

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9169 HOUSE • JUDICIARY •

1 * Sec. 4. SEVERABILITY. Under AS 01.10.030, if any provision of this Act or the
2 application of a provision of this Act to any person or circumstance is held invalid, the
3 remainder of this Act and the application to other persons shall not be affected.

4 * Sec. 5. This Act takes effect immediately under AS 01.10.070(c).

Civil Rule 11 – Requires that the signer has read the pleading, motion or other paper, and that, to the best of his knowledge, information and belief formed after reasonable inquiry, it is well grounded in fact and is warranted by existing law or is a good faith argument for the extension, modification or reversal of existing law, and is not interposed for any improper purpose, such as harassment or unnecessary delay or expense or cost.

A violation of this rule can result in the pleading motion or document being stricken and sanctions being imposed.

Civil Rule 95 – Specifically provides that costs and/or attorney's fees may be assessed and in addition the court may punish an attorney for contempt.

Abuse of Process

- 1) An ulterior purpose.
- 2) Willful act in the use of the process not proper in the regular conduct of the proceeding. *Denardo v. Michalski*, 811 P.2d 315 (Ak 1991). This contemplates some overt act done in addition to the initiating of the suit.... Id. At 317.

Kollodge v. State, 757 1024, 1026 (Ak 1988)

Malicious Prosecution –

Must prove that the initial proceeding

- (1) was terminated in his/her favor,
- (2) was brought without probable cause, and
- (3) was initiated with malice. *Kollodge v. State*, 757 1024 (Ak 1988)

Pro Se litigants.

What if you request R.11 sanctions in the initial proceeding? If the Judge denies your request are you precluded from raising the issue in future litigation?

The action still has the very real potential of severing the attorney/client relationship.

Attorney Malpractice Insurance rates will rise.

Affidavits may become harder to come by due to the potential liability.

“Deep Pockets” can use this as another resource drain on the common person.

What if the Atty. makes the the statement in closing or any other part of the proceedings. The Judge must dismiss. What about during oral argument?

1 (g) **Limited Discovery; Expedited Calendaring.** In a civil action for personal
 2 injury or property damage involving less than \$100,000 in claims the parties shall limit
 3 discovery to that allowed under Rule 1(a)(1), District Court Rules, and shall avail
 4 themselves of the expedited calendaring procedures allowed under Rule 4, District
 5 Court Rules.

6 * **Sec. 41.** Rule 41(a), Alaska Rules of Civil Procedure, is amended by adding a new
 7 paragraph to read:

8 (3) **Settlement Information.** If a voluntary dismissal under this rule
 9 is the result of compromise or other settlement of the parties, the parties shall submit
 10 to the Alaska Judicial Council the information required under AS 09.68.130. A notice
 11 of dismissal made under (1)[a] of this subsection must be accompanied by a
 12 certification signed by or on behalf of the plaintiff that the information required under
 13 AS 09.68.130 has been submitted to the Alaska Judicial Council. A stipulation of
 14 dismissal made under (1)[b] of this subsection must be accompanied by a certification
 15 signed by or on behalf of all parties who have appeared in the action. The
 16 requirements of this paragraph do not apply to the types of cases listed in
 17 AS 09.68.130(c).

18 * **Sec. 42.** Rule 72.1(g), Alaska Rules of Civil Procedure, is amended to read:

19 (g) **Discovery.** Except by leave of court, no discovery may be conducted until
 20 the report of the Panel has been filed or until 60 [80] days after selection of the Panel
 21 [HAVE ELAPSED FROM THE DATE THE CASE IS AT ISSUE], whichever is first
 22 to occur, unless discovery is further stayed for good cause by order of the court.

23 * **Sec. 43.** Rule 95(b), Alaska Rules of Civil Procedure, is amended to read:

24 (b) In addition to its authority under (a) of this rule and its power to punish
 25 for contempt, a court may, after reasonable notice and an opportunity to show cause
 26 to the contrary, and after hearing by the court, if requested, impose a fine not to
 27 exceed \$50,000.00 [\$1,000.00] against any attorney who practices before it for failure
 28 to comply with these rules or any rules promulgated by the supreme court.

29 * **Sec. 44.** Rule 95, Alaska Rules of Civil Procedure, is amended by adding a new
 30 subsection to read:

31 (c) If the trier of fact determines that a party to a civil action involving

1 personal injury or property damage has intentionally made a false statement of
2 a material fact in connection with the prosecution or defense of a civil action, the court
3 shall enter judgment against the party making the false statement on the issue to which
4 the false statement relates. If the civil action involves multiple claims and the false
5 statement does not apply to all claims, the judgment required under this subsection
6 shall apply only to those claims to which the false statement relates.

7 * Sec. 45. Rule 1(a)(1), District Court Rules of Civil Procedure, is amended to read:

8 (1) The procedure in civil actions and proceedings before district judges
9 and magistrates shall be governed by the rules governing the procedure in the superior
10 court to the extent that such rules are applicable. However, in a civil action for
11 personal injury or property damage, unless otherwise agreed by all parties or
12 permitted by order of the court in exceptional cases and for good cause shown,
13 discovery shall be limited to the disclosures required under Civil Rule 26(a) and
14 to the taking by each party of the deposition of one or more opposing parties and
15 of one additional person who is not a party.

16 * Sec. 46. Rule 4, District Court Rules of Civil Procedure, is amended by adding a new
17 subsection to read:

18 (b) In a civil action for personal injury or property damage, unless otherwise
19 permitted by order of the court in exceptional cases and for good cause shown, all
20 parties shall file a memorandum to set the case for trial, as set out in Civil Rule 40(b),
21 no later than 180 days after service of the complaint on all parties to the case. The
22 memorandum shall contain a certification that each party has exchanged the
23 information described in Rule 26(a), Alaska Rules of Civil Procedure, and may state
24 their separate positions if they do not agree concerning information or estimates to be
25 provided in the memorandum. After the court satisfies itself that the information
26 described in Rule 26(a), Alaska Rules of Civil Procedure, has been disclosed, the court
27 shall set the case for trial as soon as practicable, but no sooner than 30 days after the
28 court makes the determination regarding disclosure.

29 * Sec. 47. Rule 511, Alaska Rules of Appellate Procedure, is amended by adding a new
30 subsection to read:


31 (c) **Settlement Information.** If a dismissal under (a) or (b) of this rule is the

4/16/97

Jessica Moley (Mole?)

MB 31

888 526 0120

PHONE MESSAGE		DATE <u>4/11</u>	TIME <u>2:30</u> <small>A.M. P.M.</small>
FOR	<u>Lisa</u>		<input type="checkbox"/> URGENT <input checked="" type="checkbox"/> PHONED <input type="checkbox"/> RETURNED YOUR CALL <input checked="" type="checkbox"/> PLEASE CALL BACK <input type="checkbox"/> WILL CALL AGAIN <input type="checkbox"/> WAS IN <input type="checkbox"/> WANTS TO SEE YOU
M	<u>Bob Nantz</u>		
OF			
PHONE (<u>1 278-227-7W EXT.</u>		
<input type="checkbox"/> FAX <input type="checkbox"/> MOBILE <input type="checkbox"/> PAGER (<u>)</u>		
MESSAGE	<u>344-3035 H</u>		
	<u>Re: MB 31</u>		
	<u>exclude Domestic Relations</u>		
			SIGNED <u>KT</u>

0-LS0193\B
Ford
3/26/97

Post-it* Fax Note	7671	Date	7/19/97	# of pages	2
To	KALKER	From	DENNY		
Co./Dept.		Co.			
Phone #		Phone #	465-2647		
Fax #	561-8970	Fax #	465 3518		

CS FOR HOUSE BILL NO. 31()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES MULDER, Cowdery

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability for certain false allegations in a civil pleading
2 or proceeding, for certain improper acts relating to signing a civil pleading, for
3 making an intentional false statement of a material fact; amending Rule 82(b),
4 Alaska Rules of Civil Procedure; and providing for an effective date."

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

6 * Section 1. AS 09.65 is amended by adding a new section to read:

7 Sec. 09.65.190. Civil liability for false claims and improper practice. (a)

8 A person may not

9 (1) intentionally or recklessly sign a civil complaint, answer, or other
10 civil pleading that contains false allegations; or

11 (2) sign a civil pleading before making reasonable inquiry and
12 determining that, to the best of the signer's knowledge, information, and belief, each
13 claim, defense, and allegation contained in the pleading is well grounded in fact and
14 is warranted by existing law or a good faith argument for the extension, modification,

1 or reversal of existing law.

2 (b) If the trier of fact determines that a party to a civil action has intentionally
3 made a false statement of a material fact in connection with the prosecution or defense
4 of a civil action, the court shall enter judgment against the party making the false
5 statement on the issue to which the false statement relates. If the civil action involves
6 multiple claims and the false statement does not apply to all claims, the judgment
7 required under this section shall apply only to those claims to which the false
8 statement relates.

9 (c) A person who is injured by a violation of

10 (1) (a)(1) of this section may bring an action for compensatory and
11 punitive damages against the person who signed the document; and

12 (2) (a)(2) of this section may bring an action for recovery of
13 compensatory damages against the person who signed the pleading; in this paragraph,
14 "compensatory damages" means the actual reasonable costs and attorney fees that were
15 incurred, in the action in which the pleading was submitted, by the person who was
16 injured by the violation of (a)(2) of this section, but that were not awarded to that
17 person.

18 (d) If a person brings an action under (c) of this section, the court shall award
19 actual reasonable attorney fees to the prevailing party, regardless of whether the
20 prevailing party is the plaintiff or defendant.

21 * Sec. 2. AS 09.65.190(d), enacted in sec. 1 of this Act, has the effect of amending Rule
22 82(b), Alaska Rules of Civil Procedure, by allowing the award of actual reasonable attorney
23 fees in a civil action for false claims or improper civil practice.

24 * Sec. 3. SEVERABILITY. Under AS 01.10.030, if any provision of this Act or the
25 application of a provision of this Act to any person or circumstance is held invalid, the
26 remainder of this Act and the application to other persons shall not be affected.

27 * Sec. 4. This Act takes effect immediately under AS 01.10.070(c).

HB

37

(7)
Date Referred to Committee: February 18, 1997

FURTHER REFERRALS:

Finance

Date of Committee Action: 3/7/97

The JUDICIARY Committee considered:

HB 37

HOUSE BILL NO. 37

PARENTAL CONSENT BEFORE MINOR'S ABORTION

"An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion; establishing a judicial bypass procedure by which a minor may petition a court for authorization to consent to an abortion without consent of a parent, guardian, or custodian; amending the definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules."

recommends it be replaced with the following committee substitute CS HB 37 (JUD) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) _____

2 fiscal note(s) ADMIN. (OPA), and COURT

zero fiscal note(s) _____

3 zero fiscal note(s) HSS (PUB. HEALTH), H. (LEG. ASST.), ADMIN (PUB. DEF.)

SIGNING WITH RECOMMENDATIONS		NO	DNP	NR	AM
	CROFT		✓		
	ROKEBERG			✓	
	PORTER				
	GREEN	✓			
	JAMES	✓			
	BUNDE			✓	
	BERKOWITZ		✓		

CHAIR'S SIGNATURE



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on HB 37, dated March 5, 1997
 bill/subject

I strongly urge the House Judiciary Committee to support HB 37. Mature wisdom and judgement is lacking in minors in making such a decision that will have lasting physical, emotional and psychological effects on the minor. Minors are sometimes unable to make fully informed choices. This kind of a choice needs to be discussed with a parent who can grant some wisdom + maturity to such a decision. Minors sometimes only respond out of emotions - not thought out judgements. Parents have the right to know. Please support HB 37.

Thank you.

Stephanie Vieira

Signed: Stephanie A Vieira
 Testifier
Unborn children
 Representing (Optional)
611 Birch St
 Address
747 3698
 Phone No.



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Judiciary (JUD)
 COMMITTEE ON (S)HB NO 37 (STA) DATED 3/5/97
COMMITTEE NAME
BILL/SUBJECT

I support HB 37 and thank you for this opportunity to express my opinion and for your work on this bill.

HB 37 Does not address the question of a child wanting to carry her pregnancy to term when parents want her to have an abortion, but it is not inconsistent with Alaska's right to privacy. It establishes parental authority on the same level required for other medical procedures.

I have been employed as an RN in a hospital setting, and could not find the fact that someone under 18 years of age would be able to obtain an abortion without parental consent and yet no other procedure. It is logically inconsistent.

Our court system/law of the land must reflect our moral culture... Hopefully not anti family.

SIGNED Ann Langworthy - Ann Langworthy
 TESTIFIER

Self
 REPRESENTING (OPTIONAL)

1789 A. Baltimore Tr Fbks AK 99712
 ADDRESS/PHONE NUMBER 907-457-2271



ALASKA STATE LEGISLATURE

PLEASE ENTER INTO THE RECORD MY TESTIMONY TO THE Judiciary
 COMMITTEE ON HB 37 DATED March 5, 1997
 BILL/SUBJECT COMMITTEE NAME

I urge support of HB 37. As a parent I am deeply concerned that my responsibility to help my children make responsible decisions can be undermined by an industry that discourages children from turning to their parents in a crisis. HB 37 does not legislate family communication. Those who oppose this bill are accurate in this respect. However, it provides a safeguard for the young maturing woman whose actions have already proven (by the fact that she chose to submit to circumstances that led to the pregnancy) she needs more mature counsel & time to consider her action. Abortion does not end the problem for the minor. It will affect her for the rest of her life. Wisdom dictates that a person seeks counsel from people who care for her.

This bill does not criminalize abortion. It protects parents' rights & responsibilities.

SIGNED Anna Scheller
 TESTIFIER

REPRESENTING (OPTIONAL)
3283 Jefferson Dr, Fbks AK 99709 (907) 455-4401
 ADDRESS/PHONE NUMBER



STATE OF ALASKA

LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES

Jan Persson

Legislative
Information Office

P.O. Box 845

Tok, AK 99780

Phone (907) 883-5020

Fax (907) 883-5021

DATE: 3-4-97

Please accept the enclosed original(s) of written testimony
for the HJUD (HB 37) teleconference hearing that was
scheduled on 3-4-97.

A copy of this testimony was transmitted to your committee via
fax on 3-4-97.

Thank you,

Jan Persson

I do agree with the intent of the bill if it is to reduce the number of teenage pregnancies & all abortions in the state of Alaska. Not requiring consent, I believe, takes away my rights as a parent to counsel my daughter about our cultural & religious beliefs about abortion. The welfare of our children is not being taken into consideration when we would leave a post-abortion child on her own, without support. They will be experiencing feelings of loss grief & confusion to the point of depression & suicide. The judicial consent bypass must be a stricter process. It frightens me that girls would be able to get this paperwork so easily, because we are afraid to make it difficult for them to get this life altering procedure. It should be a process that takes work. If they are mature, responsible people a little work to submit papers to prove their understanding of all the risks involved.

This bill is a step toward reducing the number of abortions in Alaska. However, we cannot stop here if we are going to protect the future of our children.



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 committee on House Bill 32 dated March 5, 1997
 committee on Parental Consent - Abortion dated March 5, 1997
 bill/subject

I support legislation requiring parental consent when a minor is seeking abortion.

The legislation should include a requirement to inform the parties involved of alternatives to abortion and give them the names of agencies available to offer support during the pregnancy

Signed: Paul M. Seger
 Testifier

Representing (Optional)

307 Islander Drive Sitka, Ak 99835

Address

907 - 747 - 5185

Phone No.

Alaska State Legislature

Please enter into the record my testimony to the House Judiciary on H.B. 37, an Act relating o Parental Consent Before a Minor Receives an Abortion dated Wed, March 5, from 1-4pm.

I support H.B. 37 because a minor does not have enough mature judgment to make this important decision. I also question the motives of anyone who would influence a minor to have an abortion with-out first consulting with their parents. It is a sad but true fact that women are some times abused before, during, and after the procedure. This abuse is most often committed on minors receiving abortions with out parental consent, because the abortionist know that a minor receiving an abortion would be afraid to complain to their parents or any other authority

Who in a minors life would be with her daily to watch for problems stemming from the abortion if her parents have no idea one has been performed? Remember there are often problems that need medical attention that she might not recognize as such.

The minor therefor is like a potted ^{plant in which a plant} ~~plant~~ ^{has been growing, raised, used, green or those in broken} ~~plant~~...totally at the mercy of the abortionist. She ^{is} unable to speak up for herself then or later.

Please vote for H.B. 37. Thank You.

Signed Virginia C. Phillips
Testifier J

Representing(Optional) Write - 4 - Life, NATY Right TO LIFE Speakers
4 Alaska Native ALASKA NATIVES

Address 404 LAKE ST., 2-D SITKA, AK 99975
907-747-8024

Phone Number

Alaska State Legislature

Please enter into the record my testimony to the House State of Affairs Committee on HB 37. "Parental Consent before a minor receives an abortion with a judicial by pass option. dated February 11, 1997.

In every case that I worked with, I have seen family bonds strengthened when a minor told her parents she was pregnant. Most parents love and care for their children and any thing that weakens the bond between parents and child destroys the family bonds of trust. It is inconceivable to me why any one who is not receiving money or personal satisfaction from weaking the bonds between parent and child, would want to help a minor sneak behind her parents back and have such an intrusive surgical procedure as an abortion. Remember it is the parents who are the ones who are left with their child's emotional and physical problems after an abortion. One such problem is increased risk of breast cancer in women who terminated their first pregnancy with an abortion. Studies at the Fred Hutchinsons' Cancer Center have verified this sad fact.

Please pass HB 37. Thank You.

Signed Virginia C. Phillips T
Testifier

Self
Representing(Optional)

404 LAKE ST., 2-D SITKA, AK 99835
Address

907-747-8024
Phone Number



Alaska State Legislature

Please enter into the record my testimony to the House State Affairs
committee name

committee on 2-11-97 ^{on} _{dated} HB 37

I am strongly against HB 37,
regarding parental consent for minor abortions.

I believe you are putting the health of
~~the~~ young women in jeopardy. I know a
girl who, upon finding she was pregnant,
smoke, drank and starved herself to the
point of aborting because her parents are
fundamentalists & she believed, would have
kicked her out of the house.

Signe

Sincerely,

JULIE MARQUARDT

Box 6071, Sitka 99835

712 Monastery Street
Sitka, Alaska 99835
March 5, 1997

The Twentieth Alaska State Legislature
Judiciary Committee

Re: HB 37(STA)

Dear Sirs:

I support HB 37(STA). I feel it is wise for our state's laws to require parental consent before minors may receive an abortion.

In school we were taught that our United States has many levels of government: federal, state, municipal, church, family, and the individual. Each level of government has its defined realm of jurisdiction. If however, some of its authority is usurped by another level, then its ability to govern is to that measure diminished.

Traditionally, American parents have been responsible for the well being, training, and guidance of their children. It is only when the children are no longer minors that the children become responsible for governing their own affairs as responsible, law-abiding citizens. The traditional family unit provides needed guidance and protection for the minor child until he or she becomes mature enough to make wise decisions.

If a higher level of government, in this case our state, whether intentionally or unintentionally, undermines parental authority, by allowing a minor to act independently of her parent's consent; then that government diminishes the family unit's ability to govern it's members effectively. It contributes to the family unit's disfunction.

Can we afford to weaken our families? Can we afford to have such a basic building block to the foundation of our social structure become dysfunctional? No, we cannot.

I believe it is essential to the survival of our country for every level of government to preserve the family. I also believe it is in the best interest of every child to insure that their parents will always have a voice in their minors choices and actions. Therefore, it is necessary for the State of Alaska to require parental consent before a minor can legally receive an abortion.

Thank you for your consideration in this matter.

Sincerely,

Yvonne Anderson



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary committee name
 committee on ~~HB 37~~ ~~and HB 37~~ , dated 3-5-97
 bill/subject

It is wrong to bypass the rightful place of the family in allowing minors to obtain abortions without parental knowledge and consent. Abortion rights have been so politicized that we are ignoring commonsense.

Who will be responsible for the child in the case of complications following an abortion? A woman was recently medivacked from Sitka with life-threatening problems following an abortion. If this woman were a minor whose parents had not given consent the parents would have every right to be outraged.

I support HB. 37

Signed: Arthur Johnson
 Testifier

Representing (Optional)
110 Finn Albee Sitka, Ak.
 Address
907 747 8368
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Judiciary Finance
committee name
 committee on HB 37, dated 3/5/97
bill/subject

I am opposed to House Bill 37 as even minors need to have access to abortion. Women of all ages need to have the right to make the decision to have or not have an abortion in order to have control over their own bodies.

Signed: Jennifer A. Mason
Testifier
Self and Sitkans For Choice
Representing (Optional)
1701 Halibut Point Rd. #5 Sitka, AK 99835
Address
(907) 747-4897
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE JUDICIARY COMMITTEE
committee name

committee on HB-37/PARENTAL CONSENT FOR, dated 03-05-97
bill/subject ABORTION OF MINORS

YOUNG WOMEN NEED EMOTIONAL SUPPORT WHEN MAKING THIS DECISION, WHETHER IT IS AN ABORTION DONE IN THE 1ST, 2ND, OR 3RD TRIMESTER (OR IF THE MINOR SHOULD DECIDE TO KEEP THE CHILD) IT IS IMPERATIVE THAT SHE HAVE A STRONG PARENTAL OPPORTUNITY FOR GUIDANCE IN THIS AREA. THIS HAS NOTHING TO DO WITH "REPRODUCTIVE RIGHTS" NOR "THE RIGHT TO PRIVACY". IT IS GOOD PRACTICE TO ALLOW PARENTS TO HAVE A SAY IN THIS SURGICAL PROCEDURE FOR THEIR YOUNG FEMALE FAMILY MEMBERS

PLEASE SUPPORT HB-37 AND SECURE PARENTAL ~~IN~~ INVOLVEMENT REGARDING ~~THE~~ ABORTION FOR THEIR MINOR CHILDREN -

Signed: Jerese Judy
Testifier

Representing (Optional)

P.O. BOX 2975 SITKA AK 99835

Address

907-966-2204

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE JUDICIARY
 committee name
 committee on PARENTAL CONSENT HB37, dated MARCH 5, 1997
 bill/subject

Please do all you can to require parental consent before a minor can have an abortion. The decision to have an abortion is very complex and can have long-lasting ramifications; a minor is not mature enough to make that type of decision on her own. She needs the benefit of as much counsel as she can get so as not to make a permanent solution to a temporary problem.

Finally, from the parents' perspective, as they are responsible for their children in all other regards, including paying restitution for damages their child may have caused, they should be permitted to have input on this life and death situation. Parental consent is required for a child to play in sports and to travel for school activities, etc., so should also be required for a minor to have an abortion.

Thank you.

Signed: Mary J. McHally
 Testifier
Self
 Representing (Optional)
608 Sawmill Creek Rd, Sitka
 Address
747-3877
 Phone No.

ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the House Judiciary Committee on HB37, an act relating to parental consent before a minor receives an abortion, dated March 5, 1997.

I support HB37, which would require parental consent before a minor obtains an abortion. I consider that a decision as important as whether to seek an abortion one with such serious and long term impact not only on the young woman but also on close family members and the father of the child that it deserves serious consideration and discussion among those most intimately involved.

Even dispensing of headache medication at the local high school requires parental permission! Will not an abortion have more far-reaching effects than a headache?

Please support HB37, helping insure that parents of teens accept their parental role and responsibility and that teens understand that an abortion rates right up there with headaches!

Signed:

Dolores Farrell

Testifier

Representing (Optional)

3501 Halibut Pt. Hwy. Sitka, AK 99835
Address

(907) 747-6718
Phone Number



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name .
 committee on HB 37 , dated March 5, '97
 bill/subject

As a parent, I don't see how I can be legally responsible for my child if a major procedure can be done without my consent, sometimes without knowledge. There is no way a parent can be expected to be able to provide the counsel or medical follow-up that is usually required. Parental consent is vital!

Signed: Martha Lou Braun
 Testifier

Representing (Optional)
1913 Cascade Cle Rd ; Sitka, AK
 Address
747-3688
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
 committee name
 committee on HB 37, dated March 4, 1997.

This nation ^{bill/subject} was founded on freedom and equality for all her citizens. How foolish it seems that we now hold meetings to discuss the fate of the most innocent and purest of our citizens, the unborn. Their blood cries out against us, Hypocrites. The Bible speaks to us telling us to speak out for those who cannot speak for themselves. Our unborn have no voice, no rights, and no freedom. We must speak for them or we forfeit our own rights to speak for ourselves. When one group of citizens takes away the rights of others they will soon lose their own rights. Not since slavery has an issue faced this nation of this magnitude. We must see through ~~the~~ the hypocrisy. Once slavery was legal but it did not make it right. The courts have ruled that abortion is legal but again we error. It is time we turn back to our true constitutional rights. I oppose all abortion, and therefore I am against a bill that gives a minor the right to have an abortion without parental consent. Thank you for hearing this testimony and may God grant us his wisdom in this matter.

Signed: Kelly P. Lundy Kelly P. Lundy
 Testifier

Representing (Optional)

205 Vitskari Street Sitka, AK. 99835

Address

907 - 747 - 3746

Phone No.

FISCAL NOTE

No. 5

Bill Version: CSHB 37(STA)

(H) Publish Date: 2/19/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: 2/18/97
Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."
Sponsor: REP. S KELLY, KOHRING, VEZEY AND MULDER
Requestor: _____

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	168.0	168.0	168.0	168.0	168.0	168.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	168.0	168.0	168.0	168.0	168.0	168.0

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	168.0	168.0	168.0	168.0	168.0	168.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	168.0	168.0	168.0	168.0	168.0	168.0

Estimate of any current year (FY 97) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The judicial bypass provisions of this bill contemplate a hearing at which an unemancipated minor may seek the court approval of her wish to have an abortion. The bill mandates the appointment of counsel for the minor but does not identify which agency would provide these services. This fiscal note assumes that Office of Public Advocacy (OPA) would be appointed because that agency currently represents children in most other civil cases. The fiscal note is based on the following assumptions: (1) 2,400 abortions per year are performed in Alaska; (2) 12 percent of abortions per year (288) are performed on women aged 17 or younger; (3) 39 percent of young women (112) wishing to obtain an abortion would seek a judicial bypass, based on the fact that 61 percent of parents are informed of abortions in those states which do not require parental notice or consent.

(continued)

Prepared by: B. Cottina
Division: Rep. Committee on Finance
Approved by Commissioner: Jonathan T. Jensen
Agency: _____

Phone: 465-3743
Date: _____
Date: 2/18/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. HB 37

ANALYSIS: (continued)

Thus, OPA could be expected to provide attorney representation to 11? young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$168.0 per year.

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 3
Bill Version: CSHB 37(STA)
(H) Publish Date: 2/19/97

Revision Date: 2/18/97
Title: Relating to parental consent before certain minors receive an abortion
Sponsor: Rep.'s Kelly, Kohring, Vezey and Mulder
Requestor: _____

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: Public Health Admin Services
COMPONENT SERIAL NO. 292
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact on the Division of Public Health. It will be necessary to develop a new system which will maintain the confidentiality of the patient and yet assure her the capability of accessing the system easily whether she be from Anchorage or Shaktoolik. There is presently no system in the small remote and rural communities that will assist a minor in meeting the requirements of parent/guardian/custodian consent and access to a judicial process. The legally responsible adult in many situations is often not the head of the child's household. Often the only adult with whom she has contact is the individual from whom the child hopes to keep the information confidential.

Prepared by: B. Cottina
Division: Rep. Colette James
Approved by Commissioner: Sealnette James
Agency: _____

Phone: 465-3743
Date: _____
Date: 2/18/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 2
Bill Version: CSHB 37(STA)
(H) Publish Date: 2/19/97

Bill Date: 2/18/97 Dept. Affected: Health and Social Services
Title: Relating to parental consent before BRU: Medical Assistance
certain minors receive an abortion Component: Medicaid Non-Facility
Sponsor: Rep.'s Kelly, Kohring, Vezey and Mulder COMPONENT SERIAL NO. 229
Requestor: _____ See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (F:97) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: B. Cottina Phone: 465-3743
Division: Rep. U. Cavallito James Date: _____
Approved by Commission: Franklin James Date: 2/18/97
Agency: _____

FISCAL NOTE

No. 1
 Bill Version: CSHB 37(STA)
 (H) Publish Date: 2/19/97

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Revision Date: 2/18/97
 Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."
 Sponsor: REP. S KELLY, KOHRING, VEZEY AND MULDER
 Requestor: _____

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE:

(Thousands of Dollars)

002 Federal Receipts						
003 GF Match						
004 GF						
005 GF/Program Receipts						
037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 97) cost: \$ 0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

The bill would require parental, guardian or custodian consent in writing before an abortion for an unmarried, pregnant unemancipated woman under 18 years of age. A judicial process is set up to bypass the consent requirement by the filing of a complaint in superior court. A lawyer shall be appointed to represent the complainant if she has not retained an attorney, but Section 5 of the bill provides those lawyers will be from the Office of Public Advocacy. Therefore, there will be no fiscal impact on the Public Defender Agency.

Prepared by: B. Cottrell
 Division: Rep. Office
 Approved by Commissioner: James J. Mulder
 Agency: _____

Phone: 465-3743
 Date: _____
 Date: 2/18/97

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STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: CSHB 37(STA)

(H) Publish Date: 2/19/97

Revision Date: 2/18/97

Title: Parental consent before a minor's abortion

Dept. Affected: Alaska Court System

BRU: Trial Courts

Component:

Sponsor: REP. S KELLY, KOHRING, VEZEY AND MULDER

Requestor:

COMPONENT SERIAL NO. 768

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

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

Fund Source

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: B. Collins
 Division: Rep. Kelly's Office
 Approved by Commissioner: Sebastian Jones
 Agency: Legis. Office

Phone: 465-3743
 Date: 2/18/97

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ALASKA COURT SYSTEM
FISCAL ANALYSIS

— HB 37

HB 37 provides that a person may not knowingly perform an abortion upon a woman who is unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have an attorney. If she cannot afford an attorney, one must be appointed by the court from the Office of Public Advocacy (OPA). Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state. OPA has estimated that 112 minor females will seek judicial approval for an abortion each year.

HB 37 requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for appeals in cases where a court denies permission for an abortion.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSHB 37 (STA)

Revision Date: <u>02/24/97</u>	Dept. Affected: <u>Alaska Court System</u>
Title: <u>Parental consent before a minor's abortion</u>	BRU: <u>Trial Courts</u>
Sponsor: <u>Reps. Kelly, Kohring, Vezey, Mulder...</u>	Component: _____
Requestor: <u>House State Affairs</u>	COMPONENT SERIAL NO. <u>768</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	10.0	10.0	10.0	10.0	10.0	10.0
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.0	10.0	10.0	10.0	10.0	10.0

CAPITAL EXPENDITURES:						
-----------------------	--	--	--	--	--	--

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

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	10.0	10.0	10.0	10.0	10.0	10.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	10.0	10.0	10.0	10.0	10.0	10.0

Estimate of any current year (FY 97) cost: None

Positions

Full-Time						
Part-Time	1.0	1.0	1.0	1.0	1.0	1.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by:	<u>C. S. Christensen III, Staff Counsel</u>	
Agency:	<u>Alaska Court System</u>	
Approved by:	<u>Arthur H. Snowden, II, Administrative Director</u>	
Agency:	<u>Alaska Court System</u>	

Phone:	<u>264-8228</u>
Date:	<u>02/24/97</u>
Date:	<u>02/24/97</u>

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
CSHB 37 (STA)

CSHB 37 (STA) provides that a person may not knowingly perform an abortion upon a woman who is unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have an attorney. If she cannot afford an attorney, one must be appointed by the court from the Office of Public Advocacy (OPA). Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state. OPA has estimated that 112 minor females will seek judicial approval for an abortion each year.

CSHB 37 (STA) requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for appeals in cases where a court denies permission for an abortion.

Alaska Court System

Fiscal Analysis

CSHB 37 (STA)

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro tem superior court judge, fully vested, Anchorage, PPT 224 hours	\$2,919	\$1,595	\$4,514
Clerical overtime for 224 hours for range 10A (see note below)			<u>5,473</u>
			<u><u>\$9,987</u></u>

Total Personal Services

Note:

This bill will require clerical (range 8) and legal technician (range 12) services. The average range of the two levels is approximately range 10, which was used for estimating the clerical overtime costs of this legislation.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
committee name

committee on #37 / STA, dated 3/5/97
bill/subject

Please oppose Bill No. 37. In this age of information we need to focus on educating our children rather than taking away their rights. If you are not going to make consensual sex between two teenagers an offense punishable by law, please do not impose a law on a teenage woman that would force her to bear the burden of an unplanned, unwanted pregnancy.

This would be forcing an invasive medical procedure (pregnancy & birth) against her will. (#37) This represents more gov. restrictions! Please oppose Bill No. 37

Signed: Lisa Kreber
Testifier

Representing (Optional)
801 Lincoln St. Sitka, AK 99835
Address
747-7547
Phone No.

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NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on #37 / STA, dated 2/6/97
 bill/subject

Please oppose Bill #37. I have no doubt in my mind that the parents of my grandchildren could not hesitate to hit them (even shoot) with their children's pregnancy. This among many other reasons convinces me to think that they can have to tell their parents about being an abortion.

Signed: *Robyn Coleman*
 Testifier

Representing (Optional)
213 7th St, Anchorage, AK 99503
 Address
907-217-0000
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on #37/STA, dated 3/5/97
 bill/subject

Please oppose Bill no. 37!

Signed: *Gleth M. Casanova*
 Testifier

Representing (Optional)
2 Makinoff Sitka AK 99735

Address
9 - 747-3796

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
 committee name
 committee on #37 HB, dated 3/6/97
 bill/subject

Please oppose HB 37, Parental Consent for Minor Abortions.

I don't believe the government can mandate health / medical procedures, nor is it the government's role to mandate communication.

Please oppose HB 37.

Signed: Julie Marquardt
 Testifier

Representing (Optional)

Box 6071 Sitka, AK. 99835
 Address

907) 747-2667
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary Committee
 committee name
 committee on HB 37/STA , dated 3/5/97
 bill/subject

Please oppose # 37/STA

*Thank you
 J. J. [Signature]*

Signed: Jay Thomas
 Testifier self

Representing (Optional)
PO BOX 6433 Sitka AK 99835
 Address
907-966-2554
 Phone No.

MAR- 6-97 THU 1:14 PM DR W PALMER

FAX NO. 9075862595

P. 1

JOSEPH D. RIEDERER, M.D.
4800 NO. DOUGLAS
JUNEAU, ALASKA 99801
TELEPHONE 907 - 586-2900

March 6, 1997

Representative Joe Green
Legislature
State of Alaska
FAX#465-4316

RE: House Bill #65

Dear Representative Green:

I had hoped to testify on House Bill #65 but I will be out of Juneau at the next hearing. I was present on March 5.

My name is Joseph Riederer. I have been a Juneau physician since 1961. I am not a specialist in OB-GYN; however, a major part of my practice was obstetrics from 1961-77 and I attended perhaps 2000 deliveries, and from that time, have continued to do some C-section and laparoscopic OB and GYN care from 1977-96. I am writing in support of House Bill #65. I would have like to have testified against the use of partial birth abortion as a medical procedure. I believe it is unspeakably inhumane to carry this procedure out on what is frequently a viable infant.

This type of medical procedure, that is, a partial birth abortion, is not even listed or discussed or described as a medical procedure in any of the current OB-GYN references that I can find. For instance, the seven volume authoritative reference on Gynecology and Obstetrics by Sciarra, does not even discuss surgical intervention for late term abortions in this manner.

It has been argued that this is a necessary option for the health and safety of the mother. This is not verified by any respected medical authority that I can find. There are multiple procedural complications to the mother in any abortion procedure. That includes certainly uterine perforation, or rupture, sepsis, bleeding after the procedure, and incompetent cervix, sterility, and psychological trauma, etc. All of this is in addition to the fetal death. People certainly need to figure out before the 2nd or 3rd trimester if abortion is an option or not if you believe an abortion is a necessity.

The proposed definition of this Bill is specific and no other medical procedure

would be restricted or affected by banning partial birth abortion. The language is clear and specific.

I hope that House Bill #65 will be enacted. Thank you for this consideration.

Sincerely



Joseph D. Riederer, M.D.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE JUDICIARY
committee name

committee on HOUSE BILL 37 , dated MARCH 6, 1997 .
bill/subject

PLEASE VOTE AGAINST H.B. 37.
GOVERNMENTAL MICROMANAGEMENT
CAN ONLY LEAD TO FURTHER BREAKDOWN
OF THE FAMILY UNIT.

WARD M. ELIDIDGE

Signed: Ward M. Elididge
Testifier

Representing (Optional)

PO BOX 6245, SITKA, AK 99835
Address

907-747-8278
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the HOUSE JUDICIAL Comm.
 committee name
 committee on HB 37, dated 3/5/97
 bill/subject

See attached
Information you requested
Concerning my verbal statement

Signed: *Alvin Huston*
 Testifier

Representing (Optional)
213 Shotgun Alley
 Address
(907) 747-3931
 Phone No.

Laws that restrict access to abortion by requiring parental involvement increase teenage birth rates. For example, according to testimony in the reproductive freedom case *Hodgson v. Minnesota*, the Minneapolis birthrate rose 38.4% among mothers aged 15 to 17 after enforcement of a parental notification law. The birthrate for 18 to 19 year-old women, who were not affected by the law, rose only .3% during the same period.

Having little education, few skills and responsibility for a child they may not have wanted, teenage mothers and their children are seven times more likely to slide into poverty. According to national estimates, children born to teenage mothers in 1987 will receive more than \$5.5 billion in federal welfare payments over a 20-year period. And because children born to teenagers are often unwanted, those children may suffer severe psychological and educational disadvantages. As for the minors themselves, their entire adult lives are often limited, if not ruined, by government laws that effectively force them into motherhood.

From: ACLU Briefing Paper on Reproductive Freedom, The Rights of Minors.



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on HB 65 / Partial Birth dated March 5, 1997
 bill/subject Abortion

I am opposed to the passage of this bill - contrary to anti-choice propaganda, this is a procedure which occurs rarely with great agony to parents who want their child but become aware there is something terribly wrong with the fetus. This is an opportunistic way to further the anti-choice agenda.

Signed: Janette M. Rutherford
 Testifier

Representing (Optional)
301 Moller Ave Sitka
 Address
907 747-5379
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name

committee on Parental Consent before minors dated 3-5-97
bill/subject abortion

Signed: Corinne Eagle
Testifier

Representing (Optional)

909 HPR #39, Sitka

Address

(907) 747-3595

Phone No.

HB 37 would protect my parental rights. As a parent it is my right and duty to protect, care for, and nurture my child. The passing of HB 37 would ensure that these rights are safe guarded.

HB 37 would also protect minors from making uninformed decisions. The decision to have an abortion is a serious one, and should be researched fully before the procedure is performed. Most minors lack the maturity to make this decision on their own. HB 37 would be a shield to minors, protecting them from a potentially harmful procedure. A procedure that could leave emotional scars for the rest of their lives.

I have been in the position of a pregnant minor. It is a frightening and confusing time. During this time abortion crossed my mind as an alternative. Without my parents I would have chosen this route, not having even the faintest idea about the consequences of such an operation. I am eternally thankful that my parents had an opportunity to help me make the right decision. Every parent should have that opportunity.

I give my full support to HB 37. Passing the bill in is the best interests of families, parents, and children.



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
committee on Partial-Birth abortion, dated 3-5-97
bill/subject

Signed: Don B Eagle
Testifier

Representing (Optional)

909 HPR #39, Sitka

Address

747-3595

Phone No.

I strongly support HB65. Partial-birth abortion is a shocking reversal of what is right and what is wrong. We are now being told that it is "wrong" to restrict in any way what a woman would do with "her" baby. We are told it is "right" to allow physicians to kill what would otherwise likely be a healthy baby. This is a travesty of justice. The blood of those undefended victims will be on all of our hands if we allow this institutional homicide to continue. We must immediately rid our state of this procedure and set an example for the rest of the country as a state that will actively protect and defend those who cannot defend themselves.

Consider the procedure itself. Word cannot adequately describe the horror of partial-birth abortion. Can those who support it really call it "good" and "necessary" without shuddering at the realities of the procedure, considering it a "necessary evil" in their hearts? Is evil really necessary? At one time, early-term abortions were shocking and then became more or less accepted. At this time, partial birth abortion is shocking; do we make it illegal, as it should be, or do we let it become more or less accepted? What then? Why not pull the baby all the way out before jabbing the scissors into its skull? Better yet, let there be a one month trial period after birth to decide if the baby will cause unresolvable difficulties. If there is a problem, let the baby be brought back before the month is over, and then it may be killed. We'll call it "post-birth abortion." Shocking? Not if we continue to close our eyes to this present horror, thereby allowing the continuing encroachment on the rights of our undefended child.

I support HB65 because it will end this horror in Alaska. There should be no basis in the law for partial-birth abortion. It is nothing short of murder. It is wrong. We Alaskans can take the lead in the Nation by ridding our state of this horror and making the clear statement that partial-birth abortion will never be acceptable.

CS FOR HOUSE BILL NO. 37(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, KOHRING, VEZEY, AND MULDER, Ogan, Dyson,
Martin

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to a requirement that a parent, guardian, or custodian consent
2 before certain minors receive an abortion; establishing a judicial bypass procedure
3 by which a minor may petition a court for authorization to consent to an
4 abortion without consent of a parent, guardian, or custodian; amending the
5 definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil
6 Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate
7 Procedure; and Rule 9, Alaska Administrative Rules."

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

9 * Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this
10 Act to further the important and compelling state interests of
11 (1) protecting minors against their own immaturity;
12 (2) fostering the family structure and preserving it as a viable social unit;

1 (3) protecting the rights of parents to rear children who are members of their
2 household; and

3 (4) protecting the health of minor women.

4 (b) The legislature finds that

5 (1) immature minors often lack the ability to make fully informed choices that
6 take account of both immediate and long-range consequences;

7 (2) the physical, emotional, and psychological consequences of abortion are
8 serious and can be lasting particularly when the patient is immature;

9 (3) the capacity to become pregnant and the capacity for mature judgment
10 concerning the wisdom of an abortion are not necessarily related;

11 (4) parents ordinarily possess information essential to a physician's or
12 surgeon's best medical judgment concerning the child;

13 (5) parents who are aware that their minor daughter has had an abortion may
14 better ensure that the daughter receives adequate medical attention after the abortion;

15 (6) parental consultation is usually desirable and in the best interest of the
16 minor; and

17 (7) parental involvement legislation enacted in other states has shown to have
18 a significant effect in reducing abortion, birth, and pregnancy rates among minors.

19 * Sec. 2. AS 18.16.010(a) is amended to read:

20 (a) An abortion may not be performed in this state unless

21 (1) the abortion is performed by a physician or surgeon licensed by the
22 State Medical Board under AS 08.64.200;

23 (2) the abortion is performed in a hospital or other facility approved for
24 the purpose by the Department of Health and Social Services or a hospital operated by
25 the federal government or an agency of the federal government;

26 (3) before an abortion is knowingly performed or induced on an
27 unmarried, unemancipated woman under 18 years of age, consent has been given
28 as required under AS 18.16.020 or a court has authorized the minor to consent
29 to the abortion under AS 18.16.030 and the minor consents; for purposes of
30 enforcing this paragraph, there is a rebuttable presumption that a woman who
31 is unmarried and under 18 years of age is unemancipated [CONSENT HAS BEEN

1 RECEIVED FROM THE PARENT OR GUARDIAN OF AN UNMARRIED WOMAN
2 LESS THAN 18 YEARS OF AGE]; and

3 (4) the woman is domiciled or physically present in the state for 30
4 days before the abortion.

5 * Sec. 3. AS 18.16.010 is amended by adding new subsections to read:

6 (e) A person who performs or induces an abortion in violation of (a)(3) of this
7 section is civilly liable to the pregnant minor and the minor's parents, guardian, or cus-
8 todian for compensatory and punitive damages.

9 (f) It is an affirmative defense to a prosecution or claim for a violation of
10 (a)(3) of this section that the pregnant minor provided the person who performed or
11 induced the abortion with false, misleading, or incorrect information about the minor's
12 age, marital status, or emancipation, and the person who performed or induced the
13 abortion did not otherwise have reasonable cause to believe that the pregnant minor
14 was under 18 years of age, unmarried, or unemancipated.

15 (g) It is an affirmative defense to a prosecution or claim for violation of (a)(3)
16 of this section that compliance with the requirements of (a)(3) of this section was not
17 possible because an immediate threat of serious risk to the life or physical health of
18 the pregnant minor from the continuation of the pregnancy created a medical
19 emergency necessitating the immediate performance or inducement of an abortion. In
20 this subsection, "medical emergency" means a condition that, on the basis of the
21 physician's or surgeon's good faith clinical judgment, so complicates the medical
22 condition of a pregnant minor that

23 (1) an immediate abortion of the minor's pregnancy is necessary to
24 avert the minor's death; or

25 (2) a delay in providing an abortion will create serious risk of
26 substantial and irreversible impairment of a major bodily function of the pregnant
27 minor.

28 * Sec. 4. AS 18.16 is amended by adding new sections to read:

29 **Sec. 18.16.020. Consent required before minor's abortion.** A person may
30 not knowingly perform or induce an abortion upon a minor who is known to the
31 person to be pregnant, unmarried, under 18 years of age, and unemancipated unless,

1 before the abortion, at least one of the following applies:

2 (1) one of the minor's parents or the minor's guardian or custodian has
3 consented in writing to the performance or inducement of the abortion;

4 (2) a court issues an order under AS 18.16.030 authorizing the minor
5 to consent to the abortion without consent of a parent, guardian, or custodian, and the
6 minor consents to the abortion; or

7 (3) a court, by its inaction under AS 18.16.030, constructively has
8 authorized the minor to consent to the abortion without consent of a parent, guardian,
9 or custodian, and the minor consents to the abortion.

10 **Sec. 18.16.030. Judicial bypass for minor seeking an abortion.** (a) A
11 woman who is pregnant, unmarried, under 18 years of age, and unemancipated who
12 wishes to have an abortion without the consent of a parent, guardian, or custodian may
13 file a complaint in the superior court requesting the issuance of an order authorizing
14 the minor to consent to the performance or inducement of an abortion without the
15 consent of a parent, guardian, or custodian.

16 (b) The complaint shall be made under oath and must include all of the
17 following:

18 (1) a statement that the complainant is pregnant;

19 (2) a statement that the complainant is unmarried, under 18 years of
20 age, and unemancipated;

21 (3) a statement that the complainant wishes to have an abortion without
22 the consent of a parent, guardian, or custodian;

23 (4) an allegation of either or both of the following:

24 (A) that the complainant is sufficiently mature and well enough
25 informed to decide intelligently whether to have an abortion without the
26 consent of a parent, guardian, or custodian; or

27 (B) that one or both of the minor's parents or the minor's
28 guardian or custodian was engaged in a pattern of physical, sexual, or
29 emotional abuse against the minor, or that the consent of a parent, guardian, or
30 custodian otherwise is not in the minor's best interest;

31 (5) a statement as to whether the complainant has retained an attorney

1 and, if an attorney has been retained, the name, address, and telephone number of the
2 attorney.

3 (c) The court shall fix a time for a hearing on any complaint filed under (a)
4 of this section and shall keep a record of all testimony and other oral proceedings in
5 the action. The hearing shall be held at the earliest possible time, but not later than
6 the fifth business day after the day that the complaint is filed. The court shall enter
7 judgment on the complaint immediately after the hearing is concluded. If the hearing
8 required by this subsection is not held by the fifth business day after the complaint is
9 filed, the failure to hold the hearing shall be considered to be a constructive order of
10 the court authorizing the complainant to consent to the performance or inducement of
11 an abortion without the consent of a parent, guardian, or custodian, and the
12 complainant and any other person may rely on the constructive order to the same
13 extent as if the court actually had issued an order under this section authorizing the
14 complainant to consent to the performance or inducement of an abortion without such
15 consent.

16 (d) If the complainant has not retained an attorney, the court shall appoint an
17 attorney to represent the complainant.

18 (e) If the complainant makes only the allegation set out in (b)(4)(A) of this
19 section and if the court finds by clear and convincing evidence that the complainant
20 is sufficiently mature and well enough informed to decide intelligently whether to have
21 an abortion, the court shall issue an order authorizing the complainant to consent to
22 the performance or inducement of an abortion without the consent of a parent,
23 guardian, or custodian. If the court does not make the finding specified in this
24 subsection, it shall dismiss the complaint.

25 (f) If the complainant makes only the allegation set out in (b)(4)(B) of this
26 section and the court finds by clear and convincing evidence that there is evidence of
27 a pattern of physical, sexual, or emotional abuse of the complainant by one or both of
28 the minor's parents or the minor's guardian or custodian, or that the consent of the
29 parents, guardian, or custodian of the complainant otherwise is not in the best interest
30 of the complainant, the court shall issue an order authorizing the complainant to
31 consent to the performance or inducement of an abortion without the consent of a

1 parent, guardian, or custodian. If the court does not make the finding specified in this
2 subsection, it shall dismiss the complaint.

3 (g) If the complainant makes both of the allegations set out in (b)(4) of this
4 section, the court shall proceed as follows:

5 (1) the court first shall determine whether it can make the finding
6 specified in (e) of this section and, if so, shall issue an order under that subsection;
7 if the court issues an order under this paragraph, it may not proceed under (f) of this
8 section; if the court does not make the finding specified in (e) of this section, it shall
9 proceed under (2) of this subsection;

10 (2) if the court under (1) of this subsection does not make the finding
11 specified in (e) of this section, it shall proceed to determine whether it can make the
12 finding specified in (f) of this section and, if so, shall issue an order under that
13 subsection; if the court does not make the finding specified in (f) of this section, it
14 shall dismiss the complaint.

15 (h) The court may not notify the parents, guardian, or custodian of the
16 complainant that the complainant is pregnant or wants to have an abortion.

17 (i) If the court dismisses the complaint, the complainant has the right to appeal
18 the decision to the supreme court, and the superior court immediately shall notify the
19 complainant that there is a right to appeal.

20 (j) If the complainant files a notice of appeal authorized under this section, the
21 superior court shall deliver a copy of the notice of appeal and the record on appeal to
22 the supreme court within four days after the notice of appeal is filed. Upon receipt of
23 the notice and record, the clerk of the supreme court shall place the appeal on the
24 docket. The appellant shall file a brief within four days after the appeal is docketed.
25 Unless the appellant waives the right to oral argument, the supreme court shall hear
26 oral argument within five days after the appeal is docketed. The supreme court shall
27 enter judgment in the appeal immediately after the oral argument or, if oral argument
28 has been waived, within five days after the appeal is docketed. Upon motion of the
29 appellant and for good cause shown, the supreme court may shorten or extend the
30 maximum times set out in this subsection. However, in any case, if judgment is not
31 entered within five days after the appeal is docketed, the failure to enter the judgment

1 shall be considered to be a constructive order of the court authorizing the appellant to
2 consent to the performance or inducement of an abortion without the consent of a
3 parent, guardian, or custodian, and the appellant and any other person may rely on the
4 constructive order to the same extent as if the court actually had entered a judgment
5 under this subsection authorizing the appellant to consent to the performance or
6 inducement of an abortion without consent of another person. In the interest of justice,
7 the supreme court, in an appeal under this subsection, shall liberally modify or
8 dispense with the formal requirements that normally apply as to the contents and form
9 of an appellant's brief.

10 (k) Each hearing under this section, and all proceedings under (j) of this
11 section, shall be conducted in a manner that will preserve the anonymity of the
12 complainant. The complaint and all other papers and records that pertain to an action
13 commenced under this section, including papers and records that pertain to an appeal
14 under this section, shall be kept confidential and are not public records under
15 AS 09.25.110 - 09.25.120.

16 (l) The supreme court shall prescribe complaint and notice of appeal forms that
17 shall be used by a complainant filing a complaint or appeal under this section. The
18 clerk of each superior court shall furnish blank copies of the forms, without charge,
19 to any person who requests them.

20 (m) A filing fee may not be required of, and court costs may not be assessed
21 against, a complainant filing a complaint under this section or an appellant filing an
22 appeal under this section.

23 (n) Blank copies of the forms prescribed under (l) of this section and
24 information on the proper procedures for filing a complaint or appeal shall be made
25 available by the court system at the official location of each superior court, district
26 court, and magistrate in the state. The information required under this subsection must
27 also include notification to the minor that

28 (1) there is no filing fee required for either form;

29 (2) no court costs will be assessed against the minor for procedures
30 under this section;

31 (3) an attorney will be appointed to represent the minor if the minor

1 does not retain an attorney;

2 (4) the minor may request that the superior court with appropriate
3 jurisdiction hold a telephonic hearing on the complaint so that the minor need not
4 personally be present.

5 **Sec. 18.16.090. Definitions.** In this chapter,

6 (1) "abortion" means the use or prescription of an instrument, medicine,
7 drug, or other substance or device to terminate the pregnancy of a woman known to
8 be pregnant, except that "abortion" does not include the termination of a pregnancy if
9 done with the intent to

10 (A) save the life or preserve the health of the unborn child;

11 (B) deliver the unborn child prematurely to preserve the health
12 of both the pregnant woman and the woman's child; or

13 (C) remove a dead unborn child;

14 (2) "unemancipated" means that a woman who is unmarried and under
15 18 years of age has not done any of the following:

16 (A) entered the armed services of the United States;

17 (B) become employed and self-subsisting;

18 (C) been emancipated under AS 09.55.590; or

19 (D) otherwise become independent from the care and control of
20 the woman's parent, guardian, or custodian.

21 * Sec. 5. AS 44.21.410(a) is amended to read:

22 (a) The office of public advocacy shall

23 (1) perform the duties of the public guardian under AS 13.26.360 -
24 13.26.410;

25 (2) provide visitors and experts in guardianship proceedings under
26 AS 13.26.131;

27 (3) provide guardian ad litem services to children in child protection
28 actions under AS 47.17.030(e) and to wards and respondents in guardianship
29 proceedings who will suffer financial hardship or become dependent upon a
30 government agency or a private person or agency if the services are not provided at
31 state expense under AS 13.26.112;

1 (4) provide legal representation in cases involving judicial bypass
2 procedures for minors seeking abortions under AS 18.16.030, in guardianship
3 proceedings to respondents who are financially unable to employ attorneys under
4 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
5 opposing party is represented by counsel provided by a public agency, to indigent
6 parents or guardians of a minor respondent in a commitment proceeding concerning
7 the minor under AS 47.30.775;

8 (5) provide legal representation and guardian ad litem services under
9 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
10 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
11 petitions for the termination of parental rights on grounds set out in
12 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
13 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
14 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
15 protective orders on behalf of a minor; and in cases involving indigent persons who
16 are entitled to representation under AS 18.85.100 and who cannot be represented by
17 the public defender agency because of a conflict of interests;

18 (6) develop and coordinate a program to recruit, select, train, assign,
19 and supervise volunteer guardians ad litem from local communities to aid in delivering
20 services in cases in which the office of public advocacy is appointed as guardian ad
21 litem;

22 (7) provide guardian ad litem services in proceedings under
23 AS 12.45.046;

24 (8) establish a fee schedule and collect fees for services provided by
25 the office, except as provided in AS 18.85.120 or when imposition or collection of a
26 fee is not in the public interest as defined under regulations adopted by the
27 commissioner of administration;

28 (9) provide visitors and guardians ad litem in proceedings under
29 AS 47.30.839;

30 (10) provide legal representation to indigent parents under
31 AS 14.30.195(e).

1 * Sec. 6. AS 18.16.010(d) is repealed.

2 * Sec. 7. AS 18.16.030(c), added by sec. 4 of this Act, has the effect of amending Rule
3 40, Alaska Rules of Civil Procedure, by setting a specific timetable for hearing certain cases.

4 * Sec. 8. AS 18.16.030(j), added by sec. 4 of this Act, has the effect of amending Rules
5 204, 210, 212, and 213, Alaska Rules of Appellate Procedure, by establishing specific time
6 limits applicable to certain appeals and by instructing the supreme court to modify or dispense
7 with formal requirements applicable to certain briefs.

8 * Sec. 9. AS 18.16.030(k), added by sec. 4 of this Act, has the effect of amending Rule
9 512.5, Alaska Rules of Appellate Procedure, by making certain appellate records and papers
10 confidential.

11 * Sec. 10. AS 18.16.030(m), added by sec. 4 of this Act, has the effect of amending Rule
12 9, Alaska Administrative Rules; Rule 79, Alaska Rules of Civil Procedure; and Rule 508,
13 Alaska Rules of Appellate Procedure, by prohibiting filing fees and assessment of court costs
14 in certain actions.

Lisa's Copy

0-LS0227F
Lauterbach
3/4/97

CS FOR HOUSE BILL NO. 37()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, KOHRING, VEZEY, AND MULDER. Ogan, Dyson, Martin

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to a requirement that a parent, guardian, or custodian consent
2 before certain minors receive an abortion; establishing a judicial bypass procedure
3 by which a minor may petition a court for authorization to consent to an
4 abortion without consent of a parent, guardian, or custodian; amending the
5 definition of 'abortion'; and amending Rules 40 and 79, Alaska Rules of Civil
6 Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate
7 Procedure; and Rule 9, Alaska Administrative Rules."

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

9 * Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this
10 Act to further the important and compelling state interests of
11 (1) protecting minors against their own immaturity;
12 (2) fostering the family structure and preserving it as a viable social unit;

1 (3) protecting the rights of parents to rear children who are members of their
2 household; and

3 (4) protecting the health of minor women.

4 (b) The legislature finds that

5 (1) immature minors often lack the ability to make fully informed choices that
6 take account of both immediate and long-range consequences;

7 (2) the physical, emotional, and psychological consequences of abortion are
8 serious and can be lasting particularly when the patient is immature;

9 (3) the capacity to become pregnant and the capacity for mature judgment
10 concerning the wisdom of an abortion are not necessarily related;

11 (4) parents ordinarily possess information essential to a physician's or
12 surgeon's best medical judgment concerning the child;

13 (5) parents who are aware that their minor daughter has had an abortion may
14 better ensure that the daughter receives adequate medical attention after the abortion;

15 (6) parental consultation is usually desirable and in the best interest of the
16 minor; and

17 (7) parental involvement legislation enacted in other states has shown to have
18 a significant effect in reducing abortion, birth, and pregnancy rates among minors.

19 * Sec. 2. AS 18.16.010(a) is amended to read:

20 (a) An abortion may not be performed in this state unless

21 (1) the abortion is performed by a physician or surgeon licensed by the
22 State Medical Board under AS 08.64.200;

23 (2) the abortion is performed in a hospital or other facility approved for
24 the purpose by the Department of Health and Social Services or a hospital operated by
25 the federal government or an agency of the federal government;

26 (3) before an abortion is knowingly performed or induced on an
27 unmarried, unemancipated woman under 18 years of age, consent has been given
28 as required under AS 18.16.020 or a court has authorized the minor to consent
29 to the abortion under AS 18.16.030 and the minor consents; for purposes of
30 enforcing this paragraph, there is a rebuttable presumption that a woman who
31 is unmarried and under 18 years of age is unemancipated [CONSENT HAS BEEN

1 RECEIVED FROM THE PARENT OR GUARDIAN OF AN UNMARRIED WOMAN
2 LESS THAN 18 YEARS OF AGE]; and

3 (4) the woman is domiciled or physically present in the state for 30
4 days before the abortion.

5 * Sec. 3. AS 18.16.010 is amended by adding new subsections to read:

6 (e) A person who performs or induces an abortion in violation of (a)(3) of this
7 section is civilly liable to the pregnant minor and the minor's parents, guardian, or cus-
8 todian for compensatory and punitive damages.

9 (f) It is an affirmative defense to a prosecution or claim for a violation of
10 (a)(3) of this section that the pregnant minor provided the person who performed or
11 induced the abortion with false, misleading, or incorrect information about the minor's
12 age, marital status, or emancipation, and the person who performed or induced the
13 abortion did not otherwise have reasonable cause to believe that the pregnant minor
14 was under 18 years of age, unmarried, or unemancipated.

15 (g) It is an affirmative defense to a prosecution or claim for violation of (a)(3)
16 of this section that compliance with the requirements of (a)(3) of this section was not
17 possible because an immediate threat of serious risk to the life or physical health of
18 the pregnant minor from the continuation of the pregnancy created a medical
19 emergency necessitating the immediate performance or inducement of an abortion. In
20 this subsection, "medical emergency" means a condition that, on the basis of the
21 physician's or surgeon's good faith clinical judgment, so complicates the medical
22 condition of a pregnant minor that

23 (1) an immediate abortion of the minor's pregnancy is necessary to
24 avert the minor's death; or

25 (2) a delay in providing an abortion will create serious risk of
26 substantial and irreversible impairment of a major bodily function of the pregnant
27 minor.

28 * Sec. 4. AS 18.16 is amended by adding new sections to read:

29 **Sec. 18.16.020. Consent required before minor's abortion.** A person may
30 not knowingly perform or induce an abortion upon a minor who is known to the
31 person to be pregnant, unmarried, under 18 years of age, and unemancipated unless,

1 before the abortion, at least one of the following applies:

2 (1) one of the minor's parents or the minor's guardian or custodian has
3 consented in writing to the performance or inducement of the abortion;

4 (2) a court issues an order under AS 18.16.030 authorizing the minor
5 to consent to the abortion without consent of a parent, guardian, or custodian, and the
6 minor consents to the abortion; or

7 (3) a court, by its inaction under AS 18.16.030, constructively has
8 authorized the minor to consent to the abortion without consent of a parent, guardian,
9 or custodian, and the minor consents to the abortion.

10 **Sec. 18.16.030. Judicial bypass for minor seeking an abortion.** (a) A
11 woman who is pregnant, unmarried, under 18 years of age, and unemancipated who
12 wishes to have an abortion without the consent of a parent, guardian, or custodian may
13 file a complaint in the superior court requesting the issuance of an order authorizing
14 the minor to consent to the performance or inducement of an abortion without the
15 consent of a parent, guardian, or custodian.

16 (b) The complaint shall be made under oath and must include all of the
17 following:

18 (1) a statement that the complainant is pregnant;

19 (2) a statement that the complainant is unmarried, under 18 years of
20 age, and unemancipated;

21 (3) a statement that the complainant wishes to have an abortion without
22 the consent of a parent, guardian, or custodian;

23 (4) an allegation of either or both of the following:

24 (A) that the complainant is sufficiently mature and well enough
25 informed to decide intelligently whether to have an abortion without the
26 consent of a parent, guardian, or custodian; or

27 (B) that one or both of the minor's parents or the minor's
28 guardian or custodian was engaged in a pattern of physical, sexual, or
29 emotional abuse against the minor, or that the consent of a parent, guardian, or
30 custodian otherwise is not in the minor's best interest;

31 (5) a statement as to whether the complainant has retained an attorney

1 and, if an attorney has been retained, the name, address, and telephone number of the
2 attorney.

3 (c) The court shall fix a time for a hearing on any complaint filed under (a)
4 of this section and shall keep a record of all testimony and other oral proceedings in
5 the action. The hearing shall be held at the earliest possible time, but not later than
6 the fifth business day after the day that the complaint is filed. The court shall enter
7 judgment on the complaint immediately after the hearing is concluded. If the hearing
8 required by this subsection is not held by the fifth business day after the complaint is
9 filed, the failure to hold the hearing shall be considered to be a constructive order of
10 the court authorizing the complainant to consent to the performance or inducement of
11 an abortion without the consent of a parent, guardian, or custodian, and the
12 complainant and any other person may rely on the constructive order to the same
13 extent as if the court actually had issued an order under this section authorizing the
14 complainant to consent to the performance or inducement of an abortion without such
15 consent.

16 (d) If the complainant has not retained an attorney, the court shall appoint an
17 attorney to represent the complainant.

18 (e) If the complainant makes only the allegation set out in (b)(4)(A) of this
19 section and if the court finds by clear and convincing evidence that the complainant
20 is sufficiently mature and well enough informed to decide intelligently whether to have
21 an abortion, the court shall issue an order authorizing the complainant to consent to
22 the performance or inducement of an abortion without the consent of a parent,
23 guardian, or custodian. If the court does not make the finding specified in this
24 subsection, it shall dismiss the complaint.

25 (f) If the complainant makes only the allegation set out in (b)(4)(B) of this
26 section and the court finds by clear and convincing evidence that there is evidence of
27 a pattern of physical, sexual, or emotional abuse of the complainant by one or both of
28 the minor's parents or the minor's guardian or custodian, or that the consent of the
29 parents, guardian, or custodian of the complainant otherwise is not in the best interest
30 of the complainant, the court shall issue an order authorizing the complainant to
31 consent to the performance or inducement of an abortion without the consent of a

1 parent, guardian, or custodian. If the court does not make the finding specified in this
2 subsection, it shall dismiss the complaint.

3 (g) If the complainant makes both of the allegations set out in (b)(4) of this
4 section, the court shall proceed as follows:

5 (1) the court first shall determine whether it can make the finding
6 specified in (e) of this section and, if so, shall issue an order under that subsection;
7 if the court issues an order under this paragraph, it may not proceed under (f) of this
8 section; if the court does not make the finding specified in (e) of this section, it shall
9 proceed under (2) of this subsection:

10 (2) if the court under (1) of this subsection does not make the finding
11 specified in (e) of this section, it shall proceed to determine whether it can make the
12 finding specified in (f) of this section and, if so, shall issue an order under that
13 subsection: if the court does not make the finding specified in (f) of this section, it
14 shall dismiss the complaint.

15 (h) The court may not notify the parents, guardian, or custodian of the
16 complainant that the complainant is pregnant or wants to have an abortion.

17 (i) If the court dismisses the complaint, the complainant has the right to appeal
18 the decision to the supreme court, and the superior court immediately shall notify the
19 complainant that there is a right to appeal.

20 (j) If the complainant files a notice of appeal authorized under this section, the
21 superior court shall deliver a copy of the notice of appeal and the record on appeal to
22 the supreme court within four days after the notice of appeal is filed. Upon receipt of
23 the notice and record, the clerk of the supreme court shall place the appeal on the
24 docket. The appellant shall file a brief within four days after the appeal is docketed.
25 Unless the appellant waives the right to oral argument, the supreme court shall hear
26 oral argument within five days after the appeal is docketed. The supreme court shall
27 enter judgment in the appeal immediately after the oral argument or, if oral argument
28 has been waived, within five days after the appeal is docketed. Upon motion of the
29 appellant and for good cause shown, the supreme court may shorten or extend the
30 maximum times set out in this subsection. However, in any case, if judgment is not
31 entered within five days after the appeal is docketed, the failure to enter the judgment

1 shall be considered to be a constructive order of the court authorizing the appellant to
 2 consent to the performance or inducement of an abortion without the consent of a
 3 parent, guardian, or custodian, and the appellant and any other person may rely on the
 4 constructive order to the same extent as if the court actually had entered a judgment
 5 under this subsection authorizing the appellant to consent to the performance or
 6 inducement of an abortion without consent of another person. In the interest of justice,
 7 the supreme court, in an appeal under this subsection, shall liberally modify or
 8 dispense with the formal requirements that normally apply as to the contents and form
 9 of an appellant's brief.

10 (k) Each hearing under this section, and all proceedings under (j) of this
 11 section, shall be conducted in a manner that will preserve the anonymity of the
 12 complainant. The complaint and all other papers and records that pertain to an action
 13 commenced under this section, including papers and records that pertain to an appeal
 14 under this section, shall be kept confidential and are not public records under
 15 AS 09.25.110 - 09.25.120.

16 (l) The supreme court shall prescribe complaint and notice of appeal forms that
 17 shall be used by a complainant filing a complaint or appeal under this section. The
 18 clerk of each superior court shall furnish blank copies of the forms, without charge,
 19 to any person who requests them.

20 (m) A filing fee may not be required of, and court costs may not be assessed
 21 against, a complainant filing a complaint under this section or an appellant filing an
 22 appeal under this section.

23 (n) Blank copies of the forms prescribed under (l) of this section and
 24 information on the proper procedures for filing a complaint or appeal shall be made
 25 available by the court system at the official location of each superior court, district
 26 court, and magistrate in the state. The information required under this subsection must
 27 also include notification to the minor that

- 28 (1) there is no filing fee required for either form;
- 29 (2) no court costs will be assessed against the minor for procedures
- 30 under this section;
- 31 (3) an attorney will be appointed to represent the minor if the minor

1 does not retain an attorney;

2 (4) the minor may request that the superior court with appropriate
3 jurisdiction hold a telephonic hearing on the complaint so that the minor need not
4 personally be present.

5 **Sec. 18.16.090. Definitions.** In this chapter,

6 (1) "abortion" means the use or prescription of an instrument, medicine,
7 drug, or other substance or device to terminate the pregnancy of a woman known to
8 be pregnant, except that "abortion" does not include the termination of a pregnancy if
9 done with the intent to

10 (A) save the life or preserve the health of the unborn child;

11 (B) deliver the unborn child prematurely to preserve the health
12 of both the pregnant woman and the woman's child; or

13 (C) remove a dead unborn child;

14 (2) "unemancipated" means that a woman who is unmarried and under
15 18 years of age has not done any of the following:

16 (A) entered the armed services of the United States;

17 (B) become employed and self-subsisting;

18 (C) been emancipated under AS 09.55.590; or

19 (D) otherwise become independent from the care and control of
20 the woman's parent, guardian, or custodian.

21 * **Sec. 5.** AS 44.21.410(a) is amended to read:

22 (a) The office of public advocacy shall

23 (1) perform the duties of the public guardian under AS 13.26.360 -
24 13.26.410;

25 (2) provide visitors and experts in guardianship proceedings under
26 AS 13.26.131;

27 (3) provide guardian ad litem services to children in child protection
28 actions under AS 47.17.030(e) and to wards and respondents in guardianship
29 proceedings who will suffer financial hardship or become dependent upon a
30 government agency or a private person or agency if the services are not provided at
31 state expense under AS 13.26.112;

1 (4) provide legal representation in cases involving judicial bypass
2 procedures for minors seeking abortions under AS 18.16.030, in guardianship
3 proceedings to respondents who are financially unable to employ attorneys under
4 AS 13.26.106(b), to indigent parties in cases involving child custody in which the
5 opposing party is represented by counsel provided by a public agency, to indigent
6 parents or guardians of a minor respondent in a commitment proceeding concerning
7 the minor under AS 47.30.775;

8 (5) provide legal representation and guardian ad litem services under
9 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
10 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
11 petitions for the termination of parental rights on grounds set out in
12 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
13 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
14 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for
15 protective orders on behalf of a minor; and in cases involving indigent persons who
16 are entitled to representation under AS 18.85.100 and who cannot be represented by
17 the public defender agency because of a conflict of interests;

18 (6) develop and coordinate a program to recruit, select, train, assign,
19 and supervise volunteer guardians ad litem from local communities to aid in delivering
20 services in cases in which the office of public advocacy is appointed as guardian ad
21 litem;

22 (7) provide guardian ad litem services in proceedings under
23 AS 12.45.046;

24 (8) establish a fee schedule and collect fees for services provided by
25 the office, except as provided in AS 18.35.120 or when imposition or collection of a
26 fee is not in the public interest as defined under regulations adopted by the
27 commissioner of administration;

28 (9) provide visitors and guardians ad litem in proceedings under
29 AS 47.30.839;

30 (10) provide legal representation to indigent parents under
31 AS 14.30.195(e).

1 * Sec. 6. AS 18.16.010(d) is repealed.

2 * Sec. 7. AS 18.16.030(c), added by sec. 4 of this Act, has the effect of amending Rule
3 40, Alaska Rules of Civil Procedure, by setting a specific timetable for hearing certain cases.

4 * Sec. 8. AS 18.16.030(j), added by sec. 4 of this Act, has the effect of amending Rules
5 204, 210, 212, and 213, Alaska Rules of Appellate Procedure, by establishing specific time
6 limits applicable to certain appeals and by instructing the supreme court to modify or dispense
7 with formal requirements applicable to certain briefs.

8 * Sec. 9. AS 18.16.030(k), added by sec. 4 of this Act, has the effect of amending Rule
9 512.5, Alaska Rules of Appellate Procedure, by making certain appellate records and papers
10 confidential.

11 * Sec. 10. AS 18.16.030(m), added by sec. 4 of this Act, has the effect of amending Rule
12 9, Alaska Administrative Rules; Rule 79, Alaska Rules of Civil Procedure; and Rule 508,
13 Alaska Rules of Appellate Procedure, by prohibiting filing fees and assessment of court costs
14 in certain actions.

Alaska State Legislature

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House District 31

House Of Representatives

MEMORANDUM

TO: House Judiciary Committee

FROM: Representative Pete Kelly *Pete*

DATE: 7 March 1997

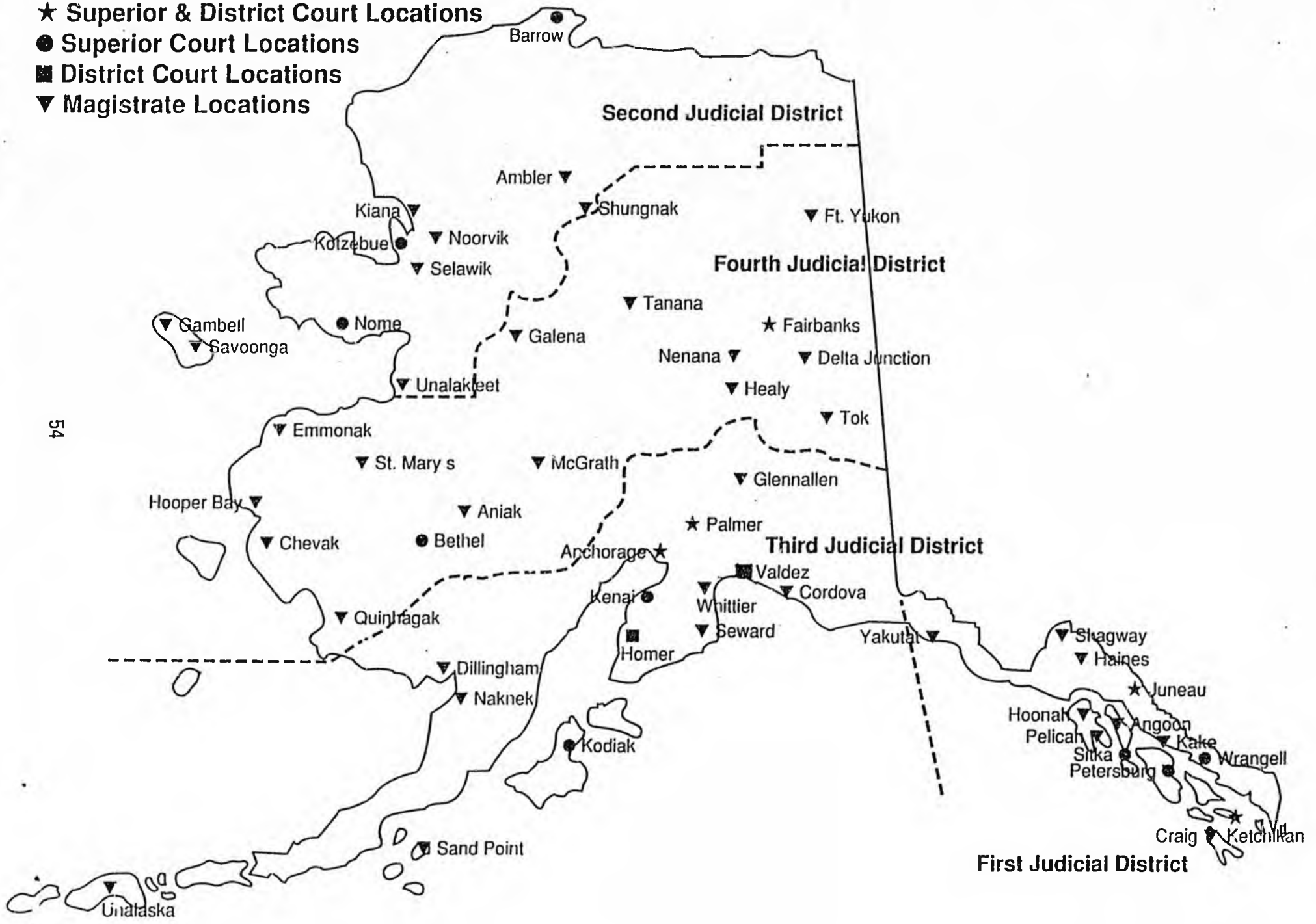
RE: House Bill 37 -- Committee Substitute (version F)
Court Locations

Subsection (n) on page 7 mandates that information on the proper procedures for filing an appeal shall be made available by the court system. Each superior court, district court, and magistrate in the state is an official location of the superior court system. I attached a map showing these locations throughout the state. This language addresses the concerns of many that girls in villages will not have access to the judicial procedure. This map speaks to the contrary.

Keep in mind, however, that the judicial bypass procedure is far more accessible than an abortion in this state. Few communities have staffed facilities to perform abortions. Girls in rural areas will have to travel to an urban community to obtain the procedure.

ALASKA COURT LOCATIONS

- ★ Superior & District Court Locations
- Superior Court Locations
- District Court Locations
- ▼ Magistrate Locations



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House District 31

House Of Representatives

MEMORANDUM

TO: House Judiciary Committee

FROM: Representative Pete Kelly 

DATE: 4 March 1997

RE: House Bill 37
Committee Substitute

The CS for House Bill 37 incorporates the following changes:

(1) Page 7, following line 21. Inserts a new subsection to read:

(n) Blank copies of the forms prescribed under (1) of this section and information on the proper procedures for filing a complaint or appeal shall be made available by the court system at the official location of each superior court system at the official location of each superior court, district court, and magistrate in the state. The information required under this subsection must also include notification to the minor that

- (1) there is no filing fee required for either form;
- (2) no court costs will be assessed against the minor for procedures under this section;
- (3) an attorney will be appointed to represent the minor if the minor does not retain an attorney;
- (4) the minor may request that the superior court with appropriate jurisdiction hold a telephonic hearing on the complaint so that the minor need not personally be present.

(2) Page 2, Line 25. A technical change is required here, in order to make the language consistent with the rest of the bill:

(3) before an abortion is knowingly performed or induced on an unmarried,....

(3) There are several instances in the bill where the word "woman" is used to describe the pregnant minor. At least in common usage, the term woman implies an adult female, and to that extent this wording can cause confusion. Given the context of the bill, it is unlikely a court would be confused on the meaning, but the public might. We think it is an important distinction, since the Constitutional rights of minors and adults with respect to abortion are very differently interpreted by the Supreme Court. Accordingly, I have substituted the term "minor" or "minor's" in the following areas where the terms "woman" or "woman's" are employed:

Page 3:

Line 6 (both references)
Line 9
Line 11
Line 13
Line 17
Line 21
Line 22
Line 23
Line 26
Line 29

Page 4:

Line 1 (both references)
Line 3
Line 5
Line 7
Line 8
Line 13
Line 26 (both references)
Line 28
Line 29

Page 5:

Line 27 (both references)

Alaska State Legislature

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House District 31

House Of Representatives

MEMORANDUM

TO: House Judiciary Committee

FROM: Representative Pete Kelly 

DATE: 5 March 1997

RE: Corrected Line References
House Bill 37
Committee Substitute

The CS for House Bill 37 incorporates the following changes:

(1) Page 7, following line 22. Inserts a new subsection to read:

(n) Blank copies of the forms prescribed under (1) of this section and information on the proper procedures for filing a complaint or appeal shall be made available by the court system at the official location of each superior court system at the official location of each superior court, district court, and magistrate in the state. The information required under this subsection must also include notification to the minor that

- (1) there is no filing fee required for either form;
- (2) no court costs will be assessed against the minor for procedures under this section;
- (3) an attorney will be appointed to represent the minor if the minor does not retain an attorney;
- (4) the minor may request that the superior court with appropriate jurisdiction hold a telephonic hearing on the complaint so that the minor need not personally be present.

(2) Page 2, Line 26. A technical change is required here, in order to make the language consistent with the rest of the bill:

(3) before an abortion is knowingly performed or induced on an unmarried,....

(3) There are several instances in the bill where the word "woman" is used to describe the pregnant minor. At least in common usage, the term woman implies an adult female, and to that extent this wording can cause confusion. Given the context of the bill, it is unlikely a court would be confused on the meaning, but the public might. We think it is an important distinction, since the Constitutional rights of minors and adults with respect to abortion are very differently interpreted by the Supreme Court. Accordingly, I have substituted the term "minor" or "minor's" in the following areas where the terms "woman" or "woman's" are employed:

Page 3:

Line 7 (both references)
Line 10
Line 12
Line 14
Line 18
Line 22
Line 23
Line 24
Line 27
Line 30

Page 4:

Line 2 (both references)
Line 4
Line 6
Line 8
Line 9
Line 14
Line 27 (both references)
Line 29
Line 30

Page 5:

Line 28 (both references)

Alaska State Legislature

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House District 31

House Of Representatives

Sectional Analysis

CSHB 37

Parental Consent for Minor's Abortion

Section 1: Purpose and Legislative findings

- Intent of legislation is to protect the health and welfare of minors, foster and preserve the family structure as a viable social unit, and protect the rights of parents to rear their children.
- The legislature finds that parents often possess information on the medical history of the minor that is essential to a physician's or surgeon's medical judgement.
- The legislature also finds that minors stand to benefit from parental counsel; the capacity to become pregnant and the capacity for mature judgment concerning the wisdom of an abortion are not necessarily related.

Section 2: Amends Title 18 of Alaska Statutes (Health & Safety)

- Repeals existing language on parental consent [AS 18.16.010(a)(3)] and replaces it with language requiring either parental consent or court authorization before an abortion can be performed on an unemancipated minor. The bill establishes a rebuttable presumption that an unmarried woman under 18 is unemancipated.

Section 3: Establishes new subsections under AS 18.16.010 (Regulation of Abortions)

- Person who performs an abortion without obtaining the required consent is civilly liable to the minor's parent(s) or guardian for compensatory and punitive damages.
- It is an affirmative defense to prosecution if the person performing the abortion was provided by the pregnant minor with false, misleading, or incorrect information about age, marital status, or emancipation.
- It is an affirmative defense to prosecution if the person performing the abortion could not comply with the consent requirement because the continuation of the