

ALASKA LEGISLATURE COMMITTEE FILES 1995-1996 8672

8863 SENATE HEALTH EDUCATION & SOCIAL SERVICES

to make the decision. And the abortion provider cannot be counted on to provide "adequate counsel and support . . . at an abortion clinic, where abortions for pregnant minors frequently take place." Id. at 641, 99 S. Ct. at 3047.

The remaining consideration involves a determination of what constitutes an adequate judicial bypass procedure. Bellotti establishes four criteria which must be satisfied in any judicial bypass procedure:

1. The procedure must allow the minor to show that she possesses the maturity and information to make her abortion decision, and in consultation with her physician, without regard to her parents' wishes;
2. The procedure must allow the minor to show that, even if she cannot make the abortion decision by herself, the desired abortion would be in her best interest;
3. The procedure must insure the minor's anonymity; and
4. The Courts must conduct a bypass procedure with expediency to allow the minor an effective opportunity to obtain an abortion.

443 U.S. at 643-44, 99 S. Ct. at 3048; accord Akron II, \_\_\_ U.S. \_\_\_, 110 S. Ct. at 2979-80.<sup>4</sup>

With respect to the first Bellotti requirement, the Supreme Court has ruled that every minor must have the opportunity, if she so desires, to go directly to a Court to request judicial approval of her abortion decision without first consulting or notifying her parents. If the minor satisfies the Court that she is mature and well enough informed to intelligently make the abortion decision on her own, the Court must authorize her to act without parent consultation or consent. If the minor fails to satisfy the Court that she is mature or competent enough to make the

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<sup>4</sup> Justice Powell stated specifically in Bellotti that: "A pregnant minor is entitled in such a proceeding to show either: (1) that she is mature enough and well enough informed to make her abortion decision, in consultation with her physician, independently of her parents' wishes; or (2) that even if she is not able to make the decision independently, the desired abortion would be in her best interest. The proceeding in which this showing is made must assure that a resolution of the issue, and any appeals that may follow, will be completed with anonymity and sufficient expedition to provide an effective opportunity for an abortion to be obtained. In sum, the procedure must insure that the provision requiring parental consent does not in fact amount to the absolute, and possibly arbitrary, veto that was found impermissible in Danforth." 443 U.S. at 644, 99 S. Ct. at 3048.

abortion decision independently, she must be permitted to show that an abortion, nevertheless, would be in her best interest. This leads, in essence, to the second Bellotti requirement.

With respect to the second Bellotti requirement, the Supreme Court has recognized that there is an important State interest in encouraging a family rather than a judicial resolution of a minor's abortion decision. Furthermore, the Court has observed that parents naturally take an interest in the welfare of their children, an interest that is particularly strong where a normal family relationship exists and where the child is living with one or both of the parents. With respect to the second Bellotti criteria, the Court's independent determination of whether an abortion is in the best interest of the minor child regardless of her immaturity or lack of information, the Supreme Court has specifically ruled that it is proper for a Court to take into account the importance of family involvement in such an important decision for the minor. Under the second Bellotti criteria if, all things considered, the Court determines that an abortion is in the minor's best interest, she is entitled to Court authorization without any parental involvement." However, the Supreme Court has indicated that a Court may deny the abortion request of an immature minor in the absence of parental consultation if it concludes that her best interests would be served through parental consultation. It is also permissible, in such a case, for the Court to defer its decision until there is parental consultation in which the Court may participate. According to the Supreme Court in Bellotti, "this is the full extent in which parental involvement may be required." 443 U.S. at 648, 99 S. Ct. at 3051.

## II. Alaska's Constitutional Right to Privacy.

In Breese v. Smith, 501 P.2d 159 (Alaska 1972), the Alaska Supreme Court stated the tests which are to be applied when a claim is made that state action encroaches upon an individual's constitution rights. In Breese, the Court had before it a "hairlength" regulation which encroached on what the Court determined to be the individual's fundamental right to determine his own personal appearance. In that case, the Court stated:

Once a fundamental right under the Constitution of Alaska has been shown to be involved and it has been further shown that this constitutionally protected right has been impaired by governmental action, then the government must come forward and meet its substantial burden of establishing that the abridgement in question was justified by a compelling government interest.

501 P.2d at 171.<sup>5</sup> This standard, established in Breese, is similar to the federal protection for the U.S. Constitutional Implied Right of Privacy existing prior to Casey, \_\_\_ U.S. \_\_\_ 112 S. Ct. at 2821.

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<sup>5</sup> See also State v. Wylie, 516 P.2d 142 (Alaska 1973); State v. Van Dellen, 502 P.2d 453 (Alaska 1972); Gray v. State, 525 P.2d 524, 527 (Alaska 1974); Gilbert v. State, 526 P.2d 1131, 1133 (Alaska 1974); State v. Adams, 522 P.2d 1125 (Alaska 1974).

In 1972, the Alaska Constitution was amended to add Article I, § 22, which states an express right of privacy to Alaska citizens. Article I, § 22 reads:

The right of the people to privacy is recognized and shall not be infringed.  
The legislature shall implement this section.

In Ravin v. State, 537 P.2d 494 (Alaska 1975), the Alaska Supreme Court ruled that "[t]he effect of this amendment is to place privacy among the specifically enumerated rights in Alaska's Constitution." Accordingly, in Ravin, the Alaska Supreme Court determined that the right of privacy guaranteed by Article I, § 22 of the Alaska Constitution is a fundamental right which can only be infringed by the state upon a showing of a compelling government interest. Although in Ravin the Alaska Court determined that private marijuana use outside the home did not fall within the scope of the privacy interests protected by Article I, § 22, there is little doubt that the Alaska Supreme Court, consistent with the United States Supreme Court's decision in Roe v. Wade, would determine that the right of a woman to choose to have an abortion is a privacy right protected by Article I, § 22. As a result, there is little doubt that the Alaska Supreme Court would recognize a woman's right to choose to have an abortion as a fundamental right protected by the Alaska Constitution, principally Article I, § 22.

Since 1975, the Alaska Supreme Court has consistently ruled that the government must demonstrate a convincing and compelling interest, which the government must seek to implement through the least restrictive means available, in order to justify infringement upon the fundamental right to privacy guaranteed by Article I, § 22, of the Alaska Constitution. For example, in Matter of A.B., 791 P.2d 615 (Alaska 1990), the Alaska Court ruled as follows:

Although neither federal nor state rights of privacy are absolute, it is part of the judicial function to insure the governmental infringements of privacy are supported by sufficient justification. Under federal precedent, it must be found that the privacy invasion is necessary to a compelling state interest, and that the government regulation does not sweep too broadly.

See, e.g., Griswold, 381 U.S. at 485, 85 S. Ct. at 1682; Roe v. Wade, 410 U.S. 113, 155, 93 S. Ct. 705, 727, 35 L. Ed. 2d 147 (1973); Carey, 431 U.S. at 687, 97 S. Ct. at 2016. Under the Alaska Constitution, the required level of justification turns on the precise nature of the privacy interest involved. In absence of a suspect classification or impairment of a fundamental right, we have required that there be a fair and substantial relation between the means chosen for a legitimate governmental purpose. Issakson v. Rickey, 550 P.2d 359, 363 (Alaska 1976). Where fundamental rights are at stake, the State's interest invading privacy must be compelling. Id. Thus, to determine the validity of the release work, we must consider both the nature and the extent of the privacy invasion, and the strength of the State interest or requiring disclosure. See

generally Falcon v. Alaska Public Offices Commission, 570 P.2d 469,  
475 (Alaska 1977).

Id. at 621. Accord Luedtke v. Nabors Alaska Drilling, Inc., 768 P.2d 1123, 1129 (Alaska 1989).

Consistent with the United States Supreme Court precedent addressed above, it should be recognized by the Alaska Supreme Court that the State has a compelling interest to insure the protection of minor children in the context of their making important decisions, such as the decision to abort an unborn child. The key to guaranteeing the enforceability of a parental consent statute under Alaska's Constitutional Privacy Provision, therefore, would seem to be in drafting the parental consent provisions so as to implement the state's compelling interest in the least restrictive means possible to the minor woman's right to choose. Including within your proposed legislation, a judicial bypass procedure which is consistent with U.S. Supreme Court precedent as detailed above, would implement the State's compelling interest in the least restrictive means possible.

### CONCLUSION

A one-parent consent requirement as a precondition to a minor's abortion is constitutionally permissible provided the statute contains an alternate judicial bypass procedure. To be constitutionally adequate, a judicial bypass procedure must allow the minor to obtain court approval of her abortion decision, independent of her parent's involvement, upon a showing that either (1) she is independently mature and informed enough to make her own abortion decision, or (2) that the abortion is otherwise in her best interests. The procedure must be conducted expediently and so as to preserve the minor's anonymity. Examples of statutes from other states are enclosed as is a redrafted proposed bill.

JEFFERY D. TROUTT  
2007  
4485 COLUMBIA BLVD.  
2167  
JUNEAU, ALASKA 99801

VOICE: (907)790-

FAX: (907)790-

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March 20, 1995

Via Facsimile Transmission  
Alaska State Senate  
State Capital  
Room 113  
Juneau, AK 99801

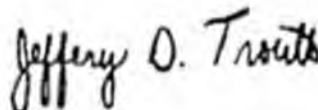
Re: S.B. 105

Dear Senator Leman:

I intended to testify today regarding S.B. 105. Unfortunately, I have a sick child, and must stay home and care for her at least part of the day. I am therefore sending you my testimony via fax, and would appreciate it if you would see that it is distributed to the other committee members and is made part of the record.

Thank you very much.

Sincerely yours,



Jeffery D. Troutt

JDT/ms

JEFFERY D. TROUTT  
2007  
4485 COLUMBIA BLVD.  
2167  
JUNEAU, ALASKA 99801

VOICE: (907)790-

FAX: (907)790-

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## TESTIMONY OF JEFFERY D. TROUTT CONCERNING SB 105

My name is Jeffery D. Troutt. I am a Juneau attorney in solo practice. I am here to speak to the constitutionality of SB 105 under the privacy clause of the Constitution of Alaska. SB 105 would prohibit physicians from performing abortions prior to obtaining the consent of parents, guardians, or the courts. I believe that this bill, if it becomes law, would pass muster under Alaska constitutional law, and the right to privacy enumerated in art. 1, § 22 of the Alaska Constitution, as currently interpreted by the Supreme Court of Alaska.

The right to privacy may best be described as "the right to be left alone". Both the federal and state constitutions give a measure of protection to the privacy of individuals. However, federal and state courts have been careful not to apply the right to privacy in a manner that restricts government from performing its essential functions or enforcing important public policies that may impinge on an individual's privacy.

### FEDERAL PRIVACY LAW

The Constitution of the United States does not enumerate a right to privacy. The word "privacy" does not appear in the Constitution. However, the Supreme Court of the United States has found that a right to privacy exists in the Constitution, and derives from a broad reading of the due process clause of the 14th Amendment. *Carey v. Population*

*Services International*, 431 U.S. 478, 684, 97 S.Ct. 2010, 2015, 52 L.Ed.2d 675 (1977). The right has also been held to exist as a result of "emanations" from other constitutional provisions, e.g. *Griswold v. Connecticut*, 381 U.S. 479, 85 S.Ct. 1678, 14 L.Ed.2d 510 (1965). Governmental intrusions of privacy are allowed where there is a compelling state interest and that regulation does not sweep too broadly. *Id.*, at 381 U.S. 485, 85 S.Ct. 1682; *Roe v. Wade*, 410 U.S. 113, 115, 93 S.Ct. 705, 727, 35 L.Ed.2d 147 (1973); *Carey*, at 431 U.S. 685, 97 S.Ct. 2016.

### ALASKA PRIVACY LAW

Unlike the federal constitution, the Alaska Constitution explicitly grants the right to privacy in Art. I, § 22. Alaska is one of a few states that have such a provision. The Supreme Court of Alaska has held that the state's right to privacy is broader than the right to privacy that the Supreme Court of the United States recognized in the cases cited above. *State v. Glass*, 583 P.2d 872, rehearing 596 P.2d 10 (Alaska 1978).

The court's analysis of privacy rights hinges upon an examination of the importance of the right claimed, and the government's interest in the action infringing upon privacy.

The court has said:

Under the Alaska Constitution, the required level of justification turns on the precise nature of the privacy interest involved. In the absence of suspect classification or impairment of fundamental rights, we have required that there be a 'fair and

substantial relation' between the means chosen and a legitimate governmental purpose. *Isakson v. Richey*, 550 P.2d 359, 363 (Alaska 1976). Where fundamental rights are at stake, the state's interest in invading privacy must be compelling.

*Matter of A.B.*, 791 P.2d 615, 621 (Alaska 1990).

The court has set limits to governmental invasion of privacy. "No governmental intrusion on the privacy of citizens should be broader or more intrusive than necessary to accomplish the government purpose that justifies it." *Municipality of Anchorage v. Ray*, 554 P.2d 740, 750 (Alaska 1993). Thus, the court will allow government to invade personal privacy, but it must do so only to the extent required to accomplish the legitimate governmental purpose.

The Supreme Court of Alaska reviewed the right to privacy as applied to a minor child in *Matter of A.B.*, 791 P.2d 615 (Alaska 1990). There, the court upheld the right of a parent to information held by HESS. The court recognized the preeminent importance of preserving the family structure, despite the father's admitted neglect and addition to drugs, and the agency's expressed interest in preserving the privacy of certain information. The court stated that, to facilitate an expeditious and comprehensively monitored reunion of A.B. [a minor female] and her father, and to preserve the potential for a normal relationship between them, are legitimate State interests substantially effectuated by the release order [requiring the State to release information regarding the child to parties interested in the outcome of the case]." *Id.*, at 791 P.2d 622.

I have found one case where the court discusses the privacy interest of minors in preventing the disclosure of information about their obtaining an abortion. In *Falcon v. Alaska Public Offices Commission*, 570 P.2d 469 (Alaska 1977), the court prevented application state election law requiring a physician to disclose the names of patients from whom he had received over \$100 in payment. The court stated that a physician specializing in contraceptive or abortion services, or a general practitioner providing abortion or contraceptive services to a minor, should not be required to disclose the names of patients. This because the patients' privacy interests outweighed the public interest in promoting fair and honest government by requiring disclosure of a candidate's sources of income. *Falcon*, at 791 P.2d 622-623.

The *Falcon* case turned upon the potential public disclosure of information concerning intimate details of patients' lives. SB 105, on the other hand, deals only with private disclosure of information to parents concerning the health of minor children. As noted above, the court has recognized the importance of the parent/child relationship, and has been willing to sacrifice privacy interests in favor of supporting and maintaining that relationship. (Indeed, the court, while not deciding the constitutionality of similar provisions in the law, the court has displayed deference towards legislative policy in this area. See, e.g., *Cleveland v. Municipality of Anchorage*, 631 P.2d 1073 (Alaska 1981) and *Bird v. Municipality of Anchorage*, 787 P.2d 119 (Alaska 1990).)

Based upon the principles enumerated in the case law, I believe that the Supreme

Court of Alaska would hold that SB 105 does not violate the constitutional rights of minor children. Although the court may find that a fundamental right to abortion is implicated by the bill, see *Roe*, above, it would probably also find that there is a competing fundamental right of parents to be involved in decisions concerning minor children. See, *Matter of A.B.*, above.

In addition, as a matter of policy, the court would surely agree with the legislature that parents are more able than government to help minor children make a choice regarding abortion, and that it is in the best interests of minor children to have their parents involved in this decision.

Those rare instances where parental involvement would not be in a child's best interests are covered by the judicial by-pass allowing minors to obtain abortions against their parents' consent under certain circumstances. This will not only help the bill pass constitutional muster under federal law, it will likely persuade the Alaska court that the bill protects the privacy interests of minor children in the least obtrusive manner possible.

## CONCLUSION

Abortion is a highly personal decision with profound moral, emotional, and spiritual ramifications. I believe that the court would recognize that it is a decision that most minors should not make without involving the people best equipped to help them make that

decision, and most concerned for their welfare — the minor's parents. For this reason, and the reasons expressed above, I believe that it is likely that the Supreme Court of Alaska would hold that SB 105 is constitutional under the Constitution of Alaska.

# Constituent Contact Sheet

NAME: STEPHANIE BENSON  
ADDRESS: 1414 HELEN DR. NW  
ALBANY GA 31706

DATE: 3/21/95

PHONE: 345-7393

S.S.N.: \_\_\_\_\_

REGARDING: SB 105 - PARENTAL CONSENT  
PASS - SUPPORT

ACTION TAKEN: \_\_\_\_\_

RESPONSE TO CONSTITUENT: \_\_\_\_\_

Senator Green.



# Alaska State Legislature

Please enter into the record my testimony to the Senate HESS  
committee name

committee on SB 105, dated March 20, 1995  
bill/subject

I OPPOSE SB105. IT IS NOT THE GOVERNMENT'S ROLE TO INTERFERE OR DICTATE DECISIONS ABOUT A YOUNG WOMAN'S BODY. IT IS NOT THE GOVERNMENT'S ROLE TO CONTROL RELATIONSHIPS BETWEEN PARENTS AND YOUNG WOMEN. IT CANNOT BE ASSUMED THAT MINOR WOMEN ARE IMMATURE OR INCAPABLE OF MATURE JUDGMENT. NEITHER CAN IT BE ASSUMED THAT ALL MINOR WOMEN ARE PART OF A VIABLE FAMILY STRUCTURE EVEN IF UNEMANCIPATED.

Signed: Malinda Thompson (MALINDA THOMPSON)  
Testifier

Representing (Optional)  
PO BOX 1542, HOMER, AK 99603  
Address  
235-4214  
Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate HESS  
committee name

committee on SB 105, dated March 20, 1995.  
bill/subject

I hear alot of talk about apple and oranges regarding SB 105. Involved caring, loving, parents will always be allowed to assist their pregnant teen. That teen will use their parent as a confidante. SB 105's Failure is providing safty (emotionally + physically) for the teenage girl who does not have support in the home with their parents.

Providing a judge in a sterile court room as a monitor for a pregnant teen without mental/emotional support is cold and like sending her an Alien from Mars.

Signed:

Testifier

Adri Hagman (Self)

Representing (Optional)

P.O. Box 737 Homer AK

Address

235-6410

Phone No.

March 20, 1999  
7030 Foothill Drive  
Anchorage, AK 99504

Senator Lyda Green  
State Capitol  
Juneau, Alaska 99801 - 1182

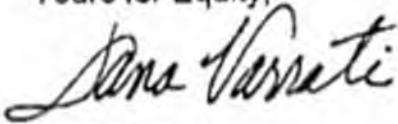
Dear Senator Green,

Please find attached a letter addressed to Senator Leman regarding his bill SB 105. I know this bill was heard in your committee this morning. I was unable to attend the teleconference because of my work schedule.

I am very concerned about the onslaught of bills (your own included) directed at controlling the lives of young women. I ask you to think about applying to young men the same standards contained in many of these "reform" bills. Do you believe the support from your male colleagues would be as strong for those kinds of equal reform measures?

Please keep this in mind when you have bills drafted, hear them, and accept or reject amendments. The young males of Alaska and their parents must learn that they are equally responsible for procreation and caring for their subsequent issue

Yours for Equity,



Jana Varrati

Post-it Fax Note	7671	Date	3/20	# of pages	2
To	Sen. Green	From	T. Haccatt		
Co Dept		Co			
Phone #		Phone #	333-0719		
Fax #	465-3805	Fax #			

March 20, 1995  
7030 Foothill Drive  
Anchorage, AK 99504

Senator Loren Leman  
State Capitol  
Juneau, Alaska 99801 - 1182

Dear Senator Leman,

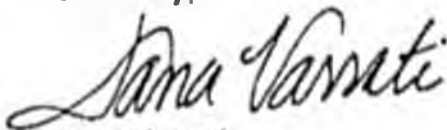
I am truly dismayed by the continued attack on young women represented by your bill, SB105. You have been a legislator for many years and surely have heard hours of testimony to the fact that many pregnant teenagers feel they cannot speak to their parents about their pregnancy. Even in the most open of homes, teen girls almost never speak to even their mothers about intimate personal things like menstruation, let alone the possibility of pregnancy. They talk to their friends about their problems. And, as you should know, some of those teenagers are pregnant by a parent! "Daddy, will you sign your permission for an abortion so Mom won't know you've been visiting my room every night for the past five years?"

To believe that this problem is solved by providing for judicial bypass is amusing. If girls are uncomfortable talking about the situation with a parent, why, in heaven's name, would they be comfortable being put under the scrutiny of a perfect stranger in black robes asking very personal questions?

As you can tell, I am very angry with you and your cohorts for your sanctimonious stands on issues involving young women: cut off their public assistance; sign a Personal Responsibility Contract; deny them a PFD; cut their Medicaid services; make them live with a parent or in a foster home (please make sure you read the Sunday Anchorage Daily News articles about the DFYS audit).

And, just exactly what are you "boys" doing about legislating against your own? I don't see any of these actions taken against young women being applied to the young men who impregnated them. There's nothing in any bill requiring the parents of an impregnator to house him and be responsible for sharing doctor and hospital bills with the impregnee's parents, or to pay child support for his offspring, or deny him a PFD, Driver's License, or an education, to sign a Personal Responsibility Contract, to snip his vas deferens until he learns to control the organ in which it is housed.

Sincerely,



Jana Varrati

cc: Members of Senate HSS Committee

## ROBIN SMITH

*RE: SB105*

I wish that there were fewer abortions, but I do not believe that we can legislate abortion into extinction.

Men participate in sexual intercourse, but it is usually the women who suffer the consequences. 30% of fathers of babies born to girls under 16 are men in their 20's or older. The condom is the only cheap, easy to use, effective, safe and nonprescription method of contraception and it is the male partner who must choose to use it. Rape and incest force women into potential pregnancy.

We cannot legislate good family communication and interaction. Human beings commit dangerous acts when they feel trapped. A young woman recently gave birth to a child. Fearing her parents reprisals, she chose to drown her newborn. Other young women died as the result of illegal abortions. This bill you propose does nothing for prevention but steps in to delay and potentially complicate the situation.

If we want to make a difference, perhaps we should do the following:

- Encourage more parental involvement in our children's lives
- Be better role models and set a proper example.
- Reduce television time.
- Don't go to movies or watch television that glorifies sex between unmarried adults.
- Destroy and denounce the image of "A Real Man" who has intimate relations with as many women as possible.
- Make men as responsible for child rearing and financial support as we do women.

Do not be in denial. Abortion is merely a symptom of the larger problem of unwanted pregnancy. Let's prevent these pregnancies, not complicate the situation. Let's work together to find solutions to the real problem.

*Robin Smith*  
14100 GARVI DRIVE  
ANCHORAGE, AK 99515

*3/20/95*

MAR 21 1995



# Alaska State Legislature

Please enter into the record my testimony to the Senate HES  
committee name

committee on SB 105 . dated 3/20/95  
bill/subject

MAR 20 1995

Page 1 of 2

WRITTEN TESTIMONY IN SUPPORT OF SB 105

I am writing in support of Senate Bill SB105 and would like to see it passed for two reasons One is that I feel it is important that parents of teens should know and have a say in whether to terminate their child's pregnancy or not. Secondly i feel as a teen it is important to let the parents know what is going on with their child and preborn grandchild I am asking you as a representative of Alaska and its people to please support this bill Thank you for your time

*Brian L. Kokke*

BRIAN KOKKE

VOTER

AGE 18

P.S. Please enter into the record my written testimony of Senate bill SB105 an act stating the parental consent of a minor seeking an abortion.

*Brian Kokke*

3-20-95

63100 GROFF St.  
SITKA AK 99835  
(907) 966-2570

MAR 20 1995



# Alaska State Legislature

Please enter into the record my testimony to the Senate HES  
 committee name  
 committee on SB 105 , dated 3/20/95  
 bill/subject

### WRITTEN TESTIMONY ON SB 105

I am writing to ask the Legislature to support SB 105 which upholds the requirement of parental consent in the case of an unemancipated minor seeking an abortion. This bill is necessary to support family unity and protect and support a minor in making this momentous decision. I feel it will allow parents to be more involved in their children's lives by supporting them in this critical time and helping them to make a difficult decision. The family unit and value system is chiseled away enough in our society by the media and externals that parents have no control over. Please support this piece of legislation that strives to uphold the family unit and allow parents to have a say in this vital decision that will follow their children all their lives no matter what decision is made.

Thank you for your time

*Beverly J. Kokke*

Beverly J. Kokke

Signed: *Beverly J. Kokke*  
 Testifier  
N/A  
 Representing (Optional)  
631 DeGross Sitka AK 99835  
 Address  
966-2570  
 Phone No.



# Alaska State Legislature

Please enter into the record my testimony to the Senate HES  
 committee name  
 committee on SB 105, dated 3/20/95  
 bill/subject

## WRITTEN TESTIMONY ON SB 105

We the Sitka Pro Life Coalition are writing in support of SB 105 which upholds the requirement of parental consent in the case of an unemancipated minor seeking an abortion. We feel in every abortion decision there are two lives to be considered. This bill is necessary to protect a minor from their immaturity at a time when they are in crisis. By ensuring parental involvement in the consent form we feel you will be strengthening the family unit and giving parents a chance to support both their children and grandchildren. Please support this piece of legislation that strives to uphold the family unit and allow parents to be involved in their minor children's critical decisions.

Thank you for your time.

*Beverly J. Kokke, Secretary*

Sitka Pro Life Coalition  
Beverly J. Kokke, Secretary

Signed: *Beverly J. Kokke*  
 Testifier  
*Sitka Pro Life Coalition*  
 Representing (Optional)  
*P.O. Box 2466*  
 Address  
*message - 966-2570*  
 Phone No.

MAR 20 1995



# Alaska State Legislature

Please enter into the record my testimony to the SHES  
 committee name  
 committee on SB # 105 dated 3/20/95  
 bill/subject:

I would like to say I am ~~opposed~~ <sup>supporting</sup> SB # 105. Parents have the right to know what is happening to their children. If they have to have parental permission to take aspirin at school. It seems a surgical procedure such as an abortion. I am and other CPC's across the nation deal with these post-abortion victims on a daily basis. Ifs there are those both women who have had the abortion and also the man or family this effect. I would ask that the now standing law be enforced to the fullest. Because it's been →

Signed: Ex. Director Kathy P. Ball  
 Testifier

S.P.C. Crisis Pregnancy Center  
 Representing (Optional)

508 S. Willow St. Kenai Alaska  
 Address '99611

1-907-283-9062  
 Phone No.

reported to me that it is not  
enforced in most cases. The  
Care Net Crisis Centers across the  
Nation & Canada is trying to help  
these girls and encouraging them  
to include their parents in on  
this decision with counseling.

03-20-95

I ENDORSE SB-105 PROPOSED BY SENATOR  
LOREN LEMAN.

AS A 43 YEAR OLD POST-ABORTION WOMAN WHO  
STILL GRIEVES THE LOST CHILDREN OF MY YOUTH,  
I BELIEVE IT IS ETHICAL AND RESPONSIBLE  
REQUIRING MINORS TO REQUISITION ADULT  
AUTHORIZATION BEFORE TERMINATING THE LIFE  
OF THEIR CHILD. . . . SUPPORT SB-105.

*Teri Lundy*

TERI LUNDY  
P.O. BOX 2975  
SITKA AK 99835

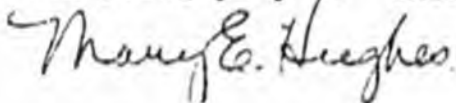
MAR 20 1995

TOTAL P.02

## WRITTEN TESTIMONY REGARDING SENATE BILL 105

I would like to affirm my support of Senate Bill 105 which provides for parental permission before a minor is able to have an abortion.

There is very convincing evidence that whenever the parental bonds are strengthened; we then have more responsible behavior by the young people. This should always be our goal in legislation.



Mary E. Hughes

P.O. Box 912

Sitka, AK 99835 Residence: 1307 Halibut Pt Rd.

March 20, 1995

To Senate HESS Committee

Thank you for giving me this opportunity speak on SB105, which would prevent a doctor from performing an abortion for an unmarried, unemancipated woman under 18 years of age unless certain conditions are met. These conditions, as you well know, concern parental or court consent for the procedure.

This law would expose young women from abusive or dysfunctional families to emotional trauma and physical danger. It has been found that when young women from these types of families do seek confidential abortions forced communication frequently has disastrous results. Parents may respond with physical or sexual abuse and in some cases the enraged father physically abuses both his daughter and her mother.

The American Psychological Association has found that minors are usually able to make intelligent, informed decisions about pregnancy. Even women from severely troubled families show great maturity and sensitivity when seeking confidential health services.

Court procedures are daunting for almost everyone. The process required to obtain court consent can be traumatic as the young woman may be required to reveal personal information to many people. In the process, in a small community, the information may get back to her parents. The resultant delay would increase the risk of harm. The longer the wait to terminate a pregnancy the greater the risk involved. Even so, the risk from abortion is less than the risk from childbirth and teenagers are more likely than adult to suffer medical complication from childbirth.

I request that you pass SB105 out of committee with a "do not pass" recommendation.

Thank you for you consideration of my concerns.

Alice Johnstone  
213 Shotgun Alley  
Sitka, Alaska 99835



MAR 20 1995



# Alaska State Legislature

Please enter into the record my testimony to the Senate HES  
 committee name  
 committee on SR 105 dated 3-20-95  
 bill/subject:

I am opposed to Senate Bill 105. Having worked as a high school counselor for a number of years I found that when a teenage female became pregnant the emotional trauma was very intense. If she had caring & loving parents, she had no qualms about working with them. But a number of these young women were justly concerned for their safety by sharing this information with their parents.

This bill would force many of these young women to seek unsafe avenues for back alley abortions. Concentrating on education to prevent pregnancy would be more useful & appropriate. Possibly a bill to require parental consent before a teenager can become sexually active would be

would be more appropriate.

Signed: Richard W. Wainwright  
 Testifier

Representing (Optional):  
35985 Pioneer Drive Soldotna

Address  
262-9833

Phone No.

P.S. I am also disappointed speakers were not limited to 5 minutes as you gave an excellent guideline. During in to our LTO office please

## SPONSOR STATEMENT

DATE: March 15, 1995

FROM: Senator Loren Leman

RE: Senate Bill 105  
Judicial Bypass of Parental Consent Requirement for  
Minor Seeking an Abortion

\*\*\*\*\*

Senate Bill 105 will help young pregnant women seek parental guidance for one of the most important decisions they will make. Even an ambulance service seeks parental consent before treating a minor. It is inconsistent not to apply that parental oversight to one medical procedure.

It is incongruous that a parent must give permission for children to have their ears pierced or get prescription medicines, but is not required to be informed by a doctor about serious surgery like abortion.

Although Alaska law has required parental consent for a girl under 18 to have an abortion since 1970, the law has not been enforced for the past 20 years. Providing an alternative mechanism for a pregnant young woman to get consent from the court, instead of one of her parents, satisfies the requirements of the U.S. Supreme Court and Alaska's privacy provision. Unfortunately, these requirements also provide a large loophole for minors who want an abortion without parental consent.

Parental involvement legislation in other states, including Pennsylvania, Minnesota, Michigan and Ohio, has reduced the number of abortions among teenage girls by up to 27 percent. Twenty-two states now enforce requirements for parental involvement in minor girls' abortion decisions.

Recent polling shows that 74 to 80 percent of adults support a parental right to be involved in abortion decisions of their minor daughters. Many people are surprised to learn that this provision of law is not now enforced in Alaska.

Although this legislation will not be a cure-all for the devastating impacts of abortion on demand, it will help, and is a big step in encouraging parental participation.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 105

Revision Date: \_\_\_\_\_  
 Title: An Act relating to the requirement that a parent, guardian or custodian consent before a minor receives an abortion.  
 Sponsor: Sen. Leman  
 Requestor: Senate HES

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

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	112.0	112.0	112.0	112.0	112.0	112.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE:** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	112.0	112.0	112.0	112.0	112.0	112.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>	<b>112.0</b>

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

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.)

The judicial bypass positions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. Section 3 of the bill mandates the appointment of a guardian ad litem to "protect the interest of the complainant at the hearing that is held under this section."

The section continues to require the appointment of an attorney and further that if the guardian ad litem is an attorney, "the court may also appoint the guardian ad litem to serve as the complainant's attorney."

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

Phone: 274-1684  
 Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
 Agency: Administration

Date: 3-17-95

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## FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 105

### ANALYSIS: (continued)

While no provision of the bill identifies a particular source for guardians ad litem or attorneys, it is presumed that the Office of Public Advocacy (OPA) would be required to provide guardians ad litem in this, as it is in all other proceedings. Guardians ad litem cannot serve as attorneys for the same person in the same case. Nearly all OPA guardians ad litem are non-attorneys.

The fiscal note is based on the following assumptions:

1. 2,400 abortions per year are performed in Alaska;
2. 12 percent of abortions per year (288) are performed on women aged 17 or younger; and
3. 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

Thus, OPA could be expected to provide guardian ad litem representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The guardian ad litem representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,000.00 per case for a total of \$112.0 for each year.

# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 105

Revision Date: \_\_\_\_\_  
 Title: relating to parental consent before a minor  
receives an abortion; establishing a jud...  
 Sponsor: Senator Leman  
 Requestor: Senate HESS

Dept. Affected: Health and Social Services  
 BRU: Medical Assistance  
 Component: Medicaid-Facilities  
 COMPONENT SERIAL NO. 230  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<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	0.0	0.0	0.0	0.0	0.0	0.0
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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	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

**ANALYSIS:** (Attach a separate page if necessary)

Enactment of this legislation would have very little impact on the funding of abortions by the Medicaid or General Relief Medical Assistance Programs. Very few abortions are funded under these programs for minors.

Prepared by: Nancy Weller, Med Assist Admin  
 Division: Medical Assistance

Phone: 465-3355  
 Date: 03/17/95

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

Date: 3/17/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 105

Revision Date: \_\_\_\_\_  
 Title: relating to parental consent before a minor  
receives an abortion; establishing a jud...  
 Sponsor: Senator Leman  
 Requestor: Senate HESS

Dept. Affected: Health and Social Services  
 BRU: Medical Assistance  
 Component: Medicaid Non-Facility  
 COMPONENT SERIAL NO. 229  
 See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<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	0.0	0.0	0.0	0.0	0.0	0.0
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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	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

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

**ANALYSIS:** (Attach a separate page if necessary)

Enactment of this legislation would have very little impact on the funding of abortions by the Medicaid or General Relief Medical Assistance Programs. Very few abortions are funded under these programs for minors.

Prepared by: Nancy Weller, Med Assist Admin  
 Division: Medical Assistance

Phone: 465-3355  
 Date: 03/17/95

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

Date: 3/17/95

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# State Parental-Involvement Statutes

States having parental-involvement laws

September 1994

State	Type	Citation	Status
Alabama	one-parent consent judicial bypass	Ala Code §26-21-2 (Supp. 1990)	in force
Alaska	one-parent consent	Alaska Stat §18.16.010 (1991)	constitutionality of §11.15.060 questioned, Op. Alaska att'y gen. (Oct. 21, 1976)
Arizona	one-parent consent judicial bypass	Ariz Rev Stat Ann §§36-2152, 36-2153 (1986 & Supp. 1991)	unconstitutional in <i>Planned Parenthood v. Neely</i> , No. Civ 89-489, TUC ACM (D. Ariz. Sept. 14, 1992)
Arkansas	one-parent notice 48-hour waiting period judicial bypass	Ark Code Ann. §§20-16-801 - 20-16-808 (Michie Supp. 1991)	in force
California	one-parent consent judicial bypass	Health & Safety §25958 (West Supp. 1991)	unconstitutional under Cal. Const. <i>AAP v. Lungren</i> , No. A058627 (Cal. Ct. App., June 30, 1994)
Colorado	one-parent consent	Colo Rev Stat §18-6-101(1) (1986 & Supp. 1990)	declared unconstitutional in <i>Foe v. Vanderhoof</i> , 389 F. Supp. 947 (D. Colo. 1975)
Connecticut	no law		
Delaware	one-parent consent	Del Code Ann. tit. 24 §1790(b) (1987 & Supp. 1990)	unconstitutional and unenforceable; attorney general statement of policy on March 27, 1977
District of Columbia	no law		
Florida	one-parent consent judicial bypass	1972 Fla. Laws 608, ch. 72-196 §3 (based on Model Penal Code §230.3 (1962))	unconstitutional under state constitution; see <i>In re T.W.</i> , 551 So. 2d 1186 (Fla. 1989)
Georgia	one-parent notice 24-hour waiting period 72-hour notice by mail judicial bypass	Ga. Code Ann. §§15-11-110-117 (Michie 1990 & Supp. 1991)	upheld in <i>Planned Parenthood Ass'n v. Miller</i> , 934 F. 2d 1462 (11th Cir. 1991), in force
Hawaii	no law		
Idaho	two-parent notice 24-hour waiting period	Idaho Code §18-609(6) (1987)	unenforced
Illinois	two-parent notice 48-hour waiting period judicial bypass	720 ILCS 520/1 et seq. (West 1992)	injunction continued in <i>Hartigan v. Zbaraz</i> , 776 F. Supp. 375 (N.D. Ill. 1991)
Indiana	one-parent written consent judicial bypass	Ind Code Ann. §35-1-58.5-2.5 (West 1986 & Supp. 1991)	in force; see <i>In re T.H.</i> , 484 N.E. 2d 568 (Ind. 1985), <i>In re T.P.</i> , 475 N.E. 2d 312 (Ind. 1985)
Iowa	no law		
Kansas	one-parent notice judicial bypass eight-hour waiting period	K.S.A. 65-6705	enacted into law on April 23, 1992, in force

State	Type	Citation	Status
Kentucky	one-parent written consent judicial bypass	Ky. Rev. Stat. §311.732 (amended by S.B. 136, 1994 Sess.)	recently passed amendment, not yet challenged
Louisiana	one-parent consent judicial bypass	La. Rev. Stat. §1299:35.5 (West Supp. 1991)	constitutional in <i>Margaret S.v. Treen</i> , 597 F. Supp. 636 (E.D. La. 1984) <i>aff'd</i> 794 F.2d 994 (5th Cir. 1986), in force
Maine	adult family member or one-parent 24-hour notice, unless counselled by doctor 48-hour notice by mail judicial bypass	Me. Rev. Stat. Ann. tit. 22 §1597-A (West Supp. 1990)	in force
Maryland	one-parent notice waivable at physician's discretion	Mid. Health-Gen. Code Ann. §20-103(c)(1) (Supp. 1993)	in force
Massachusetts	two-parent written consent judicial bypass	Mass. Ann. Laws ch. 112 §125 (West 1983 & Supp. 1991)	preliminary injunction denied in <i>Planned Parenthood League of Massachusetts v. Bellotti</i> , 499 F. Supp. 215 (D. Mass. 1980), <i>aff'd</i> in part, vacated in part on other grounds and remanded, 641 F.2d 1006 (1st Cir. 1981), in force
Michigan	one-parent consent judicial bypass	Mich. Comp. Laws Ann. §722.901 et seq. (West Supp. 1991)	preliminary injunction denied in <i>Planned Parenthood of Mid-Michigan v. A.G. of Michigan</i> , No. D91-0571-AZ (Kalamazoo Co. Cir. Ct.), in effect during litigation
Minnesota	two-parent notice 48-hour waiting period judicial bypass	Minn. Stat. Ann. §144.343 (West 1982)	upheld in <i>Hodgson v. Minnesota</i> , 110 S.Ct. 2629 (1989), in effect August 1989
Mississippi	two-parent written consent judicial bypass	Miss. Code Ann. § 41-41-51 et seq. (Supp. 1989)	upheld in <i>Barnes v. Mississippi</i> , No. 92-7264 (5th Cir. May 27, 1993), cert. denied by U.S. Supreme Ct., 114 S.Ct. 468, in force
Missouri	one-parent written consent judicial bypass	Mo. Ann. Stat. §188.028 (Vernon Supp. 1991)	upheld in <i>Planned Parenthood Ass'n of Kansas City, Mo. v. Ashcroft</i> , 462 U.S. 476 (1983), <i>T.J. v. Webster</i> , 792 F.2d 734 (8th Cir. 1986), in force
Montana	one-parent notice	Mont. Code Ann. §50-20-107(b)	declared unconstitutional and permanently enjoined in <i>Wickland v. Salvagni</i> (U.S. Dist. Ct. Montana, Dec. 21, 1993) (CV93-92-BU-1FB)
Nebraska	one-parent 48-hour notice judicial bypass	1991 Neb. Laws No. 425 §11	in force
Nevada	one-parent notice judicial bypass	Nev. Rev. Stat. §442.255, 442.2555 (Michie 1986 & Supp. 1989)	unconstitutional in <i>Glick v. McKay</i> , 616 F. Supp. 322 (D. Nev. 1985), <i>aff'd</i> 937 F.2d 434 (9th Cir. 1991)
New Hampshire	no law		
New Jersey	no law		

State	Type	Citation	Status
New Mexico	one-parent consent	N.M. Stat. Ann. §30-5-1(C) (Miche 1984 & Supp. 1991); enacted 1969	unconstitutional under <i>Planned Parenthood v. Danforth</i>
New York	no law		
North Carolina	no law		
North Dakota	two-parent written consent judicial bypass	1981 N.D. Laws, ch. 164, § 1, 1985 N.D. Laws, ch. 334, § 2 (codified at N.D. Cent. Code, §14-02.1-03 1 (Supp. 1989))	in force
Ohio	one-parent 24-hour notice judicial bypass	Ohio Rev. Code Ann. §2919.12	upheld in <i>Ohio v. Akron Center for Reproductive Health</i> , 110 S.Ct. 2972 (1990); in force; as-applied challenge, rejected, <i>Cleveland Surgi-Center v. Jones</i> , 2 F.3d 686 (6th Cir. 1993), cert. denied, 114 S.Ct. 696 (1994)
Oklahoma	implied two-parent consent	Okl. Stat. Ann. tit. 63 §§ 2601, 2602	probably unconstitutional under <i>Planned Parenthood v. Danforth</i>
Oregon	no law		
Pennsylvania	one-parent informed consent judicial bypass	Pa. Cons. Stat. Ann. tit. 18 §3206, 3209 (Purdon 1983 & Supp. 1990)	upheld in <i>Planned Parenthood of Southeastern Pennsylvania v. Casey</i> , 112 S.Ct. 2791 inj. vacated by 3d Cir., January 1994; in force since February 8, 1994
Rhode Island	one-parent consent judicial bypass	R.I. General Laws §23-4-7-6 (1989)	in force
South Carolina	one-parent or grandparent consent judicial bypass	1990 S.C. Acts P.A. 341 (codified at S.C. Code Acts §44-41-30 et seq. (1991))	in force
South Dakota	one-parent notice 48-hour waiting period	HB 1131, 1993	temporary restraining order, <i>Planned Parenthood v. Miller</i> , CIV 93-3033
Tennessee	two-parent notice (CL interpreted it as one) 48-hour waiting period	§39-15-202(f) 1991, 1992, (enacted in 1989)	upheld by State Circuit Ct., <i>P.P. Assn. of Nashville, Inc. v. McWhirter</i> (November 19, 1992) (Docket No. 92C-1672); not enforced during litigation
Texas	no law		
Utah	two-parent notice (CL interpreted it as one)	Utah Code Ann. §76-7-304(2) (1990) (enacted in 1974)	upheld, <i>H.L. v. Matheson</i> , 450 U.S. 398 (1981), in force
Vermont	no law		
Virginia	no law		
Washington	no law		
West Virginia	one-parent 24-hour notice 48-hour notice by mail judicial bypass	Laws 1984, ch. 1, codified at §16-2F-1 et seq., W.Va. Code Ann. (1991)	in force

State	Type	Citation	Status
Wisconsin	one-parent or adult family-member consent judicial bypass	1991 WI Act 263	enacted into law on May 2, 1992; in force
Wyoming	one-parent 48-hour written notice and consent judicial bypass	Wyo Stat. §35-6-118 (Supp. 1989)	in force

For further information contact Americans United for Life.  
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(continued from previous page)

What America believes:

By 51% to 42%, oppose federal funding of Medicaid abortions (*Newsweek* poll, April 1993)

80% favor requiring parental notification (March 1992 *Washington Post* poll)

What the FOCA does:

The Senate bill (S. 25) currently contains an "exception" to allow states to refuse to pay for abortions, but this "exception" is opposed by NOW and the ACLU. These pro-abortion groups approve of the House bill (HR 25), which contains no such exception, and thus would require all states to fund abortions with state funds.

Both the House and Senate bills would nullify all current laws that require parental consent or at least notification before an abortion can be performed on a minor. The FOCA would require that every state give every minor the absolute right to consult with a "responsible adult" of her choosing, rather than a parent or judge!

For copies of the current versions of HR 25 and S. 25, or further information or documentation on the "Freedom of Choice Act," contact:

NRLC Federal Legislative Office  
(202) 626-8820, (301) 502-1170  
fax (202) 347-3668

\*\*\*\*\*



# National RIGHT TO LIFE committee, inc.

1025 20TH STREET, N.W., SUITE 200  
WASHINGTON, D.C. 20037-2000 TEL: (202) 462-3400 FAX: (202) 462-3401

## The Lack Of Parental Involvement: Real Consequences

The personal experiences of Dawn Ravenell, Rachel Ely, Myosbi Callahan, Holly Trimble, and Teresa Wibblesman Fangman are testaments to the very real tragedy that a decision made without the benefit of parental involvement can become for a teenager who is confronted with the frightening and stressful fact of an unexpected pregnancy. Their experiences illustrate all too well some of the physical, emotional, and psychological dangers to the adolescent who makes the abortion decision without any parental involvement.

Dawn Ravenell, a 13-year-old girl from Queens, New York, died tragically in 1985 after undergoing a legal abortion. According to the abortion clinic records, Dawn awoke from the anesthesia during the middle of the abortion and began gagging and choking before going into cardiac arrest. A plastic airway was inserted in her throat and she was again sedated. In the recovery room after the abortion, she awoke, began gagging on the unremoved airway, and went into cardiac collapse. She was rushed to a New York hospital where she later died. In 1990, a jury awarded \$1.225 million dollars to her family. The Ravenell's said they pursued the suit not for the money but for justice. "I wanted to be sure that another child would not suffer the way Dawn did," Mrs. Ravenell said.

New York has no parental involvement law so Dawn's parents were never told about their daughter's pregnancy or abortion. "It was a horrible situation," said the family attorney, Thomas Principe. "Here you have a frightened kid in what was really an abortion factory. She was treated like a piece on an assembly line."

Rachel Ely was a 17 year-old, unmarried high school student who was afraid to tell her parents that she was pregnant. Rachel had an abortion on the advice of a high school counselor without her parents' knowledge. Several days after the abortion, Rachel became quite ill and went to another doctor. Thinking the symptoms were not related, she did not tell the doctor about the abortion. Rachel was left permanently paraplegic, forced to use a wheelchair, from a condition later found directly attributable to a post abortion surgical infection. Rachel had not been told that there are alternatives to abortion. Had her parents known their daughter was pregnant, they would have provided her with the alternatives of keeping her child, or placing the child for adoption. Had Rachel's parents known of the abortion, they would have raised the possible relationship between the abortion and Rachel's symptoms so that she could get proper treatment quickly.<sup>2</sup>

Myosbi Callahan was 15 when she had an abortion without her parents' knowledge or consent. At the clinic, she received no counseling whatsoever and felt that her only alternative was abortion. As a result

---

<sup>1</sup> Herrmann, "\$1.225M awarded in girl's abort death," New York Daily News, Tuesday, December 11, 1990, p. 13. See also, Canino, "\$1.2M won't bring her back," New York Post, Tuesday, December 11, 1990, p. 1.

<sup>2</sup> Brief Amici Curiae of Focus on the Family, Hodgson v. Minnesota, 110 S. Ct. 2926 (1990), at App. 1a.



# national RIGHT TO LIFE committee, inc.

1000 17th St. N.W.  
Washington, D.C. 20036-2095 • (202) 462-4900 • FAX: (202) 462-1170

## Parental Involvement Laws: The Minnesota Success Story

During the years in which a Minnesota parental notification law was in effect (1981-1986), not only did the teen abortion rate drop, but so did the teen pregnancy rate and birth rate. The teen abortion and birth rate declines were substantially greater than the comparable rates for older women who could not have been affected by the law.

Data from the Minnesota Department of Health show that during the years in which the state's parental involvement law was in effect, both the number and the rate of abortions among teenagers under the age of 18 declined.

During the years just before Minnesota enacted a parental notification law (1975-1980), the number of abortions among Minnesota female residents under the age of 18 increased by 41 percent. The abortion rate went up 53 percent.<sup>1</sup>

But during the years in which the parental notification law was in effect (1981-1986),<sup>2</sup> the number of abortions among teenagers under the age of 18 -- those subject to the law -- decreased by 34 percent. The abortion rate declined 26 percent.<sup>3</sup> While the abortion rate declined among ages 18-19 as well, a study published in the March 1991 *American Journal of Public Health* reveals that "the pre-enactment to post-enactment decline was substantially greater for 15-17 than 18-19 year-old women, and for 18-19 year-old women than 20-44 year-old women."<sup>4</sup> By contrast, during the same time period, the yearly abortion rates for women ages 20-44, who were substantially removed from the impact of the law, increased.<sup>5</sup> Furthermore, there was a marked drop in the abortion-to-birth ratio in the 15-17 year-old age group when compared to both 18-19 year-old women and 20-44 year-old women.<sup>6</sup>

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<sup>1</sup> Statistics calculated using raw data from Center for Health Statistics, Minnesota Department of Health print-out, "Pregnancy Data For Women By Age Group, Minnesota Residents, 1970-1979" (February 1991) and "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

<sup>2</sup> The Minnesota law requiring an abortionist to notify the parents of a minor before performing an abortion on their daughter went into effect August 1, 1981. It was then enjoined (made inoperative) by court order from 1986 through 1990. The last full year in which parental notification was not required before a minor under the age of 18 could obtain an abortion was 1980. The only age group subject to the law was female residents of Minnesota under age 18. In July 1990, the U.S. Supreme Court upheld the law as constitutional in *Hodgson v. Minnesota*, 110 S. Ct. 2926 (1990). The law is now back in effect.

<sup>3</sup> Statistics calculated using raw data from Center for Health Statistics, Minnesota Department of Health print-out, "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

<sup>4</sup> James L. Rogers et al., "Impact of the Minnesota Parental Notification Law on Abortion and Birth," *American Journal of Public Health*, vol. 81, no. 3 (March 1991): p. 295. Rather than simply citing percentages and rates, Rogers and his colleagues used generally accepted statistical techniques to measure the substantiality of the comparative decline. While too complex to describe in this fact sheet, these techniques are explained in the article.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.* at p. 296.

# CORRECTION

THE FOLLOWING DOCUMENT(S)  
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# national RIGHT TO LIFE

committee, inc.

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## The Lack Of Parental Involvement: Real Consequences

The personal experiences of Dawn Ravenell, Rachel Ely, Myoshi Callahan, Holly Trimble, and Teresa Wibblesman Fangman are testaments to the very real tragedy that a decision made without the benefit of parental involvement can become for a teenager who is confronted with the frightening and stressful fact of an unexpected pregnancy. Their experiences illustrate all too well some of the physical, emotional, and psychological dangers to the adolescent who makes the abortion decision without any parental involvement.

Dawn Ravenell, a 13-year-old girl from Queens, New York, died tragically in 1985 after undergoing a legal abortion. According to the abortion clinic records, Dawn awoke from the anesthesia during the middle of the abortion and began gagging and choking before going into cardiac arrest. A plastic airway was inserted in her throat and she was again sedated. In the recovery room after the abortion, she awoke, began gagging on the unremoved airway, and went into cardiac collapse. She was rushed to a New York hospital where she later died. In 1990, a jury awarded \$1.225 million dollars to her family. The Ravenell's said they pursued the suit not for the money but for justice. "I wanted to be sure that another child would not suffer the way Dawn did." Mrs. Ravenell said.

New York has no parental involvement law so Dawn's parents were never told about their daughter's pregnancy or abortion. "It was a horrible situation," said the family attorney, Thomas Principe. "Here you have a frightened kid in what was really an abortion factory. She was treated like a piece on an assembly line."<sup>1</sup>

Rachel Ely was a 17 year-old, unmarried high school student who was afraid to tell her parents that she was pregnant. Rachel had an abortion on the advice of a high school counselor without her parents' knowledge. Several days after the abortion, Rachel became quite ill and went to another doctor. Thinking the symptoms were not related, she did not tell the doctor about the abortion. Rachel was left permanently paraplegic, forced to use a wheelchair, from a condition later found directly attributable to a post abortion surgical infection. Rachel had not been told that there are alternatives to abortion. Had her parents known their daughter was pregnant, they would have provided her with the alternatives of keeping her child, or placing the child for adoption. Had Rachel's parents known of the abortion, they would have raised the possible relationship between the abortion and Rachel's symptoms so that she could get proper treatment quickly.<sup>2</sup>

Myoshi Callahan was 15 when she had an abortion without her parents' knowledge or consent. At the clinic, she received no counseling whatsoever and felt that her only alternative was abortion. As a result

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<sup>1</sup> Herrmann, "\$1.225M awarded in girl's abort death," New York Daily News, Tuesday, December 11, 1990, p. 13. See also, Canito, "\$1.2M won't bring her back," New York Post, Tuesday, December 11, 1990, p. 1.

<sup>2</sup> In re Amici Curiae of Focus on the Family, Hodgson v. Minnesota, 110 S. Ct. 3926 (1990), at App. 1a.

(more on reverse)

of the side effects resulting from the abortion procedure, Myoshi had to have a hysterectomy. Myoshi has since told both parents. They have grieved with her for the loss of life and for the ordeal that their daughter went through alone. Myoshi deeply regrets that her parents were not involved.<sup>3</sup>

Holly Trimble was 16 when she became pregnant and decided to have an abortion. Holly's main purpose for the abortion was so that she would not have to tell her parents about her pregnancy. She did not want to hurt them. Because she did not want to hurt them, Holly also would not talk to them about the turmoil of her abortion. Today, Holly deeply regrets her decision. She is certain that, had she been exposed to information about the development of the unborn child at the time of her decision, she would have carried her baby to term.<sup>4</sup>

Teresa Wibblesman Fangman was 16 when she learned she was pregnant. Teresa received no alternatives counselling and decided to abort her baby, primarily because she was afraid to tell her parents of her pregnancy. She did not want them to know she had disappointed them. The abortion exacted an extreme emotional toll. Five years later, Teresa's 15 year-old sister, impregnated on a date rape, went to her parents for help. With their support, she decided to carry her baby to term and then place the child for adoption. Teresa is convinced that, if she had known at the time of her abortion decision how supportive her parents would be to an unexpected pregnancy, she would not have had an abortion.<sup>5</sup>

Parental involvement in an adolescent's decision-making process helps ensure that the girl is fully aware of the physical, emotional, and psychological risks of an abortion and that these risks are minimized or avoided. Minimizing and avoiding such risks can only be beneficial to the adolescent, her family, and to society as a whole.

National Right to Life Committee  
State Legislation Department  
April 1992

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<sup>3</sup> *Id.* at App. 2a.

<sup>4</sup> *Id.* at App. 5a.

<sup>5</sup> *Id.* at App. 3a.



# national RIGHT TO LIFE committee, inc.

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## Parental Involvement Laws: The Minnesota Success Story

During the years in which a Minnesota parental notification law was in effect (1981-1986), not only did the teen abortion rate drop, but so did the teen pregnancy rate and birth rate. The teen abortion and birth rate declines were substantially greater than the comparable rates for older women who could not have been affected by the law.

Data from the Minnesota Department of Health show that during the years in which the state's parental involvement law was in effect, both the number and the rate of abortions among teenagers under the age of 18 declined.

During the years just before Minnesota enacted a parental notification law (1975-1980), the number of abortions among Minnesota female residents under the age of 18 increased by 41 percent. The abortion rate went up 53 percent.<sup>1</sup>

But during the years in which the parental notification law was in effect (1981-1986),<sup>2</sup> the number of abortions among teenagers under the age of 18 -- those subject to the law -- decreased by 34 percent. The abortion rate declined 26 percent.<sup>3</sup> While the abortion rate declined among ages 18-19 as well, a study published in the March 1991 American Journal of Public Health reveals that "the pre-enactment to post-enactment decline was substantially greater for 15-17 than 18-19 year-old women, and for 18-19 year-old women than 20-44 year-old women."<sup>4</sup> By contrast, during the same time period, the yearly abortion rates for women ages 20-44, who were substantially removed from the impact of the law, increased.<sup>5</sup> Furthermore, there was a marked drop in the abortion-to-birth ratio in the 15-17 year-old age group when compared to both 18-19 year-old women and 20-44 year-old women.<sup>6</sup>

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<sup>1</sup> Statistics calculated using raw data from Center for Health Statistics, Minnesota Department of Health print-outs, "Pregnancy Data For Women By Age Group, Minnesota Residence, 1970-1979" (February 1991) and "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

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<sup>5</sup> Id.

<sup>6</sup> Id. at p. 296.

(more on reverse)

During the years in which the parental involvement law was in effect, both the total number of pregnancies and the pregnancy rate among teenagers under the age of 18 declined.

During the years just before the enactment of the Minnesota parental notification law (1975-1980), the number of pregnancies among Minnesota female residents under age 18 increased by 5 percent. The pregnancy rate increased 14 percent.<sup>7</sup>

During the years in which the parental notification law was in effect (1981-1986), total pregnancies among teenagers under 18 years of age decreased by 27 percent, and their pregnancy rate went down 19 percent.<sup>8</sup>

During the years in which the parental involvement law was in effect, the birth rate among teenagers under the age of 18 decreased.

During the years just before the enactment of the Minnesota parental notification law (1975-1980), the number of births to Minnesota female residents under age 18 had decreased by 19 percent. During those years the average birth rate was 10.2 per 1,000 women.<sup>9</sup>

During the years in which the parental notification law was in effect (1981-1986), total births to teenagers under 18 years of age declined 20 percent, and their average birth rate went down to 8.6 per 1,000 women.<sup>10</sup> While the decline in birth rates among ages 15-17 and ages 18-19 was similar,<sup>11</sup> both age groups experienced a substantially greater decline than women ages 20-44.<sup>12</sup>

National Right to Life Committee  
State Legislation Department  
March 1991

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<sup>7</sup> Statistics calculated using raw data from Minnesota Center for Health Statistics print-outs, "Pregnancy Data For Women By Age Group, Minnesota Residence, 1970-1979" (February 1991) and "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

<sup>8</sup> Statistics calculated using raw data from Center for Health Statistics, Minnesota Department of Health print-out, "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

<sup>9</sup> Statistics calculated using raw data from Minnesota Center for Health Statistics print-outs, "Pregnancy Data For Women By Age Group, Minnesota Residence, 1970-1979" (February 1991) and "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

<sup>10</sup> Statistics calculated using raw data from Center for Health Statistics, Minnesota Department of Health print-out, "Pregnancy Outcomes and Pregnancy Rates by Age of Woman, Minnesota Residents, 1980-1988" (April 1990).

<sup>11</sup> Note that the birth rate for ages 18-19 includes births to girls who became pregnant while they were 17 and subject to the law but who turned 18 during the pregnancy. Therefore, even though girls ages 18-19 were not subject to the law, their birth rate decline may in part be a reflection of the decline in the pregnancy rate among girls under the age of 18.

<sup>12</sup> Rogers et al., "Impact of the Minnesota Parental Notification Law," p. 296. See explanation in footnote 4.

March 12, 1995 AMERICANS UNITED FOR LIFE

To: Those working to pass Parental Involvement Statutes

From: Judy Koehler, Sr. Legislative Counsel, AUL

Last week I assisted Texas Sen. Florence Shapiro and Pro-life leaders in their effort to pass Parental Notice legislation. Sen. Shapiro gave me this information from a highly respected Texas polling firm. This information can be helpful to you. It is a timely indication of continuing positive public support for parental involvement in a minor child's abortion decision.

Texas Poll: How Texans stand on 20 key issues

Polling date: Feb. 25, 1995

Source: The Harte-Hanks Texas Poll, conducted Feb. 2-11, 1995 by the Office of Survey Research of the University of Texas, 1,011 adult Texans surveyed by telephone. Margin of error: 3%.

Key issue: Parental Notification (abortion)

Question: Do you favor or oppose parental notification of abortions to minors?

	<u>All</u>	<u>Rep.</u>	<u>Dem.</u>	<u>Ind.</u>
Favor	74	83	65	72
Oppose	21	14	28	24
Don't know	5	3	7	4

## Restoring Parental Rights

### The Supreme Court on Teen Abortion

In the raging debate over abortion, one subject has received increasing support from those on both sides of the issue. Most Americans, no matter what their views on abortion, advocate parental notification before a teenager may have an abortion. According to a June 1990 *New York Times/CBS News* poll, 76 percent of those surveyed believe that both parents should be notified before their teenage daughter's abortion (see p. 2).

On June 25, 1990, the United States Supreme Court upheld Minnesota and Ohio laws which acknowledge the right of parents to be informed of their daughter's intention to undergo this potentially life-changing procedure. Yet legitimate questions continue to surface about the sufficiency of parental involvement laws. In this first issue of *AUL Insights*, we will explore some of the commonly asked questions about these laws and the Supreme Court's most recent decisions.

#### In This Issue:

*The Public: Parents Need to Know* - p. 2

*How Many Teenagers are Having Abortions?* - p. 3

*Minnesota's Success Story* - p. 4

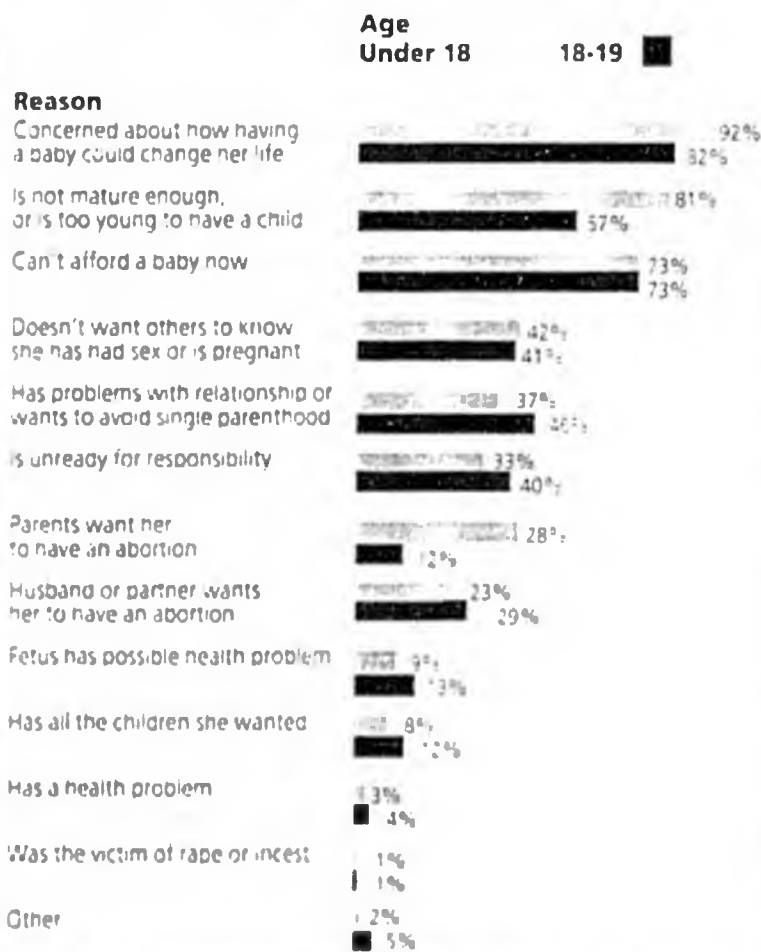
*Where Teens are Protected* - p. 5

*What Killed Becky Bell?* - p. 6

*A Mother Fights for Her Rights* - p. 7

## Why Do Teenagers Choose Abortion?

Most of the respondents in this 1987 survey said that more than one factor contributed to their decision to have an abortion.



Source: Alan Guttmacher Institute, *Family Planning Perspectives*, July-August 1988

**Q: Why are parental involvement laws important?**

These laws make sense for several reasons:

- ▼ Because nearly 80 percent of abortions on teenagers occur in outpatient clinics, a girl is unlikely to have the benefit of conferring with a trusted family physician about her decision. Parental involvement laws ensure that she talks with those who know her best—her parents—about the pros and cons of her decision, the risks of abortion, and alternatives available to her.
- ▼ Parents have traditionally been recognized as having rights when it comes to directing the rearing of their children. Their consent is required before all other non-emergency surgical procedures besides abortion. Surely, parents have a right to know of a medical decision that could affect their daughter physically and emotionally for the rest of her life.

- ▼ When parental involvement laws are in effect, teens become more sexually responsible. During the nearly five years the Minnesota law was operative, abortion rates dropped 27.4 percent, birth rates fell 12.5 percent, and pregnancies decreased by 20.5 percent in minors aged 10-17 (see p. 4).

**Q: What is the difference between notification and consent laws?**

Parental notification laws require that a minor's parents be *informed* of her decision to have an abortion before the procedure is performed. The parents are not allowed to make the decision, but they do have the benefit of helping their daughter make an informed choice.

Parental consent laws require *permission* from the parents before a physician proceeds with an abortion on their daughter. These laws parallel others which require parental permission before a minor undergoes elective surgery and medical treatment.

**Q: What did the Supreme Court justices decide in the 1990 parental notice cases?**

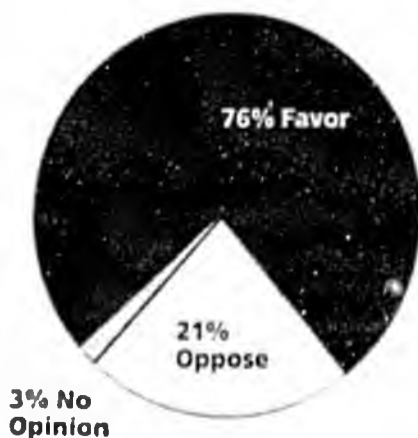
The Supreme Court upheld both laws. In *Ohio v. Akron Center for Reproductive Health*, the Court agreed that the state could require:

- ▼ notification of one parent prior to a minor's abortion with a judicial bypass option (see below)
- ▼ personal notice by the physician, rather than an employee
- ▼ a 24-hour waiting period between notification and an abortion
- ▼ a "judicial bypass" mechanism which allows a judge to determine whether there is "clear and convincing evidence" that the teen is mature enough to have an abortion without her parent's knowledge or that it is not in her best interest to notify her parent

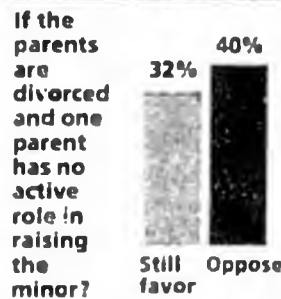
In *Holston v. Minnesota*, the Court upheld:

**The Public: Parents Need to Know**

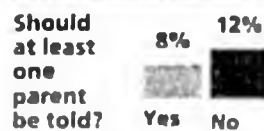
Percentage who favor/oppose notification of both parents prior to those under 18 obtaining an abortion:



Of the 76% who favor notifying both parents:



Of the 21% who oppose notifying both parents:



Those who expressed no opinion are not illustrated.

## How Many Teenagers are Having Abortions?

AGE	Number of Abortions	Abortion Rate per 1,000 Women	Percentage of All Abortions	Comments
Under 15	16,970	9.1	1.1%	<ul style="list-style-type: none"> <li>• Women younger than 20 account for 26 percent of all abortions.</li> <li>• At 1985 rates, 9 percent of young women will have had at least one abortion by their 18th birthday. By age 20, 18 percent will have undergone an abortion.</li> <li>• About 42 percent of pregnant teenagers choose abortion.</li> </ul>
15 - 17	165,630	30.7	10.4%	
18 - 19	233,570	63.0	14.7%	
Compare to all women 15-44	1,588,550	28.0	≈ 100%	

Figures are for 1985, the most recent year for which this information is available.  
 Source: Alan Guttmacher Institute, *Family Planning Perspectives*, March/April 1989 and May/June 1990.

▼ notification of both parents prior to a minor's abortion only if a teenager has the option of seeking a bypass of this requirement from a judge

▼ a 48-hour waiting period between notification and an abortion

### Q: Is this the first time the Supreme Court has heard parental involvement cases?

The justices have decided a number of similar cases in the past 14 years—five to be exact.

- ▼ *Planned Parenthood Association of Kansas City, Mo., v. Ashcroft*, 1983, upholding a one-parent consent law
- ▼ *City of Akron v. Akron Center for Reproductive Health*, 1983, striking down regulations which required physicians to obtain one parent's consent before performing an abortion on anyone under 15, because a judicial bypass provision was not provided
- ▼ *H.L. v. Matheson*, 1981, upholding a two-parent notice statute for immature, dependent minors
- ▼ *Bellotti v. Baird*, 1979, establishing the required components of a judicial bypass for a parental consent statute
- ▼ *Planned Parenthood of Central Missouri v. Danforth*, 1976, striking down a parental consent statute which did not contain a judicial bypass provision

The two cases last term expanded and clarified previous decisions. But they also examined several new issues. For the first time, the Supreme Court upheld a 48-hour

waiting period after parental notification, direct physician notification to parents, more thorough judicial bypass requirements, and notification of *both* parents if a judicial bypass is in place.

### Q: Why is the doctor required to notify a girl's parents? Couldn't a clinic employee do that just as well?

Direct contact with the physician gives the parents a chance to provide better advice to their daughter and to inform the doctor about her pertinent medical history.

According to the *Akron* opinion, "The parent who must respond to an event with complex philosophical and emotional dimensions is given some access to an experienced and, in an ideal case, detached physician who can assist the parent in approaching the problem in a mature and balanced way." The Court concluded that this type of benefit may not be possible if a less qualified person notifies the parent.

### Q: Isn't it difficult and time-consuming for a physician to locate both parents, especially if there has not been any contact between them and their daughter?

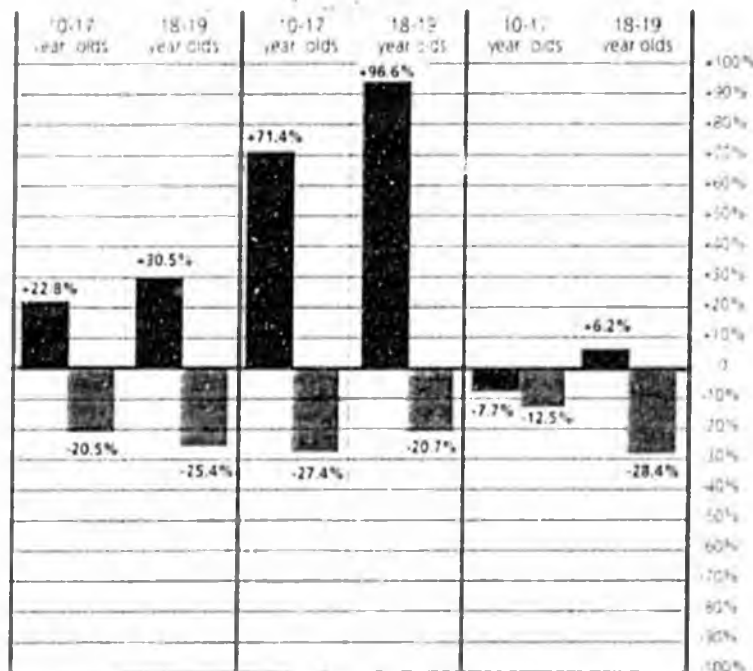
Yes, in some cases it is difficult or impossible to track down a parent who has not had contact with his or her daughter. For this reason, neither the Ohio or Minnesota laws requires a manhunt for a teenager's parents.

The Ohio law specifies that a doctor attempt to notify a parent with "reasonable effort" in person or by phone. If unsuccessful, the doctor can notify the parent by mail and proceed with the abortion after waiting 48 hours.

## Minnesota's Success Story

During the nearly 5 years Minnesota's parental notice law was in effect, the teenage pregnancy, abortion and birth rates declined substantially. The law encouraged responsible teen behavior.

Key:  Before the law (1975-1980)  During the law (1980-1986)



Source: Brief of the Association of American Physicians and Surgeons as Amicus Curiae, *Hobson v. Minnesota*, 1989. The brief may be obtained from AFL's public affairs department.

Minnesota law stipulates that the physician use "reasonably diligent effort" to notify both parents. This means that if the second parent cannot be located, notice to one parent is sufficient.

### Q: What is the purpose of the waiting period after the physician notifies the parent?

A waiting period provides parents and their daughter time to discuss the implications of her decision to have an abortion and consider alternatives available to her. The Court found a 24- or 48-hour waiting period constitutional.

### Q: What are the reasons for the judicial bypass procedure?

The judicial bypass procedure is a safeguard for minors who want to undergo an abortion without their parents' knowledge. While the best option is for a caring parent to be informed, a few girls legitimately fear parental reprisal or abuse. The teenager may be the victim of incest. In this situation, the solution is not for the girl to suffer alone in an abusive situation, but for authorities to intervene.

The bypass also allows a teenager to show that she is mature enough to make the decision without informing her parents.

### Q: What must a judicial bypass provision contain?

In its prior opinions, the Supreme Court established four criteria:

- ▼ The law must allow a teen to show that she is sufficiently informed about her decision and mature enough to make the decision without parental involvement.
- ▼ If she is not shown to be mature, the bypass must permit the minor to show that an abortion would be in her "best interests."
- ▼ The teen's identity must be protected during the bypass procedure.
- ▼ The judicial bypass must be prompt.

### Q: The judicial bypass seems like an intimidating process. Is anything done to help the teenager through it?

Recognizing that teens seeking this option might seem overwhelmed, the process in Ohio was simplified. An attorney is provided at no cost to the teenager to help her fill out the correct form and assist her through what the Supreme Court described as a "simple and straightforward procedure." In most states with parental involvement laws, a guardian, court-appointed lawyer or friend can help the teenager file a petition and help her through the bypass process.

**Q: Court proceedings can take a long time. Does a judicial bypass unduly delay an abortion?**

No. Under the Ohio law, the juvenile court is required to hold a hearing at the earliest opportunity, and no later than five business days after a minor files her petition for a judicial bypass.

The court must make its decision promptly at the end of the hearing. If the court fails to rule in the specified time period, a "constructive authorization" results and the teen may obtain an abortion without parental notification.

**Q: Now that the Supreme Court has decided these cases, what will state legislatures be able to do?**

The two parental notice decisions provide additional guidance for legislators who want to introduce this type of law. States can be confident that they may enact legislation which requires any of the following:

- ▼ two-parent notice with a properly drafted judicial bypass provision
- ▼ one-parent notice with a judicial bypass
- ▼ assessment by a judge that the teen is mature or that an abortion is in her best interests
- ▼ personal notification of the parents by the physician
- ▼ parental notice at least 24 or 48 hours before the abortion

**Q: Did the opinions in these cases give any indication of the justices' leanings on the abortion issue?**

Yes, almost predictably. Chief Justice Rehnquist, and Associate Justices Scalia, White and Kennedy adhered to a more lenient standard of review, asking opponents to demonstrate why the parental notice laws are *not* constitutional, rather than requesting the state to show that the law is constitutional. They have used this standard of review in past cases. Justice Scalia explicitly expressed opposition to the

**Where Teenagers Are Protected**

The Status of Parental Involvement Laws

State	Type of Law	Status at Present
Alabama	Consent	enforced
Alaska	Consent	not enforced
Arizona	Consent	being challenged in court, inoperative
Arkansas	Notice	enforced
California	Consent	being challenged in court, inoperative
Colorado	Consent	inoperative
Connecticut	None	
Delaware	Consent	not enforced
D.C.	None	
Florida	Consent	inoperative
Georgia	Notice	being challenged in court, inoperative
Hawaii	None	
Idaho	Notice	not enforced
Illinois	Notice	being challenged in court, inoperative
Indiana	Consent	enforced
Iowa	None	
Kansas	None	
Kentucky	Consent	being challenged in court, inoperative
Louisiana	Consent	enforced
Maine	Notice	inoperative
Maryland	Notice	not enforced
Massachusetts	Consent	enforced
Michigan	Consent	effective 4/1/91
Minnesota	Notice	upheld by U.S. Supreme Court, enforced
Mississippi	Consent	being challenged in court, inoperative
Missouri	Consent	upheld by U.S. Supreme Court, enforced
Montana	Notice	not enforced
Nebraska	Notice	inoperative
Nevada	Notice	being challenged in court, inoperative
New Hampshire	None	
New Jersey	None	
New Mexico	None	
New York	None	
North Carolina	None	
North Dakota	Consent	not enforced
Ohio	Notice	upheld by U.S. Supreme Court, enforced
Oklahoma	None	
Oregon	None	
Pennsylvania	Consent	being challenged in court, inoperative
Rhode Island	Consent	not enforced
South Carolina	Consent	enforced
South Dakota	Consent	not enforced
Tennessee	Consent	being challenged in court, inoperative
Texas	None	
Utah	Notice	upheld by U.S. Supreme Court, enforced
Vermont	None	
Virginia	None	
Washington	Consent	inoperative
West Virginia	Notice	enforced
Wisconsin	None	
Wyoming	Consent/Notice	enforced

A detailed chart may be obtained from ACLU's public affairs department. Source: American United for Life, November 1992.

*Roe v. Wade* decision, which legalized abortion on demand in 1973.

Justices Blackmun, Brennan and Marshall held firm to their position that abortion is a fundamental right which must not be regulated even minimally by the state. Justice Stevens, while maintaining that abortion is a fundamental right, was more flexible in agreeing to uphold some degree of abortion regulation.

Justice O'Connor voted to uphold the parental notice laws. There is no basis to conclude that she has retreated from her prior statements about the state's "compelling" interests in "the potentiality of human life...which exists *throughout* pregnancy." At most, Justice O'Connor's writing indicates that she will not cut back on *Roe* any more than absolutely necessary, adhering

to her statement in *Webster v. Reproductive Health Services* that the time to decide *Roe*'s fate is when a case squarely confronts it.

**Q: Do these decisions threaten *Roe v. Wade*?**

The parental notice decisions do not directly threaten *Roe*. Neither state attorney general asked for *Roe* to be overturned or raised issues which would challenge abortion on demand. The 1990 parental notice decisions simply confirm the U.S. Supreme Court's unmistakable trend of promoting parental rights and protecting minors' health. ■

For an in-depth legal analysis of the 1990 Supreme Court decisions, refer to the AUL Analysis Memo No. 11. It may be obtained from the AUL Public Affairs Department.

## What Killed Becky Bell?

In the dispute over who will exercise the ultimate authority and responsibility for the hearts, minds and bodies of our children, there are some new combatants. Planned Parenthood, the Fund for a Feminist Majority and several other "pro-choice" groups are using the case of an Indiana teenager who died of pneumonia, allegedly caused by an illegal abortion, in an attempt to strike down laws requiring parental consent before a minor can obtain an abortion.

Becky Bell was a 17-year-old girl who died September 16, 1988, under circumstances the pro-choice groups say was the result of her trying to circumvent Indiana's parental consent law by seeking an illegal abortion. Bell's parents have announced plans to use their daughter's death as a rallying cry against such laws. They also have participated in the creation of a video they want to show in public schools and universities that they hope will lead to the repeal of parental consent legislation. The Supreme Court recently upheld parental consent laws when they include a judicial bypass provision.

Though the Marion County (Indiana) coroner's report lists the cause of Becky's death as "septic abortion with pneumonia," the manner of death was said to be "undetermined" and the circumstances leading up to her death are anything but clear.

According to Dr. John Curry, former head

of the Tissue Bank at Bethesda Naval Hospital, "Septic abortion usually means that as a result of destructive actions within the uterus, an infection has started which subsequently spreads to the rest of the body. In this case, the pathology report is notable in that while there is evidence of massive infection in the lungs and elsewhere in the body, there is no evidence of infection on the outside of or within the uterus." Curry says the germ that killed her "is a common pneumonia germ (streptococcus pneumoniae) that could have been treated had it been detected within the first six days and which is unlikely to originate from a contaminated abortion procedure."

The coroner's report notes that "Rebecca Bell...reportedly has a history of substance abuse for which she was hospitalized from mid-February through April, 1988. Investigation disclosed that (she) became pregnant in

mid-May, 1988 (according to Planned Parenthood referral receipt)."

Becky's mother believes her daughter took something to induce an abortion. But in an interview conducted by Rochelle Sharpe of Gannett News Service with Becky's best friend, Heather Clark, Heather said she believes Becky had a spontaneous abortion (miscarriage).

The coroner's report says that Becky "reportedly was at a party where various drugs were being used (cocaine, 'speed' and LSD) on the weekend of September 10-11, (and later) claimed that someone had put 'speed' in her drink."

The case raises several important questions.

First, why would Becky undergo an illegal abortion when she had scheduled a legal procedure in neighboring Kentucky for the day after she died?

Second, was Becky undecided about whether to seek an abortion or place her baby for adoption? She had papers listing abortion clinics and adoption agencies in her purse when she died.

Third, did her father contribute to his daughter's frustration? According to Heather, Becky's father said that if she messed up one more time, she'd be thrown out of the house.

Fourth, why does no one mention the crisis pregnancy centers or other pro-life counseling agencies that not only provide free counseling but often serve as bridges between parents and children and, if necessary,

can offer free housing for girls in crisis situations? The Bells and the pro-choice groups make it appear as if there was no other alternative for Becky than an illegal abortion.

Supporting Heather Clark's account that no abortion had been performed was a doctor who provided emergency treatment when Becky finally went to the hospital. The doctor was quoted by Rochelle Sharpe in her story: "I don't know whether we're going to be able to save the baby."

If Becky's parents had known about her pregnancy, they most likely would have made sure she received medical attention when health complications arose—attention that could have saved her life. The real lesson to be learned from Becky Bell's death is not that parental involvement laws are bad. It is just the opposite—that young girls (and especially Becky, who reportedly had a history of drug abuse that may have contributed to her inability to reason in her own best interests) need the advice and involvement of their parents.

The medical cause of Becky Bell's death may have been pneumonia, but the underlying cause remains unclear. One thing is clear: her death was not due to Indiana's parental consent law. ■

*by Cal Thomas*

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## A Mother Fights for Her Rights

Becky Bell's parents aren't the only ones who hold a strong opinion about laws that involve parents in a teenager's abortion decision (see p. 6). While Karen and William Bell traverse the country testifying against parental consent legislation, a California mother wishes the law had safeguarded her rights and those of her teenage daughter.

At a small junior high school in rural California, Virginia Preston met with her daughter's principal early in 1985. She

asked him to inform her of anything that related to 14-year-old Erin, who had a learning disability. He agreed, and they instituted a program of written daily reports from Erin's teachers.

After a sex education class in March, Erin told her homeroom teacher that she thought she might be pregnant. The teacher and a colleague explained to Erin that she must act quickly to get an abortion and that she didn't have to tell her parents

of the suspected pregnancy. The teacher sent a note to Mrs. Preston saying that Erin needed to stay after school, but instead drove the girl to a health center for a pregnancy test. The results were positive.

The teacher and her colleague then met to discuss how they would procure an abortion for Erin. Both the principal and school superintendent allegedly were aware of Erin's pregnancy and her teacher's involvement, and neither notified the girl's parents.

Erin was taken to the welfare department where the teacher helped her apply for Medical benefits to pay for the abortion. That day she forged Erin's daily reports so that Mrs. Preston would think her daughter had attended regular classes.

On March 22, during school hours, a rape crisis counselor took Erin to an abortion clinic for pre-abortion testing. Staff members didn't attempt to determine her level of maturity or understanding, but told her abortion was quick and easy and that her parents need never know.

On Friday, Erin's teacher sent a note home with her, asking if the teenager could babysit the next day. She explained that she would be out late and requested that Erin stay overnight at her home. But Erin didn't babysit. Instead, she was taken to Chico Feminist Women's Health Center for an abortion.

Erin kept quiet about the abortion. But four days later, Mrs. Preston received a telephone call from the school nurse, who told her for the first time about Erin's abortion and its resulting complications. Erin was rushed to a hospital for emergency surgery.

The Prestons were angry, and rightly so. They had asked to be kept informed of their daughter's progress and concerns, but had been intentionally deceived. Erin and her mother filed suit against school and clinic officials. They charged that Mrs. Preston's constitutional right to rear her teenage daughter and Erin's right to parental guidance had been violated. They also charged that Erin's constitutional "right to choose" had been disregarded since those advising her had denied her any real choices.

Most of the school and clinic staff settled the case out of court. But the superintendent

pressed for a decision, and a court ruled in his favor before the case went to trial.

On August 7, 1990, the California Court of Appeals upheld the lower court's ruling, saying that "as a matter of law the various conduct alleged is not 'extreme and outrageous'" solely because California law permits minors to obtain abortions without the knowledge or consent of their parents. The California Supreme Court refused to hear the Prestons' appeal.

AUL attorney Ann-Louise Lohr, co-counsel in the case, remarked, "Here, an elaborate web of deception was spun by public officials, carried out in a clandestine manner and perpetrated on an unknowing mother who was deceived and lied to in the name of 'assistance.' Such outrageous and deceptive conduct should not, as a matter of law, be tolerated."

Yet this conduct is tolerated. Before Erin's abortion, her teacher took 10 other girls to have pregnancy tests without their parents' knowledge or consent. And she accompanied at least one other teenager to a clinic for an abortion, again without informing the parents. School officials allegedly knew of this practice and permitted it to continue.

It doesn't just happen in California. The tragedy that Erin and her mother experienced could be repeated in every one of the 38 states which do not have enforced parental involvement laws. Until these safeguards are in place, no parent is guaranteed the right to assist a pregnant teenage daughter in making an informed decision about her options. ■

by Melodie Schlenker Gage



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*AUL Insights* is published periodically by Americans United for Life to provide readers with a factual review of pro-life issues.

AUL is a nonprofit, public-interest law firm and education organization, committed to defending the right to life through vigorous judicial, legislative and educational efforts since 1971.

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**SB**

**115**

TONY KNOWLES  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

PO Box 110001  
Juneau, Alaska 99811 0001  
1907 465-3500  
Fax 1907 465-3532

March 6, 1995

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

Dear President Pearce:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill relating to the Uniform Interstate Family Support Act and the repeal of the Uniform Reciprocal Enforcement of Support Act.

The bill would repeal the laws currently found in AS 25.25, the Uniform Reciprocal Enforcement of Support Act (URESA), and replace them with a new Uniform Act, the Uniform Interstate Family Support Act (UIFSA), with minor modifications. The bill also has the effect of amending Alaska Rules of Civil Procedure 79 and 82, and Alaska Rule of Administration 9. See secs. 6 and 7 of the bill. Under art. IV, sec. 15, of the Alaska Constitution, the legislature may change a court rule governing "practice and procedure." Although the bill has the effect of amending a court rule relating to filing fees that is designated as an "administrative" rule, I believe that the rule affects individuals' substantive rights regarding access to our justice system and, therefore, is one that the legislature is authorized to change. Additionally, the provision that has the effect of amending the administrative rule is an integral part of UIFSA.

The Uniform Interstate Family Support Act was drafted to update URESA. The bill, like URESA, applies to those actions relating to the establishment, modification, and enforcement of support orders and the determination of parentage in situations in which the parties reside in more than one state.

A major feature of UIFSA is that it does not require reciprocity of laws between states in order to take action under its provisions. In order to ease the transition between URESA and UIFSA, the bill recognizes substantially similar state laws as equivalent to UIFSA for

The Honorable Drue Pearce

March 6, 1995

Page 2

purposes of interstate actions. See proposed AS 25.25.101(7) and (16) in sec. 1 of the bill. The bill also contains its own long-arm jurisdiction provision providing the home state of a supported family the maximum possible opportunity to secure personal jurisdiction over an absent parent.

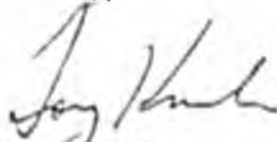
The bill promotes, to the extent possible, the premise of continuing exclusive jurisdiction over support orders. Under the law as it exists under URESA, multiple orders for child support often result. UIFSA seeks to limit the existence of multiple support orders by limiting the circumstances under which subsequent support orders may be entered in states other than the initiating state.

The bill also recognizes the growing use of administrative procedures in addition to or in place of judicial proceedings in the establishment of paternity and the establishment and enforcement of support orders.

UIFSA was prepared by the National Conference of Commissioners on Uniform State Laws, which has approved and recommended it for enactment in all the states. Although it was first adopted by that conference in the summer of 1992, it has already been enacted in 21 states. There are indications that it will be introduced in as many as eight states this year. It has been endorsed by the United States Commission on Interstate Child Support, the American Bar Association, and the Conference of Chief Justices, and the bill has the support of Alaska's child support enforcement agency. Additional information from the National Conference of Commissioners on Uniform State Laws is available from my staff.

I urge your prompt consideration and passage of this bill.

Sincerely,



Tony Knowles  
Governor

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO

1031 WEST 4TH AVENUE SUITE 100  
ANCHORAGE ALASKA 99501-1204  
PHONE (907) 269-5100  
FAX (907) 278-3897

KEY BANK BUILDING  
100 CUSHMAN ST. SUITE 400  
FAIRBANKS ALASKA 99701-2670  
PHONE (907) 451-2811  
FAX (907) 451-2946

P.O. BOX 110307-DIMOND COURT HOUSE  
JUNEAU ALASKA 99811-0300  
PHONE (907) 465-3600  
FAX (907) 465-6735

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 21, 1995

The Honorable Lyda Green  
Alaska State Senate  
Chairman, Senate Health, Education and Social Services Committee  
P. O. Box V  
Juneau, Alaska 99811

Re: SB 115 Amendment

Dear Senator Green:

I am the assistant attorney general who was charged with drafting the Uniform Interstate Family Support Act introduced as Senate Bill 115 (and House Bill 242). In reviewing the bill, we have determined that it would be preferable to allow the Supreme Court the opportunity to amend its own administrative rules, in order to avoid any potential separation of powers issue. Therefore we recommend deleting the reference to Alaska Rule of Administration 9 in the title of the bill, and deleting sec. 6 of the bill in its entirety. The change also would require conforming amendments in sec. 8 of the bill and the renumbering of bill sections.

Please contact me if you have any questions about this proposed amendment.

Sincerely,

BRUCE BOTELHO  
ATTORNEY GENERAL

By: 

Marilyn May  
Assistant Attorney General

MM:bld

cc: Bruce M. Botelho, Attorney General  
Karen Perdue, Commissioner, Department of Health and Social Services  
Wilson Condon, Commissioner, Department of Revenue  
Pat Pourchot, Legislative Director  
Deborah Behr, Assistant Attorney General

MAR 22 1995

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

TONY KNOWLES, GOVERNOR

STATE OFFICE BUILDING  
P.O. BOX 110410  
JUNEAU, ALASKA 99811 0410

April 7, 1995

The Honorable Lyda Green, Chair  
Senate HESS  
Alaska State Senate, Room 423  
State Capitol  
Juneau, Alaska 99801

re: SB115 and SB116

Dear Senator Green:

Enclosed please find informational "bullets" pertaining to SB 116 related to paternity establishment, and SB 115 related to the Uniform Interstate Family Support Act (UIFSA). This information is being presented in the hopes that it might clarify how these two bills will enhance child support enforcement within this State and in co-operation with other states which have implemented UIFSA.

If you desire additional information please contact Glenda Straube, Director, Child Support Enforcement Division at (907) 269-6801.

Sincerely,



Bob Baratko

Legislative Liaison  
Department Of Revenue

Enclosure

cc: Glenda Straube, Director, Child Support Enforcement Division

020172

APR 10 1995

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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FAX: (907) 465-6735

March 8, 1995

Honorable Lyda Green, Chair  
Senate HESS  
Alaska State Senate  
State Capitol, Room 423  
Juneau, Alaska 99801

Re: SB 115

Dear Senator Green:

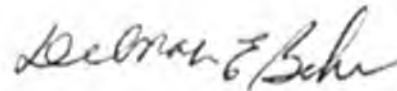
On behalf of the Uniform Law Commissioners for Alaska, I wish to request that SB 115 (an Act enacting the Uniform Interstate Family Support Act) be scheduled for an early hearing. The bill is important for keeping our laws relating to establishment and enforcement of child support obligations uniform across state lines. Please note that the Uniform Interstate Family Support Act has already been enacted by many states.

If you need additional information, please let me know. Enclosed is a copy of the governor's transmittal letter, which explains the bill in more detail.

Sincerely,

BRUCE M. HOTELHO  
ATTORNEY GENERAL

By:



Deborah E. Behr  
Assistant Attorney General

DEB:cl

MAR 09 1995

Hon. Lyda Green, Chair  
Senate HESS

March 9, 1995  
Page 2

cc: All Alaska Uniform Law Commissioners

Pat Pourchot, Legislative Director  
Office of the Governor

Bob Baratko, Legislative Liaison  
Department of Revenue

Elmer Lindstrom, Legislative Liaison  
Department of Health and Social Services



State of Alaska  
**ombudsman**  
A Legislative Service Agency

Reply to:

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Anchorage, AK 99510-2638  
(907) 269-5290  
(800) 478-2624  
(FAX) 269-5291
- P.O. Box 113000  
Juneau, AK 99811-3000  
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(800) 478-4970  
(FAX) 465-3330
- P.O. Box 74358  
Fairbanks, AK 99707-4358  
(907) 451-2880  
(800) 478-3257  
(FAX) 451-2957

April 5, 1995

The Honorable Lyda Green, Chairman  
Senate Committee on Health, Education & Social Services  
Alaska Legislature  
State Capitol, Room 423  
Juneau, Alaska 99811

Re: Senate Bill 115 - Uniform Interstate Family Support Act (UIFSA)

Dear Chairman Green:

The Office of the Ombudsman supports legislation to enact the Uniform Interstate Family Support Act (UIFSA). Two bills currently before the legislature, Senate Bill 115 and House Bill 242, as introduced, would accomplish that objective. Senate Bill 115 is scheduled for consideration by the Senate Health, Education & Social Services Committee at a hearing Wednesday, April 12, 1995.

The National Conference of Commissioners on Uniform State Laws drafted UIFSA to update the Uniform Reciprocal Enforcement of Support Act (URESA). UIFSA would allow Alaska maximum flexibility in securing personal jurisdiction over an absent parent and would apply to all actions relating to establishment, modification and enforcement of support orders and the determination of parentage in cases in which the parties reside in different states. This simplified process could mean more money for Alaskan parents to raise their children.

Enactment of UIFSA would assist many who have sought the Ombudsman's help with the Alaska Child Support Enforcement Division (CSED). In Fiscal Year 1994 and FY 1995, to date, the Ombudsman has assisted 1661 individuals with complaints against CSED, many of whom were custodial parents who depend upon CSED to collect child support from an out-of-state parent. A large number of those complaints came from single parents concerned about the slow pace of case establishment and child support collection. Enactment of UIFSA would streamline the establishment process which should, in turn, prompt speedier collections.

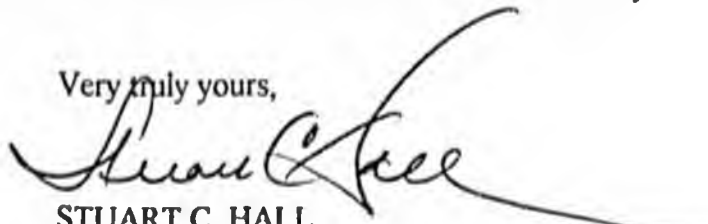
Both the state and custodial parents would benefit from enactment of UIFSA: the State of Alaska, because it could collect public assistance debts from absent parents, and custodial parents, because easier collection means money to raise their children. Perhaps more important, increased collections may help reduce the number of custodial parents forced to go on public assistance when there is no other source of support.

APR 05 1995

April 5, 1995

Your favorable consideration of legislation that would codify UIFSA into Alaska law this session is strongly recommended. Please feel free to call me at 465-4970 if my staff and I can be of further assistance.

Very truly yours,



STUART C. HALL  
Ombudsman

cc: The Honorable Tony Knowles, Governor of Alaska  
Att'n: Pat Pourchot, Legislative Director  
Bruce M. Bothelo, Esq., Attorney General  
Wilson L. Condon, Esq., Commissioner, Department of Revenue  
Glenda Straube, Director, Child Support Enforcement Division, Department of Revenue  
Marilyn May, Esq., Assistant Attorney General, Department of Law, Anchorage  
Deborah Behr, Esq., Assistant Attorney General, Legislation/Regulations, Department of Law, Juneau; and, Commissioner for Alaska, National Conference of Commissioners on Uniform State Laws  
Arthur H. Peterson, Esq., Commissioner for Alaska, National Conference of Commissioners on Uniform State Laws

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Maun Long  
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Anchorage, Alaska 99501  
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Facsimile (907) 277-9896

March 10, 1995

Hon. Lyda Green, Chair  
Senate Health, Education, and  
Social Services Committee  
Alaska State Legislature  
Room 423, State Capitol  
Juneau, Alaska 99801-1182

**HAND-DELIVERED**

Re: SB 115, Uniform Interstate Family Support Act

Dear Senator Green:

SB 115 has been referred to your committee, and I request that you schedule an early hearing on it. I urge a "Do Pass" report.

This bill proposes the Uniform Interstate Family Support Act (UIFSA), which is a product of the National Conference of Commissioners on Uniform State Laws (NCCUSL). It was promulgated in 1992 for the purpose of updating and replacing the Uniform Reciprocal Enforcement of Support Act (URESA) -- also a NCCUSL product.

All 50 states plus the District of Columbia, Puerto Rico, and the U. S. Virgin Islands enacted URESA. Already, at least 21 of those jurisdictions have repealed it and enacted UIFSA.

Eventually, for the protection of its people, especially its children, Alaska will have to enact UIFSA. We gain nothing by delay.

The most significant single point of this bill is its virtual elimination of the possibility of multi-state jurisdiction and conflicting support orders. That current flaw in URESA has been the bane of both obligees and obligors, as well as of the state agencies and courts charged with administering the old Act. The expected result of the new Act is a system that is more efficient and cheaper to operate, and more easily understood and fairer to the parties involved in the process, thus producing a much higher level of meeting family support obligations.

UIFSA addresses other URESA problems too, generally updating and improving the law. For example, it adapts the traditional

MAR 13 1995

Lyda Green, Chair, Senate HESS Com.  
Uniform Interstate Family Support Act  
March 10, 1995

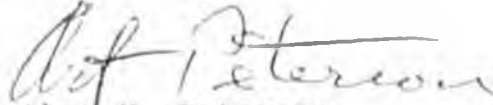
Page 2

"long arm" jurisdiction concept to this family support context.

Thank you for your consideration of this bill and this request.

Let me know if you want additional material on UIFSA.

Yours truly,

  
Arthur H. Peterson  
Uniform Law Commissioner  
for Alaska

cc: Hon. Wilson Condon, Commissioner  
Department of Revenue

Hon. Karen Perdue, Commissioner  
Department of Health & Social Services

Patrick Pourchot, Legis. Director  
Governor's Office

Rest of Alaska's ULC Delegation:

Hon. Jay A. Rabinowitz  
W. Grant Callow, Esq.  
Tamara Brandt Cook, Esq.  
L. S. Kurtz, Jr., Esq.  
Deborah E. Behr, Esq.

MAR 13 1995

## Uniform Interstate Family Support Act (UIFSA) HB 242 - SB 115

UIFSA provides improved procedures for establishing, modifying and enforcing child support orders where the obligor and the obligee reside in different states. Interstate cases represent about 44% of Alaska's child support caseload. UIFSA has already been enacted by at least 21 states and may soon be required for continued federal funding.

This bill promotes efficiency and minimizes confusion, and should therefore result in additional child support collections. UIFSA:

- Eliminates the multiple-order system existing under current law, whereby two or more states may each establish and enforce different child support judgments. UIFSA instead provides for one state to have "continuing, exclusive jurisdiction" and sets out the means for determining which state has that jurisdiction.
- Recognizes the speed and efficiency of administrative action by allowing the support enforcement agency to establish paternity and to establish, modify or enforce a child support order without having to go through a court.
- Provides broad long arm jurisdiction to reach out-of-state obligors to allow the forum state to obtain as much jurisdiction as is constitutionally permissible.
- Promotes efficiency by providing for use of federal forms in all interstate cases; exchange of child support information through an interstate computer network; taking of testimony by telephone; electronic transmission of documentary evidence; and special evidentiary rules to speed the introduction of evidence in support cases.
- Allows direct income withholding -- a support order may be mailed directly to an obligor's employer in another state, requiring immediate wage withholding, without first having a support hearing in that state (the obligor has the right to object and request a hearing).

UIFSA represents a dramatic improvement over the sometimes haphazard or even chaotic circumstances surrounding child support orders under Alaska's current interstate support law, the Uniform Reciprocal Enforcement of Support Act (URESA). The elimination of the multiple-order scenario alone justifies passage of UIFSA; that along with the many other benefits should assure widespread support among both obligees and obligors.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 21, 1995

The Honorable Lyda Green  
Alaska State Senate  
Chairman, Senate Health, Education and Social Services Committee  
P. O. Box V  
Juneau, Alaska 99811

Re: SB 115 Amendment

Dear Senator Green:

I am the assistant attorney general who was charged with drafting the Uniform Interstate Family Support Act introduced as Senate Bill 115 (and House Bill 242). In reviewing the bill, we have determined that it would be preferable to allow the Supreme Court the opportunity to amend its own administrative rules, in order to avoid any potential separation of powers issue. Therefore we recommend deleting the reference to Alaska Rule of Administration 9 in the title of the bill, and deleting sec. 6 of the bill in its entirety. The change also would require conforming amendments in sec. 8 of the bill and the renumbering of bill sections.

Please contact me if you have any questions about this proposed amendment.

Sincerely,

BRUCE BOTELHO  
ATTORNEY GENERAL

By: Marilyn May  
Marilyn May  
Assistant Attorney General

MM:bld

cc: Bruce M. Botelho, Attorney General  
Karen Perdue, Commissioner, Department of Health and Social Services  
Wilson Condon, Commissioner, Department of Revenue  
Pat Pourchot, Legislative Director  
Deborah Behr, Assistant Attorney General

TONY KNOWLES, GOVERNOR

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JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3600  
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MAR 22 1995

Uniform Interstate Family Support Act (UIFSA)  
HB 242 - SB 115

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FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 4  
BILL N Bill Version: SB 115  
(S) Publish Date: 3/7/95

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Uniform Interstate Family Support Act BRU: Assistance Payments  
Component: AFDC  
Sponsor: Rules  
Requestor: Governor COMPONENT SERIAL NO. 220

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
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	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	0	0	0	0	0	0
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	(170.0)	(340.0)	(340.0)	(340.0)	(340.0)	(340.0)
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	170.0	340.0	340.0	340.0	340.0	340.0
1006 GF/MHTIA	0.0	0.0	0.0	0.0	0.0	0.0
Other	0.0	0.0	0.0	0.0	0.0	0.0
<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	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of any current year (FY95) cost: \$ NONE

ANALYSIS: (Attach a separate page if necessary)

The Child Support Enforcement Division projects increased collections on behalf of AFDC children to result from this legislation. This analysis is based on CSED's projections in their fiscal note on this legislation.

Fifty percent of child support collected on behalf of AFDC children is retained by the state. These revenues are transferred as GF Program Receipts to the AFDC component of the Assistance Payments BRU. These GF Program Receipts are used in place of GF Match funds.

Prepared by: Jim Nordlund, Director *for R. Lynn, acting dir*  
Division: Division of Public Assistance

Phone: 465-2680  
Date: 3/7/95

Approved by Com: K. Don Perdue  
Agency: Department of Health & Social Services

Date: \_\_\_\_\_

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# FISCAL NOTE

No. 3  
Bill Version: SB 115  
(S) Publish Date: 3/7/95

Revision Date: 3/3/95 Dept. Affected: Community & Regional Affairs  
Title: An Act relating to the establishment, BRU: none  
modification, and enforcement of support orders... Component none  
Sponsor: Governor  
Requestor: Governor COMPONENT SERIAL NO. \_\_\_\_\_

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
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>
<b>CAPITAL</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>

REVENUE FUND SOURCE:

--	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<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	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

Estimate of current (FY94) impact \$ none

ANALYSIS: (Attach a separate page if necessary)

There is no fiscal impact on DCRA from this bill.

Prepared by: Remond Henderson, Director *Remond Henderson* Phone: 465-4708  
Division: Division of Administrative Services Date: 3/3/95  
Approved by Commissioner: *Niberstein* Date: 3/3/95  
Agency: Community & Regional Affairs

FISCAL NOTE

No. 2

Bill Version: SB 115

(S) Publish Date: 3/7/95

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: Uniform Interstate Support Act (UIFSA)  
Sponsor: Rules  
Requestor: Governor

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	00	00	00	00	00	00
<b>CAPITAL EXPENDITURES</b>	00	00	00	00	00	00
<b>CHANGE IN REVENUES ( )</b>	170.0	340.0	340.0	340.0	340.0	340.0

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER						
<b>TOTAL</b>	00	00	00	00	00	00

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

POSITIONS:

FULL-TIME					
PART-TIME					
TEMPORARY					

ANALYSIS: (Attach a separate page if necessary.)

UIFSA applies to those actions relating to establishment, modification, and enforcement of support orders and the determining of parentage in situations where the parties reside in more than one state. The passage of this bill will improve service to case parties involved in interstate enforcement of child support orders by clarifying which state has jurisdiction. It authorizes the movement to a one order system for child support obligations that is honored by all states which pass UIFSA. UIFSA reduces agency response time in some areas in an effort to provide support collections sooner. AFDC collections will be increased by \$680,000 per year of which the state retains 50% or \$340,000. Since the effective date of the legislation in January, 1996 it would provide only \$170,000 for that fiscal year.

Prepared by: Glenda Straube  
Division: Child Support Enforcement

Phone: 269-6801  
Date: March 3, 1995

Approved by Commissioner: Deborah Vogt  
Agency: Department of Revenue

Date: March 3, 1995

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 1

Bill Version: SB 115

BII (S) Publish Date: 3/7/95

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "...establishment, modification, and enforcement BRU: Legal Services  
of support orders ... in situations involving more than one state..." Component: Operations  
 Sponsor: Rules by Request of the Governor  
 Requester: Office of the Governor/OMB COMPONENT SERIAL NO. 0093

**Expenditures/Revenues** (Thousands of Dollars)

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
<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>

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

**POSITIONS**

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

**ANALYSIS:** (Attach a separate page if necessary)

This bill repeals the Uniform Reciprocal Enforcement of Support Act (URESAs), under AS 25.25, and replaces it with a new uniform Act known as the Uniform Interstate Family Support Act (UIFSA). First adopted by the National Conference of Commissioners on Uniform State Laws in 1992, the new Act has already been enacted by 21 states, and it may be introduced in as many as eight states this year, including Alaska.

The Uniform Interstate Family Support Act was drafted to update USERA. UIFSA, like USERA, applies to those actions relating to the establishment, modification, and enforcement of support orders and the determination of parentage in situations in which the parties reside in more than one state.

A major feature of UIFSA is that it does not require reciprocity of laws between states in order to take action under its provisions. The new Act also contains its own long-arm jurisdiction provision providing the home state of a supported family the maximum possible opportunity to secure personal jurisdiction over an absent parent.

The bill promotes, to the extent possible, the premise of continuing exclusive jurisdiction over support orders. Under the law as it exists under URESAs, multiple orders for child support often result. UIFSA seeks

Prepared by: Richard I. Pegues, Director Phone: 465-3672  
 Division: Administrative Services Division Date: 3/3/95  
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 3/3/95  
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. \_\_\_\_\_

ANALYSIS CONTINUATION:

to limit the existence of multiple support orders by limiting the circumstances under which subsequent support orders may be entered in states other than the initiating state.

The bill also recognizes the growing use of administrative procedures in addition to or in place of judicial proceedings in the establishment of paternity and the establishment and enforcement of support orders.

The Uniform Interstate Family Support Act has been endorsed by the United States Commission on Interstate Child Support, the American Bar Association, and the Conference of Chief Justices.

The Department of Law is substantially involved in child support matters on behalf of the Child Support Enforcement Division, and the department provides all of the legal assistance required by the division. It is anticipated the department will have to provide additional legal advice and guidance to the division in implementing the provisions of UIFSA at the early stage. However, because the new Act provides several new efficiencies, this additional work will be easily offset by those efficiencies. Consequently, no fiscal impact is expected for the Department of Law.



State of Alaska  
**ombudsman**  
A Legislative Service Agency

Reply to:

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(800) 478-2624  
(FAX) 269-5291
- P O. Box 113000  
Juneau, AK 99811-3000  
(907) 465-4970  
(800) 478-4970  
(FAX) 465-3330
- P O. Box 74358  
Fairbanks, AK 99707-4358  
(907) 451-2860  
(800) 478-3257  
(FAX) 451-2957

April 5, 1995

The Honorable Lyda Green, Chairman  
Senate Committee on Health, Education & Social Services  
Alaska Legislature  
State Capitol, Room 423  
Juneau, Alaska 99811

Re: Senate Bill 115 - Uniform Interstate Family Support Act (UIFSA)

Dear Chairman Green:

The Office of the Ombudsman supports legislation to enact the Uniform Interstate Family Support Act (UIFSA). Two bills currently before the legislature, Senate Bill 115 and House Bill 242, as introduced, would accomplish that objective. Senate Bill 115 is scheduled for consideration by the Senate Health, Education & Social Services Committee at a hearing Wednesday, April 12, 1995.

The National Conference of Commissioners on Uniform State Laws drafted UIFSA to update the Uniform Reciprocal Enforcement of Support Act (URESA). UIFSA would allow Alaska maximum flexibility in securing personal jurisdiction over an absent parent and would apply to all actions relating to establishment, modification and enforcement of support orders and the determination of parentage in cases in which the parties reside in different states. This simplified process could mean more money for Alaskan parents to raise their children.

Enactment of UIFSA would assist many who have sought the Ombudsman's help with the Alaska Child Support Enforcement Division (CSED). In Fiscal Year 1994 and FY 1995, to date, the Ombudsman has assisted 1661 individuals with complaints against CSED, many of whom were custodial parents who depend upon CSED to collect child support from an out-of-state parent. A large number of those complaints came from single parents concerned about the slow pace of case establishment and child support collection. Enactment of UIFSA would streamline the establishment process which should, in turn, prompt speedier collections.

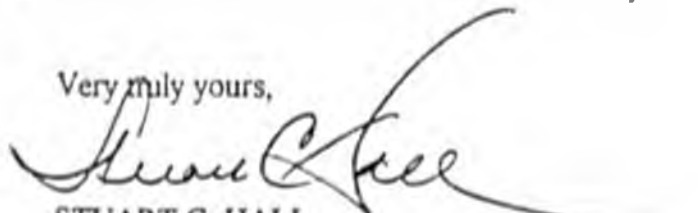
Both the state and custodial parents would benefit from enactment of UIFSA: the State of Alaska, because it could collect public assistance debts from absent parents, and custodial parents, because easier collection means money to raise their children. Perhaps more important, increased collections may help reduce the number of custodial parents forced to go on public assistance when there is no other source of support.

APR 05 1995

April 5, 1995

Your favorable consideration of legislation that would codify UIFSA into Alaska law this session is strongly recommended. Please feel free to call me at 465-4970 if my staff and I can be of further assistance.

Very truly yours,



STUART C. HALL  
Ombudsman

cc: The Honorable Tony Knowles, Governor of Alaska  
Att'n: Pat Pourchot, Legislative Director  
Bruce M. Bothelo, Esq., Attorney General  
Wilson L. Condon, Esq., Commissioner, Department of Revenue  
Glenda Straube, Director, Child Support Enforcement Division, Department of Revenue  
Marilyn May, Esq., Assistant Attorney General, Department of Law, Anchorage  
Deborah Behr, Esq., Assistant Attorney General, Legislation/Regulations, Department of Law, Juneau; and, Commissioner for Alaska, National Conference of Commissioners on Uniform State Laws  
Arthur H. Peterson, Esq., Commissioner for Alaska, National Conference of Commissioners on Uniform State Laws

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Ray R. Brown  
— Martin Long

310 E. Street, Suite 623  
Anchorage, Alaska 99501  
Telephone (907) 277-9422  
Facsimile (907) 277-9596

March 10, 1995

Hon. Lyda Green, Chair  
Senate Health, Education, and  
Social Services Committee  
Alaska State Legislature  
Room 423, State Capitol  
Juneau, Alaska 99801-1182

**HAND-DELIVERED**

Re: SB 115, Uniform Interstate Family Support Act

Dear Senator Green:

SB 115 has been referred to your committee, and I request that you schedule an early hearing on it. I urge a "Do Pass" report.

This bill proposes the Uniform Interstate Family Support Act (UIFSA), which is a product of the National Conference of Commissioners on Uniform State Laws (NCCUSL). It was promulgated in 1992 for the purpose of updating and replacing the Uniform Reciprocal Enforcement of Support Act (URESA) -- also a NCCUSL product.

All 50 states plus the District of Columbia, Puerto Rico, and the U. S. Virgin Islands enacted URESA. Already, at least 21 of those jurisdictions have repealed it and enacted UIFSA.

Eventually, for the protection of its people, especially its children, Alaska will have to enact UIFSA. We gain nothing by delay.

The most significant single point of this bill is its virtual elimination of the possibility of multi-state jurisdiction and conflicting support orders. That current flaw in URESA has been the bane of both obligees and obligors, as well as of the state agencies and courts charged with administering the old Act. The expected result of the new Act is a system that is more efficient and cheaper to operate, and more easily understood and fairer to the parties involved in the process, thus producing a much higher level of meeting family support obligations.

UIFSA addresses other URESA problems too, generally updating and improving the law. For example, it adapts the traditional

MAR 13 1995

Lyda Green, Chair, Senate HESS Com.  
Uniform Interstate Family Support Act  
March 10, 1995

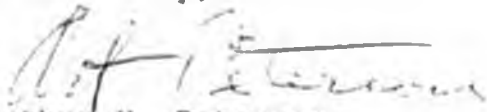
Page 2

"long arm" jurisdiction concept to this family support context.

Thank you for your consideration of this bill and this request.

Let me know if you want additional material on UIFSA.

Yours truly,



Arthur H. Peterson  
Uniform Law Commissioner  
for Alaska

cc: Hon. Wilson Condon, Commissioner  
Department of Revenue

Hon. Karen Perdue, Commissioner  
Department of Health & Social Services

Patrick Pourchot, Legis. Director  
Governor's Office

Rest of Alaska's ULC Delegation:

Hon. Jay A. Rabinowitz  
W. Grant Callow, Esq.  
Tamara Brandt Cook, Esq.  
L. S. Kurtz, Jr., Esq.  
Deborah E. Behr, Esq.

MAR 13 1995

**SB**

**116**

# STATE OF ALASKA

## DEPARTMENT OF REVENUE

TONY KNOWLES, GOVERNOR

STATE OFFICE BUILDING  
P.O. BOX 110410  
JUNEAU, ALASKA 99811-0410

March 13, 1995

Honorable Lyda Green, Chair  
Senate HESS  
Alaska State Senate  
State Capitol, Room 423  
Juneau, Alaska 99801

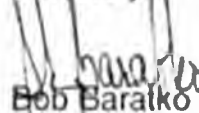
Re: SB 116

Dear Senator Green:

On behalf of the Commissioner of Revenue, I wish to request that SB 116 (an Act relating to administrative establishment of paternity and establishing paternity by affidavit; relating to child support enforcement; and providing for an effective date) be scheduled for an early hearing. The bill would amend relevant portions of the laws currently found in AS 25.27 to allow CSED to administratively determine the paternity of children. The bill also amends AS 18.50.160 relating to the identification of parents on birth certificates by voluntary acknowledgement. The bill does not affect any existing court rules.

If you need additional information, please let me know.

Sincerely,



Bob Baratko  
Legislative Liaison  
Department of Revenue

95-026

MAR 13 1995

March 13, 1995  
Page 2

cc: Pat Pourchot, Legislative Director  
Office of the Governor

Deb Behr, Legislative Liaison  
Department of Law

Elmer Lindstrom, Legislative Liaison  
Department of Health and Social Services

MAR 13 1995

## HB 244 - SB 116

This bill provides for the administrative establishment of paternity, and for paternity to be established based upon the affidavits of the child's mother, her husband, and another man who is the child's father. The benefits and important features of the bill include the following:

- Paternity cases are currently handled only by Alaska's courts. Providing for establishment of paternity by CSED will speed up the establishment and enforcement of child support orders.
- The statute allows for paternity establishment through the courts or the agency. More complicated cases will generally be referred to court.
- Administrative establishment of paternity will allow CSED to meet federal deadlines for support order establishment, assuring continued federal funding.
- Paternity may be established administratively based on the putative father's acknowledgement of paternity or based on genetic test results according to the standard set forth in AS 25.20.050.
- The administrative paternity procedures are designed to give full due process, including service of the notice of paternity and financial responsibility by formal service rules; opportunity to object to genetic test results; and availability of full administrative hearing procedures followed by opportunity for court review.
- In the case of a child born in wedlock who is not the natural child of the husband, paternity may be established by affidavit of the mother, the husband and the other man who is the father of the child. This will avoid the expense and delay of filing a paternity action where all relevant parties agree.

TONY KNOWLES  
GOVERNOR



P.O. Box 110001  
Juneau, Alaska 99811-0001  
(907) 465-3500  
Fax (907) 465-3532

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

March 6, 1995

The Honorable Drue Pearce  
President of the Senate  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-8881

Dear President Pearce:

Under the authority of art. III, sec. 18. of the Alaska Constitution, I am transmitting a bill relating to the administrative determination of paternity by the Department of Revenue, child support enforcement division (CSED) and addressing the establishment of paternity based on voluntary acknowledgement of paternity by appropriate parties.

The bill would amend relevant portions of the laws currently found in AS 25.27 to allow CSED to administratively determine the paternity of children. The bill also amends AS 18.50.160, relating to the identification of parents on birth certificates by voluntary acknowledgement. The bill does not affect any existing court rules.

Under recent federal regulations adopted in December 1994, time frames for the establishment of paternity and support orders have been significantly shortened. In order to determine how best to meet these deadlines, CSED has reviewed the relevant Alaska statutes and its administrative procedures to identify areas that could be handled more efficiently than under the current state statutes and regulations. One such area is the determination of paternity. Under current state law, such determinations may only be made by a court.

This bill establishes a procedure by which CSED may determine paternity administratively, without resort to the courts. Under the proposed statute changes, CSED may initiate an administrative proceeding to determine paternity upon application of the child's mother or guardian or upon application of the State of Alaska or of another state. The proceeding is initiated through service of a Notice of Paternity and Financial Responsibility, together with an administrative order requiring the parties to submit to

The Honorable Drue Pearce

March 6, 1995

Page 2

genetic testing. Unless paternity is admitted or the alleged father fails to respond to the notice, CSED's determination of paternity will be based upon the results of the genetic testing and other evidence. In conjunction with the paternity proceeding, CSED also may establish the amount of the support obligation, which CSED is already permitted to do under existing law.

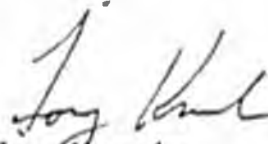
Through an appeal process, the bill safeguards the alleged father's rights with respect to the determination of paternity. Once CSED has issued its finding of paternity, the alleged father may request a formal hearing, after which the alleged father also will be entitled to judicial review if a timely appeal is filed with the superior court.

The bill amends the state law relating to the identification of parents on a child's birth certificate. The bill would allow the Bureau of Vital Statistics to enter a father's name on a child's birth certificate based on voluntary acknowledgements of paternity by the appropriate parties. If the child was born in wedlock (and, thus, the mother's husband is the legally presumed father), affidavits must be provided by the mother, her husband, and the alleged father, attesting that the husband is not the child's father and that the alleged father is the father of the child. If the child was born out of wedlock, affidavits are needed only from the mother and the alleged father, attesting that the alleged father is the child's father.

The bill also recognizes the growing use of administrative procedures in addition to or in place of judicial proceedings in the establishment of paternity and the establishment and enforcement of support orders. The changes proposed in the bill are intended to increase the efficiency of the child support enforcement process by allowing CSED and, in certain cases the parties themselves, to determine the paternity of children.

I urge prompt consideration and passage of this bill.

Sincerely,



Tony Knowles  
Governor

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

No. 4  
Bill Version: SB 116  
(S) Publish Date: 3/7/95

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: Determination of Paternity BRU: State Health Services  
Sponsor: \_\_\_\_\_ Component: Bureau of Vital Statistics  
Requestor: Governor's Office COMPONENT SERIAL NO. 961  
See also (SN#): \_\_\_\_\_

**Expenditures/Revenues:** (Thousands of Dollars)

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

**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 (FY95) cost: \$0.0

**ANALYSIS:** (Attach a separate page if necessary)

This bill has no impact on the Division of Public Health

Prepared by: Peter M. Nakamura, MD, MPH Phone: (907) 465-3090  
Division: Public Health Date: 03/06/95

Approved by Commissioner: Karen Perdue, Commissioner Date: 3/6/95  
Agency: Department of Health & Social Services

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FISCAL NOTE

No. 3

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

Bill Version: SB 116

(S) Publish Date: 3/7/95

Revision Date: \_\_\_\_\_  
Title: Administrative Establishment of Paternity  
Sponsor: Rules  
Requestor: Governor

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
PERSONAL SERVICES	169.1	351.7	385.8	380.4	395.6	411.5
TRAVEL						
CONTRACTUAL	86.2	180.2	180.3	196.9	206.0	215.4
SUPPLIES	3.2	6.4	6.4	6.4	6.4	6.4
EQUIPMENT	83.1	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>341.6</b>	<b>538.3</b>	<b>560.5</b>	<b>583.7</b>	<b>608.0</b>	<b>633.3</b>

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ( )	425.0	850.0	850.0	850.0	850.0	850.0
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FUND SOURCE:

(Thousands of Dollars)

1002 Federal Receipts	225.4	355.3	369.9	385.3	401.3	418.0
1003 GF Match	46.1	72.7	75.7	78.7	82.1	85.4
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
OTHER	70.0	110.3	114.9	119.7	124.6	129.9
<b>TOTAL</b>	<b>341.6</b>	<b>538.3</b>	<b>560.5</b>	<b>583.7</b>	<b>608.0</b>	<b>633.3</b>

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

POSITIONS:

FULL-TIME	3	3	3	1	3	3
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The administrative establishment of paternity, in cases where the putative father has acknowledged paternity or a genetic test indicates a 95% or better probability that the putative father is the father, will decrease the time required to establish paternity. This decreased time will help CSED meet the new Federal time frame for establishment which require that an order must be established in 75% of the cases within 6 months of location of the obligor including establishing paternity if required. The previous requirement was that paternity had to be established within one year of serving the paternity complaint on the putative father. Once paternity was established CSED had an additional 3 months to establish an order. By establishing paternity more quickly, obligors will not accumulate large arrearage prior to being adjudicated the father. Obligor will be more likely to pay and will begin paying earlier. This will increase AFDC collections approximately \$1,700,000 per year of which the state will retain \$850,000. FY 96 revenues will be \$425,000 for half a year.

Prepared by: Glonda Straube  
Division: Child Support Enforcement Division

Phone: 262-6801  
Date: \_\_\_\_\_

Approved by Commissioner: Wilson L. Conroy  
Agency: Department of Revenue

Date: 3/6/95

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**PERSONNEL SUPPLY COSTS**

Line of Item	Program Title	Range	Salary	Benefits	FY 95 Total Costs	FY 97 Total Costs	FY 98 Total Costs	FY 99 Total Costs	FY 00 Total Costs	FY 01 Total Costs
1	CPD1	15	20,794	12,537	160,000	261,751	265,000	269,411	269,677	271,473

Contractor salaries are estimated using 2001-02  
 \* Program is effective 1/1/98 plus the cost reduction 1/2 of total state fiscal year cost  
 \*\* Estimated, based on 4% increase in salary fiscal year

**PERSONNEL SUPPLY COSTS**

Line of Item	FY 95 Est Supply Cost Per Day	FY 97 Est Supply Cost Per Day	FY 98 Est Supply Cost Per Day	FY 99 Est Supply Cost Per Day	FY 00 Est Supply Cost Per Day	FY 01 Est Supply Cost Per Day	
1	400	600	600	600	600	600	
<b>TOTAL SUPPLY COSTS</b>		<b>2,500</b>	<b>4,000</b>	<b>2,000</b>	<b>9,000</b>	<b>6,000</b>	<b>6,000</b>

Salary costs were estimated at \$10 per year per person. The number is based on FY 95 planning  
 Budget was divided by 171 employees  
 \*\* Program is effective 1/1/98 plus the cost reduction 1/2 of total state fiscal year cost

**PERSONNEL EQUIPMENT COSTS**

Line of Item	FY 95 Workstation Est Cost Per Day	FY 97 Workstation Est Cost Per Day	FY 98 Workstation Est Cost Per Day	FY 99 Workstation Est Cost Per Day	FY 00 Workstation Est Cost Per Day	FY 01 Workstation Est Cost Per Day
1	10,900	-	-	-	-	-
<b>TOTAL EQUIPMENT COSTS</b>		<b>10,900</b>				

Workstation costs are based on a projection of \$100 in FY 95 planning and \$100 per workstation  
 \$2,900 for technical workstation, \$500 for chairs and \$450 for the address. 3,650  
 Computer costs are based on a projection of \$100 in FY 95 planning and \$100 per workstation  
 all workstation costs. (see attachment) 3,700  
 (Workstation and computer cost in FY 95 planning, program and workstation  
 all workstation costs. (see attachment) 1,150  
 10,900

**PERSONNEL CONTRACTUAL COSTS**

Line of Item	FY 95 Contractual Est Cost Per Day	FY 97 Contractual Est Cost Per Day	FY 98 Contractual Est Cost Per Day	FY 99 Contractual Est Cost Per Day	FY 00 Contractual Est Cost Per Day	FY 01 Contractual Est Cost Per Day	
1	9,810	10,630	11,450	12,270	13,090	13,910	
<b>TOTAL CONTRACTUAL COSTS</b>		<b>9,810</b>	<b>10,630</b>	<b>11,450</b>	<b>12,270</b>	<b>13,090</b>	<b>13,910</b>

Contractual costs were estimated by using FY 95 budget contract cost (\$1,000) and dividing by average number of employees (126.5)  
 FY 97 and 98 were projected at 5% increase each year 10,630  
 \*\* Program is effective 1/1/98 plus the cost reduction 1/2 of total state fiscal year cost

**PERSONNEL SPONSORSHIP COSTS**

Line of Item	FY 95 Sponsorship Est Cost Per Day	FY 97 Sponsorship Est Cost Per Day	FY 98 Sponsorship Est Cost Per Day	FY 99 Sponsorship Est Cost Per Day	FY 00 Sponsorship Est Cost Per Day	FY 01 Sponsorship Est Cost Per Day	
1	1,000	2,000	3,000	4,000	5,000	6,000	
<b>TOTAL SPONSORSHIP COSTS</b>		<b>1,000</b>	<b>2,000</b>	<b>3,000</b>	<b>4,000</b>	<b>5,000</b>	<b>6,000</b>

Spouse and dependent costs are based on a projection of \$1,000 per spouse and \$1,000 per dependent  
 \$1,000 at 120 spouse and dependent. No spouse and dependent in fiscal year projected above 3,000  
 \*\* Program is effective 1/1/98 plus the cost reduction 1/2 of total state fiscal year cost

2073

**ADMINISTRATIVE PATERNITY ESTABLISHMENT  
COST PROJECTIONS**

	FY 96 Projected Cost \$	FY 97 Projected Cost \$	FY 98 Projected Cost \$	FY 99 Projected Cost \$	FY 00 Projected Cost \$	FY 01 Projected Cost \$
Personnel Services	180,000	251,211	305,700	309,411	305,627	411,451
Supplies	1,000	8,400	6,400	8,400	8,400	8,100
Equipment	87,000					
Contractual	28,010	163,878	172,000	180,657	180,858	100,141
Space	8,500	16,320	16,320	16,320	16,320	16,320
<b>Total</b>	<b>341,556</b>	<b>538,265</b>	<b>660,525</b>	<b>583,758</b>	<b>608,005</b>	<b>633,313</b>
<b>Projected Funding Sources</b>						
Federal Match (65%)	225,427	355,255	360,947	385,290	601,288	417,087
Federal Incentive (20.5%)	70,019	110,344	114,008	119,670	121,861	129,870
State General Fund (13.6%)	46,110	72,666	75,570	78,807	82,081	85,427
<b>Total</b>	<b>341,556</b>	<b>538,265</b>	<b>660,525</b>	<b>583,758</b>	<b>608,005</b>	<b>633,313</b>

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

FISCAL NOTE

No. 2  
Bill Version: SB 116  
(S) Publish Date: 3/7/95

Revision Date: \_\_\_\_\_ Dept. Affected: Health and Social Services  
Title: An Act relating to the administrative establishment of paternity BRU: Assistance Payments  
Sponsor: Rules Component: AFDC  
Requestor: Governor COMPONENT SERIAL NO. 220

**Expenditures/Revenues:** (Thousands of Dollars)

OPERATING	FY96	FY97	FY98	FY99	FY00	FY01
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
<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>
<b>CAPITAL EXPENDITURES</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>
<b>CHANGES IN REVENUES</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**FUND SOURCE** (Thousands of Dollars)

	FY96	FY97	FY98	FY99	FY00	FY01
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	(425.0)	(850.0)	(850.0)	(850.0)	(850.0)	(850.0)
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	425.0	850.0	850.0	850.0	850.0	850.0
1006 GF/MHTA	0.0	0.0	0.0	0.0	0.0	0.0
Other 1007 I/A Receipts	0.0	0.0	0.0	0.0	0.0	0.0
<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:**

	FY96	FY97	FY98	FY99	FY00	FY01
FULL-TIME	0	0	0	0	0	0
PART-TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

Estimate of any current year (FY95) cost: \$ NONE

**ANALYSIS:** (Attach a separate page if necessary)

This bill establishes authority for the Child Support Enforcement Division of the Department of Revenue to establish paternity by an administrative process. CSED expects child support collections on behalf of AFDC children to increase as a result of this legislation.

AFDC applicants assign to the State the right to collect child support on behalf of AFDC children. When CSED collects child support on behalf of an AFDC child, the first \$50 per month is paid to the AFDC family. Fifty percent of the amount collected is transferred as GF Program Receipts to the AFDC component of the Assistance Payments BRU. The remainder is paid to the federal government to offset federal AFDC costs.

Prepared by: Jim Nordlund, Director Phone: 465-2680  
Division: Division of Public Assistance Date: 3/6/95  
Approved by Com: Karen Perdue, Commissioner Date: 3/6/95  
Agency: Department of Health & Social Services

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