

ALASKA LEGISLATURE COMMITTEE FILES 1995-1990 80/2

8895 SENATE JUDICIARY

**SB**

**127**



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**SB 127**  
**CRIME VICTIMS' CIVIL JUSTICE ACT**  
**SPONSOR STATEMENT**  
**(March 20, 1995)**

Senate Bill 127 would extend the time period victims of certain criminal acts have to bring a civil damages action against their offender from 2 years to 10 years. SB 127 also adds new statutory language regarding action by crime victims that defines the conditions when such actions may be taken by crime victims and provides a treble damages standard.

Victims of crime are often emotionally scarred and traumatized by the crimes their offenders have perpetrated upon them. In many instances, two years is not sufficient enough time for crime victims to bring action for the civil damages against them. SB 127 would give victims of certain crimes the needed time to heal both emotionally and physically and pursue action against their offenders if so desired.

For more information on SB 127, contact James Armstrong of my staff at 465-3892.

DD/jja

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595  
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-5571

**MEMBER:** Senate Finance Committee • Senate State Affairs Committee

Printed in Alaska



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**MEMORANDUM**

**DATE:** March 20, 1995

**TO:** Senator Robin Taylor  
Chair, Senate Judiciary Committee

**FROM:** Senator Dave Donley *DB*

**RE:** Senate Bill 127

I am requesting that you schedule SB 127, the Crime Victims' Civil Justice Act for a hearing in your committee.

SB 127 would extend the time period victims of certain criminal acts have to bring a civil damages action against their offender from 2 years to 10 years. SB 127 would give these victims the needed time to heal both emotionally and physically and pursue action against their offenders if so desired.

If you have additional questions please contact James Armstrong of my staff at 465-3892.

DD/jja

**SB**

**140**

FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 140

Revision Date: \_\_\_\_\_  
Title: "An Act relating to workers' compensation insurance rate filings; to second independent medical evaluations..."  
Sponsor: Senate Labor and Commerce Committee  
Requestor: \_\_\_\_\_

Department Affected: Administration  
BRU: Risk Management  
Component: Risk Management  
COMPONENT SERIAL NO. 0071

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>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

CAPITAL EXPENDITURES	00	00	00	00	00	00
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CHANGE IN REVENUES ( )	00	00	00	00	00	00
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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						
<b>TOTAL</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>	<b>00</b>

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

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Division of Risk Management.

Prepared by: J. Brad Thompson, Director  
Division: Risk Management

Phone: 465-5723  
Date: \_\_\_\_\_

Approved by Commissioner: Mark Boyer  
Agency: Department of Administration

Date: 4/3/95

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# FISCAL NOTE

STATE OF ALASKA  
1995 LEGISLATIVE SESSION

BILL NO. SB 140

Revision Date: \_\_\_\_\_  
Title: Workers' Compensation Amendments

Department: Commerce and Economic Development  
BRU: Insurance  
Component: Operations

Sponsor: Senate Labor & Commerce Committee  
Requestor: \_\_\_\_\_

COMPONENT SERIAL NO. #354

**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

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES						
--------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
1002 Federal Receipts						
1003 GF Match						
1004 General Fund						
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: \$ 00

**POSITIONS**

POSITIONS	FY 96	FY 97	FY 98	FY 99	FY 00	FY 01
FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

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

No fiscal impact.

Prepared by	Joan Brown, Administrative Officer <i>Joan Brown</i>	Phone 465-2597
Division	Insurance	Date 3/29/95
Approved by Commissioner	William L. Hensley <i>William L. Hensley</i>	Date 3/29/95
Agency	Commerce and Economic Development	

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# Alaska State Legislature

Senator Tim Kelly, Chair  
Senator John Torgerson, Vice Chair  
Senator Mike Miller  
Senator Jim Duncan  
Senator Judy Salo



STATE CAPITOL, SUITE 101  
JUNEAU, ALASKA 99801-1182  
PHONE: (907) 465-3822  
FAX: (907) 465-3756

## SENATE LABOR AND COMMERCE COMMITTEE

716 W. 4TH, SUITE 400  
ANCHORAGE, AK 99501-2133  
PHONE: (907) 258-8180  
FAX: (907) 258-4524

### MEMORANDUM

**DATE:** March 23, 1995

**TO:** Senator Robin Taylor, Chair  
Senate Judiciary Committee

**FROM:** Senator Tim Kelly, Chair  
Senate Labor & Commerce Committee *TJK*

**RE:** Scheduling of SB 140 - Workers' Compensation Amendments

---

I respectfully request the Judiciary Committee hear SB 140, amendments to the workers' compensation statutes devised and agreed upon by the Alaska Labor-Management Ad Hoc Committee on Workers' Compensation, at the Committee's earliest convenience.

Attached you'll find a letter from this Committee summarizing the provisions of this legislation, as well as the original proposed bill draft submitted to the Labor and Commerce Committee.

If you have any questions, please have your staff contact Josh Fink in my office at x4920.

Your timely consideration is appreciated.

# ALASKA

## LABOR-MANAGEMENT AD HOC COMMITTEE ON WORKERS' COMPENSATION

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February 23, 1995

The Honorable Tim Kelly  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801-1182

Dear Senator Kelly:

The Alaska Labor-Management Ad Hoc Committee on Workers' Compensation is in its thirteenth year of service as a private citizen initiative group formed to fairly address concerns in regard to the Alaska Workers' Compensation system. It was through the efforts of the Ad Hoc Committee that major legislative reform was passed in 1989. Those measures resulted in four years of premium reductions, with 1994 being the first year of a rate increase since 1987.

The Ad Hoc Committee has been meeting regularly since October, 1993 in an attempt to work through some major issues related to workers' compensation. We have recently reached a resolution on several key items that form the basis of our proposed 1995 legislation. Our proposed legislation has had a preliminary review by the Division of Workers' Compensation. The proposed bill contains the following elements:

- **Death Benefit Revision** - The current death benefit has a 10-year cap and also calls for the reduction of benefits at the 5- and 8-year time frame. Although the 10-year cap is still retained to control the cost of claims, it was suggested that the reduction intervals could create hardships for a surviving spouse with small children. It has been estimated that the elimination of the 5- and 8-year reductions will result in an average premium increase of 0.6%.
- **Van Biene** - This portion of the bill provides immunity for insurance carriers, trade associations and other persons providing worksite safety inspections. These inspections are often voluntary and are conducted in the interest of promoting safety in the workplace. Without this immunity, many of the workplace safety inspections will be curtailed to the disadvantage of both employees and employers.

- **Design Professional Construction Site Liability Limit** - Design professionals (i.e. architects, engineers and land surveyors) have limited involvement at the construction site with their main function being periodic observation for conformance to design requirements. While the role of design professionals is clearly defined in contract language, there have been a number of instances in which design professionals have been drawn into lawsuits based simply on their presence at the site.

The proposed statute still allows the injured employee of the contractor to bring suit against the design professional based on negligent plans and specifications. However, the statute prevents the more general charge of professional negligence through failing to detect potentially dangerous conditions during observation of construction. The recognition and correction of such conditions is the sole responsibility of the construction contractor who has control of the work.

Fourteen other states provide a similar immunity, with eight states utilizing nearly identical language.

- **Contractor Premium Adjustment Rate** - The construction industry has long sought a more equitable method of distributing the cost of workers' compensation premiums. With the large variance in pay scale, higher paying employers pay a larger cost for workers' compensation although some costs related to injuries are fixed regardless of wage (e.g. medical, vocational rehabilitation). To bring about a more equitable system, twelve states have adopted regulations establishing a premium adjustment program for the contracting classifications. The process is handled administratively by the rate setting authority.
- **Determination of Spendable Weekly Wages** - A recent Supreme Court decision in the Gilmore case has resulted in confusion regarding the calculation of compensation benefits. The proposed legislation provides a fair, efficient and predictable method of calculating compensation benefits. The methods developed are patterned after model language suggested by the court in the Gilmore ruling. The legislation recognizes the importance of establishing a fair approximation that does not rely on various open-ended determinations that cause uncertainty and increases litigation for both the injured worker and their employers.
- **Fraud** - The revised section broadens the definition of misrepresentation and gives the Board the authority to order reimbursement of monies fraudulently obtained.

Senator Kelly  
February 23, 1995  
Page 3

The Ad Hoc Committee supports the proposed bill as a single package agreed to by both sides. If you have any questions pertaining to any portion of the bill, please feel free to contact us at any time.

We would also like to point out that there are more issues involving workers' compensation that we will be addressing in the future. These include group self-insurance, medical cost containment (the medical cost portion of worker's compensation payouts in Alaska have more than doubled between 1988 and 1992, from approximately \$20 million to in excess of \$50 million), review of presumption of compensability, and review of benefits including health insurance. These issues will take further research and a great deal of discussion with various groups but they must be dealt with to insure that Alaska's Workers' Compensation system adequately protects injured workers while maintaining an equitable program for employers.

We thank you for your patience in allowing the Ad Hoc Committee to prepare our agreement and we look forward to your continued support in the future.

Sincerely yours,



Willem Van Hemert  
CRW Engineering Group

Elaine Taylor  
Taylored Restoration Services

Mary Shields  
Northwest Technical Services

Eric Tollefsen  
CARRS Quality Centers  
Treasurer, WCCA



Kevin Dougherty  
District Council of Laborers

Jeffrey Wertz  
Machinist Union Local 601

Royce Rock  
Carpenters Union Local 1281

David Ford  
Alaska Ironworkers

cc: Representative Brian Porter  
Representative Eldon Mulder  
Representative Pete Kott



1       •Sec. 3 AS 23.30 is amended by adding a new section to read:

2             AS 23.30.036 PREMIUM RATES FOR CONSTRUCTION INDUSTRY. (a) With respect to  
3       each classification of risk in the construction industry, the rating organization described in State  
4       Statutes shall file with the Director of Insurance a method of computing premiums that does not  
5       impose a higher insurance premium solely because of an employer's higher rate of wages paid.

6             (b) The Director shall accept a filing under subsection (1) that includes a reasonable  
7       method of recognizing differences in rates of pay. This method must use a credit scale with the  
8       starting point set at the Alaska average weekly wage as reported by the department.

9             (c) The rating organization shall file a revenue neutral plan for a new and renewed  
10       policies by January 1, 1996 for prompt and orderly transition to a method of computing that is in  
11       compliance with the requirements of this section

12  
13       •Sec. 4 AS 23.30.215 is amended to read:

14             AS 23.30.215 COMPENSATION FOR DEATH (a) If the injury causes death, the  
15       compensation is known as a death benefit and is payable in the following amounts to or for the  
16       benefit of the following persons:

17             (1) reasonable and necessary funeral expenses not exceeding \$2,500;

18             (2) if there is a widow or widower or a child or children of the deceased, the  
19       following percentages of the spendable weekly wages of the deceased:

20             (A) 80 percent for the widow or widower with no children;

21             (B) 40 percent for the widow or widower with one child and 40 percent for the  
22       child;

23             (C) 25 percent for the widow or widower with two or more children and 55 percent  
24       divided equally among the children;

25             (D) 80 percent for an only child when there is no widow or widower;

26             (E) 80 percent, divided equally, if there are two or more children and no widow or  
27       widower;

1           (3) if the widow or widower remarried, the widow or widower is entitled to be paid  
2 in one sum a. amount equal to the compensation to which the widow or widower would  
3 otherwise be entitled in the two years commencing on the date of remarriage as full and  
4 final settlement of all sums due the widow or widower;

5           (4) if there is no widow or widower or child or children, then for the support of  
6 father, mother, grandchildren, brothers and sisters, if dependent upon the deceased at  
7 the time of injury, 42 percent of the spendable weekly wage of the deceased to such  
8 beneficiaries share and share alike, not to exceed \$20,000 in the aggregate.

9           (b) In computing death benefits, the spendable weekly wage of the deceased shall be  
10 computed under AS 23.30.220 and shall be paid in accordance with AS 23.30.155 and subject  
11 to the weekly maximum limitation in the aggregate as provided in AS 23.20.175, but the total  
12 weekly compensation may not be less than \$75 for a widow or widower no less than \$25 weekly  
13 to a child or \$50 for children.

14           (c) All questions of dependency shall be determined as of the time of the injury, or  
15 death.

16           (d) Compensation under this chapter to aliens not residents, or about to become  
17 nonresidents, of the United States or Canada is the same in amount as provided for residents,  
18 except that dependents in a foreign country are limited to widow or widower and child or  
19 children, or if there is no widow or widower and child or children, to surviving father or mother  
20 whom the employee has supported, either wholly or in part, for a period of one year before the  
21 date of injury. The board, at its option, or upon the application of the insurance carrier, may  
22 commute all future installments of compensation to be paid to an alien dependent who is not a  
23 resident of the United States or Canada by paying or causing to be paid to the alien dependent  
24 one-half of the commuted amount of the future installments of compensation as determined by  
25 the board.

26           (e) Death benefits payable to a widow or widower in accordance with (a) of this section  
27 shall abate as that person ceases to be entitled and does not inure to persons subject to

1 continued entitlement. In the event a child ceases to be entitled, that child's share shall inure to  
2 the benefit of the surviving spouse. [subject to adjustment as provided in (f) of this section.]

3 (f) Except as provided in (g) of this section, the death benefit payable to a widow or  
4 widower shall

5 [(1) FIVE YEARS FOLLOWING DATE OF DEATH OF THE DECEASED  
6 EMPLOYEE BE REDUCED TO 66 2/3 PERCENT OF THE BENEFIT BEING THEN PAID;

7 (2) EIGHT YEARS FOLLOWING DATE OF DEATH OF THE DECEASED  
8 EMPLOYEE BE REDUCED TO 50 PERCENT OF THE BENEFIT BEING THEN PAID;

9 (3)] Terminate 10 years following death of the deceased employee.

10 (g) the provisions of (f) of this section do not apply to a widow or widower who at the time  
11 of death of the deceased worker is permanently and totally disabled. The death benefits  
12 payable to a widow or widower are not subject to reduction under (f) of this section after the  
13 widow or widower has attained the age of 52 years.

14 (h) In the event a deceased worker is survived by children of a former marriage not living  
15 with the surviving widow or widower, then those children shall receive the amount being paid  
16 under a decree of child support; the difference between this amount and the maximum benefit  
17 payable under this section shall be distributed pro rata to the remainder of those entitled.

18 (i) In the event the total amount of all benefits computed under (a)(2) of this section  
19 exceeds the maximum benefit provided in AS 23.30.175, the maximum benefit under AS  
20 23.20.175 shall be prorated among entitled survivors.

21  
22 \*Sec. 5 AS 23.30.220(a) is replaced and reenacted to read:

23 AS 23.30(220) DETERMINATION OF SPENDABLE WEEKLY WAGES (a) The spendable  
24 weekly wage of an injured employee at the time of an injury is the basis for computing  
25 compensation. It is the employee's gross weekly earnings minus payroll tax deductions. The  
26 gross weekly earnings shall be calculated as follows:

1           (1) If at the time of injury the wages are fixed by the week, the amount so fixed  
2 shall be gross weekly earnings.

3           (2) If at the time of injury the wages are fixed by the month, the gross weekly  
4 earnings shall be monthly wage so fixed multiplied by twelve and divided by fifty-two.

5           (3) If at the time of injury the wages are fixed by the year, the gross weekly  
6 earnings shall be the yearly wage so fixed divided by fifty-two.

7           (4)(a) If at the time of injury the wages are fixed by the day, hour, or by the output of  
8 the employee, the gross weekly earnings shall be the wage most favorable to the  
9 employee computed by dividing by thirteen the wages (not including overtime or  
10 premium pay) of said employee earned in the employ of the employer in the first, second,  
11 third, or fourth period of thirteen consecutive calendar weeks in the fifty-two weeks  
12 immediately preceding the injury.

13           (b) If at the time of injury the employee has been in the employ of the employer  
14 less than thirteen calendar weeks immediately preceding the injury, his average weekly  
15 wage shall be computed under the foregoing paragraph, taking the wages (not including  
16 overtime or premium pay) for such purpose to be the amount he would have earned had  
17 he been so employed by the employer the full thirteen calendar weeks immediately  
18 preceding the injury and has worked, when work was available to other employees in a  
19 similar occupation.

20           (5) If at the time of injury the wage has not been fixed or can not be ascertained,  
21 the wage for the purpose of calculating compensation shall be taken to be the usual wage  
22 for similar services where such services are rendered by paid employees.

23           (6) In employment which is exclusively seasonal or temporary, the gross weekly  
24 earnings shall be taken to be one-fiftieth of the total wages which the employee has  
25 earned from all employment during the calendar year immediately preceding the injury.

1 (7) When the employee is working under concurrent contracts with two or more  
2 employers and the defendant employer has knowledge of such employment prior to the  
3 injury, his wages from all such employers shall be considered as if earned from the  
4 employer liable for compensation.

5 (8) current AS 23.30.220(a)(3)

6 (9) current AS 23.20.220(a)(4)

7 (10) if any claim for benefits under section .180 of this chapter were wages  
8 calculated under subsection (a)(1)-(7) above do not fairly reflect the employee's earnings  
9 during the period of disability, the board shall determine gross weekly earnings by  
10 considering the nature of employee's work, work history, and resulting disability, but  
11 gross weekly earnings so calculated may not exceed the employee's gross weekly  
12 earnings at the time of injury.

13  
14 \*Sec. 6 AS 23.30.250 is repealed and reenacted to read:

15 AS 23.30.250 REMEDIES FOR FRAUDULENT OR MISLEADING ACTS (a) Any person,  
16 insurer or employer who (1) knowingly makes a false or misleading statement, representation or  
17 submission, (2) knowingly assists, abets, solicits, or conspires in the making of any false or  
18 misleading statement, representation, or submission affecting the payment, coverage, or other  
19 benefit under this chapter; (3) knowingly misclassifies employees or engages in deceptive  
20 leasing practices for the purpose of evading full payment of insurance premiums; or (4) employs  
21 or contracts persons or firms to coerce or encourage individuals to file fraudulent compensation  
22 claims shall be civilly liable to any party adversely affected by such conduct, shall be guilty of  
23 theft by deception as defined in AS 11.46.180 and is punishable as provided by AS 11.46.120-  
24 150.

25 (b) After hearing and upon a finding that a person has obtained any payment of  
26 compensation, medical treatment, or other benefit under this Chapter by willingly making a false  
27 or misleading statement or representation for the purpose of obtaining that benefit, the Board

1 shall order that person to make full reimbursement of the cost of all such benefits obtained.  
2 Upon entry of an order authorized under this subsection, the Board shall also order that person  
3 to pay all reasonable costs and attorneys' fees incurred by the employer and its insurer in  
4 obtaining an order under this section and in defending any claim made for such benefits under  
5 this chapter. Orders requiring reimbursement of compensation and payment of costs and  
6 attorney's fees under this section may be enforced as under Sec. 170(b) of this chapter.  
7

8 \*Sec. 7 AS 23.30 is amended by adding a new section to read:

9 AS 23.30.263 IMMUNITY FROM CIVIL LIABILITY FOR WORKPLACE SAFETY  
10 INSPECTIONS. An employer's safety inspector is not liable for civil damages for injury to an  
11 employee of that employer resulting from an act or omission in performing or failing to perform a  
12 loss control service, a workplace safety inspection, or a safety advisory service provided in  
13 connection with an employer's workers' compensation insurance coverage, unless the act or  
14 failure to act constitutes intentional misconduct. In this section "safety inspector" means a  
15 carrier and an employee or agent of the carrier, a trade association of which the employer is a  
16 member, or a person providing adjusting or inspection services to an employer who is a member  
17 of an association established under AS 21.76.010 or an employer who is self-insured under AS  
18 23.30.090.  
19

20 \*Sec. 8 AS 23.30.265 is amended by adding:

21 (35) "Seasonal" employment is work which does not continue through an entire  
22 calendar year.

23 (36) "Temporary" employment is work which is not permanent, will end upon  
24 completion of the task, job or contract and will end within six months from the date of  
25 injury.

### Legislative intent.

It is the purpose of this amendment to redefine the calculation of compensation benefits to comply with the decision of the Alaska Supreme Court in *Gilmore v. Alaska Timber Exchange*, S. Ct. No. S-4765 (October 14, 1994). The legislature recognizes, as the Alaska Supreme Court stated in *Gilmore*, that efficiency in the method of calculating compensation benefits does not require unfairness and that "[a] quick, efficient, and predictable scheme for determining a worker's gross weekly earnings could be formulated without denying workers ... benefits commensurate with their actual losses. Many jurisdictions avoid the need for an alternative open-ended determination of actual future earning capacity by focusing narrowly on wages at the time of injury and converting, by formula or formulas, the worker's rate of pay into a weekly wage." *Gilmore* at 15. It is therefore the intent of this legislation to fix a fair approximation of the employee's probable future earning capacity throughout the period of disability without the need for alternative, open-ended determinations of actual future earning capacity under AS 23.30.185 and .200 in an effort to avoid uncertainty and litigation for injured workers and their employers. The legislature also recognizes that many Alaskan workers are only seasonally employed in the construction, tourism, fishing and education industries and that many Alaskans choose a subsistence lifestyle and are only occasional, sporadic and part-time, temporary members of the labor market. The statute is designed to achieve fairness to those full-time permanent members of the work force and fairness to those employers who hire the temporary or seasonal workers who are soon injured and probably would not have continued full time permanent employment given the nature of their work and work history.

The legislature further declares, however, that because benefits under AS 23.30.180 can last for a substantially longer period of time into the future and therefore serves a different purpose than temporary benefits under AS 23.30.185 and .200, an alternative open-ended determination of actual future earnings should be available for those cases where wages cannot be fairly calculated under AS 23.30.220(a)(1)-(7).

**SB**

**156**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB 156 (HESS)

Revision Date: \_\_\_\_\_  
Title: Mediation Education

Cost. Allocated: Alaska Court System  
BRU: Trial Courts

Sponsor: Sen. Green  
Requestor: Senate HESS

Component: \_\_\_\_\_  
COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 95	FY 93	FY 00	FY 01	FY 02
PERSONAL SERVICES	5.0	5.0	5.0	5.0	5.0	5.0
TRAVEL						
CONTRACTUAL						
SUPPLIES	4.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	21.0					
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>30.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( )						
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Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	30.0	7.0	7.0	7.0	7.0	7.0
1005 GF/Program Receipts						
1007 GF/Mental Health						
Other						
<b>TOTAL</b>	<b>30.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>	<b>7.0</b>

Estimate of any current year (FY 96) cost: None

Positions

Full-Time					
Part-Time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

Prepared by: C. S. Christensen III, Staff Counsel  
Agency: Alaska Court System

Phone: 264-8228  
Date: 02/22/96

Approved by: Arthur H. Snowden, II, Administrative Director  
Agency: Alaska Court System

Date: 02/22/96

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

NO. \_\_\_\_\_  
BILL VERSION: SB 156  
PUBLISH DATE: \_\_\_\_\_

Revision Date: \_\_\_\_\_  
Title: "An Act requiring mandatory mediation  
of child custody disputes except in extraordinary..."  
Sponsor: Senator Green  
Requestor: Senator Green

Department Affected: Legislative Affairs Agency  
BRU: All  
Component: All

COMPONENT SERIAL NO:

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES	0	0	0	0	0	0
TRAVEL	0	0	0	0	0	0
CONTRACTUAL	0	0	0	0	0	0
SUPPLIES	0	0	0	0	0	0
EQUIPMENT	0	0	0	0	0	0
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

CAPITAL	0	0	0	0	0	0
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REVENUE FUND SOURCE	0	0	0	0	0	0
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**FUNDING: (Thousands of Dollars)**

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS						
OTHER FUND SOURCE						
<b>TOTAL</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>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 current year impact: \_\_\_\_\_

ANALYSIS: (Attach a separate page if necessary)

Zero fiscal impact to Legislative Affairs Agency

Prepared By: Karla Schofield, Deputy Director *Karla Schofield* Phone: 465-3852  
Division: Administrative Services Date: 2/19/96

Approved By: Pamela A. Varni, Executive Director *Pamela Varni*  
Agency: Legislative Affairs Agency Date: 2/19/96





# Alaska State Legislature

RECEIVED  
MAR 25 1996

Please enter into the record my testimony to the Senate Judiciary Ans'd.....  
committee on "Heard" committee name  
committee on Complaint of not being, dated March 20, 96.  
bill/subject

I, Carol Palmer, & George Will Jr., & Sandy Hermal,  
were here at the Mat-Su L.S.O. from 1:30 PM.  
Sandy had to leave at 2:30 without being heard.  
Carol Palmer & George Will Jr. stayed through to  
the very end at 4:00 without being heard. Our  
Senate Bill #156 did not even come up in the hearing  
as it was last on the agenda. Myself & George Will Jr.  
are very busy people - our entire afternoon was spent here  
waiting "to be heard" - but our time became unproductive.  
In Anchorage, Mary Ann Deoborn, & Suzanne DiPietros  
were there to testify on behalf of Senate Bill #156 for us, and  
were unable to be heard. I wish to make this a "Complaint!!"

Signed: Carol C. Palmer, one of "Victims of Custody"  
Testifier

Self  
Representing (Optional)

P.O. Box 2402, Palmer, AK 99645  
Address

746-2363  
Phone No.

# Alaska State Legislature

Sen. Lyda Green, Chairman  
Sen. Loren Leman, Vice-Chairman  
Sen. Mike Miller  
Sen. Johnny Ellis  
Sen. Judith Salo



State Capitol  
Room 423  
Juneau, Alaska 99801-1182  
907-163-3782

## Senate Committee on Health, Education and Social Services

SB 156

Educational Presentation about mediation

### SPONSOR STATEMENT

SB 156 was introduced to help families involved in child custody disputes resolve their differences through mediation rather than adjudication. Resolving issues before the courts is often very expensive, confrontational and competitive to the point where a parent will often do anything to "win." Unfortunately, this can lead to decisions which are contrary to the best interest of the child.

Mediation, however, leaves the decision-making authority up to the parties involved and successful mediation results in decisions being made through the cooperation of both parties. Early communication is essential to achieving the goal of shared custody and responsibility, which are most often in the best interest of the children.

SB 156, as originally introduced, required all individuals involved in a child custody dispute to attend mandatory mediation. However, during a Senate HESS hearing over the interim, several concerns were raised as to the cost of the bill as written, the punitive nature, the practicality of its implementation and its effect upon families experiencing domestic violence.

In attempt to address these concerns, the sponsor of the legislation formed a citizen's work group to analyze the issues and propose a new draft to report back to committee. This group included members from the Alaska Dispute Settlement Association, the ADR section of the AK Bar Association, the Supreme Court Committee on Mediation, AWAKE, Children's Rights Council, Victims of Custody, the Alaska Judicial Council, the Mat-Su Valley Women's Resource Center and Alaska Legal Services. The product of this group's efforts resulted in the HESS Committee Substitute.

The premise behind this new version is that to be effective, mediation should be a voluntary process and the role of the state should be to educate the public about mediation as an option already authorized under the law, not to mandate it in every occurrence.

This bill requires the courts to order parties involved with a custody dispute to attend an educational presentation on mediation. This can be accomplished through viewing a video, listening to an audio tape, receiving a vocal presentation either in person or on the phone, or where the others are not practical, by written documentation.

SPONSOR STATEMENT

# Dearborn Family Mediation

20 October 1995

Senator Lyda Green -- FAXed to 258-1261 (8 pages)  
HESS Committee  
716 W. 4th, Suite 350  
Anchorage, Alaska 99501

RE: SB 156 - Mandatory Mediation in appropriate Child Custody and Visitation Disputes.

PRESENTED FOR THE OCTOBER 20TH MEETING: 9:00 AM

Greetings:

Please accept my comments regarding SB 156 and my appreciation for your interest in making mandatory exposure to the mediation process available in appropriate cases to all Alaskans who are involved in child custody disputes.

I offer these personal comments as a family mediator with my own private practice, Dearborn Family Mediation. I hold practitioner status among the international membership of the Academy of Family Mediators, 4 Militia Drive, Lexington, MA 02173. I teach family and divorce mediation for the University of Alaska Anchorage (Mat-Su College and Anchorage). I am current president of the only state wide professional association for mediators, arbitrators, and facilitators: The Alaska Dispute Settlement Association. I act as community advisor, mediator, and mentor for the Community Dispute Resolution Center, providing Victim Offender Mediation to the Anchorage community. I am "Family Mediator Advisor" to the Alaska Parenting Magazine, an Alaska educational newspaper. Prior to my mediation training and professional mediation practice, I worked as a civil procedure specialist in the field of family law, first for law firms in Anchorage focused on litigation and appeals (6 years) and later for the Alaska Court system (11 years).

My comments are governed by professional ethics, represented by the standards of the Academy of Family Mediators, attached to this letter.

1. I support mandatory exposure to the mediation process in all appropriate cases involving child custody or visitation. Mediation is a voluntary, confidential process, based on self-determination. Mandatory exposure to the process (known as an orientation) frequently influences individuals to proceed and willingly participate in mediation.



CORRESPONDENCE

20 October 1995  
Lyda Green; SB-156  
Page two

2. I support equal access to a mandatory exposure to the mediation process in all appropriate cases involving child custody or visitation. Equal access should be provided to all who fall within the population of any legislation which is mandatory; Mediation fees should be covered by the state in all cases in which the parties are determined to be indigent, such as is done in court cases when the court filing fees are waived. Legislators have a duty to provide companion legislation to cover the costs of those indigents who fall within the category of litigants engaged in child custody or visitation cases in which mediation would be mandated.

3. I support NONexclusive language for those who would serve as mediators under SB-156. Family mediators who have met the professional standards, such as those set by the Academy of Family Mediators (see attached), and have had appropriate training -- including specific training in family and domestic violence mediation -- should be included, regardless of professional background. The Alaska Legislature should not be setting standards different from those of professional organizations or for that matter standards represented as being required by our own court system (SEE Court Directory of Mediators). Holding a degree in any profession does not qualify any individual to be a family mediator or to be considered knowledgeable in areas of family and domestic violence dynamics, or family mediation.

4. It is particularly important that mediators be educated on and trained in family mediation with the domestic violence component. To perform effectively as a mediator, individuals must be trained in and/or have proved proficiency in performing as a mediator. Training in family mediation, including violence issues, should be mandatory in the areas identified by your legislation: child and visitation disputes. Child custody and visitation disputes frequently have elevated emotional factors and present questions of safety for all concerned. This is true even in cases where there has been no violence in the past. Participants may not report violence which has occurred or been threatened. In those cases, mediators must be aware of and trained in how to recognize and deal with domestic violence issues.

20 October 1995  
Lyda Green; SB-156  
Page three

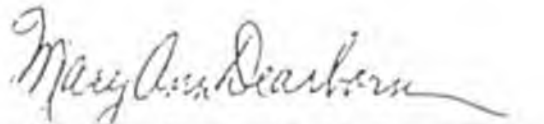
5. I support nonpunitive actions by mediators. Mediators are to be impartial, neutral third parties who do not create bias within a relationship; A mediator's report which has the effect of creating a bias (punitive result) is unethical. The mediation process is not a weapon. SB-156 and its requirement for a report which effectively would remove custody from one party and award it to the other is a violation of the profession of mediation and any mediator who would adopt that behavior is, in my opinion, in the position of exercising a serious breach of professional ethics.

Thank you for your consideration. I welcome further discussion on any of the foregoing.

Best wishes on your efforts to bring mandatory exposure to the mediation process to all Alaskans.

Cordially,

DEARBORN FAMILY MEDIATION

A handwritten signature in cursive script that reads "Mary Ann Dearborn". The signature is written in dark ink and is positioned above a horizontal line.

Mary Ann Dearborn, Mediator

Enclosures:

Academy of Family Mediator Practitioner Training and Educational Standards

Academy of Family Mediator's Professional Standards (4 pages)



## CHILD SUPPORT DEFENSE SERVICES, INC.

733 W. 4th Ave., Ste. 306  
Anchorage, Alaska 99501

RECEIVED

FEB 28 1996

Ans'd.....

February 26, 1996

Senator Lyda Green  
Room 423, State Capitol  
Juneau, Alaska 99801

Senator Loren Leman  
Room 115, State Capitol  
Juneau, AK 99801-1182

Dear Senators:

I am writing to you to express my support for Senate Bill 156, The Mandatory Mediation Bill. While it will not accomplish total family law reform that is very much necessary, it is a good first step. As you know my philosophy is that we need to find ways to "demilitarize divorce". The divorce process is a grist mill that leaves everyone in a state of shock once they are done with the process. It is nothing but a meat grinder and the only persons that benefit are the attorneys. I recently read a statistic that 51% of the cases that are active in the Anchorage court system have to deal with family law issues. If we can get parents to start mediating their children's future as opposed to litigating it, we may be able to cut into that statistic considerably.

As I always tell my Pro Bono Child Support classes "Mediate, don't litigate." The government and the court system are just not doing a very good job handling these issues and the parents are far better suited to make these decisions than any judge or court system. SB-156 will be a good first step to exposing people to the mediation process. I wish it had been law when I had to go through my divorce.

Once SB-156 is passed, I would welcome your assistance in reforming child support law and specifically the Child Support Enforcement Division. It is severely broken and needs considerable management change, and needs to be a more "user friendly" government entity. The question I must always ask myself is "why do the caseworkers have to sit behind bullet proof glass." Why are they the only State employees that have to sit behind bullet proof glass? What does that tell us about the way that the Agency operates.

Letter to the Senators  
February 26, 1996  
Page 2

I look forward to working with you to make some administrative changes there also.

Sincerely,



Gary L. Maxwell  
Child Support Litigation Specialist

GLM:smf

cc: Carol Palmer  
P.O. Box 2408  
Palmer, AK 99654

Senators Green, Leman, Miller, Ellis and Salo...My name is Diana Bullington, Vice-President of The Children's Rights Council of Alaska. CRC has 39 chapters in 30 states and three national affiliate organizations: Mothers without Custody, Parents without Partners, and the Stepfamily Association of America.

As a local chapter of the national organization we are committed to strengthening families through public education and advocacy.. Family formation and preservation is ultimately favored. However, in the event of a break up or a family is never formed, we support the child's right to frequent, continued and meaningful contact with both parents and their extended families.

We work to demilitarize divorce between parents who are involved in marital disputes, substituting conciliation and mediation for the adversarial process, and providing for comprehensive child support.

Mandatory mediation should not replace our courts. Mediation should be a tool of the court; be an objective investigative arm of the court. We support mandatory mediation if it ensures issues regarding the balance of power among parties are resolved. We support mandatory mediation, if it removes the present absurdities and the inequalities in the divorce process. We support mandatory mediation if it doesn't drive or force away the non-residential parent.

We must develop a win/win situation in the divorce process. In the current Alaska divorce, custody/visitation, and child support process we have developed a very adversarial climate, that perpetuates conflict between the parents. The system pits one parent against the other. The fact that two people can't get along, for what ever reasons, and are divorcing should not result in children losing a parent. Ultimately, this is a detriment to the best interest of the child. Where ever possible, a child who has two parents before the divorce, should have two parents after the divorce. We need to move past the idea that one parent gets the kids and the other parent becomes only a visitor who sends a check.

Sanford Braver, Ph D., a \$1 million federally funded researcher through the National Institute of Child Health and Human Development and psychology professor at Arizona State University, Tempe, Arizona says his research found that most non-residential parents (mostly fathers) do not withdraw their emotional or financial support. For those who had seemingly "withdrawn," Braver noted that "their experience was not one of 'withdrawing' at all. Rather, they felt expelled, kicked out, thrust out of their children's lives. They felt that the system, their ex-spouses, and society's attitude in combination seemed to combine in such a way as to just get them out of their kid's lives, so non-residential parents felt the kids really weren't their kids anymore. This unfair treatment has to stop for the sake of our children, the next generation of parents.

SB156 as it is currently written, also perpetuates this "withdrawal" process. Sole custody or mandatory mediation that results in sole custody is inherently unfair to the children. The proper way to fix the problem is not through more draconian enforcement procedures as set forth in SB156. The mediation part of the proposal is not the problem with SB156.

Braver's research shows that "if we adopt a policy of a presumption for joint legal custody, we will have better child support payments, children will have more contact with fathers, we will not have more conflict...we have more communication, we will not have worse parenting on the part of parents. Most important of all, we will have better adjusted children." When you add mediation to presumptive shared parenting, you have designed a far reaching positive influence on the current system.

We are here to develop statewide awareness of alternative legislation and language which fosters the goal of presumptive shared parenting. The "Best Parent is Both Parents". Shared parenting, is generally defined as when both parents retain the rights to make decisions about their children's lives that they enjoyed prior to the divorce.

We need a law that tells mediators and judges to make a rebuttable presumption that shared parenting is in the best interest of the child. Our present law allows judges to award shared parenting (shared custody), but does not presume that such an arrangement is a positive improvement for the child.

The current draconian enforcement procedures are the evidence that (the enforcement bureaucracy), about a \$2 billion enterprise has had fantastically little success...it laces the system with inherent abusive powers...it only slows or stops any positive moves between parents and children. Returns expected from these punitive measures are mostly sparse or moderate at best. However, things that would work are really quite inexpensive in comparison, almost free. Most importantly, establishing a presumption for shared parenting as the rebuttable judicial presumption in divorce cases or modification of custody/visitation should go a long way toward solving most of these problems.

The Children's Rights Council of Alaska requests a hold on all family law legislation..including divorce, custody/visitation, child support laws, changes in administrative codes, and agency policies and procedures, affecting Alaska Superior Courts and CSED. In the next few weeks we will offer each member of this committee a copy of "Child Support Guidelines: The Next Generation. This publication was made possible through a contract between the American Bar Association Fund for Justice and Education and the Office of Child Support Enforcement, Administration for Children and Families, U.S. Department of Health and Human Services. The Child Support Guidelines: The Next Generation is a blueprint for which to formulate new Alaska statutes and replacement of many of our current passe' and unfavorable laws.

Many states have or are in the process of passing CRC guidelines. Texas passed this new law June 16, 1995, and took effect September 1, 1995. Many of the amendments that are sorely needed and encouraged for SB156, were included in the Texas law.

However if you feel you must make a decision concerning this legislation, we suggest the following amendments to SB156.

1. All mediation procedures should presume shared parenting.
2. Require each parent to inform the other parent of "significant information concerning the health, education and welfare of the child".
3. Develop a "good faith" definition clause with well defined guidelines for the mediators.
4. Change the wording "in the best interest of the child" to "a positive improvement for the child".
5. A mediator or court should honor the parents' wishes in custody/visitation. Parents know their children best
6. Require parents make an attempt to solve custody/visitation disputes through mediation. Allow parents to agree to binding arbitration. In the event a mediation solution is not reached, the case goes to court, without reprisals or disfavorable reports by the mediators.
7. Do not take the custody or the rights of a parent away because he/she is not acting in a broadly or well defined term as "good faith". As currently written, even a well defined "good faith" is still a term that will be open to broad interpretation, even by objective mediators. You cannot allow custody/visitation to become a punishment nor a prize to be won in custody/visitation mediation. Remember, almost all families experience conflict at the time of divorce.
8. Allow separate mediation for parents/families who have suffered domestic violence. We cannot deny civil/legal due process of parents suffering domestic violence. Mediation of custody/visitation is probably more important in this scenario. Amend the bill to read "...domestic violence against either parent or a child shall be a factor in any custody or visitation determination. If conflict were used as a criterion for shared parenting or mediation, we would be in a position of reinforcing and promoting conflict on the part of those who want to defeat shared parenting and mediation and to secure only sole custody decisions

9. Allow custodial and non-custodial parents as mediators, or included in the mediation process. These are parents who have personal experience with the current system, and can assist or better resolve issues that come up in mediation. A second chance if you will.
10. Make it easier to shift sole custody of a child of any age to the other parent by showing the change would be "a positive improvement for the child", thus eliminating the need to show "injury" to the child in the previous household.
11. Give non-residential parents more rights, including make-up of visitation. Set statutes with mandatory enforcement and adherence, including penalties for residential parents that willfully deny visitation or custodial periods to non-residential parents.
12. Allow children age 12 and up a part of the mediation process. Mediators will make the children's position known through their report to the court.
13. A mediator can only invite a guardian ad litem, if the mediation process begins to fail, to assist the mediator in his report to the court for the positive improvement for the child.
14. Strengthen the law that discourages false abuse allegations.

It has been my experience, that if a bill doesn't feel right...it's probably morally wrong. SB 156 just doesn't feel right. although mediation is a good idea, this bill has too many flaws in it to make a just law and a positive improvement for the children of Alaska.



# alaska judicial council

1029 W. Third Avenue, Suite 201, Anchorage, Alaska 99501-1981 (907) 279-2526 FAX (907) 276-5046

EXECUTIVE DIRECTOR  
William T. Cotton

NON-ATTORNEY MEMBERS  
Jim A. Arnesen  
David A. Dapcevich  
Janice Lienhart

March 13, 1995

ATTORNEY MEMBERS  
Mark E. Ashburn  
Thomas G. Nave  
Christopher E. Zimmerman

CHAIRMAN, EX OFFICIO  
Daniel A. Moore, Jr.  
Chief Justice  
Supreme Court

Senator Lyda Green  
State Capitol, Room 423  
Juneau, AK 99801-1182

Dear Senator Green:

Thank you for sending me the draft copy of your mediation legislation. I applaud its emphasis on mediation rather than court mandates for resolving child custody disputes. Our research (which I sent you last week) showed the benefit of this approach. More specifically, the extension to 90 days for the time to mediate is a needed change to make the mediation time period realistic. Also, requiring people to try mediation, with appropriate exceptions (for example, cases involving a history of domestic violence), is, I believe, appropriate.

I am a bit leery of requiring the parents to continue mediation after the initial session and of having the mediator testify at a later court hearing about the parties' good faith efforts. Successful mediation requires the cooperation of both parties, and a neutral mediator whom the parties can count on not to take sides. My recommendation would be to make only the introductory session mandatory and not to have the mediator testify. Jurisdictions that mandate attendance at an introductory session find that parents often want to continue with the mediation process once they understand what it is.

On a more technical level, I always prefer statutes changing court rules to set out the new text of the rule rather than just saying the rule is changed by the statute. Specifying the new language makes using the amended rule much easier. Legislative drafting could probably come up with appropriate language.

Finally, the draft states that the state will pay for mediation if both parties are indigent. It would be helpful to specify a few more details of how this would work.

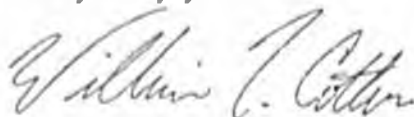
MAR 16 1995

Senator Lyda Green  
March 13, 1995  
Page 2

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Again thanks for sending me a copy of the draft. The one thing that was abundantly clear in our research, was that while courts must be open to resolve custody disputes, they are not the best place to resolve custody.

Very truly yours,



William T. Cotton  
Executive Director

WTC:sj

MAR 16 1995

Kelli Ray  
P.O. Box 871722  
Wasilla, Alaska 99687  
(907) 376-6535

H.E.S.S. Committee  
State Capitol  
Juneau, Alaska 99801-1182  
Interdepartmental Mail Stop 3762

April 19, 1995

To Whom it May concern:

I am the treasurer of the newly formed group, "Victims of Custody" and I am very pleased with the progress that we as a group have accomplished.

I understand that Senate Bill 156 is now before you for consideration. I would hope that you would strongly support our Mandatory Mediation bill. I believe that it is a very fair and appropriate measure needed in this state.

I am sure that you are very much aware of some of the horror stories that many Alaskans have about divorce and custody of their beloved children. I believe that with the passing of this bill and the serious acknowledgement taken due to the passing of Senate Bill 156, these incredible horror stories will begin to diminish and allow the parting parents and children both to feel better about the already very dramatic changes in their lives that are caused by divorce and custody matters.

Please support our Mandatory Mediation bill, Senate Bill 156 and lets together begin to lessen the pain that is felt by all involved when such a thing arises in the lives of our fellow Alaskans.

Thank you for your time and consideration in this matter.

Very Sincerely,



Kelli Ray  
Treasurer

MAY 30 1995

September, 22, 1995  
HESS committee  
Senator Lyda Green, chairperson  
600 E. Railroad Avenue  
Wasilla, AK 99654

I wish to submit written testimony for inclusion in the printed record of the hearing. In Montana, I lost custody of my two boys during their visit Christmas 1994; to a physician father who is now living in Talkeetna, AK. This man admitted 1) *child abuse*: 1981 to 1987, 1981 marriage counselling due to domestic violence, 1987 counseling due to charges by DSS and 2) *multiple psych. interventions* over a 12 year period: med. school '80-81; needing a lawyer to graduate; internship '81; psych. hosp. '89, outpt. several years following. *Mandatory evaluations for drug abuse* include '87, '89, and '91. Presently he notes relying on his wife (they met while patients in an alcohol/drug facility '91) to monitor emotional balance related to *PTSD and Depression* as a Korean war orphan and later an abused child in his adopted family. *Despite Jim's court order for my 5 day inpatient evaluation 7/94, I came up healthy and have no such history.* The treatment staff kept asking how could this man pull off such an evaluation with no evidence?

*I had custody of the boys during the 3 1/2 year court battle* following Jim's exit April 1991 from us with his fiancée. The Montana trial was held August 1994 decision made on December 23, 1995. On December 21, 1994, while awaiting the judge's decision, the boys were flown to Alaska for a court ordered visit; December 23, 1994 I learned the boys would not return and a child support check was due in two weeks, \$450+ monthly. Any further visits dependant on prompt payments.

By now, ~~Sept~~ <sup>May</sup> 1995, the hospital board of Seward Alaska unanimously voted to terminate Jim's contract 5 months early (again consistent of employment history). He's filed *bankruptcy*. The family moved to further isolation in Talkeetna. Their second child of present marriage died age 6 months of "rare SIDS". I have been denied details of any events. *The boys are now advocates* for their dad and I do not hear from them... except stilted conversations which Jim has threatened to terminate. I continue writing to my boys biweekly. I wrote to the Judicial Standards Committee in MT they reviewed the case, nothing. Court appeals are costly and time consuming and the court reflects bias toward the father.

The entire court proceedings *did not consider* the boys' emotional well being. The judge arranged their first summer stay with Dad prior to the trial. He condoned a secrete evaluation of the boys June, by the court appointed psychologist (Dr. Harper) for the father. I learned of this evaluation August 15 despite paying for half of the evaluation. This parent brought the boys to trial following 2 months of "assurance" they had never really been abused, in-home church services led by Dad (the preacher) and assurance of their return to Alaska after the trial. His present psychiatrists stated parenting skills were "not impaired" at this time with significant medication and therapy. The judge failed to look at research concerning child adjustment living under discipline of an abusive parent, their intense desire to believe the abuser, and believe the abuse never really happened. The judge failed to look at community support systems and resources where this father would be living. Where would these children turn should Daddy relapse? The judge refused to allow N.C. jurisdiction despite the children living there 3 1/2 years prior to the

trial where their adjustment could have been evaluated. The judge failed to respect the boys' need to say good bye to friends and connections they had developed the those years. The judge denied the value of this mother's relationship with her sons in good-byes or communication.

My biggest anguish is I cannot protect my children as their father moves into more isolation, geographically, spiritually, and socially. He encourages feelings of hate and fear toward others. The judge's court decision and method of notification of the decision has taught the boys they had best believe their father.

I encourage hearings to review such atrocities as parents with history of abuse and significant emotional instability gaining primary custody with no conditions. Surely public officials putting their heads together in a bipartisan effort can figure out a humane way to validate both parents' role in the children.

Senate Bill No. 156

Sincerely

Marilyn Meade, C.C.S.W.

122 Lilly Ave.  
Salisbury, N.C 28144

9/26/95

SEP 27 1995

Lyda Green  
Senator  
600 E. Railroad Avenue  
Wasilla, Alaska 99654

Dear Senator Green:

I am a custodial parent and I'm writing to you about Bill # 156, Mandatory Mediation.

Several years ago I went through a divorce. From the time I entered *my first attorneys* office until the divorce was finally over took almost **one year**. **Three attorneys** and **over 22 thousand dollars** later, there is still unresolved issues with my case.

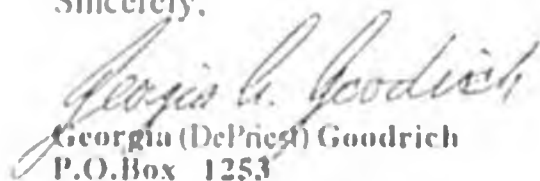
There was a point in the proceedings that I could see that my divorce was going to get ugly. I wanted the **tug-of-war** over the kids to **stop**. I had heard about mediation and asked my ex-husband if he would consider settling our differences through mediation. He was not willing and there was no way of forcing him to enter into this process.

Mediation should be required for parents seeking divorce. It will give any cooperating party the needed tool to settle their differences in a dignified, productive and positive way.

I feel very strongly that Mediation will **improve** the well being of our communities. It will free up our court system and save families thousands of dollars. **The persons who will ultimately benefit the most will be the kids! ...Our Future.**

Thank you for your time!

Sincerely,



Georgia (Del'ness) Goodrich  
P.O.Box 1253  
Palmer, Alaska 99645  
(907) 745-6641

SUPPORT SENATE BILL 156 MANDATORY MEDIATION

Dear Senator Leman,

Please support Senate Bill 156, as this would be a much better solution compared to the current unlawful court child custody battle. I'm living proof that the court system tears families apart 100% after divorce.

My former spouse and I got along fine for 2 yrs. after our separation. We didn't always agree, but managed to hash it out. When we entered the court system with our hired Attorneys, everything fell apart. Before we knew it, we became each others worst enemies. Our Attorneys had us at each others throats while they collected what "borrowed" funds we had left. His Attorney advised him to quit his job and apply for welfare/AFDC while the children were visiting him.

He was awarded primary custody, because I worked and he is on Welfare and not working allowing him to spend more time with the children. I was left with paying \$744.00 a month in child support to be paid even when the children live with me, paying \$4000.00 of his Attorney fees, \$4000.00 to his parents they claim I borrowed during our marraige (an obvious scam to get me to pay the full amount of his Attorney fees of \$8000.00). I was also ordered to cover their medical insurance and pay for all their sports programs.

He continued to collect Welfare/AFDC in the amount \$1120 cash and \$600.00 in food stamps per month. He bought all kinds of neat toys for himself; a 6 disc CD stereo system, TV, entertainment center, leather coat, \$2000.00 refrigerator, not to mention the diamond ring he just bought his new fiance'.

My child support payments go directly to AFDC to pay back payments sent to him, so my children never see a penny of it. I was forced into a small 2 bedroom home due to my child support chopping my income almost in half. I now have a order to get a bigger home before my children can spend one extra day with me. Why should any parent or child have to go through this?

I am far from being an exempt case. Many parents share my same agony. The courts strip away what dignity we have left, lowering our self esteem, and strip our pocket books.

It's abvious that our whole court system needs to be over hauled, but Mandatory Mediation would be a positive start. Mediation keeps parents on the real issues, and leaves no room for blaming and accusing. The kids can also take part and their feeling are taken seriously, giving them self worth and a feeling of involvement and accomplishment.

After 3 yrs. of fighting I finely convinced my former spouse to enter into Mediation and we have been getting along better ever since. The stress in my life has cut in half and the children are much happier since mom and dad aren't fighting.

Please support Bill 156, Mandatory Mediation for the sake of our children.

I would be interested in your comments.

Sincerely,

*Sandy K. Hornal*  
Sandy K. Hornal

1564 Pioneer Peak Dr. Wasilla  
373-2721 Mes.

# The Arbitration & Mediation Group

MEDIATORS, ARBITRATORS, FACILITATORS & TRAINERS

POST OFFICE BOX 240783  
ANCHORAGE, ALASKA 99524-0783  
TELEPHONE: (907) 346-3001  
FAX: (907) 346-0000

October 20, 1995

House/Senate HESS Committee  
Attn: Ms Lyda Green  
Legislative Affairs Office  
Fourth Avenue  
Anchorage, AK 99501

SB 156  
WRITTEN TESTIMONY  
BY FAX

Re: Written testimony:  
SB No. 156 - An Act requiring mandatory mediation of child custody disputes

Gentlemen and women

We write to offer our testimony concerning SB 156. We are unable to appear in person.

The Arbitration & Mediation Group is a private business, wholly owned by Alaskans, and has been offering dispute resolutions services since 1986. In the past year, TAMG has provided training, facilitation, mediation or arbitration services to nearly 1,000 Alaskans involved in family or employment disputes, from Anchorage to Fairbanks and Seward to Big Lake.

Our two practitioners have a total of nearly 40 years experience in conflict resolution. Kathleen G. Anderson is principally a mediator, holds practitioner status with the Academy of Family Mediators, is a full member of the Society of Professionals in Dispute Resolution, and has more than 200 hours training in mediation, facilitation, and arbitration. James R. Carr is a mediator and arbitrator, impaneled with the American Arbitration Association, the Federal Mediation and Conciliation Service, and is a full member of the Society of Professionals in Dispute Resolution. Both are active in local Alaska groups, including the Alaska Dispute Settlement Association and the Alternative Dispute Resolution Section of the Alaska Bar Association. Both serve on the American Arbitration Association's Advisory Board for Alaska. Kathy sits on the Alaska Supreme Court's Task Force on Mediation.

TAMG commends Senator Green's efforts to encourage divorcing parents in mediation, particularly in resolving issues concerning the parenting of their children. Mediation has been shown to be successful in such cases, for a number of reasons. Those reasons are principally the voluntary nature of the process, the confidentiality of the process (which works to allow parents to explore their true interests and needs), and the neutrality of the mediator (which works to insure that the parties engage in a process designed to empower them both).

Post-it Fax Note 7671 10/20 12:55  
Kathleen G. Anderson

Senator Green  
Legislative Affairs Office  
SB 156  
October 20, 1995  
Page two

However, many of Senate Bill 156's provisions run contrary to the fundamental principles of the mediation process, particularly in the following:

- 1) Subsections (a) and (c). A court's mandatory order to mediation, in combination with requiring that the mediator report to the court the identity of a party who "refuses to attend mediation sessions or refuses to negotiate in good faith" voids the empowerment aspect of the mediation process. It breaches confidentiality. No other jurisdiction has enacted court annexed mediation as is proposed here. The language is contrary to multiple national standards of practice, standards of conduct, and codes of ethics.
- 2) Subsection (b). Removing discretionary authority from the court, who may be apprised of more information than is a mediator, is a denial of due process. Mediation is only one of many forms in which conflict may be resolved. It should not be used as the only one.
- 3) Subsection (c). The provision which requires a court to award custody based on a party's "refusal" to mediate or negotiate is punitive and again, contrary to the basic principles of the mediation process. The use of a clear and convincing evidence standard will only pit parents against one another even more deeply, rather than to bring them to points of collaboration.

TAMG has extensive resources which may be of assistance to the Senator, *including* a recently published compilation of current court-annexed mediation programs from all 50 states. This resource includes program components, structure, statistics, etc. Other resources contain specific statutory language. TAMG would welcome the opportunity to work with the Senator on this important legislation. Please do not hesitate to call.

Best regards,

THE ARBITRATION & MEDIATION GROUP

By:

  
Kathleen G. Anderson

  
James R. Carr

**SB**

**158**

# Alaska State Legislature

SENATOR

**MIKE MILLER**

Mailing Address:

119 N. Cushman, Suite 101

Fairbanks, Alaska 99701

Ph: (907) 488-0862

Fax: (907) 488-4271

While in Session:

State Capitol

Juneau, Alaska

99801-1182

Ph: (907) 465-4976

Fax: (907) 465-3800

Senate District 10

## Senate

### SPONSOR STATEMENT

SB 158

#### "An Act Relating to Pharmacists and Pharmacies"

The passage of this legislation is necessary to keep the practice of pharmacy in Alaska in step with national standards and to afford the public the safety and protection it deserves.

Current statutes are antiquated and obsolete. For example, investigative personnel within the Division of Occupational Licensing have continually experienced difficulty in investigating and processing complaints against licensed personnel and facilities because of vague, inadequate or non-existent language regarding unprofessional conduct and disciplinary sanctions. Many of the statutes are dated from the 1970's and do not reflect the current practice of pharmacy or changing nature of the profession.

Using the Model State Pharmacy Act of the National Association of Boards of Pharmacy as a template, this legislation reflects over four years of work by the pharmacy community and is supported by the Alaska Pharmaceutical Association and the Alaska Board of Pharmacy.

CSSB 158 (L & C)

Section 1: Amends AS 08.02.010(a) to change verbage from registered to licensed for consistency with balance of statutes. A license is a permission to act granted by competent authority as opposed to register which indicates to enroll or record.

Section 2: Amends AS 08.80 by adding new sections AS 08.80.003 "Practice of Pharmacy as a Profession" and AS 08.80.005 "Statement of Purpose." Pharmacy is a learned profession affecting public health and welfare and should be declared as such. The statement of purpose is designed to define the general scope of the Pharmacy Act. It provides for the control and regulation of the practice of pharmacy and the licenser of facilities engaged in the distribution of drugs and related devices. Because "distribution" is defined as delivery of a drug or device other than by administration or dispensing, practitioner's offices and medical clinics would not be subject to licenser by the Board of Pharmacy.

Section 3: Amends AS 08.80.010 by adding a new subsection (b) which establishes term limits for officers elected by the Board.

Section 4: Repeals AS 08.80.030 and reenacted to empower the Board to make such regulations as are necessary to fully administer and implement this Act. This section clarifies the responsibilities of the Board in order to protect the public health and welfare including licenser and renewal of licenses of personnel and facilities, regulation of pharmacists, interns, and technicians, the establishment of rules of conduct, professional standards and standards for education and training. Redundant language in the existing section is repealed.

Section 5: Amends AS 08.80.060 to specify at least three meetings annually, which is current practice.

Section 6: Amends AS 08.80.070 technical change by replacing "registration" with "licenser."

Section 7: Repeals and reenacts AS 08.80.110 by changing verbage from registration to licenser. Recognized that applicants for licenser must pass multiple examinations and recognizes the score transfer process administered by the National Association of Boards of Pharmacy. Removes specifics from the internship training clause, allowing that to be modified by regulation as needed. Allows a mechanism for graduates of foreign colleges of pharmacy to receive licenser upon meeting strict requirements of the National Association of Boards of Pharmacy

Section 8: Repeals and reenacts AS 08.80.116 by providing broad authority to establish internship and training requirements. Specific requirements are repealed which will be addressed in regulation.

Section 9: Repeals and reenacts AS 08.80.120 states the examination or examinations shall be prepared to measure the competence of the applicant to engage in the practice of pharmacy. They board may employ, cooperate, and contract with an organization or consultant in the preparation and grading of an examination. The board shall retain sole discretion and responsibility for determining which applicants have successfully passed the examination.

Section 10: Amends AS 08.80 by adding two new sections AS 08.80.145, which provides and clarifies guidelines for reciprocity of license from another state, and AS 08.80.147 which provides guidelines for renewal of licenses which have been lapsed for five years or more.

Section 11: Repeals and reenacts AS 08.80.150 which grants the Board the authority to issue temporary licenses. Repeals specific language which can be modified as needed by regulation.

Section 12: Repeals and reenacts AS 08.80.155 which grants the Board the authority to issue emergency permits. Repeals specific language which can be modified as needed by regulation.

Section 13: Repeals and reenacts AS 08.80.157 which grants and clarifies the authority of the Board to license and renew licenses of facilities involved in the practice of pharmacy or the manufacture of drugs. Allows the Board to determine classifications and criteria for licenser. Specifies that each location must be licensed and that a license is not transferable or assignable. Provides reporting requirements for licensed facilities and grounds for denying a license or taking disciplinary action against a license.

Section 14: Amends AS 08.80.165 by changing the fees terminology.

Section 15: Amends AS 08.80 by adding a new section AS 08.80.165 granting the Board authority to establish continuing education requirements for pharmacists.

Section 16: Amends AS 08.80.261 by changing grounds for disciplinary action to insure protection of the public, while allowing the Board to adapt them to changing conditions as necessary. Board regulations will make the grounds for disciplinary action specific, understandable and reasonable.

Section 17: Adds a new section AS 08.80.261(b) which gives the Board the ability to seal drugs during certain licensing actions to prevent the unlawful distribution of prescription drugs in the absence of a licensed pharmacist or valid pharmacy license.

Section 18: Repeals and reenacts AS 08.80.295 which continues authority for substitution of equivalent drug products (as defined in AS 08.80.480) while allowing the Board to address specific requirements in regulation.

Section 19: Adds a new section AS 08.80.315 which clarifies the confidentiality of certain records and information.

Section 20: Amends AS 08.80.330 to standardize terminology to Pharmacist in Charge instead of manager. Also allows for owners who are pharmacists but not actively practicing to appoint a Pharmacist in Charge.

Section 21: Amends AS 08.80.400 to specify that this chapter does not affect the practice of medicine by a licensed medical doctor, and does not limit a licensed medical doctor, physician assistant, advanced nurse practitioner, dentist, dispensing optician, or optometrist in supplying a patient with any medicinal preparation or article within the scope of the person's license.

Section 22: Amends AS 08.80.410 by changing the word "registered" to "licensed."

Section 23: Amends AS 08.80.430 prohibits the use of the symbol "Rx" unless the business has a pharmacist licensed under this chapter.

Sections

24-27: Repeals and reenacts AS 08.80.480(11), 08.80.480(14) and amends AS 08.80.480. These are updated definitions for terms used in this bill. The definition of the "Practice of Pharmacy" is one of the most important clauses in the Act because it is expressed in broad terms to provide latitude to the Board of Pharmacy in the adoption of implementing regulations.

Section 28: Repeals numerous sections that are better addressed through regulation by the Board of Pharmacy.

**SB**

**159**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SB 159

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>An Act relating to advance directives for Mental Health Treatment</u>	BRU: <u>MI/DD Services</u>
Sponsor: <u>Rieger</u>	Component: <u>Alaska Psychiatric Institute</u>
Requestor: <u>Senate HES</u>	COMPONENT SERIAL NO. <u>311</u>
	See also (SN#): _____

**Expenditures/Revenues:**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ( )						
-------------------------	--	--	--	--	--	--

**FUND SOURCE**

(Thousands of Dollars)

FUND SOURCE	FY97	FY98	FY99	FY00	FY01	FY02
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
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>

Estimate of any current year (FY96) cost: 00.0

**POSITIONS:**

FULL-TIME	N/A					
PART-TIME	N/A					
TEMPORARY	N/A					

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

This bill will not have a fiscal impact on the Division.

Prepared by: Leonard Abel, Ph.D. *Leonard Abel, Ph.D.*  
 Division: DMH&DD  
 Approved by Com: Karen Perdue, Commissioner *Karen Perdue*  
 Agency: Department of Health & Social Services

Phone: 465-3370  
 Date: 01/24/96  
 Date: 1/24/96

PREPARER TO PROVIDE  
For further details FISCAL NOTE

E OFFICE

# SENATE COMMITTEE REPORT

*has no fiscal*

DATE: 2/15/96

DATE TURNED INTO OFFICE: 3/13/96

The Judiciary Committee considered SB 159

"An Act relating to advance directives for mental health treatment."

Φ

and recommends:

- be replaced with \_\_\_\_\_ CS \_\_\_\_\_
- adopt previous \_\_\_\_\_ CS SB 159 (HES)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to the \_\_\_\_\_ Committee

Senate Bill:  
 same title  
 new title  
 House Bill:  
 same title  
 technical change  
 new: SCR\*

SIGNING: DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>W. Ellis</i>	X				
<i>Richard Span</i>	✓				
<i>Mike Hill</i>	✓				
<i>Al Adams</i>	X				
<b>CHAIR:</b> <i>John T. Taylor</i>	X				

**NEW FISCAL NOTE(S):**

Department	Date	Zero	Fiscal

**PREVIOUS FISCAL NOTE(S):\***

Department	Date	Zero	Fiscal
<i>Health &amp; Soc. Services</i>	<i>1/24/96</i>		✓

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

# Alaska State Senate

**SENATOR STEVE RIEGER**  
District 1



Senate Finance Committee  
Chair, Senate Transportation Committee

Legislative Budget and Audit Committee  
Administrative Regulation Review Committee  
Legislative Council

*During Session*  
State Capitol, Room 516  
Juneau, Alaska 99801  
(907) 485 3879

716 West 4th Avenue, Suite 530  
Anchorage, Alaska 99501  
(907) 255 9188

## SPONSOR STATEMENT

### **SB 159 "An Act relating to advance directives for mental health treatment."**

Senate Bill 159 allows individuals to make decisions in advance about three types of mental health treatment: psychotropic medication, electroconvulsive therapy, and a short-term admission of up to 17 days into a treatment facility. These decisions are documented in a declaration for mental health treatment and will be used only during any period in which a patient is incapable of consenting to or refusing treatment.

The declaration is set up so that an individual may also appoint a person as an attorney-in-fact to make those treatment decisions for them if they become incapable. The attorney-in-fact would make sure those written instructions are followed or make treatment decisions for the individual if the instructions have not been written down. The attorney-in-fact must accept the appointment in writing and may withdraw from this duty at any time.

The declaration will remain in effect for three years unless the individual becomes incapable of making mental health treatment decisions. If this occurs, the directive continues in effect until the individual is no longer incapable. The individual has the right to revoke all or part of the declaration at any time as long as they have not been determined to be incapable.

This legislation would enable persons to make their own mental health decisions prior to any future mental health crisis they might encounter. The legislation was requested by the Mental Health Consumers of Alaska.

SPONSOR STATEMENT

## DECLARATION FOR MENTAL HEALTH TREATMENT

*By Dorothy Peavey, Executive Director of  
Mental Health Consumers of Alaska*

An advanced directive is a written instruction, such as a living will or durable power of attorney for health care, relating to the provision of health care when an individual's condition makes him or her unable to make treatment decisions.

The Declaration for Mental Health Treatment is an attempt to bring the advanced directive philosophy to the provision of mental health care — psychotropic medications, electroconvulsive therapy, or short-term (up to 17 days) admission to a treatment facility.

Based on a similar law in Oregon, the Declaration provides an individual the opportunity to spell out his or her preferences in the event of his or her incapacitation. It provides the individual the opportunity to make his or her wishes known on the treatments that have worked in the past and that he or she desires in the future, treatments that have not worked in the past or that he or she does not desire in the future, which physician cares for him or her, in which hospital he or she is treated. Most importantly, it provides for a substitute decisionmaker with whom the doctors would consult should the Declaration not be specific enough or the doctors are recommending a treatment not specified.

The Declaration is initiated when an individual is "of sound mind." Declarations may not name attending physicians or mental health providers as the "attorney-in-fact" (substitute decisionmaker). The attorney-in-fact does not have authority to make mental health treatment decisions unless the principal is "incapable." The instructions that are included in a Declaration will be followed only if a court, two physicians that include a psychiatrist, or a physician and professional mental health clinician believe that the person is incapable of making treatment decisions. Otherwise, an individual is considered capable to give or withhold consent for treatment.

A Declaration may be revoked in whole or in part at any time an individual has not been determined to be incapable. An individual is "incapable," when it is the opinion of a court, two physicians that include a psychiatrist, or a physician and a professional mental health clinician, an individual's ability to receive and evaluate information effectively or communicate decisions is impaired to such an extent that the person currently lacks the capacity to make mental health treatment decisions.

In the past two years in Oregon, where they have Declarations, they have found that individuals

who had fought hospitalization and medication in the past, now were more willing to go to the hospital because they felt their decisions would be heeded.

Initially introduced into the Alaska Legislature as House Bill 318 by Representative Cynthia Toohey and as Senate Bill 159 by Senator Steve Rieger, the Declaration should be scheduled for hearings early in the next Legislative Session.

Endorsements of the Declaration may be mailed to either Mental Health Consumers of Alaska, Representative Toohey, or Senator Rieger at "Alaska State Legislature, State Capitol, Juneau, AK 99801-1182."

Dorothy Peavey, Executive Director of Mental Health Consumers of Alaska, would welcome comments and questions at 907-277-3817 or 800-478-3817. ♪

## NINETEENTH ALASKA STATE LEGISLATURE

All mail should be sent to: State Capitol  
Juneau, AK 99801-1182

### REPRESENTATIVES:

Alan Austerman  
Ramona Barnes  
Tom Bnce  
Kay Brown  
Con Bunde  
John Davies  
Bettye Davis  
Gary Lee Davis  
Kim Elton  
David Finkelstein

Brian Porter  
Caren Robinson  
Norman Rokeberg  
Jerry Sanders  
Gene Themault  
Cynthia Toohey  
Al Vezey  
Bill Williams  
Ed Willis

Richard Foster  
Joseph Green  
Ben Grussendorf  
Mark Hanley  
Ivan Ivan  
Jeannette James  
Pete Kelly  
Vic Kohng  
Pete Kott  
Gene Kubina  
Don Long  
Jerry Macke  
Terry Martin  
Beverly Masek  
Carl Moses  
Eldon Muzler  
Mike Navarre  
Irene Nicholia  
Scott Ogan  
Sean Pamela  
Gail Phillips

### SENATORS:

AJ Adams  
Dave Donley  
Jim Duncan  
Johnny Ellis  
Steve Frank  
Lyda Green  
Rick Halford  
Lyman Hoffman  
Tim Kelly  
Loren Leman  
Georgianna Lincoln  
Mike Miller  
Dino Pearce  
Randy Phillips  
Steve Rieger  
Ben Sharp  
Robin Taylor  
John Torgerson  
Fred Zharoff

(907) 563-1000  
FAX 563-2045



# Southcentral

## COUNSELING CENTER

4020 Folker Street · Anchorage, Alaska 99508

November 29, 1995

Senator Steve Rieger  
Room 516  
State Capitol  
Juneau, Ak 99801-1182

Dear Senator Rieger:

This letter is in support of Senate Bill 159, Declaration for Mental Health Treatment. Mental Health Consumers of Alaska used declaration models from other states to work towards developing legislation that would allow Alaskans to establish a document stipulating the consumer's mental health treatment preferences, much like a living will. The consumer would have this document prepared in the event they are declared mentally incompetent.

The management and staff at Anchorage Community Mental Health Services, Inc., support Senate Bill 159, and feel that the declaration process would help to empower the consumer. The ACMHS Board of Directors adopted a recommendation in support of the Declaration for Mental Health Treatment at their October 20, 1994, Board meeting.

The Board, management, and staff of Anchorage Community Mental Health Services appreciated your introduction of Senate Bill 159, and the mental health community applauds your continued support of this bill.

Sincerely,

Ken Taylor  
Executive Director

cc: Dorothy Peavey  
Mental Health Consumers of Alaska





Working for  
Alaska's  
Mental  
Health

Post-it Fax Note	7671	Date	1/31/96	# of pages	1
To	Betty	From	DOROTHY PEAVEY		
Co./Dept.	Sen. Riegan	Co.	MHA		
Phone #		Phone #	277 3817		
Fax #	465-2069	Fax #	277 2193		

## Mental Health Association in Alaska

4050 Lake Otis Parkway, Suite 202 • Anchorage, Alaska 99508-5221 • (907) 563-0880 • Fax (907) 563-0881

October 24, 1995

Dorothy Peavey, M.S.W.  
Executive Director  
Mental Health Consumers of Alaska  
101 East 9th Avenue, Suite 3-A  
Anchorage, Alaska 99501

Re: Senate Bill No. 159

"An Act relating to advance directives for mental health treatment."

Dear Dorothy:

The Board of Directors would like to support the legislation the Mental Health Consumers of Alaska has brought to the attention of Alaskan lawmakers, i.e. Senate Bill No. 159. It is our belief that this kind of self-advocacy and self-empowerment process in allowing consumers of mental health treatment services the ability to pre-plan and direct caregivers in treatment issues is simply a matter of basic human rights.

We compliment you personally on the hard work you have completed on this issue. We will stand by you and the Mental Health Consumers of Alaska in assuring this legislation is brought to the attention of the public and those for whom we advocate. Please do not hesitate in listing the Mental Health Association in Alaska as a strong supporter of the advance directives for mental health treatment.

Sincerely:

Jan McGillivary, M.Ed.  
CEO/President

Sharon Lundy, M.S.  
Chair of the Board



**Charter North  
Behavioral Health System**

2530 DeBarr Road  
Anchorage, Alaska 99508  
(907) 258-7575 • Fax (907) 277-7844

April 16, 1995

Marveen Coggins  
Legislative Aid  
Representative Cynthia Toohy  
Room 104  
State Capital  
Juneau, Alaska 99801-1182

Dear Marveen:

Please accept my apology for being so late in responding to your request to review the mental health treatment bill Representative Toohy is considering. I have reviewed the bill and found no problems with it from a facility perspective.

Please feel free to contact me with any further questions or if I can be of further assistance.

Sincerely,

Kathleen M. Cronin  
Chief Executive Officer

RECEIVED FEB 05 1996

Dear Senator Reiger

HB-318 would help mental  
illness with medications.  
Having Bio-polar, and a single  
parent, with numerous hospitalization  
I know now what works well  
that is why I haven't been  
in for 2 years. Please work with  
us these programs + Bills.  
really work, when used right

Thank you

Jaymie

Jaymie Murphy  
2107 Chickaloon  
Wasilla AK 99654

RECEIVED FEB 05 1996

Box 1107

Palmer, Ak. 99645

24 Jan 96

Dear Senator Reiger

I am writing to you in regard to SB 159.  
I really like to see SB 159 passed. This bill  
would allow me choices of care that I can  
make before I am in an incapable position.  
It is an important step in helping our mental  
health care.

Sincerely,

Doug Johnson

29 January 96

Dear Senator Rieger:

I support House Bill 318 and  
Want to see passed Senate Bill 15

Sincerely,

Janett Hoady

P.O. Box 1353

Palmer, AK 99645

RECEIVED FEB 02 1996

RECEIVED FEB 05 1996

01-25-96

SUBJECT

Dear Senator Ringer:

I would appreciate  
you passing SB 157

as I am ever in a  
hospital for treatment

I would like to have  
a part in the decision

making.

My husband was  
hospitalized and forced  
to be strapped into bed

This isn't fair and he  
should be able to make  
decisions with the assistance  
of an advocate.

Thank you for your  
support and taking time  
to listen.

Sincerely,

Donna L. Hart  
100 Village Drive  
Wasilla, AK 99654  
3-7404

**SB**

**175**

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. SSSB175

Revision Date: _____	Dept. Affected: <u>Health and Social Services</u>
Title: <u>"An Act relating to correctional institutions and their administration; ..."</u>	BRU: <u>Medical Assistance</u>
Sponsor: <u>Sens. Donley, Pearce</u>	Component: <u>Medicaid Services</u>
Requestor: <u>JUD, FIN</u>	COMPONENT SERIAL NO. <u>2077</u>
	See also (SN#): _____

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

OPERATING EXPENDITURES	FY97	FY98	FY99	FY00	FY01	FY02
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>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0
Other (please specify)	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>

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

**POSITIONS:**

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

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

SSSB175 amends the AS 33.16.900(10) definition of "severely medically disabled" from "a person who has a medical condition that requires confinement to bed and the person is likely to remain confined to bed throughout the entire period of parole or to die from the condition" to include the provision that, in the opinion of the Parole Board, the person's medical condition significantly reduces the probability of committing an offense similar to the offense for which the person was convicted or of committing an offense that is punishable as a felony. SSSB175 deletes the provision that the person be "confined to bed" and states that "...the person is likely to remain subject to the medical condition throughout the entire period of parole; or die from the medical condition."

The Division of Medical Assistance does not anticipate that SSSB175 will impact the Medicaid or General Relief Medical programs since impact on these programs is related to an increase in the number of prisoners released as a result of passage of this bill. According to the Dept. of Corrections, it does not anticipate that the bill will "substantially impact" the department since inmates who are diagnosed as severely medically disabled are already released into parole and/or other noninstitutional settings. The Division of Public Assistance also does not anticipate that SSSB175 will impact that division.

Prepared by: Inge Lysdal *Inge Lysdal AL*  
Division: Medical Assistance

Phone: (907) 465-3355  
Date: 02/01/96

Approved by Com: Karen Pearce, Commissioner *Karen Pearce*  
Agency: Department of Health & Social Services

Date: 2/7/96

PREPARER TO PROV  
For further

**FISCAL NOTES**

OFFICE

A M E N D M E N T

OFFERED IN THE SENATE

BY

TO: SSSB 175

- 1 Page 3, line 25, after "a correctional facility":
- 2       Insert "other than a level of basic cable television service that is available as a
- 3 substitute for services that are broadcast to the public in the community in which a
- 4 correctional facility is located"

**SENATE COMMITTEE REPORT  
First Committee of Referral**

DATE: 1/22/96

FURTHER: Finance

Date of 5-Day Notice: \_\_\_\_\_  
(in accordance with Uniform Rule 23)

DATE TURNED INTO OFFICE: \_\_\_\_\_

The Judiciary Committee considered SPONSOR SUBSTITUTE FOR SB 175

Relating to the "No Frills" prison act.

*Φ 175*

and recommends:

be replaced with \_\_\_\_\_ CS SSSB 175 (~~175~~) *Jud*

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to the \_\_\_\_\_ Committee

Senate Bill:  same title  
 new title  
House Bill:  same title  
 technical title  
 new: SCR# \_\_\_\_\_

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Lu De Prester</i>	<input checked="" type="checkbox"/>	<i>J. Ellis</i>	<input checked="" type="checkbox"/>		
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>Bill Adams</i>		<input checked="" type="checkbox"/>	
CHAIR: <i>Chris Taylor</i>	<input checked="" type="checkbox"/>				

**NEW FISCAL NOTE(S):**

Department                      Date    Zero    Fiscal

<del>Health &amp; Social Service</del>	<del>7/1/96</del>	<input checked="" type="checkbox"/>	

**PREVIOUS FISCAL NOTE(S):\***

Department                      Date    Zero    Fiscal

Health & Social Service	7/1/96	<input checked="" type="checkbox"/>	

*new* ←

APPROPRIATION -- no fiscal note

\*include fiscal notes accompanying Governor's bill

P. UZ/UZ  
FAX NO. 9072697420  
DEPT CORRECTIONS/INST  
-22-96 MON 16:01

<u>Institution</u>	<u>TV</u>	<u>Cable</u>	<u>VCR</u>	<u>Books</u>	<u>Magazines</u>
6th Avenue	dayrooms	no	no	5	5
Anvil Mountain	dayrooms	yes (basic)*	no	no limit	no limit
Cook Inlet Pretrial	dayrooms	no	no	5	5
Fairbanks	dayrooms ( <del>basic</del> )*	<del>no</del> yes (basic)*	no	5	5
Hiland Mountain	honor status	no	no	limit varies w/program	
Ketchikan	dayrooms	yes (basic)*	no	5	5
Lemon Creek day <sup>00</sup>	buy own	yes (prem)	no	10	
Watsu Pretrial	dayrooms	no	no	5	5
Palmer (medium)	honor status	no	yes	varies	varies
Palmer (minimum)	buy own	yes (prem)	yes	varies	varies
Spring Creek	yes buy own	yes (basic)*	no	10	10
Wildwood	yes buy own	yes (prem)	no	no limit	no limit
WW Pretrial	<del>no</del> dayrooms	no	no	5	5
YECC (Bethel)	<del>no</del> Dayrooms	yes (basic)*	no	5	5

\* basic cable is used at these sites because broadcast tv is either unavailable or unable to penetrate the structure of the facility.

NB: One inmate at FCC has his own tv b, court order.



**SENATOR DAVE DONLEY**  
ALASKA STATE LEGISLATURE

**Sponsor Statement  
for  
Senate Bill 175  
The Alaska No Frills Prison Act**

Senate Bill 175 sets limits on prisoners' possessions and activities by regulating the luxuries for prisoners housed in our state correctional facilities. SB 175 also allows the Department of Corrections to recoup costs for certain health care services provided to prisoners. SB 175 amends the definition of "severely medically disabled" person in an effort to minimize state funded health care costs for those individuals. The bill would also increase the amount of inmates working in our correctional facilities by expanding the Correctional Industries Program.

Senate Bill 175 would remove many of the luxuries currently afforded to inmates in the state's correctional facilities including such things as access to cable television, use of body building equipment, and possession of pornographic material. The bill would also place reasonable limits on the quality of food that is currently being served in correctional facilities.

Senate Bill 175 would also require inmates to reimburse the state for either the full or partial costs of treatment for any pre-existing medical condition. The term "severely medically disabled" is amended by Senate Bill 175 allowing the parole board greater flexibility in granting "special medical paroles". Parole would only be granted if the board determines that the inmate's ability to commit an offense similar to the offense for which the inmate was convicted or an offense punishable by a felony is significantly reduced. The parole board would also have to determine if the inmate is likely to be inflicted with the medical condition for the duration of the parole or is likely to die from the condition.

Senate Bill 175  
Sponsor Substitute  
Page 2

Senate Bill 175 would restructure the Correctional Industries Commission in an effort to increase both the productivity and the amount of inmates working in the Correctional Industries Program. In many instances, inmates lack the necessary job skills or training to effectively perform jobs located within the Correctional Industries program. Correctional Industries has not been able to market products high in demand because the prison workforce is unqualified to perform technical labor, and no training is available for inmates. Inmates with lesser job skills would receive vocational training for jobs within the industry increasing both productivity and performance in the program.

DD/jja 

BY GARRY BOULARD

# WHAT'S TOUGH ENOUGH

In response to the public's perception  
that prison life is too easy,  
new policies are designed  
to make life there  
as unpleasant as possible.

SUPPORTING DOCUMENTS

Alabama hasn't seen anything like it since the heyday of the 1960s civil rights movement: journalists and TV camera crews flying in from all parts of the world, spirited and sometimes angry public debate and well-known civil liberty groups filing lawsuits against the state itself.

But the center of Alabama's most recent cyclone is not the church in Montgomery where Martin Luther King Jr. exhorted his followers to give of themselves for the civil rights movement, nor is it Selma where those same followers confronted a violent and bloody local reaction.

Today the controversy in Alabama is about the men in uniform moving along the state's highways and the chains that bind them. Alabama has reinstated the chain gang, one of the most powerful and some say brutal, symbols of the Southern past.

The man in charge of the program, Prison Commissioner R. Jones, says it is all part of an effort to hold down prison costs.

"The tougher prison time gets, the more likely it is that you'll see the number of repeat prisoners decrease," says Jones, who has the solid backing of Alabama's Governor Bob James for his chain gang idea. "And as that number decreases, so will the enormous costs running our prisons."

## CONSTITUTIONAL CHALLENGES

Although Jones' chain gangs have won the enmity of the Southern Poverty Law Center (SPLC) of Alabama, which has filed a class action suit to end them, one other state—Arizona—has also brought the chain gangs. And Florida is planning a similar effort next year.

Of course, the chain gang concept may prove to be short-lived if the lawsuit against it succeeds. Rhonda Brownstein, a staff attorney with the SPLC in Montgomery, said she expects the courts to prohibit such prison practices because they are a form of "cruel and unusual punishment" that is unconstitutional under the Eighth Amendment.

Brownstein said the SPLC suit would also challenge, on the same cruel and unusual punishment basis, Alabama's practice of chaining to hitching posts prisoners who refuse to work. "They have just gone way overboard with all of this stuff. I think if we defeat them on it, it will provide a precedent for other states," she said.

But the legal challenges haven't stopped Jones' chain gangs where prisoners are connected by lightweight leg irons in crews five as they dig ditches and clean up the debris along the state highways. There are currently some 800 repeat offenders working on such gangs, but Jones hopes to bring that number up to also 1,200 by the early part of next year.

Because the nation's prison population is growing rapidly, the chain gangs represent only the most recent, if still highly controversial, answer to holding down costs. They also represent a trend toward making life tougher for prisoners as one solution to recidivism.

## PRISON POPULATION BURGEONS

Just the sheer number of inmates seems to demand some sort of new approach. As of 1995, the number of people in the nation's prisons topped the 1 million mark, up from about 400,000 in 1984. At the same time, average state spending on "corrections" has more than tripled, from about \$6 billion in 1984 to just under \$20 billion in 1995, constituting nearly 10 percent of the average state's spending in 1995.

And in some states, the growth rate of the prison population has far exceeded that of the general population. The number

Information from the Southern Poverty Law Center, which regularly publishes the Prisoners' Rights Monitor and State Legislative Watchdog.

# PRISONS GO PRIVATE

prisoners in Florida, for example, has more than doubled from 26,000 in 1984 to nearly 56,000 last year. Missouri's prisoners went from 8,300 a decade ago to more than 17,000 today, while New York's inmate numbers grew from over 30,000 a decade ago to nearly 67,000 today.

"Prisons are becoming one of the fastest growing budget items in the states today," said James Wooten, president of Safe Streets Alliance in Washington, a group that supports longer sentences for violent offenders and truth-in-sentencing initiatives. "But we are finding that the longer time a violent criminal serves in prison, the far less likely it is that that person will commit the same or a similar kind of crime again. That means, over time, you can reduce your prison costs because you won't be seeing as many repeat offenders."

## VIOLENCE BEGETS LONGER, TOUGHER TIME

Although many prison officials and civil libertarians dispute the beneficial effects of longer sentences and harsher prison time for repeat offenders, a consensus among the states appears to be emerging. Make those guilty of violent crimes serve longer and tougher time while offering alternative solutions to other types of offenses.

New York may be a case in point. With a prison population of just under 67,000, New York has had one of the largest inmate growth rates in the nation, a 400 percent increase from 1974 when the state housed about 15,000 prisoners. The state's prison budget has also jumped from more than \$4 million annually to more than \$17 million today.

But this spring, Governor George Pataki proposed doing away with a series of 1973 laws enacted by then-Governor Nelson Rockefeller that mandated stiff prison sentences for drug offenders.

"Pataki's proposal was an absolute breakthrough for us," said Charles "Skip" Carriere, a spokesman for Assembly Speaker Sheldon Silver. "We had been trying for years to get sentencing reform through the legislature, but because it was a conservative, tough-on-crime Republican who broached the idea, we finally reached an agreement."

Indeed, after Pataki's proposal was first aired, Robert Ganga, director of the Correctional Association of New York, told *The New York Times*, "It's another case of the Prison going to China syndrome. Pataki is considered a hard-liner, if you will, a hawk, on those issues. He's already proved his stripes by

increasingly, privatization is being seen as an alternative to the traditional publicly run prison, offering a possible way to accommodate current calls for incarceration while keeping prison costs down.

"Privatization is increasing by about 25 percent to 30 percent a year," said Charles Logan, a professor of sociology at the University of Connecticut, "even though it is still only a small percentage of the national total." The number of privately run prison facilities has jumped from less than five a decade ago to more than 30 today, according to a study by the Center for Law and Democracy in Washington, D.C. The inmates they house have increased from about 2,000 a decade ago to just under 50,000 today. That number is expected to rise to 65,000 by 1996.

"The private sector can do it less expensively because its motivation is entirely different," said Richard Crane, an attorney in Nashville, Tenn., and former counsel for the largest prison privatization firm in the country, Corrections Corporation of America.

Crane argues that because showing a profit is the only thing that matters to business, private prisons are more likely to be cost efficient and able to do more with less money. That argument has proved so persuasive that Corrections Corporation now runs four prisons in Texas where it has entered into contracts with the state government promising to keep costs 10 percent below previous state-run prison budgets.

A recent study by the Tennessee General Assembly appears to support Crane's argument. Comparing two similar prisons in neighboring South Carolina, both built at the same time and each housing just over 1,000 inmates—one publicly run, the other private—the study concluded that the privately run prison cost \$150,000 less a year in operational costs than its public counterpart.

Privatized prisons have also won high marks from lawmakers and even prison advocacy groups for working with inmates to resolve conflicts and iron out complaints and problems before they lead to larger and sometimes deadly disputes.

Some experts believe that private management can also respond more effectively to the get-tough approach if that means keeping prisoners incarcerated for longer periods of time. "The longer you keep an inmate in prison, the

more expensive it gets," said Charles Thomas, director of the Private Corrections Department at the University of Florida. "In that sense, I think privately run prisons respond in a more cost-effective manner to the get-tough movement."

Thomas also contends that, as the get-tough movement produces more prison facilities, private management may also be seen as a more alternative simply because "the private sector has a much smaller lag time between the award of a contract to build a new prison and its opening it, than the public sector does. On average, private prisons are up and running in 12 to 18 months, while it may take up to 24 months for the public sector to do it."

But Crane, among other privatization opponents, opposes much of the new get-tough reform legislation coming from the states. "It's a bad management device," he said. "If you take away things like TV and weights and sleeping from an inmate, you've essentially taken everything away from him—and that in this person is going to be a whole lot harder to control."

Of course, not everyone agrees that private prisons are the best way to go, with or without a get-tough movement. Jim Schmitz with the American Federation of State, County and Municipal Employees faults private prisons for their "high employee turnover rates." Schmitz: "That is one of the pitfalls when you do not think about the bottom line and saving money. You end up with a large number of underpaid employees in high-stress jobs who are frequently leaving. Because public employees get higher wages and benefits, they tend to stay with their jobs in prisons longer, which is less expensive overall."

Professor Logan, however, thinks private prisons can be both cost effective and tough.

"The solution is to make things more tough but not necessarily more harsh," he said. "Tougher prison time means less probation, parole, less discretionary release, all of which is more in the direction of making the system more fair and consistent, than private prisons are a better way to go because one of the things they are most concerned about is having the prison run smoothly. They have proved that they can be tough without making the prisoners worse, which is a pretty important thing."

supporting the death penalty and other hard-line positions."

New York's new sentencing legislation, which passed both houses by overwhelming margins in June, redirects nonviolent, drug-addicted inmates to treatment programs. In the process, it will free up at least 3,000 prison beds annually, making it virtually certain now that violent offenders will be imprisoned.

In North Carolina, concerns about prison overcrowding and budget busting prompted the General Assembly last year to pass a measure by Representative Phil Baddour that balances the number of people sentenced to prison with the actual number of available prison bed spaces. Using a "felony punishment chart," judges under the new legislation determine, among other things, the seriousness of a convict's crime, his past criminal record and then how much prison space is available.

Now in North Carolina, violent and repeat offenders are automatically incarcerated, while first and second offenders who committed certain nonviolent felonies might be given suspended sentences if they complete such alternative punishment as boot camp, house arrest or intensive probation.

Baddour—ironically defeated in 1994 by an opponent who portrayed him as soft on crime—said his measure was an attempt to punish violent offenders while keeping an eye on rising prison costs. "Once you have the decision that first-degree murder is at the top and way down at the bottom is an infraction like jaywalking, with a lot of stuff in between, you can rank crimes according to their seriousness and then see how much prison space you have left," he said.

Similar presumptive sentencing rules, which are essentially devices to gain control over the nation's rapidly escalating prison popula-

tions, have been enacted in 17 other states.

But Charles Logan, a professor of sociology at the University of Connecticut and author of *Private Prisons—Cons and Pros* thinks it states can afford to build more prisons and house inmates longer "they adopt what he called a "cost benefit analysis frame."

"There should be with prison policy an estimation of the costs and payoffs," Logan explained. "But that does not necessarily mean that you would have less use of prisons. It might mean instead that the state simply will become more cautious in using their prisons too broadly."

#### DIVERGENT VIEWS ON TOUGH TIME

There are, of course, widely divergent views on the wisdom of making prison life harder and longer, even for the most dangerous convicts. Many lawmakers, alarmed over what they see as rising crime rates in their own districts, believe prisons should be as brutal as possible. "The people who run the prisons want happy prisoners. I want prisoners to be so miserable that they won't even think of coming back," said Representative Mark McInnis of Mississippi, where lawmakers last year in a special session voted to prohibit inmates from possessing or using "weird" equipment, compact disc players and televisions among other items. Lawmakers also approved a measure requiring inmates to wear striped uniforms with the word "convict" showing clearly on their backs.

Others believe the "get-tough" prison reform approach is a smokescreen that only hides a bigger problem that the states simply cannot afford—more and more prisoners and prisons. "I think you have to wonder at some point where it is all going to end," said Jenn

Gainsborough, a spokeswoman for the National Prison Project of the American Civil Liberties Union, who believes states should concentrate more on alternatives to prison. "Do we just keep packing them in or do we try to find some sort of alternative? Surely, any rational person can see that the present trends simply can't continue."

Jim Gondoles, executive director of the American Correctional Association, thinks the only way to approach prison issues today is comprehensively, taking into consideration the seriousness of an inmate's crime and the probable effects of both increased punishment and tougher prison time and rehabilitation. "If you don't include other things in your approach things like education and skills classes or even drug rehabilitation, then you're not taking a balanced approach and it is going to show in the results—prison violence, which is costly to the state, and a much higher rate of recidivism which is also expensive," Gondoles said.

Tilman Bishop, a Colorado senator who introduced a bill taking away privileges from inmates who file frivolous lawsuits, thinks prisons will become more severe places because of a growing perception among the public that violence and crime are worse than before. "There is a concern that crime is out of control and that the public is responsible for it—take to prison and live the

1996

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good life," said the Colorado Republican, whose measure was overwhelmingly approved by the legislature last spring. "It is now up to us as lawmakers to address those concerns and see what needs to be improved upon or taken away or just changed."

Legislatures in more than a dozen states including Arizona, Mississippi, Texas, California and Michigan have passed or introduced measures reducing prisoner access to weight lifting equipment, television and telephones. In this effort, though, the states may be taking their cue from federally managed prisons. According to a recent survey conducted by the Corrections Compendium, roughly 60 percent of all federal prisons have eliminated some prison privileges.

That survey, in fact, showed that state prison systems in Oregon, Texas, Kansas and Utah have even banned smoking in their facilities while California, Idaho, Michigan, Oklahoma and South Dakota have restricted smoking to designated areas of prison property.

And nearly all federal and state prisons are being affected this year by the loss of Pell grants for prisoners who want to take college classes. In 1994, more than 28,000 inmates received such grants nationally for programs in paralegal training and computer technology. This year, as part of President Clinton's Omnibus Crime Bill of 1994, that funding has dried up and most of the programs in the prisons have ended.

Even in Alabama, where the chain gangs would seem to offer the ultimate "get tough" solution, new policy is designed to make life as unpleasant as possible. "We work these men 12 hours a day, 60 hours a week and they have to do it," said Commissioner Jones. "And during that time they have none of the privileges enjoyed by the other prisoners—no television, no telephone, no basketball, no visitors."

Jones also thinks his get-tough approach could prove to be more economical. Already, through staff layoffs and scaled-down programs, Jones estimates that he's reduced the average costs per prisoner in Alabama from \$9,500 in 1991 to \$9,000 this year, which is substantially lower than the national per inmate cost of about \$16,000. "And I think we can get it down to about \$8,500 by 1996," he added.

But not all states want to duplicate Alabama's example. Prison officials worry what the effects of harder time might be from a management perspective. Even within Alabama there is opposition. "We are right now on the verge of a major riot," said Alabama Representative John Rogers. "And it isn't just the prisoners who are angry. The staff workers are also demoralized. They are being ordered to push and push, even though they know it could result in violence that will hurt them too."

Still others worry that state spending on prisons shows no end in sight. "We can continue to move in this direction, but, if we do, we have to realize it is going to cost more and more," said Professor Logan. "We have to be willing to make a large

commitment that we may not see any benefits from in a long time.

But in the absence of any other sure solutions, that commitment may prove easier to make than many imagine. "If anyone has a better approach to all of this than we do, I wish he'd come forward—because none of us has a perfect solution," said McInnis of Mississippi. "We're just trying to battle crime the best way we know how by showing that if you're going to commit a crime, you're going to have to pay for it. I don't know any other way to go about it."

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March 4, 1996

RECEIVED  
MAR 7 ' 1996  
Ans'd.....

Senator Dave Donnelly  
Capital Building  
Room 11  
Juneau, Alaska 99801

Senator Robin Taylor  
Capital Building  
Juneau, Alaska 99801

Re: Bill Concerning Prison Conditions

Dear Senator Donnelly and Senator Taylor:

I was very concerned to read the article in the Anchorage Daily News on February 27, 1996, concerning the bill that you are apparently supporting to restrict prison conditions.

While I have the utmost respect for both of you gentlemen and recognize that you are dedicated Senators with the best interest of the State of Alaska in mind, I take serious issue with the proposition apparently advanced by the bill, namely that restricting inmates' access to the materials, items and food in question, is truly in the interest of justice and in the interest of rehabilitation.

As I believe you both know, I am a practicing trial attorney in the state of Alaska and have been so for approximately twenty-four years.

Much of my early career and a substantial portion of my present career is devoted to defending these persons unfortunate enough to be charged and/or convicted of crimes.

While I certainly agree that both the prospect and reality of a prison sentence should be such as to serve as a strong deterrent to those who might be tempted to violate the Alaska statutes, it is also important to realize that one of the basic tenets of our Alaska constitution, a constitution drafted by men and women of great wisdom, is that the principle of reformation and rehabilitation should be of foremost consideration in our penal system.

Such a philosophy not only incorporates basic concepts of humane treatment, but is in fact "cost effective" insofar as if we can truly rehabilitate or reform an offender, we avoid significant future human and economic costs to society from potential recidivism and/or the necessity of additional incarceration.

Having spent much of my career dealing on a day-to-day basis with persons who are incarcerated, I can assure you that Alaska prisons are not "country clubs" and that further, allowing prisoners access to basic items such as computers, etc., is not "coddling them." In point of fact, in this computer age, access to computers is vital, both for educational purposes and further for inmates to pursue their post-conviction rights, which are likewise basic constitutional rights and exist to avoid the significant injustice of those who are in fact wrongfully convicted, serving time with no recourse.

I would welcome an opportunity to discuss this matter with you in person, and impart to you why I feel the bill in question, while undoubtedly well-intentioned on your part, is nonetheless ill-advised.

Looking forward to a response, I remain,

Sincerely yours,

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A handwritten signature in cursive script, appearing to read "Phillip Paul Weidner", followed by a horizontal line.

Phillip Paul Weidner

PPW/jmr

**SB**

**177**

# FISCAL NOTE

Work Draft  
1/12/96

BILL NO. SB 177 (STA)

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_ Dept. Affected: Department of Law  
 Title: "An Act relating to permits to carry concealed BRU: Criminal Division  
handguns." Component: Criminal Division  
 Sponsor: Senator Green  
 Requester: Senate State Affairs Committee COMPONENT SERIAL NO. 2085

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<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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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 (FY96) 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 1/12/96 work draft version of SB 177 amends Alaska's laws concerning concealed handguns to remove most of the existing places from the list of places where a permitted person is prohibited from possessing a deadly weapon, and to loosen existing concealed handgun eligibility, application, and qualification requirements. The bill will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agent: Department of Law

Phone: 465-3672  
 Date: 1/19/96  
 Date: 1/19/96

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# FISCAL NOTE

Work Draft  
2/12/96

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB 177 ( )

Revision Date:	<u>2/13/96</u>	Dept. Affected:	<u>Department of Law</u>
Title:	<u>"An Act relating to permits to carry concealed handguns."</u>	BRU:	<u>Criminal Division</u>
Sponsor:	<u>Senator Green</u>	Component:	<u>Criminal Division</u>
Requester:	<u>Senate State Affairs Committee</u>	COMPONENT SERIAL NO.:	<u>2085</u>

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

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<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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CHANGE IN REVENUES ( )						
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**FUND SOURCE (Thousands of Dollars)**

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

**POSITIONS**

POSITIONS	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

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

The 2/12/96 work draft version for CSSB 177 ( ) amends Alaska's laws concerning concealed handguns to remove many of the existing places from the list of places where a permitted person is prohibited from possessing a deadly weapon, and to loosen existing concealed handgun eligibility, application, and qualification requirements. The bill will not have a fiscal impact on the Department of Law.

Prepared by: Richard I. Pegues, Director  
 Division: Administrative Services Division  
 Approved by Commissioner: Bruce M. Botelho, Attorney General  
 Agency: Department of Law

Phone: 465-3672  
 Date: 2/13/96  
 Date: 2/13/96

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# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: Draft CSSB177

Revision Date: _____	Dept. Affected: <u>Public Safety</u>
Title: <u>" An Act relating to permits to carry concealed handguns "</u>	BRU: <u>AST and DPS Statewide Support</u>
Sponsor: <u>Senator Green</u>	Component: <u>Detachments and AK Criminal Records and Identification</u>
Requestor: <u>S. Green</u>	COMPONENT SERIAL NO. <u>799 and 1190</u>

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

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>						

<b>CAPITAL EXPENDITURES</b>						
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CHANGE IN REVENUES ( ) Revenue Code						
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**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GE/Program Receipts	(117.6)	(117.6)	(117.6)	(117.5)	(117.6)	(117.6)
1005 GEMHTIA						
Other						
<b>TOTAL</b>						

Estimate of current year (FY 96) impact: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached analysis.

Prepared By: <u>Lt. Dan Lowden and Frank Allan</u>	Phone: <u>465-5505 269-5691</u>
Division: <u>Alaska State Troopers</u>	Date: <u>01/19/96</u>
Approved by Commissioner: <u><i>Ronald L. Otto</i></u>	Date: <u>1/23/96</u>
Agency: <u>Ronald L. Otto, Dept. of Public Safety</u>	

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Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

The effect of this legislation will be to limit the Program Receipts authority to a maximum of \$65 per initial permit. The cost of providing the required background checks, including the processing of fingerprint checks through the FBI and the State of Alaska by the Alaska Criminal Records & Identification Section, is \$59. Under this bill \$6 per permit is all that the AST Permits Section would have available to process the applications. It should also be noted that if the fingerprinting requirement of current application process is eliminated, holders of Alaska Concealed Handgun Permits would no longer be exempted from the Brady Bill requirements.

The level of funding in this bill would reduce the Concealed Handgun staff from the current 1.5 to less than 30% of one position. The level of funding in this bill will not provide for any other costs such as the printing of new permits. This would result in the issuance of permits quickly becoming backlogged and the backlog growing longer as time progresses. AST could not meet the 30 day time limit to issue permits as required in Section 4 (b) of the bill.

The Alaska Concealed Handgun Permitting process was intended to be self-supporting and not to negatively impact the Division of Alaska State Trooper's basic law enforcement function. Accordingly, AST would only be able to process a very limited number of permits utilizing the estimated \$12,378 that are projected to be available from the limited \$6 per application.

Discussions with the Alaska Court System, have indicated that if this legislation is implemented in its current form regarding the removal of the prohibition of carrying concealed weapons into court facilities, the Court System will require the presence of Court Services Officers in every court room, at every hearing and trial. This substantial impact upon the budget of the Alaska State Troopers has not yet been calculated and further study needs to be made on this impact.

On the following page is a financial summary of the impact on the Detachments Component of the AST BRU and upon the Alaska Criminal Records and Identification component of the DPS Statewide Support BRU.

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

Draft CSSB177 Revenue Changes Recap

FY 97 Governor's Budget Program Receipts Recap

Component	est applic	fee	FY 97 Gov Budget Prog Recpt	Pass Thru to FBI	Total Receipts
Crim Records/ID	2063	AAFIS \$35	72,205		72,205
	2063	FBI 24		49,512	49,512
subtotal		59	72,205	49,512	121,717
AST/Detachments	2063	CHP 63	129,969		129,969
Total	2063	122	202,174	49,512	251,686

Draft CSSB177 Program Receipts Revised Projection

Component	est applic	fee	Revised Prog Recpt HB 338	Pass Thru to FBI	Total Receipts
Crim Records/ID	2063	AAFIS \$35	72,205		72,205
	2063	FBI 24		49,512	49,512
subtotal		59	72,205	49,512	121,717
AST/Detachments	2063	CHP 6	12,378		12,378
Total	2063	65	84,583	49,512	134,095

Fiscal Note Recap

Component	est applic	fee	Revised Prog Recpt HB 338	FY 97 Gov Budget Prog Recpt	Fiscal Note Impact
Crim Records/ID	2063	AAFIS	72,205	(72,205)	0
	2063	FBI			
subtotal			72,205	(72,205)	0
AST/Detachments	2063	CHP	12,378	(129,969)	(117,591)
Total	2063		84,583	(202,174)	(117,591)

# FISCAL NOTE

**STATE OF ALASKA**  
**1996 LEGISLATIVE SESSION**

**BILL NO: CSSB177**

Revision Date: _____	Dept. Affected: <u>Public Safety</u>
Title: <u>" An Act relating to permits to carry concealed handguns "</u>	BRU: <u>AST and DPS Statewide Support</u>
Sponsor: <u>Senator Green</u>	Component: <u>Detachments and AK Criminal Records and Identification</u>
Requestor: <u>S. State Affairs</u>	COMPONENT SERIAL NO: <u>789 and 1190</u>

**EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not included)**

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>						

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ( ) Revenue Code						
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**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GE Match						
1004 GE						
1005 GE/Program Receipts	(117.6)	(117.6)	(117.6)	(117.6)	(117.6)	(117.6)
1006 GE/MHTIA						
Other						
<b>TOTAL</b>						

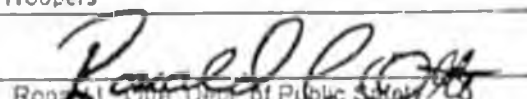
Estimate of current year (FY 96) impact: \$ 0

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

See attached analysis.

Prepared By: <u>Lt. Dan Lowden and Frank Allan</u>	Phone: <u>465-5505 269-5691</u>
Division: <u>Alaska State Troopers</u>	Date: <u>02/13/96</u>
Approved by Commissioner: 	Date: <u>2/13/96</u>
Agency: <u>Ronald L. Utter, Dept. of Public Safety</u>	

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STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO: CSSB177

Revision Date: \_\_\_\_\_ Dept. Affected: Public Safety

The effect of this legislation will be to limit the Program Receipts authority to a maximum of \$65 per initial permit. The cost of providing the required background checks, including the processing of fingerprint checks through the FBI and the State of Alaska by the Alaska Criminal Records & Identification Section, is \$59. Under this bill \$6 per permit is all that the AST Permits Section would have available to process the applications. It should also be noted that if the fingerprinting requirement of current application process is eliminated, holders of Alaska Concealed Handgun Permits would no longer be exempted from the Brady Bill requirements.

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The Alaska Concealed Handgun Permitting process was intended to be self-supporting and not to negatively impact the Division of Alaska State Trooper's basic law enforcement function. Accordingly, AST would only be able to process a very limited number of permits utilizing the estimated \$12,378 that are projected to be available from the limited \$6 per application.

Discussions with the Alaska Court System, have indicated that if this legislation is implemented in its current form regarding the removal of the prohibition of carrying concealed weapons into court facilities, the Court System will require the presence of Court Services Officers in every court room, at every hearing and trial. This substantial impact upon the budget of the Alaska State Troopers has not yet been calculated and further study needs to be made on this impact.

On the following page is a financial summary of the impact on the Detachments Component of the AST BRU and upon the Alaska Criminal Records and Identification component of the DPS Statewide Support BRU.

# FISCAL NOTE

STATE OF ALASKA  
1996 LEGISLATIVE SESSION

BILL NO. CSSB 177(STA)

Revision Date: \_\_\_\_\_ Dept. Affected: Corrections  
 Title: An act relating to permits to carry concealed BRU: \_\_\_\_\_  
handguns Component: \_\_\_\_\_  
 Sponsor: Senator Green  
 Requester: Senate State Affairs Committee COMPONENT SERIAL NO. #0694

**Expenditures/Revenues**

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<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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CHANGE 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						
<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 (FY96) cost: \$ 0.0

**POSITIONS**

FULL-TIME						
PART-TIME						
TEMPORARY						

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

This bill would not have any fiscal impact on the Department of Corrections.

Prepared by: Jerry Shiner Phone: 465-4652  
 Division: Office of the Commissioner Date: 1/22/96  
 Approved by Commissioner: Margaret Pugh Date: 1/22/96  
 Agency: Department of Corrections

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Juneau, Alaska 99801-2105

## MEMORANDUM

January 23, 1996

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

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

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

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

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

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

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

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

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