

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8786 HOUSE STATE AFFAIRS



# Alaska State Legislature

Please enter into the record my testimony to the \_\_\_\_\_ committee name

committee on SB 177 / HB 338 , dated 1-23-96  
bill/subject

I believe that less government intervention would be better for all. These Bills and most that are like them only enhance the ability to take away rights belonging to the People according to the Federal and State Constitution. This is just another ploy to control people much like Hitler did. It's another way to ~~do~~ do away with the Constitution and give funding to the State by the Federal government for harassment and threatening the People. Government is the Peoples Servant not the Master.

*Reservation of rights without prejudice under UCC 1-207*

Signed: Jeanie Marie Shipp  
Testifier

Concerned Citizen For Sovereignty  
Representing (Optional) FOURTH JUDICIAL DISTRICT  
1/2 P.O. Box 544 Delta Junction Alaska Republic  
Address  
907-895-4805  
Phone No.

~~By \_\_\_\_\_~~

# TESTIMONY TO JOINT HOUSE / SENATE AFFAIRS

I PERSONALLY FEEL WE WERE GIVEN  
THE RIGHT TO BEAR ARMS BY OUR  
CONSTITUTION — NOT IF WE COULD  
AFFORD THE FEE TO TAKE THE  
CLASS & IF WE COULD AFFORD  
THE CHARGE FOR THE PERMIT.

WE HAVE THE RIGHT TO CARRY  
ARMS.

IT IS THE HONEST CITIZENS  
WHO ARE BEING PUNISHED BY THESE  
LAWS. THE CRIMINALS ARE STILL  
ABLE TO OBTAIN & CARRY FIREARMS.  
THEY HAVE THE AUTOMATIC WEAPONS THAT  
THE LAW ABIDING CITIZENS CAN'T  
HAVE, WHERE IS THE FAIRNESS  
IN THAT?

A CONCERNED ALASKAN

*Diane Bennett*

DIANE BENNETT, BOX 2542, SOLDOTNA

Post-It™ brand fax transmittal memo 7671		# of pages • 3
To: <i>St. State Affairs</i>	From: <i>Met - Su 110</i>	
Co:	Co:	
Dept:	Phone #	<i>316-3704</i>
Fax # <i>465-2070</i>	Fax # <del>316</del> <i>316-6180</i>	

**TESTIMONY 1/23/96- JOINT SENATE/HOUSE- STATE AFFAIRS COMMITTEES ON SB-177, A BILL TO AMEND THE CONCEALED HANDGUN CARRY PERMIT PROVISIONS.**

I testified on October 1995 before a joint meeting of these same committees concerning this same subject. My attitudes and concerns have not changed and I support SB-177 as drafted in the "Work Draft" dated 1/17/96. 10:57 A.

I have only the following comments:

1) To legislators who are inclined to vote in opposition to this legislation, please recognize that persons who are granted permits to carry concealed handguns are law abiding citizens.

2) Commissioner Ron Oue has been very cooperative in administering provisions in the existing statute for permitting concealed carry of handguns. However, officials of the previous administration appeared to have less understanding of, or willingness to comply with legislative intent. Therefore, I suggest that stronger language than "authorize" be used to direct the Department of Public Safety to seek reciprocity with other states with "carry permit" regulations..

3) It is a disappointment to see prohibitions on the use of "derringers" for this purpose. They have the advantage of being easier to carry than larger arms, but retain adequate power more common to larger arms.

Thank you for accepting this testimony.



Robert H. Parkerson - Ph: (907) 745-4358. Date: *Jan 23, 1996*  
 HC 02, Box 7630-A1  
 Palmer, Alaska 99645



# Alaska State Legislature

Please enter into the record my testimony to the HIS STA  
 committee name  
 committee on HB 338 / SB 177 , dated 1-23-96  
 bill/subject

THE AOC SUPPORTS HB 338 / SB 177  
 AND AGREES WITH THE TESTIMONY  
 PROVIDED BY JANIE WINEGATE DURING  
 TODAY'S TELECONFERENCE.

Signed: EDDIE GRASSER  
 Testifier  
ALASKA OUTDOOR COUNCIL  
 Representing (Optional)  
Box 2192 Palmer AK 99645  
 Address  
745-3772  
 Phone No.

M.M. MOORE  
2200 E 56th  
Anchorage, Alaska 99507  
(907) 563-7576

To: Senator Myda Green

RE: SB 177 "An Act Relating to Permits to Carry Concealed Handguns"

Dear Senator Green:

It appears that Senate Bill 177 fails to make provision for former Alaska Peace Officers. These people who have carried a gun in the line of duty have had the training and are certainly qualified to obtain a permit without the necessity of participating in a training course.

May I suggest that Senate Bill 177, Number 6, page 2, be amended as follows:

6. Presentation of evidence of experience with a handgun, equivalent to any of the courses or classes above through participation in organized shooting competition or military service, or having served as a Alaska Peace Officer.

Sincerely,

M.M. "Moose" Moore

10-5-95

Honorable Members :

The major failing of the recently enacted Concealed Carry law is the outrageous cost to obtain a permit. Out of six friends who had planned to apply for a permit only one has done so due to the high cost.

Thank you,

Daniel E. Stone

Po Box 111414

ANCHORAGE, AK 99511



ROBERT WISEMAN  
P.O. BOX 1135  
SOLDOTNA, AK 99669  
(907) 283-6110

SEP 7 1995



September 6, 1995

Senator Green &amp; Representative James

I have given considerable thought to your pending legislation. I feel that the intentions of your legislation is in the best interest of all Alaskans.

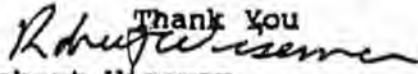
However, I believe there is a much larger picture that must be looked at.

I believe that the current program has a very distinct advantage. That advantage is the ability to have reciprocity with 30 other states. At this time there are at least 30 states who have or have pending legislation for concealed carry laws. I feel that all Alaskans as well as all Americans would be very well served to have reciprocal concealed carry laws. I believe that to effect this wide spread reciprocity it is necessary to have the utmost integrity in our concealed carry law. I feel that we must maintain as part of our program the FBI fingerprint check, the 4 hour legal requirement, and the NRA certified instructors.

With the high number of Alaskans that travel to other states that have, or are trying to get, concealed carry laws and Alaska visitors from those states, reciprocity should be a very high priority. At this time there are some states who have legislation that makes reciprocity automatic for those states who recognize their permits. I believe that it would be very simple to give reciprocity to any state that as part of their program required the FBI fingerprint check and the 4 hour legal. This reciprocity could be for a maximum of 90 days for visitors. For anyone becoming a resident who has a permit from one of these states that our current renewal procedure could apply.

I believe that the current bill mandates the Dept. of Public Safety to justify the fee currently being charged for the permit. I have seen several changes recently that would indicate to me that they are trying to streamline their operation and thereby be able to lower the cost of the permit and cut down any delays. I feel that some communication between the legislature and the Dept of Public Safety may accomplish more than legislation in this area.

In conclusion I would ask that you give a lot of thought to what it might take to have reciprocity with as many states as possible, and how we might effect this. I would hope that you might agree that this direction might serve Alaskans better than taking a large part of the integrity out of the current program.

Thank You  
  
Robert Wiseman

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To: <i>State Affairs Unit</i>		From:	<i>Thot-N. L. 10</i>
Dept.		Phone #	<i>376-3704</i>
Fax # <i>258-8173</i>		Fax #	<i>376-6180</i>

**LEGISLATIVE ULTRADER J. 1777- JUDICIAL HOUSE/ SENATE STATE AFFAIRS  
COMMITTEES ON BILLS TO AMEND THE CONCEALED HANDGUN PROVISIONS-  
HB-338/SB177.**

I HAVE BEEN A SHOOTER FOR MORE THAN 50 YRS. AND HAVE CONSISTENTLY SUPPORTED RESPONSIBLE FIREARMS OWNERSHIP AND USE. I SUPPORTED PASSAGE OF HB-351 IN 1994. I ALSO SUPPORT CHANGES TO THE EXISTING LAW BASED PRIMARILY UPON ON THE BELIEF THAT PERMITTING IS EXCESSIVELY COSTLY AND TIME CONSUMING.

**1. FINGERPRINTING & BACKGROUND CHECKS: I HAVE NO PERSONAL AVERSION TO BEING FINGERPRINTED OF HAVING MY BACKGROUND CHECKED...**

**A. BACKGROUND CHECKS, AT LEAST PRELIMINARY CHECKS, CAN BE MADE BY ALASKA AUTHORITIES USING THE FBI NATIONAL COMPUTER SYSTEM. FBI EXTRA CHECK MAY NOT BE NECESSARY. CHECKS SHOULD BE LESS COSTLY AND LESS TIME CONSUMING.**

**B. FBI FINGERPRINT CHECK SHOULD NOT BE STANDARD PRACTICE, BEING USED ONLY IF THERE IS COMPELLING REASON TO QUESTION THE VALIDITY OF AN APPLICANT'S RECORD.**

**C. UNDER NO CIRCUMSTANCES SHOULD A FEDERAL AGENCY BE ADVISED THAT THE REASON FOR ANY INQUIRIES RELATE TO CONCEALED CARRY PERMITTING OR FIREARM USE. IT IS A STATE PERMIT AND NOT FEDERAL. THE FEDERAL GOVERNMENT HAS NO NEED TO KNOW. THE PRACTICE REPRESENTS AN INTRUSION INTO MY PRIVACY. I WAS, AND REMAIN, ANGRY TO FIND THAT MY FBI FINGERPRINT FORM (FD-255) HAD UNDER REASON FINGERPRINTED: "CONCEALED HANDGUN APPLICANT AS 18.65.780"**

**2. TRAINING: IT IS RECOGNIZED THAT THE PRESENT TRAINING REQUIREMENT (NRA PERSONAL PROTECTION COURSE) IS BOTH EXPENSIVE AND MAY BE DIFFICULT TO SECURE IN SOME AREAS. I'VE TAKEN IT TWICE IT IS MY OPINION THAT IT IS ENTIRELY ADEQUATE AND TO BE RECOMMENDED. OTHER COURSES MUST STRESS FIREARMS SAFETY AND HANDLING. NO OTHER TRAINING ADDRESSES INDIVIDUAL RESPONSIBILITY WITH RESPECT TO ALASKA LAW AND THE LEGITIMATE USE OF DEADLY FORCE OR PROVIDES DEMONSTRATED SAFE HANDGUN HANDLING OR PROFICIENCY IN HANDGUN USE. THE DEMONSTRATION OF KNOWLEDGE AND ABILITY NEEDS TO BE PRESERVED.**

3 RESTRICTIONS ON CARRY: EXCEPT FOR PERHAPS DRINKING ESTABLISHMENTS, ALL PRIVATELY OWNED ESTABLISHMENTS SHOULD BE OPEN TO A LICENSED CARRIER UNDER ALASKA STATUTE. ONLY BY VERBAL REQUEST BY A PROPRIETOR OR WITH PROPER SIGNAGE SHOULD A CARRIER BE KEPT FROM SUCH ESTABLISHMENTS. THIS SHOULD APPLY AS WELL TO FINANCIAL INSTITUTIONS.

4. RESTRICTIONS ON QUALIFYING FIREARMS: ANY LEGALLY MANUFACTURED MINIATURE HANDGUNS OR "DERRINGERS" SHOULD QUALIFY AS USEABLE FOR CONCEALED HANDGUN CARRY. IF AN INDIVIDUAL HAS DEMONSTRATED THE SAME PROFICIENCY WITH THEM AS OTHER HANDGUNS.

ROBERT H. PARKERSON - PH: (907) 745-4358  
HC 02, BOX 7630-A1  
PALMER, ALASKA 99645.

APPLICANT

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TYPE IN PRINT ALL INFORMATION IN BLOCK  
LAST NAME NAM FIRST NAME ROBERT MIDDLE NAME HENRY

FBI

PARKERSON, Robert Henry

950974877008

SIGNATURE OF PERSON FINGERPRINTED

Paul H. Kochakos

ALIAS: AKA

O  
R  
I

AKAST0100

RESIDENCE OF PERSON FINGERPRINTED

Old Rd, Old Glenn Hwy  
PALMER, ALASKA

CLIENT #8001

DPS  
ANCHORAGE, AK

DATE OF BIRTH DOB  
MEMO 06 02 3:

SIGNATURE OF OFFICIAL TAKING FINGERPRINTS

1975 Holat M Henderson

CITIZENSHIP CIT USA

SEX M RACE W HT 6'0" WGT 205 HAIR BLU EYES WHI PLACE OF BIRTH Brooklyn, N.Y

EMPLOYER AND ADDRESS  
Henderson & Holmstrom SALES

YOUR NO. QSA 4006

FBI NO. FB

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P.O. Box 3090  
Palmer AK 99645

ARMY FORCES NO. MNU AF 16-504438

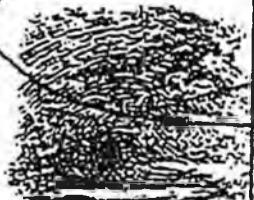
CLASS \_\_\_\_\_

PERSON FINGERPRINTED  
**CONCEALED HANDGUN  
APPLICATION  
AS 18:65.700**

SECURITY NO. SOC 126-26-2573

MULTI-PURPOSE NO. MNU 0465049

REC \_\_\_\_\_



1. R. THUMB

2. R. INDEX

3. R. MIDDLE

4. R. RING

5. R. LITTLE



6. L. THUMB

7. L. INDEX

8. L. MIDDLE

9. L. RING

10. L. LITTLE



0333-6

Michael and Sandra Coons  
P.O. Box 4229  
Palmer AK 99645  
Phone (907) 745-6779

10/03/95

The House and Senate State Affairs Committee  
House bill 338 and Senate Bill 177 Revisions  
C/O Rep Jeannette James  
P.O. Box 56622  
North Pole, AK 99705

To All Committee Members:

We are writing in support of HB 338 and SB 177 to revise the standards for issuing Concealed Handgun Permits. Three of our biggest obstacles in obtaining a permit to carry has been the one year residency rule, cost for training and permit fees and the time to attend a class. With the proposed revisions all of these obstacles will be deleted. We will focus on these three issues in our written testimony.


We moved to Alaska in Apr of this year. Mike started his residency in Jan 95 while working in Allakaket and Sandy started her residency in Mar 95 when we started the purchase of our home in Palmer. Since that time we have become aware of the increased crime problems in Mountain View and Spenard, as well as the rest of the greater Anchorage area. Mike's work requires flying in and out of Anchorage at all hours of the day and night. This puts Sandy in a potentially dangerous situation when she drives alone without any legal means of defense against carjacking, drive-by shootings or other crimes which could occur. We feel strongly that Alaskan citizens are being penalized solely because we haven't been living in the state for an arbitrary period of time. We would be better served, as Alaskans, to be able to apply for a permit to carry upon obtaining a legal residence, driver's license and registering to vote. The current Handgun Law does not recognize us as Alaskan residents when in fact we are, under the state laws for voting and obtaining a driver's license and vehicle registration.

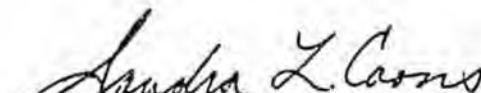
One of the big costs for a permit to carry is the requirement for fingerprints. According to Senator Lyda Green's staff, Florida has only had 0.01% of the applicants who applied turn out to be ineligible due to previous felony convictions. Florida does not use fingerprints but uses NCIC computers for criminal background checks. This method is cheaper for both the

applicant and the State/Federal government. Another cost, which is a burden, is the fees for firearms self defense instruction. We strongly concur with the revised requirements instead of the present law. As Hunter Safety Instructors for the State of Alaska from 1979 to 1981 we taught over 300 students. These students were taught the Ten Commandments of firearms safety. The most important of which is to only shoot at a clearly identified target which you intend to shoot (paraphrase). This applies to both a hunting environment as well as a self defense situation. The decision to shoot or don't shoot is a decision which cannot be taken lightly under any circumstances. From personal experience as an instructor there were usually 3-4 students in our classes who were taking the course either because their husband had firearms in the house and the wife was uneasy with firearms, or the student had or was purchasing a firearm for self defense purposes. The revised training requirements will reward those who have already taken firearms training courses by not requiring an additional cost. For those who have not had any firearms training these revisions will help in State-wide firearms safety overall, with minimal cost to the applicant.

The time factor in finding a class which does not interfere with work can be a burden. This may be viewed as a minor point of concern by many, but in reality it can be an irritating factor for someone who wants a carry permit. It becomes even more of an irritant to those of us who have life-long training in firearms use (which we could teach or have taught) but are still required to attend a course under the present law .

We agree with all other proposed changes to HB 338 and SB 177 as they currently appear. We appreciate the chance to testify to this hearing and look forward to a better law which will benefit all Alaskans.

  
MICHAEL C. COONS

  
SANDRA L. COONS

October 5, 1995

Legislative Affairs Office  
716 West 4th Avenue  
Anchorage, AK 99501

ATTN: Senator Lyda Green &  
House Representative Jeannette James  
Ref. SB-177 & HB 338 (Concealed Weapon Permit)  
Page 1 of 2

I begin my residency as a young boy back in the days when my father moved my brother and I (then we as three) from California to Alaska in January of 1960. Since those days there has been many changes since we first relocated to this state.

Growing up here created many memories of my youthful early days in Alaska. From attending elementary schools, high school graduation, college days and which inevitably lead me towards the courtship and marriage of my wife and raising a family. My wife and I have four grown daughters and we now enjoy the title of grandparents and godparents too.

My wife and I both have been long time employee's of righteous employer's striving to create a good example for our children and a solid living home environment for our family and friends.

I am interested in endorsing safe and healthy communities for all people who live or visit our great state. This includes (but not limited to), the elimination of fear of violence in the streets, our homes, our work places or any other everyday location(s) we desire to go.

I would like to say the expenses endured to obtain a concealed handgun permit within the State of Alaska would be to the benefit of the holder, **providing**, the costs were dramatically and immediately reduced. Unfortunately, still as of today, they are quite expensive since the inception of this permit program was implemented into law.

Due to the administrative "**red tape**" implemented by the individual(s) and /or agency(s) pursueing to maintain a high maintenance cost for processing each application, I fail to see where there is not a sound conclusive way to remodify and reduce the over all inflated process fees.

If we as United States citizens are experiencing everyday down sizing; cut backs; budgetary restraints; tightening up our belts; etc., and therefore are expected by our leaders to "**do more with less resources**". So why can't this same principle be applied here?

October 5, 1995  
Legislative Affairs Office  
ATTN: Senator Lyda Green &  
House Representative Jeannette James  
Page 2 of 2 (cont.)

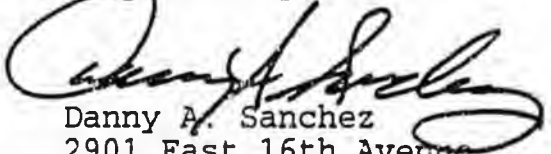
I as well as many others I'm sure are interested in minimizing costs and keeping these on-going law abiding opportunities available to the people of Alaska.

Those who choose to comply with the law and abide by the law, **should not be chastised** by over zealous expenditures beyond their reach, **but**, should be **rewarded** to share the opportunities granted to them by their elected officials **as an incentive** to reap the benefits and rewards of choosing to reside in the forty ninth state of the United States of America.

Therefore, I support and urge the both of you respectively to seek a more cost effective way to down size and reduce the overall cost of this concealed weapon bill for the benefit of the citizens of the State of Alaska now under reconsideration.

I thank you for this opportunity to speak out and be heard hopefully to have my vote counted in favor of concealed weapon permit application cost reduction fees to and for the people of the State of Alaska.

Respectfully;



Danny A. Sanchez  
2901 East 16th Avenue  
Anchorage, AK 998508-2911  
907-269-4944 (W)

COMMENTS (PUBLIC OPINION) REGARDING HOUSE BILL NO.338 and  
SENATE BILL NO.177

Most of the changes to the existing law that these two bills propose are beneficial. The single exception is Section 7.

The current law specifies the NRA-Personal Protection Course or similar approved course. This course includes, along with safety and handling, a section on local and state laws relating to lethal force and the responsibilities of owning and carrying a firearm. This is a necessary part of the course and should not be omitted. The only group of people that might be exempted from this required training would be civilian law enforcement officers. I was trained in the use of military small arms and I have been involved with the training of security guards. Neither training begins to cover the attitude of care and responsibility or legal knowledge necessary for responsible carry of a firearm for personal protection.

The present course requirements should remain as is. The proposed changes in Sec.7 should be omitted from these bills.

Sincerely,

J. David Longacre

P.O. box 103553  
Anchorage, Ak. 99510  
(907) 561-2522

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

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CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182

T/C DATE: 01/23/96 TIME: 15:30 to 17:00

STATUS: 7 STATS IN

SITE: LIO ANC VTS

ANCHORAGE

1 MR.	NEIL	CAMERON		T 99 ALL ITEMS
	3514 W 40TH	ANCHORAGE	AK 99517	(907)243-5663
2 MR.	GARY	CARLSON		T 99 ALL ITEMS
	2439 TULANE	ANCHORAGE	AK 99504	(907)337-3857
3 MR.	TIM	SCHRAGET		T 99 ALL ITEMS
	3130 E 46TH #3	ANCHORAGE	AK 99507	(907)337-2813
4 MS.	JOAN	FISHER	MARY CONRAD CNTR	T 99 ALL ITEMS
	9100 CENTENNIAL DR.	ANCHORAGE	AK 99504	(907)333-8100
5 MR.	JESS	BULKLEY		T 99 ALL ITEMS
	2530 W 79TH AVE	ANCHORAGE	AK 99502	(907)248-6633
6 MR.	CHRIS	SULLIVAN		T 99 ALL ITEMS
	4155 MCLEAN	ANCHORAGE	AK 99504	(907)337-3075
7 MR.	JOHN	REIGHARD		U 99 ALL ITEMS
	6811 E 3RD AVE	ANCHORAGE	AK 99508	(907)333-6245
8 MS.	DEANNA	SPILS		U 99 ALL ITEMS
	1900 WILDWOOD LN	ANCHORAGE	AK 99517	(907)522-4512

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9 MR.	JERRY	OTTO		O 99 ALL ITEMS
	12332 WOODWARD	ANCHORAGE	AK 99516	(907)345-0914
10 MR.	JOHN	RUSSELL		O 99 ALL ITEMS
		EAGLE RIVER	AK 99577	(907)696-3375
11 MR.	RICHARD	COGNELL		O 99 ALL ITEMS
	PO BOX 772502	EAGLE RIVER	AK 99577	(907)694-5576
12 MR.	BOB	WIENLTOLD		O 99 ALL ITEMS
	10132 COLVILLE	EAGLE RIVER	AK 99577	(907)694-2445
13 MR.	DAVID	ALLEN		O 99 ALL ITEMS
	8336 PECK AVE	ANCHORAGE	AK 99504	(907)337-2771
14 MR.	TOM	JURASEK		O 99 ALL ITEMS
	4030 W 89TH AVE	ANCHORAGE	AK 99502	(907)245-0499
15 MR.	J'AUNE	MC CLENTON		O 99 ALL ITEMS
	PO BOX 240592	ANCHORAGE	AK 99524	(907)344-1530
16 MR.	SCOTT	PEPPERS		O 99 ALL ITEMS
	PO BOX 771064	EAGLE RIVER	AK 99577	(907)694-9681

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CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

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STATUS: 7 STATS IN

SITE: LIO BAR VTS

BARROW

1 MR.	GARY	JUDD	NUVUK GUN CLUB	T 01 SB 177
	PO BOX 1469	BARROW	AK 99723	(907)852-4503
2 MS.	BETTY	WALLACE	SELF	O 01 SB 177
	GENERAL DELIVERY	BARROW	AK 99723	(907)852-2312
3 MR.	TOM	NICOLOS	SELF	O 01 SB 177
	PO BOX 385	BARROW	AK 99723	(907)852-4503

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TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN  
SITE: LIO BET VTS BETHEL  
1 BILL LANG SELF O 01 SB 177  
PO BOX 448 BETHEL AK 99559 (907)543-3465

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01/25/96

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SITE: LIO DJT VTS DELTA JCT.

1	MR.	PATRICK	DALTON			T 99 ALL ITEMS (907)000-0000
2	MR.	BERNARD	GOODNO			T 99 ALL ITEMS (907)895-0000
		PO BOX 92		DELTA JUNCTION	AK 99737	
3	MR.	ROY	BOWDRE			O 99 ALL ITEMS (907)895-4448
		PO BOX 2		DELTA JUNCTION	AK 99737	
4	MR.	TIM	WEBB			O 99 ALL ITEMS (907)895-1024
				DELTA JUNCTION	AK 99737	
5	MR.	DAN	DAVIS			O 99 ALL ITEMS (907)895-4190
		PO BOX 1285		DELTA JUNCTION	AK 99737	
6	MR.	PATRICK	MCKEEN			O 99 ALL ITEMS (907)895-0000
		PO BOX 151		DELTA JUNCTION	AK 99737	
7	MR.	MIKE	SARVER			O 99 ALL ITEMS (907)895-4178
		PO BOX 1014		DELTA JUNCTION	AK 99737	
8	MRS.	CHEYENNE	WEBB			O 99 ALL ITEMS (907)895-1024
		HC 62 BOX 5358		DELTA JUNCTION	AK 99737	

MSG: 1410 NO FURTHER INFORMATION

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01/25/96

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LTN1405

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TCN 60182

T/C DATE: 01/23/96 TIME: 15:30 to 17:00

STATUS: 7 STATS IN

SITE: LIO FBX VTS FAIRBANKS

1 MR.	DAVID	WILLIAMS		T 02 HB 338
	1335 SUNNYSLOPE RD.	FAIRBANKS	AK 99709	(907)455-6652
2 MS.	BONNIE	WILLIAMS		T 02 HB 338
	1335 SUNNYSLOPE RD.	FAIRBANKS	AK 99709	(907)455-6652
3 MR.	MICHAEL	CULBERT		T 02 HB 338
	1934 ENDECOTT AVE.	NORTH POLE	AK 99705	(907)488-3061
4 MR.	G. DOUGLAS	SOMERS		T 02 HB 338
	PO BOX 58195	FAIRBANKS	AK 99711	(907)488-7100
5 MR.	LADD	MCBRIDE		T 02 HB 338
	PO BOX 83567	FAIRBANKS	AK 99708	(907)479-8096
6 MR.	JERRY	POTTS		T 02 HB 338
	747 GRUBSTAKE RD.	FAIRBANKS	AK 99712	(907)458-9446
7 MR.	DAN	HITCHCOCK		T 02 HB 338
	PO BOX 14001	SALCHA	AK 99714	(907)488-0811

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:25:35 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN

SITE: LIO GLN VTS GLENNALLEN

1 MR.	CLEM	BOUCHER		O 01 SB 177
	P O BOX 258	GLENNALLEN	AK 99588	(907)822-3684
2 MR.	ED	KNOEBEL		T 01 SB 177
	P O BOX 84	GLENNALLEN	AK 99588	(907)822-3208
3 MR.	DOUG	RHODES		T 01 SB 177
	P O BOX 110	GLENNALLEN	AK 99588	(907)822-3663
4 MR.	AUSTIN	MAHALKEY		O 01 SB 177
	P O BOX 455	GLENNALLEN	AK 99588	(907)822-3613
5 MR.	MIKE	LANEGAN		O 01 SB 177
	P O BOX 28	GLENNALLEN	AK 99588	(907)822-5289
6 MR.	JOHN	BREIVOGEL		O 01 SB 177
	SR BOX 106	COPPER CENTER	AK 99573	(907)822-5870
7 MR.	OBSERVER	1		O 01 SB 177
				(907)000-0000
8 MS	OBSERVER	2		O 01 SB 177
				(907)000-0000

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96 LEGISLATIVE TELECONFERENCE NETWORK LTN1405  
09:25:50 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE  
TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN  
SITE: LIO HOM VTS HOMER  
1 MR. PATRICK JOHNSON T 99 ALL ITEMS  
54540 EAST END RD. HOMER AK 99603 (907)235-6656

MSG: 1410 NO FURTHER INFORMATION  
ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:26:25 N

CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182

T/C DATE: 01/23/96 TIME: 15:30 to 17:00

STATUS: 7 STATS IN

SITE: LIO KEN VTS KENAI LIO

1	MR.	LYMAN	NICHOLS	SELF		T 01 SB 177
		PO BOX 783	COOPER LANDING	AK 99572		(907)595-1224
2	MR.	CLARK	BERGER	SELF		T 01 SB 177
		PO BOX 3113	KENAI	AK 99611		(907)776-8055
3	MR.	MARSHALL	MARTIN	SELF		T 01 SB 177
		31695 MURRAY LANE	SOLDOTNA	AK 99669		(907)262-5909
4	MR.	PHIL	NASH	SELF		T 01 SB 177
		110 S WILLOW #104	KENAI	AK 99611		(907)283-7514
5	MR.	ROD	CHRISTOPHER	PENINWEAPACADEMY		T 01 SB 177
		180 S BINKLEY	SOLDOTNA	AK 99669		(907)262-5556
6	MR.	DICK	HUBLEY	SELF		T 01 SB 177
		PO BOX 754	STERLING	AK 99672		(907)262-7450
7	MR.	DOUG	MALLETTE	SELF		T 01 SB 177
		HC 2 BOX 329	SOLDOTNA	AK 99669		(907)262-2774
8	MR.	LARRY	MITCHELL	SELF		O 01 SB 177
		202 PAMELA CT	KENAI	AK 99611		(907)283-3186

MSG:

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
HAVE BEEN REFILMED TO  
ASSURE LEGIBILITY OR PAGINATION



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Department of Education  
State of Alaska

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:26:25 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN

SITE: LIO KEN VTS KENAI LIO

1	MR.	LYMAN	NICHOLS	SELF		T 01 SB 177
		PO BOX 783	COOPER LANDING	AK 99572		(907)595-1224
2	MR.	CLARK	BERGER	SELF		T 01 SB 177
		PO BOX 3113	KENAI	AK 99611		(907)776-8055
3	MR.	MARSHALL	MARTIN	SELF		T 01 SB 177
		31695 MURRAY LANE	SOLDOTNA	AK 99669		(907)262-5909
4	MR.	PHIL	NASH	SELF		T 01 SB 177
		110 S WILLOW #104	KENAI	AK 99611		(907)283-7514
5	MR.	ROD	CHRISTOPHER	PENINWEAPACADEMY	T 01 SB 177	
		180 S BINKLEY	SOLDOTNA	AK 99669		(907)262-5556
6	MR.	DICK	HUBLEY	SELF		T 01 SB 177
		PO BOX 754	STERLING	AK 99672		(907)262-7450
7	MR.	DOUG	MALLETTE	SELF		T 01 SB 177
		HC 2 BOX 329	SOLDOTNA	AK 99669		(907)262-2774
8	MR.	LARRY	MITCHELL	SELF		O 01 SB 177
		202 PAMELA CT	KENAI	AK 99611		(907)283-3186

MSG:

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:26:45 N

CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182

T/C DATE: 01/23/96 TIME: 15:30 to 17:00

STATUS: 7 STATS IN

SITE: LIO KEN VTS

KENAI LIO

9 MS.	KATHIE	SAVAGE	SELF	O 01 SB 177
PO BOX	2997	KENAI	AK 99611	(907)283-3099
10 MR.	STUART	PRISK	SELF	O 01 SB 177
PO BOX	1208	SOLDOTNA	AK 99669	(907)262-2494
11 MS.	DIANE	CAMPBELL	SELF	O 01 SB 177
PO BOX	1208	SOLDOTNA	AK 99669	(907)262-2494
12 MR.	ELLERY	GIBBS	SELF	O 01 SB 177
PO BOX	408	SOLDOTNA	AK 99669	(907)262-7275
13 MS.	MARY	ISLEY	SELF	O 01 SB 177
PO BOX	2378	SOLDOTNA	AK 99669	(907)260-3321
14 MR.	KEN	MARQUIS	SELF	O 01 SB 177
PO BOX	1092	KENAI	AK 99611	(907)283-4039

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:27:00 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN

SITE: LIO KTN VTS KETCHIKAN

1 MR.	ELZIE	ISLEY		T 01 SB 177
	2533 3RD AVE.	KETCHIKAN	AK 99901	(907)225-4881
2 MR.	ROBERT	NESVICK, JR.		T 01 SB 177
	PO BOX 5726	KETCHIKAN	AK 99901	(907)225-4618
3 MR.	BILL	HOLLYWOOD		O 01 SB 177
	3059 CREST AVE.	KETCHIKAN	AK 99901	(907)225-2013
4 MR.	KEN	ROWAN		O 01 SB 177
	PO BOX 1078	WARD COVE	AK 99928	(907)225-5030
5 MR.	ROE	THOMAS		O 01 SB 177
	PO BOX 8282	KETCHIKAN	AK 99901	(907)225-4858

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:27:09 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN

SITE: LIO MAT VTS MATSU

1 MS	LAURA JANE	WINEINGER	NRA	T 01 SB 177
	P O BOX 1111	CHICKALOON	AK 99674	(907)745-2093
2 MR	CHARLES	STIEHR		T 01 SB 177
	P O BOX 671108	CHUGIAK	AK 99867	(907)688-3227
3 MR	THOMAS	DEVINE		T 01 SB 177
	P O BPX 771413	EAGLE RIVER	AK 99577	(907)696-8211
4 MR.	LLOYD	BARRUS		T 01 SB 177
	HC31 BOX 5182A	WASILLA	AK 99654	(907)373-4039
5 MR.	KEN	RIVARD		O 01 SB 177
	P O BOX 871842	WASILLA	AK 99687	(907)376-2140
6 MR	EDDIE	GRASSER		O 01 SB 177
	P O BOX 2193	PALMER	AK 99645	(907)745-3772
7 MR	ERIC	BECKMAN		T 01 SB 177
	HC32 BOX 6629B	WASILLA	AK 99654	(907)373-2234
8 MR	LEONARD	TAD		O 01 SB 177
	P O BOX 2982	PALMER	AK 99645	(907)745-0386

MSG:

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

01/25/96

LEGISLATIVE TELECONFERENCE NETWORK

LTN1405

09:27:34 N

CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE

TCN 60182

T/C DATE: 01/23/96 TIME: 15:30 to 17:00

STATUS: 7 STATS IN

SITE: LIO MAT VTS

MATSU

9 MR. DON  
P O BOX 875133

ZIMMERMAN  
WASILLA

AK 99687 O 01 SB 177  
(907)376-0344

10 MR. FRED  
P O BOX 499

JAMES  
PALMER

AK 99645 O 01 SB 177  
(907)000-0000

MSG: 1410 NO FURTHER INFORMATION

ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit

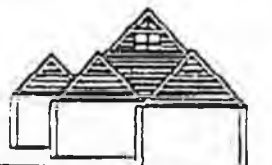
01/25/96 LEGISLATIVE TELECONFERENCE NETWORK LTN1405  
09:27:59 N CONFERENCE DISPLAY PAGE 05 - PARTICIPANTS BY SITE  
TCN 60182 T/C DATE: 01/23/96 TIME: 15:30 to 17:00 STATUS: 7 STATS IN  
SITE: LIO VAL VTS VALDEZ  
1 MR. JOHN NEALON T 01 SB 177  
PO BOX 2379 VALDEZ AK 99686 (907)835-5031

MSG: 1410 NO FURTHER INFORMATION  
ENTER Pg# 10 PF2 NextC# ynnnn PF3 Exit

PF7 Bwd PF8 Fwd PF12 Quit







MARY CONRAD  
CENTER

October 4, 1995

Representative Jeanette James  
Legislative Information Office  
716 West Fourth Street  
Anchorage, Alaska 99501

RE: HB 338/SB 177

Dear Representative James:

I am writing on behalf of the Providence Health System in Alaska which includes Providence Alaska Medical Center, Providence Extended Care Center, Providence Horizon House and the Mary Conrad Center (managed facility). The recent Alaska Statute and regulations that authorize licensed citizens to carry concealed handguns does not clearly allow the health care facilities authority to prohibit concealed handguns on our premises.

The facilities listed above care for persons who are medically fragile, elderly and disabled. Our facilities are open to the public 24 hours a day receiving many visitors, employees, medical staff, vendors and patients. We feel that we have sufficient justification for prohibiting the carrying of concealed handguns at the health care facilities.

We are seeking your support to approach the legislature to add an amendment to HB 338/SB 177 specifically authorizing health care facilities to prohibit the carrying of concealed handguns on its premises. Please see the attached suggested amendment. Let me know if I can be of further assistance or answer any questions. Thank you for your consideration of this amendment to the bill.

Sincerely,

Joan L. Fisher  
Operations Administrator

cc: Douglas Bruce, Chief Executive  
Providence Health System in Alaska

A New Concept  
In Senior Well-Being

9100 Centennial Drive  
Anchorage, Alaska 99504  
(907) 853-8100



SUGGESTED AMENDMENT TO HB 338/SB 177

Section 9, page 5, line 27: Amend 18.65.755 (a) by adding a new subsection (14), to read as follows:

(14) a health care facility; in this paragraph, "health care facility" means hospital, nursing home, public health center, outpatient clinic, facility for the developmentally disabled, rehabilitation facility, drug abuse and alcoholism treatment facility, mental health center, or health-care unit within a sheltered care home or within a home for senior citizens.

COMMENT: The effect of this amendment would be to add "health care facilities" to the list of places where a permittee may not carry a concealed handgun. The definition of "health care facility" is based on AS 18.26.900 (6), which pertains to the Alaska Medical Facility Authority.

---

A New Concept  
In Senior Well-Being

---

9100 Centennial Drive  
Anchorage, Alaska 99504  
(907) 558-8100

SB 177

"An Act relating to permits to carry concealed handguns."

# I support Senate Bill 177

NAME	ADDRESS	PHONE
Jeffrey W LAMB	3105 Arctic #2243 Anchorage	258-1519
Chris Newman	41901 Pine P.O. Box 872752 Wasilla Alaska 99687	
Clay Langland	3605 Arctic Blvd Anchorage 99503	
Harvey L. Burson	2814 Brittonville Anchorage 99504	333-0900
Jean S. Bell	P.O. Box 878783 Wasilla	373-7339
<del>John Bell</del>	PO 878783 WASILLA 99687	3737339 376-9350
Sam Raymond	1061 Fairview Drive Wasilla 99654	
Paul Barry	3850 Caribou Dr.	376-4569
James J. Dwyer	4100 Bull Moose Dr Wasilla 99654	373-6670
Lynda J. Clark	Bull Moose Dr. Wasilla	373-6670 99654-1741

THANK YOU FOR YOUR SUPPORT

\*\*\* Senator \*\*\*

# LYDA GREEN



SB 177

"An Act relating to permits to carry concealed handguns."

# I support Senate Bill 177

NAME	ADDRESS	PHONE
MICHAEL W. MOORE	P.O. Box 873427 NASSILA, AK. 99697	1-907-376-6165
RICHARD PERRY	P.O. Box 19031, ANCHORAGE, ALASKA	907-344-7693
Deane L Goodrich	Box 821 Palmer 99645	745 3968
Glenn R Goodrich	PO Box 821 Palmer AK 99645	745-3968
Dean Hendrickson	PO Box 1271 Palmer AK 99645	745-0838
RAE ANN HENDRICKSON	" "	" "
WALTER F FERGUS	840 Rockside Wasilla AK 99654	376-6907
Rita Sanning	Box 19 SUTTON 99674	746-0187
Keith Pappas	Box 876415 Wasilla 99687	376-5523
JAMES GARHART	Box 872533 WASILLA	746-2828
ASHLE EDWARD	7406 5th St Ft Richardson	428-4087
Tom Whitstone Jr	Box 871985 Wasilla	373-2578
Sherry Whitstone	" "	" "
DAVID AUSMAN	1503 W 33RD ANCH.	501 8904

THANK YOU FOR YOUR SUPPORT

\*\*\* Senator \*\*\*

# LYDA GREEN



SB 177

"An Act relating to permits to carry concealed handguns."

# I support Senate Bill 177

NAME	ADDRESS	PHONE
JEFF HASKIN	WASILLA, AK, 99654 500 E. Crestwood Ave	376-2073
PAM HASKIN	WASILLA AK 99654 500 E CRESTWOOD	376-2073
WILLIAM GAINES	99687 P.O. Box 877414, WASILLA,	373-1634
Mary Periak	99645 P.O. Box 1365 Palmer	745-3000
Joe Boekly	99654 HC30 5503 Wasilla AK	373-7951
John Baker	Palmer AK 99677	373-1957
William J. Drumm	6830 Ehrlich Ct - Anch	537-5827
DAVE PETERSON	Box 1010, Willow, AK	495 6556
JR Bobart	PO Box 3915 Palmer AK 99645	892 8632
Robert G. Wivisaker	Box 2666 Palmer	746-0626
John A. Hoque	Box 2137 Palmer AK	745-1736
Billy C. Lemon, Jr	HC89 Box 8107 Talkeetna	355-1441
Flo M. Lemon	99687 P.O. Box 870441 WASILLA AK	373-1441
PAT MARLEY	2901 WHISPERING WOODS DR.	376-5602

THANK YOU FOR  
YOUR SUPPORT

\*\*\* Senator \*\*\*

**LYDA GREEN**



SB 177

"An Act relating to permits to carry concealed handguns."

# I support Senate Bill 177

NAME	ADDRESS	PHONE
KEN KENNITT	HC04 Box 9576 PALMUM, AK 99645	745-1376
ROB SHIPLEY	9600 ALBATROSS DR. ANCH, 99515	257-3915
JR McCURBINS	PO Box 1656 Homer ALASKA 99603-2354	
Kim Medlock	PO Box 2125 Palmer	746-3519
PATRICK CRAMER	9411 AGATTU cir. FAIR RIVER 99577	694-7898
TUCKERMAN BABCOCK	HC01 Box 6219 C Palmer 99645	746-7632
Jacob Hancock	6209 Chervigny Anch. AK 99502	243-3439
HERBERT L. FEY	PO Box 1101 Chickaloon AK 99674	746-5139
Peggy M. Gifford	PO Box 874803 Wasilla 99687	373-5606 5221459
JAMES W. HILL	3860 AMBER BAY LOOP, ANCH-99515	
Ron Johnson	PO Box 871706 Wasilla AK 99687	373-6700
Ted Ferry	PO Box 62 Willow AK 99688	
CARY MUMFORD	HC01 Box 6050 BB PALMER 99645	745-8224
William W. Carlson	P.O. Box 190024 ANCH. AK 99519	346-2897

THANK YOU FOR  
YOUR SUPPORT

\*\*\* Senator \*\*\*

# LYDA GREEN



Please sign-in

# 1995 Alaska State Fair - Visitors

NAME

ADDRESS

PHONE

I SUPPORT SB 177

"AN ACT RELATING TO PERMITS TO  
CARRY CONCEALED HANDGUNS."

Stephen Stoll 1001 TORR CR WASILLA AK

Linnette Booth " "

Bill SPENCER PO Box 520553 Big Lake AK 99652 892-674

Russel TUCKER P.O. Box 873425 Wasilla AK 99697

ROY C. McLaughlin 2021 Muldora street ANCHORAGE AK 99504

MARTIN H. OTT 332 BOUNDARY FAIRBANKS AK 99701

PAUL H GABBONT 2ND WEST BEND ALEXANDER CR AK 99695

GERALD A WILLMAN 1401 BOY 6083 PALMCR 745-3665

Robert Katsur 445 JEROME DR. WASILLA 376-1384

Sandy Blomfield #B156 7610 Wildwood Cir. Anch, AK 346-2738

Pollia Babcock 10209 Chavigny St. 99502 # 243-3439

LORETTA WOLSKI 3354 ORION 243-270

THANK YOU FOR VISITING!

\*\*\* Senator \*\*\*

# LYDA GREEN



# ALASKA STATE LEGISLATURE

*Interim:*  
600 East Railroad Avenue  
Wasilla, Alaska 99654  
(907) 376-3370



*Session:*  
Juneau, Alaska 99801-1182  
(907) 465-6600  
Fax 465-3805

**SENATOR LYDA GREEN**  
SENATE DISTRICT N

## **SB 177**

### **"An Act Relating to Permits to Carry Concealed Handguns"**

#### **Sponsor Statement**

In an effort to simplify the concealed handgun permitting process and make the permits more available to those who need them the most, the following revisions are proposed:

1. DELETE F.B.I. investigation (and CHANGE department's time limit for approval from 15 to 30 days).
2. DELETE requirement to qualify with specific action types and caliber of handguns.
3. DELETE residency requirement.
4. CHANGE application fee cap from \$125 to \$65 and change renewal fee cap from \$50 to \$25.
5. AUTHORIZE the Department of Public Safety to enter into reciprocity agreements with other states for holders of concealed handgun permits.
6. REMOVE restrictions on where a permit holder may carry a concealed handgun, other than where disallowed by federal law.
7. DELETE the miniature handgun prohibition.
8. ADD providing applicant with a copy of laws and regulations pertaining to firearms.

The revisions contained in SB 177 are necessary in order to provide a more streamlined and less costly process for obtaining a permit as well as greater latitude for law abiding citizens to exercise their rights to carry concealed. I respectfully request your support of this legislation.

# 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

January 23, 1996

**SUBJECT:** Sectional Summary of CSSB 177(STA) draft, dated 1/12/96. (Work Order No. 9-LS1139\G)

**TO:** Senator Bert Sharp  
Attn: Ann Ringstad

**FROM:** Gerald P. Luckhaupt *GL*  
Legislative Counsel

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

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

**Section 1 of the bill** amends AS 11.61.210 by adding a new subsection that provides an affirmative defense to a charge under AS 11.61.210(a)(7) of possessing a deadly weapon "within the buildings of, on the grounds of, or on the school parking lot of a public or private preschool, elementary, junior high, or secondary school" if the person possessing the deadly weapon is a concealed handgun permittee and the weapon possessed is a concealed handgun.

**Section 2 of the bill** amends AS 11.61.220(d) by providing an affirmative defense to a charge under AS 11.61.220(a)(2) of possessing "a loaded firearm on the person at any place where intoxicating liquor is sold for consumption on the premises" if the person possessing the loaded firearm is a concealed handgun permittee and the loaded firearm is a concealed handgun.

**Section 3 of the bill** amends AS 18.65.700(a)(3) to require the Department of Public Safety (department) to provide a copy of the state laws and regulations related to firearms with each application for a concealed handgun permit.

**Section 4 of the bill** amends AS 18.65.700(b) to require the department to accept or reject a concealed handgun application within 30 days.

Senator Bert Sharp  
January 23, 1996  
Page 2

**Section 5 of the bill** amends AS 18.65.700(d) by removing a requirement that a concealed handgun permit must specify the action types and calibers of handguns the person has demonstrated competence with and can carry.

**Section 6 of the bill** amends AS 18.65.710(a)(3) relating to a concealed handgun applicant's receipt of a copy, knowledge, and understanding of the state laws and regulations related to firearms.

**Section 7 of the bill** amends AS 18.65.715(a) by removing a requirement that a certificate of completion of a handgun course specify the action types and calibers of handguns the applicant has demonstrated competency with and also by removing a requirement that a handgun course must test an applicant's competence with each handgun type and caliber the applicant wants to carry.

**Section 8 of the bill** adds a new section, AS 18.65.718, that permits the department to enter into agreements to provide reciprocity holders of concealed handgun permits in other states.

**Section 9 of the bill** AS 18.65.720 by reducing the fees for a permit.

**Section 10 of the bill** amends AS 18.65.735(a) by limiting the reasons for suspending a concealed handgun permit.

**Section 11 of the bill** amends AS 18.65.740(a) by limiting the reasons for revoking a concealed handgun permit.

**Section 12 of the bill** amends AS 18.65.755(a) by providing that concealed handgun permittees may carry their weapons anywhere in Alaska except where prohibited by federal law or by local option election.

**Section 13 of the bill** amends AS 18.65.790(3) by allowing miniature handguns to be carried by a concealed handgun permittee.

**Section 14 of the bill** provides repealers.

GPL:pl:glc  
96-031.plm

9-LS1139\G  
Luckhaupt  
1/12/96

**CS FOR SENATE BILL NO. 177(STA)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**NINETEENTH LEGISLATURE - SECOND SESSION**

**BY THE SENATE STATE AFFAIRS COMMITTEE**

Offered:  
Referred:

Sponsor(s): SENATORS GREEN, Halford, Taylor

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to permits to carry concealed handguns."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* Section 1. AS 11.61.210 is amended by adding a new subsection to read:

4 (e) In a prosecution under (a)(7) of this section, it is an affirmative defense that  
5 the defendant, at the time of possession, was the holder of a valid permit to carry a  
6 concealed handgun under AS 18.65.700 - 18.65.790, the deadly weapon was a concealed  
7 handgun as defined in AS 18.65.790, and the possession did not occur in a municipality  
8 or established village in which the possession of concealed handguns is prohibited under  
9 AS 18.65.780 - 18.65.785.

10 \* Sec. 2. AS 11.61.220(d) is amended to read:

11 (d) In a prosecution under (a)(2) of this section, it is  
12 (1) an affirmative defense that the defendant, at the time of  
13 possession, was the holder of a valid permit to carry a concealed handgun under  
14 AS 18.65.700 - 18.65.790, the loaded firearm was a concealed handgun as defined

1 in AS 18.65.790, and the possession did not occur in a municipality or established  
2 village in which the possession of concealed handguns is prohibited under  
3 AS 18.65.780 - 18.65.785;

4 (2) a defense that the defendant, at the time of possession, was on  
5 business premises

6 (A) [(1) ON BUSINESS PREMISES] owned by or leased by the  
7 defendant; or

8 (B) [(2) ON BUSINESS PREMISES] in the course of the  
9 defendant's employment for the owner or lessee of those premises.

10 \* Sec. 3. AS 18.65.700(a) is amended to read:

11 (a) The department shall issue a permit to carry a concealed handgun to a  
12 person who

13 (1) applies in person at an office of the Alaska State Troopers;

14 (2) qualifies under AS 18.65.705;

15 (3) submits a completed application on a form provided by the  
16 department, that provides the information required under AS 18.65.705 and 18.65.710  
17 and is executed under oath; with each application form provided by the  
18 department, the department shall provide a copy of the state laws and regulations  
19 relating to firearms;

20 (4) submits two complete sets of fingerprints on federal bureau of  
21 investigation approved fingerprint cards that are of sufficient quality so that the  
22 fingerprints may be processed; the fingerprints must be taken by a person, group, or  
23 agency approved by the department; the department shall maintain a list of persons,  
24 groups, or agencies approved to take fingerprints and shall provide the list to the  
25 public upon request;

26 (5) submits evidence of competence with handguns as provided in  
27 AS 18.65.715;

28 (6) provides two frontal view color photographs of the person taken  
29 within the preceding 30 days that include the head and shoulders of the person and are  
30 of a size specified by the department;

31 (7) shows a valid Alaska driver's license or identification card at the  
32 time of application;

1 (8) does not suffer a physical infirmity that prevents the safe handling  
2 of a handgun; and

3 (9) pays the application fee required by AS 18.65.720.

4 \* Sec. 4. AS 18.65.700(b) is amended to read:

5 (b) The department shall either approve or reject an application for a permit  
6 to carry a concealed handgun under (a) of this section within 30 [15] days of receipt  
7 of [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF  
8 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A  
9 DETERMINATION CONCERNING] the application. [THE DEPARTMENT SHALL  
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14 (d) A permit issued under (a) of this section is valid for five years from the  
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16 MAXIMUM CALIBERS OF HANDGUN DESCRIBED IN THE PERMITTEE'S  
17 CERTIFICATE OF COMPETENCY UNDER AS 18.65.715 BUT MAY NOT  
18 SPECIFICALLY IDENTIFY A HANDGUN BY MAKE, MODEL, OR SERIAL  
19 NUMBER.]

20 \* Sec. 6. AS 18.65.710(a)(3) is amended to read:

21 (3) a statement that the applicant has been furnished with a copy of the  
22 state laws and regulations relating to firearms [AS 18.65.700 - 18.65.790], has read  
23 those sections, and understands them;

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25 (a) An applicant for a permit to carry a concealed handgun shall provide a  
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28 CALIBER OF HANDGUN OR HANDGUNS THE APPLICANT HAS  
29 DEMONSTRATED COMPETENCE WITH AND THAT THE APPLICANT MAY BE  
30 PERMITTED TO CARRY. A PERMITTEE MAY ONLY CARRY AS A  
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4 SAME ACTION TYPE.] The handgun course must have been completed within the  
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8 (1) knowledge of Alaska law relating to firearms and the use of deadly  
9 force;

10 (2) familiarity with the basic concepts of the safe and responsible use  
11 of handguns; and

12 (3) knowledge of self-defense principles [; AND

13 (4) PHYSICAL COMPETENCE WITH EACH ACTION TYPE OF  
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15 THE MAXIMUM CALIBER FOR EACH ACTION TYPE THE APPLICANT  
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17 \* Sec. 8. AS 18.65 is amended by adding a new section to read:

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22 provided the other state allows holders of concealed handgun permits issued under  
23 AS 18.65.700 - 18.65.790 to be permitted to carry concealed handguns in the other  
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27 (1) an application that provides information that is substantially similar  
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1 application and initial issuance of a permit under AS 18.65.720.

2 (b) A person receiving a reciprocal permit under this section may carry a  
3 concealed handgun in the same manner and to the same extent as a person issued a  
4 permit under AS 18.65.700. Following issuance of the permit, all aspects concerning  
5 the regulation of the permit and the permittee are controlled by AS 18.65.700 -  
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8 Sec. 18.65.720. FEES. The department shall charge a nonrefundable fee for  
9 the processing of the application for and initial issuance of a permit, renewal of a  
10 permit, or replacement of a permit. The fees shall be set by regulation and must be  
11 based on the actual costs incurred by the department. However, the fee for the  
12 processing of an application and initial issuance of a permit may not exceed \$65  
13 [~~\$125~~] and the fee for renewal of a permit or replacement of a permit may not exceed  
14 \$30 [~~\$60~~].

15 \* Sec. 10. AS 18.65.735(a) is amended to read:

16 (a) The department shall immediately suspend a permit to carry a concealed  
17 handgun if a permittee is arrested for or formally charged with a crime that would  
18 disqualify the permittee under AS 18.65.705(3) [AS 18.65.705(3) - (4)] from being  
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23 without being charged, or the injunction under AS 25.35.010 - 25.35.020 is dissolved  
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1 (2) [IS CONVICTED OF TWO CLASS A MISDEMEANORS OF  
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3 FIVE-YEAR PERIOD IF AT LEAST ONE OF THE CONVICTIONS OCCURS  
4 AFTER THE APPLICATION;

5 (3)] knowingly supplied a false or fraudulent answer, statement, or  
6 document, or made a material misstatement or omission, in connection with an  
7 application for a permit or renewal or replacement of a permit.

8 \* Sec. 12. AS 18.65.755(a) is amended to read:

9 (a) A permittee may not carry a concealed handgun into

10 (1) a [LAW ENFORCEMENT OR CORRECTIONAL FACILITY;

11 (2) OR ON SCHOOL GROUNDS OR A SCHOOL BUS; IN THIS  
12 PARAGRAPH, "SCHOOL GROUNDS" HAS THE MEANING GIVEN IN  
13 AS 11.71.900;

14 (3) A COURTHOUSE OR A COURTROOM OF THIS STATE,  
15 UNLESS THE PERMITTEE

16 (A) IS A JUDGE; OR

17 (B) HAS BEEN AUTHORIZED TO POSSESS A  
18 CONCEALED HANDGUN BY A JUDGE PRESIDING AT THAT  
19 COURTHOUSE OR COURTROOM;

20 (4) A BUILDING HOUSING ONLY STATE OR FEDERAL OFFICES  
21 OR THE OFFICES OF A POLITICAL SUBDIVISION OF THE STATE, EXCEPT  
22 AS AUTHORIZED UNDER (3) OF THIS SUBSECTION;

23 (5) AN OFFICE OF THE STATE, FEDERAL GOVERNMENT, OR  
24 OF A POLITICAL SUBDIVISION OF THE STATE THAT IS NOT LOCATED IN  
25 A BUILDING DESCRIBED IN (4) OF THIS SUBSECTION;

26 (6) A PASSENGER LOADING OR UNLOADING AREA OF AN  
27 AIRLINE TERMINAL;

28 (7) A VESSEL OF THE ALASKA MARINE HIGHWAY SYSTEM;

29 (8) A FACILITY PROVIDING SERVICES TO VICTIMS OF  
30 DOMESTIC VIOLENCE OR SEXUAL ASSAULT;

31 (9) A RESIDENCE WHERE NOTICE THAT CARRYING A

1 CONCEALED HANDGUN IS PROHIBITED HAS BEEN GIVEN BY THE  
2 POSTING OF A CONSPICUOUS NOTICE OR BY ORAL STATEMENT BY THE  
3 RESIDENT TO THE PERMITTEE;

4 (10) A MEETING OF A BUSINESS, CHARITABLE, OR OTHER  
5 ORGANIZATION OR ENTITY WHERE NOTICE THAT CARRYING A  
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8 (11) A FINANCIAL INSTITUTION; IN THIS PARAGRAPH,  
9 "FINANCIAL INSTITUTION" MEANS A BANK, SAVINGS BANK, SAVINGS  
10 ASSOCIATION, CREDIT UNION, OR OTHER INSTITUTION REGULATED BY  
11 THE DEPARTMENT OF COMMERCE AND ECONOMIC DEVELOPMENT  
12 UNDER AS 06;

13 (12) ANOTHER] place where the possession of a deadly weapon or  
14 firearm is prohibited by federal law; or

15 (2) [(13)] a municipality or established village that has prohibited the  
16 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

17 \* Sec. 13. AS 18.65.790(3) is amended to read:

18 (3) "concealed handgun" means a firearm, that is a pistol or a revolver,  
19 and that is covered or enclosed in any manner so that an observer cannot determine  
20 that it is a handgun without removing it from that which covers or encloses it or  
21 without opening, lifting, or removing that which covers or encloses it; however,  
22 "concealed handgun" does not include a shotgun, rifle, or derringer [OR OTHER  
23 MINIATURE HANDGUN], or a prohibited weapon as defined under AS 11.61.200;  
24 in this paragraph, [(A)] "derringer" means a handgun that has individual barrels for  
25 each cartridge it is capable of firing and lacks a manufacturer's installed trigger guard  
26 that completely encircles the trigger and that [WHICH] is part of the frame [; AND

27 (B) "MINIATURE HANDGUN" MEANS A HANDGUN  
28 THAT HAS A BARREL LENGTH OF THREE AND ONE-HALF INCHES  
29 OR LESS AND LACKS A MANUFACTURER'S INSTALLED TRIGGER  
30 GUARD THAT COMPLETELY ENCIRCLES THE TRIGGER AND WHICH  
31 IS PART OF THE FRAME];

- 1 \* Sec. 14. AS 18.65.705(4), 18.65.705(5), 18.65.705(9), 18.65.715(c), 18.65.725(c),  
2 18.65.765(a)(4), and 18.65.790(2) are repealed.



# Alaska State Legislature

## HOUSE OF REPRESENTATIVES

Official Business

State Capitol  
Juneau, AK 99801-1182

### Memorandum

The following are chapters mentioned in **AS18.65.705 Qualifications to obtain a permit:**

- 11.41.230 Assault in the 4th degree (class A misdemeanor)
- 250 Reckless endangerment (class A misd.)
- 270 Stalking in the second degree (class A misd.)
  
- 11.46.315 Possession of burglary tools (class A misdemeanor)
- 320 Criminal trespass in the first degree (class A misdemeanor)
- 330 Criminal trespass in the second degree (class B misd.)
- 430 Criminally negligent burning (class A misd)
- 484 Criminal mischief in the third degree (from class A misd. - class C felony)
  
- 11.51.130 Contributing to the delinquency of a minor (class A misd.)
  
- 11.56.330 Escape in the fourth degree (class A misd)
- 350 Unlawful evasion in the second degree (class B misd)
- 380 Promoting contraband in the second degree (class A misd)
- 545 Tampering with a witness in the second degree (class A misd)
- 700 Resisting or interfering with arrest (class A misd)
- 710 Harming a police dog in the second degree (class A misd)
- 740 Violating a domestic violence restraining order (class misd)
- 780 Hindering prosecution in the second degree (class B misd)
- 790 Compounding (class A misd)
- 800 Making a false report (class A misd)
- 805 False accusation (class A misd)
  
- 11.61.110 Disorderly conduct (class B misd)
- 120 Harassment (class B misd)
- 210 Misconduct involving weapons in the second degree (class A misd)
- 220 Misconduct involving weapons in the third degree (class B misd)
- 240 Criminal possession of explosives (class A or B misd)
  
- 11.71.050 Misconduct involving a controlled substance in the 5th degree(class A m)
- 060 " " " " 6th degree(class B m)



9-LS1157AC  
Luckhaupt  
1/12/96

CS FOR HOUSE BILL NO. 338( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
NINETEENTH LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Foster

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to permits to carry concealed handguns."

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

3 \* Section 1. AS 11.61.210 is amended by adding a new subsection to read:

4 (e) In a prosecution under (a)(7) of this section, it is an affirmative defense that  
5 the defendant, at the time of possession, was the holder of a valid permit to carry a  
6 concealed handgun under AS 18.65.700 - 18.65.790, the deadly weapon was a concealed  
7 handgun as defined in AS 18.65.790 and the possession did not occur in a municipality  
8 or established village in which the possession of concealed handguns is prohibited under  
9 AS 18.65.780 - 18.65.785.

10 \* Sec. 2. AS 11.61.220(d) is amended to read:

11 (d) In a prosecution under (a)(2) of this section, it is

12 (1) an affirmative defense that the defendant, at the time of  
13 possession, was the holder of a valid permit to carry a concealed handgun under  
14 AS 18.65.700 - 18.65.790, the loaded firearm was a concealed handgun as defined

1 in AS 18.65.790, and the possession did not occur in a municipality or established  
 2 village in which the possession of concealed handguns is prohibited under  
 3 AS 18.65.780 - 18.65.785;

4 (2) a defense that the defendant, at the time of possession, was on  
 5 business premises

6 (A) [(1) ON BUSINESS PREMISES] owned by or leased by the  
 7 defendant; or

8 (B) [(2) ON BUSINESS PREMISES] in the course of the  
 9 defendant's employment for the owner or lessee of those premises.

10 \* Sec. 3. AS 18.65.700(a) is amended to read:

11 (a) The department shall issue a permit to carry a concealed handgun to a  
 12 person who

13 (1) applies in person at an office of the Alaska State Troopers;

14 (2) qualifies under AS 18.65.705;

15 (3) submits a completed application on a form provided by the  
 16 department, that provides the information required under AS 18.65.705 and 18.65.710  
 17 and is executed under oath; with each application form provided by the  
 18 department, the department shall provide a copy of the state laws and regulations  
 19 relating to firearms: *concealed handguns* → *change!*

20 (4) submits two complete sets of fingerprints on federal bureau of  
 21 investigation approved fingerprint cards that are of sufficient quality so that the  
 22 fingerprints may be processed; the fingerprints must be taken by a person, group, or  
 23 agency approved by the department; the department shall maintain a list of persons,  
 24 groups, or agencies approved to take fingerprints and shall provide the list to the  
 25 public upon request;

26 (5) submits evidence of competence with handguns as provided in  
 27 AS 18.65.715;

28 (6) provides two frontal view color photographs of the person taken  
 29 within the preceding 30 days that include the head and shoulders of the person and are  
 30 of a size specified by the department;

31 (7) shows a valid Alaska driver's license or identification card at the  
 32 time of application;

1 (8) does not suffer a physical infirmity that prevents the safe handling  
2 of a handgun; and

3 (9) pays the application fee required by AS 18.65.720.

4 \* Sec. 4. AS 18.65.700(b) is amended to read:

5 (b) The department shall either approve or reject an application for a permit  
6 to carry a concealed handgun under (a) of this section within 30 [15] days of receipt  
7 of [PERMIT ELIGIBILITY INFORMATION FROM THE FEDERAL BUREAU OF  
8 INVESTIGATION OR OTHER AGENCY NECESSARY TO MAKE A  
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10 REQUEST PERMIT ELIGIBILITY INFORMATION UNDER THIS SUBSECTION  
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12 shall notify the applicant in writing of the reason for a rejection.

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30 handgun permit in the reciprocal state; and

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1 application and initial issuance of a permit under AS 18.65.720.

2 (b) A person receiving a reciprocal permit under this section may carry a  
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11 based on the actual costs incurred by the department. However, the fee for the  
12 processing of an application and initial issuance of a permit may not exceed \$65  
13 [\$125] and the fee for renewal of a permit or replacement of a permit may not exceed  
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15 UNLESS THE PERMITTEE

16 (A) IS A JUDGE; OR

17 (B) HAS BEEN AUTHORIZED TO POSSESS A  
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21 OR THE OFFICES OF A POLITICAL SUBDIVISION OF THE STATE, EXCEPT  
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25 A BUILDING DESCRIBED IN (4) OF THIS SUBSECTION;

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29 (8) A FACILITY PROVIDING SERVICES TO VICTIMS OF  
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15 (2) [(13)] a municipality or established village that has prohibited the  
16 possession of concealed handguns by a permit under AS 18.65.780 - 18.65.785.

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18 (3) "concealed handgun" means a firearm, that is a pistol or a revolver,  
19 and that is covered or enclosed in any manner so that an observer cannot determine  
20 that it is a handgun without removing it from that which covers or encloses it or  
21 without opening, lifting, or removing that which covers or encloses it; however,  
22 "concealed handgun" does not include a shotgun, rifle, or derringer [OR OTHER  
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2 18.65.765(a)(4), and 18.65.790(2) are repealed.



# NEA-ALASKA

*Affiliated with the National Education Association*

## NEA-ALASKA POSITION STATEMENT CS HB 338

NEA-Alaska opposes changes to Section 10 (a) (2) of CS HB 338, "An Act relating to permits to carry concealed handguns."

NEA-Alaska believes that students and school employees should be safe from violence, weapons and the threat of violence. Guns, concealed or in the open, have no place in school or on school grounds - period. Schools should be "weapon free" - havens of safety for our children and school employees.

Across the nation and our state, newspapers and media report an increase in school violence. School systems are dealing with escalating violence. There are increasing reports of students assaulting students or teachers, school vandalism, and gang violence. A majority of these reports involve guns. School violence whether it is verbal abuse or physical intimidation is increasing at an alarming rate, and it not only detracts educators from their main function of educating students, but it has a great psychological impact on people and an economical cost to individuals and society.

People, old and young alike, have a fascination for guns and violence. If you need examples, just watch cartoons or consider recent movies ("Casino," "City Hall," "Heat"), or stop by the toy department, or check out children's video games. Violence has become part of the very fabric of our society. According to *U.S News and World Report*, a national survey cited 80 percent of the American public sees a relationship between violence in TV programming and the amount of violence in society

How many times have you heard a child say, "You'd better watch out, my dad's bigger than yours." And there's no doubt that some children compare the families gun collections - and what guns their parents have that are concealed. Children often have difficulty distinguishing between what's real and what's make believe. Schools need clear rules for all to understand and follow; there should be no questions about what's legal regarding handguns on school property.

I'm sure some of the supporters of this bill will say, "Oh but this bill is for the law abiding, the responsible citizen who would never hurt anyone." The reality is that every day we hear reports of accidents with guns, of unexpected situations with guns, of carelessness with guns. How many of you heard the story on the news recently about a bird who flew into a man's house and he shot it. The only problem was that when he shot the bird the bullet went through two rooms in his home and also shot his wife.

In the November/December 1995 issue of *The National PTA Magazine*, an article, "Violence -- Safeguarding Our Children," included the following:

### "Gun Safety

Close to half of American homes have guns, according to the Harvard School of Public Health. The American Medical Association reported that 53 percent of gun owners surveyed did not keep their guns locked up. An accessible loaded gun in the house puts families at great risk of gun-related accidents and violence. A gun kept in the home for self-protection is 43 times more likely to kill family members and friends than it is an intruder. Consider these gun violence facts published by the American Academy of Pediatrics and the Center to Prevent Handgun Violence:

- \* The risk of domestic homicide is 3 times greater if there's a gun in the home.
- \* The risk of suicide is 5 times greater if there's a gun in the home.
- \* Every day, 14 American children under age 20 are killed by guns.

The best way to prevent tragedy is to have *no* guns in the home, but if they are present, then to keep them unloaded and locked away from children's reach. Ammunition should be locked in a separate place with the key in an adult's possession."

I stress again: guns and schools and children do not mix. Schools and school grounds must be gun free. Many communities and schools are adopting "no tolerance" policy for any weapons. It is illogical and unsettling to believe that in Alaska we would allow a bill to become law that would permit guns anywhere near a school.

I understand that this bill is an attempt to simplify the procedures for those who have permits to carry handguns and make them more available for those that need them. My question is why in the world would anyone need a concealed weapon on school grounds? If our communities are so unsafe that parents or citizens have to carry concealed weapons to school, then we have much greater problems than those that are addressed in this bill.

Another problem is enforcement. Teachers and school employees are not police. If someone is seen or suspected of carrying a concealed handgun, is it the responsibility of the school employee to check for a permit or have the person removed because of potential danger to children? How will a school employee determine if someone was a law abiding permittee or a violator? This bill weakens control and enforcement. There are many grey areas in the bill. This bill applies to motorcycles, snowmachines, and four-wheelers. One question not answered in the bill, "Is the permittee allowed to drive in areas where there is not a delineated road or path?"

I urge you to amend CS HB 338 and reestablish the prohibition of concealed handguns on school grounds. I ask you to reconsider, let us not have to have an incident or an accident involving a licensed, concealed gun and school violence which forces us to recognize that guns and schools do not mix.

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Copies of minutes listed below were originally included in this file. The minutes are available on the legislative computer database. In order to save space copies of minutes have not been left in the files.

Mary Pagenkopf

Joint Senate and House State Affairs  
10-5-95 9:00 am  
HB 338/SB 177

**HB**

**339**

# ALASKA STATE LEGISLATURE

## House of Representatives

### COMMITTEE ASSIGNMENTS

OIL & GAS, CHAIRMAN  
LABOR & COMMERCE, VICE CHAIRMAN  
ADMINISTRATIVE REGULATION REVIEW, VICE CHAIRMAN  
HEALTH, EDUCATION & SOCIAL SERVICES, MEMBER  
ECONOMIC DEVELOPMENT, MEMBER

INTERIM  
716 WEST 4TH AVENUE, SUITE 440  
ANCHORAGE, AK 99501  
PHONE (907) 258-8181  
FAX (907) 258-2916

SESSION  
STATE CAPITOL  
JUNEAU, AK 99801-1182  
PHONE (907) 465-4968  
FAX (907) 465-2040

## Representative Norman Rokeberg

### Sponsor Statement HB 339

#### "An act relating to the termination of parental rights of incarcerated parents"

This bill gives the courts the authority to consider incarceration in child custody cases dealing with termination of parental rights. Currently, the court does not have the statutory authority to do this. HB 339 will allow the courts to: look at a parent's imprisonment; whether the length of the prison term will include a significant portion of the child's minority; and to consider whether or not the parent has failed to make adequate provisions for care of the child during the prison term.

If a parent is in prison for 10 or 15 years and parental rights have not been terminated, the child can linger in a foster home for years, without any sense of permanency and belonging. This bill will let the courts look at the effect on the relationship when a parent is in prison and ultimately, give them a tool to make better custody decisions for children.

In order to terminate parental rights, the courts have the burden of proof of showing that the youth is a Child In Need of Aid (CINA) as a result of parental conduct, and that conduct is likely to continue to exist. Alaska Statute 47.10.010 says that the court may order the state to assume custody of a minor who is found to be a child in need of aid as a result of the child having no parent, guardian, custodian, or relative willing to provide care, including physical abandonment. "The destruction must be brought about by the acts of the parent, and in order to constitute abandonment, the acts of the parent must be willful." A.M. v. State of Alaska, 891 P.2d 815,822 (Alaska 1995). Being sent to prison does not, by itself, qualify as willful abandonment.

The courts have explicitly asked the legislature to amend the statutes to cover situations where parents are in prison. The first time was more than a decade ago in Nada A. v. State. Last year, Alaska Supreme Court Justice Compton again re-iterated his request for legislative relief in A.M. v. State of Alaska.

I urge you to support this bill as it will ultimately give the courts the ability to make better decisions for children.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. HB339

Revision Date: \_\_\_\_\_  
Title: Termination of Parental Rights

Dept. Affected: Health and Social Services  
BRU: Family and Youth Services  
Component: DFYS Central Office

Sponsor: Representative Rokeberg  
Requestor: House (HES)

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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
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**FUND SOURCE**

(Thousands of Dollars)

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

**POSITIONS:**

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.

Prepared by: L. Diane Worley, Director  
Division: Family & Youth Services

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

Phone: 465-3191  
Date: 01/19/96

Date: 1/22/96

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JAN 30 1996

PHONE: (907) 276-4445

FAX (907) 279-6603

January 23, 1996

Mr. Norm Rokeberg  
716 W. 4th Avenue  
Anchorage, AK 99501

via facsimile: 465-2040

Re: House Bill No. 339

Dear Representative Rokeberg:

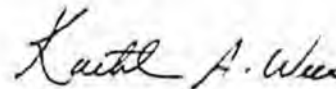
I want to thank you sincerely on behalf of the children, parents, and families that you will create through the introduction of House Bill No. 339. As an attorney who practices family law extensively, I have seen too many parents that desperately wanted to adopt a child when the child was prevented from being adopted by the potential future parenting of a birthparent in jail for a long term sentence. I sincerely appreciate the fact that you heard the Alaska Supreme Court's plea to provide our courts with a little more flexibility in approving an adoption when the birthparent is likely to be incarcerated for the minority of the child.

It is tragic watching children suffer for their parent's crime. Children need a real sense of family and the security of belonging to a family unit. Your bill, House Bill No. 339, will undoubtedly provide a more solid foundation for these children who had been forgotten for so many years.

I hope that the Legislature will support House Bill No. 339 and pass it quickly.

Thank you.

Sincerely,



Kathleen A. Weeks

KAW/jmh

Peggy Thomas  
9208 Long Run Drive  
Juneau, Alaska 99801  
January 19, 1996

The Honorable Norman Rokeberg  
Alaska State Legislature  
State Capitol, Room 110  
Juneau, Alaska 99811

Re: House Bill No. 339  
An act relating to the termination of parental  
rights of incarcerated parents

Dear Representative Rokeberg:

I am writing in support of HB 339. The case appealed to the supreme court in A.M. v. State, 891 P.2d 815, 822 (Alaska 1995), are the children I have presently in my care. I am a foster parent and the two children, Samantha and Marc, will have been with me five years on February 22nd.

The children's mother relinquished her parental rights with the understanding that I would adopt the children and the father's rights be terminated.

Marc and Samantha were taken into custody at age 3 and 18 months, respectively, because their father, Anthony Mancini, was arrested for Theft in the Second Degree and Sexual Abuse of a Minor in the Second Degree. Mr. Mancini was subsequently convicted of those charges. He received 10 years incarceration with one year suspended for a total of nine years. In jail time that means he will have served five years. He is due to be released May 14th of this year.

Representative Rokeberg  
January 19, 1996  
Page 2

Mr. Mancini's parental rights were terminated by Judge Carpeneti. Mr. Mancini appealed. The supreme court remanded this case March 10, 1995, to Judge Carpeneti and we are again awaiting his decision as to termination. Justice Compton of the Alaska Supreme Court has twice urged the legislature to "define more clearly the effect of incarceration on parental rights." (A.M. v. State, pp. 29-30 of the opinion)

Mr. Mancini has an extensive juvenile as well as adult criminal history. He has no relatives in the state of Alaska. In July 1990 he placed the children in state care (because he had no one to care for the children) while he served two weekends of jail time. His criminal acts have been willful and seem likely to continue.

These children have grown up in my home; they have become a part of my family. They have been in limbo the five years while waiting for the courts to decide their fate. While the children have frequent contact with their mother and weekly court-ordered telephone contact with their father, they still have a need to belong to a family-- permanently.

I urge you to support this bill to give the courts another option in deciding children-in-need-of-aid cases. This case seems to demonstrate perfectly the need for this legislation.

Sincerely,



Peggy Thomas

Attachments

- (1) Supreme Court Opinion Nada A. v. State
- (2) Supreme Court Opinion A.M. v. State
- (3) First letter asking for sponsorship of legislation

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Juneau, Alaska 99801-2105

**MEMORANDUM**

April 25, 1995

**SUBJECT:** Termination of Parental Rights (Work Order No. 9LS-1124A)

**TO:** Representative Norman Rokeberg  
Attn: Mia

**FROM:** Terri Lauterbach  
Legislative Counsel 

Enclosed is a draft for discussion purposes relating to termination of parental rights when a parent is incarcerated. I have also enclosed excerpts from two court opinions on this subject, with highlighted portions indicating the court's wish for legislative guidance in this area. Please let me know if I can be of further assistance.

TML:glc  
95-302.glc

Enclosure

parent-child bond.

In sum, to the extent the record supports the conclusion that A.M.'s parent-child relationship has been destroyed, that destruction appears to have resulted from the fact of his incarceration. However, A.M.'s incarceration could not serve as the proper basis for a finding of destruction of the parent-child relationship, since it was not the conduct upon which the court relied in finding that A.M. had consciously disregarded his parental obligations.<sup>8</sup> Conversely, the conduct involved in A.M.'s conscious disregard of his parental obligations was not the conduct that "led to the destruction of the parent-child relationship."

The superior court's conclusion that A.M.'s disregard of his parental responsibilities led to the destruction of his parent-

---

<sup>8</sup> Indeed, A.M.'s incarceration is not the type of willful act upon which abandonment may be based. Nada A., 660 P.2d at 439. The State nevertheless invites us to hold that A.M. was incarcerated as a result of his voluntary acts, that his incarceration was a foreseeable consequence of his misconduct, that the inability to provide for his children resulting from A.M.'s incarceration is therefore a result of his voluntary conduct, and that, in this sense, A.M.'s parent-child relationship has been destroyed by his pre-incarceration disregard of his parental duties. In support of this theory, the State cites a number of cases that liken voluntary criminal acts to acts of abandonment. See, e.g., Huston v. Haqqard, 475 S.W.2d 330, 333 (Tex. App. 1971); In re Dobbs, 531 P.2d 303 (Wash. App. 1975).

The State's theory is essentially the same theory addressed by Justice Compton's concurrence in Nada A., 660 P.2d at 441. The gist of Justice Compton's Nada A. concurrence, however, was that termination of parental rights under this theory was impermissible under the statutory framework then in existence. Justice Compton urged the legislature to amend Alaska law to allow termination under this theory. Id. The statutory framework in existence when Nada A. was decided remains essentially unchanged, despite the concurring opinion. We decline the State's invitation to adopt this theory in the absence of a statutory change.

[Excerpt from AM v. State (March 10, 1995)]

COMPTON, Justice, with whom RABINOWITZ, Justice, joins, concurring.

Once again the textual fabric of AS 47.10.080 confines us to an uncomfortable fit. See Nada A. v. State, 660 P.2d 436, 441-43 (Alaska 1983) (Compton, J., concurring). A.M. is serving a prison term of almost ten years for sexually abusing his stepdaughter. However, we are unable to affirm the termination of his parental rights. I agree with our disposition of the legal issues in this case because I do not believe the wording of the statutes give us any choice. Further, the doctrine of stare decisis commands that we follow statutory interpretation established by precedent. I write separately to express my continuing belief that a legislative response to this issue is appropriate, and also that it is now long overdue.

When we, as a society, terminate parental rights, we sever the fundamentally important relationship between parent and child. In our society this relationship is highly valued, yet at times it must be severed. We sever it only when the health and safety of the child mandate that we do so. The balancing of the parental relationship against the health and safety of the child is a complex decision replete with social policy choices. However, the task of determining desirable social policy in the sphere of preservation or termination of the parent-child relationship is a task which courts are not equipped to undertake. It is not a sphere in which the judiciary should engage in social engineering.

In Nada A., I urged the Alaska Legislature to define more

clearly the effect of incarceration on parental rights. Id. at 441. I do so again. What is needed is an informed social policy. The fact that difficult social policy choices must be made is not a justification for ignoring the issues from which the difficulties have sprung. I think it unfortunate that the legislature continues to ignore the effect of a parent's incarceration on a child and on the continuation of the parent-child relationship.

In this case, it would have been preferable for the court to re-instruct the jury. Its failure to do so, however, did not so prejudice Drott as to constitute reversible error. Therefore, we affirm the superior court's ruling on the offered instruction.

#### F. Test Performed by Yukon

[13] Shortly before trial, Rohloff (Yukon's mechanic), Sundborg (Yukon's expert mechanic) and Yukon's attorney conducted experiments on the brake system of the same crane involved in Gordon's accident. Drott attempted to introduce evidence of the experiments at trial. The trial court determined that the evidence was relevant, but that it was inadmissible because it was cumulative.

Drott argues that the evidence should have been admitted. The purpose of the proffered testimony was not to have the jury draw conclusions about the particular crane, but to show the capabilities of Drott 250 cranes in general. According to Drott, the results of the experiments showed that the brake system, if properly maintained, was not defective. Drott argues that having an adverse party perform the tests merely made the results dramatic and probative.

Alaska Rule of Evidence 403 provides: "Although relevant, evidence may be excluded if its probative value is outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury, or by considerations of undue delay, waste of time, or needless presentation of cumulative evidence."

As Gordon argues, there was a danger of unfair prejudice from the brake test evidence because the testing procedure was slipshod and no written records were kept. Because the tests were performed on the same crane that was involved in Gordon's accident, there was also a danger that the issues would be confused, or the jury would be misled by the test results. Further, as the trial court found, the evidence was cumulative. In light of these considerations, we hold that the trial court did not abuse its discretion in deciding that the

probative value of Yukon's experiment results was outweighed by the possibility of resulting jury prejudice and undue trial delay.

The judgment below is **AFFIRMED**.



NADA A., Appellant and Cross-Appellee,

v.

STATE of Alaska, Appellee and  
Cross-Appellant.

Nos. 6546, 6693.

Supreme Court of Alaska.

Feb. 25, 1983.

Natural mother appealed from order of the Superior Court, Fourth Judicial District, Fairbanks, James R. Blair, J., which terminated parental rights and stayed cross appeal. The Supreme Court, Connor, J., held that: (1) evidence sustained finding of abandonment; (2) trial court applied proper test defining abandonment; but (3) evidence did not support finding that the act of abandonment was likely to continue or be repeated; and (4) there was no denial of equal protection to child in permitting mother to seek reconsideration of termination order prior to final adoption decree.

Reversed.

Compton, J., filed a concurring opinion.

#### 1. Infants ◀ 157

Test for abandonment involves consideration of whether the parent's conduct has evidenced a disregard for the parental obligations and whether that disregard has led to a destruction of the parent-child relationship.

2. Infants ⇐ 180

Evidence that mother had fled from city, leaving child with a babysitter, and evidence of eight-month period during which mother lived in a different city than the child sustained finding of abandonment.

3. Infants ⇐ 210

Record demonstrated that court did not consider incarceration of mother in determining issue of abandonment of child by mother.

4. Motions ⇐ 62

When written findings of fact conflict with an oral statement made by judge, written findings are controlling.

5. Infants ⇐ 210

Record demonstrated that trial court considered many facts, in addition to best interests of the child, in determining to terminate parental rights.

6. Infants ⇐ 210

Trial court's finding that mother was likely to continue to demonstrate a conscious disregard of the obligation owed by parent to a child even after her release from incarceration because she suffered from an impulsive personality disorder was insufficient to support finding, required for termination of parental rights, that the parental conduct warranting termination was likely to continue. AS 47.10.080(c)(3).

7. Infants ⇐ 155

Mother's impulsive personality disorder was not, itself, conduct and thus not a ground for termination of parental rights. AS 47.10.080(c)(3).

8. Infants ⇐ 157

Where mother's abandonment of child was taken under stressful and unique circumstances, involving her imminent incarceration for killing the child's father, it would be unjustified to infer likely future abandonment from that incident. AS 47.10.080(c)(3).

9. Constitutional Law ⇐ 82(10)

Child's right to a permanent, adequate home is not fundamental and any difference between treatment of children whose

natural parents seek reconsideration of termination order and treatment of other children whose parents' rights have been terminated need only satisfy reasonable basis test.

10. Action ⇐ 68

Good cause required for natural parent to stay adoption proceedings pending reconsideration or order terminating parental rights is a showing that it would be in the best interests of the child to resume living with the natural parents because they have sufficiently rehabilitated themselves to provide proper guidance and care for the child.

11. Constitutional Law ⇐ 225.1

Review of termination orders by parents who assert that they can now take care of the child properly does not deny equal protection to children awaiting adoption.

John Hagey, Asst. Public Defender, Fairbanks, Dana Fabe, Public Defender, Anchorage, for appellant and cross-appellee.

D. Rebecca Snow, Asst. Atty. Gen., Fairbanks, Wilson L. Condon, Atty. Gen., Juneau, for appellee and cross-appellant.

Before BURKE, C.J., and RABINOWITZ, CONNOR, MATTHEWS and COMPTON, JJ.

OPINION

CONNOR, Justice.

Nada A. appeals the termination of her parental rights to her son, O.A. At the conclusion of the termination hearing in superior court, the judge found that O.A. was a child in need of aid and that his mother's disregard of her parental obligations was likely to continue. The court ordered the termination of her parental rights, but further ordered that in the event of a change in circumstances, Nada could apply for a reconsideration of the termination at any time before O.A. is adopted. The state cross-appeals this order permitting a reconsideration of the termination.

Nada gave birth to O.A. on June 29, 1978. Her husband, Mohammed, repeatedly battered both his wife and child. In January, 1979, shortly after one of these incidents, Nada shot and killed Mohammed. She was then 17 years old. After the shooting, Nada left Fairbanks with O.A. and went to stay with her sister, Marie Gee, in Washington State. A few days after her arrival, Nada was arrested and charged with first degree murder. She was then incarcerated in a juvenile facility in Washington until she reached age 18. With the exception of a few months spent in temporary foster care, O.A. lived with Marie while Nada was incarcerated. Marie brought O.A. to the prison facility twice weekly for visits with Nada.

After entering a negotiated plea to the charge of manslaughter in Fairbanks, Nada was sentenced in July of 1980. Marie brought O.A. with her to Alaska for the sentencing. After sentencing, Nada was released on appellate bond and O.A. rejoined her.

On October 15, 1980, Nada took O.A. to the balitter's, packed a few clothes and went to Anchorage to escape mounting personal pressures. Nada did not return to Fairbanks because she feared that she would be put in jail and would be unable to get O.A. back.

Emergency custody of O.A. was assumed by the Division of Family and Youth Services [DFYS] on October 16, 1980. From the last week in October of 1980 until the present, O.A. has remained in the foster care of the L. family.

Nada remained in Anchorage until June 27, 1981, when she voluntarily turned herself in to the authorities. After she was transported back to Fairbanks, Nada tried

to make contact with O.A. through the DFYS. Her request was refused, because the DFYS had decided to seek termination of her parental rights. On July 1, 1981, a petition for termination of parental rights was filed by the state. The court found O.A. to be a child in need of aid as a result of physical abandonment under AS 47.10.010(a)(2)(A). It then had authority under AS 47.10.080(c)(3) to terminate Nada's parental rights upon a showing, by clear and convincing evidence, that parental conduct leading to the "child in need of aid" determination was likely to continue. The order terminating Nada A.'s parental rights was signed on January 11, 1982. This appeal followed. Adoption proceedings have been stayed pending disposition of the appeal.

### I. ABANDONMENT

Nada argues that the trial court erred in its finding of "physical abandonment." She claims that the trial court applied an incorrect legal standard in reaching this determination. Specifically, Nada alleges that the court relied on the subjective viewpoint of the child rather than on an objective standard. She contends that a proper application of the abandonment test would result in a finding that her conduct did not evidence a disregard of her parental obligations.

In *D.M. v. State*, 515 P.2d 1234 (Alaska 1973), in rejecting the application of a subjective standard to measure a parent's intention to abandon a child, we stated:

"Whether or not there has been an abandonment within the meaning of the statute is to be determined objectively, taking into account not only the verbal expressions of the natural parents but their conduct as parents as well."

parental conduct is likely to continue to exist if there is no termination of parental rights, terminate parental rights and responsibilities of one or both parents and commit the child to the department or to a legally appointed guardian of the person of the child, and the department or guardian shall report annually to the court on efforts being made to find a permanent placement for the child."

#### 1. AS 47.10.080(c)(3) provides:

"(c) If the court finds that the minor is a child in need of aid, it shall

(3) by order, upon a showing in the adjudication by clear and convincing evidence that there is a child in need of aid under AS 47.10.010(a)(2) as a result of parental conduct and upon a showing in the disposition by clear and convincing evidence that the

515 P.2d at 1236-37. We have followed this standard consistently. See *In re E.J.(T.)*, 557 P.2d 1128, 1131 (Alaska 1976); *In re B.J.*, 530 P.2d 747, 748-49 (Alaska 1975); *In re Adoption of V.M.C.*, 528 P.2d 788, 793 (Alaska 1974); *In re Adoption of A.J.N.*, 525 P.2d 520, 523 (Alaska 1974); *D.M. v. State*, 515 P.2d 1234, 1236-37 (Alaska 1973). We agree with the state's view that the court properly found the existence of a physical abandonment under the objective standard.

[1, 2] The test for abandonment has two prongs: (1) has the parent's conduct evidenced a disregard for his or her parental obligations, and (2) has that disregard led to the destruction of the parent-child relationship. *Adoption of V.M.C.*, 528 P.2d 788, 793 (Alaska 1974). A review of the record indicates that the court had before it sufficient objective evidence to satisfy the first prong of the abandonment test. The testimony about how Nada had fled from Fairbanks leaving O.A. with a babysitter provides sufficient objective evidence indicating disregard of parental obligations. In addition, at the hearing, the trial judge specifically referred to the eight month period of separation during which Nada lived in Anchorage as "for all practical purposes destr[oying] the parent/child relationship." Therefore, the trial court properly applied the legal standard and its finding of abandonment should not be reversed.

Nada also argues that the trial court erred by considering her incarceration as abandonment. She contends that in order to constitute abandonment, the acts of the parent must be willful. Yet, incarceration was beyond her control and, she claims, actually resulted from her attempt to protect O.A. from his father.

2. When written findings of fact conflict with an oral statement made by a judge, the written findings are controlling. *Ronne v. Ronne*, 568 P.2d 1021, 1023 n. 5 (Alaska 1977). See also *Williams v. City of Valdez*, 603 P.2d 483, 492 n. 30 (Alaska 1979).

3. AS 47.10.082 reads:

"In making its dispositional order under AS 47.10.080(b) the court shall consider the best

[3, 4] We have said that "[i]n order to constitute abandonment, the acts of the parent must be willful." *In re B.J.*, 530 P.2d 747, 750 n. 12 (Alaska 1975). The trial judge did orally state that he considered involuntary incarceration to constitute abandonment, but the written findings of fact, which were submitted by the state and signed by the court, referred to the voluntary absence from October of 1980 to June of 1981 as the relevant conscious disregard of parental obligations.<sup>2</sup> Consequently, we find no reversible error.

## II. BEST INTERESTS OF THE CHILD

Nada argues that the trial court misinterpreted our previous decisions and incorrectly used the best interests of the child as the sole criterion for its decision to terminate her parental rights. She claims that the best interests of the child should be considered only after it has been shown that there is sufficient parental misconduct to justify termination.

[5] The state argues that the best interests of the child are a significant, but not dispositive, consideration at each step in determining whether to terminate parental rights.<sup>3</sup> It claims that the trial court's actions were consistent with the approach we have repeatedly espoused that the best interests of the child are to be considered *only* after a finding of parental unfitness or a determination that the first prong of the abandonment test has been satisfied. See, e.g., *In re Adoption of K.S.*, 543 P.2d 1191, 1195 (Alaska 1975); *In re Adoption of V.M.C.*, 528 P.2d 788, 793 (Alaska 1974); *In re Adoption of A.J.N.*, 525 P.2d 520, 523 (Alaska 1974). While the best interests of the child become relevant at some point, there first must be a showing of parental

interests of the child and public, and in making its dispositional order under AS 47.10.080(c) the court shall consider the best interests of the child; in either case the court shall consider also the ability of the state to take custody and to care for the child to protect his best interests under AS 47.10.010-47.10.142."

conduct sufficient to justify termination. *Id.* The trial court's findings clearly show that it was aware that several factors in addition to best interest enter into a termination order. In deciding to terminate Nada's parental rights, the trial court followed the correct procedure. It did not merely compare the merits of the home to be provided by Nada with that of the L family.

### III. TRIAL COURT'S FINDINGS

Nada argues that the court's finding that her disregard of her parental obligation was likely to continue in the future was clearly erroneous.

AS 47.10.080(c)(3) requires as prerequisites to termination of parental rights that first, the child is a child in need of aid "as a result of parental conduct," and second, clear and convincing evidence that "the parental conduct is likely to continue to exist." The parental conduct relied on by the trial judge in determining that O.A. was a child in need of aid was:

"That on October 15, 1981, N.A. left her child, O.A., with a babysitter and did not return, thereby exhibiting a conscious disregard for the needs and welfare of her child and of her parental obligation to O.A."

[6] According to our reading of the statute, there must then be a showing by clear and convincing evidence that this same conduct is likely to continue. The findings below are deficient in this regard. The only relevant finding is:

"That N.A. is likely to continue to demonstrate a conscious disregard of the obligation owed by a parent to a child even after her release from incarceration because she suffers from an impulsive personality disorder."

4. Nada also argues that the trial court erred by not considering the effect of the actions of the DFYS on Nada's exercise of her parental rights. She argues that the DFYS frustrated her efforts to communicate with O.A. while it encouraged the foster parents to adopt him, and thus, failed in its obligation to "make reasonable attempts, whenever possible, to preserve and strengthen the family ties." *E.A. v. State*, 623 P.2d 1210, 1213 (Alaska 1981) (footnote omitted), before

The only testimony upon which the court could have relied in making this finding was rendered by Dr. Rothrock, a psychiatrist who had interviewed Nada only once for one hour, admitted he knew nothing about her parenting abilities and qualified his prognosis with the statement that he could "only answer that question in generalities, because . . . [he had] not had any extended contact with [Nada A.]."

Dr. Rothrock's opinion was not shared by Robert Dunn, a psychological counselor, who offered opposing expert testimony that N.A. had a high probability of success in controlling her problem, nor by the social workers and others who knew Nada well and felt that she had made considerable progress through counseling. Evidence favorable to Nada also included her own testimony as to her willingness to accept help in dealing with her personal problems and in learning to be a better mother.

[7] The impulsive personality disorder itself is not conduct and thus, not a ground for termination.

[8] Although Nada did abandon O.A. once before, that action was taken under very stressful and unique circumstances. It would, therefore, be unjustified to infer a likelihood of future abandonment from this isolated incident.

In view of the high standard of "clear and convincing evidence" required on the issue of the likelihood that past conduct will continue, we are left "with a definite and firm conviction on the entire record that a mistake has been made, although there may be evidence to support the finding." *In re S.D., Jr. et al*, 549 P.2d 1190, 1195 n. 10 (Alaska 1976).<sup>4</sup>

terminating her parental rights. Nada's argument is without merit because it focuses on the wrong time frame. Nada was receiving a wide range of social services at the time she abandoned O.A. There is little the DFYS could have added to these services. During the relevant period prior to filing a petition to have Nada's rights terminated, the state did try unsuccessfully to locate her, but could do little to strengthen her family ties while she was gone.

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## IV. CROSS-APPEAL

[9-11] In its cross-appeal, the state challenges the trial court's giving Nada leave to seek reconsideration of its termination order until the entry of a final adoption decree. It claims that this order represents a violation of O.A.'s equal protection rights. The state claims that the issuance of a termination order overcomes the statutory presumption in favor of a natural parent's fitness and urges that *Rita T. v. State*, 623 P.2d 344 (Alaska 1981), which undermines finality by resurrecting this preference, be modified or overruled so that the best interests of the child (as determined in a neutral adoption process), rather than parental rehabilitation alone, will be the relevant criterion.<sup>5</sup> In *Rita T.*, we interpreted AS 47.10.080(f) to permit any natural parent to stay adoption proceedings upon a showing of good cause. "Good cause" was defined as a showing that "it would be in the best interests of the child to resume living with [the parents] because they have sufficiently rehabilitated themselves so that they can provide proper guidance and care for the child." 623 P.2d at 347. We adhere to this position. Termination of parental rights is a drastic measure resulting in severance of all legal ties between the child and parent. The revocability of termination orders up until the time of adoption is a necessary compromise between the desire for finality and the desire to avoid unnecessary interference by the state in the natural parent-child relationship. *Rita T.* recognizes, and seeks to accommodate, the inherent potential for fallibility in judicial determinations based upon predictions of human behavior with respect to the likelihood of continued parental misconduct. The subsequent review of termination orders permitted by that decision cannot be said to deny equal

After she returned, the agency merely implemented its sound desire to avoid disruptive contacts while a judicial resolution of the matter was pending. The cases of agency misconduct cited by Nada are inapposite because in each of those situations the location of the parent was known. We also find Nada's claim of discriminatory enforcement of the termination statute to be without merit.

protection to O.A. and to other children similarly situated who are awaiting adoption.

In conclusion, we find, first, that the record contains insufficient evidence to support the termination of Nada A.'s parental rights. Second, the preservation of her right to obtain reconsideration upon a showing of good cause prior to the adoption of O.A., challenged in the cross-appeal, was proper.

The decision below is REVERSED.

## COMPTON, Justice, concurring.

I concur in the disposition of this appeal, but write separately to express my opinion that the legislature should amend AS 47.10.080(c)(3) so that a parent's incarceration may be considered when determining whether to terminate parental rights.

AS 47.10.080(c)(3) specifies that parental rights may be terminated only if there is a showing "by clear and convincing evidence that there is a child in need of aid under AS 47.10.010(a)(2) as a result of parental conduct." It seems obvious to me that a child may be in need of aid when the only custodial parent engages in conduct that results in incarceration. I would therefore conclude that AS 47.10.080(c)(3) permits the superior court to consider the parent's incarceration when determining whether the child is in need of aid; e.g., whether the parent has abandoned the child.

AS 47.10.080(c)(3) also requires, however, a showing "by clear and convincing evidence that the parental conduct is likely to continue to exist if there is no termination of parental rights." Although incarceration may well be likely to continue for a substantial period of time, and the child will

5. The state bases its constitutional argument on O.A.'s right to a permanent, adequate home. See, *In re S.D., Jr.*, 549 P.2d 1190, 1201 (Alaska 1976). Since this right has not been recognized as "fundamental", any difference between the treatment of children in O.A.'s position whose natural parents seek reconsideration and that of other children whose parents' rights have been terminated need only satisfy a reasonable basis test.

therefore continue to be in need of aid, involuntary incarceration is not willful "parental conduct." I therefore conclude that AS 47.10.080(c)(3), by its express terms, does not permit the superior court to consider the custodial parent's incarceration when determining whether to terminate parental rights.

The situation is easily imaginable in which the only parent with custody of a child commits a crime and is sentenced to a lengthy imprisonment term when the child is quite young. This may effectively destroy the parent-child relationship. Under these circumstances, the child should be permitted to establish a bond with other persons, rather than spend his or her minority in a succession of foster homes or other temporary placements. AS 47.10.080(c)(3), as presently written, however, does not permit the termination of parental rights in this situation. I urge the legislature to consider the effect of the statute's wording and amend it so that this result is not necessary.

In this case, the superior court indicated in its oral findings of fact that it considered Nada's incarceration to constitute an abandonment of O.A. Nada contends that her incarceration is beyond her control and therefore may not be considered as the "willful conduct" necessary to constitute abandonment in accordance with our holding in *In re B.J.*, 530 P.2d 747, 750 n. 12 (Alaska 1975). This court impliedly agrees with Nada by holding that the superior court did not commit reversible error on this issue because Nada's incarceration was not relied upon in the written findings of fact, which are controlling. 660 P.2d at 439 & n. 2. I disagree with this court's implied holding.

Very few people are voluntarily incarcerated. It is also true, however, that very few people are incarcerated for involuntary acts. It should be entirely foreseeable to a parent that commission of a crime will result in incarceration and separation from the parent's child. Whether this amounts to an abandonment of the child may depend upon whether the parent is able to and does

make adequate provisions for the child's care during the length of the parent's incarceration. See, e.g., *Diernfeld v. People*, 137 Colo. 238, 323 P.2d 628 (Colo.1958); Annot., 79 A.L.R.3d 417 (1977) ("Parent's Involuntary Confinement . . . as Evincing Neglect . . . in Dependency or Divestiture Proceeding").

Nada did not make any provisions for the care of O.A. before her incarceration. She left O.A. with a babysitter, even though her stepmother lived in Fairbanks and had earlier taken care of her and O.A. Nada's incarceration may have been beyond her control, but her conduct in killing her husband was within her control, according to the superior court that found her guilty of manslaughter and sentenced her to a term of imprisonment. Furthermore, her failure to make any provisions for the care of O.A. during her incarceration was also within her control. I believe that these facts constitute clear and convincing evidence that Nada abandoned O.A.

As indicated, however, Nada's incarceration is not "parental conduct" that is "likely to continue to exist if there is no termination of parental rights." AS 47.10.080(c)(3). Under this statute, her incarceration cannot justify the termination of her parental rights. I agree with this court that the evidence of Nada's impulsive personality disorder is not in itself grounds for terminating her parental rights. I also agree with this court that clear and convincing evidence was not presented that Nada is likely to abandon O.A. again after she is released from prison. Thus, I find I must concur with the court that it is necessary to reverse the superior court's order terminating Nada's parental rights. Again, however, I urge the legislature to amend AS 47.10.080(c)(3) so that parental rights may be terminated as a punishment for the parent-child relationship by willfully committing a crime and failing to make adequate provisions for the care of the child during a period of incarceration. Under some circumstances, only in this fashion may the child be permitted to form a bond with other persons and avoid a succession of

foster home placements or other unsatisfactory temporary placements during the entire duration of the child's minority.

way on the lot; the physical acts indicated unmistakably that property on which they took place had been taken for road right-of-way purposes.



**823 SQUARE FEET, MORE OR LESS:**

A. Lee Goodman and Joan Goodman, Appellants,

v.

STATE of Alaska, Appellee.

No. 5746.

Supreme Court of Alaska.

March 4, 1983.

State brought eminent domain action claiming 50-foot right-of-way on either side of road. The Superior Court, Third Judicial District, Anchorage, granted summary judgment in favor of property owners on liability issues, and State appealed. The Supreme Court, 586 P.2d 595, reversed and remanded in part. On remand, the Superior Court, J. Justin Ripley, J., found that surveying, staking, stripping, and clearing entire 100 feet were sufficient acts of appropriation to create 50-foot right-of-way on lot, and appeal was taken. The Supreme Court held that physical acts indicated unmistakably that property on which they took place had been taken for road right-of-way purposes.

Affirmed.

Burke, C.J., filed an opinion concurring in the result.

**Eminent Domain** ⇐ 63

Although roadway itself was only 24-foot-wide with drainage ditches extending another 12 feet on each side of roadway, the surveying, staking, stripping and clearing of entire 100 feet were sufficient acts of appropriation to create 50-foot right-of-

Michael Price and David A. Devine, Groh, Eggers, Robinson, Price & Johnson, Anchorage, for appellants.

Eugene F. Wiles, Stephen M. Ellis and Marc D. Bond, Delaney, Wiles, Hayes, Reitman & Brubaker, Anchorage, for appellee.

Before BURKE, C.J., and RABINOWITZ, MATTHEWS and COMPTON, JJ.

**OPINION**

**PER CURIAM.**

On remand from our decision in *State, Department of Highways v. Green*, 586 P.2d 595 (Alaska 1978) the trial court found, on cross-motions for summary judgment, that a 100 foot right-of-way for Tudor Road consisting of 50 feet on each side of the section line was planned, surveyed, and staked, and that the land was stripped and cleared prior to the date on which the lot in question was leased. Although the roadway itself was only 24 feet wide with drainage ditches extending another 12 feet on each side of the roadway, the court found that surveying, staking, stripping, and clearing the entire 100 feet were sufficient acts of appropriation to create a 50 foot right-of-way on the lot. We agree. The physical acts here would indicate unmistakably that the property on which they took place had been taken for road right-of-way purposes. See 44 Pub.Lands Dec. 513, 515 (1916); 43 C.F.R. § 2800.0-1(b) (1979), revised 45 Fed.Reg. 44,526 (1980).

The judgment is AFFIRMED.

CONNOR, J., not participating.

BURKE, Chief Justice, concurring in the result.

I am not satisfied that public land can be appropriated, for purposes of a roadway easement, by physical appropriation alone,

STATE

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 12, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

1031 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907) 289-5100  
FAX: (907) 276-2697

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 HOU  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 485-3600  
FAX: (907) 485-8735

(FAX) 465-2539

Honorable Norman Rokeberg  
Alaska State Legislature  
State Capitol-Room 110  
Juneau, AK 99801

Re: Termination proceeding

Dear Representative Rokeberg:

Enclosed is a description of what must be proven in a termination proceeding. I have also enclosed the relevant statutes and rules, as well as the latest draft on HB 339. In cases not involving the Indian Child Welfare Act, the state must prove the first paragraph and show that reasonable efforts have been made to reunite the family (see CINA rule 15(g), also attached). The second and third paragraphs apply only to ICWA cases.

Please let me know if you have any questions on this subject.

Sincerely yours,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:

*Jan Rutherfordale*  
Jan A. Rutherfordale  
Assistant Attorney General

JAR:pao

Enclosures

cc: Elmer Lindstrom, Special Assistant  
Department of Health & Social Services

# CHILD IN NEED OF AID RULES, Alaska Rules of Court

## Rule 18. Termination of Parental Rights.

(a) **Petition.** The Department may file a petition seeking termination of parental rights combined with or after the filing of a petition for adjudication for that child as a child in need of aid. The title of the petition must clearly state that termination of parental rights is sought. A petition for termination of parental rights must be served as provided by CINA Rule 7(d).

(b) **Nature of the Proceeding.** The termination hearing is a disposition hearing to the court on the question of whether the parental rights to an adjudicated child in need of aid should be terminated. Upon a showing of good cause and with adequate notice to the parties, an adjudication hearing and a termination hearing may be consolidated. CINA Rule 17 applies to termination hearings except as this rule provides otherwise.

(c) **Burden of Proof.** Before the court may terminate parental rights, the Department must prove:

(1) by clear and convincing evidence that either the parental conduct that caused the minor to be adjudicated a child in need of aid is likely to continue unless parental rights are terminated, or the requirements of AS 25.23.180(c)(2) or (3) have been met; and

(2) In the case of an Indian child, by evidence beyond a reasonable doubt, including the testimony of qualified expert witnesses, that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. The court must also find by a preponderance of evidence that the party requesting the termination of parental rights to an Indian child has shown that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

Indian Child Welfare Act  
25 U.S.C. § 1912

(d) Remedial services and rehabilitative programs; preventive measures

Any party seeking to effect a foster care placement of, or termination of parental rights to, an Indian child under State law shall satisfy the court that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the breakup of the Indian family and that these efforts have proved unsuccessful.

(f) Parental rights termination orders; evidence; determination of damage to child

No termination of parental rights may be ordered in such proceeding in the absence of a determination, supported by evidence beyond a reasonable doubt, including testimony of qualified expert witnesses, that the continued custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child.

## Rule 15.

(g) **Additional Findings.** In any case in which the court has authorized the Department to remove the child from the child's home, or continued a previous order for removal, the court shall make findings pursuant to 42 U.S.C. § 671(a)(15) as to whether, under the circumstances of the case, reasonable efforts were made to prevent or eliminate the need for removal of the child from the home and to make it possible for the child to return to the home.

Before a court may terminate parental rights in an Indian child, DFYS must prove:

- (1) by clear and convincing evidence that the parental conduct that caused the child to be adjudicated a child in need of aid is likely to continue unless parental rights are terminated. CINA Rule 18(c)(1); *In re J.R.B.*, 716 P.2d 1170, 1172 (Alaska 1986).
- (2) by evidence beyond a reasonable doubt that custody of the child by the parent or Indian custodian is likely to result in serious emotional or physical damage to the child. CINA Rule 18(c)(2); 25 U.S.C. § 1912(f) (1983).
- (3) by a preponderance of the evidence that the party requesting the termination of parental rights has shown that active efforts have been made to provide remedial services and rehabilitative programs designed to prevent the break-up of the Indian family and that these efforts have proved unsuccessful. CINA Rule 18(c)(2); 25 U.S.C. § 1912(d).

**DEPARTMENT OF LAW**

OFFICE OF THE ATTORNEY GENERAL

February 13, 1996

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO

1051 WEST 4TH AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1984  
PHONE: (907) 269-6100  
FAX: (907) 276-3697

KEY BANK BUILDING  
100 CUSHMAN ST, SUITE 400  
FAIRBANKS, ALASKA 99701-4879  
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) 465-8735

(FAX) 465-2539

Honorable Norman Rokeberg  
Alaska State Legislature  
State Capitol-Room 110  
Juneau, AK 99801

Re: HB 339

Dear Representative Rokeberg:

Per your request, the following is my sectional analysis of the current draft CS for HB 339.

Section 1. Subsections (a) and (b) are included in HB 339 to make clear that this bill is enacted in order to change the rulings of two recent Alaska Supreme Court cases. In both cases, the supreme court gave a literal interpretation of the statutes in question. As discussed in sections 2 and 3, these interpretations frustrate the state's mission to protect children and to place children in permanent homes when remaining with their parents is not possible.

By making clear that it is the intent of the legislature to change these rulings by amending the statutes, the legislature will help avoid later litigation concerning legislative intent. Although this purpose section will not be a part of the codified laws, it will be printed in Volume 14 of the Alaska Statutes, which contains temporary and special acts of the legislature. In addition, the editorial notes at the end of the amended statute will state the session law in which this purpose language can be found. Therefore, courts will be able to easily discover the legislative intent of this bill.

Section 2. This section amends AS 47.10.010(a)(2)(A) to change the ruling in In re S.A. and D.A., (Op. no. 4314, January 26, 1996). In that case, the supreme court held that the phrase "having no parent, guardian, custodian, or relative caring or willing to provide care" in AS 47.10.010(a)(2)(A) meant that even if the parent was not able to care for the child, the state could not seek custody under subsection (A) as long as a parent professed a willingness to provide care. In so holding, the supreme court expressly reversed its previous holdings in other cases, which had interpreted subsection (A) in a way that reads meaning into it, i.e., that if there were no parent, relative, etc., able to care for the child, the state could assume custody of

that child even if the parent expressed a desire to care for the child. It should be noted that the phrase "care or caring" is defined in AS 47.10.990(1) as meaning "to provide for the physical, emotional, mental, and social needs of the child."

By interpreting this phrase of subsection (A) literally, the S.A. case affects many cases, since a great majority of child custody proceedings fall under this phrase of AS 47.10.010(a)(2)(A). Why this phrase is necessary in the overall statutory scheme of AS 47.10.010 is best described by Justice Eastaugh's dissent on pages 20-22 of the S.A. case, which is attached to this letter for easy reference.

To cure this problem, section 2 makes the phrase conjunctive, rather than disjunctive, so that the parent cannot defeat jurisdiction by being willing but not able to care for the child. Section 2 also changes the wording slightly to make clear that the state can obtain custody if the parent is not able to care. Otherwise, under the supreme court's strict interpretation of the statute, a parent could defeat jurisdiction by caring for a child, but in a way that is extremely deficient and harmful to the child. The phrase "willing and able to provide care" makes it more clear that a parent's inability to provide care is the key to state involvement.

Section 1. Section 3 provides substitute language for the original HB 339 and is meant to cure some of the problems discussed when this bill was first before the House HESS committee. By way of background, this section addresses the problems discussed in A.M. v. State, 891 P.2d 815 (Alaska 1995) and Nada A. v. State, 660 P.2d 436 (Alaska 1983). In those cases, the supreme court noted that AS 47.10.080(c)(3) allows termination of parental rights only in those cases in which it can be proven that the child is in need of aid "as a result of parental conduct." It then held that incarceration is not conduct, because incarceration is an involuntary act. Therefore, although a child can be placed in foster care under AS 47.10.010(a)(2)(A) (because incarceration is a form of abandonment), the state cannot terminate parental rights of that parent when the period of incarceration is lengthy because incarceration is not conduct. In both cases the Alaska Supreme Court invited the legislature to amend the statute to change this result.

This section does just that: it allows termination if the child is a child in need of aid "as a result of parental conduct or incarceration." This is an improvement over the original bill because by changing AS 47.10.080(c)(3) directly, it eliminates any argument that incarceration is not conduct. Now either inadequate parental conduct or incarceration satisfies one of the prerequisites to terminating parental rights.