

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9214 HOUSE JUDICIARY

PENINSULA INTERNAL MEDICINE, P.C.

JOHN P. BRAMANTE, M.D.
CHARLES M. CRANE, M.D.
WILLIAM J. KELLEY, M.D.

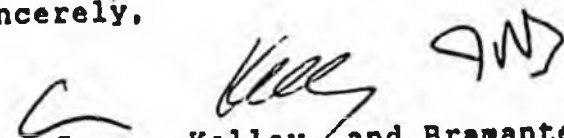
January 10, 1997

Cynthia Elliott, MS, RN
PO Box 2254
Kenai, AK 99611

Dear Cynthia,

We would be happy to support your efforts in simplifying expected home deaths. Please let us know specifically what we can do to help you.

Sincerely,


Drs. Crane, Kelley, and Bramante

Cynthia Elliott, MS, RN
PO Box 2254
Kenai, AK 99611

January 8, 1997

Dear Dr. McIntosh,

I am writing to ask your assistance in handling "expected home deaths." I am a nurse currently working at First Choice Home Health Care, am in the process of joining the Board of Directors of Hospice of the Central Peninsula, and have 5 and 1/4 years experience at a Hospice in North Carolina. Since my arrival here, I have heard disturbing reports from nurses about the involvement of local police, fire department and/or state troopers in home deaths.

My position is that death at home can be a natural, smooth occurrence, and removing unnecessary steps and personnel from the situation would reduce the trauma to the family and nursing staff involved. Alaska State law only requires that a peace officer be notified of a home death. A registered nurse can pronounce the death and notify the attending physician and funeral director.

I would like to have a discussion with law enforcement agencies about their policies/procedures for responding to notification of a death. Your support would be greatly appreciated. Please let me know your opinions on this matter, and whether or not you would support me in an effort to reduce the confusion at expected home deaths in this area.

Sincerely,

Cynthia Elliott, MS, RN

MARGUERITE A. McINTOSH, M.D., C.M.

35670 Kenai Spur Hwy., Suite 104B
Soldotna, Alaska 99669
Telephone: (907) 260-3933

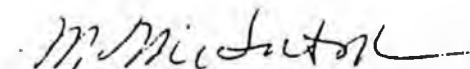
February 10, 1997

Cynthia Elliot, M.S.R.N.
PO BOX 2254
Kenai, Alaska 99611

Dear Ms. Elliot:

It is my understanding that unless a person has registered a No Code with the court house that each death at home is a coroner's case. I am interested in seeing some method in which expected home deaths could be handled without the involvement of policemen, picture taking, etc. It would be nice if you could have an understanding with policemen that if a death occurred at home and was expected, the police wouldn't have to be involved.

Sincerely yours,


MARGUERITE A. MCINTOSH, M.D.

MAM/wkp

Executive Summary of Proposed Legislation

Expected Home Death

Expected Home Death describes a circumstance whereby a person who has a limited life expectancy and wants to die at home, has completed an Expected Home Death Case Report (see attached) signed by the attending physician and sent a copy to the State Medical Examiner. This document indicates that the person has a condition that limits his or her life and s/he is expected to die at home. When the death occurs as expected at home, with health care personnel in attendance, there is no need for direct involvement of law enforcement.

In order to reduce the cost to the community, expedite procedure for grieving family members, and avoid duplication of services, changes need to be made to Alaska State law to allow expected home deaths to be handled by visiting health professionals in the home with a minimum of police involvement. With the proposed changes, police shall be informed when a death occurs as expected. However, police and EMT attendance at the home shall be avoided when CPR is not being administered and when there is a registered nurse present to pronounce the death. The registered nurse shall obtain the attending physician's agreement to sign the death certificate, based on the nurse assessment at the time of death. The nurse shall notify the Medical Examiner's Office of the occurrence of the death and obtain permission to release the body to the funeral home.

Expected Home Death Case Reports shall continue to be implemented prior to the death, with a copy going to the police and ambulance dispatch center. However, having the police and ambulance service physically respond at the home shall be discontinued. When a nurse is on the scene and has notified the attending physician of the death, there is no need for further personnel to involve themselves in the private affairs of the grieving family. Having police and EMT personnel arrive in the home of a person who has just died in an expected manner represents an unnecessary government intrusion in family life.

Dying peacefully at home is a right that all Alaskans should have without being subjected to expensive, unnecessary investigation by law officers. When Hospice or Home Health professionals are involved in caring for the dying patient under the direction of the attending physician, medical records are kept that indicate the natural decline of the patient. In these instances, death is an expected event after a gradual, generally predictable decline. It is insulting to the health care professional and the family to inject suspicion into the process by involving law enforcement and treating a natural occurrence as a criminal event.

Reduce government spending by allowing the health care team to care for the dying person and the family without intrusion of police and ambulance service. It should not be a crime to die at home in Alaska.

Prepared by Cynthia Elliott, MS, RN
Kenai, Alaska
283-6554

agenda

- I. **Introduction: - Facilitators: C. Elliott, C. Smith, D. Rasmussen.**
 - Agency/Personel Introductions.

- II. **Objective/Purpose:**
 Discuss how to best simplify the procedures surrounding expected
 in-home deaths, causing the least amount of emotional stress on the
 bereaved family members.

- III. **Goal Proposed:**
 Discuss how we can reduce the amount of personnel present at/in
 the home at the time of death.

- IV. Interpretation of AK State Statues: Discussion

- V. Present Expected Home Death Case Report Form. Discussion.

- VI. Present Do Not Resuscitate Form. Discussion, i.e. exp.ration dates.

- VII. Follow-up/Develop Policy and Procedures common to all agencies, (including
 scheduled II narcotics disposition), Home Health Agencies/Hospice/AST/Police
 Agencies/EMS/Fire Departments. **NEED FOR FURTHER MEETINGS.**

Expected Home Death Meeting Minutes

May 15, 1997

Present: Diane Rasmussen, RN/CPGH, Gary Kincaid, Sargent/Soldotna City Police, Kenai City Police, Lucie Stanton, SW/CPGH, Lori Brown, Administrator/1st Choice Home Health Care, LeeAnn McGan, RN/Iditaroid Home Care, Pam Kelly, Heritage Place Joe Ray Skhra, Attorney, Connie Smith, Reg. Supervisor/Peninsula Home Health Care Sue Kelly, RN/1st Choice Home Health Care, Craig Ralston, Nikiski EMS, Chuck Conners, Gene Baxter, Tom Bowman, 1st Sargent, Alaska State Troopers, Liz Schubert, Hospice

Purpose of Meeting: Discuss how best to simplify procedures surrounding expected in home deaths, decreasing the amount of trauma and stress involved to the bereaved family members, reduce the amount of personnel at the home at the time of death.

Discussion of Alaska State Statues: Determination of death by registered nurse, 120 days-renewals, change of home health agencies - need to redo form with family.

Common form, (Expected Home Death Form), to be used by care provider agencies to decrease number of different forms sent to police, EMS and troopers. Needs further discussion.

Connie Smith shared some history of no code procedures, system stopped last September 22nd, and reverted over state wide to the medical examiners process. Meeting today helpful because of new system, is a way of looking at some of the problems that have occurred or some of the issues that are a little bit confusing, as an educational process it's helpful that everyone is aware of what piece of the procedure we each are trying to do now, since the change. Question, if there is a format review of this process through the medical examiners office.

Sue Kelly introduced the procedure sheet that was given to agencies in Sept. Question, when does the agency notify a peace officer that a death has occurred?, within 24 hours. Medical examiners office must be notified immediately.

Concern that home health agencies may be taking statute out of context, was raised. Notification of death, strictly means: 1st part/person who attends or has knowledge of a death, must notify a peace officer, state medical examiner - when the death has occurred. Statute then describes when: by unknown or criminal means or under suspicious or unusual circumstances, sets a criteria. Peace officer should be contacted when one of these criteria are met.

Statute says person who attends a death, must immediately notify the peace officers and state medical examiner, AS 12 65 005. Question as to where home deaths fit, unattended

by a physician or in a medical facility for less than 24 hrs? Police department notify ME office for permission to move the body. Peace officers are responsible for making the determination to remove the body, whether or not it is a suspicious death. If body is moved without notifying peace officers, technically means that evidence was tampered with.

Peace officers concern that even with a signed no code, do not resuscitate order and that the doctor has agreed in advance to sign the death certificate - that it doesn't give anyone the right to go in a kill them, no-codes that are suicides. May be a potential for wrong doing.

Concern of home care providers is for families that have been through the gamut of the medical world, peace officers taking pictures, asking questions becomes very difficult.

Need to have a officer who is sensitive, good people skills, understanding of what's going on with the family, do have to view the body to ascertain that the person has died naturally. Peace officers feel more comfortable if they have a relationship with the nurse, home health care agency - this helps, they know nurse is competent, peace officers still have to go to home, but it may limit questioning to have a point of contact at the scene. Needs to be at least one professional person there.

Note that in Fairbanks and Juneau, peace officers are notified but are not dispatched to the scene. Peace officers question how this meets medical examiners policy. ME's office makes the final call, as to whether or not the death is suspicious. Peace officers feel more comfortable going to scene rather than taking someone's word, especially after a long protracted death, money and property issues, possibilities of contested will. It was noted that in Anchorage, peace officers are called to every death.

Agencies note that since the Sept. change, each death has been handled differently, some times pictures taken, others not. If nurse is present, and signed off on death, why would EMS personnel need to be called?

Peace Officers feel the need for professional trust, point of contact with medical professional at time of death - can limit the amount of handling of the body. Peace officers trained to look for certain injury patterns.

Need for trust understanding/education,-peace officers, home health agencies, hospice and families as to how the procedure for expected home deaths will be responded to. Currently, this procedure varies. Need to take photos, is left to the investigating officer on the scene, may not take a photo, if nurse was present at the time of death. Troopers are going to stop taking pictures, as a policy, but will still examine body - if they note anything that triggers suspicion - they will take pictures as part of the investigation. Flexibility: depends on trust, sensitivity. Two professional concurring, best scenario for peace officer and RN. Trust.

Need to have future meeting agreed upon. Scheduled for June 19th, 10:00 a.m., CPGH.

Expected Home Death Task Force

Meeting Minutes
June 19, 1997

Present: Tom Bowman, 1st Sargent/AST, LeeAnn McGahn, RN/Iditaroid Home Care, Connie Smith, Reg. Supervisor/Peninsula Home Health, Linda Boyle, Director/Forget-Me-Not Adult Day Care, Craig Ralston/Nikiski EMS, Sue Kelly, RN/1st Choice Home Health, Lucie Stanton, SW/CPGH, Steve O'Connell/Central Peninsula EMS, Dr. W. Cooper/Med. Director-CES, Gary Kincaid, Sargent/Soldotna Police Dept, Gene Baxter, Kenai Police Dept., Liz Schubert, Director/Hospice

Announcement: Inservice on End-of-Life Decisions, June 30, 8:00 -10:00 a.m. CPGH. Confusion in community as to Living Wills. Living Wills are directives to physicians and not recognized as a expected home death.

Comfort One System: Information was handed out at the end of last month's meeting for participants to review. One need identified in the development of Comfort One was the need for community consistency, i.e. forms. Comfort One is now being used in some area's of Alaska and Outside. Homer is currently using and has been since regulations went in effect Sept. 1996. Southern Regional Emergency Services, are the facilitators of Comfort One for the State of Alaska, DHSS.

It was noted that while EMS services and peace officers had received the regulations, the home care agencies represented had not received this information from the Medical Examiners Office, nor was it believed that the local physicians received any information. There was some confusion as to how patients can obtain the Comfort One bracelets - request needs to come from physician/doctor's telling families to get signed up for Comfort One from home health agencies. Matt Anderson, contact person at M.E.'s office for help putting together educational packet for physicians. ? whether or not to present packets for physicians at inservice June 30th - Lucie will check. ? on DNR orders/No Codes out now - do we need to sign these patients up for Comfort One? Question- Are any current patients enrolled in Comfort One? No one present knew of anyone.

It was noted that a problem arose when no code papers didn't travel with the patient. Some participants felt that the bracelet in Comfort One would help in this situation

According to Dr. Cooper and Steve O'Connell, yes, there is currently a need for EMS to respond to expected home deaths. It would simplify paperwork and is requested that the expected home death form be faxed to the appropriate police/AST dispatch. Peace officers then fax form to the appropriate EMS. Craig Ralston noted that when EMS are at the scene, it helps the family with closure. He noted that the EMS often have a relationship with the patient and family, from providing EMS services to them throughout their illness.

It was noted that included in agencies procedures should be a 120 day "tickler", for the DNR order. The 120 days only applies to the Nurse/HHA and does not effect the No Code status for the patient. Agencies need not resubmit an expected home death request if the patient changes agency - only the DNR order needs to be resubmitted according to agency's procedure. The M.E.'s office doesn't confirm if they received the Expected Home Death Request Form. The M.E.'s office looks at the expected home death list, yearly. Agencies may have to resubmit yearly, if necessary.

Peace Officers question if there is always time for the RN to be on scene when death occurs. Gary Kincaid noted that Peace Officers respond in "no Code" framework. In past, a educational sheet went out to families, letting them know what will happen at the time a death occur. Feels we should incorporate Comfort One now, and follow M.E.'s procedure. It was discussed that there is 2/3 different procedures now are being used.

Craig Ralston shared that it's "in the works to revise the current M.E.'s expected home death form, however, he feels we should be using the Coroners current form - used statewide. This form is signed by physician going to sign the death certificate, describes the nature of the illness, if the patient had a pacemaker. The M.E.'s office needs to OK the physician signing the death certificate. It was noted that some old forms are being used still, (the one that our local magistrate used to sign). it was discussed that it was not clear how the expected home death request, would relate to a person with a terminal illness, that was involved in an accidental death. Need for the Attorney General's Office to make a determination on the limitations of Comfort One - that the expected home death report is for illness only - education of patients and families to the procedure.

It was agreed among agencies to plan some education for physicians on the Comfort One program and for patients/families. Still a need to look at forms and procedures. Steve O'Connell, agreed to assist.

April 1, 1998

RE: HB 383

Dear Mr. Chairman and Members of the House Judiciary Committee:

Death at home is not necessarily a case for the Medical Examiner's office and therefore should not be investigated by peace officers in all instances. When terminally ill patients are dying at home with support of a home health agency or hospice, they are receiving medical care outlined in the Plan of Care authorized by the physician. Because these patients have medical assistance at home, have a signed document indicating they do not wish to be resuscitated, are expected to die as a result of the disease documented by the physician, and the physician is willing to sign the death certificate based on the nurse assessment at the time of death, the State Medical Examiner need not be involved, and there need not be any police investigation. We support HB 383.

Sincerely,

Cynthia Elliott RN, MS., Treasurer of the Board
Hospice for the Central Peninsula

Lane Beauchamp, Board Member
Hospice for the Central Peninsula

Liz Schubert, Executive Director
Hospice for the Central Peninsula

First Choice Home Health Care

CS FOR HOUSE BILL NO. 383 ()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DAVIS

A BILL

FOR AN ACT ENTITLED

"An Act relating to expected deaths that occur at home."

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

* Section 1. AS 12.65 is amended by adding a new section to read:

Sec. 12.65.007. No duty for peace officer to respond to the scene of an expected home death.

(a) A peace officer is not required by state law to respond to the scene of an expected home death if

(1) the death was expected to occur due to the dead person's state of health before death;

(2) the death occurred at the dead person's home as expected due to the dead person's state of health;

(3) a person authorized to determine and pronounce death determines and pronounces the death; and

(4) a form signed by the dead person's physician concerning the physician's expectation that the death would occur due to the person's state of health and that it would occur at home was, at the time of death, on file with the law enforcement agency for that jurisdiction.

(b) This section does not

(1) prohibit a person from requesting a peace officer to respond to the scene described in (a) of this section if, in the person's opinion, a death investigation by a peace officer may be appropriate due to suspicious or unusual circumstances; or

(2) relieve a person of the duty to notify the medical examiner and a peace officer of a death that is described in AS 12.65.005(a).

I am in support of HB 383. On January 31, 1998, my 14 year old son died of cancer in our home, in his own bed. I have just experienced a parent's worse nightmare, and feel that this bill could help other family members endure less stress and unnecessary interventions during such an emotional time.

On February 25, 1998, I testified at a teleconference held in Kenai, AK on HB 383. At this time, this bill was being heard in the Labor and Commerce Committee. It wasn't until this Committee was ready to move onto another bill that they realized they had seven (7) people in Kenai that wanted to testify. I was only allowed to speak for less than one minute. I felt it was necessary to testify and did so, but feel that this written testimony will only clarify my testimony and hopefully give you insight into what it was like for me to have to experience the ramifications of this particular law.

In order for you to understand this entire situation, I feel it is necessary to give you a brief summary of my son's medical condition. My son was always a very healthy boy. He just went to the doctor for well physicals until March, 1996. At that time he was having back pain and colds. Finally, after numerous tests, many trips to the doctors, we found out that he Stage IV neuroblastoma. He was diagnosed on May 21, 1996 at Seattle Children's Hospital. This was the beginning of a very long fight for life. He was in Seattle for 3 months receiving chemotherapy before he transferred to New York City to Memorial Sloan-Kettering Cancer Center. He spent nine (9) months there receiving more chemotherapy, three (3) major surgeries, radiation, and immune therapy. It was almost one year to the date of his diagnosis before we returned back home to Alaska. The summer of 1997, we returned to New York for tests, and found out that now he was battling leukemia as well as neuroblastoma. He was to have a bone marrow transplant in Seattle, but his neuroblastoma had reoccurred, so he could not have a transplant. We went to Philadelphia several times for experimental treatment, but that treatment proved ineffective at the doses they were willing to give so we returned home to Alaska in November, 1997. Jared weekly contact with his local doctor and had weekly hospital lab work. The last few weeks of his life he was in contact with his doctor and the hospital lab almost every other day. He was constantly battling infections and was in and out of the Emergency Room. He fought hard to beat this cancer, but it slowly invaded his body, and on January 31st he lost his last battle.

I know this is a very sensitive subject with many emotions on both sides. It has been hard for me to write about, testify, and deal with this issue so soon after my son's death, but if I can make the process of dying at home easier for any other family member, my discomfort will have been rewarded. Two years ago, I would have never thought I would be experiencing or writing about this issue. Life can change very fast in ways we would never have guessed. Because Life is so unpredictable, I hope whoever reads this testimony will think about what it might be like for them to have this happen to their loved ones in their own home. Death doesn't just happen to "old" people.

The first point I would like to make is that the Trooper that arrived at our home in the early morning hours of Saturday, January 31st WAS very empathetic to my husband's and my situation. Trooper Tuckwood was sensitive, polite, and professional. He did, however, have a job to do which was to "investigate a potential crime scene". Treating this situation as a "crime scene" is the memory I have that I rather not think of and feel was totally inappropriate in this situation. No matter how sensitive or empathetic the responding Trooper may be, the fact that he has to be there, ask questions, confiscate the drugs of the deceased, and take pictures is invasive. We had a Home Health Care Registered Nurse, an EMT, a Trooper, and then the mortuary person all in our home, usually at different times, during those early morning hours. They all had their jobs to do while I was feeling a gamut of emotions. I had to take care of business at hand, and answer their questions while realizing that my only child had just died, and soon his body would be taken away and this was the last time I would see him in his room, in his bed.

My son was under constant medical care which many health care providers were a part of. These people are PROFESSIONALS and if anyone knew our son, or my husband, or myself it was these people. These professionals can be the "Check and Balance" that the State Coroner feels he needs. We are a community, and we all need to rely on one another. Agencies need to work together and trust one another. It is not only the law enforcement agencies that are concerned about "foul play". The Medical Community also is concerned, and it is their job and responsibility to alert the police if at any time they suspect someone is being abused. Let these people attend the death and trust them to report if any "foul play" is suspected.

We all have the right to die with dignity and die at home if we choose. It is not a CRIME. We also, as family members, have rights. We are not "possible criminals" because we supported our loved one's wish to die at home in their own bed. I can't explain in words how difficult it was for me to allow the natural process of death to occur in our home in a peaceful, loving, and non-invasive setting. We could do no more and that was very hard to accept.

The State Coroner gave statistics at the same teleconference I attended and there has been NO evidence of any foul play in the last two years in which he said he saw around 1800 deaths. How many unnecessary visits by the police at home deaths did this number reflect? How many home deaths could have just as well been attended by a Registered Nurse or Doctor? I think there is much better use of law enforcement time than investigating home deaths such as my son's.

The State Coroner also stated that law enforcement officers were trained to deal with investigations of death, not doctors or nurses. I would like to point out that when a trooper arrives in a situation such as ours, where a 14 year old boy is dead in his bed, I would guess that red flags would go up. This 14 year old, however, was not healthy. I think it would be very difficult for a law enforcement officer to surmise from looking at him all the medical interventions he had been through, and how his body was riddled with cancer. Now if you asked most hospital emergency room nurses, or

doctors, or numerous other health care professionals, they would know immediately that this 14 year old had fought a long, hard battle, and they were only too well aware that he was losing ground and death was just around the corner. They knew what drugs he was on, what treatments he required, etc. This Trooper had NO clue. Who could do a better investigation? Who could put the family at ease? Who really is needed at a death scene such as this?

I also become very upset when I hear that different law enforcement personnel handle these situations differently. Family members need to know what will happen. I was not prepared prior to the trooper's arrival that he would need Jared's medications and that he would take pictures. I was told that a trooper would need to be called and would come to our house and ask a few questions. That was all I was told. The trooper that arrived at our home explained what he needed and what he had to do once he arrived. I think we could have been better prepared by the health care professionals. Family members need to know what the law is and what the troopers are required to do in these situations.

Please consider all sides to this issue. How many other States require law enforcement officers at home deaths? Why does Alaska need to have law enforcement officers at home deaths when other States do not require this? Is having a law enforcement officer investigate a home death an outdated requirement in Alaska?

Thank you for taking the time to read this.

Sincerely,

Debra Shuey

Kenai



Alaska State Legislature

Please enter into the record my testimony to the Judiciary
committee name
 committee on HB 383, dated 3/3/98.
bill # / subject

see attached testimony - Estuary

Signed: *John L. Shuey*
Testifier

Representing (Optional)
HC2 Box 937 Soldotna, AK 99669
Address
907-283-1650
Phone number

Alaska State Legislature

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Session:


State Capitol
Juneau, AK 99801
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fx 907/465-3835
800/463-2693

Representative Gary Davis

MEMORANDUM

DATE: March 30, 1998

TO: Representative Joe Green, Chair
House Judiciary Committee

FROM: Representative Gary Davis 

RE: **House Bill 383, Expected Deaths, Committee Substitute**

Attached is a proposed committee substitute to House Bill 383 that I would like your committee to consider adopting. The bill is scheduled for a hearing in your committee Wednesday, April 1. The committee substitute was drafted after further research was done in response to concerns raised during the House Labor and Commerce Committee hearing on the bill. Below is an explanation of the changes made from the original bill.

Sections 1 and 2 of the original version that amended AS 08.68.395(a) and (b) have been deleted. When originally drafted, these statutes were amended in an attempt to bring uniformity between the wording of the statutes and the information required on the expected death form stating that the physician would sign the death certificate. After reviewing the statutes and forms used, we determined that this was unnecessary.

Existing statutes require the nurse pronouncing death to document the criteria for the determination of death, notify the physician and sign the death certificate. There is also an existing requirement that the physician certify the death within 24 hours. The death certificate has sections for the signatures of both the nurse pronouncing death and the physician certifying the death.

The remaining section of the bill, adding a section to AS 12.65, has been clarified to specify that a peace officer does not need to be notified in the event of an expected home death provided that certain criteria are met. These criteria are:

1. The death was expected to occur;
2. The death occurred at the deceased's home;
3. A person authorized to pronounce death did so; and

*Representing House District 8
Cooper Landing, Funny River, Hope, Moose Pass, Seward, Sterling, Soldotna*

Representative_Gary_Davis@legis.state.ak.us

4. A form signed by the deceased's physician concerning the expectation that death is expected is on file with the state medical examiner.

If these criteria are met, then only the medical examiner needs to be notified that the death occurred and occurred as anticipated. The intent of this legislation remains the same—to remove the requirement that peace officers respond to the scene of every anticipated home death. As a courtesy, there is nothing to stop the health professionals from providing a copy of the expected death form to local law enforcement, or to informing them when the death occurs.

According to the Division of Legal Services, there does not seem to be a state statute or regulation directly requiring a peace officer to respond to notification that an expected home death has occurred. However, the inference seems to be contained in existing statute because of the types of deaths listed. There may also be municipal ordinances that we are unaware of requiring they respond, or they may feel they need to do so out of a sense of responsibility rather than explicit duty.

The backup materials provided with the initial request for a hearing contained the Alaska procedures concerning expected home deaths and some correspondence from hospice personnel in Alaska. Since then, I have tried to find out whether peace officers are required to respond to cases of expected home deaths in other states. My staff contacted the National Hospice Association, individuals in several states, and reviewed a 1995 study done by the St. Louis University, School of Medicine. Unfortunately, the majority of information compiled related to whether hospice deaths (expected home deaths) had to be reported to the coroner or medical examiner, rather than whether police needed to respond.

Attached for your review is a summary of what we learned. Oregon recently dealt with the issue of investigations into home deaths and provided some interesting insight into this issue, which is also attached.

Thank you for your time and consideration.

GLD/dld

Attachments

0-LS1220\B
Lauterbach
3/20/98

CS FOR HOUSE BILL NO. 383()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE DAVIS

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to expected deaths that occur at home."

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

3 * Section 1. AS 12.65 is amended by adding a new section to read:

4 Sec. 12.65.007. No duty to notify peace officer of an expected home death.

5 (a) Notwithstanding AS 12.65.005(a), a person who attends a death that is described
6 in AS 12.65.005(a) or has knowledge of a death that is described in AS 12.65.005(a)
7 is not required to notify a peace officer of the death if

8 (1) the death was expected to occur due to the dead person's state of
9 health before death;

10 (2) the death occurred at the dead person's home;

11 (3) a person authorized to determine and pronounce death determines
12 and pronounces the death; and

13 (4) a form signed by the dead person's physician concerning the
14 physician's expectation that the death would occur due to the person's state of health
15 and that it would occur at home was, at the time of death, on file with the state

1 medical examiner.

2 (b) This section does not

3 (1) prohibit a person from notifying a peace officer of a death that is
4 described in (a) of this section if, in the person's opinion, a death investigation by a
5 peace officer may be appropriate due to suspicious or unusual circumstances; or

6 (2) relieve a person of the duty to notify the medical examiner of a
7 death that is described in AS 12.65.005(a).

Summary of Information Gathered Regarding Expected Home Deaths

Hospice deaths do not have to be reported to the Medical Examiner or Coroner in 19 states.

Arizona	Maryland	North Dakota	Virginia
Delaware	Michigan	Oklahoma	Vermont
Florida	New Hampshire	Pennsylvania	West Virginia
Georgia	New Jersey	Rhode Island	Wyoming
Maine	North Carolina	Utah	

In **California**, the Medical Examiner or Coroner does not have to be called if in hospice situation if death was expected. State law does not require that police respond to an anticipated death, but counties may require differently. The procedures for filling out the death certificate are handled on a county basis (Source: Margaret Clausen, California)

In **New Jersey**, the Medical Examiner or Coroner does not have to be called if in hospice situation if death was expected. (Source Andy Duncan, national Hospice Organization)

Oregon law does not require a death to be investigated when the patient is attended by a physician immediately preceding death. Oregon considers a patient to be attended by a physician if that patient is under the care of the physician, not that the physician is physically present at the time of death. Law Enforcement does not have to be notified. (Source: Ann Jackson, Oregon Hospice Association)

Hospice Deaths must be reported to the Medical Examiner or Coroner in 8 states and the District of Columbia

Alaska	Louisiana	Texas
Connecticut	New Mexico	Washington
Kentucky	Tennessee	

In 8 of these states the reporting person must be at the scene.

In 5 states anyone, including family members can report the death

In 4 states, only the nurse, doctor or law enforcement officer at the scene could report the death

New Mexico has a system where all hospice nurses undergo training at the ME's office prior to reporting a hospice death. The nurse is then certified an extension of the office's investigative staff and is prepared to evaluate the death of a hospice patient.

In **Missouri**, the first licensed medical professional or law enforcement officer notified of a death is required to call the coroner and give a report on whether the death was expected (it occurred in an appropriate timeframe) and whether or not it happened as expected (there was no noticeable trauma). Police do not have to be notified. In fact, the medical professional does not even have to be present. They can tell the coroner that they are not there. (Source: Cindy Newport, Missouri Hospice in Kansas City)

The remaining states seem to have mixed requirements regarding hospice deaths. The majority of these states leave the procedures to be handled on a county-by-county basis. Also, there are varying interpretations of what an "unattended death" is.

Oregon State Medical
Examiner Newsletter

Post-it Fax Note	7671	Date	3/30	# of pages	1
To	Deb Davidson				
From	Larry Lewman				
Co Dept	Sinto MR				
Phone #	503-280-6061				
Fax #	503-280-6241				

AUGUST 1991 NEWSLETTER

MEDICAL EXAMINER TRAINING SESSIONS - ATTENTION PHYSICIANS AND DAs!

Two eight-hour medical examiner training sessions are scheduled, which will be the last until the Spring of 1992. These death investigation training sessions are open to district attorneys, physician/medical examiners, pathologists and deputy medical examiners throughout Oregon. We would appreciate it if each district attorney and medical examiner in Oregon would make the necessary calls to recruit attendance. These seminars have been scheduled on a Saturday to more easily accommodate the busy schedules of district attorneys, deputy district attorneys and physicians.

One seminar is scheduled for SATURDAY, SEPTEMBER 7, 1991 FROM 8:00 A.M. UNTIL 5:00 P.M. AT UMPQUA COMMUNITY COLLEGE, WHIPPLE FINE ARTS CENTER, 1140 COLLEGE ROAD, ROSEBURG. Space is available for 180 persons; as of 8/5/91, 76 persons have signed up.

The final seminar of 1991 is scheduled for SATURDAY, OCTOBER 19, 1991 FROM 8:00 A.M. UNTIL 5:00 P.M. AT BLUE MOUNTAIN COMMUNITY COLLEGE, ROOM M-130 (MORROW HALL), 2411 NW CARDEN, PENDLETON. Space is available for approximately 100 persons.

MEMBERS OF THE OREGON BAR: Please note -- These lectures have officially been approved by the Oregon State Bar for 9 continuing legal education credits. Appropriate certificate of completion forms will be available to members of the Bar at these seminars.

PHYSICIAN MEDICAL EXAMINERS: Please note -- In exploring the possibility of getting this seminar approved for continuing medical education credits, we were advised by the OHSU's Division of Continuing Medical Education that physicians can receive credits under Category 2 of the AMA Physician's Recognition Award for the actual hours they are physically in this class. It is your responsibility to report these hours. We will provide documentation to you that you attended.

PLEASE CALL DIANE OR CONNIE AT 280-6061 IN PORTLAND TO RESERVE A SPOT AT ONE OF THESE SEMINARS.

→ HOSTICE DEATHS:

Occasional inquiries to the State Office relate to the Medical Examiner's policy in investigating hospice deaths. Though the law gives broad authority allowing the counties flexibility in establishing their own death investigation programs, it is the suggestion of the State Office that the vast majority of these deaths be considered as deaths occurring under medical care. Exceptions would be drug overdoses or injuries that clearly fall under ORS 146. It is not necessary that a physician be at the scene. If the patient has a well-established medical history and is being followed by a hospice nurse or physician, the treating physician should be allowed to sign the death certificate without medical examiner investigation.

Rarely counties have been aggressive in investigating these deaths by sending police deputy medical examiners to the scene. Most families do not appreciate a police investigation of these natural deaths and this approach is strongly discouraged.

GUNSHOT WOUND TAPE:

Dr. Lewman presented a one hour lecture on the investigation of gunshot wounds to emergency room and trauma surgery staff at the Medical School. The lecture, including all slides, was professionally taped and the State Office has one standard VCR cassette for use which can be played on your TV. If you wish to use the cassette for small group discussions, medical meetings, etc., please make arrangements through Diane at 280-6061.

LVL:dmw

ohca

oregon health care association

Oregon's Association of Nursing Homes, Assisted Living
and Residential Care Facilities

July 31, 1997

Larry Lewman, MD
State Medical Examiner
301 NE Knott
Portland, OR 97212

Dear Dr. Lewman,

We are writing this letter as representatives to The Task Force to Improve the Care of Terminally Ill Oregonians, which was convened by the Center for Ethics in Health Care in January of 1995. (See the attached list of Task Force members.) This Task Force seeks to improve the care of the dying through education, training, and resource development.

The investigation of all hospice deaths in Curry County was brought to the attention of the Task Force out of concern for its adverse impact on family members. The Task Force would like the problem to be resolved in a way that will mitigate the unwanted intrusions on the families. We request your assistance as the State Medical Examiner.

The Task Force members are disturbed by current medical examiner practice in Curry County. Since July 1996, all hospice and home health deaths in Curry County are being investigated by the police, who are deputy county medical examiners. These investigations are done at the direction of the District Attorney, according to his interpretation of the Death Requiring Investigation Statute, ORS 146.090. The investigation includes a visit to the deceased's home, physical examination of the deceased patient, and confiscation of prescription medications. The investigation occurs regardless of the observations made by the hospice/home health nurse, the hospice medical director or the attending physician.

Under ORS 146.090(1)(f) the medical examiner shall investigate and certify the cause and the manner of all human deaths "while not under the care of a physician during the period immediately previous to death." Patrick Foley, the District Attorney of Curry County, has interpreted this phrase to mean that the deceased person must have an attending physician who is physically present at the time of death. In Mr.

Foley's view, only those home deaths in which a doctor is physically present at the time of death are attended.

While the concept of "attended or unattended deaths" is not included in ORS 146.090(1)(f), Mr. Foley uses this concept to justify these death investigations, despite the fact that there are no hospice deaths that have raised suspicions of wrongdoing. Throughout the United States, the concept of "attended or unattended" is generally accepted, both legally and medically, to mean that a patient has or does not have an attending physician.

The death investigation statute authorizes investigations if the person was not under the care of a physician immediately prior to death (ORS 146.090(1)(f)). All hospice and home health patients receive care and services under the direction of a physician. Under federal and state laws and regulations for hospices and home health agencies, care must be provided under the direction of an attending physician. See e.g., 42 CFR 410.20, 418.54, 418.68, 418.86; ORS Chapter 443; ORS 410.142.020 (4), 410.142.240(c), and 410.142.020(20). These patients remain under the care of the physician until they die or are discharged from service. Therefore, hospice and home health deaths do not meet the criteria of ORS 146.090(1)(f) because the deceased are under the care of a physician immediately prior to death.

Currently, Curry County is the only county conducting routine in-home investigations of all hospice and home health deaths. Should this practice spread, it could ultimately impact over 7,000 families per year as 25% of Oregonians now die at home under hospice care. The Task Force encourages your prompt intervention.

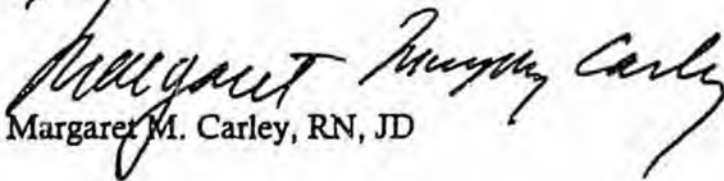
Under ORS 146.015, the State Medical Examiner Advisory Board shall make policies for the administration of ORS 146.003 to 146.165, and the Department of State Police shall make rules to effectuate such policies. The Task Force requests that you convene an immediate special meeting of the State Medical Examiner Advisory Board to set policies regarding the interpretation of ORS 146.090(1)(f) and that you subsequently request that the State Police adopt an emergency rule to effectuate the policy you adopt.

In an August 1991 Medical Examiner's newsletter, you suggested that the vast majority of hospice deaths be considered as natural deaths occurring under medical care. Exceptions include inappropriate or illegal use of drugs or injuries that clearly fall under ORS 146. You stated that it is not necessary that a physician be at the scene. If the patient has a well-established medical history and is being followed by a hospice nurse or physician, the treating physician should be allowed to sign the death certificate without a medical examiner investigation.

The Task Force requests that your August 1991 newsletter recommendation form the basis for the policy that the State Medical Examiner Advisory Board adopt and which the State Police incorporate in the rules.

Please feel free to contact us if we can be of assistance in this matter.

Sincerely,


Margaret M. Carley, RN, JD

Jan Ries, RN, MN
Task Force Member

Ann Jackson, MM
Task Force Member

Patrick M. Dunn, MD FACP, Chair
Task Force to Improve the Care
of Terminally Ill Oregonians

Susan Tolle, MD FACP
Task Force Member

CC: Governor John Kitzhaber,
Attorney General Hardy Meyers
District Attorney Patrick Foley
Chairman Medical Examiners Advisory Board Don Houghton

Enclosure: Membership List of Task Force To Improve the Care of the
Terminally Ill



Oregon

John A. Kitzhaber, M.D., Governor

Oregon State Police
Medical Examiner Division
301 NE Knott Street
Portland, OR 97212-3092
(503) 280-6061
FAX (503) 280-6041
TTY (503) 775-0548

RECEIVED
AUG 1 1997
OREGON HEALTH
CARE ASSOCIATION

August 18, 1997

Forensic Pathologists:

Larry V. Lowman, M.D.
State Medical Examiner

Karen Gunson, M.D.
Edward F. Wilson, M.D.
Clifford C. Nelson, M.D.
Deputy State Medical Examiners

Margaret M. Carley, R.N., J.D.
Oregon Health Care Association
15895 SW 72nd Avenue, Suite 250
Portland, Oregon 97224-7913

Dear Margaret:

My apologies for the delay in responding to your letter of July 31. I thought it wise to first discuss the situation with Don Houghton, M.D., Chairman of the Medical Examiner Advisory Board, and Major Jim Willis, Commander of the Intergovernmental Services Bureau of the Oregon State Police.

Since we last talked, I have had several phone conversations with both Curry County District Attorney Pat Foley and Lori Kent of Curry County Home Health Hospice. Lori has been helpful as the spokesperson for hospice in Curry County and you may wish to contact her at 541-247-7084. The situation in Curry County has improved significantly. DA Foley and Medical Examiner Dr. Pitchford will appoint hospice nurses to serve as deputy medical examiners. The deputy medical examiner nurse will send the report of death (which they currently prepare anyway) to the District Attorney's Office. Law enforcement investigation will cease unless the death clearly falls under ORS 146 (i.e., suicide, accident, etc.). There are some lingering issues regarding the disposal of drugs and training of the nurses which I believe will resolve themselves over time.

It is the opinion of Chairman Houghton, Major Willis, OSP legal advisors and myself that it would be inappropriate to ask the Advisory Board to visit this issue and reiterate a practice which is already in place. The modern version of ORS 146 was passed in 1973 and has served us well for almost 25 years. The language "while not under the care of a physician during the period immediately previous to death" was carefully chosen by the authors and proponents of the law to allow local DA's and medical examiners some latitude in choosing individual deaths to investigate. The Medical Examiner Advisory Board cannot make a policy that is contrary to existing state law or tell district attorneys how to interpret the law.

I prefer to consider the Curry County situation as an anomaly and I do not believe a similar situation will reoccur. If it does, we can deal with it. A similar situation happened in Tillamook County several years ago and it was promptly resolved with a

Margaret M. Carley, R.N., J.D.

August 18, 1997

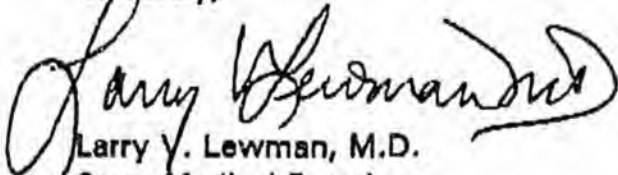
Page 2

few phone calls. I am not concerned at all about the practice of investigating hospice deaths spreading throughout the state.

I previously sent you a copy of the August 1991 State Medical Examiner Newsletter which discusses our suggested policy of operation in hospice deaths. Because of the controversy in Curry County, I revisited the issue in the current August 1997 ME Newsletter. Every physician medical examiner, district attorney, pathologist and deputy medical examiner/police officer in the state should receive this information next week.

I hope you had an enjoyable vacation. Please feel free to give either Lori Kent or me a call.

Sincerely,



Larry V. Lewman, M.D.
State Medical Examiner

LVL:dms

cc: Major Jim Willis, Intergovernmental Services Bureau, Oregon State Police
Donald Houghton, M.D., Chairman, Medical Examiner Advisory Board
Lori Kent, Curry County Home Health Hospice

Hospice 
of El Paso

September 9, 1997

Mr. Patrick Foley
District Attorney
Curry County
PO Box 746
Gold Beach, OR 97444

Dear Mr. Foley:

Recently, I became aware that the Oregon Hospice Organization has been working with you related to "unattended" deaths. In Texas, we have a state law which permits nurse pronouncement. I am enclosing a copy of that legislation and our policy related to implementation in El Paso County, Texas, for your information and review.

From a practical standpoint, our local medical examiner and I met several times in 1995-96 to discuss our state nurse license requirements and our state law on pronouncement. Over a period of about four years, we have developed a relationship in which he is confident that our nursing personnel are able to make an appropriate determination of death and to declare death without the presence of an attending physician. The only time a death is investigated by our local medical examiner is when there is an unusual circumstance. In the case of a hospice patient, he might investigate a person who has died in an automobile accident or was found dead in the garage with the car running.

I know that you are interested in assuring that the rights of the citizens living within your community are protected and that your state laws are equitably carried out. I believe that hospice organizations have well established credibility all over the United States. I believe further that you will find that they are able to significantly lighten your staff's burden in dealing with death calls for persons who are known to be terminally ill, have a limited life expectancy, and are so certified by their attending physician and the hospice medical director.

Sincerely,



Charles E. Roark, Ed.D., FACHE
Executive Director

CER/clt





1450 Research Boulevard, Suite 310 • Rockville, Maryland 20850 • Phone: (301) 279-2566 • Fax: (301) 309-8791

August 20, 1997

Patrick Foley, Esq.
Curry County District Attorney
PO Box 746
Gold Beach OR 97444

Dear Mr. Foley:

This is written at the behest of Ann Jackson, Executive Director of the Oregon Hospice Association, to respectfully offer comment on "unattended" deaths of hospice patients.

I have, I suspect, a unique perspective or personal background enabling me to make what I hope will be useful remarks in this regard. I am the Medical Director of Montgomery County Maryland's only full-service non-affiliated non-profit hospice. I am also a Deputy Assistant Medical Examiner for the State of Maryland, assigned to Montgomery County. As an attorney and physician, the issue is one with which I have dealt in the past and in other roles.

The hospice physician strives to minimize suffering. As a medical examiner, I make determinations of cause of death and exercise the state medical examiner's authority to the local constabulary. I am careful to keep the roles distinct and do not sign death certificates as medical examiner when my hospice patients die.

Unless "attended" is defined explicitly and uniquely in Oregon's law, ubiquitous usage of that term may be helpful to you. In common professional parlance, a physician caring for a patient is attending on that patient, even when not physically beside the patient. The concept and label of a death as attended or not follows from that usage, *i.e.*, whether or not a patient was being followed by a physician. An unattended death is one wherein the decedent did not have or was not being followed by a doctor, regardless of where that physician was at the time of death. All hospice patients in Medicare certified programs are being followed by a physician.

In other jurisdictions of which I am aware, certifications of cause of death are made by the "attending physician," *i.e.* the physician caring for that patient at the time of death – even if not physically present at the moment of death. Hospice patients are usually easier to certify, given that more is often known about their underlying problem. As medical director, I am often asked to certify the cause of death of patients in our program, to convenience the family, because of the immediate unavailability of the attending physician. This is entirely proper, as long as the medical director can diagnose the cause of death. It is not always clear whether this must be done by a "probability" standard or by "reasonable medical certainty," but it is rare for the higher level of certainty not to be met in hospice.

As medical examiner, when I am asked to approve the certification by another physician of the cause of death of a hospice patient, I apply the same standards as to any death: Is the attending physician's certification reasonable under the circumstances? He or she need not have been at the bedside at the instant of passing. The question often is the degree of contact and the amount of information possessed by the certifying physician – which information is more likely to be adequate for hospice patients.

Ms. Jackson has made us aware that part of the problem relates to nurse declarations of death. This is a matter of state law and the trend has been for legislatures to elongate their lists of who may pronounce death. Diagnosis of death and certification of cause of death are not linked, however; they are separate functions. Oregon has been a national leader in empowering non-physician license holders and may permit nurses to "attend" patients, but this would be unusual. Physicians and possibly nurse practitioners are usually the only professionals who may attend a patient.

Let me offer one other perspective on the terminology that may be of interest. In a teaching hospital, the supervising physician is referred to as the "attending." Thus, when I am teaching resident doctors in the Johns Hopkins Emergency Medicine residency, I am listed as the attending on the case, even when I am not the exclusive source of medical authority. Nurses follow the residents' orders and residents will sometimes declare or even certify death, signing their own names to the appropriate documents. Yet, as their supervisor, they are acting under my dominion.

I hope that at least some of this is interesting or helpful to you. If you care to discuss it or if I can offer other or supporting information, please contact me at the above numbers, or at my consulting offices at The Legal Medicine Center 301 - 530-6577.

Sincerely,

Hugh F. Hill III, MD, JD
Medical Director

cc: Ms. Jackson

*I hope this helps
LA*



Phone
715 - 427-3532

FAX
715 - 427-3537

709 McComb Ave.
P.O. Box 237
Rib Lake, Wisconsin 54470

August 8, 1997

Patrick Foley, DA - Curry County
P.O. Box 746
Gold Beach, OR 97444

Dear Mr. Foley:

It has come to my attention that hospice deaths are being fairly routinely investigated in your county, being considered "unattended" deaths. I would like to share with you the general understanding we have in Wisconsin regarding hospice deaths.

A hospice patient is always under the care of a physician. I believe home health patients also are always under the care of a physician, although home health is not my field of expertise. In our experience in twelve years of hospice care, the physician is almost never actually physically present at the time of the patient's death. However, the physician is kept informed by the nurse of what is going on, and he continues to give the medical direction for the care. A nurse is legally, in Wisconsin, and I understand also in Oregon, able to communicate her observations to the physician at the time of the patient's death, and from that the physician makes a determination that the patient has indeed died. That type of death is not an unattended death.

To investigate such deaths is to rob family of a great deal of the emotional and spiritual peace, satisfaction, and growth which occur as they care for a dying loved one. It injects into the scene an aura of "something is amiss." The events surrounding a death have a great impact on the grieving of surviving family members. A normal, usual hospice death contributes immeasurably to healthy grieving. An investigation by legal authorities would do just the opposite. I urge you to reconsider your practice of investigating hospice deaths as being "unattended," which they truly are not.

Sincerely,

Barb Meyer Hospice Director

BJM/dn

Copy to Ann Jackson

A United Way Agency



HB

390

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§ b lines p2 line 1
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p2 line 12 on Alaska receiving

Did not adopt version P.

p2 line 1



HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: February 11, 1998

FURTHER REFERRALS:

Finance

Date of Committee Action: 2/27/98

The JUDICIARY Committee considered:

HB 390

HOUSE BILL NO. 390

COVENANT MARRIAGES

"An Act relating to marriage; and amending Rules 54 and 56, Alaska Rules of Civil Procedure."

recommends it be replaced with the following committee substitute CS HB 390 (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/Data)

fiscal note(s) Hatl & SS

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Carl W. [Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>[Signature]</i>			✓	
<i>Charmette James</i>	✓			
<i>Tom Biele</i>			✓	
<i>[Signature]</i>		✓		

CHAIR'S SIGNATURE

[Signature]

CS FOR HOUSE BILL NO. 390(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

**Offered:
Referred:**

Sponsor(s): REPRESENTATIVES KELLY, Dyson, Therriault

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to marriage; and amending Rules 54 and 56, Alaska Rules of**
2 **Civil Procedure."**

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

4 *** Section 1.** AS 25.05 is amended by adding a new section to read:

5 **Sec. 25.05.015. Charter marriages.** A charter marriage is a marriage
6 authorized under AS 25.05.011 between a man and a woman who have

7 (1) agreed that the marriage between them will be a lifelong
8 relationship;

9 (2) received counseling emphasizing the nature, purposes, and
10 responsibilities of marriage;

11 (3) declared in their application for a marriage license their intent to
12 enter into a charter marriage as required under AS 25.05.091(c); and

13 (4) have executed a declaration of intent to contract a charter marriage
14 under AS 25.05.096.

1 * Sec. 2. AS 25.05.091 is amended by adding a new subsection to read:

2 (c) If an application under (a) of this section is for a charter marriage, the
3 application must, in addition to the requirements of (a) and (b) of this section, include
4 a statement substantially similar to the following:

5 We, (Name of Intended Husband) and (Name of Intended Wife).
6 declare our intent to contract a charter marriage and, accordingly, have
7 executed a declaration of intent to contract a charter marriage that is
8 attached to this application.

9 * Sec. 3. AS 25.05 is amended by adding a new section to read:

10 **Sec. 25.05.096. Declaration of intent for charter marriage.** The declaration
11 of intent to contract a charter marriage that is required under AS 25.05.091(c) must
12 include

13 (1) a recitation by each party that the party

14 (A) intends to enter into a charter marriage governed by the
15 laws of this state;

16 (B) understands and agrees that the marriage will be a lifelong
17 relationship;

18 (C) has received counseling emphasizing the nature, purposes,
19 and responsibilities of marriage;

20 (D) believes that the party's intended mate is a wise choice as
21 a mate for life;

22 (E) has disclosed to the intended mate all facts that may
23 adversely affect the intended mate's decision to enter into the charter marriage;
24 and

25 (F) is committed to seeking marital counseling to strengthen the
26 marital relationship if the parties have marital difficulties;

27 (2) an affirmation by the parties that both parties have received
28 counseling from a priest, minister, rabbi, clerk of the religious society of friends,
29 clergy member of a religious sect, psychologist, psychological associate, licensed
30 clinical social worker, or marital and family therapist that included

31 (A) a discussion of the seriousness of charter marriage;

1 (B) communication of the fact that a charter marriage is a
2 commitment for life; and

3 (C) receipt of a copy of AS 25.24.270 and 25.24.275;

4 (3) an attestation by the counselor that the parties were counseled as
5 to the nature, purposes, and responsibilities of marriage; the attestation must be signed
6 by the counselor but need not be notarized; and

7 (4) the notarized signatures of both parties.

8 * Sec. 4. AS 25.05.111 is amended by adding new subsections to read:

9 (c) If the parties to the marriage have complied with AS 25.05.015, the
10 licensing officer shall indicate on the marriage license that the parties have entered into
11 a charter marriage.

12 (d) If the parties to the marriage have not complied with AS 25.05.015, the
13 licensing officer shall indicate on the marriage license that the parties have entered into
14 a testament marriage.

15 * Sec. 5. AS 25.05.321 is amended by adding a new subsection to read:

16 (b) A marriage certificate for a charter marriage and copies of a marriage
17 certificate for a charter marriage must include a designation that the parties entered
18 into a charter marriage.

19 * Sec. 6. AS 25.24.050 is amended to read:

20 **Sec. 25.24.050. Grounds for divorce. (a) Except as provided in (b) of this**
21 **section, a** [A] divorce may be granted for any of the following grounds:

22 (1) failure to consummate the marriage at the time of the marriage and
23 continuing at the commencement of the action;

24 (2) adultery;

25 (3) conviction of a felony;

26 (4) wilful desertion for a period of one year;

27 (5) either

28 (A) cruel and inhuman treatment calculated to impair health or
29 endanger life;

30 (B) personal indignities rendering life burdensome; or

31 (C) incompatibility of temperament;

1 (6) habitual gross drunkenness contracted since marriage and continuing
2 for one year before [PRIOR TO] the commencement of the action;

3 (7) [REPEALED

4 (8)] incurable mental illness when the spouse has been confined to an
5 institution for a period of at least 18 months immediately preceding the commencement
6 of the action; the status as to the support and maintenance of the mentally ill person
7 is not altered in any way by the granting of the divorce;

8 (8) [(9)] addiction of either party, subsequent to the marriage, to the
9 habitual use of opium, morphine, cocaine, or a similar drug.

10 * Sec. 7. AS 25.24.050 is amended by adding a new subsection to read:

11 (b) A spouse to a charter marriage may obtain a judgment of divorce only
12 upon proof of one of the following:

13 (1) the other spouse has committed adultery;

14 (2) the other spouse has been convicted of a felony and has been
15 sentenced to death or a term of incarceration of three years or more;

16 (3) the other spouse has abandoned the matrimonial domicile for one
17 year and consistently refuses to return; or

18 (4) the spouses have been living separately and apart continuously
19 without reconciliation for one year after the date of a judgment of separation from bed
20 and board was signed under AS 25.24.270 and 25.24.275, except that, if there is a
21 minor child of the marriage, the spouses must have been living separately and apart
22 continuously without reconciliation for 18 months from the date the judgment of
23 separation from bed and board was signed.

24 * Sec. 8. AS 25.24.110 is amended to read:

25 **Sec. 25.24.110. Separate domicile or residence.** In an action for divorce or
26 separation from bed and board, a spouse may acquire a separate residence or
27 domicile from that of the other spouse without reference among other factors to
28 misconduct or consent of the other spouse.

29 * Sec. 9. AS 25.24.130 is amended to read:

30 **Sec. 25.24.130. Defenses to other divorce grounds.** When the divorce action
31 is for any of the grounds provided in AS 25.24.050(a)(4) - (6) or (b)(3)

1 [AS 25.24.050(4) - (6)], the defense of procurement or that the defendant has been
 2 expressly forgiven may be made. When the divorce action is for the ground provided
 3 in AS 25.24.050(a)(3) or (b)(2) [AS 25.24.050(3)], the defense of procurement or that
 4 the defendant has been expressly forgiven or that the action was not brought within
 5 two years after conviction may be made.

6 * **Sec. 10.** AS 25.24.150(a) is amended to read:

7 (a) In an action for divorce, separation from bed and board, or [FOR] legal
 8 separation or for placement of a child when one or both parents have died, the court
 9 may, if it has jurisdiction under AS 25.30.020 [,] and is an appropriate forum under
 10 AS 25.30.050 and 25.30.060, during the pendency of the action [,] or at the final
 11 hearing or at any time thereafter during the minority of a child of the marriage, make,
 12 modify, or vacate an order for the custody of or visitation with the minor child that
 13 may seem necessary or proper, including an order that provides for visitation by a
 14 grandparent or other person if that is in the best interests of the child.

15 * **Sec. 11.** AS 25.24.200(a) is amended to read:

16 (a) Except as provided in (f) of this section, a [A] husband and wife together
 17 may petition the superior court for the dissolution of their marriage under
 18 AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing the
 19 petition:

20 (1) incompatibility of temperament has caused the irremediable
 21 breakdown of the marriage;

22 (2) if there are unmarried children of the marriage under the age of 19
 23 or the wife is pregnant, and the spouses have agreed on which spouse or third party
 24 is to be awarded custody of each minor child of the marriage and the extent of
 25 visitation, including visitation by grandparents and other persons if in the child's best
 26 interests, and support to be provided on the children's behalf, whether the payments
 27 are to be made through the child support enforcement agency and the tax consequences
 28 of that agreement;

29 (3) the spouses have agreed as to the distribution of all jointly owned
 30 real and personal property, including retirement benefits, and the payment of spousal
 31 maintenance, if any, and the tax consequences resulting from these payments; the

1 agreement must be fair and just and take into consideration the factors listed in
 2 AS 25.24.160(a)(2) and (4) so that the economic effect of dissolution is fairly
 3 allocated; and

4 (4) the spouses have agreed as to the payment of all unpaid obligations
 5 incurred by either or both of them, and as to payment of obligations incurred jointly
 6 in the future.

7 * **Sec. 12.** AS 25.24.200(b) is amended to read:

8 (b) Except as provided in (f) of this section, a [A] husband or wife may
 9 separately petition for dissolution of their marriage under AS 25.24.200 - 25.24.260
 10 if the following conditions exist at the time of filing the petition:

11 (1) incompatibility of temperament, as evidenced by extended absence
 12 or otherwise, has caused the irremediable breakdown of the marriage;

13 (2) the petitioning spouse has been unable to ascertain the other
 14 spouse's position in regard to the dissolution of their marriage and in regard to the fair
 15 and just division of property, including retirement benefits, spousal maintenance,
 16 payment of debts, and custody, support, and visitation because the whereabouts of the
 17 other spouse is unknown to the petitioning spouse after reasonable efforts have been
 18 made to locate the absent spouse; and

19 (3) the other spouse cannot be personally served with process inside or
 20 outside the state.

21 * **Sec. 13.** AS 25.24.200 is amended by adding a new subsection to read:

22 (f) A spouse to a charter marriage may not petition for the dissolution of the
 23 marriage under AS 25.24.200 - 25.24.260.

24 * **Sec. 14.** AS 25.24 is amended by adding new sections to read:

25 **Article 2A. Separation from Bed and Board in a Charter Marriage.**

26 **Sec. 25.24.270. Separation from bed and board.** (a) A spouse to a charter
 27 marriage may obtain a judgment of separation from bed and board only on proof of
 28 having obtained personal counseling within the six months preceding the date of filing
 29 the petition for separation of bed and board and proof that

30 (1) the spouses have been living separately and continuously apart
 31 without reconciliation for one year; or

1 (2) the other spouse has

2 (A) committed adultery;

3 (B) been convicted of a felony under AS 11.41 or convicted of
4 an offense under a law in another jurisdiction with elements substantially
5 similar to a felony under AS 11.41;

6 (C) abandoned the matrimonial domicile for one year and
7 consistently refuses to return;

8 (D) physically abused the petitioning spouse;

9 (E) physically or sexually abused a child of the marriage or a
10 child of one of the spouses;

11 (F) been habitually intemperate in the consumption of alcohol
12 or in the use of drugs;

13 (G) treated the petitioning spouse cruelly in a manner that
14 impairs the health or endangers the life of the petitioning spouse; or

15 (H) inflicted on the petitioning spouse personal indignities
16 rendering life burdensome.

17 (b) During the pendency of an action for separation from bed and board under
18 this section, the court may, upon application and in appropriate circumstances, issue
19 orders that are authorized under AS 25.24.140 during the pendency of divorce
20 proceedings.

21 (c) The court may not make a judgment on the pleadings, except for a default
22 judgment, or grant a summary judgment in an action for separation from bed and
23 board under this section.

24 **Sec. 25.24.275. Effect of decree.** A decree of separation from bed and board
25 issued under AS 25.24.270

26 (1) does not dissolve the bond of matrimony; the separated husband and
27 wife are not at liberty to marry again;

28 (2) puts an end to the parties' conjugal cohabitation and to the common
29 concerns that existed between them;

30 (3) remains in effect until either reconciliation or divorce.

31 * **Sec. 15. COURT RULE CHANGE.** AS 25.24.270(c), enacted by sec. 14 of this Act, has

1 the effect of amending Rules 54 and 56, Alaska Rules of Civil Procedure, by prohibiting a
2 court from making a judgment on the pleadings, except for a default judgment, or granting
3 a summary judgment in an action for separation from bed and board in a charter marriage.

4 * Sec. 16. AS 25.05.111(d), enacted by sec. 4 of this Act, applies to marriage licenses
5 issued on or after the effective date of this Act.

AMENDMENT

#1

IN THE HOUSE

By Representative James

TO: CSHB 390 - Version "Q"

3-Y
2-N

Page 2, Lines 1-15,

Delete all material and all additional references

Passes

AMENDMENT

#2

OFFERED IN THE HOUSE BY REPRESENTATIVE JAMES

TO: HB 390

Passes

Page 3, line 13:

After *associate* insert:

“licensed clinical social worker”

0-LS1062\Q
Lauterbach
2/26/98

CS FOR HOUSE BILL NO. 390(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Dyson, Therriault

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to marriage; and amending Rules 54 and 56, Alaska Rules of
2 Civil Procedure."

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

4 * Section 1. AS 25.05 is amended by adding a new section to read:

5 Sec. 25.05.015. Charter marriages. (a) A charter marriage is a marriage
6 authorized under AS 25.05.011 between a man and a woman who have

7 (1) agreed that the marriage between them will be a lifelong
8 relationship;

9 (2) received counseling emphasizing the nature, purposes, and
10 responsibilities of marriage;

11 (3) declared in their application for a marriage license their intent to
12 enter into a charter marriage as required under AS 25.05.091(c); and

13 (4) have executed a declaration of intent to contract a charter marriage
14 under AS 25.05.096.

1 (b) A couple that is already lawfully married under a contract entered into in
2 this state that is not a charter marriage may execute a declaration of intent to designate
3 their marriage as a charter marriage to be governed by the laws of this state relating
4 to charter marriages. The declaration of intent must contain the contents required
5 under AS 25.05.096 and be presented to a licensing officer. The licensing officer shall
6 prepare two short-form certificates that include a notation of the declaration of intent
7 to designate a charter marriage and, after the parties have signed them, give one to
8 each of the parties to the marriage with an attached copy of the declaration. The
9 licensing officer shall also forward to the registrar each declaration of intent received
10 under this subsection. The registrar shall attach the declaration to the original marriage
11 certificate and make a notation on the original and any required copies that the
12 marriage has been converted to a charter marriage. A marriage for which a declaration
13 under this subsection has been presented to a licensing officer is considered a charter
14 marriage from the time that the parties sign the short-form certificates under this
15 subsection.

16 * Sec. 2. AS 25.05.091 is amended by adding a new subsection to read:

17 (c) If an application under (a) of this section is for a charter marriage, the
18 application must, in addition to the requirements of (a) and (b) of this section, include
19 a statement substantially similar to the following:

20 We, (Name of Intended Husband) and (Name of Intended Wife),
21 declare our intent to contract a charter marriage and, accordingly, have
22 executed a declaration of intent to contract a charter marriage that is
23 attached to this application.

24 * Sec. 3. AS 25.05 is amended by adding a new section to read:

25 **Sec. 25.05.096. Declaration of intent for charter marriage.** (a) The
26 declaration of intent to contract a charter marriage that is required under
27 AS 25.05.091(c) must include

28 (1) a recitation by each party that the party

29 (A) intends to enter into a charter marriage governed by the
30 laws of this state;

31 (B) understands and agrees that the marriage will be a lifelong

1 relationship;

2 (C) has received counseling emphasizing the nature, purposes,
3 and responsibilities of marriage;

4 (D) believes that the party's intended mate is a wise choice as
5 a mate for life;

6 (E) has disclosed to the intended mate all facts that may
7 adversely affect the intended mate's decision to enter into the charter marriage;
8 and

9 (F) is committed to seeking marital counseling to strengthen the
10 marital relationship if the parties have marital difficulties;

11 (2) an affirmation by the parties that both parties have received
12 counseling from a priest, minister, rabbi, clerk of the religious society of friends,
13 clergy member of a religious sect, psychologist, psychological associate, or marital and
14 family therapist that included

15 (A) a discussion of the seriousness of charter marriage;

16 (B) communication of the fact that a charter marriage is a
17 commitment for life; and

18 (C) receipt of a copy of AS 25.24.270 and 25.24.275;

19 (3) an attestation by the counselor that the parties were counseled as
20 to the nature, purposes, and responsibilities of marriage; the attestation must be signed
21 by the counselor but need not be notarized; and

22 (4) the notarized signatures of both parties.

23 (b) A declaration of intent to contract a charter marriage that is required under
24 AS 25.05.015(b) must include

25 (1) the items required under (a) of this section; and

26 (2) a recitation that the parties are currently married under a contract
27 entered into in this state.

28 * Sec. 4. AS 25.05.111 is amended by adding new subsections to read:

29 (c) If the parties to the marriage have complied with AS 25.05.015, the
30 licensing officer shall indicate on the marriage license that the parties have entered into
31 a charter marriage.

1 (d) If the parties to the marriage have not complied with AS 25.05.015, the
2 licensing officer shall indicate on the marriage license that the parties have entered into
3 a testament marriage.

4 * Sec. 5. AS 25.05.321 is amended by adding a new subsection to read:

5 (b) A marriage certificate for a charter marriage and copies of a marriage
6 certificate for a charter marriage must include a designation that the parties entered
7 into a charter marriage.

8 * Sec. 6. AS 25.24.050 is amended to read:

9 Sec. 25.24.050. Grounds for divorce. (a) Except as provided in (b) of this
10 section, a [A] divorce may be granted for any of the following grounds:

11 (1) failure to consummate the marriage at the time of the marriage and
12 continuing at the commencement of the action;

13 (2) adultery;

14 (3) conviction of a felony;

15 (4) wilful desertion for a period of one year;

16 (5) either

17 (A) cruel and inhuman treatment calculated to impair health or
18 endanger life;

19 (B) personal indignities rendering life burdensome; or

20 (C) incompatibility of temperament;

21 (6) habitual gross drunkenness contracted since marriage and continuing
22 for one year before [PRIOR TO] the commencement of the action;

23 (7) [REPEALED

24 (8)] incurable mental illness when the spouse has been confined to an
25 institution for a period of at least 18 months immediately preceding the commencement
26 of the action; the status as to the support and maintenance of the mentally ill person
27 is not altered in any way by the granting of the divorce;

28 (8) [(9)] addiction of either party, subsequent to the marriage, to the
29 habitual use of opium, morphine, cocaine, or a similar drug.

30 * Sec. 7. AS 25.24.050 is amended by adding a new subsection to read:

31 (b) A spouse to a charter marriage may obtain a judgment of divorce only

1 upon proof of one of the following:

2 (1) the other spouse has committed adultery;

3 (2) the other spouse has been convicted of a felony and has been
4 sentenced to death or a term of incarceration of three years or more;

5 (3) the other spouse has abandoned the matrimonial domicile for one
6 year and consistently refuses to return; or

7 (4) the spouses have been living separately and apart continuously
8 without reconciliation for one year after the date of a judgment of separation from bed
9 and board was signed under AS 25.24.270 and 25.24.275, except that, if there is a
10 minor child of the marriage, the spouses must have been living separately and apart
11 continuously without reconciliation for 18 months from the date the judgment of
12 separation from bed and board was signed.

13 * Sec. 8. AS 25.24.110 is amended to read:

14 **Sec. 25.24.110. Separate domicile or residence.** In an action for divorce or
15 separation from bed and board, a spouse may acquire a separate residence or
16 domicile from that of the other spouse without reference among other factors to
17 misconduct or consent of the other spouse.

18 * Sec. 9. AS 25.24.130 is amended to read:

19 **Sec. 25.24.130. Defenses to other divorce grounds.** When the divorce action
20 is for any of the grounds provided in AS 25.24.050(a)(4) - (6) or (b)(3)
21 [AS 25.24.050(4) - (6)], the defense of procurement or that the defendant has been
22 expressly forgiven may be made. When the divorce action is for the ground provided
23 in AS 25.24.050(a)(3) or (b)(2) [AS 25.24.050(3)], the defense of procurement or that
24 the defendant has been expressly forgiven or that the action was not brought within
25 two years after conviction may be made.

26 * Sec. 10. AS 25.24.150(a) is amended to read:

27 (a) In an action for divorce, separation from bed and board, or [FOR] legal
28 separation or for placement of a child when one or both parents have died, the court
29 may, if it has jurisdiction under AS 25.30.020 [,] and is an appropriate forum under
30 AS 25.30.050 and 25.30.060, during the pendency of the action [,] or at the final
31 hearing or at any time thereafter during the minority of a child of the marriage, make,

1 modify, or vacate an order for the custody of or visitation with the minor child that
2 may seem necessary or proper, including an order that provides for visitation by a
3 grandparent or other person if that is in the best interests of the child.

4 * Sec. 11. AS 25.24.200(a) is amended to read:

5 (a) Except as provided in (f) of this section, a [A] husband and wife together
6 may petition the superior court for the dissolution of their marriage under
7 AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing the
8 petition:

9 (1) incompatibility of temperament has caused the irremediable
10 breakdown of the marriage;

11 (2) if there are unmarried children of the marriage under the age of 19
12 or the wife is pregnant, and the spouses have agreed on which spouse or third party
13 is to be awarded custody of each minor child of the marriage and the extent of
14 visitation, including visitation by grandparents and other persons if in the child's best
15 interests, and support to be provided on the children's behalf, whether the payments
16 are to be made through the child support enforcement agency and the tax consequences
17 of that agreement;

18 (3) the spouses have agreed as to the distribution of all jointly owned
19 real and personal property, including retirement benefits, and the payment of spousal
20 maintenance, if any, and the tax consequences resulting from these payments; the
21 agreement must be fair and just and take into consideration the factors listed in
22 AS 25.24.160(a)(2) and (4) so that the economic effect of dissolution is fairly
23 allocated; and

24 (4) the spouses have agreed as to the payment of all unpaid obligations
25 incurred by either or both of them, and as to payment of obligations incurred jointly
26 in the future.

27 * Sec. 12. AS 25.24.200(b) is amended to read:

28 (b) Except as provided in (f) of this section, a [A] husband or wife may
29 separately petition for dissolution of their marriage under AS 25.24.200 - 25.24.260
30 if the following conditions exist at the time of filing the petition:

31 (1) incompatibility of temperament, as evidenced by extended absence

1 or otherwise, has caused the irremediable breakdown of the marriage;

2 (2) the petitioning spouse has been unable to ascertain the other
3 spouse's position in regard to the dissolution of their marriage and in regard to the fair
4 and just division of property, including retirement benefits, spousal maintenance,
5 payment of debts, and custody, support, and visitation because the whereabouts of the
6 other spouse is unknown to the petitioning spouse after reasonable efforts have been
7 made to locate the absent spouse; and

8 (3) the other spouse cannot be personally served with process inside or
9 outside the state.

10 * Sec. 13. AS 25.24.200 is amended by adding a new subsection to read:

11 (f) A spouse to a charter marriage may not petition for the dissolution of the
12 marriage under AS 25.24.200 - 25.24.260.

13 * Sec. 14. AS 25.24 is amended by adding new sections to read:

14 **Article 2A. Separation from Bed and Board in a Charter Marriage.**

15 **Sec. 25.24.270. Separation from bed and board.** (a) A spouse to a charter
16 marriage may obtain a judgment of separation from bed and board only on proof of
17 having obtained personal counseling within the six months preceding the date of filing
18 the petition for separation of bed and board and proof that

19 (1) the spouses have been living separately and continuously apart
20 without reconciliation for one year; or

21 (2) the other spouse has

22 (A) committed adultery;

23 (B) been convicted of a felony under AS 11.41 or convicted of
24 an offense under a law in another jurisdiction with elements substantially
25 similar to a felony under AS 11.41;

26 (C) abandoned the matrimonial domicile for one year and
27 consistently refuses to return;

28 (D) physically abused the petitioning spouse;

29 (E) physically or sexually abused a child of the marriage or a
30 child of one of the spouses;

31 (F) been habitually intemperate in the consumption of alcohol

1 or in the use of drugs;

2 (G) treated the petitioning spouse cruelly in a manner that
3 impairs the health or endangers the life of the petitioning spouse; or

4 (H) inflicted on the petitioning spouse personal indignities
5 rendering life burdensome.

6 (b) During the pendency of an action for separation from bed and board under
7 this section, the court may, upon application and in appropriate circumstances, issue
8 orders that are authorized under AS 25.24.140 during the pendency of divorce
9 proceedings.

10 (c) The court may not make a judgment on the pleadings, except for a default
11 judgment, or grant a summary judgment in an action for separation from bed and
12 board under this section.

13 **Sec. 25.24.275. Effect of decree.** A decree of separation from bed and board
14 issued under AS 25.24.270

15 (1) does not dissolve the bond of matrimony; the separated husband and
16 wife are not at liberty to marry again;

17 (2) puts an end to the parties' conjugal cohabitation and to the common
18 concerns that existed between them;

19 (3) remains in effect until either reconciliation or divorce.

20 * **Sec. 15. COURT RULE CHANGE.** AS 25.24.270(c), enacted by sec. 14 of this Act, has
21 the effect of amending Rules 54 and 56, Alaska Rules of Civil Procedure, by prohibiting a
22 court from making a judgment on the pleadings, except for a default judgment, or granting
23 a summary judgment in an action for separation from bed and board in a charter marriage.

24 * **Sec. 16.** AS 25.05.111(d), enacted by sec. 4 of this Act, applies to marriage licenses
25 issued on or after the effective date of this Act.

0-LS1062P
Lauterbach
2/13/98

CS FOR HOUSE BILL NO. 390()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES KELLY, Dyson, Therriault

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to marriage; and amending Rules 54 and 56, Alaska Rules of
2 Civil Procedure."

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

4 * Section 1. AS 25.05 is amended by adding a new section to read:

5 Sec. 25.05.015. Charter marriages. (a) A charter marriage is a marriage
6 authorized under AS 25.05.011 between a man and a woman who have

7 (1) agreed that the marriage between them will be a lifelong
8 relationship;

9 (2) received counseling emphasizing the nature, purposes, and
10 responsibilities of marriage;

11 (3) declared in their application for a marriage license their intent to
12 enter into a charter marriage as required under AS 25.05.091(c); and

13 (4) have executed a declaration of intent to contract a charter marriage
14 under AS 25.05.096.

1 (b) A couple that is already lawfully married under a contract that is not a
2 charter marriage may execute a declaration of intent to designate their marriage as a
3 charter marriage to be governed by the laws relating to charter marriages. The
4 declaration of intent must contain the contents required under AS 25.05.096 and be
5 presented to a licensing officer. The licensing officer shall prepare two short-form
6 certificates that include a notation of the declaration of intent to designate a charter
7 marriage and, after the parties have signed them, give one to each of the parties to the
8 marriage with an attached copy of the declaration. The licensing officer shall also
9 forward to the registrar each declaration of intent received under this subsection. The
10 registrar shall attach the declaration to the original marriage certificate and make a
11 notation on the original and any required copies that the marriage has been converted
12 to a charter marriage. A marriage for which a declaration under this subsection has
13 been presented to a licensing officer is considered a charter marriage from the time
14 that the parties sign the short-form certificates under this subsection.

15 * Sec. 2. AS 25.05.091 is amended by adding a new subsection to read:

16 (c) If an application under (a) of this section is for a charter marriage, the
17 application must, in addition to the requirements of (a) and (b) of this section, include
18 a statement substantially similar to the following:

19 We, (Name of Intended Husband) and (Name of Intended Wife),
20 declare our intent to contract a charter marriage and, accordingly, have
21 executed a declaration of intent to contract a charter marriage that is
22 attached to this application.

23 * Sec. 3. AS 25.05 is amended by adding a new section to read:

24 **Sec. 25.05.096. Declaration of intent for charter marriage.** The declaration
25 of intent to contract a charter marriage that is required under AS 25.05.091(c) must
26 include

- 27 (1) a recitation by each party that the party
28 (A) intends to enter into a charter marriage;
29 (B) understands and agrees that the marriage will be a lifelong
30 relationship;
31 (C) has received counseling emphasizing the nature, purposes,

1 and responsibilities of marriage;

2 (D) believes that the party's intended mate is a wise choice as
3 a mate for life;

4 (E) has disclosed to the intended mate all facts that may
5 adversely affect the intended mate's decision to enter into the charter marriage;
6 and

7 (F) is committed to seeking marital counseling to strengthen the
8 marital relationship if the parties have marital difficulties;

9 (2) an affirmation by the parties that both parties have received
10 counseling from a priest, minister, rabbi, clerk of the religious society of friends,
11 clergy member of a religious sect, psychologist, psychological associate, or marital and
12 family therapist that included

13 (A) a discussion of the seriousness of charter marriage;

14 (B) communication of the fact that a charter marriage is a
15 commitment for life; and

16 (C) receipt of a copy of AS 25.24.270 and 25.24.275;

17 (3) an attestation by the counselor that the parties were counseled as
18 to the nature, purposes, and responsibilities of marriage; the attestation must be signed
19 by the counselor but need not be notarized; and

20 (4) the notarized signatures of both parties.

21 * Sec. 4. AS 25.05.111 is amended by adding new subsections to read:

22 (c) If the parties to the marriage have complied with AS 25.05.015, the
23 licensing officer shall indicate on the marriage license that the parties have entered into
24 a charter marriage.

25 (d) If the parties to the marriage have not complied with AS 25.05.015, the
26 licensing officer shall indicate on the marriage license that the parties have entered into
27 a testament marriage.

28 * Sec. 5. AS 25.05.321 is amended by adding a new subsection to read:

29 (b) A marriage certificate for a charter marriage and copies of a marriage
30 certificate for a charter marriage must include a designation that the parties entered
31 into a charter marriage.

1 * Sec. 6. AS 25.24.050 is amended to read:

2 **Sec. 25.24.050: Grounds for divorce. (a) Except as provided in (b) of this**
3 **section,** a [A] divorce may be granted for any of the following grounds:

4 (1) failure to consummate the marriage at the time of the marriage and
5 continuing at the commencement of the action;

6 (2) adultery;

7 (3) conviction of a felony;

8 (4) wilful desertion for a period of one year;

9 (5) either

10 (A) cruel and inhuman treatment calculated to impair health or
11 endanger life;

12 (B) personal indignities rendering life burdensome; or

13 (C) incompatibility of temperament;

14 (6) habitual gross drunkenness contracted since marriage and continuing
15 for one year before [PRIOR TO] the commencement of the action;

16 (7) [REPEALED

17 (8)] incurable mental illness when the spouse has been confined to an
18 institution for a period of at least 18 months immediately preceding the commencement
19 of the action; the status as to the support and maintenance of the mentally ill person
20 is not altered in any way by the granting of the divorce;

21 (8) [(9)] addiction of either party, subsequent to the marriage, to the
22 habitual use of opium, morphine, cocaine, or a similar drug.

23 * Sec. 7. AS 25.24.050 is amended by adding a new subsection to read:

24 (b) A spouse to a charter marriage may obtain a judgment of divorce only
25 upon proof of one of the following:

26 (1) the other spouse has committed adultery;

27 (2) the other spouse has been convicted of a felony under AS 11.41 or
28 convicted of an offense under a law in another jurisdiction with elements substantially
29 similar to a felony under AS 11.41;

30 (3) the other spouse has physically abused the petitioning spouse;

31 (4) the other spouse has physically or sexually abused a child of the

1 marriage or a child of one of the spouses;

2 (5) the other spouse has treated the petitioning spouse cruelly in a
3 manner that impairs the health or endangers the life of the petitioning spouse;

4 (6) the other spouse has abandoned the matrimonial domicile for one
5 year and consistently refuses to return; or

6 (7) the spouses have been living separately and apart continuously
7 without reconciliation for one year after the date of a judgment of separation from bed
8 and board was signed under AS 25.24.270 and 25.24.275, except that, if there is a
9 minor child of the marriage, the spouses must have been living separately and apart
10 continuously without reconciliation for 18 months from the date the judgment of
11 separation from bed and board was signed.

12 * Sec. 8. AS 25.24.110 is amended to read:

13 **Sec. 25.24.110. Separate domicile or residence.** In an action for divorce or
14 separation from bed and board, a spouse may acquire a separate residence or
15 domicile from that of the other spouse without reference among other factors to
16 misconduct or consent of the other spouse.

17 * Sec. 9. AS 25.24.130 is amended to read:

18 **Sec. 25.24.130. Defenses to other divorce grounds.** When the divorce action
19 is for any of the grounds provided in AS 25.24.050(a)(4) - (6) or (b)(6)
20 [AS 25.24.050(4) - (6)], the defense of procurement or that the defendant has been
21 expressly forgiven may be made. When the divorce action is for the ground provided
22 in AS 25.24.050(a)(3) or (b)(2) [AS 25.24.050(3)], the defense of procurement or that
23 the defendant has been expressly forgiven or that the action was not brought within
24 two years after conviction may be made.

25 * Sec. 10. AS 25.24.150(a) is amended to read:

26 (a) In an action for divorce, separation from bed and board, or [FOR] legal
27 separation or for placement of a child when one or both parents have died, the court
28 may, if it has jurisdiction under AS 25.30.020 [,] and is an appropriate forum under
29 AS 25.30.050 and 25.30.060, during the pendency of the action [,] or at the final
30 hearing or at any time thereafter during the minority of a child of the marriage, make,
31 modify, or vacate an order for the custody of or visitation with the minor child that

1 may seem necessary or proper, including an order that provides for visitation by a
2 grandparent or other person if that is in the best interests of the child.

3 * Sec. 11. AS 25.24.200(a) is amended to read:

4 (a) Except as provided in (f) of this section, a [A] husband and wife together
5 may petition the superior court for the dissolution of their marriage under
6 AS 25.24.200 - 25.24.260 if the following conditions exist at the time of filing the
7 petition:

8 (1) incompatibility of temperament has caused the irremediable
9 breakdown of the marriage;

10 (2) if there are unmarried children of the marriage under the age of 19
11 or the wife is pregnant, and the spouses have agreed on which spouse or third party
12 is to be awarded custody of each minor child of the marriage and the extent of
13 visitation, including visitation by grandparents and other persons if in the child's best
14 interests, and support to be provided on the children's behalf, whether the payments
15 are to be made through the child support enforcement agency and the tax consequences
16 of that agreement;

17 (3) the spouses have agreed as to the distribution of all jointly owned
18 real and personal property, including retirement benefits, and the payment of spousal
19 maintenance, if any, and the tax consequences resulting from these payments; the
20 agreement must be fair and just and take into consideration the factors listed in
21 AS 25.24.160(a)(2) and (4) so that the economic effect of dissolution is fairly
22 allocated; and

23 (4) the spouses have agreed as to the payment of all unpaid obligations
24 incurred by either or both of them, and as to payment of obligations incurred jointly
25 in the future.

26 * Sec. 12. AS 25.24.200(b) is amended to read:

27 (b) Except as provided in (f) of this section, a [A] husband or wife may
28 separately petition for dissolution of their marriage under AS 25.24.200 - 25.24.260
29 if the following conditions exist at the time of filing the petition:

30 (1) incompatibility of temperament, as evidenced by extended absence
31 or otherwise, has caused the irremediable breakdown of the marriage;

1 (2) the petitioning spouse has been unable to ascertain the other
2 spouse's position in regard to the dissolution of their marriage and in regard to the fair
3 and just division of property, including retirement benefits, spousal maintenance,
4 payment of debts, and custody, support, and visitation because the whereabouts of the
5 other spouse is unknown to the petitioning spouse after reasonable efforts have been
6 made to locate the absent spouse; and

7 (3) the other spouse cannot be personally served with process inside or
8 outside the state.

9 * Sec. 13. AS 25.24.200 is amended by adding a new subsection to read:

10 (f) A spouse to a charter marriage may not petition for the dissolution of the
11 marriage under AS 25.24.200 - 25.24.260.

12 * Sec. 14. AS 25.24 is amended by adding new sections to read:

13 **Article 2A. Separation from Bed and Board in a Charter Marriage.**

14 **Sec. 25.24.270. Separation from bed and board.** (a) A spouse to a charter
15 marriage may obtain a judgment of separation from bed and board only on proof of
16 having obtained personal counseling within the six months preceding the date of filing
17 the petition for separation of bed and board and proof that

18 (1) the spouses have been living separately and continuously apart
19 without reconciliation for one year; or

20 (2) the other spouse has

21 (A) committed adultery;

22 (B) been convicted of a felony under AS 11.41 or convicted of
23 an offense under a law in another jurisdiction with elements substantially
24 similar to a felony under AS 11.41;

25 (C) abandoned the matrimonial domicile for one year and
26 consistently refuses to return;

27 (D) physically abused the petitioning spouse;

28 (E) physically or sexually abused a child of the marriage or a
29 child of one of the spouses;

30 (F) been habitually intemperate in the consumption of alcohol
31 or in the use of drugs;

1 (G) treated the petitioning spouse cruelly in a manner that
2 impairs the health or endangers the life of the petitioning spouse; or
3 ✓ (H) inflicted on the petitioning spouse personal indignities
4 rendering life burdensome.

5 (b) During the pendency of an action for separation from bed and board under
6 this section, the court may, upon application and in appropriate circumstances, issue
7 orders that are authorized under AS 25.24.140 during the pendency of divorce
8 proceedings.

9 (c) The court may not make a judgment on the pleadings, except for a default
10 judgment, or grant a summary judgment in an action for separation from bed and
11 board under this section.

12 **Sec. 25.24.275. Effect of decree.** A decree of separation from bed and board
13 issued under AS 25.24.270

14 (1) does not dissolve the bond of matrimony; the separated husband and
15 wife are not at liberty to marry again;

16 (2) puts an end to the parties' conjugal cohabitation and to the common
17 concerns that existed between them;

18 (3) remains in effect until either reconciliation or divorce.

19 * **Sec. 15. COURT RULE CHANGE.** AS 25.24.270(c), enacted by sec. 14 of this Act, has
20 the effect of amending Rules 54 and 56, Alaska Rules of Civil Procedure, by prohibiting a
21 court from making a judgment on the pleadings, except for a default judgment, or granting
22 a summary judgment in an action for separation from bed and board in a charter marriage.

23 * **Sec. 16.** AS 25.05.111(d), enacted by sec. 4 of this Act, applies to marriage licenses
24 issued on or after the effective date of this Act.

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

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House District 31

House Of Representatives

February 12, 1998

Caren Robinson
211 4th Street #108
Juneau, AK 99801

Dear Caren:

Thanks for your input on HB 390. You are correct that physical and sexual violence and/or abuse should also be grounds for divorce. Of course, these are generally felonies. The point you are making, and I agree with, is that we may not want to wait for the criminal justice system to complete a conviction—or have a prosecutor plea down to a misdemeanor. I have amended our proposed bill to reflect this assertion.

Please let me know if you have any other thoughts on this bill. I value your opinion.

Sincerely,



Representative Pete Kelly

Marriage bill for serious couples

By MARK SABBATINI

THE JUNEAU EMPIRE

A bill allowing people to opt for "charter marriages" requiring pre-marital counseling and limiting when divorce can occur has been introduced by a Fairbanks legislator.



REP. PETE KELLY

House Bill 390 is similar to a law enacted last year in Louisiana allowing people to choose between conventional and "higher tier" marriages, said Rep.

Pete Kelly, a Republican. He said the alternative measure will force couples to think more carefully about the commitment they are making and hopefully lead to fewer divorces.

"If a couple comes to city hall to get their marriage license this will force them into a meaningful dialogue right off the bat: 'What kind of marriage do you want?'" he said today. "If they can't agree on that maybe they won't get married in the first place."

Couples wanting a charter marriage must seek counseling and sign an agreement stating they understand the marriage is a lifelong commitment, according to the bill. Each person must also disclose "all facts that may adversely affect the intended mate's decision to enter into the charter marriage."

Divorce from a charter marriage is allowed only if a spouse commits adultery, has been convicted of a felony and is serving three or more years in prison, abandons the house for more than a year and refuses to return, or has been living separately for a year. If the couple has children under 18, the couple must live separately for at least 18 months before divorcing.

Separation is permitted only if the couple has obtained at least six months of counseling, or for circumstances such as adultery, assault, substance abuse or

Please turn to Marriage, Page 8

8 JUNEAU EMPIRE, THURSDAY, FEBRUARY 12, 1998

Marriage...

Continued from Page 1
inflicting "indignities rendering life burdensome."

Couples married in traditional ceremonies can renew their vows using the charter provisions.

Royce Christmas, pastor of Glacier Valley Baptist Church, said he has not seen Kelly's bill, but supports the concept. Christmas said he requires couples to go through at least two counseling sessions, and prefers more, before he performs a marriage for them.

"It makes them sit down and look at the cold hard facts of what this relationship is going to require at the outset," he said. "It blows the rainbow of romance aside for a moment maybe and puts reality there."

He said requiring counseling before a divorce probably doesn't hurt anything, but he doesn't think it preserves troubled marriages in most cases.

The restrictions on divorce troubles some advocates for women, who fear wives might have difficulty escaping abusive husbands.

"One of our fears is, 'Would this be used in violent relation-

ships?'" said Caren Robinson, a former Juneau lawmaker and spokeswoman for the Alaska Women's Lobby.

Alaska had five divorces per 1,000 people in 1995, compared to 4.4 per 1,000 nationally. The national rate in 1996 was 4.3 per 1,000, equating to a 2 percent drop and representing the lowest rate in more than 20 years.

Louisiana's Covenant Marriage Act took effect last Aug. 15, said Tracy Lemoine, an assistant to Rep. Tony Perkins, a Republican lawmaker who introduced the bill there.

It got off to a slow start. Only 26 covenant licenses were sold in the month after the law took effect. Louisiana issues about 3,000 marriage licenses in a typical summer month.

Lemoine said the state's vital statistics office is lagging behind on tracking who has taken advantage of the new law. She said she expects the number of couples in charter marriages to skyrocket this weekend when more than 200 churches participate in a "covenant weekend" where couples can renew their vows under the new law.

The Associated Press contributed to this report.

Sectional Analysis - House Bill 390

"An Act relating to marriage; and amending Rules 54 and 56, Alaska Rules of Civil Procedure."

Section 1: Defines charter marriage:

A charter marriage requires a couple to receive counseling before marriage, and in times of conflict prior to seeking a divorce. A couple expressly designates their union a charter marriage on the official records and license granted by the state.

Section 2: Illustrates the application process for charter marriage.

Section 3: Charter marriage requires premarital counseling from a marital counselor or priest, minister, rabbi or similar clergyman of any religious sect.

Section 4: Applies to marriage licenses issued. Indicates that parties have complied with charter marriage requirements. If they do not comply, license shall indicate the couples have entered into a testament marriage.

Section 5: Marriage certificate designates parties have entered into charter marriage.

Section 6: Provides an exception to existing divorce laws accommodating the new charter marriage.

Section 7: Establishes divorce options for charter marriage. A spouse in charter marriage must prove:

- (1) adultery
- (2) conviction of a felony that is a crime against persons
- (3) abandonment
- (4) separation for one year without reconciliation
- (5) physical abuse of petitioning spouse
- (6) sexual abuse of a child of the marriage or a child of one of the spouses
- (7) cruel treatment which endangers the health or life of the other spouse

Section 8: Technical reference to separation of bed and board.

Section 9: Technical reference to section 6.

Section 10: Amendment to include charter marriage.

Section 11-12: Refers to existing dissolution of testament marriage.

Section 13: Couples of charter marriage may not petition for dissolution.

Section 14: Explains "separation of bed and board." One divorce option is for a couple to request a court acknowledged separation for 1 year, but they must have received counseling within 6 months prior to filing for separation. To obtain a separation a spouse must also prove the other spouse has:

- (A) committed adultery
- (B) been convicted a felony that is a crime against persons
- (C) abandoned household for 1 year and refuses to return
- (D) been intemperate in consumption of alcohol or drugs
- (E) inflicted personal indignities rendering life burdensome

Section 15: Amends Court Rules 54 and 56.

Section 16: Effective date applies to charter marriages after this date.

Last updated February 23, 1998

Sponsor Statement – House Bill 390

“An Act relating to marriage; and amending Rules 54 and 56, Alaska Rules of Civil Procedure.”

HB 390 creates a new option for persons seeking a marriage license from the state. Couples can receive a license for a “testament marriage,” which is already provided for under existing statute, or they can apply to receive a license for a “charter marriage,” sometimes referred to as “covenant marriage.”

The two options offer each partner significantly different rights and responsibilities. A charter marriage is a union more difficult to enter into, and also more difficult to dissolve. Couples seeking a charter marriage must receive premarital counseling and sign a declaration of intent stating an understanding that their marriage will be a lifelong relationship. The declaration also includes a statement that each partner has disclosed “all facts that may adversely affect the intended mate’s decision to enter into a charter marriage.” The couple commits to seeking counseling in the event of marital difficulties.

In contrast to the existing testament marriage law, a spouse in a charter marriage may obtain a judgement of divorce only under certain conditions: adultery committed by the other spouse; felony conviction by the other spouse resulting in a sentence of three or more years incarceration; physical abuse of the petitioning spouse; sexual abuse of a child of the marriage or a child of one of the spouses; cruel treatment which endangers the health or life of the petitioning spouse; abandonment lasting at least one year; or if the two spouses have been living apart for more than a year following a legal separation (18 months if the couple has a minor child). Certain other grounds for divorce allowed under existing law, such as “incompatibility of temperament,” are insufficient for granting a divorce in a charter marriage.

Spouses in a charter marriage enjoy rights and bear responsibilities not recognized by the existing testament marriage law. Most couples believe marriage is much more than a business partnership, but under existing no-fault divorce law the marriage contract is treated as much less than a business partnership. Charter marriage provides couples the option of entering into a marriage contract that is at least as binding as a business contract.

Establishing two types of marriage contracts under state law will provoke useful discussions among engaged couples, since every couple will have to decide which option is best for them. If couples make more educated decisions about marriage, it will likely result in fewer failed marriages and fewer broken families. Alaska’s divorce rate is higher than the national average, with 5.1 divorces per year for every 1,000 people, compared to the national rate of 4.1 per 1,000 (statistics from 1995).

Many social problems the Legislature has struggled to address in recent years have been linked to broken marriages and families, including domestic violence, teenage pregnancy, drug and alcohol abuse, and increased juvenile crime. To the extent charter marriage law succeeds in keeping some marriages intact, or in preventing some marriages from occurring in the first place, it will do more to mitigate these social pathologies than any government program could ever hope to accomplish.

ALASKA

BUREAU OF VITAL STATISTICS



1995 ANNUAL REPORT

TONY KNOWLES
Governor

STATE OF ALASKA



KAREN PERDUE
Commissioner

**DEPT. OF HEALTH &
SOCIAL SERVICES**

MARRIAGE AND DIVORCE

MARRIAGE AND DIVORCE



5,514 MARRIAGES
3,095 DIVORCES

MARRIAGES

There were 5,514 marriages performed in Alaska in 1995, involving 4,990 Alaska resident brides and 4,968 Alaska resident grooms. This is a decrease of 0.8% from the 5,557 marriages which occurred in 1994.¹ The crude marriage rate in 1995 was 9.1 marriages per 1,000 residents, down from 9.2 marriages per 1,000 in 1994.

Marriage rates vary widely between census areas in Alaska. For instance, the lowest rate of 2.2 marriages per 1,000 residents was in the Aleutians East census area. The highest rate of 12.7 marriages per 1,000 residents was in the Ketchikan Gateway Borough census area.

The average age for brides was 29.9 and the average age for grooms was 32.5. It was the first marriage for 55.7 percent of brides and 59.0 percent of grooms.

June, July and August were the months with the most marriages with 682, 711, and 685 marriages respectively. January had the fewest marriages with only 303.

There were 378 marriages in which neither the bride nor the groom was a resident of Alaska, a 9.2 percent increase over the 346 non-resident marriages in 1994. The Anchorage census area had the greatest number of non-resident marriages with 114; however, Juneau had the second largest number of non-resident marriages with 65, 19% of all marriages occurring in Juneau.

¹ Crondahl, J., Mitchell, P., Zenk, A.E., Anderson, C., Walden, S. and Juan, I. Department of Health and Social Services, Division of Public Health, *Alaska Bureau of Vital Statistics 1994 Annual Report*, Juneau, Alaska, June 1996, p. 67.

MARRIAGE AND DIVORCE (continued) Alaska Bureau of Vital Statistics

TABLE 4.1A MARRIAGES AND CRUDE MARRIAGE RATES BY CENSUS AREA OF OCCURRENCE, ALASKA, 1995

CENSUS AREA	OCCURRENCES		RESIDENT GROOMS		RESIDENT BRIDES	
	MARRIAGES	CRUDE RATE	MARRIAGES	SEX-SPECIFIC RATE	MARRIAGES	SEX-SPECIFIC RATE
ALEUTIANS EAST	5	2.2	8	6.6	8	7.9
ALEUTIANS WEST	39	6.5	39	11.1	38	15.6
ANCHORAGE BOROUGH	2,301	9.1	2,155	16.4	2,192	17.9
ANGOON-HOONAH-SKAGWAY	41	11.0	25	12.6	29	16.6
BETHEL	89	5.8	92	11.5	96	13.1
BRISTOL BAY BOROUGH	11	9.1	12	18.5	11	19.8
DENALI BOROUGH	19	10.6	14	14.5	13	15.7
DILLINGHAM	27	6.2	30	13.1	31	14.9
FAIRBANKS NORTH STAR BOROUGH	854	10.4	757	17.5	760	19.7
HAINES BOROUGH	22	9.6	16	13.6	14	12.5
JUNEAU BOROUGH	340	11.8	269	18.3	270	19.2
KENAI PENINSULA BOROUGH	491	10.7	401	16.7	387	17.5
KETCHIKAN GATEWAY BOROUGH	187	12.7	155	20.0	152	21.6
KODIAK ISLAND BOROUGH	114	7.8	111	13.8	108	16.3
LAKE AND PENINSULA	6	3.3	8	8.3	6	7.0
MATANUSKA-SUSITNA BOROUGH	461	9.4	388	15.2	393	16.7
NOME	50	5.6	53	11.2	52	12.5
NORTH SLOPE BOROUGH	34	4.9	41	11.3	40	12.1
NORTHWEST ARCTIC BOROUGH	33	5.0	32	9.3	33	10.5
PRINCE OF WALES-OUTER KETCHIKAN	45	6.7	50	13.4	49	16.2
SITKA BOROUGH	85	9.6	68	14.9	66	15.3
SOUTHEAST FAIRBANKS	41	6.3	38	11.0	33	10.9
VALDEZ-CORDOVA	86	8.2	72	12.9	78	16.0
WADE HAMPTON	23	3.5	27	7.8	27	8.5
WRANGELL-PETERSBURG	67	9.3	61	15.9	61	18.1
YAKUTAT	3	3.9	2	4.8	2	5.7
YUKON-KOYUKUK	40	6.3	44	12.6	41	14.3
TOTAL	5,514	9.1	4,968	15.8	4,990	17.3

TABLE 4.2 CONTINUED

BRIDE'S RESIDENCE	GROOM'S RESIDENCE													TOTAL
	MSB	NOM	NSB	NAB	POW	SIT	SEF	VAL	WAH	WRP	YAK	YUK	OOS	
ALEUTN EAST														8
ALEUTN WEST													1	38
ANCHORAGE	18	1	1	1			2	1		1			78	2,192
ANG-HNH-SKG										1			2	29
BETHEL									1					96
BRISTOL BAY														11
DENALI	1							1					1	13
DILLINGHAM													1	31
FAIRBANKS						1	1					3	43	760
HAINES														14
JUNEAU						1							8	270
KENAI PEN	2											1	6	387
KETCHIKAN													3	152
KODIAK													4	108
LAKE-PENIN														6
MAT-SU	359												10	393
NOME		48												52
NORTH SLOPE			37										1	40
NW ARCTIC		1	1	30										33
PRINCE-WALES					47									49
SITKA						63								66
SE FAIRBANKS							31	1					1	33
VALDEZ-CORDV					1			70					1	78
WADE HAMPTON									26				1	27
WRANGELL-PBG										57			2	61
YAKUTAT												2		2
YUKON-KOY												40		41
OUT OF STATE	8	3	2	1	2	3	3			2			378	524
TOTAL	388	53	41	32	50	68	38	72	27	61	2	44	546	5,514

TABLE 4.3 MARRIAGES BY AGE OF GROOM AND AGE OF BRIDE, ALASKA, 1995

AGE OF BRIDE	AGE OF GROOM										TOTAL
	15-19	20-24	25-29	30-34	35-	40-44	45-49	50-54	55+		
15-19	152	323	68	20	4	3	1				571
20-24	56	733	452	146	42	12	7	4	1		1,453
25-29	3	157	417	312	136	49	31	7	1		1,113
30-34	2	34	141	273	194	107	41	8	11		811
35-39		10	55	116	180	157	70	32	13		633
40-44			11	52	80	118	88	40	25		418
45-49			4	18	36	41	79	58	41		277
50-54			1	4	9	16	28	35	38		141
55+							7	8	82		97
TOTAL	213	1,261	1,149	941	681	503	352	192	222		5,514

DIVORCES

There are three administrative methods for terminating a marriage in Alaska:

- Divorce is an adversarial process in which the terms of the decree are decided by the courts based upon evidence, testimony, and in accordance with Alaska statutes. These terms include disposition of property, living arrangements, and custody and support for any minor children involved. In 1995, there were 1,004 divorces granted in Alaska. This is a 2.9 percent decrease from 1994.

Alaska Bureau of Vital Statistics (continued) MARRIAGE AND DIVORCE

- A **dissolution of marriage** is a cooperative agreement between the husband and wife in which both parties agree to the terms for distribution of property, living arrangements, and support and custody of minor children. The agreement is reviewed by the court which can amend it, if it determines the terms are not equitable. In 1995, there were 2,079 dissolutions of marriage in Alaska. This is a 7.8 percent decrease from 1994.
- An **annulment** is a judicial pronouncement declaring a marriage never existed. In 1995, there were 12 annulments granted in Alaska. This is a 42.9 percent decrease from 1994.

When not otherwise stated, the term *divorce* refers to all three methods collectively.

In 1995, the total of 3,095 divorces, dissolutions, and annulments resulted in a crude divorce rate of 5.1 divorces per 1,000 population. This is a 7.3 percent decrease from the crude divorce rate of 5.5 in 1994.²

TABLE 4.4 DIVORCES, DISSOLUTIONS AND ANNULMENTS BY JUDICIAL DISTRICT, ALASKA, 1995

JUDICIAL DISTRICT OF DECREE	DECREE TYPE			TOTAL
	DIVORCE	DISSOLUTION	ANNULMENT	
01-FIRST	133	303	1	437
02-SECOND	11	21		32
03-THIRD	691	1,337	9	2,037
04-FOURTH	169	418	2	589
TOTAL	1,004	2,079	12	3,095

² Crondahl, J., Mitchell, P., Zenk, A.E., Anderson, C., Walden, S. and Juan, I. Department of Health and Social Services, Division of Public Health, *Alaska Bureau of Vital Statistics 1994 Annual Report*, Juneau, Alaska, June 1996, p. 79.

TABLE 4.5 DIVORCES AND DIVORCE RATES FOR WOMEN AND MEN BY CENSUS AREA OF RESIDENCE, ALASKA, 1995

CENSUS AREA	WOMEN		MEN	
	NUMBER	RATE	NUMBER	RATE
ALEUTIANS EAST	5	4.9	6	4.9
ALEUTIANS WEST	10	4.1	15	4.3
ANCHORAGE BOROUGH	1,215	9.9	1,113	8.5
ANGOON-I'ONAH-SKAGWAY	12	6.9	17	8.5
BETHEL	22	3.0	22	2.8
BRISTOL BAY BOROUGH			2	3.1
DENALI BOROUGH	4	4.8	3	3.1
DILLINGHAM	7	3.4	11	4.8
FAIRBANKS NORTH STAR BOROUGH	446	11.5	416	9.6
HAINES BOROUGH	12	10.7	5	4.2
JUNEAU BOROUGH	173	12.3	165	11.3
KENAI PENINSULA BOROUGH	222	10.0	220	9.2
KETCHIKAN GATEWAY BOROUGH	93	13.2	75	9.7
KODIAK ISLAND BOROUGH	56	8.5	62	7.7
LAKE AND PENINSULA	2	2.3	3	3.1
MATANUSKA-SUSITNA BOROUGH	214	9.1	212	8.3
NOME	14	3.4	18	3.8
NORTH SLOPE BOROUGH	6	1.8	11	3.0
NORTHWEST ARCTIC BOROUGH	10	3.2	9	2.6
PRINCE OF WALES-OUTER KETCHIKAN	30	9.9	27	7.2
SITKA BOROUGH	44	10.2	41	9.0
SOUTHEAST FAIRBANKS	16	5.3	18	5.2
VALDEZ-CORDOVA	33	6.8	37	6.6
WADE HAMPTON	5	1.6	6	1.7
WRANGELL-PETERSBURG	39	11.6	40	10.4
YAKUTAT				
YUKON-KOYUKUK	10	3.5	9	2.6
CENSUS AREA UNKNOWN	11		20	
TOTAL	2,711	9.4	2,583	8.2

TABLE 4.6 DIVORCES INVOLVING CHILDREN UNDER THE AGE OF 18 YEARS BY JUDICIAL DISTRICT, ALASKA, 1995

JUDICIAL DISTRICT	CHILDREN UNDER 18			
	NO		YES	
	DIVORCES	PERCENT	DIVORCES	PERCENT
FIRST	209	47.8	228	52.2
SECOND	12	37.5	20	62.5
THIRD	976	47.9	1,061	52.1
FOURTH	297	50.4	292	49.6
TOTAL	1,494	48.3	1,601	51.7

Alaska State Legislature

REPRESENTATIVE
PETER KELLY

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(907) 465-2317
HOLLIS District 11

House Of Representatives

February 12, 1998

Caren Robinson
211 4th Street #108
Juneau, AK 99801

Dear Caren:

Thanks for your input on HB 390. You are correct that physical and sexual violence and/or abuse should also be grounds for divorce. Of course, these are generally felonies. The point you are making, and I agree with, is that we may not want to wait for the criminal justice system to complete a conviction—or have a prosecutor plea down to a misdemeanor. I have amended our proposed bill to reflect this assertion.

Please let me know if you have any other thoughts on this bill. I value your opinion.

Sincerely,

A handwritten signature in black ink, appearing to read "Pete Kelly".

Representative Pete Kelly

HB

395

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. HB 395

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: An Act relating to civil liability resulting BRU: State Health Services
from the use of a defibrillator ... Component: Community Health/EMS Services
 Sponsor: Representative Bunde COMPONENT SERIAL NO. 2078
 Requestor: House (JUD) See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
----------------------	-----	-----	-----	-----	-----	-----

CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
---------------------	-----	-----	-----	-----	-----	-----

FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary)

2/20/98
[Signature]

Prepared by: Peter M. Nakamura, MD, MPH
 Division: Public Health
 Approved by Commissioner: [Signature]
 Agency: Department of Health & Social Services

Phone: 465-3030
 Date: 02/20/98
 Date: 2/24/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. IIB 395

Revision Date: _____
Title: An Act relating to civil liability resulting
from the use of a defibrillator ...
Sponsor: Representative Bunde
Requestor: House (JUD)

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: Community Health/EMS Services
COMPONENT SERIAL NO. 2078
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES	0.0	0.0	0.0	0.0	0.0	0.0
TRAVEL	0.0	0.0	0.0	0.0	0.0	0.0
CONTRACTUAL	0.0	0.0	0.0	0.0	0.0	0.0
SUPPLIES	0.0	0.0	0.0	0.0	0.0	0.0
EQUIPMENT	0.0	0.0	0.0	0.0	0.0	0.0
LAND & STRUCTURES	0.0	0.0	0.0	0.0	0.0	0.0
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGES IN REVENUES	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

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

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

ANALYSIS: (Attach a separate page if necessary)

*2/24/98
2002*

Prepared by: Peter M. Nakamura, MD, MPH
Division: Public Health
Approved by Commissioner: Karen Pardue, Commissioner
Agency: Department of Health & Social Services

Phone: 465-3030
Date: 02/20/98
Date: 2/24/98

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Ford
3/5/98

CS FOR HOUSE BILL NO. 395()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUNDE, Hudson

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil liability resulting from the use of a defibrillator in
2 providing emergency aid or emergency training."

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

4 * Section 1. AS 09.65.090(c) is amended to read:

5 (c) The immunity provided under (b) of this section does not apply to civil
6 damages that result from providing or attempting to provide any of the following
7 advanced life support techniques unless the person who provided them was authorized
8 by law to provide them:

- 9 (1) manual electric cardiac defibrillation;
- 10 (2) administration of antiarrhythmic agents;
- 11 (3) intravenous therapy;
- 12 (4) intramuscular therapy; or
- 13 (5) use of endotracheal intubation devices.

14 * Sec. 2. AS 09.65.090 is amended by adding new subsections to read:

1 (e) A person who uses an automated external defibrillator to treat another
2 person in cardiac arrest is not liable for civil damages as a result of an act or omission
3 in treating the other person if the person was properly trained to use the device and
4 activates the emergency medical services system by notifying the appropriate
5 emergency medical services agency.

6 (f) A person or organization providing training in the use of an automated
7 external defibrillator is not liable for civil damages as a result of providing training in
8 the use of the automated external defibrillator in a course approved by the Department
9 of Health and Social Services.

10 (g) A person or organization making an automated external defibrillator
11 available for use by a person trained in its use is not liable for civil damages as the
12 result of making the device available if

13 (1) expected defibrillator users receive reasonable instruction in
14 defibrillator use and cardiopulmonary resuscitation in a course approved by the
15 Department of Health and Social Services; a user of a defibrillator shall ^{BRACKETED} ~~carry~~ current
16 evidence of demonstrated proficiency in defibrillator use and cardiopulmonary
17 resuscitation;

18 (2) a physician approved the purchase of the automated external
19 defibrillator;

20 (3) the device is maintained consistent with the manufacturer's
21 recommendations; and

22 (4) the person or entity who acquires a defibrillator provides written
23 notification to the local emergency medical services agency about the existence and
24 the location of the defibrillator.

25 (h) In this section, "properly trained" means that the individual has completed
26 an automated external defibrillator training course from the American Heart
27 Association, the American Red Cross, or another automated external defibrillator
28 training course approved by the Department of Health and Social Services.

Airline beefs up safety

Over the next year, Alaska Airlines plans to equip its entire fleet of aircraft with defibrillators and enhanced emergency medical kits containing supplies beyond those required by the Federal Aviation Administration. The equipment will allow flight attendants or medical professionals traveling on Alaska airplanes to provide potentially life-saving care for passengers who might suffer a heart attack while in flight, said Jack Evans, airline spokesman. A defibrillator helps restore a regular heartbeat and can greatly improve the chances of survival for some individuals who suffer sudden cardiac arrest. An in-flight medical study released last month by the Air Transport Association, the trade group representing most U.S. commercial airlines, revealed that such incidents are rare. Data from 1996 when U.S. airlines carried 580 million passengers found just 141 in-flight heart attacks. Despite that finding, the industry trend is to boost on-board emergency supplies, Evans said. Major carriers including American Airlines, Delta Air Lines and United Airlines have recently announced plans to add such equipment to their fleets, Evans said.

2/27/98 - Richard Smith