

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9209 HOUSE JUDICIARY

WHY STATES SHOULD ADOPT THE UNIFORM CHILD CUSTODY JURISDICTION AND ENFORCEMENT ACT

The Uniform Child Custody Jurisdiction Act (UCCJA), approved by the Uniform Law Commissioners (ULC) in 1968 and the law in every state, has been revised. The new act, the Uniform Child Custody Jurisdiction and Enforcement Act, goes much further than simply updating the UCCJA. It also contains provisions on the enforcement of custody orders, an issue the original UCCJA did not address, and it eliminates differences between the uniform act and the federal Parental Kidnapping Prevention Act.

There are a number of reasons why every state should adopt the Uniform Child Custody Jurisdiction and Enforcement Act.

ENHANCED RULES FOR CUSTODY DETERMINATIONS

- *Updated Home State Provisions.* The new act gives prioritization to the home state as a ground for taking jurisdiction.
- *Continuing Exclusive Jurisdiction.* A new provision has been added which provides that a state which makes the initial custody determination has continuing exclusive jurisdiction so long as a party to the original custody determination remains in that state. A state with continuing exclusive jurisdiction is the only state which can modify a custody order. If it determines that another state has a more significant connection to the child, it may relinquish its authority.
- *Emergency Jurisdiction.* The new act clarifies the provisions regarding emergency jurisdiction, allowing a court to take jurisdiction even though it is not the home state, if the child is present in the state and has been abandoned, or is subjected to or threatened with mistreatment or abuse. An order issued by a court with emergency jurisdiction is temporary.

NEW ENFORCEMENT PROVISIONS

- *Expedited Enforcement Hearings.* At an enforcement hearing, a petitioner only needs to show a certified copy of the custody determination to be enforced, evidence of a violation by the respondent, and show the remedy sought. The court will then decide whether the remedy sought should be granted.
- *Enhanced Court Remedies.* If the enforcing court is concerned that the parent, who has physical custody of the child, will flee or harm the child, a warrant to take physical possession of the child is available.

Duty to Enforce. The new act provides that a court has the duty to enforce a custody determination of another state. However, a child custody order of another state is not subject to modification.

UNIFORMITY

This act will provide uniformity of law, necessary in a time when the mobility of the American public makes it imperative to have laws regarding child custody determinations uniform from state to state.

Lack of uniformity muddies the child custody waters in many ways: it increases the costs of the enforcement action; it decreases the lack of certainty of outcome; and it often turns enforcement of a child custody or visitation order into a long and drawn out process. Every state should act quickly to adopt the Uniform Child Custody Jurisdiction and Enforcement Act.

HB

336

CITY OF CORDOVA, ALASKA

RESOLUTION 02-98-11

**A RESOLUTION IN SUPPORT OF HOUSE BILL 337 AND THE CONCEPT
OF HOUSE BILL 336 OF THE 20th LEGISLATURE, SECOND SESSION**

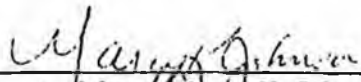
WHEREAS, Cordova Electric Cooperative, Inc. is constructing the Power Creek Hydroelectric Facility to lower the cost of power in Cordova; and

WHEREAS, Cordova Electric Cooperative, Inc. is willing to relinquish PCE funding in exchange for a State grant in the amount of \$7.5 million; and

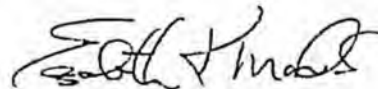
WHEREAS, Cordova Electric Cooperative, Inc. has secured financing for the remainder of the total project cost which is estimated at \$15 million,

NOW, THEREFORE, BE IT RESOLVED that the City of Cordova, Alaska, supports the Board of Directors of Cordova Electric Cooperative in urging passage of House Bill 337 and supports companion legislation which would preclude Cordova Electric Cooperative from future eligibility for Power Cost Equalization funding, if Cordova Electric Cooperative receives a State Grant in the amount of \$7.5 million for the Power Creek Hydroelectric Facility.

PASSED AND APPROVED THIS 11th DAY OF FEBRUARY, 1998.



Mayor Margy K. Johnson



Clerk Elizabeth Manfred

CS FOR HOUSE BILL NO. 336()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KUBINA, Kott

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to eligibility for power cost equalization."**

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

3 *** Section 1. AS 42.45 is amended by adding a new section to read:**

4 **Sec. 42.45.145. Ineligibility for power cost equalization after certain**
5 **construction.** An electric utility that is otherwise determined to be an eligible electric
6 utility under AS 42.45.150 becomes ineligible to receive power cost equalization on
7 the day that is six months after the day on which an electric generation facility
8 described in this section first provides electricity to customers served by the electric
9 utility. An electric utility loses its eligibility under AS 42.45.100 - 42.45.150 if, on
10 or after January 1, 1998, it constructs a hydroelectric generation facility, or other
11 electric generation facility that is not powered by diesel fuel, for which a grant from
12 the state pays at least half the cost of construction and that is designed to supply more
13 than 75 percent of the total electrical load of that utility.

14 *** Sec. 2. AS 42.45.150(2) is amended to read:**

15 (2) "eligible electric utility" or "electric utility" means a public,

1 cooperative, or other corporation, company, individual, or association of individuals,
2 and includes the lessees, trustees, or receivers appointed by a court, that **has not**
3 **become ineligible under AS 42.45.145 and that**

4 (A) owns, operates, manages, or controls a plant or system for
5 the furnishing, by generation, transmission, or distribution, of electric service
6 to the public for compensation;

7 (B) during calendar year 1983, had a residential consumption
8 level of power eligible for power cost equalization under former AS 44.83 of
9 less than 7,500 megawatt hours or had a residential consumption level of power
10 eligible for power cost equalization under former AS 44.83 of less than 15,000
11 megawatt hours if the utility served two or more municipalities or
12 unincorporated communities; and

13 (C) during calendar year 1984, used diesel fired generators to
14 produce more than 75 percent of the electrical consumption of the utility; an
15 electric utility that is a subsidiary of another electric utility is an "eligible
16 electric utility" if the operations of the subsidiary, considered separately, meet
17 the eligibility requirements of AS 42.45.100 - 42.45.150; if an electric utility
18 did not receive power cost assistance in 1983 but is otherwise eligible for
19 power cost equalization under AS 42.45.100 - 42.45.150, the utility is an
20 "eligible electric utility";

MEMORANDUM

Date: 2/13/98
To: Tom
From: Kevin Jardell
Re: HB 336 Power Cost Equalization Eligibility

Page 1 Line 12 insert after "that", "has the ability to supply"

OR

Page 1 Line 12 insert after "that", "is designed to supply"

The first suggestion would eliminate those entities that might run the facility at lower than full power to go under 75%.

The second suggestion could be harsher but would place a higher burden on the utility to do its homework in the design. If they design it to produce 75% and it doesn't meet that expectation they still lose their PCE. It would ensure a wise use of the grant money.

Perhaps add a new section that states: A utility that is ineligible under AS 42.45.145 may not become eligible in the future due to fluctuations in its electrical load needs.

WORK DRAFT

WORK DRAFT

WORK DRAFT

0-LS1132F
Cramer
2/12/98

Rup Kubina
Att: Tom

CS FOR HOUSE BILL NO. 336()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KUBINA, Kott

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to eligibility for power cost equalization."**

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

3 *** Section 1. AS 42.45 is amended by adding a new section to read:**

4 **Sec. 42.45.145. Ineligibility for power cost equalization after certain**
5 **construction. An electric utility that is otherwise determined to be an eligible electric**
6 **utility under AS 42.45.150 becomes ineligible to receive power cost equalization on**
7 **the day that is six months after the day on which an electric generation facility**
8 **described in this section first provides electricity to customers served by the electric**
9 **utility. An electric utility loses its eligibility under AS 42.45.100 - 42.45.150 if, on**
10 **or after January 1, 1998, it constructs a hydroelectric generation facility, or other**
11 **electric generation facility that is not powered by diesel fuel, for which a grant from**
12 **the state pays at least half the cost of construction and that supplies more than 75**
13 **percent of the total electrical load of that utility.**

14 *** Sec. 2. AS 42.45.150(2) is amended to read:**

15 **(2) "eligible electric utility" or "electric utility" means a public,**

WORK DRAFT

WORK DRAFT

0-LS1132AF

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20

cooperative, or other corporation, company, individual, or association of individuals,
and includes the lessees, trustees, or receivers appointed by a court, that has not
become ineligible under AS 42.45.145 and that

(A) owns, operates, manages, or controls a plant or system for
the furnishing, by generation, transmission, or distribution, of electric service
to the public for compensation;

(B) during calendar year 1983, had a residential consumption
level of power eligible for power cost equalization under former AS 44.83 of
less than 7,500 megawatt hours or had a residential consumption level of power
eligible for power cost equalization under former AS 44.83 of less than 15,000
megawatt hours if the utility served two or more municipalities or
unincorporated communities; and

(C) during calendar year 1984, used diesel fired generators to
produce more than 75 percent of the electrical consumption of the utility; an
electric utility that is a subsidiary of another electric utility is an "eligible
electric utility" if the operations of the subsidiary, considered separately, meet
the eligibility requirements of AS 42.45.100 - 42.45.150; if an electric utility
did not receive power cost assistance in 1983 but is otherwise eligible for
power cost equalization under AS 42.45.100 - 42.45.150, the utility is an
"eligible electric utility";

Alaska State Legislature

Committees

Labor & Commerce
Legislative Council
World Trade
Trade & Tourism
Special Committee
on Fisheries



Representative Eugene Kubina
House Minority Leader

During Session:
Alaska State Capitol
Juneau, Alaska 99801-1182

During Interim:
P.O. Box 2463
Valdez, Alaska 99686

Sponsor Statement

During the '80s, the state of Alaska developed a two-pronged approach to developing affordable electric power throughout Alaska: hydroelectric plants and interties for the Railbelt communities, and Power Cost Equalization (PCE) for the smaller, rural towns and villages.

The result was dramatic. The Railbelt communities, including Anchorage, the Kenai, and the Mat-Su, saw their electrical rates drop as hydroelectric projects came on line and interties connected the various communities within cost effective electric grids. In rural Alaska, the PCE program was created to reduce electrical energy costs for the smaller communities by subsidizing rates.

However, just as the state of Alaska is determined to wean as many of its people as possible off state and federally funded social programs, so too is there a need for the state to look for ways to replace the Power Cost Equalization (PCE) Program as a financial supplement to high electrical costs in our rural communities.

H.B. 336 proposes such a program. In exchange for grant funds to upgrade current electrical generation systems (through new technologies and improvement), communities would relinquish PCE payments. The incentive is twofold:

- 1) PCE has a questionable future; and
- 2) Improved technologies could feasibly reduce electrical costs to the subsidized level.

H.B. 336 seeks to ultimately reduce the state budget while assisting rural communities in finding more cost-effective ways to produce needed electrical energy. It is a program and a concept that speaks to the future

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: CS HB 336

Revision Date: _____ Dept. Affected: Community & Regional Affairs
 Title: An Act relating to eligibility for power cost BRU: Rural Energy Programs
equalization Component: Energy Operations
 Sponsor: Representative Kubina Power Cost Equalization
 Requestor: House CRA COMPONENT SERIAL NO. 1965

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS		(347.1)	(708.0)	(722.2)	(735.6)	(751.4)
MISCELLANEOUS						
TOTAL OPERATING						

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

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

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		(347.1)	(708.0)	(722.2)	(735.6)	(751.4)
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL						

Estimate of current year (FY 98) impact: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: CS HB 336 is associated with a companion bill (CS HB 337) which would provide for an appropriation for the construction of a hydroelectric project in Cordova. If the proposed companion bills are passed, the annual demand on the General Fund for Power Cost Equalization (PCE) will decrease effective January 2000 (six months after the completion of the Power Creek Hydroelectric project), as Cordova Electric Cooperative would no longer participate in the PCE program. The proposed appropriation of \$7.5 million in CS HB 337 will be recovered by the State in about 11 years (by FY 2010) and general fund savings will continue to accrue in the following years.

The basis and assumptions used in arriving at the PCE projected savings calculations are:

FY97 PCE disbursements to Cordova Electric Cooperative, Inc. at the 85% level: \$654.1

2% annual increased disbursements;

Continue PCE disbursements at the 85% level and no other changes to the PCE program.

Completion of the Power Creek Hydroelectric project: June 30, 1999;

General Fund appropriations will be needed to support the PCE program effective FY2000.

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
 Division: Administration Date: 2/5/98
 Approved by Commissioner: *Mike Irwin* Date: 2/5/98
 Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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

For further distribution information call the Governor's Legislative Office

**Cordova Electric Cooperative, Inc.**

P.O. BOX 20 • CORDOVA ALASKA 99574 • 907 424 5527 • FAX 907 424 5527

RESOLUTION 98-03

A RESOLUTION IN SUPPORT OF HOUSE BILL 337 AND THE CONCEPT OF HOUSE BILL 336 OF THE 20TH LEGISLATURE, SECOND SESSION

WHEREAS, Cordova Electric Cooperative, Inc. is constructing the Power Creek Hydroelectric Facility to lower the cost of power in Cordova, and

WHEREAS, Cordova Electric Cooperative, Inc. is willing to relinquish PCE funding in exchange for a State grant in the amount of \$7.5 million, and

WHEREAS, Cordova Electric Cooperative, Inc. has secured financing for the remainder of the total project cost which is estimated at \$15 million,

THEREFORE, BE IT RESOLVED that the Board of Directors of Cordova Electric Cooperative hereby urges passage of House Bill 337 and supports companion legislation which would preclude Cordova Electric Cooperative from future eligibility for Power Cost Equalization funding, if Cordova Electric Cooperative receives a State Grant in the amount of \$7.5 million for the Power Creek Hydroelectric Facility.

Dated and approved this 26th day of January, 1998

Jon K. Stavig
Jon K. Stavig, CEC-President

Patricia L. Jones
Patricia L. Jones, Secretary/Treasurer





Cordova Electric Cooperative, Inc.

P.O. BOX 20 • CORDOVA ALASKA 99574 • (907) 424-5555 • FAX (907) 424-5527

POWER CREEK HYDROELECTRIC PROJECT FACT SHEET

◆ Cost of Money

- Cordova Electric Cooperative (CEC) has the highest blended interest rate in the State for utility loan funds.

◆ Cost of Power

- The average cost of power in 1997 was 20.41 cents per KWH.
- Grant financing will lower the average cost of power to 15.82 cents per KWH.

◆ State Help on Other Projects

- The four-dam pool received \$300 million in grants.
- Seward received \$15 million in grants for an intertie to the railbelt power grid.

◆ Status of Project

- The Federal Energy Regulatory Commission (FERC) issued the license on December 24th, 1997.
- CEC has received \$4 million in grants from the Federal government over the past two years and is in queue for \$3.5 million this year. Many thanks to our congressional delegation, especially Senator Stevens.
- The Alaska Division of Energy approved a \$1 million 0% interest loan to fund part of the cost of obtaining the FERC license.
- Construction is scheduled to begin this spring with completion in 1999.

◆ PCE Benefits

- CEC receives the largest PCE amount of any single community in the state, which averages \$700,000 per year.
- Since the 1992 feasibility study done by the Alaska Energy Authority, CEC has stated that in return for grant funding for 50% of the project that CEC would give up the PCE program after the project was commercially operational for a one-year period.

Now is the time to speak up about power cost equalization

By Charles Y. Walls

While we Alaskans continue to debate and solve many of our problems, making way for our different viewpoints, there is one issue that we all usually agree upon: The need for dependable, reasonably priced electricity for rural Alaska.

Local governments and utility companies of all sizes wrestle with various funding and regulatory sources year-round to make sure they can pass on the best deal to their communities and customers. For just over a year the Alaska Rural Electric Cooperative Association's Rural Issues Forum has been pro-actively trying to educate people on rural energy problems; specifically on the Power Cost Equalization program.

The rural utility managers who are members of the Rural Issues Forum are worried that if the PCE program's funding source isn't stabilized within the next three years, many rural Alaskans will be faced with electric bills so high it could bring about a collapse in many areas of the rural economy.

The PCE program was created by the state in 1984 as part of its commitment to long-term affordable power for all Alaskan communities. While Railbelt communities have benefited from hydroelectric plants and interties, rural residents receive credits from the PCE program to offset the high cost of generating power in rural Alaska. Your PCE credit is your fair share

Commentary

of the state's capital spending for energy. Even after the equalization program, residents of 102 rural communities still pay more than twice the urban rates.

Originally the PCE funding was intended as an annual appropriation. Three years ago a legislative change made a one-time \$67 million grant to PCE. At current spending rates the fund will be spent in 1999. We are uncertain where future funding will come from.

As a group, the Rural Issues Forum has proposed several ways of decreasing funding. Rural utilities have prepared for a smaller, but sustainable PCE program going into the 21st century by working hard on decreasing operating costs and exploring alternative forms of energy. In fact, state figures show rural utilities' operating costs have declined by about one-third (after inflation adjustment) since the PCE program began. For example, AVEC has doubled the fuel efficiency of its power plants over the past twenty years. But without the PCE program some utilities serving small communities could fail, forcing community facilities into self-generation at even higher costs. Why would they fail? It's a simple economy of scale. Larger sales bases are able to spread their costs out better than utilities with smaller sales bases.

Increased electric rates would create a

Catch-22 in rural Alaska. The higher rates could cause customers to cut way back on their power consumption, which would create increased operating costs and plant inefficiencies to serve the shrinking demand base. Our customers who would not be able to pay their bills would create another cycle of problems.

Funding to the PCE program has decreased over the past several years. The program benefit level is at 85 percent of full benefits, which will require an estimated \$19.3 million in fiscal year 1998.

This year the Alaska State Legislature did the right thing and funded the PCE fund for another year. They did so with some debate, however, because there are always more worthwhile projects around than there is funding dollars. This means the PCE program must always restate its case as a worthwhile program and that we must constantly remind legislators about their promises to rural Alaska and the program's intent. What was the original intent? PCE is not a rural subsidization freebie, it is an equalization of rates between urban Alaska and rural Alaska, where often the electrical rates are four times greater. PCE is an effort to level the playing field, so rural residents don't have to live in third-world conditions and so rural Alaskans can make economic development dreams become realities without being unfairly burdened by high utility rates.

As the summer season fades to winter, we

know the electric bills will be rising. I would say that now is the right time, as we head into another winter, to remind the people who are most important to the ongoing success of the PCE program about its needs. It is right now that your legislators — your neighbors — are home. And don't forget, Gov. Knowles also takes time to travel around the state.

I would suggest that the next time you see a legislator or other state official in your hometown that you let them know how important PCE is to your utility bills during those cold, winter months.

Be sure to tell your legislators, too, that without a stable funding source the PCE program fund will be completely empty by 1999. Tell them you are grateful for their ongoing support, because as a whole our rural legislators have been very supportive of PCE.

The state has big investments to protect in rural Alaska. Billions of dollars in capital spending projects for hospitals, public health clinics, safety facilities, schools and water and sewer projects that need a steady, reliable, affordable energy supply.

The PCE program is a worthy program that deserves the assurance of a stable funding source and the commitment by legislators to rural Alaska.

Charles Walls is the ARECA Rural Issues Forum Chairman and President & CEO of Alaska Village Electric Cooperative, Inc.

Letters to the editor

...asses

and Moose Caboose are to be commended for an outstanding effort in ... of aluminum

Future Problem Solver or call Miriam at 424-3178. Thanks for recycling!

from in front of the Nicoloff house on the corner of Third and Council to access power lines. This left the entire ... the alley with

diverted the water back to the street and stopped the flooding. An hour or so after we had the flooding stopped, Jim Roberts appeared. At no time did

CS FOR HOUSE BILL NO. 336(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KUBINA, Kott

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to eligibility for power cost equalization."

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

3 * Section 1. AS 42.45 is amended by adding a new section to read:

4 **Sec. 42.45.145. Ineligibility for power cost equalization after certain**
5 **construction.** An electric utility that is otherwise determined to be an eligible electric
6 utility under AS 42.45.150 becomes ineligible to receive power cost equalization on
7 the day that is six months after the day on which an electric generation facility
8 described in this section first provides electricity to customers served by the electric
9 utility. An electric utility loses its eligibility under AS 42.45.100 - 42.45.150 if, on
10 or after January 1, 1998, it constructs a hydroelectric generation facility, or other
11 electric generation facility that is not powered by diesel fuel, for which a grant from
12 the state pays at least half the cost of construction and that is designed to supply more
13 than 75 percent of the total electrical load of that utility.

14 * Sec. 2. AS 42.45.150(2) is amended to read:

15 (2) "eligible electric utility" or "electric utility" means a public,

1 cooperative, or other corporation, company, individual, or association of individuals,
2 and includes the lessees, trustees, or receivers appointed by a court, that has not
3 become ineligible under AS 42.45.145 and that

4 (A) owns, operates, manages, or controls a plant or system for
5 the furnishing, by generation, transmission, or distribution, of electric service
6 to the public for compensation;

7 (B) during calendar year 1983, had a residential consumption
8 level of power eligible for power cost equalization under former AS 44.83 of
9 less than 7,500 megawatt hours or had a residential consumption level of power
10 eligible for power cost equalization under former AS 44.83 of less than 15,000
11 megawatt hours if the utility served two or more municipalities or
12 unincorporated communities; and

13 (C) during calendar year 1984, used diesel fired generators to
14 produce more than 75 percent of the electrical consumption of the utility; an
15 electric utility that is a subsidiary of another electric utility is an "eligible
16 electric utility" if the operations of the subsidiary, considered separately, meet
17 the eligibility requirements of AS 42.45.100 - 42.45.150; if an electric utility
18 did not receive power cost assistance in 1983 but is otherwise eligible for
19 power cost equalization under AS 42.45.100 - 42.45.150, the utility is an
20 "eligible electric utility";

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 6, 1998

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/18/98

The JUDICIARY Committee considered:

HB 336

HOUSE BILL NO. 336

ELIGIBILITY FOR POWER COST EQUALIZATION

"An Act relating to eligibility for power cost equalization."

recommends it be replaced with the following committee substitute CS HB 336 (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) Community + Regional Affairs fiscal note(s) _____

zero fiscal note(s) _____ zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>[Signature]</i>	✓			
<i>[Signature]</i> Kelly	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
<i>[Signature]</i>				✓
<i>[Signature]</i>	✓			

CHAIR'S SIGNATURE *[Signature]*

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO: Bill Version: CSHB 336 (CRA)
(H) Publish Date: 2/6/98

Revision Date: _____ Dept. Affected: Community & Regional Affairs
Title: An Act relating to eligibility for power cost BRU: Rural Energy Programs
equalization Component: Energy Operations
Sponsor: Representative Kubina Power Cost Equalization
Requestor: House CRA COMPONENT SERIAL NO. 1965

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

OPERATING	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS CLAIMS		(347.1)	(708.0)	(722.2)	(735.6)	(751.4)
MISCELLANEOUS						
TOTAL OPERATING						

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

CHANGE IN REVENUES ()						
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GE Match						
1004 GE		(347.1)	(708.0)	(722.2)	(735.6)	(751.4)
1005 GE/Program Receipts						
1006 GE/MHTIA						
Other						
TOTAL						

Estimate of current year (FY 98) impact: \$ -0-

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: CS HB 336 is associated with a companion bill (CS HB 337) which would provide for an appropriation for the construction of a hydroelectric project in Cordova. If the proposed companion bills are passed, the annual demand on the General Fund for Power Cost Equalization (PCE) will decrease effective January 2000 (six months after the completion of the Power Creek Hydroelectric project), as Cordova Electric Cooperative would no longer participate in the PCE program. The proposed appropriation of \$7.5 million in CS HB 337 will be recovered by the State in about 11 years (by FY 2010) and general fund savings will continue to accrue in the following years.

The basis and assumptions used in arriving at the PCE projected savings calculations are:

- FY97 PCE disbursements to Cordova Electric Cooperative, Inc. at the 85% level: \$654.1
- 2% annual increased disbursements;
- Continue PCE disbursements at the 85% level and no other changes to the PCE program.
- Completion of the Power Creek Hydroelectric project: June 30, 1999;
- General Fund appropriations will be needed to support the PCE program effective FY2000.

Prepared By: Remond Henderson, Director *Remond Henderson* Phone: 465-4708
Division: Administration Date: 2/5/98
Approved by Commissioner: Mike Irwin *Mike Irwin* Date: 2/5/98
Agency: Mike Irwin, Dept. of Community & Reg. Affairs

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

HB

344

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 23, 1998

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 2/17/98

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 344

HOUSE BILL NO. 344

PATERNITY/CHILD SUPPORT/NONSUPPORT CRIMES

“An Act relating to paternity establishment and child support; relating to the crimes of criminal nonsupport and aiding the nonpayment of child support; and amending Rule 37(b)(2)(D), Alaska Rules of Civil Procedure; and providing for an effective date.”

recommends it be replaced with the following committee substitute CS HB 344 (HES) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

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

zero fiscal note(s) Admin zero fiscal note(s) Revenue/1/23/98
(2) Admin 1/23/98

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Joseph D. ...</i>			✓	
<i>Car Beards</i>	✓			
<i>Brian D. Fortee</i>	✓			
<i>John ...</i>		✓		
<i>John ...</i>		✓		
<i>Tom ...</i>			✓	

CHAIR'S SIGNATURE *Car Beards*

LEGAL SERVICES

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

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

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

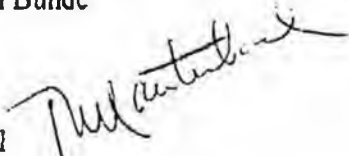
MEMORANDUM

February 13, 1998

SUBJECT: Paternity; Support (CSHB 344(HES), version "E")

TO: Representative Con Bunde
Attn: Lynne

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is a draft HES CS for HB 344. We have added the Porter amendment, as requested.

Since this was our first opportunity to review the underlying governor's bill, we have also made some technical changes at a number of other places in the bill, chief among them the following:

(1) changing the first part of the bill title so that it refers to "support orders" rather than "child support"; this change, or something similar, is needed because of the change in the definition of "support order" in sec. 26 of the bill; it appears that a support order may now include only an alimony order as long as a child is living in the same household;

(2) deletion of the phrase "occurring after the effective date of this bill section" in AS 25.27.075(a) and the addition of a corresponding applicability section at the end of the bill.

Please let us know if we can be of further assistance.

TML:lmb
98-012.lmb

Enclosure

TONY KNOWLES
GOVERNOR



HB 344

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

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 21, 1998

The Honorable Gail Phillips
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Phillips:

While federal welfare reform law gave our state greater flexibility for providing public assistance, it also required Alaska and other states to make extensive changes to their state child support laws. The attached bill is needed to satisfy mandates placed on Alaska by the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996.

Failure to comply with the federal child support mandates may result in a significant reduction in federal financial participation to the state for public assistance, unemployment, and child support enforcement programs.

The state's enactment of Senate Bill 154 last year met most, but not all, of the federal child support mandates of federal welfare reform. More needs to be done to finish the job. This bill will do that by making additional changes to Alaska's statutes.

Under this bill, all employers in the state would be required to report each new hire to the state child support enforcement agency within 20 days. The state will share this information with the federal child support agency and the child support agencies of other states. Timely access to this information may help avoid significant delays in support payments for some children.

The bill would also fine-tune state procedures for establishing paternity and for enforcing child support orders. The bill would also make state law conform to new federal requirements regarding reporting of social security numbers for certain licensees not already required to report under state law. The social security numbers provide an invaluable means of ensuring that support payments are timely received and accurately recorded.


The Honorable Gail Phillips
January 21, 1998
Page 2

The bill also amends the Uniform Interstate Family Support Act (UIFSA), which Alaska enacted in 1995, to reflect subsequent changes to the uniform Act adopted by the National Conference of Commissioners on Uniform State Laws. Congress requires that our state child support laws be consistent with the uniform Act.

Finally, this bill will give state courts the power to suspend or revoke, in appropriate circumstances, the recreational hunting and fishing licenses and certain permits of obligors who are out of compliance with child support laws.

I urge your prompt attention to this important matter. Alaska's children are our most precious resource and they deserve timely access to child support necessary for their care.

Sincerely,



Tony Knowles
Governor

1

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE PORTER

TO: HB 344

1 Page 1, following line 10:

2 Insert a new bill section to read:

3 **** Sec. 2.** AS 09.10.040(a) is amended to read:

4 (a) A [EXCEPT AS PROVIDED IN (b) OF THIS SECTION, A] person may
5 not bring an action upon a judgment or decree of a court of the United States, or of
6 a state or territory within the United States, and an action may not be brought upon
7 a sealed instrument, unless the action is commenced within 10 years."

8 Renumber the following bill sections accordingly.

9 Page 11, following line 20:

10 Insert a new bill section to read:

11 **** Sec. 30.** AS 09.10.040(b) is repealed."

12 Renumber the following bill sections accordingly.

13 Renumber internal references to bill sections in accordance with this amendment. Internal
14 bill section references occur in the following places:

15 Page 11, line 22

16 Page 11, line 23

17 Page 11, line 26

18 Page 11, line 27

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

April 15, 1998

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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

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

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

The Honorable Joseph Green
Chairman, House Judiciary Committee
Capitol, Room 118
Juneau, AK 99801-1182

Attention: Kevin Jardell

Re: CSHB 344 (HES) and
Federal Child Support Mandates

Dear Representative Green:

Kevin Jardell, a member of your staff, contacted the Child Support Enforcement Division (CSED) on behalf of the House Judiciary Committee, and asked for written assurances that each and every provision of CSHB 344 (HES) is necessary to meet federal child support mandates. CSED has asked me to respond.

In its current form, CSHB 344 (HES) contains some provisions which we now know are not necessary to meet federal child support mandates. One of the non-mandated provisions, section two of the committee substitute, was added by operation of an amendment offered by Representative Porter. The other non-mandated provisions were part of the original bill. These provisions would subject someone to the loss of sport fishing and hunting licenses for failing to honor a paternity order or child support subpoena. At the time the bill was drafted, it was felt that these provisions were mandated by 42 U.S.C. § 666(a)(16). Federal child support authorities have subsequently provided assurances that the provisions are not mandated by federal child support laws.

At the time HB 344 was filed in the Alaska House, an identical bill, SB 252 was filed in the Alaska Senate. The non-mandated fish and game licensing provisions were removed from SB 252 by the Senate Health, Education and Social Services Committee when the committee adopted CSSB 252 (HES). A copy of the bill is enclosed. CSED then asked federal child support officials to review CSSB 252 (HES) to confirm that all the provisions of the bill are required by federal child support law. The request was met by Steve Henigson, Regional Administrator, Administration for

The Honorable Joseph Green
Re: CSHB 344 (HES) and
Federal Child Support Mandates

April 15, 1998
Page 2

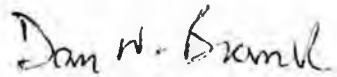
Children and Families, U.S. Department of Health and Human Services.

Mr. Henigson's letter to CSED Director, Barbara Miklos, is enclosed. In the letter, Mr. Henigson assures that, "We find that each of the provisions in SB 252 responds to mandates in PRWORA (Personal Responsibility and Work Opportunity Act of 1996). In addition, we do not find any provisions in SB 252 that go beyond the requirements of PRWORA." The Personal Responsibility and Work Opportunity Act of 1996 is the Federal Welfare Reform Act which added many child support mandates that states must satisfy, in order to avoid financial sanctions.

Please let me know if you have any additional questions.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Dan N. Branch
Assistant Attorney General

/DNB:ame

Enclosure

cc w/enc.: Patrick Pourchot, Legislative Director
Office of the Governor

Deborah Vogt, Deputy Commissioner
Department of Revenue

Barbara Miklos, Director
Department of Revenue
Child Support Enforcement Division

Deborah Behr, Assistant Attorney General
Legislation, Regulations Section

Chrystal Smith, Legal Administrator
Office of the Attorney General



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

2201 Sixth Avenue, Suite 600
Seattle, WA 98121-1827

Barbara Miklos, Director
Child Support Enforcement Division
Department of Revenue
550 West 7th Avenue
Anchorage, Alaska 99501-6699

APR 13

MAR 24 1998

RECEIVED
APR 1 1998

Dear Ms. Miklos:

CSSED-DIRECTOR

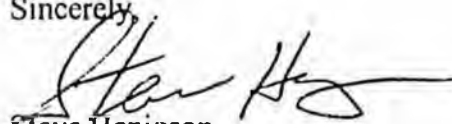
This letter is in response to your request, dated March 16, 1998, that our office determine whether the provisions in draft HES CS for SB 252 are required under Federal law. The draft Bill we are reviewing is dated March 11, 1998.

We reviewed the language in each section contained in HB 252, and compared it with the provisions in the Social Security Act (the Act) covering Child Support Enforcement, in particular the provisions of the Personal Responsibility and Work Opportunity Act of 1996 (PRWORA). We then evaluated whether the language in HB 252 responds to mandated language in the Act. The accompanying attachment includes the results of that comparison. We find that each of the provisions in SB 252 responds to mandates in PRWORA. In addition, we do not find any provisions in SB 252 that go beyond the requirements of PRWORA.

This determination is not a final assurance that each of the provisions cited in the attachment fully meets the mandates of PRWORA. It is also not a final assurance that the Bill, in its entirety, addresses all the requirements of PRWORA. Our final review will take longer than the time frame in which you requested a response, will evaluate enacted legislation in the context of Alaska's overall statutory and regulatory authorities, and will involve analysis and comments by other entities within ACF/OCSE. We appreciate this opportunity to review this draft Bill, and look forward to reviewing the final legislation when enacted.

If you have any further questions please contact Michael Furtado at (206) 615-2770, ext. 3045.

Sincerely,


Steve Henigson
Regional Administrator

Enclosure

Attachment A:

SB 252, Sections 2 through 4 respond to mandates in Section 466(a)(16) of the Social Security Act (the Act), which requires the state to have the authority to withhold or suspend driver's, professional and occupational, and recreational and sporting licenses, of individual's owing overdue child support.

SB 252, Sections 5 through 7, and 25 respond to mandates in Section 466(a)(13) of the Act, regarding recording of Social Security Numbers.

SB 252, Sections 8 and 26 respond to mandates in Section 466(c)(1)(D) of the Act, which requires the IV-D agency have access to the records of other state agencies.

SB 252, Sections 9 and 10 respond to mandates in Section 466(f) of the Act, requiring the state to adopt model Uniform Interstate Family Support Act (UIFSA) language.

SB 252, Section 13 responds to mandates in Section 466(b) of the Act, requiring income withholding be applied to various forms of income including, but not exclusively, wages.

SB 252, Section 14 responds to mandates in Section 466(a)(19) of the Act, which requires notice of Medical Support Orders be sent to an obligor's new employer.

SB 252, Section 15 responds to mandates in Section 453A of the Act, which requires employers to report new hires without limiting the report to those employees employed beyond a certain timeframe.

SB 252, Section 16 responds to mandates in Section 466(a)(16) of the Act, which requires the state have the authority to withhold or suspend various licenses when, among other circumstances, an obligor fails to comply with a subpoena. It is unclear if AS 25.27.085(g), as amended by Section 16, gives this or additional authority. To the extent this section provides an authority beyond withholding licenses, it is not required by Federal law.

SB 252, Section 17 responds to mandates in Section 466(a)(5)(H) of the Act, which requires the state to establish paternity through a default order when a defendant has been served with process as defined in state law.

SB 252, Sections 19 and 20 respond to mandates in Section 466(a)(4) of the Act, which require liens to arise by operation of state law, and liens arising in other states be given Full Faith and Credit, and by 466(c)(1)(G), which requires the state to have the authority to enforce a lien without obtaining a court order.

SB 252, Section 21 responds to mandates in Section 466(a)(4)(B) of the Act, by allowing other parties to enforce properly recorded liens.

Page 2 - Attachment A

SB 252, Section 22 responds to mandates in Section 466(c)(1)(G) of the Act, which requires the state to have the authority to seize assets without obtaining a court order.

SB 252, Section 23 responds to mandates in Section 453(p) of the Act, which defines a support order to include support of a parent with whom a child resides.

SB 252, Section 24 responds to mandates in Section 466(b)(3)(B) of the Act, by defining an arrearage to be an obligation past due and equal to at least one month's obligation. It is also required by 466(a)(16) of the Act, which requires the state to have high volume automated administrative enforcement.

A M E N D M E N T #2

OFFERED IN THE HOUSE
TO: CSHB 344(HES)

1 Page 1, following line 2:

2 Insert "relating to divorces, dissolutions, and actions to declare a marriage void;"

3 Page 3, following line 24:

4 Insert a new bill section to read:

5 *** Sec. 11.** AS 25.20.050(n) is amended to read:

6 (n) Each [ON AND AFTER JULY 1, 1997, A] paternity order or [AN]
7 acknowledgment made under this section must include in the records relating to the
8 matter the social security numbers, if ascertainable, of the following persons:

- 9 (1) the father;
- 10 (2) the mother;
- 11 (3) the child."

12 Renumber the following bill sections accordingly.

13 Page 3, following line 30:

14 Insert new bill sections to read:

15 *** Sec. 13.** AS 25.24.160(d) is amended to read:

16 (d) For each [IN A] judgment issued under this section, the court shall
17 include in the records relating to the matter the social security numbers, if
18 ascertainable, of the following persons:

- 19 (1) each party to the action;
- 20 (2) each child whose rights are addressed in the judgment.

21 *** Sec. 14.** AS 25.24.210(e) is amended to read:

22 (e) If the petition is filed by both spouses under AS 25.24.200(a), the petition

1 must state in detail the terms of the agreement between the spouses concerning the
2 custody of children, child support, visitation, spousal maintenance and tax
3 consequences, if any, and fair and just division of property, including retirement
4 benefits. Agreements on spousal maintenance and property division must fairly
5 allocate the economic effect of dissolution and take into consideration the factors
6 listed in AS 25.24.160(a)(2) and (4). In addition, the petition must state

7 (1) the respective occupations of the petitioners;

8 (2) the income, assets, and liabilities of the respective petitioners at the
9 time of filing the petition;

10 (3) the date and place of the marriage;

11 (4) the name, date of birth, and current marital, educational, and
12 custodial status of each child born of the marriage or adopted by the petitioners who
13 is under the age of 19;

14 (5) whether the wife is pregnant;

15 (6) whether either petitioner requires medical care or treatment;

16 (7) whether any of the following has been issued or filed during the
17 marriage by or regarding either spouse as defendant, participant, or respondent:

18 (A) a criminal charge of a crime involving domestic violence;

19 (B) a protective order under AS 18.66.100 - 18.66.180;

20 (C) injunctive relief under former AS 25.35.010 or 25.35.020;

21 or

22 (D) a protective order issued in another jurisdiction and filed
23 with the court in this state under AS 18.66.140;

24 (8) whether either petitioner has received the advice of legal counsel
25 regarding a divorce or dissolution;

26 (9) other facts and circumstances that the petitioners believe should be
27 considered;

28 (10) that the petition constitutes the entire agreement between the
29 petitioners; and

30 (11) any other relief sought by the petitioners [;

31 (12) THE SOCIAL SECURITY NUMBERS, IF ASCERTAINABLE,
32 OF THE FOLLOWING PERSONS:

- 1 (A) BOTH SPOUSES TO THE MARRIAGE BEING
- 2 DISSOLVED;
- 3 (B) EACH CHILD WHOSE RIGHTS ARE BEING
- 4 ADDRESSED IN THE PETITION FOR DISSOLUTION].

5 * Sec. 15. AS 25.24.210 is amended by adding a new subsection to read:

6 (f) A petition filed under this section must include or be accompanied by a
 7 record of the social security numbers, if ascertainable, of the following persons:

- 8 (1) both spouses to the marriage being dissolved;
- 9 (2) each child whose rights are being addressed in the petition for
 10 dissolution.

11 * Sec. 16. AS 25.24.230(i) is amended to read:

12 (i) For each [IN A] judgment issued under this section, the court shall include
 13 in the records relating to the matter the social security numbers, if ascertainable,
 14 of the following persons:

- 15 (1) each party to the dissolution of marriage;
- 16 (2) each child whose rights are addressed in the judgment."

17 Renumber the following bill sections accordingly.

18 Renumber internal references to bill sections in accordance with this amendment. Below are
 19 all internal bill section references in this bill:

- 20 Page 11, line 27
- 21 Page 11, line 28
- 22 Page 11, line 31
- 23 Page 12, line 1
- 24 Page 12, line 5

W.H. Brown

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 344(HES)

1 Page 1, following line 2:

2 Insert "relating to modification of child custody and visitation orders;"

3 Page 3, following line 30:

4 Insert a new bill section to read:

5 **** Sec. 12.** AS 25.20.110(b) is amended to read:

6 (b) When making a determination relating to child custody under (a) of this
7 section, the court shall consider the past history of the parents with respect to their
8 compliance with the child support payment provisions of temporary or permanent
9 support orders or agreements relating to the child or to other children. The court
10 may not modify the custody or visitation rights of a parent with respect to a child
11 for whom the parent has been in arrears under a permanent support order if the
12 arrears increased after the date the support order became final unless the other
13 parent consents in writing to the modification or the court finds that failure to
14 grant the modification would be detrimental to the best interests of the child.

15 Under this subsection, the court may consider a parent's failure to pay child support
16 only if the parent had actual knowledge of the amount of the child support obligation
17 and had funds available for payment of support or could have obtained those funds
18 through reasonable efforts, as determined by the court."

19 Renumber the following bill sections accordingly.

20 Page 12, following line 3:

21 Insert a new bill section to read:

22 **** Sec. 35. APPLICABILITY.** AS 25.20.110(b), as amended by sec. 12 of this Act,

1 applies to petitions for modification that are filed on or after the effective date of this Act."
2 Renumber internal references to bill sections in accordance with this amendment. Below are
3 all internal bill section references in this bill:

4 Page 11, line 27

5 Page 11, line 28

6 Page 11, line 31

7 Page 12, line 1

8 Page 12, line 5

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 344(HES)

1 Page 3, following line 24:

2 Insert a new bill section to read:

3 **"* Sec. 11.** AS 18.50.310(h) is amended to read:

4 (h) Marriage license applications shall be open for public inspection or
5 examination during normal business hours. The bureau may, in response to a
6 request under AS 25.27.300, disclose to the child support enforcement agency
7 whether the bureau has a record indicating that a person has remarried after the
8 date specified by the agency."

9 Renumber the following bill sections accordingly.

10 Page 10, following line 15:

11 Insert a new bill section to read:

12 **"* Sec. 27.** AS 25.27 is amended by adding a new section to read:

13 **Sec. 25.27.300. Requests pertaining to remarriage.** The agency shall, at the
14 request of a person who is an obligor under a support order enforced by the agency
15 that includes support for a parent with whom a child is living or at the request of a
16 child support enforcement agency of another jurisdiction that is enforcing a support
17 order that includes support for a parent with whom a child is living, request the
18 Bureau of Vital Statistics to disclose to the agency whether the parent has remarried
19 in the state after a specified date if the support order provides that the support for the
20 parent is payable only until the parent remarries. The agency may disclose to the
21 obligor or other child support enforcement agency, as applicable, the information
22 provided by the bureau."

1 Renumber the following bill sections accordingly.

2 Renumber internal references to bill sections in accordance with this amendment. Below are

3 all internal bill section references in this bill:

4 Page 11, line 27

5 Page 11, line 28

6 Page 11, line 31

7 Page 12, line 1

8 Page 12, line 5



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

2201 Sixth Avenue, Suite 600
Seattle, WA 98121-1827

JAN 15 1998

Barbara Miklos, Director
Child Support Enforcement Division
550 West 7th, 4th Floor
Anchorage, AK 99501-3556

Dear Ms. Miklos:

This is in response to your request for clarification of:

- The consequences if a State fails to enact laws or otherwise conform to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, and
 - Nationwide information on state compliance with PRWORA.
1. In order for a State to receive Federal funding for the operation of its child support enforcement program, it must have an approved State IV-D plan which meets the requirements of section 454 of the Social Security Act (the Act). One of those requirements, specified at section 454(20)(A), is that the State must have in effect all of the laws required by section 466.

PRWORA made numerous changes to sections 454 and 466 of the Act. When a State fails to comply with all statutory requisites, its plan is subject to disapproval by the Office of Child Support Enforcement (OCSE). In accordance with sections 452(a)(3) and 455(a)(1)(A) of the Act, there would then be no authority to expend Federal funds under Title IV-D of the Act for the operation of the State's child support enforcement program.

Therefore, a determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. Alaska received approximately \$12.4 million in Title IV-D funding for the administration of its child support program in FY 1997, and over \$3.2 million in Title IV-D performance related child support incentives.

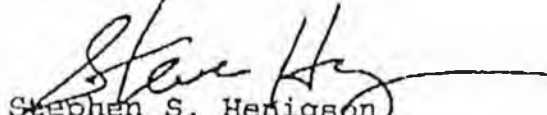
Page 2 - Barbara Miklos

In addition, in order to be eligible for a block grant for Temporary Assistance to Needy Families (TANF), section 402(a)(2) of the Act requires a State to certify that it will operate a child support enforcement program under the State plan approved under part D. Therefore, TANF funding would also be jeopardized if the State failed to enact the required child support legislation on a timely basis. Alaska's Federal funding for IV-A for FY 1997 was approximately \$63 million.

2. Data on state compliance with PRWORA changes frequently. We are therefore unable to provide you with an accurate and up to date listing of which states have fully complied with its provisions. Most states have either passed legislation that has been found complete, or is under review. Alaska is in the category of states which did not pass enabling legislation in 1997, but which have expressed an intent to do so and are working with its Regional Office to develop such legislation. Only one state, Idaho, has failed to enact enabling legislation and has stated it is unwilling to do so. Attached is a "notice of intent" to disapprove Idaho's state plan, with the resulting loss of Federal funding. If proposed legislation is not enacted in Alaska, our office would begin the process of issuing a similar notice of intent to disapprove.

Please contact Michael Furtado at (206) 615-2552, ext. 3045 if you have any further questions.

Sincerely,


Stephen S. Henigson
Regional Administrator

Attachment: Idaho Notice of Intent to Disapprove

Proposed Child Support Legislation to Meet Federal Mandates

HB344 has been introduced to bring Alaska into compliance with mandates of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 as amended. This informal analysis shows how the proposed legislation is designed to comply with specific federal mandates.

- **Action Against Recreational Licenses:** 42 USC 666(a)(16) requires Alaska to have laws giving the state authority to withhold, suspend, or restrict recreational or sporting licenses of individuals owing overdue child support or who have failed, after receiving notice, to comply with a subpoena or warrant relating to paternity or child support. Sections 2, 3, 4, 5, 10, 18, and 20 of the bill are designed to bring Alaska into compliance with 42 USC 666(a)(16). These sections give Alaska courts, in criminal and civil proceedings, the authority to punish contempt of a child support order, or a child support or paternity subpoena, with the loss of hunting or sport fishing licenses.
- **Social Security Numbers on Licenses:** 42 USC 666(a)(13), as amended by technical amendments to the Personal Responsibility and Work Opportunity Act of 1996, now requires Alaska to have laws requiring that applicants for driver's licenses or recreational licenses record their social security numbers on applications and requiring the licensing agencies to share the numbers with the child support agency of this and other states. Sections 6, 7, 8, 9, 27 and 28 are designed to bring Alaska into compliance with 42 USC 666(a)(13).
- **Enforcing Paternity Testing Orders of Other States:** 42 USC 666(c)(1)(A) requires Alaska to have laws which provide for the recognition and enforcement of the genetic testing orders of other states. Section 20 would permit Alaska to honor this commitment by allowing a superior court in Alaska to enforce out of state genetic testing orders with the court's contempt powers.
- **Default Administrative Paternity Orders:** 42 USC 666(a)(5)(H) requires Alaska to have laws which permit the entry of default paternity orders. AS 25.20.050(g) currently allows such orders in court paternity cases. Section 19 of the bill would allow entry of default orders in administrative paternity cases.
- **Additional Amendments to UIFSA:** 42 USC 666(f) requires Alaska to adopt the most current version of the Uniform Interstate Family Support Act (UIFSA). The federal Office of Support Enforcement has stated that states must adopt a verbatim version of the uniform law. Alaska's version of UIFSA is not identical with the uniform law. An attorney for the National Conference of Commissioners on Uniform State Laws has reviewed Alaska's current version of UIFSA and found it acceptable, if amendments are made to two sections of Alaska's UIFSA. Sections 11 and 12 of the bill would make the suggested changes.

- **High Volume Enforcement of Interstate Orders:** 42 USC 666(a)(14) requires Alaska to have laws which permit child support agencies from other states to make electronic requests for high volume automated administrative enforcement of their out of state orders if Alaska provides such enforcement for Alaska orders. Sections 13, 14 and 26 would permit other states to make such a requests.
- **Requirements for honoring interstate withholding orders:** 42 USC 666(b)(6)(A)(I)(V) requires Alaska to have a law stating that employers who receive a withholding order from another state, must follow the laws of the issuing state concerning any terms of withholding that are not stated in the order. Section 14 would satisfy this requirement.
- **Definition of Income:** Section 15 of the bill would amend AS 25.27.062 so that income withholding orders issued by courts will reach all earnings which qualify as "income" under the federal definition of the term set out in 42 USC 666(b)(8). It would do this by replacing the word, "wages" with "earnings" and the words "an employer" with "a person receiving an income withholding order" in AS 25.27.062(e). The current version of AS 25.27.900(4) sets out a definition for "earnings" that is the same definition provided for "income" by 42 USC 666(b)(8). Since 666(b)(8) provides the definition of "income" for the mandatory income withholding provisions of 42 USC 666, section 15 would insure that Alaska will comply with those mandatory income withholding provisions.
- **Medical Support Orders:** In cases where a child support obligor changes employment and the new employer offers health care coverage for the obligor's children, 42 USC 666(a)(19) requires Alaska to have laws which require CSED to send a copy of a medical support order to the new employer. The federal mandate also requires Alaska to have laws which require that the obligor's children will be automatically enrolled in the health care coverage. Section 16 of the bill would comply with the mandates.
- **Employer New Hire:** 42 USC 653A requires Alaska to have a law requiring all employers in the state to report each new hire, rehire, or return to work of every employee to CSED within 20 days of the event. Section 17 of the bill would bring Alaska into compliance with this mandate.
- **Liens:** 42 USC 666(a)(4) requires Alaska to have laws which provide that child support liens arise by operation of law when the obligor is in arrears on his child support debt. The federal law also mandates that Alaska give full faith and credit to the child support liens of other states, and requires Alaska to allow the enforcement of intrastate and interstate child support liens without judicial notice or hearing. These mandates would be satisfied with the passage of sections 21, 22, and 23 of the bill.
- **Income Withholding:** 42 USC 666(c)(1)(G) requires Alaska to have laws which permit the seizure of a child support obligor's assets without the need to first obtain leave from the court or an administrative tribunal if the obligor is in arrears on his obligation. Section 24 would satisfy this mandate.

- **Definition of Support Order:** 42 USC 653(p) provides a definition of "support order" for purposes of the federal child support laws. In SB 154, Alaska adopted the then-current definition of "support order," however Congress subsequently amended 653(p). Section 25 of the bill would make corresponding amendments to "support order" in AS 25.27.900.
- **Definition of Arrearage:** 42 USC 666(b)(3)(B) describes what constitutes an arrearage for purposes of its mandatory income withholding provisions. Section 26 would adopt the same definition for Alaska's child support laws, thereby helping to insure that the Alaska income withholding provisions comply with the federal mandate.
- **Repealing Sunset Provision of SB 154:** In 1997 the Alaska Legislature passed SB 154 in an effort to comply with the mandates of the federal Personal Responsibility and Work Opportunity Reconciliation Act. Section 148(c) of SB 154 provides that all these necessary changes to state law will be repealed on July 1, 1999. Section 29 of the bill would repeal this sunset provision, thereby protecting Alaska from being found drastically out of compliance with federal law.



Alaska State Legislature

Please enter into the record my testimony to the House Judicial Committee
 committee name
 committee on HB # 344, dated April 22, 1998
 bill/subject

Please allow this bill HB # 344 to die peacefully for the sake of thousands of Alaskans; non-custodial parents and employers alike.

1. The fishermen and hunters of this State would not appreciate the possibility of loosing their hunting and fishing license. We, of "Parents United for Custodial Justice" have discussed the "real" possibility of "second families" who are paying child support to first families becoming impoverished, going hungry, and unable to pay other bills. This family situation would need the means to obtain their own food by means of fishing and / or hunting. By judicially removing their fishing and hunting privileges how is that family going to feed their children? I've talked to many men who feel that this is not an appropriate remedy for non-payment of child support. This bill would only create a situation for more people to go hungry. So what's the criteria to take away their hunting and fishing license?? How much arrearage should these hunters and fishermen have before legal and criminal action is taken ??? How long a period of non-payment?? A criteria wasn't even mention in the bill. Why Not??

2. We also have a problem with the sections # 12, 13, 14, 15, and 16 referring to employers sending employee names, SS #s, and addresses of new employees, and re-hiring employees, plus the additional work now required of employers if the bill passes. With this requirement employers will "not likely" be willing to hire non-custodial employees under a support order. Thus; non-custodial parents will not likely be hired, and may even be discriminated against as a candidate for the job.

Other factors relating to employers that has come into question: When employers are interviewing perspective candidates for the job would the employer have to ask a personal question, as "Are you required to pay child support?" A question of this nature would breech "personal confidentiality"! Just HOW would the legislature or CSED plan on informing each and every employer in this State of additional information required by employers if this bill would pass? PLEASE DON'T PASS THIS BILL # 344.

Signed: Carol Palmer
 Testifier

myself & "Parents United for Custodial Justice"
 Representing (Optional)

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

(907) 746-2863
 Phone No.

Carol



Alaska State Legislature

Please enter into the record my testimony to the House Judiciary
 committee name
 committee on HB # 340 , dated May 1, '98
 bill/subject

For the most part, I have no problem with this bill regarding "foster care, or foster parents". But my concern lies with sec. 2, "False report of child abuse or neglect". I know that some people do this (false allegations), just to "get even", with a parent; but... really believes that their "allegations" are true. I bet a people may see an event and "stretch" it all out of proportions.

The problem basically is that DFYS believes these statements to be factual without "real evidence". I know this to be true from personal experience. People/parents are being accused all the time from something "constructed", distorted, a jump to conclusion, exaggerated - all so far from the truth. These accusers believe the exaggeration, distortion, or jump to conclusion. - The innocent parent isn't believed by any dept. & becomes "Nail" for something he/she didn't do & pays for it for years. This is an epidemic problem.

Signed:

Testifier

Carol Co Palmer

Representing (Optional)

P.O. Box 7402, Palmer, Alaska 99645

Address

(907) 746-2863

Phone No.

FISCAL NOTE

No: 5

Bill Version: CSHB 344 (HES)

(H) Publish Date: 2/18/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Revision Date: (Note if correction)

Title: "An Act relating to paternity establishment and child support..."

Sponsor: Rules by Request of Governor

Requestor: (H) HES

Department Affected: Administration

BRU: Public Defender Agency

Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 CF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY 98) cost: \$ none

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

There is no fiscal impact to the Department of Administration.

Prepared by: Barbara Brink, Director
Division: Public Defender Agency

Phone: 264-4414
Date:

Approved by Commissioner: Mark Boyer
Agency: Department of Administration

Date: 2/10/98

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

nn COMMITTEE COPY

FISCAL NOTE

No. 4

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Ver. : HB 344
(H) Publish Date: 1/23/98

Revision Date: _____ Dept. Affected: Revenue
 Title: Federal Welfare Reform BRU: Child Support Enforcement Division
 Component: Child Support Enforcement Division
 Sponsor: Rules
 Requestor: Governor COMPONENT SERIAL NO. 111

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
------------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
1016 Federal Incentive Payments						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY98) cost: \$ 0.0

POSITIONS

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This legislation was developed so that Alaska will be in compliance with the mandates of 1996 federal welfare reform and subsequent technical amendments. This legislation is required to avoid fiscal sanctions that the federal government will impose if the state does not comply with federal law. Failure to satisfy the mandates could mean a drastic reduction in federal funding of Alaska's Child Support Enforcement and Public Assistance Divisions.

The legislation requires employers to report all new hires or rehires within 20 days; gives courts the authority to revoke sport fishing and hunting licenses if the license holder fails to honor a child support or paternity subpoena or is substantially in arrears on child support; mandates that social security numbers be provided on applications for drivers' licenses and hunting and sport fishing licenses and that the information will be shared with child support enforcement agencies; and gives support liens from other states the same standing as Alaskan liens and provides for

(Continued on Page 2)

Prepared by: Barbara Miklos, Director Phone: 269-6800
 Division: Child Support Enforcement Division Date: 11/26/97
 Approved by: [Signature] Date: 11/24/97
 Commissioner: Wilson Condon
 Agency: Dept. of Revenue

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

**DEPARTMENT OF REVENUE
CHILD SUPPORT ENFORCEMENT DIVISION**

Federal Welfare Reform
November 26, 1997
Work Draft #0007
Page 2 of 2

Fiscal Note Analysis, continued

liens to arise as a matter of law. This legislation also makes changes in statutes to assure that the Alaskan child support program is able to operate under federal requirements.

Child support enforcement is a cornerstone of federal welfare reform. Congress has recognized that it is very difficult for families with low incomes to adequately support their children without the assistance of both parents. Therefore, the federal legislation increases requirements for CSED to meet various deadlines and improve processes for obtaining child support.

CSED does not associate increased costs directly with this legislation. Therefore, the fiscal note is zero. However, it must be recognized that changes mandated by welfare reform not addressed in this legislation require additional resources in order for CSED to meet federal requirements.

FISCAL NOTE

No: 3

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: HB 344
 (H) Publish Date: 1/23/98

Revision Date (Note if correction) _____	Dept. Affected _____	Administration _____
Title "An Act relating to paternity establishment and child support"	BRU	Division of Motor Vehicles
Sponsor Rules Committee	Component	Field Services
Requester Governor	Component Serial No.	2150

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: 0.0

POSITIONS

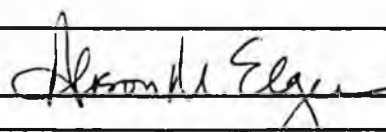
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact anticipated.

Prepared by Juanita Hensley
 Division Motor Vehicles

Approved by Mark Boyer, Commissioner
 Agency Department of Administration



Phone 465-5648
 Date 12/17/97

Date 12/17/97

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

COMMITTEE COPY For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No: 2

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: HB 344
 (H) Publish Date: 1/23/98

Revision Date (Note if correction) _____	Dept. Affected _____	Administration _____
Title "An Act relating to paternity establishment and child support...."	BRU	Office of Public Advocacy
Sponsor Rules Committee	Component	Office of Public Advocacy
Requester Governor	Component Serial No.	43

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Struct res						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

Prepared by Brant McGee
 Division Office of Public Advocacy

Phone 269-3500
 Date _____

Approved by Mark Boyer, Commissioner
 Agency Department of Administration

Date 11/28/97

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

COMMITTEE COPY

For further distribution information, call the Governor's Legislative Office

FISCAL NOTE

No: 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: HB 344
(H) Publish Date: 1/23/98

Revision Date (Note if correction) _____	Dept. Affected	Administration
Title _____	BRU	Legal and Advocacy Services
"An Act relating to paternity establishment and child support..."	Component	Public Defender Agency
Sponsor Rules Committee		
Requester Governor	Component Serial No.	1631

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	***	***	***	***	***	***
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	***	***	***	***	***	***

CAPITAL EXPENDITURES	***	***	***	***	***	***
-----------------------------	-----	-----	-----	-----	-----	-----

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	***	***	***	***	***	***
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	***	***	***	***	***	***

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	***	***	***	***	***	***
Part-time						
Temporary						

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

The main concern the Public Defender Agency has with this bill is the effect it will have on people who need "sport" fishing and hunting licenses for subsistence. Although it is obviously important to comply with federal law, there should be an exception or temporary licensing provision for subsistence hunting and fishing.

This bill may result in a slight increase to the Public Defender Agency caseload. Adding loss of sport fishing and hunting licenses to the already existing criminal laws on non-support probably would not have an effect, although given the importance of sport fishing and hunting licenses in Alaska, more cases may go to trial. The main effect would most likely be in contempt of court cases. Indigent putative fathers who do not complete genetic testing would have a right to a court-appointed attorney in contempt of court

Prepared by <u>Barbara K. Brink, Director</u>	Phone <u>7-264-4414</u>
Division <u>Public Defender Agency</u>	Date _____
Approved by <u>Commissioner Mark Boyer</u> <i>[Signature]</i>	Date <u>11/28/97</u>
Agency <u>Department of Administration</u>	

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

COMMITTEE COPY

For further distribution information, call the Governor's Legislative Office

HB

375

File 1

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

April 21, 1998

Honorable Gene Therriault, Co-Chairman
House Finance Committee
State Capitol Room 511
Juneau, AK 99801-1182

Dear Representative Therriault,

The Department of Health and Social Services respectfully requests a hearing in the House Finance Committee on House Bill 375 "An Act relating to children in need of aid matters.....; and providing for an effective date" pending referral from the House Judiciary Committee.

This bill was introduced by the Rules Committee at the request of the Governor. Revised fiscal notes were provided to the House Health, Education and Social Services Committee last month and will be included in the committee file. The Committee reported-out a Committee Substitute with a new title on April 2, 1998 with all five members present recommending "do pass."

The bill has been heard in House Judiciary once and is scheduled for another hearing on Thursday, April 23rd. It is my belief that the Chairman intends to complete mark-up of the bill and move a Judiciary Committee Substitute from Committee at that time.

Your favorable consideration of this request will be most appreciated.

Sincerely,



Elmer A. Lindstrom
Special Assistant to the Commissioner

cc: Rep. Mark Hanley, Co-Chairman, House Finance Committee
Rep. Joe Greer, Chairman, House Judiciary Committee
Rep. Fred Dyson
Russ Webb, Deputy Commissioner
Pat Pourchot, Office of the Governor

LEGAL SERVICES

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

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

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

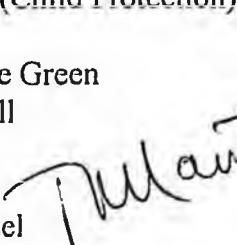
MEMORANDUM

April 25, 1998

SUBJECT: CSHB 375(JUD) (Child Protection)

TO: Representative Joe Green
Attn: Kevin Jardell

FROM: Terri Lauterbach
Legislative Counsel



Enclosed is CSHB 375(JUD).

Comments:

(1) The amendment made by the Judiciary committee to AS 11.41.460 causes the bill to violate the single-subject requirement of the state constitution. The amendment does not relate to children, which appears to be the subject that encompasses the rest of the bill. Only the amendments to AS 11.41.460 that insert "in the second degree" can be retained without violating the single-subject requirement.

(2) I have not included the amendment requested for AS 47.10.011(4) (to add "as defined in AS 47.17.290") because "mental injury" is already defined that way for all of AS 47.10 by virtue of the definition for "mental injury" in AS 47.10.990.

(3) If you want uniformity in the use of "child" and "minor" in AS 47.10, I recommend that the Department of Law be requested to provide a list of sections where "minor" should be changed to "child" in the portions of AS 47.10 (and other statutes outside of AS 47.10?) that are not amended in HB 375. A revisor's instruction like in the original version of HB 375, which used the phrase "where appropriate," would not be sufficient.

(4) I recommend further review of sec. 82, relating to applicability. As sec. 82 currently reads, the Act will apply to all "new cases" filed with the court. That may be appropriate for the parts of the bill that relate to CINA proceedings. However, is it appropriate for the parts of the bill that relate to criminal offenses, disclosure of information about CINA kids, sentencing enhancements, foster care licensing, etc.? Again, the Department of Law may be an appropriate source for dealing with this matter.

(5) Section 81 should be expanded to refer to specific court rules and specific sections of the bill.

Representative Joe Green

April 25, 1998

Page 2

(6) The reference to AS 47.14.100(i) that was added to AS 47.10.011(a) is very unclear since AS 47.14.100(i) places a restriction on DHSS and AS 47.10.011(a) relates to the court.

(7) In the last sentence of AS 47.10.080(s), added by sec. 44, "should" ought to be changed to "shall" if you want to insure that this is a requirement.

(8) In AS 11.51.110(a)(2), added by sec. 10 it would be clearer if "present to care for the child" was moved to the end of the sentence.

(9) In AS 47.14.100(i), should "one parent" be "the child's parent"?

Your staff has requested that I draft an amendment for use in the Finance committee to deal with paragraph (5) of this memorandum. Please let me know if I can be of other assistance.

TML:glc
98-241.glc

Enclosure

= strike

Djser

1

A M E N D M E N T

OFFERED IN THE HOUSE

TO: CSHB 375(HES)

1 Page 21, line 31, following "child":

2 Insert ", including the right to direct the child's medical care and the right to exercise
3 reasonable corporal discipline"

4 Page 22, lines 9 - 23:

5 Delete all material and insert:

6 "(2) it is the policy of the state to strengthen families and to protect children
7 from child abuse and neglect; the state recognizes that, in some cases, protection of
8 a child may require removal of the child from the child's home; however,

9 (A) except in those cases involving serious risk to a child's health or
10 safety, the Department of Health and Social Services should provide time-
11 limited family support services to the child and the child's family in order to
12 offer parents the opportunity to remedy parental conduct or conditions in the
13 home that placed the child at risk of harm so that a child may return home
14 safely and permanently; and

15 (B) the state also recognizes that when a child is removed from the
16 home, visitation between the child and the child's parents or guardian and
17 {immediate}family members reduces the trauma for the child and enhances the
18 likelihood that the child will be able to return home; therefore, whenever a
19 child is removed from the parental home, the Department of Health and Social
20 Services should encourage frequent, regular, and reasonable visitation of the
21 child with the child's parent or guardian and {immediate}family members;"

22 Page 23, line 10:

23 Delete "immediate and regular"

Handwritten signature/initials

1 Insert "reasonable"

2 Page 23, line 11:

3 Delete "extended"

4 Insert "immediate"

5 Page 23, lines 18 - 20:

6 Delete all material.

7 Renumber the following paragraph accordingly.

8 Page 25, line 9, following "injury": *as defined in 47.17.290*

9 Insert ", as evidenced by an observable and substantial impairment in the child's
10 ability to function"

11 Page 25, line 29, following "child": *or placed the child at substantial*
12 *risk to of ~~substantial~~ mental injury*
13 Insert ", as evidenced by an observable and substantial impairment in the child's
14 ability to function, or have resulted in exposure of the child to domestic violence as defined
in AS 18.66.990(3)(a)"

15 Page 26, lines 8 - 10:

16 Delete "has caused substantial physical harm to the child or creates a risk of
17 substantial physical harm to the child"

18 Insert "places the child at substantial risk of physical harm or mental injury"

19 Page 26, line 13, following "Abandonment.":

20 Insert "(a)"

21 Page 26, lines 16 - 17:

22 Delete "and the failure is accompanied by intention on the part of the parent or
23 guardian to permit the failure to continue for an indefinite period"

1 Page 27, following line 3:

2 Insert a new subsection to read:

3 "(b) For purposes of (a) of this section, a parent or guardian who is a victim
4 of domestic violence, or who has a child in the parent's or guardian's care who is the
5 victim of domestic violence, is considered to have justifiable cause to take an action
6 or to fail to take an action that would otherwise be considered to be abandonment of
7 a child under (a) of this section if the action or failure to act is necessary to protect
8 the parent or guardian, or a child in the care of the parent or guardian, from further
9 acts of domestic violence. However, a parent or guardian who initially had justifiable
10 cause to act or fail to act as described in this subsection may be considered to have
11 abandoned the child without justifiable cause for purposes of (a) of this section if the
12 parent or guardian does not take reasonable steps to reunify with or provide care for
13 the abandoned child after becoming secure from further acts of domestic violence or
14 after providing that another child in the care of the parent or guardian is secure from
15 further acts of domestic violence."

16 Page 30, line 7, following "hearing":

17 Insert "When determining whether to grant a continuance for good cause, the
18 court shall take into consideration the age of the child and the potential adverse effect
19 that the delay may have on the child."

20 Page 30, lines 24 - 25:

21 Delete "the child's health care providers."

These copied better than I
thought they would, so here
are your originals. I guess
it's the fax machine and
scanners that don't do well
with non-yellow highlighters.
2??'s attached.

Temi x6658

DRAFT

REPRESENTATIVE BERKOWITZ said he had refused.

MS. WIBKER said she doesn't know what happens with the licensing filer who has access to it; she suggested someone else from the department would have to answer those questions.

CHAIRMAN GREEN said they may want to do that in debate. He thanked Ms. Wibker.

REPRESENTATIVE JAMES also thanked Ms. Wibker for her time.

REPRESENTATIVE ROKEBERG requested that they reconvene at the call of the chair, suggesting the floor session may not last that long.

Number 0861

CHAIRMAN GREEN agreed, then recessed the meeting at 3:36 p.m.

TAPE 98-65
Number 0001

CHAIRMAN GREEN reconvened the House Judiciary Standing Committee meeting at 7:07 p.m. Present at that time were Representatives Green, Bunde, Porter and James. Representatives Rokeberg and Berkowitz arrived at 7:09 p.m. and 7:11 p.m., respectively. Representative Croft was excused.

[TAPE 98-65 is blank, but handwritten log notes were taken. A copy of the log notes may be obtained by contacting the House Records Office at 130 Seward Street, Suite 211, Juneau, Alaska, 99801-1182, (907) 465-2214, or after adjournment of the second session of the Twentieth Alaska State Legislature, in the Legislative Reference Library.]

During this 90-minute portion of the meeting, the following persons besides committee members spoke:

SUSAN G. WIBKER, Assistant Attorney General, Human Services Section, Civil Division (Anchorage), Department of Law, testified about the amendments and answered questions.

REPRESENTATIVE FRED DYSON explained proposed amendments.

LISA TORKELOSON, Legislative Assistant to Representative Fred Dyson, Alaska State Legislature, explained proposed amendments.

KEVIN JARDELL, Legislative Administrative Assistant to Representative Joe Green, Alaska State Legislature, as committee

aide, provided definitions and answered questions.

RUSSELL WEBB, Deputy Commission, Office of the Commissioner, Department of Health and Social Services, answered questions regarding proposed amendments.

DOUG WOOLIVER, Administrative Attorney, Office of the Administrative Director, Alaska Court System, discussed amendments proposed by the court system.

During this 90-minute portion of the meeting, the following action was taken:

The first amendment, H.1 [0-GH2009\H.1, Lauterbach, 4/17/98] was amended in three sections and adopted as Amendments 1, 2 and 3. [The line numbers at the left correspond with the beginnings of key points in amendment H.1, although the lines do not fall identically here.]

AMENDMENT 1. Page 1, lines 1 through 21, of amendment H.1 originally read:

1 Page 21, line 31, following "child":
Insert ", including the right to direct the child's medical care and the right to exercise reasonable corporal discipline"

4 Page 22, lines 9 - 23:
Delete all material and insert:
"(2) it is the policy of the state to strengthen families and to protect children from child abuse and neglect; the state recognizes that, in some cases, protection of a child may require removal of the child from the child's home; however,

9 (A) except in those cases involving serious risk to a child's health or safety, the Department of Health and Social Services should provide time-limited family support services to the child and the child's family in order to offer parents the opportunity to remedy parental conduct or conditions in the home that placed the child at risk of harm so that a child may return home safely and permanently; and

15 (B) the state also recognizes that when a child is removed from the home, visitation between the child and the child's parents or guardian and immediate family members reduces the trauma for the child and enhances the likelihood that the child will be able to return home; therefore, whenever a child is removed from the parental

home, the Department of Health and Social Services should encourage frequent, regular, and reasonable visitation of the child with the child's parent or guardian and immediate family members;"

The above was amended to strike the word "immediate" before "family members" on lines 17 and 21 of H.1, subsection (2)(B); the committee aide indicated there had been discussion that it should be similarly stricken throughout.

The foregoing was then adopted as Amendment 1.

AMENDMENT 2. Page 1, line 22, through page 2, line 4, of amendment H.1 originally read:

22 Page 23, line 10:
Delete "immediate and regular"
Insert "reasonable"

2 Page 23, line 11:
Delete "extended"
Insert "immediate"

This was deleted, then replaced by "Amendment to Amendment #1", which originally read:

Page 23, line 10-11
Delete (E)
Replace with "frequent, regular, and reasonable visitation with the parent or guardian and immediate family members should be encouraged; and [no end quotation marks provided]"

The above replacement was amended by deleting the word "immediate". It was then adopted as Amendment 2.

AMENDMENT 3. Page 2, line 5, through page 3, line 21, of amendment H.1 originally read:

[Page 2]

5 Page 23, lines 18 - 20:
Delete all material.

7 Renumber the following paragraph accordingly.

8 Page 25, line 9, following "injury":
Insert ", as evidenced by an observable and substantial impairment in the child's ability to function"

- 11 Page 25, line 29, following "child":
Insert ", as evidenced by an observable and substantial impairment in the child's ability to function, or have resulted in exposure of the child to domestic violence as defined in AS 18.66.990"
- 15 Page 26, lines 8 - 10:
Delete "has caused substantial physical harm to the child or creates a risk of substantial physical harm to the child"
Insert "places the child at substantial risk of physical harm or mental injury"
- 19 Page 26, line 13, following "Abandonment.":
Insert "(a)"
- 21 Page 26, lines 16 - 17:
Delete "and the failure is accompanied by intention on the part of the parent or guardian to permit the failure to continue for an indefinite period"

[Page 3]

- 1 Page 27, following line 3:
Insert a new subsection to read:
"(b) For purposes of (a) of this section, a parent or guardian who is a victim of domestic violence, or who has a child in the parent's or guardian's care who is the victim of domestic violence, is considered to have justifiable cause to take an action or to fail to take an action that would otherwise be considered to be abandonment of a child under (a) of this section if the action or failure to act is necessary to protect the parent or guardian, or a child in the care of the parent or guardian, from further acts of domestic violence. However, a parent or guardian who initially had justifiable cause to act or fail to act as described in this subsection may be considered to have abandoned the child without justifiable cause for purposes of (a) of this section if the parent or guardian does not take reasonable steps to reunify with or provide care for the abandoned child after becoming secure from further acts of domestic violence or after providing that another child in the care of the parent or guardian is secure from further acts of domestic violence."
- 16 Page 30, line 7, following "hearing.":
Insert "When determining whether to grant a continuance for good cause, the court shall take into consideration the"

age of the child and the potential adverse effect that the delay may have on the child."

20 Page 30, lines 24 - 25:

Delete "the child's health care providers."

The above from H.1 was amended as follows:

On page 2, beginning on line 9, the phrase "as evidenced by an observable and substantial impairment in the child's ability to function" was deleted. It was replaced with the phrase, "as defined in AS 47.17.290".

On page 2, line 14, subsection "(3)(a)" was added following "AS 18.66.990". However, lines 12 through 14 were then deleted entirely and replaced with the insertion of the phrase, "or placed the child at substantial risk of mental injury"

The foregoing was then adopted as Amendment 3.

AMENDMENT 4. There was a motion to adopt Amendment 4 [0-GH2009\H.2, Lauterbach, 4/16/98] for discussion purposes. Five pages long, it is not provided here but is contained in packets. The first page and a half was proposed by the Alaska Court System and offered by Representative Dyson, and Doug Wooliver addressed the committee about it. The third tape begins approximately nine or ten minutes after Amendment 4 was first brought up.

TAPE 98-66, SIDE A
Number 0001

MS. WIBKER

Kevin -

Thank -

Nancy
Please check this
out when you
get time.

CS FOR HOUSE BILL NO. 375(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to children-in-need-of-aid matters and proceedings; relating to
2 child abuse and neglect; relating to murder of children, kidnapping, the crime of
3 indecent exposure, and the crime of endangering the welfare of a child; relating
4 to sentencing for certain crimes involving a child; relating to the state medical
5 examiner and reviews of child fatalities; relating to teacher certification and
6 convictions of crimes involving child victims; relating to access, confidentiality, and
7 release of certain information concerning the care of children, child abuse and
8 neglect, and child fatalities; authorizing the Department of Health and Social
9 Services to enter into an interstate compact concerning adoption and medical
10 assistance for certain children with special needs; relating to the review of cases
11 involving certain children who are in the custody of the state; authorizing the
12 establishment of multidisciplinary child protection teams and relating to their

1 duties; relating to persons required to report suspected child abuse or neglect;
 2 relating to foster care placement and foster care licensing; relating to access to
 3 certain criminal justice information and licensure of certain child care facilities;
 4 relating to determinations of child custody and visitation in situations involving
 5 domestic violence; amending Rule 218, Alaska Rules of Appellate Procedure;
 6 amending the Alaska Child in Need of Aid Rules; and providing for an effective
 7 date."

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

9 * Section 1. INTENT AND PURPOSE OF ACT. (a) The intent of this Act is to protect
 10 children from abuse and neglect without prohibiting the use of reasonable methods of parental
 11 discipline or prescribing a particular method of parenting.

12 (b) The purpose of this Act is to

13 (1) provide the legal mechanisms by which the state can use its resources to
 14 implement the findings in this section for the best interest of children in this state; and

15 (2) override the court decisions in the following cases:

16 (A) Matter of J.L.F., 912 P.2d 1255 (Alaska 1996), In Re S.A., 912
 17 P.2d 1235 (Alaska 1996), and F.T. v. State, 862 P.2d 857 (Alaska 1993), concerning
 18 the standards to adjudicate a child in need of aid when a parent or caregiver is willing,
 19 but unable, to provide essential care for a child;

20 (B) A.M. v. State, 891 P.2d 815 (Alaska 1995), and Nada A. v. State,
 21 660 P.2d 436 (Alaska App. 1983), concerning the standards to terminate parental rights
 22 when a parent is incarcerated;

23 (C) R.J.M. v. State, 946 P.2d 855 (Alaska 1997), concerning the type
 24 of neglect necessary to adjudicate a child in need of aid under AS 47.10.

25 * Sec. 2. AS 10.06.961(a) is amended to read:

26 (a) Notwithstanding AS 13.46.085 or the appointment of a guardian of the
 27 property of the child [MINOR] under AS 47.10.010 [AS 47.10.010(c)], when a child
 28 [MINOR] who is in the custody of this state under AS 47.10 or a minor who is in the

1 custody of this state under AS 47.12 or of another state under a provision similar to
 2 AS 47.10 or AS 47.12 becomes entitled to receive dividends or other distributions
 3 resulting from the ownership of stock or a membership in a corporation organized
 4 under this chapter and under 43 U.S.C. 1601 - 1641 (Alaska Native Claims Settlement
 5 Act), the corporation paying the dividends or making the other distributions shall retain
 6 the dividends and other distributions in an interest bearing account for the benefit of
 7 the child or minor during the state custody.

8 * Sec. 3. AS 11.41.100(a) is amended to read:

9 (a) A person commits the crime of murder in the first degree if

10 (1) with intent to cause the death of another person, the person

11 (A) causes the death of any person; or

12 (B) compels or induces any person to commit suicide through
 13 duress or deception; or

14 (2) the person knowingly engages in conduct directed toward [,
 15 UNDER CIRCUMSTANCES MANIFESTING EXTREME INDIFFERENCE TO THE
 16 VALUE OF HUMAN LIFE, IN A PATTERN OR PRACTICE OF ASSAULT OR
 17 TORTURE OF] a child under the age of 16, and [ONE OF THE ACTS OF ASSAULT
 18 OR TORTURE RESULTS IN THE DEATH OF THE CHILD; FOR PURPOSES OF
 19 THIS PARAGRAPH, A PERSON "ENGAGES IN A PATTERN OR PRACTICE OF
 20 ASSAULT OR TORTURE" IF] the person with criminal negligence causes
 21 [INFLICTS] serious physical injury to the child by at least two separate acts, and one
 22 of the acts results in the death of the child; or

23 (3) the person with criminal negligence causes the death of a child
 24 under the age of 16 during the course of committing or attempting to commit
 25 sexual assault in the first degree, sexual abuse of a minor in the first degree, or
 26 kidnapping.

27 * Sec. 4. AS 11.41.110(a) is amended to read:

28 (a) A person commits the crime of murder in the second degree if

29 (1) with intent to cause serious physical injury to another person or
 30 knowing that the conduct is substantially certain to cause death or serious physical
 31 injury to another person, the person causes the death of any person;

1 (C) inflict physical injury upon or sexually assault the restrained
2 person or place the restrained person or a third person in apprehension that any
3 person will be subjected to serious physical injury or sexual assault;

4 (D) interfere with the performance of a governmental or
5 political function;

6 (E) facilitate the commission of a felony or flight after
7 commission of a felony; [OR]

8 (F) commit an offense in violation of AS 11.41.434 -
9 11.41.438 upon the restrained person or place the restrained person or a
10 third person in apprehension that a person will be subject to an offense in
11 violation of AS 11.41.434 - 11.41.438; or

12 (2) the person restrains another

13 (A) by secreting and holding the restrained person in a place
14 where the restrained person is not likely to be found; or

15 (B) under circumstances which expose the restrained person to
16 a substantial risk of serious physical injury.

17 * Sec. 6. AS 11.41.300(d) is amended to read:

18 (d) In a prosecution for kidnapping, it is an affirmative defense which reduces
19 the crime to a class A felony that the defendant voluntarily caused the release of the
20 victim alive in a safe place before arrest, or within 24 hours after arrest, without
21 having caused serious physical injury to the victim and without having engaged in
22 conduct described in AS 11.41.410(a), [OR] 11.41.420, 11.41.434, or 11.41.436.

23 * Sec. 7. AS 11.41 is amended by adding a new section to read:

24 **Sec. 11.41.458. Indecent exposure in the first degree.** (a) An offender
25 commits the crime of indecent exposure in the first degree if

26 (1) the offender violates AS 11.41.460(a);

27 (2) while committing the act constituting the offense, the offender
28 knowingly masturbates; and

29 (3) the offense occurs within the observation of a person under 16 years
30 of age.

31 (b) Indecent exposure in the first degree is a class C felony.

mended to read:

Indecent exposure in the second degree. (a) An offender of indecent exposure in the second degree if the offender the offender's genitals in the presence of [TO] another person and for the offensive, insulting, or frightening effect the act may [PERSON].

nt exposure in the second degree before a person under 16 years of age is a class B misdemeanor. Indecent exposure in the second degree before a person 16 years of age or older is a class B misdemeanor.

10 * Sec. 9. 100 is repealed and reenacted to read:

11 **Sec. 11.51.100. Endangering the welfare of a child in the first degree.** (a)

12 A person commits the crime of endangering the welfare of a child in the first degree
13 if, being a parent, guardian, or other person legally charged with the care of a child
14 under 16 years of age, the person

15 (1) intentionally deserts the child in a place under circumstances
16 creating a substantial risk of physical injury to the child;

17 (2) leaves the child with another person who is not a parent, guardian,
18 or lawful custodian of the child knowing that the person

19 (A) is registered or required to register as a sex offender under
20 AS 12.63 or a law or ordinance in another jurisdiction with similar
21 requirements;

22 (B) has been charged by complaint, information, or indictment
23 with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another
24 jurisdiction with similar elements; or

25 (C) has been charged by complaint, information, or indictment
26 with an attempt, solicitation, or conspiracy to commit a crime described in (B)
27 of this paragraph; or

28 (3) leaves the child with another person knowing that the person has
29 previously physically mistreated or had sexual contact with any child, and the other
30 person causes physical injury or engages in sexual contact with the child.

31 (b) In this section, "physically mistreated" means

CORRECTION

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



Rev. 6/98

Central Microfilm Services
Department of Education
State of Alaska

1 * Sec. 8. AS 11.41.460 is amended to read:

2 **Sec. 11.41.460. Indecent exposure in the second degree.** (a) An offender
3 commits the crime of indecent exposure in the second degree if the offender
4 intentionally exposes the offender's genitals in the presence of [TO] another person
5 with reckless disregard for the offensive, insulting, or frightening effect the act may
6 have [ON THAT PERSON].

7 (b) Indecent exposure in the second degree before a person under 16 years
8 of age is a class A misdemeanor. Indecent exposure in the second degree before a
9 person 16 years of age or older is a class B misdemeanor.

10 * Sec. 9. AS 11.51.100 is repealed and reenacted to read:

11 **Sec. 11.51.100. Endangering the welfare of a child in the first degree.** (a)
12 A person commits the crime of endangering the welfare of a child in the first degree
13 if, being a parent, guardian, or other person legally charged with the care of a child
14 under 16 years of age, the person

15 (1) intentionally deserts the child in a place under circumstances
16 creating a substantial risk of physical injury to the child;

17 (2) leaves the child with another person who is not a parent, guardian,
18 or lawful custodian of the child knowing that the person

19 (A) is registered or required to register as a sex offender under
20 AS 12.63 or a law or ordinance in another jurisdiction with similar
21 requirements;

22 (B) has been charged by complaint, information, or indictment
23 with a violation of AS 11.41.410 - 11.41.455 or a law or ordinance in another
24 jurisdiction with similar elements; or

25 (C) has been charged by complaint, information, or indictment
26 with an attempt, solicitation, or conspiracy to commit a crime described in (B)
27 of this paragraph; or

28 (3) leaves the child with another person knowing that the person has
29 previously physically mistreated or had sexual contact with any child, and the other
30 person causes physical injury or engages in sexual contact with the child.

31 (b) In this section, "physically mistreated" means

1 (1) having committed an act punishable under AS 11.41.100 -
2 11.41.250; or

3 (2) having applied force to a child that, under the circumstances in
4 which it was applied, or considering the age or physical condition of the child,
5 constitutes a gross deviation from the standard of conduct that a reasonable person
6 would observe in the situation because of the substantial and unjustifiable risk of

7 (A) death;

8 (B) serious or protracted disfigurement;

9 (C) protracted impairment of health;

10 (D) loss or impairment of the function of a body member or
11 organ;

12 (E) substantial skin bruising, burning, or other skin injury;

13 (F) internal bleeding or subdural hematoma;

14 (G) bone fracture; or

15 (H) prolonged or extreme pain, swelling, or injury to soft tissue

16 c) Endangering the welfare of a child in the first degree under (a)(1) or (2) of
17 this section is a class C felony.

18 (d) Endangering the welfare of a child in the first degree under (a)(3) of this
19 section is a

20 (1) class B felony if the child dies;

21 (2) class C felony if the child suffers sexual contact, sexual penetration,
22 or serious physical injury; or

23 (3) class A misdemeanor if the child suffers physical injury.

24 * Sec. 10. AS 11.51 is amended by adding a new section to read:

25 **Sec. 11.51.110. Endangering the welfare of a child in the second degree.**

26 (a) A person commits the crime of endangering the welfare of a child in the second
27 degree if the person, while caring for a child under 10 years of age,

28 (1) causes or allows the child to enter or remain in a dwelling or vehicle
29 in which a controlled substance is stored in violation of AS 11.71; or

30 (2) is impaired by a controlled substance, whether or not prescribed for
31 the person under AS 17.30, and there is no third person present to care for the child

1 who is at least 12 years of age and not impaired by an intoxicant.

2 (b) In this section,

3 (1) "impaired" means that a person is unconscious or a person is
4 physically or mentally affected so that the person does not have the ability to care for
5 the basic safety or personal needs of a child with the caution characteristic of a sober
6 person of ordinary prudence;

7 (2) "intoxicant" has the meaning given in AS 47.10.990.

8 (c) Endangering the welfare of a child in the second degree is a violation.

9 * Sec. 11. AS 12.55.025(i) is amended to read:

10 (i) Except as provided by AS 12.55.125(a)(3), 12.55.125(k)(2) [12.55.125(k)],
11 12.55.145(d), 12.55.155(f), and 12.55.165, the preponderance of the evidence standard
12 of proof applies to sentencing proceedings.

13 * Sec. 12. AS 12.55.125(c) is amended to read:

14 (c) A defendant convicted of a class A felony may be sentenced to a definite
15 term of imprisonment of not more than 20 years [,] and shall be sentenced to the
16 following presumptive terms, subject to adjustment as provided in AS 12.55.155 -
17 12.55.175:

18 (1) if the offense is a first felony conviction and does not involve
19 circumstances described in (2) of this subsection, five years;

20 (2) if the offense is a first felony conviction

21 (A) [,] other than for manslaughter [,] and the defendant
22 possessed a firearm, used a dangerous instrument, or caused serious physical
23 injury during the commission of the offense, or knowingly directed the conduct
24 constituting the offense at a uniformed or otherwise clearly identified peace
25 officer, fire fighter, correctional employee, emergency medical technician,
26 paramedic, ambulance attendant, or other emergency responder who was
27 engaged in the performance of official duties at the time of the offense, seven
28 years;

29 (B) for manslaughter and the conduct resulting in the
30 conviction was knowingly directed toward a child under the age of 16,
31 seven years;

1 (3) if the offense is a second felony conviction, 10 years;

2 (4) if the offense is a third felony conviction and the defendant is not
3 subject to sentencing under (l) of this section, 15 years.

4 * Sec. 13. AS 12.55.125(k) is amended to read:

5 (k) A first felony offender convicted of an offense for which a presumptive
6 term of imprisonment is not specified under this section

7 (1) may be sentenced to a term of unsuspended imprisonment that
8 exceeds the presumptive term of a second or third felony offender convicted of the
9 same crime if the offender is convicted of criminally negligent homicide and the
10 victim is a child under the age of 16;

11 (2) except as provided in (1) of this subsection, may not be sentenced
12 to a term of unsuspended imprisonment that exceeds the presumptive term for a second
13 felony offender convicted of the same crime unless the court finds by clear and
14 convincing evidence that an aggravating factor under AS 12.55.155(c) is present, or that
15 circumstances exist that would warrant a referral to the three-judge panel under
16 AS 12.55.165.

17 * Sec. 14. AS 12.55.155(c)(23) is amended to read:

18 (23) the defendant is convicted of an offense specified in AS 11.71 and

19 (A) the offense involved the delivery of a controlled substance
20 under circumstances manifesting an intent to distribute the substance as part of
21 a commercial enterprise; or

22 (B) at the time of the conduct resulting in the conviction, the
23 defendant was caring for or assisting in the care of a child under 10 years
24 of age;

25 * Sec. 15. AS 12.55.155(e) is amended to read:

26 (e) If a factor in aggravation is a necessary element of the present offense, or
27 requires the imposition of a presumptive term under AS 12.55.125(c)(2)(A)
28 [AS 12.55.125(c)(2)], that factor may not be used to aggravate the presumptive term.
29 If a factor in mitigation is raised at trial as a defense reducing the offense charged to
30 a lesser included offense, that factor may not be used to mitigate the presumptive term.

31 * Sec. 16. AS 12.65.005(a) is amended to read:

1 (a) Unless the person has reasonable grounds to believe that notice has already
 2 been given, a person who attends a death or has knowledge of a death, in addition to
 3 notifying a peace officer, shall immediately notify the state medical examiner when the
 4 death appears to have

5 (1) been caused by unknown or criminal means, during the commission
 6 of a crime, or by suicide, accident, or poisoning;

7 (2) occurred under suspicious or unusual circumstances or occurred
 8 suddenly when the decedent was in apparent good health;

9 (3) been unattended by a practicing physician or occurred less than 24
 10 hours after the deceased was admitted to a medical facility;

11 (4) been associated with a diagnostic or therapeutic procedure;

12 (5) resulted from a disease that constitutes a threat to public health;

13 (6) been caused by a disease, injury, or toxic agent resulting from
 14 employment;

15 (7) occurred in a jail or corrections facility owned or operated by the
 16 state or a political subdivision of the state or in a facility for the placement of persons
 17 in the custody or under the supervision of the state;

18 (8) occurred in a foster home;

19 (9) occurred in a mental institution or mental health treatment facility;

20 [OR]

21 (10) occurred while the deceased was in the custody of, or was being
 22 taken into the custody of, the state or a political subdivision of the state or a public
 23 officer or agent of the state or a political subdivision of the state; or

24 (11) been of a child under 18 years of age or under the legal custody
 25 of the Department of Health and Social Services, subject to the jurisdiction of
 26 AS 47.10 or AS 47.12, unless the

27 (A) child's death resulted from a natural disease process and
 28 was medically expected; and

29 (B) the child was under supervised medical care during the
 30 24 hours before the death.

31 * Sec. 17. AS 12.65.015 is amended by adding a new subsection to read:

1 (e) The state medical examiner shall facilitate the formation of local, regional,
 2 or district child fatality review teams to assist local, regional, and district medical
 3 examiners in determining the cause and manner of deaths of children under 18 years
 4 of age. If a team is formed under this subsection, the team shall have the same access
 5 to information, confidentiality requirements, and immunity as provided to the state child
 6 fatality review team under AS 12.65.140. A meeting of a team formed under this
 7 subsection is closed to the public and not subject to the provisions of AS 44.62.310 and
 8 44.62.312. A review by a local, regional, or district child fatality review team does not
 9 relieve the state child fatality review team under AS 12.65.120 of the responsibility for
 10 reviewing a death under AS 12.65.130. A person on a local, regional, or district child
 11 fatality review team is not eligible to receive compensation from the state for service
 12 on the team, but is eligible for travel expenses and per diem from the Department of
 13 Health and Social Services under AS 39.20.180. A person on a team formed under this
 14 subsection serves at the pleasure of the state medical examiner.

15 * Sec. 18. AS 12.65 is amended by adding new sections to read:

16 **Sec. 12.65.120. State child fatality review team.** (a) The state child fatality
 17 review team is established in the Department of Health and Social Services to assist the
 18 state medical examiner. The team is composed of

19 (1) the following persons, or that person's designee:

20 (A) the state medical examiner;

21 (B) a state prosecutor with experience in homicide prosecutions,
 22 appointed by the attorney general;

23 (C) an investigator with the state troopers who has experience
 24 in conducting investigations of homicide, child abuse, or child neglect,
 25 appointed by the commissioner of public safety;

26 (D) a social worker with the Department of Health and Social
 27 Services who has experience in conducting investigations of child abuse and
 28 neglect, appointed by the commissioner of health and social services;

29 (2) the following persons, or that person's designee, appointed by the
 30 commissioner of health and social services:

31 (A) a physician licensed under AS 08.64 who

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31

(i) specializes in neonatology or perinatology; or

(ii) is certified by the American Board of Pediatrics;

(B) a municipal law enforcement officer with experience in conducting investigations of homicide, child abuse, or child neglect;

(C) other persons whose experience and expertise would, as determined by the commissioner of health and social services, contribute to the effectiveness of the team.

(b) A team member is not eligible to receive compensation from the state for service on the team. A member appointed under (a)(2) of this section

(1) is eligible for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180; and

(2) serves at the pleasure of the commissioner of health and social services.

(c) In addition to the persons specified in (a) of this section, the team may invite a person to participate as a member of the team if the person has expertise that would be helpful to the team in a review of a specific death. A person participating under this subsection is eligible only for travel expenses and per diem from the Department of Health and Social Services under AS 39.20.180.

(d) The state medical examiner serves as chair of the team.

Sec. 12.65.130. State child fatality review team duties. (a) The state child fatality review team shall

(1) assist the state medical examiner in determining the cause and manner of the deaths in this state of children under 18 years of age;

(2) unless the child's death is currently being investigated by a law enforcement agency, review a report of a death of a child within 48 hours of the report being received by the medical examiner if

(A) the death is of a child under 10 years of age;

(B) the deceased child, a sibling, or a member of the deceased child's household

(i) is in the legal or physical custody of the state under AS 47 or under similar custody of another state or political subdivision

1 of a state; or

2 (ii) has been the subject of a report of harm under
3 AS 47.17 or a child abuse or neglect investigation by the Department of
4 Health and Social Services or by a similar child protective service in this
5 or another state;

6 (C) a protective order under AS 18.66.100 or 18.66.110 has been
7 in effect during the previous year in which the petitioner or respondent was a
8 member of the deceased child's immediate family or household; or

9 (D) the child's death occurred in a mental health institution,
10 mental health treatment facility, foster home, or other residential or child care
11 facility, including a day care facility;

12 (3) review records concerning

13 (A) abuse or neglect of the deceased child or another child in the
14 deceased child's household;

15 (B) the criminal history or juvenile delinquency of a person who
16 may have caused the death of the child and of persons in the deceased child's
17 household; and

18 (C) a history of domestic violence involving a person who may
19 have caused the death of the child or involving persons in the deceased child's
20 household, including records in the central registry of protective orders under
21 AS 18.65.540;

22 (4) if insufficient information exists to adequately determine the cause
23 and manner of death, recommend to the state medical examiner that additional
24 information be obtained under AS 12.65.020; and

25 (5) if a local, regional, or district child fatality review team has not been
26 appointed under AS 12.65.015 or is not available, be available to provide
27 recommendations, suggestions, and advice to state or municipal law enforcement or
28 social service agencies in the investigation of deaths of children.

29 (b) The state child fatality review team may

30 (1) collect data and analyze and interpret information regarding deaths
31 of children in this state;

- 1 (2) develop state and local data bases on deaths of children in this state;
 2 (3) develop a model protocol for the investigation of deaths of children;
 3 and
 4 (4) periodically issue reports to the public containing statistical data and
 5 other information that does not violate federal or state law concerning confidentiality
 6 of the children and their families involved in the reviews; these reports may include
 7 (A) identification of trends, patterns, and risk factors in deaths
 8 of the children;
 9 (B) analyses of the incidence and causes of deaths of children
 10 in this state;
 11 (C) recommendations for improving the coordination of
 12 government services and investigations; and
 13 (D) recommendations for prevention of future deaths of children.

14 **Sec. 12.65.140. Records; information; meetings; confidentiality; immunity.**

15 (a) The state child fatality review team and its members shall have access to all
 16 information and records to which the state medical examiner has access under this
 17 chapter. The state child fatality review team and its members shall maintain the
 18 confidentiality of information and records concerning deaths under review, except when
 19 disclosures may be necessary to enable the team to carry out its duties under this
 20 chapter. However, the team and its members may not disclose a record that is
 21 confidential under federal or state law.

22 (b) Except for public reports issued by the team, records, and other information
 23 collected by the team or a member of the team related to duties under this chapter are
 24 confidential and not subject to public disclosure under AS 09.25.100 - 09.25.220.

25 (c) Meetings of the state child fatality review team are closed to the public and
 26 are not subject to the provisions of AS 44.62.310 and 44.62.312.

27 (d) The determinations, conclusions, and recommendations of the state child
 28 fatality review team, or its members, are not admissible in a civil or criminal
 29 proceeding. Members may not be compelled to disclose their determinations,
 30 conclusions, recommendations, discussions, or thought processes through discovery or
 31 testimony in any civil or criminal proceeding. Records and information collected by

1 the state child fatality review team are not subject to discovery or subpoena in
2 connection with a civil or criminal proceeding.

3 (e) Notwithstanding (d) of this section, the state medical examiner may testify
4 in a civil or criminal proceeding even though the death was reviewed by the state child
5 fatality review team under AS 12.65.130 and information received from the review
6 formed a basis of the state medical examiner's testimony.

7 (f) A person who is a member or an employee of, or who furnishes services to
8 or advises, the state child fatality review team is not liable for damages or other relief
9 in an action brought by reason of the performance of a duty, a function, or an activity
10 of the review team.

11 * Sec. 19. AS 14.20.020(f) is amended to read:

12 (f) The [EXCEPT AS OTHERWISE PROVIDED IN THIS SUBSECTION,
13 THE] department may not issue a teacher certificate to a person who has been
14 convicted of a crime involving a minor under AS 11.41.434 - 11.41.440, 11.41.455,
15 11.41.458, or 11.41.460, or under a law in another jurisdiction with elements
16 substantially similar to an offense described in AS 11.41.434 - 11.41.440, 11.41.455,
17 11.41.458, or 11.41.460, or that is an attempt, solicitation, or conspiracy to commit
18 a crime described in this subsection or a law or ordinance in another jurisdiction
19 with similar elements. [WHEN FIVE YEARS HAVE ELAPSED AFTER A PERSON
20 HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR A CONVICTION OF
21 A CRIME LISTED IN THIS SUBSECTION, THE PERSON MAY PETITION THE
22 DEPARTMENT TO ISSUE THE CERTIFICATE IN SPITE OF THE CONVICTION
23 IF THE PERSON OTHERWISE SATISFIES THE REQUIREMENTS FOR THE
24 CERTIFICATE. WHEN DECIDING WHETHER TO GRANT OR DENY THE
25 PETITION, THE DEPARTMENT SHALL CONSIDER THE NATURE OF THE
26 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
27 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE
28 DEPARTMENT DETERMINES ARE SIGNIFICANT.]

29 * Sec. 20. AS 14.20.030(b) is amended to read:

30 (b) Upon receipt of a judgment of conviction, the department [THE
31 COMMISSIONER OR THE PROFESSIONAL TEACHING PRACTICES

1 COMMISSION] shall permanently revoke, effective immediately, [FOR LIFE] the
 2 certificate of a person who has been convicted of a crime involving a minor under
 3 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or under a law in
 4 another jurisdiction with elements substantially similar to an offense described in
 5 AS 11.41.434 - 11.41.440, 11.41.455, 11.41.458, or 11.41.460, or that is an attempt,
 6 solicitation, or conspiracy to commit a crime described in this subsection or a law
 7 or ordinance in another jurisdiction with similar elements. If the judgment of
 8 conviction is reversed on appeal and the person is otherwise eligible for licensure,
 9 the department shall reinstate the license. [WHEN FIVE YEARS HAVE ELAPSED
 10 AFTER THE PERSON HAS RECEIVED AN UNCONDITIONAL DISCHARGE FOR
 11 THE CONVICTION, THE PERSON MAY PETITION THE COMMISSION FOR
 12 RECERTIFICATION. WHEN DECIDING WHETHER TO GRANT OR DENY THE
 13 PETITION, THE COMMISSION SHALL CONSIDER THE NATURE OF THE
 14 PARTICULAR CRIME, WHETHER AND TO WHAT EXTENT THE PERSON HAS
 15 BEEN REHABILITATED, AND THE OTHER FACTORS THAT THE COMMISSION
 16 DETERMINES ARE SIGNIFICANT.]

17 * Sec. 21. AS 22.15.100 is amended to read:

18 **Sec. 22.15.100. Functions and powers of district judge and magistrate.**

19 Each district judge and magistrate has the power

20 (1) to issue writs of habeas corpus for the purpose of inquiring into the
 21 cause of restraint of liberty, returnable before a judge of the superior court, and the
 22 same proceedings shall be had on the writ as if it had been granted by the superior
 23 court judge under the laws of the state in such cases;

24 (2) of a notary public;

25 (3) to solemnize marriages;

26 (4) to issue warrants of arrest, summons, and search warrants according
 27 to manner and procedure prescribed by law and the supreme court;

28 (5) to act as an examining judge or magistrate in preliminary
 29 examinations in criminal proceedings; to set, receive, and forfeit bail and to order the
 30 release of defendants under bail;

31 (6) to act as a referee in matters and actions referred to the judge or

1 magistrate by the superior court, with all powers conferred upon referees by laws;

2 (7) of the superior court in all respects including but not limited to
3 contempts, attendance of witnesses, and bench warrants;

4 (8) to order the temporary detention of a minor, or take other action
5 authorized by law or rules of procedure, in cases arising under AS 47.10 [AS 47.10.010
6 - 47.10.142] or AS 47.12, when the minor is in a condition or surrounding dangerous
7 or injurious to the welfare of the minor or others that requires immediate action; the
8 action may be continued in effect until reviewed by the superior court in accordance
9 with rules of procedure governing these cases;

10 (9) to issue a protective order in cases involving domestic violence as
11 provided in AS 18.66.100 - 18.66.180;

12 (10) to review an administrative revocation of a person's driver's license
13 or nonresident privilege to drive, and an administrative refusal to issue an original
14 license, when designated as a hearing officer by the commissioner of administration and
15 with the consent of the administrative director of the state court system;

16 (11) to establish the fact of death or inquire into the death of a person
17 in the manner prescribed under AS 09.55.020 - 09.55.069.

18 * Sec. 22. AS 25.20.061 is amended to read:

19 Sec. 25.20.061. Presumptions [VISITATION] in proceedings involving
20 domestic violence. (a) If the court finds in a proceeding involving child custody
21 that domestic violence has occurred, rebuttable presumptions arise that it is

22 (1) detrimental to the child and not in the best interest of the child
23 to be placed in sole custody, joint legal custody, or joint physical custody with the
24 perpetrator of the domestic violence; and

25 (2) in the best interest of the child to reside with the parent who is
26 not a perpetrator of domestic violence in a location of that parent's choice, inside
27 or outside the state.

28 (b) In addition to the rebuttable presumptions that a court must consider
29 under (a) of this section, if the court finds that domestic violence has occurred, the
30 court shall consider the following factors in making an award of child custody:

31 (1) the safety and well-being of the child or of the parent who is the