimony before
30 the local panel, and deliberations of the local panel are confidential under
31 AS 47.10.090 and AS 47.12.310.

1 (b) A local panel member may not reveal to another person, other than another
2 member of the local panel or the staff serving the local panel, a communication made
3 to the member while performing the member's duties under AS 47.14.200 - 47.14.299
4 except as required under AS 47.17 or as required by court order for good cause shown.
5 A local panel member may share with the state panel communications made during the
6 local panel member's performance of official duties if the local panel member omits
7 identifying information.

8 (c) A local panel proceeding is not governed by AS 44.62.310.

9 Sec. 47.14.270. COURT REVIEW OF REPORT. (a) When a report is
10 admissible under court rules, the court may consider the report of the local panel in
11 its review under AS 47.10.080(f) or AS 47.12.120(d), as appropriate, and at other
12 disposition hearings other than hearings related to delinquency proceedings.

13 (b) The court may refer to the local panel a case called for a special
14 review under AS 47.10.080(f) or AS 47.12.120(d), as appropriate.

15 Sec. 47.14.280. INDEMNIFICATION OF PANEL MEMBERS. A state panel
16 member and a local panel member shall be indemnified by the state for civil liability
17 for a negligent act or omission of the panel member that occurs in the performance of
18 the member's duties under AS 47.14.200 - 47.14.299 unless the civil liability results
19 from the panel member's violation of

20 (1) AS 47.14.260(b); or

21 (2) the oath or affirmation required under AS 47.14.220(e).

22 Sec. 47.14.299. DEFINITIONS. In AS 47.14.200 - 47.14.299,

23 (1) "local panel" means a local citizen out-of-home care review panel
24 appointed under AS 47.14.220;

25 (2) "out-of-home care provider" means an agency or person, other than
26 the child's legal parents, with whom a child who is in the custody of the state under
27 AS 47.10.080(c)(1) or (3), 47.10.142, AS 47.12.120(b)(3), or AS 47.14.100(c) is
28 currently placed; in this paragraph, "agency or person" includes a foster parent, a
29 relative other than a parent, a person who has petitioned for adoption of the child, and
30 a residential child care facility;

31 (3) "state panel" means the Citizens' Review Panel for Permanency

1 Planning established under AS 47.14.200.

2 ARTICLE 4. GENERAL PROVISIONS.

3 Sec. 47.14.980. GRANTS-IN-AID. The department may accept grants-in-aid
4 from the federal government or private foundations and may accept other gifts
5 consistent with the purposes of this chapter.

6 Sec. 47.14.990. DEFINITIONS. In this chapter, unless the context otherwise
7 requires,

8 (1) "care" or "caring" under AS 47.14.100(c) means to provide for the
9 physical, emotional, mental, and social needs of the child;

10 (2) "child in need of aid" means a minor found to be within the
11 jurisdiction of the court under AS 47.10.010(a);

12 (3) "court" means the superior court of the state;

13 (4) "delinquent minor" means a minor found to be within the
14 jurisdiction of the court under AS 47.12.020;

15 (5) "department" means the Department of Health and Social Services;

16 (6) "juvenile detention facility" means separate quarters within a city
17 jail used for the detention of delinquent minors;

18 (7) "juvenile detention home" or "detention home" is a separate
19 establishment, exclusively devoted to the detention of minors on a short-term basis and
20 not a part of an adult jail;

21 (8) "juvenile work camp" means a separate residential establishment,
22 exclusively devoted to the detention of minors, in which the minors who are 16 years
23 of age or older and committed to the custody of the department and placed in the
24 facility may be required to labor on the buildings and grounds or perform any other
25 work or engage in any activities that do not conflict with regulations adopted by the
26 department under this chapter for the care, rehabilitation, education, and discipline of
27 minors in detention;

28 (9) "minor" means a person under 18 years of age;

29 (10) "treatment facility" or "treatment institution" means a hospital,
30 clinic, institution, center, or other health care facility that has been designated by the
31 department for the treatment of juveniles.

1 * Sec. 52. AS 47.17.290(8) is amended to read:

2 (8) "maltreatment" means an act or omission that results in
3 circumstances in which there is reasonable cause to suspect that a child may be a child
4 in need of aid, as described in AS 47.10.010(a) [AS 47.10.010(a)(2)], except that, for
5 purposes of this chapter, the act or omission need not have been committed by the
6 child's parent, custodian, or guardian;

7 * Sec. 53. AS 47.33.010(b) is amended to read:

8 (b) Notwithstanding (a) of this section, this chapter does not apply to

9 (1) a correctional facility;

10 (2) a facility for treatment of alcoholism that is regulated under
11 AS 47.37;

12 (3) an emergency shelter;

13 (4) a medical facility, including a nursing home, licensed under
14 AS 18.20;

15 (5) a program for runaway minors licensed under AS 47.10.310
16 [AS 47.10]; or

17 (6) a maternity home licensed under AS 47.35.

18 * Sec. 54. AS 47.33.990(3) is amended to read:

19 (3) "adult" means a person 18 years of age or older who is not a ward
20 of the state under AS 47.10.080(f) or AS 47.12.120(d) [AS 47.10.080];

21 * Sec. 55. AS 47.35.015(c) is amended to read:

22 (c) A person may not operate a residential child care facility without a license
23 issued under this chapter unless that facility is

24 (1) a juvenile facility operated by the state under AS 47.14.010
25 [AS 47.10.150];

26 (2) a medical facility licensed by the department under AS 18.20;

27 (3) a recreational camp providing recreational experiences of no more
28 than one month's duration for a child; or

29 (4) exempt from licensure for a reason set out in (b)(6) or (7) of this
30 section.

31 * Sec. 56. AS 47.40.011(a) is amended to read:

1 (a) When the department purchases residential services for minors for whom
2 the state has assumed responsibility under AS 47.10 or AS 47.12, the department shall

3 (1) purchase the services only under grants to local governmental units
4 or nonprofit corporations;

5 (2) award grants for a specified number of beds as provided in
6 AS 47.40.041.

7 * Sec. 57. AS 47.70.020 is amended to read:

8 Sec. 47.70.020. FINANCIAL RESPONSIBILITY. Financial responsibility for
9 a child placed in accordance with the Interstate Compact on the Placement of Children
10 shall be determined in accordance with art. V of the compact. However, in the event
11 of partial or complete default of performance under the compact, the provisions of
12 AS 47.14.100(b) [AS 47.10.230(b)] apply.

13 * Sec. 58. AS 47.70.050 is amended to read:

14 Sec. 47.70.050. DELEGATION BY AGREEMENT. Requirements for
15 visitation, inspection, or supervision of children, homes, institutions, or other agencies
16 in another party state which may apply under AS 47.14.110 [AS 47.10.240] shall be
17 considered to be met if performed under an agreement entered into by appropriate
18 officers or agencies of this state or a subdivision of this state as contemplated by art.
19 V(b) of the Interstate Compact on the Placement of Children.

20 * Sec. 59. AS 47.10.010(b), 47.10.010(d), 47.10.010(e), 47.10.020(d), 47.10.040,
21 47.10.050(b), 47.10.060, 47.10.070(b), 47.10.075, 47.10.080(b), 47.10.080(g), 47.10.080(h),
22 47.10.081(a), 47.10.090(b), 47.10.093(c)(2), 47.10.093(c)(3), 47.10.093(c)(4), 47.10.093(c)(5),
23 47.10.093(d), 47.10.093(e), 47.10.093(h), 47.10.095, 47.10.097, 47.10.130, 47.10.140,
24 47.10.150, 47.10.160, 47.10.170, 47.10.180, 47.10.190, 47.10.200, 47.10.210, 47.10.220,
25 47.10.230, 47.10.240, 47.10.250, 47.10.260, 47.10.265, 47.10.400, 47.10.410, 47.10.420,
26 47.10.430, 47.10.440, 47.10.450, 47.10.460, 47.10.470, 47.10.480, and 47.10.490 are repealed.

27 * Sec. 60. Rule 23(d), Alaska Delinquency Rules, is amended to read:

28 (d) ORDER. The court shall enter [IN] its disposition order taking into
29 account the considerations set out in AS 47.12.140 [, THE COURT SHALL ORDER
30 THE LEAST RESTRICTIVE ALTERNATIVE DISPOSITION UNDER
31 AS 47.10.080(b) THAT ADDRESSES THE JUVENILE'S TREATMENT NEEDS

1

AND PROTECTS THE PUBLIC].

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: CSS3HB 387(HES)

Revision Date: March 18, 1996 Dept. Affected: Public Safety
 Title: Juvenile Code Revision BRU: Alaska State Troopers
 Component: Detachments
 Sponsor: Representative Kelly
 Requestor: H. Judiciary COMPONENT SERIAL NO. 0799

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 | | | | | | |
| CHANGE IN REVENUES () | | | | | | |
| Revenue Code | | | | | | |

FUNDING: (Thousands of Dollars)

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

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.)

The current version of this bill will not have a fiscal impact on the Division of Alaska State Troopers.

Prepared By: Lt. Dan Lowden Phone: 465-5505
 Division: Alaska State Troopers Date: March 18, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 3/19/96
 Agency: Ronald L. Otte, Department of Public Safety

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE

For further distribution information call the Governor's Legislative Office

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

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



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

House District 31

House Of Representatives

Sectional

CSSSHB 387 Juvenile Delinquency Code

LS1278W, 3/19/98

Sections 1 & 2. Technical numbering, to include the new juvenile code **AS 47.12**.

Section 3. Truancy. Authorizes District School Boards to establish truancy policy.

Sections 4, 5, 6. Technical numbering

Section 7. Allows municipalities to establish a curfew for minors.

Sections 8, 9, 10, 11, 12, 13, 14, 15, 16. Technical numbering.

Section 17. The existing code AS 47.10, deleting the language appropriate to the delinquency code, AS 47.12.

Sections 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50. The existing code for minors (AS 47.10) with portions [deleted] for incorporation into the new juvenile delinquency code (as 47.12). Many sections are just technical renumbering of code.

Section 42. Added Civil rule 90.3 for calculation of parents obligations, at suggestion of D.O.L.

Section 47. Deletes orphans. Inapplicable, and at request of D.O.L.

Section 50, page 23. New chapter for "Delinquent Minors."

Page 23, Article 1. Establishes a separate code for delinquent minors.

Page 23, AS 47.10.010. Establishes policy for the new delinquency code.

- (1) Protect the public and reform juvenile offenders.
- (2) Resolution should require some form of sanction, the form of the sanction should be certain, swift, and the sanction may take the form of a reasonable claim on the time and talents of the minor who has committed the offense.
- (3) Counseling provided to the minor should, if appropriate, include the minor's family or guardian, the family has the right to offer suggestions and make recommendations for the correction of the minor's behavior, and the minor's family or guardian may be asked to participate in supervision of the minor's treatment.

Page 27, lines 4 & 5. AS 47.12.030(d) the presence of the minor's parent or guardian is preferred in a court proceeding.

Page 30. AS 47.12.100(b)(2) & (3) extends probation for a minor from two years to four years, up to the minor's 19th birthday.

Page 32, lines 29 -31. Existing code. Requires the department to pay all court costs in all proceedings in connection with the adjudication of delinquency.

Page 34. AS 47.12.140 Court Disposition. (a) In making its dispositional order the court shall:

(1) Consider the best interests of the minor and the public, and in doing so the court shall take into account:

- (A) The seriousness of the minor's delinquent act and the attitude of the minor and the minor's parent toward that act;
- (B) The minor's culpability;
- (C) The age of the minor;
- (D) The minor's prior criminal or juvenile record and the success or failure of any previous orders, dispositions, or placements.;
- (E) the effect of the dispositional order to be imposed in deterring the child from committing other delinquent acts;
- (F) the need to commit the minor to the department's custody or to detain the minor in an institution or other suitable place in order to prevent further harm to the public;
- (G) the interest of the public in securing the minor's rehabilitation;
- (H) the ability of the state to take custody of and to care for the minor; and

(2) Order the least restrictive alternative disposition for the minor; for the purposes of this paragraph, the "least restrictive alternative disposition" means that disposition that is no more restrictive than is, in the judgment of the court, most conducive to the minor's rehabilitation.

Page 36, AS 47.12.170. Breaks the age 19 barrier for restitution. If a minor has failed to complete restitution by age 19 the restitution is enforceable as a civil judgment.

Page 37, line 27, AS 47.12.220. The word "property" has been added. This protects a minor's property while detained, in foster care or otherwise out of home.

Page 38, lines 7 & 8, AS 47.12.230. Inserts the Civil Rule 90.3 calculation for parental support of a minor in state custody. Request of D.O.L.

Page 45, line 23, AS 47.12.320. Clarify that an official who violates the confidentiality of a minor is guilty of a class B misdemeanor. Request of D.O.L.

Section 51. Page 48. A new chapter for juvenile programs and institutions. Existing language reorganized at the request of D.O.L. and H.S.S.

Sections 52, 53, 54, 55, 56, 57, 58. Technical numbering.

Section 59. Repeals the portions of AS 47.10 that dealt solely with delinquents. These sections have been carried over into the new 47.12. The following table lists the new section numbers for each of the sections repealed from AS 47.10.

| Old Statute number | New Statute number (version W) |
|----------------------------------|----------------------------------|
| 47.10.010(b) | 47.12.030(b) |
| 47.10.010(d) | 47.12.030(c) |
| 47.10.010(e) | 47.12.030(a) |
| 47.10.020(d) | 47.12.060(a) |
| 47.10.040 | 47.12.080 |
| 47.10.050(b) | 47.12.070(a) |
| 47.10.060 | 47.12.080 |
| 47.10.070(b) | 47.12.090(b) |
| 47.10.075 | 47.12.090(c) |
| 47.10.080(b) | 47.12.100(b) |
| 47.10.080(g) | 47.12.180(a) & (b) |
| 47.10.080(h) | 47.12.100(e) |
| 47.10.081(a) | 47.12.110(a) |
| 47.10.090(b) | 47.12.170(b) |
| 47.10.093(c)(2), (3), (4), & (5) | 47.12.310(c)(2), (3), (4), & (5) |
| 47.10.093(d) | 47.12.310(d) |
| 47.10.093(e) | 47.12.310(e) |
| 47.10.093(h) | 47.12.310(h) |
| 47.10.095 | 47.12.200 |
| 47.10.097 | 47.12.210 |
| 47.10.130 | 47.12.240 |
| 47.10.140 | 47.12.250 |
| 47.10.265 | 47.12.400 |
| 47.10.150 | 47.14.010 |
| 47.10.160 | 47.14.020 & .030 |
| 47.10.170 | 47.14.040 |
| 47.10.180 | 47.14.050 |

Sectional CSSS HB 387W
Page 4.

Old Statute Number

47.10.190

47.10.200

47.10.210

47.10.220

47.10.230

47.10.240

47.10.250

47.10.260

New Statute Number (version W)

47.12.240(a)

47.12.260

47.12.270

47.10.980, 47.12.980, 47.14.980

47.14.100

47.14.110

47.14.120

47.14.130

Section 60. Court rule modifications.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

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



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

House District 31

House Of Representatives

Sponsor Statement

HB 387

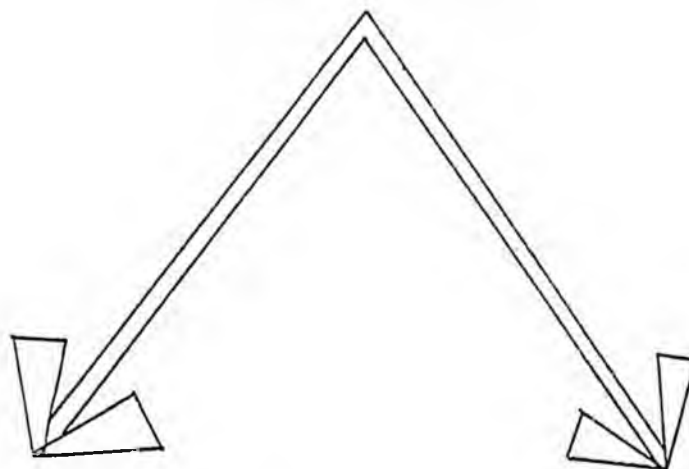
HB 387 takes the existing juvenile code and splits it into two sections, one for dealing with abused children and a new section of code to deal with criminal acts committed by children. Children-in-need-of-aid remain under AS 47.10, delinquent acts are addressed under AS 47.12. HB 387 provides a new policy section for the separate delinquency code, and a more complete set of parameters for judges to consider once a minor has been found to be delinquent. The new section for dealing with delinquent children will be familiar to juvenile justice workers.

HB 387 streamlines the existing truancy code, and authorizes municipalities to establish curfew.

This version of the bill no longer includes community service citations, community courts, entry level consequences for juvenile delinquents, or runaway language.

Child In Need of Aid
&
Delinquent

AS 47.10



Child In Need of Aid

Delinquent

AS 47.10

AS 47.12

Juvenile justice is a disaster

The entire juvenile justice system is terribly broken. At the period of time when youngsters are most vulnerable and need adult support, firmness and guidance, they are given increased autonomy.

Juveniles seldom have consequences for their criminal actions and the word is out. For this reason older criminals use children to courier illegal activities. Yet, parents are responsible for the child's actions until they are 18.

As parents of a runaway child, we were horrified to discover our child had complete freedom of

LaRue
Near

Guest Opinion



The current runaway statute must be changed. A runaway child must be immediately pursued, picked up and returned home.

movement and we had no rights at all.

Why did our 14-year-old child, an athlete, honor student and talented musician, choose to reject friends, family, and the values we tried to instill?

We are not sure, but our child began to associate with children that had problems such as truancy, running away, drugs and criminal activities. These students made it perfectly clear to our child, "If you don't like the rules at home you can leave. The system is easy to manipulate: shout abuse and you can go to a foster home. Too many rules there? Ask to move, or run, and you will be placed in another. Commit a misdemeanor crime, nothing happens to you."

In December 1994 our child, rather than face the consequences for breaking a rule (truancy), told the teacher she would be beaten if she went home (untrue).

She told the counselor she was running away. The school informed us that the child needed time out in a mutually accepted place and that if we physically forced our child to go home it would be considered assault. This child got the message!

As a result of the state undermining parental authority, our child has repeatedly refused to come home. The child, now a chronic runaway, has lived in many situations: some chosen by us, some by the state and many by people encouraging her delinquency.

Law enforcement people consider runaways a low priority and seldom pursue them. Our beautiful child, now 15, is a street person.

We are a stable family. A parent was always home with the children.

In trying to help this child, we have spent a fortune on lawyers, doctors, hospitals, psychiatrists, psychologists and counselors.

We have petitioned the state for help and had many court hearings. "Our hands are tied" (because of the laws), is the answer we get, over and over. At this point it seems hopeless.

The current runaway statute must be changed. A runaway child must be immediately pursued, picked up and returned home.

If the child claims abuse, take them to a secure place and examine them for bruises.

If there is truly abuse, place them in a foster home where they must remain. Make shelters like Family Focus secure, rather than a revolving door.

Children should not be allowed to run to the streets, for their own safety. It will not take long for word to get out that running away is no longer fun.

Children are our states' greatest natural resource and we are losing many.

Please call or write our legislators to get this statute changed.

LaRue Near, a life-long Fairbanksan and retired primary schoolteacher, is a member of a group of Fairbanks parents concerned about runaways.

FORUM / LETTERS

Alaska's youth crime laws need to grow up

The recent slaying of Chansy Phlanchantharath has left many Anchorage residents disgusted, myself included. His death added one more item to Anchorage's long list of youth crimes.

Look at the statistics. A report published in January by the Mayor's Crime Task Force, titled "The Mayor's Community Action Plan on Crime," stated that in 1990, teens 13-17 years of age committed 1,384 "juvenile acts." Three years later, in 1993, police performed 2,935 "youth probation referrals."

Obviously, we teens should act more responsibly, but before that can happen, Alaska's youth crime laws need to grow up.

Teens' attitudes are becoming more immature. Crime is seen as fun, as something to do, as a way to get revenge.

The Anchorage Police Department hasn't been able to do much to stop this alarming trend.

"Most enforcement models currently in place are based on programs developed in the 1960s and '70s," the CAP report stated.



AMANDA THOMPSON



"Analysis of these practices ... revealed that they do not generally have significant effect. Consequently, new enforcement and intervention strategies must be developed."

The CAP report recommended a bunch of new strategies, mostly plans for benevolent prevention programs, like the Midnight Sun Basketball League at Clark Junior High. Nice ideas that work for some; but not all youths get

enough incentive to stay out of trouble through warm fuzzy things.

You can see this any time you baby-sit a couple of children. Tell the child to clean up his dishes and then, as a reward, he can watch Power Rangers. Your chances are 50/50 that he'll clean up. Why? He can usually find something else to do that's just as fun as the Mighty Morphins.

If he finds some other form of entertainment, the policy needs to change. Tell him at the next cleanup activity to tidy up or else he'll receive a punishment. Stick to your guns, and he'll most likely do it.

Likewise, the way the police and courts deal with teens should get tougher, more grown-up.

The terminology used with youth crime needs to grow up. Still wondering what the phrases "juvenile acts" and "youth probation referrals" mean? If a person under 18 robs a convenience store, for example, they perform a "juvenile act." (Act? That sounds to me like something done in a circus. A crime is a crime.)

Police don't arrest peo-

ple younger than 18. They perform "youth probation referrals." (And I thought Service High was a safe school since I had never heard of a student being arrested).

Euphemisms like these tell teens that what they did was really less than a crime. Wimpy words reduce the wrongness to a baby food-like consistency, especially when coupled with Alaska State Statute 09.25.120.

The law states, "Every person has a right to inspect a public record in the state ... except ... (2) records pertaining to juveniles unless disclosure is authorized by law." Teens age 13 to 17 don't need this special right. Erasing it off the books would help reduce Alaska's youth crime rate by numerous ways.

It will help us teens realize that youths do get caught and punished. A lot of youths do stupid things because they think they'll get off clean. They hear rumors of others who get sent to McLaughlin Youth Center, but seeing troublemakers on the front page would make the conse-

Teens' attitudes are becoming more immature. Crime is seen as fun, as something to do, as a way to get revenge.

quences of crime real.

Risk of public embarrassment to themselves and their families would give teens another incentive to stay clean.

The state's youth-probation agency is starting to recognize the need for the policies to grow up. They are looking into beefing up security measures so they can deal with the teens who act more like dangerous adults than naughty children.

Teens are acting more like adults because we are physically more adult than ever before. Restaurants have known this for a long time. They make youths more than 13 years of age eat off the adult menu. More scientific proof of this fact is being manifested as the average age of puberty continues to plummet. Making laws that deal

with more adult teens in a more adult manner will help our mental and social capabilities catch up with our equipment.

Will these measures stunt efforts at rehabilitation? Not so long as churches, families and especially teens ourselves take the responsibility of helping troubled young adults return to making the most of their lives.

Nobody wants to see youth crime get worse. The laws that deal with youth crime need to grow up. Open the records and throw out the euphemisms, then stand back and watch the behavior of Anchorage's teens grow up. Better yet, watch potential young victims, like Chansy was, get a chance to grow up.

Amanda Thompson is a student at Service High School.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: CSSSHB 387(HES)

Revision Date: _____
 Title: Juvenile Code Revision
 Sponsor: Representative Kelly
 Requestor: House HESS

Dept. Affected: Public Safety
 BRU: Alaska State Troopers
 Component: Detachments
 COMPONENT SERIAL NO. 0799

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 | * | * | * | * | * | * |

| | | | | | | |
|----------------|---|---|---|---|---|---|
| CAPITAL | * | * | * | * | * | * |
|----------------|---|---|---|---|---|---|

| | | | | | | |
|--|--|--|--|--|--|--|
| CHANGE IN REVENUES () Revenue Code | | | | | | |
|--|--|--|--|--|--|--|

FUNDING: (Thousands of Dollars)

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

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.)

Subject to change after more in depth review of the changes to the bill.

Prepared By: Lt. Dan Lowden
 Division: Alaska State Troopers
 Approved by Commissioner: *Ronald L. Otte*
 Agency: Ronald L. Otte, Department: of Public Safety

Phone: 465-5505
 Date: March 7, 1996
 Date: 3-17-96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. CSHB387 (HES)

Revision Date: _____
 Title: Juvenile Code Revisions
 Sponsor: Representative Kelly
 Requestor: House (HES)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: DFYS Central Office
 COMPONENT SERIAL NO. 259
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

| OPERATING | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 |
|------------------------|------------|------------|------------|------------|------------|------------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE

(Thousands of Dollars)

| FUND SOURCE | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1008 GF/MHTIA | | | | | | |
| Other (please specify) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

POSITIONS:

| POSITIONS | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 |
|-----------|------|------|------|------|------|------|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

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

ANALYSIS: (Attach a separate page if necessary)

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

S/1/96
 Prepared by: *Katherine D. Little*
 Division: Family & Youth Services
 Approved by Commissioner: *Karen Perdue*
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 03/01/96
 Date: 3/5/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 387

Revision Date: _____ Dept. Affected: corrections
 Title: An act relating to minors... BRU: _____
 Component: _____
 Sponsor: Rep. Kelly
 Requester: House HESS COMPONENT SERIAL NO. _____

Expenditures/Revenues (Thousands of Dollars)

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

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 97 | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 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 (FY96) cost: \$ 0.0

POSITIONS

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

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the Department of Corrections.

Prepared by: Jerry Shriner Phone: 465-4652
 Division: Office of the Commissioner Date: 1/30/96
 Approved by Commissioner: Marqaret H. Pugh Marqaret Pugh Date: 1/30/96
 Agency: Department of Corrections

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office

(7)

HOUSE COMMITTEE REPORT

Date Referred to Committee: January 19, 1996

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/29/96

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SSHB 387

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 387

JUVENILE CODE REVISION

"An Act relating to minors and to offenses committed by minors, and to programs relating to minors; relating to the use of citations for offenses when the offenses are committed by minors, and authorizing disposition of those offenses by citations that require performance of community service in lieu of a court appearance; establishing a curfew for minors, and authorizing municipalities to establish curfews by ordinance; relating to the detention of minors, defining certain conduct by minors as violations, and amending the criminal jurisdiction of the district court to provide for the disposition of certain offenses involving minors; and amending Rules 3(b) and 23(d), Alaska Delinquency Rules."

recommends it be replaced with the following committee substitute CS SS HB 387 (HES) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) Public Safety

fiscal note(s) _____

zero fiscal note(s) Corrections, H+SS

zero fiscal note(s) _____

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

CHAIR'S SIGNATURE *[Signature]*

HB

390

520 Grandview Dr.
Sequim, Wa. 98382
March 18, 1996

Dear Representative Austerman:

I am retired and able to save enough to make a trip every year or two to Craig, Al.

My home is on the Straits of Juan de Fuca. The fishing is good here but when we fish for Kings we get dog fish. It is for this reason that I save to go to Alaska where I can fish for Kings.

H. B. 390 has been brought to my attention. The enactment of this bill would cause me to give up fishing in Alaska and go to British Columbia where Kings could be caught without extortion.

I prefer to spend my savings in the ~~the~~ U.S. Don't pass H. B. 390 and chase me to Canada.

Sincerely
Walter J. Doyle
WALTER Doyle

Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

March 19, 1996

Dear Mr. Austerman,

As a nonresident fisherman who has been on several trips to Alaska, I feel I already have paid monies into your economy, willingly, and am strongly apposed to HB390. I have been planning another vacation trip to Alaska, in 1997, which would include this time both fishing and site seeing. You can be sure that if HB390 is put into place that I will cancel my plans and not make any future plans to visit Alaska. I surely hope that the representative in your legislator will come to their sense.

Martin A. Booye
1916 Redwood Ave.
Redwood City, CA 94061

March 12, 1996

Dear Representative A. Austerman,

We travel to Alaska every year with friends for our vacation - one week we sight see the beautiful state and the other week we go fishing - Salmon fishing!

As a non resident fisherman and part of the consumer group that makes Alaska tourism industry prosper, we are opposed to HB30. The fees are exorbitant and will make our much looked forward to vacation, which includes fishing, to Alaska unreasonable.

Sincerely
Mr & Mrs Eugene J. Veen
10124-50th Ave. E.
Tacoma, WA 98446

Memo

To: Rep. A. Austerman

Phone:

Fax:

Subject: HB 390

From: Jim Cunningham

Phone:

Fax:

Date: March 14 1996

I have been advised that HB 390 is an attempt to decrease the catch of King Salmon by nonresident sportsmen. If this bill is passed it will certainly fulfill its purpose.

I do think however if this bill does pass it will do a great injustice to the economy of Alaska. I suggest that you check with the Chamber of Commerce for their view. They spend thousands of dollars (year ^{Money}) trying to get people to come to Alaska and spend money. I know I've been there.

Very Truly Yours
Jim Cunningham
513 Stout Rd.
Sitka WA 98582

Dear Sir:

I understand legislation is being considered to impose high fees for being salmon fishing by non-residents. This is - HB-390. It appears to me to be like "killing the goose who laid the golden egg".

This would make fishing trips to Alaska for myself as well as many potential visitors out of sight.

I urge this legislation not be supported.

Sincerely
John D. Gellespie
PO Box 155
New Port - WA 98327

RECEIVED
MAR 21 1996
Ans'd.....



Mr John D. Gillespie
PO Box 155
206 Brandywine
Du Pont, WA. 98327-0155

RETURNED FOR POSTAGE

Ferryboat 1900s



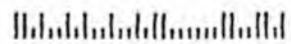
Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

Passage of HB 390 will cause
tourism to drop and they will head
to friendly Canadian waters. There
the tourist dollar will be well
appreciated.

Sincerely
James F. Mead
Major USA Ret.



Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182



3/12/86

Dear People:

I am 87 years old. I have been in Alaska fishing twice. The fishing was great I came home with enough frozen fish for a few good meals. I had a big fish party for family and friends who said that they hope to go to Alaska fishing.

I hope to go again, but will not go if H 1390 is passed.

Please consider the people we will like to fish but could not afford it if the price will be too high.

Sincerely
Jack Tved
20 Valley Hill Rd
Madison, Ct
06438

File
HB 390

RECEIVED

MAR 16 1996

Ans'd.....

March 13, 1996

Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

Dear Mr. Austerman,

As a nonresident fisherman I am opposed to HB390. The fees will make fishing trips to Alaska unreasonable. I am part of the consumer group that contributes to Alaska's tourism -- adding to the economy. HB390 will put an end to the many sports fishermen like myself. I suggest that another way be found to manage the fishing industry.

Most sincerely,

David J. Jensen

David J. Jensen
163 Kane Lane
Sequim, WA 98382

March 13, 1996

RECEIVED
MAR 16 1996

Ans'd.....

Dear Sir,

IT has Recently been brought to my attention, Bill # HB390.

This has to be the most unReasonable, unfair Piece of legislation I have ever heard of.

My wife & I are planning our 3rd trip to Alaska to fish for Salmon this coming Summer. We have already made reservations, so we are Committed to go, but I promise you it will be the last trip we ever make if this bill is passed.

With the Cost of Airline tickets, Motels, etc this Bill # HB390 would make traveling to Alaska beyond my means. This Bill is Outragous, unfair & unnecessary.

Please do not pass this bill.

Thank You -
David A. Hoglund

Mr & Mrs David A Hoglund
1530 W 10th St
Port Angeles, WA 98363



Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

3-15-96

Representative A. Austerman:
Room 434, Capitol Bldg.
Juneau, Alaska - 99801-1182

RECEIVED
MAR 16 1996
Ans'd.....

Dear Lew:

"As a nonresident fisherman
I resent HB 390. We already pay
enough money ~~into~~ Alaska's ~~economy~~
economy to go fishing.

Find a better way to
manage your fisheries than by
discouraging your tourism
industry.

Thank You

The Riley Residence

**Chambers
Creek
Veterinary
Hospital, Inc., P.S.**

7521 Bridgeport Way West • Tacoma, Washington 98467 • 206-475-7831

Max W. Flockerzie, DVM
Peter M. Yantorni, DVM
Jane L. Unbehagen, DVM

March 14, 1996

RECEIVED

MAR 16 1996

Ans'd.....

Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

RE: HB 390

Dear Representative A. Austerman:

HB 390 is a prime example of political interference in an area where unknowledgeable people shouldn't tread. I've seen this travesty in Washington State. It failed miserably at the expense of the very subject they were trying to preserve.

Alaska touts itself as a tourism state. The Legislature should coordinate their legislative efforts with this in mind. Stop attacking the tourists--many of whom hunt and fish in your state. Stop attacking private enterprise that depend on those tourists. Politicians need to become self-employed and be forced to meet a monthly payroll so that they have an understanding of what their political activities and unrealistic, idiotic policies are doing at the grass roots level. Get out and look around. Listen to the little people.

Sincerely,


Max W. Flockerzie, D.V.M.

MWF:vis



Quality service dedicated to complete animal health care.

RECEIVED

MAR 16 1996

Ans'd.....

Marvin and Lorna Abbs
32510 108th Ave. SE
Auburn, WA 98092

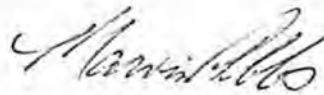
Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801

The Honorable Representative Austerman,

We have been notified of HB390 currently being considered by the Alaska State Legislature. Lorna and I have fished for King salmon in Alaska twice and have an Alaska fishing trip scheduled in May this year. In addition, as recent retirees, we have been making long range plans for an RV trip to Alaska and an Alaska cruise.

If the exorbitant fees spelled out in HB390 are implemented we will have to reconsider our plans. If this bill passes we will be forced to assume that the people of Alaska are not interested in our tourist dollars.

Sincerely,



Marvin Abbs



Lorna Abbs

March 15, 1996

Representative A. Quateman

"As a nonresident fisherman and part of the consumer group that makes Alaska's tourism industry prosper, I am opposed to HB390. The fees are exorbitant and will make fishing trips to Alaska unreasonable"

"I already pay enough money into Alaska's economy to go fishing. As a nonresident fisherman I resent HB390. You need to find a better way to manage your fisheries than by discouraging your tourism industry."

Mr. John Carlingo
572 Meadowood Ln.
St. Helena, Calif.
94574

RECEIVED

MAR 19 1996

Ans'd.....

RECEIVED

MAR 19 1996

Ans'd.....

ATT. Board of Fisheries

As A NONRESIDENT Fisherman
and part of the consumer group
that makes ALASKA'S Tourism
Industry prosper I am OPPOSED
to HB 390, THE FEES ARE EXORBITANT
and will make fishing Trips to
ALASKA unreasonable. My wife
and I both enjoy fishing, but
if this passes one or both will
have to stay home

John J. Gray
Downey Ca.

Mar. 15, 1996

To Whom it May Concern -

Having fished in your
closer waters, I find
the HB 390 Bill will
make future trips
unlikely. Lets be
Reasonable!

Yours truly

19017 N. 9th Ave

Phone # 855382

Kenneth O. Friend
99 Catalpa Drive
Atherton, Ca 94027

RECEIVED
MAR 19 1996
Ans'd.....

15 March, 1996

Honorable A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

Dear Mr. Austerman:

I am writing to express my opposition to HB 390.

As a non-resident fisherman, I would be severely affected if this legislation were to be implemented. So much so that I will have taken my last Alaskan fishing vacation.

I am not insensitive to the need of all states to maximize revenues and to protect resources. However, in my circumstances, I could simply not afford to continue my Alaska vacations if fees such as you propose are indeed implemented.

Moreover, if such a fee plan were instituted, I feel it would have connotations of the price per fish ponds that one sees throughout the country where you take your children to catch a tame trout. Esthetically, it cheapens the experience.

I urge you to rethink this legislation and its resultant destruction (which I'm convinced will occur) of the Alaskan non-resident fishing industry.

Sincerely,


Kenneth O. Friend

Mr. Austerman,

RECEIVED

MAR 10 1973

Ans'd

As a nonresident fisherman I think HB390 has not been thought through. Of course you'll still get the big money people like doctors, etc. but what about the millions of Tourists dollars you'll lose from the average Joe like me that come to catch fish. The cost is high enough now. No on HB390

A. Evans
Chino, CA.



ENTERPRISES, INC.

21862 S. Ferguson Road
Box 569
Beavercreek, OR 97004-0569
Phone: 503-632-4103
Fax: 503-632-4104

March 14, 1996

A. Austerman
Room 434 Capital Bldg.
Juneau, AK. 99801-1182

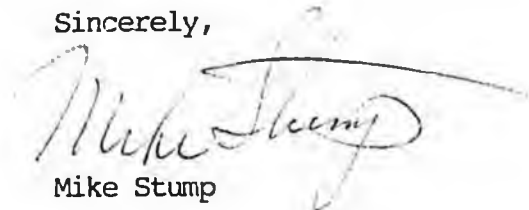
Dear Mr. Austerman,

I am a sportsman, who for the last 10 years, has organized several group trips each year to enjoy Alaska fishing.

Bill HB390 would most certainly curtail these trips and force us to fish Kings in British Columbia.

I'm sure the Alaska legislature can find a better way to manage this fishery than to cut off the hand that feeds it.

Sincerely,



Mike Stump

MS:jv

Alaska State Legislature House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE, CHAIRMAN
MILITARY & VETERANS AFFAIRS, CHAIRMAN
COMMUNITY & REGIONAL AFFAIRS
RESOURCES
INTERNATIONAL TRADE / TOURISM
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER ROAD, SUITE 141
EAGLE RIVER, AK 99577
PHONE (907) 694-8944
FAX 694-8949

SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE (907) 465-3777
FAX (907) 465-2819

MEMORANDUM

To: Representative Brian Porter, Chairman
House Judiciary Committee

From: Representative Pete Kott, Sponsor
CS HB 512(HES): English as the Official Language

Date: March 20, 1996

Subject: Request for hearing of CS HB 512(HES) in House Judiciary
Committee

I would like to formally request a hearing on CS HB 512(HES) in House Judiciary Committee at your earliest convenience.

English is the nation's single shared language that crosses all ethnic, racial, cultural, and religious lines, and allows diverse Americans to share their various backgrounds. What this bill would do is make English the official language of state agency records, documents, and meetings. Its intent is not to change any practices already occurring in the State, but rather to give official recognition to what is already being done in practice.

The bill only applies to state agencies, not to private, local, or federal groups, nor to private individuals. It takes care to make an extensive list of exceptions, so as to allow current practices to continue without interruption or complication.

Concerns by native groups at the local level has been met with numerous amendments, including a substantive change in the CS, which now has an opt-out clause. Thus, at the local level, with municipalities and school districts, any that choose to do so may opt out of the provisions of the bill.

Attached for your reference is additional documentation, including:

Sponsor Statement
Sectional Analysis
Fiscal Note
Background Information

If you have any questions, please feel free to contact me at 465-3777.



Representative Pete Kott



Alaska State Legislature House of Representatives

COMMITTEE ASSIGNMENTS:

LABOR & COMMERCE, CHAIRMAN
MILITARY & VETERANS AFFAIRS, CHAIRMAN
COMMUNITY & REGIONAL AFFAIRS
RESOURCES
INTERNATIONAL TRADE / TOURISM
LEGISLATIVE COUNCIL



INTERIM:
10928 EAGLE RIVER ROAD, SUITE 141
EAGLE RIVER, AK 99577
PHONE (907) 694-8944
FAX 694-8949

SESSION:
STATE CAPITOL
JUNEAU, AK 99801-1182
PHONE (907) 465-3777
FAX (907) 465-2819

SPONSOR STATEMENT

HB 512: English Use With Public Meetings & Documents

English is the nation's single shared language that crosses all ethnic, racial, cultural, and religious lines, and allows diverse Americans to share their various backgrounds. This bill would simply make official what is already common practice in the State of Alaska, which is the use of English in public meetings and with public documents or records. Public documents include such things as birth, death, marriage, and divorce certificates, as well as records of all public meetings. The bill's intent is not to change any practices already occurring in the State; it is to simply give official recognition to what is already being done.

The bill applies only to state agencies. This includes all State Departments, boards and commissions, the University of Alaska, public corporations, municipalities, and school districts. The bill does not apply to private corporations, or to statewide or local native groups, or to federal agencies or to local groups or agencies not a part of state government. It does not apply to private citizens or private groups or activities.

Aside from making a simple statement that English is the official language of state documents, records, and meetings, it then proceeds to a list of the exceptions that are allowed. The bill is not meant to apply to language classes or curricula in schools or universities, or to bilingual programs authorized under federal law, or to tourism promotion, or if public safety or health issues are involved, or if legal testimony is needed from a non-English speaker.

The bill further provides assurances that it in no way infringes on the rights of people to use English in private activities; they can sue the state on this issue; they cannot be denied employment on the basis of lack of facility in a language other than English; and finally, it allows the state officers and employees to use a language other than English in the scope of their duties.



Representative Pete Kott



LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

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

MEMORANDUM

March 20, 1996

SUBJECT: English as the common language (CSHB 512 (HES))

TO: Representative Pete Kott
Attn: Roger Poppe

FROM: Tamara Brandt Cook
Director *TBC*

Here is the sectional summary you requested.

Section 1. Legislative findings.

Section 2. Establishes English as the official language of the state. English is required to be used for public meetings of state agencies and for agency records. A municipality, municipal school board, or REAA may elect not to be subject to this requirement. Exemptions to the requirement that English be used are listed. A person may not be denied employment by a state agency based on lack of facility in a language other than English, unless facility in another language is required to fulfill one of the exempted functions. A state agency may not restrict use of other languages in private activities. A person may bring an action against a state agency to enforce requirements of this Act. "State agency" is defined.

TBC:klb
96-217.klb

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

HB 512

An Act establishing English as the common language and related to the use of English in public records and at public meetings of state agencies.

Consolidated Fiscal Note for Executive Branch

Operating Expenditures (Thousands of Dollars)

| Department | FY 97 | FY 98 | FY 99 | FY 2000 | FY 2001 | FY 2002 |
|----------------|------------|------------|------------|------------|------------|------------|
| Governor | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Administration | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DCED | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DCRA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Corrections | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Education | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Postsecondary | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DEC | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| ADF&G | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| CFEC | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DH&SS | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Labor | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Law | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DMVA | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DNR | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| Public Safety | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DOR | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| DOT&PF | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

ANALYSIS: (Attach a separate page if necessary)

This bill would have a zero fiscal impact on all departments.

Prepared by: Jack Kreinheder
 Division: Office of the Director

Phone: 465-4676
 Date: 2/26/96

Approved by Commissioner: Annalee McConnell *Nancy J. Slagle*
 Agency: Office of Management and Budget

Date: 2/26/96

PREPARER TO PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE
 For further distribution information, call the Governor's Legislative Office



Facts & Issues

About U.S. ENGLISH ———

Founded in 1983 by the late Senator S.I. Hayakawa, U.S. ENGLISH is a non-profit, non-partisan, citizens' action group fighting to preserve the unifying role of a common language in the United States.

U.S. ENGLISH believes that a shared language provides a cultural guidepost that we must maintain for the sake of our country's unity, prosperity, and democracy. An official common language is the glue that binds us together as a country while permitting our citizens to speak multiple languages and preserve their diverse customs, religions, and traditions. Only with this common bond will we truly remain, "One nation ... indivisible...."

U.S. ENGLISH's goals are two-fold:

- To work with federal and state legislatures to enact policies that save taxpayers the costs of duplicating government activities in every language. Money wasted on government duplicated in multiple languages is money better spent teaching non-English speakers our common language.
- To promote and expand opportunities for all residents to learn English.

With the United States being such a melting pot, it is imperative that our government do its business in a common language. To pick a few languages would be discriminatory against the remaining 150 others spoken across our country. Sharing a common language allows all nationalities to communicate with each other. Attempting to guarantee equal official status to different languages has caused deep rifts in countries like Canada, Belgium, Sri Lanka, and the former states of Yugoslavia.

An official common language is cost efficient. It is estimated that the cost over the last 10 years of the dual-language requirement in Canada is \$6.5 billion. That's two languages in a country with one-tenth of our population. Thus on a per capita basis alone, that would mean a cost of more than \$60 billion over 10 years in the United States for two languages. But, considering our diversity, who thinks we will get by with just two languages? Therefore, based on the Canadian calculations, it may be safe to conclude that official multilingualism in the U.S. could cost up to \$10 billion a year—depending on the number of languages.

While multilingual people may be an asset to a country, multi-language government is a formula for bankruptcy and chaos.

THE DIFFERENCES BETWEEN U.S. ENGLISH, INC. & ENGLISH FIRST

Membership:

U.S. English: 665,000 financial and active supporters in addition to nearly 215,000 non-financial, but dedicated, supporters nationwide.

English First: Claims over 100,000 members nationwide.

History:

U.S. English: Founded in 1983 by the late Honorable S.I. Hayakawa, noted educator and former U.S. Senator from California. Senator Hayakawa was an immigrant, as is our current Chairman of the Board/CEO, Mauro E. Mujica.

English First: Founded in 1986 by Larry Pratt, a former Virginia State Delegate and Executive Director of Gun Owners of America. Mr. Pratt recently left his position with Pat Buchanan's presidential campaign due to alleged ties to white supremacist and right-wing militia groups.

Staff:

U.S. English: Fifteen staff members working in areas of State and Federal Government Relations, Membership & Development, Media & Communications, Grassroots Coalition Mobilization, and English Education Assistance in conjunction with the U.S. English Foundation.

English First: Unable to determine. From outward appearances, English First does not seem to have any state or local presence and their lobbying at the federal level appears to be handled solely by Jim Boulet, their Executive Director.

Agenda:

U.S. English: Advocates a moderate agenda as embodied in the federal legislation H.R. 123/S. 356, the Language of Government Act of 1995. This common language legislation establishes a sound and coherent language policy for the federal government. H.R. 123/S. 356 provides several common-sense exemptions and does not apply to an individual's personal activities or the private sector. H.R. 123/S. 356, sponsored by Rep. Bill Emerson and Sen. Richard Shelby respectively, enjoy the support of 194 House co-sponsors and 22 Senate co-sponsors. U.S. English advocates the reform of the current system of bilingual education by shifting funding to programs which teach limited-English proficient students English in a timely and effective manner. This issue will be dealt with in forthcoming legislation.

English First: Advocates a sweeping, radical agenda embodied by H.R. 739 and H.R. 1005, bills to make English the official language of the United States. These bills imply they could apply to an individual's personal activities and the private sector-- in effect an English language mandate. English First also advocates the outright abolition of bilingual education and bilingual ballots.

Presence:

U.S.English: Staff actively works with committee and Congressional staff, Republican Congressional and Party leadership, and the Republican National Committee on official English legislation and bilingual education reform. Along with grassroots support in all 50 states, U.S. English has been instrumental in enacting official English legislation in 17 states, including three states in 1995 alone, and is currently working to secure passage in approximately 15 more states.

English First: Does not have active presence at state level, despite claims of such. Federal governmental relations are limited to the staff of the sponsors of the official English bills endorsed by English First.



EAST PORTLAND IMAGING CENTER, P.C.

Gerald L. Warnock, M.D.
Anna S. Gail, M.D.
Betsy Guyer, M.D.
Barry S. Mayer, M.D.
Daniel R. Kocarnik, M.D.

March 13, 1996

Representative A. Austerman
Room 434
Capital Building
Juneau, Alaska 99801-1182

Fike

RECEIVED

MAR 18 1996

Ans'd.....

Dear Sir:

I would like to write in protest to House Bill 390 which will simply destroy fishing as I now know it in Alaska. For many years I fished the Kenai but the short sided approach relative to commercial take of kings and the on-again off-again fishery was such that it could not be depended upon for suitable vacation. For years I stayed away from Alaska but, in recent years, I have begun fishing Southeast. Now, you intend to make the king fishery so prohibitive that no one could afford it. When will you wake up and learn the value of a sport-taken salmon versus commercial take. If this Bill goes through, I will certainly cancel my upcoming trip, as I am sure many of my fellow sportsmen will.

Sincerely,

Gerald L. Warnock, M.D.

GLW/les



RECEIVED

MAR 18 1996

Ans'd.....

Arnie Cohen



To whom it may concern:

I have been coming to Alaska fishing for the past 5 years. I save for that trip all year. If HB-590 passes it would make it impassable for me to afford the trip. Your proposed fees are exorbitant and would force me to go to Canada. I usually go to Alaska with a group of 4 or 6 and we would all have to have money problems. I can't believe you would discourage your tourism sport fishing people by being so unreasonable.

Sincerely,
Arnie Cohen



Call Arnie Cohen Today At 818/366-3300 Or 818/368-5834

STAN NEWCOMB
11560 TIMBERLAKE DR,
SAN DIEGO, CA 92131

13 MAR 96

TO THE ALASKAN GOVERNMENT:

RECEIVED
MAR 18 1996
Ans'd.....

DEAR SIRs:

I AM WRITING THIS LETTER TO CONDEMN
HB390! LAST AUGUST, WAS THE FIRST
TIME I'VE FISHED IN ALASKA, AND I WOULD
LOVE TO FISH THERE EVERY YEAR. IT WAS
AWESOME. UNFORTUNATELY MY BUDGET WILL
NOT PERMIT ME TO MAKE THE TRIP EVERY
YEAR, BUT I WAS AT LEAST HOPING
FOR EVERY OTHER YEAR.

AS A NON-RESIDENT, THE FEES
YOUR HB390 PROPOSES, WILL MAKE
MY FIRST TRIP MY LAST TRIP. THE
ADDITIONAL COST OF HB390 WILL FORCE ME
TO FISH ELSEWHERE SUCH AS HAWAII OR
MEXICO WHERE COSTS ARE MORE REASONABLE.

(OVER)

I HOPE HB 390 DOES NOT PASS,
BECAUSE I DEFINATELY ENJOYED ALASKA
AND WOULD LIKE TO RETURN.

PERHAPS YOU SHOULD LIMIT
COMMERCIAL FISHING INDUSTRIES IF YOU
ARE SO CONCERNED ABOUT THE FISHERIES.
WHEN I FISHED IN ALASKA, I OBSERVED
A COMMERCIAL PURSE SAINER KEEPING SOME
KING SALMON EVENTHOUGH IT WAS TWO DAYS
BEFORE THE COMMERCIAL FISHING SEASON
BEGAN, IT MADE ME WONDER WHAT
OTHER REGULATIONS THE COMMERCIAL BOATS
DISREGARDED.

IF EVERYONE ADHERED TO THE EXISTING
REGULATIONS, PERHAPS YOU WOULDN'T NEED
TO MAKE THE REGULATIONS UNBEARABLE
FOR THOSE OF US WHO DO ADHERE TO
THE REGULATIONS.

SINCERLY,


NOTE
See other
side.



WAVE DANCE

Custom Charters

March 10, 1996

RECEIVED

MAR 18 1996

Ans'd.....

Dear Sportsmen,

There is some legislation in the process of being presented for consideration by the Alaska Board of Fisheries that is of concern to me, and you.

"HB390" is an attempt to decrease the catch of king salmon by nonresident sportsmen. The plan entails imposing fees to discourage out of state fishermen. It calls for one free king salmon tag to be issued with the license, the second king tag would be \$50.00, the third \$200.00, the fourth \$300.00, the fifth \$400.00, and the sixth and subsequent tags would each be \$500.00. If passed the non resident fisherman with six kings in possession would have paid \$1,450.00 in tag fees.

The charter boat associations in Alaska have done a good job of lobbying against this bill. A legislator, sympathetic to the charter industry, has advised us that some "consumer" testimonials would be helpful in burying this bill for good.

Please take five minutes to jot down a couple lines, place your note in the addressed, stamped, envelope enclosed.

Here is a couple suggestions if you need help.

"As a nonresident fisherman and part of the consumer group that makes Alaska's tourism industry prosper, I am opposed to HB390. The fees are exorbitant and will make fishing trips to Alaska unreasonable". OR

"I already pay enough money into Alaska's economy to go fishing. As a nonresident fisherman I resent HB390. You need to find a better way to manage your fisheries than by discouraging your tourism industry". OR?????

Every voice heard will make a difference. For maximum effect, your note should go out the day you receive this letter. Thanks for your help. Good Fishing!

Sincerely,
Wayne Sanger
Wayne Sanger

Rep A. Custerman

Re H B. 390

As a sport fisherman I resent the contents of the bill. As a sport fisherman I have been to Alaska 7 times for sport fishing. I will not and cannot afford to pay the fees of ~~\$1,450.00~~ for 6 kings. I suggest instead

1. Cut the limits.
2. Curtail some days of no fishing
3. Decide whether its better to commercial fish or get maybe ~~7~~ 7 times more per fish for sport caught kings or a combination of both.
4. Do not raise fees to \$1,450 for 6 kings. Fishing is for everyone and not just for the rich.
5. Check on to how elk licenses are issued in Oregon. The lottery means everyone can hunt, but you miss some years. If you wish to contact me, my name is Bell Hany
5607 N.E. 35th Pl.
Phone 503-281-6050 Portland Or. 97211

DAVID G. HEINLEIN

3526 N.W. BANYON PLACE
PORTLAND, OR 97229

PHONE: (503) 645-9716

March 14, 1996

RECEIVED
MAR 18 1996
Ans'd.....

Representative A. Austerman
Room 434, Capitol Building
Juneau, AK 99801-1182

RE: HB390

Dear Representative Austerman:

I am writing to you regarding HB390 which is under consideration by the Alaska Board of Fisheries.

As a nonresident fisherman and part of the consumer group that makes Alaska's tourism industry proper, I am opposed to HB390. The fees are exorbitant and will make fishing trips to Alaska unreasonable. I have traveled to Alaska's fishing waters many times and have always considered this one of my most entertaining trips for relaxation and time away. I have also enjoyed a male bonding relationship with my sons during these trips.

Please consider this letter when you are voting on this measure.

Sincerely,


David G. Heinlein

DGH/ss

3/14/96

RECEIVED
MAR 18 1996
Ans'd.....

Representative A. Austerman

Re: Salmon Tag increases for non-residents

I couldn't believe my ears when I was told about HB390's affect on sportmen like me who live out of your state.

Myself and three friends who travel to Ketchikan each year for 1 week, spend about \$3000 each (\$12,000) toward your economy of Lodging, float planes, meals, guides, and on and on -

We are not about to spend any more \$ to catch 5-6 King Salmon apiece. We pay into your ^{economy} much more \$ than most of your commercial net boats -

Sincerely,

Cliff Hartwell

PO Box 2465

Truckee, Ca 96160

916-587-7945

3-14-96

Mr. Austerman

I'm a senior citizen, have fished
in Alaska several times & was planning
~~to~~ to fish this yr; but will be unable
if HB 390 goes into effect

RECEIVED

MAR 18 1996

Ans'd.....

Thank you

James F Debnick

Henry Brockmüller
1420 Joe Alta Ave.
Arcadia, Ca. 91007

Dear Representative A. Austerman

I like to travel in Alaska, and
while in there I like to do some fishing.
It seems to me I have paid and
into Alaska's economy. That I should
be allowed to catch some king salmon
without these ridiculous fees. I am
opposed to HB 390

Henry Brockmüller

RECEIVED

MAR 18 1966

Ans'd.....



NORTH COLORADO
MEDICAL CENTER

1801 16th Street
Greeley, Colorado 80631-5199
303-352-4121

From: David M. Claman MD
7 Dos Rios
Greeley, CO 80634

March 12, 1996

RECEIVED

MAR 18 1996

Ans'd.....

To: Representative A. Austerman
Room 434, Capitol Building
Juneau, Alaska 99801-1182

Dear Mr. Austerman,

I am a nonresident fisherman and frequent visitor to Alaska. I already pay a premium visitting Alaska and am appalled at HB390. Many of my acquaintances, also Alaska fishermen, feel the same. The fees are exorbitant and would certainly preclude further fishing trips there. Alaska and its fishing are fantastic, but we would find somewhere else to fish instead.

Sincerely yours,


David Claman MD

RECEIVED

MAR 18 1996

Ans'd.....

March 14, 1996

To Whom It May Concern:

I am a nonresident fisherman who enjoys spending vacation time in Alaska. Tourism is an important part of Alaska's economy. The ridiculous fee's proposed in HB390 will end ~~our~~ Alaska's vacations. Manage ^{your} fisheries but be reasonable.

Thanks for your help.

Road Pettersen

14 March 1996

RECEIVED
MAR 18 1996
Ans'd.....

Representative A. Antonson
Room 434, Capitol Building
Juneau, Alaska 99801-1182

Dear Representative Antonson:

We just heard about HB 390 that the Alaska Dept. of Game is considering at the present time.

My son and I, jointly put about \$6000 into the

economy of Alaska every year on one nice salmon

fishing trip each year. Not many fishermen, including

somebody, could afford to continue coming to Alaska

with the punitive fee that HB 390 contains.

I do not know what sort a bill would cost

Alaska in lost tourism, but it would be awesome,

I'm sure.

We are very much opposed to ~~HB 390~~ and would

like to respectfully request that you do everything

possible to contribute to its defeat for the sake of

Alaska, as well as the non-resident salmon fisher-

men such as ourselves.

Thank you for your consideration of this matter.

Yours truly,
Thomas D. Grove
Beaufort

~~File~~
HB390

Ron Spragg
2074 Bulson Rd.
Mt. Vernon, WA
98273

March 11, 1986

Attention Representative A. Austerman:

As a nonresident Alaskan fisherman I am
opposed to HB390. I feel that the fee plan
to catch more than one King Salmon is unreasonable
and exorbitant. My tourism dollars will not find
their way to Alaska if such a plan is imposed.

Sincerely,
Ron Spragg

HB

391

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 28, 1996

The Honorable Brian Porter
Chair, House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, Alaska 99811

Re: Response to comments from ARECA on
CSHB 391

Dear Representative Porter:

At the House Judiciary Committee hearing on CSHB 391 held Monday, February 26, 1996, this office was asked to review a letter from Rebecca Pauli, Esq., counsel for the Alaska Rural Electric Cooperative Association, Inc. (ARECA), in which she suggests several amendments to CSHB 391. We thank you for the opportunity to comment on Ms. Pauli's letter.

With respect to the suggestion to change the word "may" to "shall" in the last sentence of proposed AS 29.06.520(b), ". . . the state *shall* succeed to that asset or liability," neither the Department of Community & Regional Affairs nor this office opposes this change.

Ms. Pauli also suggests that language be added to AS 29.06.520(a) so that a transfer of the assets or liabilities would not occur unless it was "upon terms which do not alter, amend, or modify any rights, powers, and duties owed by the dissolved municipality to a person and which are approved in writing by the Department of Law." This office opposes this suggested change. We believe it unnecessarily complicates the dissolution process and may pose a restriction whereby a single contractor could effectively stifle a dissolution that would be in the best interests of the state. Any contractor who has a current contract with a municipality going through dissolution, has the opportunity to submit a brief and provide oral and written testimony to the Local Boundary Commission regarding the dissolution. The contractor may, at that time, point out conditions of a contract that it would like the LBC to consider, or possibly make a condition to, in the terms of dissolution. We believe that to require in statute that contracts between parties may not be altered or amended, or modified during the dissolution process is bad public policy and may impair the successor's ability to successfully negotiate an assumption of current contracts. Furthermore, the Department of Law is already required to approve the transfers in writing, which we believe would adequately protect all parties.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Finally, we also oppose Ms. Pauli's suggestion to amend proposed AS 29.06.520 by adding a new subsection (c), which it states will place an entity succeeding to a dissolved municipality so that it "stands in the shoes of" and become that dissolved municipality. We disagree that this is the intent of the dissolution process or the intent of this legislation. If a municipality dissolves, that entity is gone. To have a successor to the assets and liabilities is necessary to protect the public interest. It is not intended to place the state or a successor "in the shoes of" or have it become that dissolved municipality. We therefore oppose this suggested change.

If you or members of the committee have questions regarding our comments, we are available to address them at today's committee hearing.

Sincerely

Bruce M. Botelho
Attorney General



By: Marjorie L. Vandor
Assistant Attorney General

MLV:jn

cc: Members of the House Judiciary Committee

Chrystal Smith

Rebecca Pauli, Esq.

Pat Poland, Director
Division of Municipal & Regional Assistance

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 8, 1996

Honorable Ivan M. Ivan
Co-Chair, House C&RA Committee
Alaska State Legislature
Room 503, State Capitol
Juneau, Alaska 99801-1182

Re: Effect of HB 391 on
subsurface rights

Dear Representative Ivan:

You have requested advice on the extent to which House Bill 391, authorizing the transfer of land of dissolved municipalities to certain entities including village councils, could result in the conveyance of subsurface rights to the entity receiving the land. As discussed below, conveyances authorized by HB 391 are likely to affect subsurface rights in land subject to the legislation only in rare cases. While there are limited circumstances in which the grantee of land of a dissolved municipality might gain subsurface rights in such land, in most cases conveyances authorized by the bill would include no mineral rights.

Section 1 of House Bill 391 would amend AS 29.06.520 to authorize the direct transfer of assets or liabilities of a dissolved municipality to entities including a successor municipality, a nonprofit corporation, or a village council formed under 25 U.S.C. 473a.¹ Section 1 would also condition the transfer of such assets or liabilities upon written approval by the Department of Law. Under current law, the State is authorized to transfer the assets of a dissolved municipality, and to dispose of land held by the state in trust for a future municipality under 43

¹ Act of May 1, 1936, 49 Stat. 1250. The Act applied the provisions of the Indian Reorganization Act to Alaska, and has been commonly referred to as "the Alaska IRA." Thus, the reference in HB 391 to councils "formed under 25 U.S.C. 473a" indicates village IRA councils.

Honorable Ivan M. Ivan
Re: Effect of HB 391 on subsurface rights

March 8, 1996
Page 2

U.S.C. 1613(C)(3).² AS 29.06.520; AS 44.47.150(a). However, there may not be authority under existing law for a direct transfer of the assets of a dissolved municipality without the State first succeeding to those assets; HB 391 is apparently designed to provide clear authority for such a transfer.³ In addition, Section 2 of the bill would make the State's disposal of the land of a dissolved municipality to which it has succeeded subject to the concurrence of the Local Boundary Commission.

The extent to which a direct transfer of land of a dissolved municipality might implicate subsurface rights in the land is necessarily limited by the scope of the dissolved municipality's rights in the land, and by certain restrictions to which all municipalities, as political subdivisions of the State, are subject. Municipalities in Alaska receive land from two primary sources: (1) general grant or other entitlements conveyed by the State under AS 29.65; and (2) conveyances from village corporations under Section 14(c)(3) of ANCSA. A municipality receiving land from either of these sources does not receive the subsurface estate.

Under Section 6(i) of the Alaska Statehood Act⁴ the State is required to reserve the mineral estate from all "sales, deeds, or patents" for the disposal of State land received under the Statehood Act.⁵ By ratifying article VIII, section 9, and article XII, section 13 of the Alaska Constitution, and by

² Section 14(c)(3) of the Alaska Native Claims Settlement Act of December 18, 1971 ("ANCSA"). That provision requires ANCSA village corporations to convey to any municipality in the Native village, or to the State in trust for any municipality which might be established in the village in the future, so much land as is necessary for community expansion and foreseeable community needs.

³ AS 29.06.520 currently provides that a successor municipality succeeds to all assets and liabilities of a dissolved municipality. However, the statute is silent as to the extent of the successor municipality's power to then transfer those assets.

⁴ Act of July 7, 1958, 72 Stat. 339.

⁵ Indeed, Section 6(i) of the Alaska Statehood Act provides that "any lands or minerals disposed of contrary to the provisions of this section shall be forfeited to the United States by appropriate proceedings" which the United States would be compelled to bring in federal court.

Honorable Ivan M. Ivan
Re: Effect of HB 391 on subsurface rights

March 8, 1996
Page 3

separately approving Section 8(b) the Statehood Act, Alaska made the restriction on alienation of the mineral estate of these State lands part of the federal-state compact. State v. Lewis, 559 P.2d 630, appeal dismissed, 432 U.S. 901, 97 S.Ct. 2943 (1977).⁶ Therefore, a direct transfer of land of a dissolved municipality, where the land was originally selected by the State under the Statehood Act and later conveyed to the municipality under Title 29, cannot alienate the mineral estate, since the municipality is barred by law from receiving the mineral estate from the State. Further, even if a municipality were able to receive the mineral estate to land originally granted under the Statehood Act, it would be bound, as a political subdivision of the State, by the restrictions of Section 6(i) of the Statehood Act.

Similarly, a conveyance of land from an ANCSA village corporation to a municipality, or to the State in trust, does not include the mineral estate of the conveyed land, because village corporations never receive the subsurface estate in the first instance under ANCSA. See 43 U.S.C. 1612(a)(1); 43 U.S.C. 1613 (a), (b). As a matter of law, a village corporation can only convey the surface estate in any conveyance made under Section 14(c)(3) of ANCSA. 43 U.S.C. 1613(c)(3). A dissolving municipality, therefore, cannot transfer the mineral estate of land which it received under Section 14(c)(3) of ANCSA, since it could not have received mineral rights from the village corporation.

It is possible, of course, for municipalities to receive land from sources other than the State or village corporations. For example, a municipality might acquire full fee title to a former federal homestead, townsite, or patented mining claim. In such a case, the municipality would receive the mineral estate to the extent that interest was held by the municipality's predecessor-in-interest. If the municipality were to later dissolve subject to the provisions of HB 391, the subsurface estate would be transferred as an asset to the municipality's designated successor. If the legislature wished to prevent this result, it could do so by amending HB 391 to expressly reserve the mineral

⁶ Article VIII, section 9 of the Alaska Constitution provides in relevant part that "all sales or grants shall contain such reservations to the State of all resources as may be required by Congress or the State" This clause ratifies Section 6(i) of the Statehood Act, while also authorizing the legislature to require the reservation of mineral resources from the conveyance of State land acquired by means other than the Statehood Act. Currently, there appears to be no general statutory proscription on alienation of the mineral estate of non-Statehood Act land.

Honorable Ivan M. Ivan
Re: Effect of HB 391 on subsurface rights

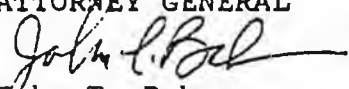
March 8, 1996
Page 4

estate from the transfer to the successor of the dissolved municipality.⁷ In that event, while the reservation of the mineral estate to the State would not be a condition of the municipality's dissolution, the subsequent transfer of the former municipality's assets would be subject to the mineral reservation.

In summary, transfers of land authorized by HB 391 to successors of dissolved municipalities will rarely convey mineral rights, since in most cases the dissolving municipality will have no mineral rights to convey. While the mineral estate could be conveyed under relatively rare circumstances, as discussed above, the legislature could prevent this result by making a reservation of the mineral estate an express condition of the transfer of assets authorized by the bill. If you have further questions regarding this issue, please don't hesitate to contact this office.

Very truly yours,

BRUCE M. BOTELHO
ATTORNEY GENERAL


By: John T. Baker
Assistant Attorney General

cc: Marjorie L. Vandor
Assistant Attorney General

Rick Elliott
Dept. of Community and Regional Affairs

i:\bakerj\hb391.opp

⁷ In addition, as alluded to earlier, the legislature could restrict the State's ability to alienate the subsurface estate of former municipal land which was not originally selected under the Statehood Act.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 9, 1996

FURTHER REFERRALS:

Finan

Date of Committee Action: 2/28/96

The JUDICIARY Committee considered:

HB 31

HOUSE BILL NO. 391

DISSOLVED MUNICIPALITIES/SUCCESSIO

"An Act relating to succession to assets and liabilities of dissolved municipalities."

recommends it be replaced with the following committee substitute CSHB 391 (RES) [4 the same title] [] a new title

[] additional referral to _____ Committee
[] attached amendment(s)

ADOPTS: _____ Letter of Intent

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

[] fiscal note(s) _____ [] fiscal note(s) _____

[] zero fiscal note(s) _____ [zero fiscal note(s) DCRA, Law, DNR
(2-9-96)

| SIGNING WITH RECOMMENDATIONS | DP | DNP | NR | AM |
|------------------------------|----|-----|-------------------------------------|----|
| <u>Brian D. Porter</u> | | | <input checked="" type="checkbox"/> | |
| <u>[Signature]</u> | | | <input checked="" type="checkbox"/> | |
| <u>[Signature]</u> | | | <input checked="" type="checkbox"/> | |
| <u>[Signature]</u> | | | <input checked="" type="checkbox"/> | |
| <u>[Signature]</u> | | | <input checked="" type="checkbox"/> | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |
| | | | | |

CHAIR'S SIGNATURE Brian D. Porter

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 28, 1996

The Honorable Brian Porter
Chair, House Judiciary Committee
Alaska State Legislature
State Capitol, Room 118
Juneau, Alaska 99811

Re: Response to comments from ARECA on
CSHB 391

Dear Representative Porter:

At the House Judiciary Committee hearing on CSHB 391 held Monday, February 26, 1996, this office was asked to review a letter from Rebecca Pauli, Esq., counsel for the Alaska Rural Electric Cooperative Association, Inc. (ARECA), in which she suggests several amendments to CSHB 391. We thank you for the opportunity to comment on Ms. Pauli's letter.

With respect to the suggestion to change the word "may" to "shall" in the last sentence of proposed AS 29.06.520(b), ". . . the state *shall* succeed to that asset or liability," neither the Department of Community & Regional Affairs nor this office opposes this change.

Ms. Pauli also suggests that language be added to AS 29.06.520(a) so that a transfer of the assets or liabilities would not occur unless it was "upon terms which do not alter, amend, or modify any rights, powers, and duties owed by the dissolved municipality to a person and which are approved in writing by the Department of Law." This office opposes this suggested change. We believe it unnecessarily complicates the dissolution process and may pose a restriction whereby a single contractor could effectively stifle a dissolution that would be in the best interests of the state. Any contractor who has a current contract with a municipality going through dissolution, has the opportunity to submit a brief and provide oral and written testimony to the Local Boundary Commission regarding the dissolution. The contractor may, at that time, point out conditions of a contract that it would like the LBC to consider, or possibly make a condition to, in the terms of dissolution. We believe that to require in statute that contracts between parties may not be altered or amended, or modified during the dissolution process is bad public policy and may impair the successor's ability to successfully negotiate an assumption of current contracts. Furthermore, the Department of Law is already required to approve the transfers in writing, which we believe would adequately protect all parties.

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907) 451-2811
FAX: (907) 451-2846

P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-6735

Finally, we also oppose Ms. Pauli's suggestion to amend proposed AS 29.06.520 by adding a new subsection (c), which it states will place an entity succeeding to a dissolved municipality so that it "stands in the shoes of" and become that dissolved municipality. We disagree that this is the intent of the dissolution process or the intent of this legislation. If a municipality dissolves, that entity is gone. To have a successor to the assets and liabilities is necessary to protect the public interest. It is not intended to place the state or a successor "in the shoes of" or have it become that dissolved municipality. We therefore oppose this suggested change.

If you or members of the committee have questions regarding our comments, we are available to address them at today's committee hearing.

Sincerely,

Bruce M. Botelho
Attorney General



By: Marjorie L. Vandor
Assistant Attorney General

MLV:jn

cc: Members of the House Judiciary Committee

Chrystal Smith

Rebecca Pauli, Esq.

Pat Poland, Director
Division of Municipal & Regional Assistance

LAW OFFICES OF
KEMPEL, HUFFMAN AND GINDER
A PROFESSIONAL CORPORATION

ROGER R. KEMPEL
RICHARD R. HUFFMAN
PETER C. GINDER
DONALD C. ELLIS

255 E. FIREWEED LANE, SUITE 200
ANCHORAGE, ALASKA 99503-2025
1907) 277-1804
FAX (907) 276-2493

ANDREW J. FIERRO
BOBBY DEAN SMITH
REBECCA C. PAULI

February 16, 1996

Brian Porter, Chairperson
House Judiciary Committee
Alaska Legislature
State Capital
Juneau, Alaska 99801-1182

Re: Committee Substitute for House Bill No. 391 ("CSHB 391")

Dear Mr. Porter:

This firm represents Alaska Rural Electric Cooperative Association, Inc. ("ARECA"), an association of rural electric cooperatives throughout the state of Alaska. Soon to be before your committee is committee substitute for House Bill No. 391, An Act Relating to Succession to Assets and Liabilities of Dissolved Municipalities and to the Administration and Disposal of Certain Land of Dissolved Municipalities, sponsored by Representative Ivan (Draft 9-LS1371\C). ARECA has no objection to CSHB 391 provided that the successor fully assumes the assets and liabilities of the dissolved municipality. ARECA is concerned that the proposed legislation would leave parties doing business with a municipality in a lesser position upon dissolution and that there may be orphaned assets and liabilities. ARECA has the following comments on CSHB 391:

AS 29.06.520 currently provides:

A municipality succeeding to a dissolved municipality succeeds to all rights, powers, duties, assets, and liabilities of the dissolved municipality. Otherwise the state succeeds to those rights, powers, duties, assets, and liabilities. If the state succeeds to a dissolved municipality, the state may enter into a contract for the performance of duties or powers in the area of the dissolved municipality. However, a contract with an organization for the performance of duties or powers entered into under this section does not constitute recognition by the state of governmental powers of that organization.

The current AS 29.06.520 provides that only the State or a municipality may succeed to a dissolved municipality. House Bill No. 391 would allow other entities (a council formed under 25 U.S.C. § 473a, a council providing services under federal law, and a non-profit corporation qualified for an entitlement under AS 29.60.140) to succeed to a dissolved municipality. CSHB 391, in addition to broadening the class of entities which may succeed to a dissolved municipality, also creates the potential that, upon dissolution, a party who has contracted with a dissolved municipality may find itself in a lesser position than it would be under the current law. To ensure that any person who had a relationship with the dissolved municipality prior to dissolution will not find itself in a changed or lesser position because of the dissolution, ARECA

Brian Porter, Chairperson
February 16, 1996
Page 2

proposes adding the following underlined language to CSHB 391 at Section 1, line 10, of Draft 9-LS1371\C such that it would now read:

Assets or liabilities may not be transferred to a successor except upon terms which do not alter, amend, or modify any rights, powers, and duties owed by the dissolved municipality to a person and which are approved in writing by the Department of Law.

Next, CSHB 391 (Draft 9-LS1371\C) at Section 1, page 2, lines 8 through 11, states:

If the Local Boundary Commission determines that it is not practicable for an entity listed in (a)(1)-(4) of this section to be the successor to an asset or liability of a dissolved municipality, the state *may* succeed to that asset or liability. [Emphasis added.]

"May" is permissive. As written, the State is not required to, but rather the State "may," succeed to an asset or liability. If the State chose not to succeed, the asset or liability would be orphaned, i.e., the asset would not be assumed by another successor and would remain in limbo. The State will not allow a corporation to dissolve without proof that all assets and liabilities of the corporation have been fully assumed or provided for. AS 10.06.620, .655, and.668.

Similarly, the State should not allow a municipality to dissolve without proof that all assets and liabilities have been fully assumed or provided for. CSHB 391 would allow dissolution of a municipality without proof that all assets and liabilities of the municipality have been fully assumed or provided for. To cure this oversight, ARECA proposes changing the permissive "may" to the mandatory "shall" such that CSHB No. 391 would read:

If the Local Boundary Commission determines that it is not practicable for an entity listed in (a)(1)-(4) of this section to be the successor to an asset or liability of a dissolved municipality, the state *shall* succeed to that asset or liability.

This change is necessary to ensure that an asset or liability of a dissolved municipality will not be orphaned.

Finally, CSHB 391 (Draft 9-LS1371\C) proposes at Section 1, page 2, lines 12 through 19, a subsection (c) which would read:

If the state or a municipality succeeds to assets or liabilities of a dissolved municipality, the state or successor municipality succeeds to all rights, powers, and duties of the dissolved municipality *necessary for the management of the assets or liabilities*. The state may enter into a contract for the performance of duties or powers in the area of the dissolved municipality. [Emphasis added.]

Brian Porter, Chairperson
February 16, 1996
Page 3

ARECA proposes a subsection (c) which would read:

A successor to assets or liabilities of a dissolved municipality succeeds to all rights, powers, and duties of the dissolved municipality. If the state succeeds to an asset or liability of a dissolved municipality, the state may enter into a contract for the performance of duties or powers in the area of the dissolved municipality.

ARECA's proposed paragraph (c) is in keeping with the spirit and intent of the current AS 29.06.520, which provides that when an entity succeeds to a dissolved municipality, it "stands in the shoes of" and becomes that dissolved municipality. CSHB No. 391 creates a special exception for the State or a successor municipality by providing that if the State or a municipality succeeds to the assets or liabilities of a dissolved municipality, the State or successor succeeds only to the extent "necessary for the management of the assets or liabilities." As written, this language could be interpreted such that the State or a municipality succeeding to the liabilities of a dissolved municipality would not truly "stand in the shoes" and would not fully assume the assets and liabilities of the dissolved municipality. CSHB No. 391, Section 1, page 2, lines 12 through 19, appears to limit the role of the State or a municipal successor. ARECA's proposed language treats all successors equally and ensures that the successor truly stands in the shoes of the dissolved municipality as is contemplated in current AS 29.06.520.

Thank you for your time and consideration of our concerns.

Sincerely yours,

KEMPEL, HUFFMAN AND GINDER, P.C.


Rebecca C. Pauli

:lbf

cc: David Hutchens, Executive Director
Alaska Rural Electric Cooperative Association, Inc.

Roger R. Kemppele, Esq.