ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672
9540 SENATE HEALTH EDUCATION & SOCIAL SERVICES

Legislation proposed by Governor Knowles is designed specifically to accomplish these needed changes. HB 375 and SB 272 address the weaknesses in our current law, focus our efforts squarely on the best interests of children, and force earlier action by both agencies and parents to resolve conditions that place children at risk or to provide them with safe, permanent alternative homes. These bills would also ensure compliance with the landmark federal Adoption and Safe Families Act of 1997. Under that law, in Alaska, approximately $10 million in Title IV-E funding hinges upon these statutory changes aimed at improving and speeding child protection.

Recommendation No. 4

The DHSS director of administrative services should ensure Retirement Incentive Program expenditures are paid in accordance with legislative appropriations.

I believe the Department followed both the law and established precedent in liquidating our obligation to employees under the Retirement Incentive Program. It is clear that when eligible employees elect to retire under this program an obligation for the Department is established. The law does not prohibit departments from paying all RIP obligations in a single year and our actions in doing so followed established precedent. The issue of when an obligation begins is open to interpretation and the RIP program is a unique circumstance, leaving room for reasonable disagreement.

By paying full RIP costs in FY 97, we were able increase our ability to fund positions in FY 98 and 99 – avoiding forced vacancies in up to six positions in those years. We felt it would be prudent to meet our obligation early if possible and assure our ability to use future appropriations to fill positions in the following years – rather than maintaining vacancies to fund RIP costs.

Recommendation No. 5

The director of DFYS should develop and implement a consistent policy regarding when ROHs can be left uninvestigated.

I agree with auditors that there should be clear management direction establishing priorities for assigning staff resources to respond to reports of harm when there are short-term conditions that require triage measures on a limited basis. I also agree that this direction should be consistently communicated and followed statewide.

At the same time, I believe it is critical to make a distinction between establishing priorities for short-term delays in response and a systematic policy that leaves some credible reports without the needed response. A delayed response will certainly be necessary in some limited circumstances. However, a policy that systematically leaves reports without a response is unacceptable. I believe auditors agree and acknowledge this in recommending additional staff. I agree, however, that clear direction and consistency is necessary to guide staff in the inevitable circumstances when staff illness or turnover make it impossible to respond to all reports as

Despite the tight time constraints under which this audit was handled, we appreciated the flexibility and cooperation shown by the staff of the Legislative Audit Division. Likewise, we have worked hard to make ourselves – and any pertinent information – available to the auditors. Nevertheless, as I have expressed, I am concerned about the departure from normal audit processes and the fact that an audit report was planned for release essentially without time for agency analysis and response. I hope the process employed in this instance does not set a precedent for future departures from long established standard practice.

Sincerely,

Karen Perdue
Commissioner

Alaska DHSS Division of Family and Youth Services Briefing Paper

Introduction

The Department requested that the Child Welfare League of America's Center for Consultation and Professional Development complete an independent analysis of Alaska child welfare workload, staff levels, and related issues.

Federal and state statutes require the assessment and investigation of all reports of harm involving children, and appropriate action and services to protect them. This includes necessary family intervention and services, treatment for the children, and temporary or permanent care outside the family if required.

I. The Responsibilities of a Child Welfare Worker

Child Welfare staff are required to work toward achievement of the following Child Welfare Client Outcomes. The worker activities listed are examples of some of the actions and services required in support of each outcome, but are not intended to be complete.

A. CHILD SAFETY

The worker must determine:

- Whether there is sufficient evidence of risk to warrant investigation.
- Whether the child is in imminent risk requiring protective custody.
- Whether the child can be safely cared for in the family home.
- What services or actions would be required to protect the child.
- Whether the authority and intervention of the court is required.

The worker must initiate actions and services based upon the assessment.

B. PERMANENT FAMILY FOR THE CHILD

The worker must:

- Determine whether the parent(s) are able to make adequate progress to ensure the child's safety in the home.

- Make needed services available to the parents.

- Find a family who will meet the child's needs.

- Determine the long-term best interest for the child.

- Regularly reassess the case plan for adequacy and progress toward goals.

C. CULTURAL CONTINUITY FOR THE CHILD

The social worker must:

- Determine Tribal affiliation if a Native child.

- Ensure the child can remain within his own community.

- Locate relatives or alternate families who can continue important religious and cultural traditions for the child.

- Otherwise ensure that the child's cultural needs are addressed.

D. CHILD AND FAMILY WELL-BEING

The worker must:

- Complete a comprehensive social history and assessment to determine child and family needs.

- Ensure that appropriate services are provided, including managed referrals.

- If child is in out-of-home care, ensure the placement is in proximity to the parental home to allow for regular visitation and family involvement.

- Maintain regular contact with the child and family to ensure progress on meeting child's developmental needs.

II. The Impact of Workload Size on Child Welfare Service Delivery and Client Outcomes

CWLA National Standards for Abused and Neglected Children state that "caseloads should be maintained at reasonable levels. Any significant increase in caseload size raises the risks to children, may result in poor social work, and can lead to social worker burnout." In general, higher caseloads result in poorer quality casework which results in higher levels of risk and a lesser likelihood of permanence for children.

A 1998 study of New York State child welfare services concluded that high workload (above CWLA standards) resulted in incomplete and delayed completion of child abuse investigations, inability to regularly monitor clients, inability to provide legally-required field visits, and failure to ensure that required case plans were completed in a timely manner. In addition, the study concluded that caseworkers under these conditions are at risk of burn-out and of engaging in sub-standard child welfare practices. But most importantly, children's safety and well-being are subsequently at risk as a result of caseworker's high caseloads.

A child welfare case record review in Indiana (1991) showed serious endangerment of children resulting in their re-entry into foster care, due to high worker and supervisor caseloads and frequent staff turnover.

The Katz Study (1990), completed in Washington and Idaho, showed that timely case resolution and permanency for children occurred when caseloads were reduced to no more than 10 children per worker.

The Institute for Family Self-Sufficiency (1994) published a review of studies related to caseload standards in human services. Conclusions from those studies are:

- That there is a direct relationship between the amount of caseworker contact with clients, and the degree of success the clients had in reaching expected outcomes.

- That excessive caseloads adversely affect front-line workers' interactions with clients; that they tend to become more reactive and less proactive, and spend a higher proportion of their time documenting client activities at the expense of client contact.

- That with higher caseloads, staff tend to "cut corners, ignore problems, nominally comply with responsibilities, and in some cases, provide no services at all to clients."

There can be no question that workloads in excess of the CWLA standards create inefficiency in meeting the Department's legal mandates, result in unacceptable delays in addressing the needs of children and families, and place children at substantially greater risk of harm.

III. Child Welfare Workloads: A National Perspective

CWLA National Standards

The Child Welfare League of America's caseload standards, presented in its National Standards for Child Welfare (1993), consist of recommended ratios of clients to direct service staff based on the field consensus of what constitutes best practice. Development of these standards is based on an examination of current practices and their underlying assumptions, a survey of professional literature and standards developed by others, study of the most recent scientific findings of social work and related fields, and a review by a committee of experts in each service area.

CWLA caseload standards listed in the table below apply to three broad areas of child welfare services.

Child Welfare Service:	CWLA Caseload Standard:
Intake/Investigation	12 new investigations per month
In-Home Services	17 families
Children in Out-of-Home Care	12-15 children

When the standards are individualized to a particular office, county or state, they are adjusted by a number of factors that impact a caseworker's actual workload. These factors include variables such as the caseworker's actual assigned functions, the size of the geographic area covered and the availability of foster homes, parent aides and other resources.

A National Look at Child Welfare Caseloads

Direct comparisons of state caseloads may be misleading because job descriptions and other factors vary widely from state to state. As mentioned above, a more accurate comparison would be based on actual workloads, but such statistics are not available nationwide..

In comparing average 1995 caseload sizes in 15 states, CWLA found that the median state caseload size was 29% to 35% above the CWLA caseload standard. In some state and county child welfare systems studied by CWLA, the average caseload size was 50% to 75% higher than the CWLA caseload standard.

IV. Alaska Child Welfare Caseloads

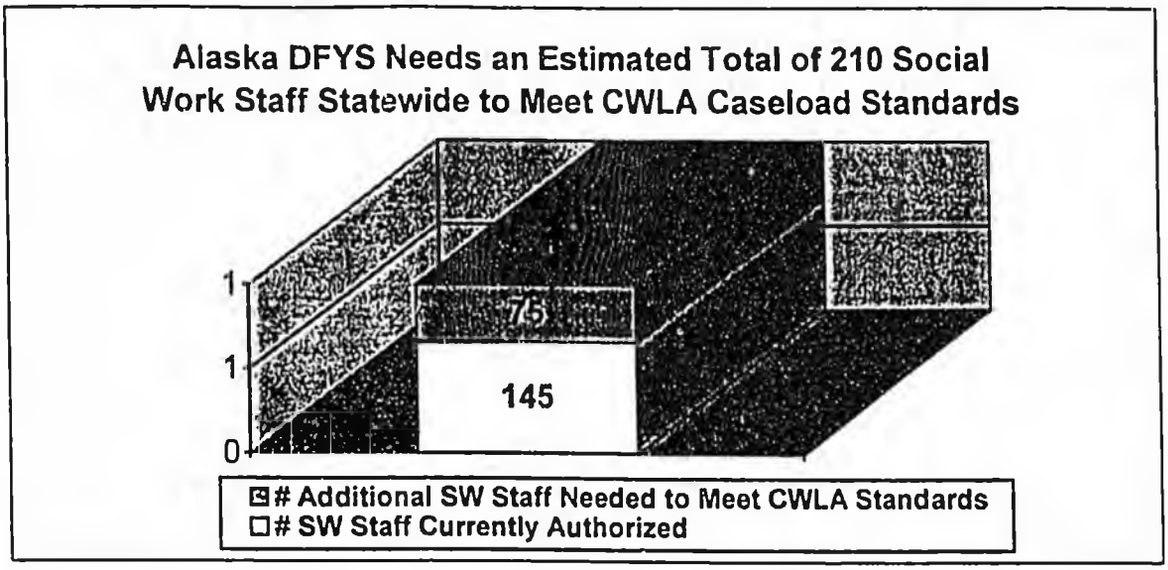
Current Caseload Data

Since many Alaska DFYS social workers provide two or three Child Welfare services, a statewide analysis of caseload can only be accomplished through examining aggregate statewide data. By applying CWLA caseload standards for each child welfare service to the total number of cases of that type statewide, we arrived at the number of social workers needed statewide to meet CWLA standards for each child welfare service. As shown in the table below, these numbers were added to determine that 210 social workers are needed statewide to meet CWLA standards for all child welfare services.

Application of CWLA Caseload Standards to Statewide Alaska DFYS Child Welfare Caseloads in January, 1998

Child Welfare Services:	*# of Cases Statewide in January, 1998*	*Estimated # of SW's Needed Statewide to Meet CWLA Standards*
Intake/Investigation: Currently Investigated	# New Investigations 711	Divided by 12 59.3
Intake/Investigation: Currently "Workload Adjusted"	# Reports of Harm 242	Divided by 12 20.2
In-Home Services	# Family Cases 510	Divided by 17 30
Out-of Home Care Services	# Child Cases 1507	Divided by 15 100.5
Estimated Total # of SW's Needed Statewide to Meet CWLA Standards for All Child Welfare Services		**210**

Since 145 social worker positions are currently authorized statewide, an estimated 52% increase for a total of 75 additional positions is needed to meet CWLA caseload standards, as shown in the following chart.



However, the workload standard must be adjusted by factors unique to the environment in which the work is being done. These factors include:

- The specific assigned functions and time requirements for each task.
- The individual competencies of each social worker, including both skills and experience.
- **The extent of the geographic area served and the availability of transportation.**
- The amount of time a social worker is expected to spend on community activities.
- **The availability of foster homes, in-home parent aides and other services.**
- The intensity of service an agency and the community consider appropriate.
- The number of other agencies or services involved in a family situation.
- The amount of time allocated to a social worker for agency activities such as staff meetings, staff and professional development, and administrative functions.

The need for 75 additional positions is actually a conservative estimate, since Alaska caseload standards should be smaller due to the large geographic areas covered by social workers in many rural areas, the transportation challenges, and the inadequate numbers of foster homes, parent aides and other resources.

That is, higher numbers of social work staff will be required to directly provide services which are not otherwise available in communities.

The problem is further exacerbated if a significant number of authorized positions are unfilled.

The Impact on Alaska Child Welfare Service Delivery and on Client Outcomes:

- "Workload adjust" resulted from dramatic increases in the numbers of Reports of Harm without the comparable increases in staff required to respond.

- High caseload size likely contributes to the fact that Alaska in 1995 had the highest rate in the country of removal of children from their family homes. (CWLA Stat Book, 1997).

- It is virtually certain that high workload is a significant factor in child deaths and other serious incidents involving children who are known to the department.

- It is virtually certain that the findings and concerns identified in recent studies of Alaska child welfare cases are at least partially the result of unreasonable staff workloads.

V. Recommendations

1. Fill all currently authorized child welfare positions.

2. Authorize a minimum of 75 more child welfare social work staff.

3. Or, as an alternative, authorize a combination of additional social work staff, together with contracts with community-based organizations for response to lower risk reports of harm, for an added total capacity equivalent to at least 75 additional staff.

4. Authorize the accompanying support staff required of at least 75 additional social workers: supervisors, clerical support, and social services assistants.

5. Complete an updated workload accounting study to determine the actual time required for social workers to perform key functions in the Alaska environment. It appears that the measures developed in the original Alaska workload accounting method some years ago under-represent

what these tasks require today. This would be consistent with generally accepted professional experience that current child welfare cases are more complicated, the investigative techniques and requirements more sophisticated, and the documentation requirements more stringent. A new study on time required to investigate reports of harm not involving placement, and involving placement, would verify whether these time allocations of workload accounting should be increased.

6. Examine the range of caseload sizes between offices, and put in place staff allocation methods that allow administrators to adjust staffing to result in workload equity.

7. Analyze staff recruitment, hiring and retention practices, including the importance of staff development and support.

8. Explore models for improved response:

   - Pilot a triple-tracking system for CPS intake and assessment. In a triple-track system, the child protection agency coordinates with law enforcement to investigate the most heinous child abuse reports, those that appear to involve criminal conduct that should be prosecuted. The child protection agency (without law enforcement) handles reports of serious, but non-criminal, child abuse and neglect. And community-based organizations respond to reports that do not involve clear abuse; these would be reports of general neglect or of concern regarding child nurturance.

   - Explore the use of paraprofessionals

9. Develop plan to end workload adjusting practice through the implementation of the above recommendations.

10. Re-examine and modify workload adjust criteria until which time the practice can be discontinued.

11. Examine the entire child welfare system to develop strategies to improve policies, casework decision-making, staff training, resource availability, quality assurance and other factors that also significantly impact client outcomes.

VI. References

Child Welfare League of America. (June, 1993). CWLA recommended caseload/ Workload standards. CWLA National Standards for Abused and Neglected Children. Washington, D.C.: Author.

Hess, P., Folaron, G., Jefferson, A., & Kinnear,R. (1991). The Impact of Caseload Size and Caseworker/Supervisor Turnover on Foster Care Re-Entry: First Interim Report of the Professional Review Action Group Project. Indianapolis, IN: Indiana State Department of Public Welfare.

Institute for Family Self-Sufficiency. (1994). Managing JOBS caseloads: Agencies are developing strategies to make the most of their staff resources. Public Welfare 52 (3), 5-13.

Katz, L. (1990). Effective permanency planning for children in foster care. Social Work. 35 (3), 20-226.

Petit, M.R., & Curtis, P.A. (1997). Child abuse and neglect: A look at the states, 1997 CWLA stat book. Washington, D.C.: Child Welfare League of America.

State of New York, Office of the Comptroller, Division of Management Audit. (1998). Office of Children and Family Services Caseworker Deployment in Selected Child Welfare Programs (Report 96-S-52). Albany, N.Y.: Author.

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ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit

P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
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April 1, 1998

Members of the Legislative Budget
and Audit Committee:

We have reviewed the department's response addressed to Senator Phillips. In response to Recommendation No. 4, where we take exception with how the department utilized personal services authorizations to pay for retirement incentive program (RIP) for multiple years, the agency responded:

> *"...the Department followed both the law and established precedent in liquidating our obligation to employees under the Retirement Incentive Program. It is clear that when eligible employees elect to retire under this program an obligation for the Department is established. The law does not prohibit departments from paying all RIP obligations in a single year and our actions in doing so followed established precedent."*

While we acknowledge the legislation which established the current RIP did not expressly prohibit the payment of participating employer costs out of a single year's appropriation, at the same time it specifically did not provide any allowance for participating agencies to do so. Absent such specific statutory provision, our view remains as it was stated in the report – an agency's operating appropriation, established based on a projected year's worth of activity, should only be used to fund the operations of the current operating cycle.

Sincerely,

Pat Davidson

Pat Davidson, CPA
Legislative Auditor

SB

282

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. SB 282

Revision Date (Note if correction)
Title: An Act relating to child endangerment.
Sponsor: Senator Torgerson
Requester: Senate HESS Committee

Dept. Affected: Law
BRU: Criminal Division
Component: 1st-4th Jud District/OSPA #2198/99/
Component Serial No.: 2261/79/01/03

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*******	*******	*******	*******	*******	*******
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost:

POSITIONS

Full-time						
Part-time						
Temporary						

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

SB 282 creates a class C felony for conduct that is either a class A misdemeanor (Reckless Endangerment under AS 11.41.250) or is not a crime under current law. It covers a wide range of parental behavior, including disciplinary conduct by a parent. It would also probably result in cases being referred to state prosecutors from DFYS investigators in child-in-need-of-aid (CINA) cases. For these reasons, it may have significant impact on the Criminal Division. These potential costs are speculative, and the department cannot estimate a specific fiscal impact without experience with the proposed law. However, If significant numbers of such cases are referred for prosecution, it could have a fiscal impact on the department and we would seek to reassess our budget position at that time.

Prepared by: Joan M. Kasson — Phone: 465-5370
Division: Attorney General's Office — Date: 3/17/98
Approved by Commissioner: Bruce M. Botelho, Attorney General — Date: 3/17/98
Agency: Department of Law

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SENATE COMMITTEE REF[redacted]
First Committee of Referral

DATE: 2/6/98

FURTHER: Judiciary

Date of 5-Day Notice: 3/13/98
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 3/20/98

Health, Education and Social Services Committee considered SENATE BILL NO. 282

"An Act relating to child endangerment."

and recommends:

[ ] be **replaced** with _____ CS _____ (_____)

[ ] adopt **previous** _____ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR_____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
CHAIR:		*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Law	3/17/98		Indeterminate
Admin	3/19/98		Indeterminate

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] APPROPRIATION -- no fiscal note

***include fiscal notes accompanying Governor's bill**

Alaska State Legislature

Committee Membership
Senate Finance
Senate Resources
Senate Rules
Legislative Budget & Audit

Senator John Torgerson

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SB 282 - Relating to Child Endangerment
Sponsor Statement

This bill provides tools for protection of Alaska's children. The first tool is to change the word "intentionally" to the word "knowingly"; for purposes of legal clarification.

The current language requires a higher standard for prosecution for child endangerment. Convictions have been successfully evaded in cases where a child is endangered because of the term "intentionally". The argument has been that they were not intent upon harm to the child when they placed them in such circumstances.

The term "knowingly" reduces the legal standard to an act where the parent knowingly placed a child in a situation where harm could result. The parent becomes responsible for their actions.

The second tool is the new language regarding conduct which creates a substantial risk of physical injury. This language is intended to apply to those situations where a parent engages in conduct, such as alcohol consumption or drug use, that subsequently endangers the child.

SS SB 282 S(HES) 3/17/98

SB

291

FISCAL NOTE

No. 1

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL Bill Version: CSSB 291(JUD)
(S) Publish Date: 2/26/98

Revision Date:
Title: An act related to living wills...
Sponsor: Senator Taylor
Requestor: Senate (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						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

The Section of Community Health will absorb the costs of revising and distributing the forms, training materials, regulations, and brochure to implement changes in the Alaska Comfort One Program which would be necessitated by passage of the bill.

2/20/98
Prepared by: Peter M. Nakamura, MD, MPH
Division: Public Health
Phone: 465-3090
Date: 02/20/98

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services
Date: 2/24/98

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(Rev 10/98/Senate ele/OAS_CHSS

FISCAL NOTE

No. 2
Bill Version: CS SB 291 (JUD
(S) Publish Date: 2/26/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO.

Revision Date (Note if correction)
Dept. Affected Law
Title An Act relating to living wills, do not resuscitate orders, anatomical gifts, and the care and treatment of persons ...
BRU Civil Division
Component Human Services
Sponsor Senator Taylor
Requester Senate Judiciary Committee
Component Serial No. 2208

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY98) cost:

POSITIONS

Full-time						
Part-time						
Temporary						

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

SB 291 amends Title 18, Chapter 12, relating to living wills and do not resuscitate orders. The Department of Law's Human Services attorneys are often called upon by the Division of Senior Services and the Long Term Care Ombudsman to provide advice regarding these issues. SB 291 is not anticipated to increase this workload, and will have no fiscal impact on the department.

Prepared by Joan M. Kasson
Phone 465-5370
Division Attorney General's Office
Date 2/17/98
Approved by Commissioner Bruce M. Botelho, Attorney General
Date 2/17/98
Agency Department of Law

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SENATE COMMITTEE REPORT

DATE: 2/26/98

FURTHER:

DATE TURNED IN TO OFFICE: 3/11/98

Health, Education and Social Services Committee considered SENATE BILL NO. 291

"An Act relating to living wills, do not resuscitate orders, anatomical gifts, and the care and treatment of persons with serious medical conditions."

and recommends:

[ ] be **replaced** with _____ CS _____ (_____)

[ ] adopt **previous** _____ CS SB 291 (JUD)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR#_____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
	X				
		Lydia Bean			✓
CHAIR:	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] **APPROPRIATION -- no fiscal note**

***include fiscal notes accompanying Governor's bill**

Alaska State Legislature

Chairman,
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Member,
Resources Committee
Rules Committee
Committee on Committees

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Senator Robin L. Taylor
Senate Majority Leader

MEMORANDUM

To: **Senator Gary Wilken**
Attention: Sheila Peterson

From: **Senator Robin Taylor** R.L.T.

Date: **3/6/98**
Ref: **Senate Bill 291**

****

Thank you for scheduling SB 291.

Attached is background information, including a sectional summary, for inclusion in the committee packets. Please note: This sectional is valid for the Judiciary CS as well as the original bill.

For your information, the Judiciary Committee made the following changes, with my full concurrence:

Page 4, Line 25 - delete "probably"

Page 7, after line 17- add _____any needed organ or tissue.

Page 8 - Delete lines 1-2.

We will need Anchorage on line for approximately four witnesses and anticipate offnet testimony from Dr. Bridgette Carney, Director of Corporate Ethics, PeaceHealth System, Eugene, OR.

Alaska State Legislature

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Judiciary Committee

Member,
Resources Committee
Rules Committee
Committee on Committees

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Senator Robin L. Taylor
Senate Majority Leader

SPONSOR STATEMENT

SENATE BILL 291

Senate Bill 291 is a major revision to Alaska Statute title 18, Chapter 12, "Rights of the Terminally Ill". It is intended to offer Alaskans some assurance that their wishes will be carried out with regard to medical treatment and life-sustaining procedures.

Last year the Legislature added provisions to the Living Will form suggested in Alaska law to add the option of organ and tissue donation. In the course of hearing that bill it became clear that our law as currently written offers little assurance that an incapacitated persons wishes will be carried out.

AS 18.12.010 states that a living will is operative "only if the declarant's condition is determined to be terminal". That is a call many doctors seem reluctant to make. The result is that heroic measures are often taken against the will of the patient.

A 1995 study published in the Journal of the American Medical Association found that doctors often misunderstand or ignore a patient's request with the result that large numbers of people still die alone, in pain and tethered to mechanical ventilators in intensive-care units.

The law is explicit. Every competent adult has the right to make fundamental decisions regarding his or her medical treatment. This includes the right to accept or refuse treatment and to prepare an advance directive.

SB 291 states that an advance directive or living will is given operative effect only <u>if it has been medically determined that the declarant is in a serious medical condition</u>.

It defines "medically determined" as requiring a determination from two physicians, one of whom must be the attending physician, who have personally examined the person.

Serious medical condition is defined as A) a terminal condition; B) a permanently unconscious condition; C) a condition in which the administration of life-sustaining proc .ures would not benefit the patient's medical co..tion and would cause permanent and severe pain; and D) a progressive illness that will be fatal and is in an advanced stage; the person is consistently and permanently unable to communicate by any means, to swallow food and water safely, to care for the person's self, and to recognize the person's family and other people; and it is very unlikely that the person's condition will substantially improve.

We used Oregon law as the model for SB 291. It allows an individual to decide for themselves what they want done or not done in each of these situations. Oregon law was cited in that JAMA study as respecting the wishes of the patient.

Section eight of the bill sets out the conditions under which life sustaining procedures can be withheld or withdrawn when an individual does not have an advance directive.

Section seven makes it clear that nothing in this chapter is intended to condone, authorize or approve mercy killing or assisted suicide.

SB 291 will take Alaska into the 21st century with a law that allows individuals to make decisions regarding health care with more assurance that those wishes will be carried out in the event they are unable to speak for themselves.

LEGAL SERVICES

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

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

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

MEMORANDUM February 23, 1998

SUBJECT: Sectional Summary of SB 291 (Work Order 20-LS1194\F)

TO: Senator Robin Taylor
Attn: Joe Ambrose

FROM: Theresa Bannister
Legislative Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents.

Section 1. Makes amendments conforming AS 13.26.344(l) to the bill's new provisions in AS 18.12.

Section 2. Enlarges the scope of a declaration to include directions regarding artificially administered nutrition and hydration. Changes the test for when a declaration is given operative effect.

Section 3. Rewrites the recommended contents of a declaration.

Section 4. Indicates how long a declaration is effective.

Section 5. Directs the attending physician to record the condition of the declarant and the contents of the declarant's declaration in the declarant's medical record when the physician has determined that the declarant is in a serious medical condition.

Section 6. Directs certain persons to provide certain specified care to patients from whom life-sustaining procedures or artificially administered nutrition and hydration are withheld or withdrawn.

Section 7. States that the chapter does not condone, authorize, or approve mercy killing or permit certain acts or omissions to end life. States that the withholding or withdrawing of a life-sustaining procedure or artificially administered nutrition and hydration under the chapter does not constitute a suicide, assisting a suicide, mercy killing, or assisted suicide.

Section 8. AS 18.12.093 establishes the conditions for withholding or withdrawing life-sustaining procedures from incapable persons who do not have declarations. AS 18.12.095

establishes a presumption that certain persons have consented to artificially administered nutrition and hydration, establishes exceptions to that presumption, and establishes the conditions for withholding or withdrawing artificially administered nutrition and hydration.

Section 9. Amends the definition of "life-sustaining procedure."

Section 10. Amends the definition of "qualified patient."

Section 11. Amends the definition of "terminal condition."

Section 12. Adds definitions to AS 18.12.

Section 13. Repeals a subsection that sec. 7 of the bill now addresses.

If I may be of further assistance, please advise.

TLB:jdr
98-101.jdr

Bridget Carney
2002 McLean Blvd
Eugene, Oregon 97405
(541)-431-0878

ACADEMIC AND PROFESSIONAL EDUCATION

PhD 1993	Social Ethics/Health Care Ethics, Graduate Theological Union, Berkeley, California
1986/88	Graduate Studies in Philosophical and Theological Ethics, Pacific School of Religion, Berkeley, California
MN 1985	Community Health/Cross Cultural Nursing Minor: Business Administration, University of Washington, Seattle, Washington
BSN 1981	Seattle University, Seattle, Washington

PROFESSIONAL EXPERIENCE

1996ff.	Corporate Director of Ethics--PeaceHealth System (Sisters of St.Joseph of Peace), Eugene, Oregon
1994-95	Lecturer--School of Nursing and Dept. of Philosophy, Seattle University, Seattle, Washington
1994	Clinical Lecturer(Spring)--School of Nursing, Undergraduate Community Health Nursing, Seattle University, Seattle, Washington
1990-93	Bioethics Consultant--Laguna Honda Hospital, San Francisco, California
1991-92	Bioethics Consultant--Episcopal Homes Foundation--Los Gatos Meadows, Los Gatos, California
1988-89	Medical Ethics Committee Member--Medical Center of University of California, San Francisco, California
1988	Teaching Assistant--School of Nursing, Graduate course on ethics in nursing, University of California, San Francisco, California
1985-91	Camp Nurse--90 differently-abled children and 50 counselors on Whidbey Island, Washington,(Summers)
1987-89	Hospice Nurse--Community Home Health Care, Seattle, Washington(part-time, summers)

1981-89 Staff Nurse--primary care medical/surgical oncology and bone marrow transplant unit. University Hospital, Seattle, Washington

1985-87 Hospice Nurse--Group Health Hospice, Seattle, Washington(part-time)

1985-86 Faculty Member--School of Nursing, Undergraduate Community Health Nursing and Senior Practicum Community Health. University of Washington, Seattle, Washington

1984 Teaching Assistant--School of Nursing, Undergraduate Community Health Nursing. University of Washington, Seattle, Washington

CURRENT PROFESSIONAL AND ACADEMIC MEMBERSHIPS

American Society of Law, Medicine and Ethics
Associate Member of the Hastings Center
Associate Member of the Parkridge Center
Sigma Theta Tau National Honor Society of Nursing
Society for Bioethics Consultation
Society for Health and Human Values

ACADEMIC COURSES TAUGHT

N521--Ethical Considerations (Graduate)
P1352--Health Care Ethics (undergraduate)
N480C--The Changing Family (Undergraduate)
N413--Community Health Nursing--Clinical (Undergraduate)
N267--Ethical Dilemmas and Nursing Practice (Graduate)
CHCS 402--Community Health Nursing (Undergraduate)
CHCS 423--Community Health Nursing, Senior Practicum (Undergraduate)

COMMISSIONS AND BOARDS OF INQUIRY

1996ff Institutional Review Board:Sacred Heart Medical Center

1996ff Supportive Care of the Dying:Coalition for Compassionate Care(Seven Catholic hospital systems and Catholic Health Association)

1992-93 Institutional Review Board: California Public Health Foundation, Berkeley, California

1982 Ad hoc committee investigating the establishment of a hospital nursing ethics committee. University Hospital, Seattle, Washington

: Oregon Health Care System

Information for Patients About Healthcare Decisions

Including Advance Directive Form

By Federal law we are required to provide you the following information about your healthcare rights under Oregon law.

Every competent adult has the right to make fundamental decisions regarding his or her medical treatment. This includes the right to accept or refuse treatment and to prepare an advance directive.

This pamphlet describes the advance directive document available in Oregon. We encourage you to discuss this information with your physician, family members, friends and anyone else who may be involved if you become ill.

In some cases an illness or injury may prevent you from expressing your wishes regarding the medical care you would like to receive.

Oregon law allows you to use a legal document so you can retain control over the medical care you receive when you are unable to express your wishes. That document is called an Advance Directive.

Although the Advance Directive is a legal document, you do not need a lawyer to prepare it. This document, which accompanies this pamphlet, as the last six pages, has instructions that will aid you in completing it. Once you complete it, tear it out of this pamphlet and put it in a safe place. Give copies to family, friends and healthcare providers that are interested in your healthcare.

You are not required to complete this form and no healthcare facility will refuse to care for you or otherwise discriminate against you based on whether or not you have completed an Advance Directive. Regardless of your decision, it is important that you discuss your wishes with your relatives, close friends, spiritual advisor, attorney, physician and other caregivers. Open communication with people who care about you will greatly improve your chances of receiving the healthcare you want if you become unable to express your desires directly.

LEGACY
Health System

PSDA-008 (11/93)

Legacy Health System Statement

Legacy Health System is an organization of healthcare providers dedicated to caring, compassion and excellence.

We are committed as a healthcare system to enhance the quality of life by improving the health status of the communities we serve.

We are further committed to serving all in need within our resources. Our purpose is to provide and manage comprehensive, accessible, integrated healthcare services that emphasize clinical excellence, value and human sensitivity.

We respect the right of individuals to make healthcare decisions, including the right to accept or refuse medical or surgical treatment.

We are committed to serving all patients in need whether or not the patient has executed an Advance Directive.

While we are unable to witness the Advance Directive, you may contact the following departments if you have any questions:

Bishop Morris Care Center	Social Services	227-3791
Emanuel Hospital & Health Center	Social Services Patient Relations Pastoral Services	280-4103 280-4042 280-4151
Good Samaritan Hospital & Medical Center	Pastoral Services Social Services Patient Relations	229-7057 229-7629 229-2408
Legacy Visiting Nurse Association	Social Services	220-1000
Meridian Park Hospital	Admitting	692-2283
Mount Hood Medical Center	Community Health	661-9287

You should also make sure you speak with the following people about your Advance Directive:

- Family
- Close Friends
- Spiritual Advisor
- Physician
- Attorney

Your Right to Make Health Care Decisions in Oregon

Do I have to accept all medical treatment that is available? No. You have a right to accept or refuse any proposed medical tests or treatment.

How will I know how to decide? Your doctor will tell you what treatment or testing he or she recommends. Your doctor will also tell you that there may be alternatives and risks. If you want to know more, your doctor will tell you about the treatment or test, the available alternatives and the material risks. When you have enough information, you decide whether to have the test or treatment.

How can I plan ahead for a time when I may be unable to make decisions? Oregon has an official form you can sign to cover future situations where you are unable to decide. The form is called an Advance Directive. It has two main parts, one called "Health Care Instructions" and the other called "Appointment of Health Care Representative."

How can I control what health care I get if I become unable to make health care decisions? By completing the "Health Care Instructions" on the Advance Directive form. This lets you control the medical treatment you get and under what circumstances you will get it.

How do I appoint someone else to act for me? By making the "Appointment of Health Care Representative" on the Advance Directive form. This lets you select another adult as your representative. That person should be someone you trust to decide about your health care when you cannot do so yourself. Your representative cannot act for you unless you become unable to make your own decisions. You may also appoint an alternative representative. The representative and any alternate must sign the form agreeing to serve. The Advance Directive form lets you say what decisions those persons may make for you. It is a good idea to discuss your wishes with the person(s) you appoint.

How does an advance directive take effect? If you are an adult able to make your own decisions, you can sign an Advance Directive at any time. You do not have to fill out and sign the form if you do not want to. But if you do, your doctor must follow it or allow you to be transferred to a doctor who will. Signing the form will not affect your insurance.

How do I obtain and sign my advance directive? Health care facilities and some stationery stores have the official form. Lawyers and doctors may have one or help you obtain one. In Oregon, the only reliable way to be sure your wishes are followed is to use the official form. Read and follow the "Important Information" at the beginning of the form. If the printed form does not express your wishes, you may cross words out or write your own words in. Do not add anything about money or property. The form must be signed by you and two witnesses who must satisfy special requirements. Send a copy to your doctor and to the person you choose as a representative. Keep the original where it can be easily found.

How long does an advance directive remain in effect? You may write in an expiration date. If you do not, the form will be good until you revoke it. You may revoke it at any time and in any manner, but the best way is by notifying those who have your form. Unless you say otherwise on the form, a new Advance Directive takes priority over an older one. Your representative can withdraw at any time by notifying you or your doctor. Divorce revokes appointment of a spouse but you can reaffirm appointment by signing a new directive.

Are there any decisions my representative can make? Yes. Your representative may not decide about mental health treatment, sterilization, abortion, psychosurgery, shock treatment or mercy killing. You can make advance decisions about mental health treatment using an official form called a "Declaration for Mental Health Treatment," available from some stationery stores or your local mental health agency.

How will my representative make decisions for me? Your representative must act in the way you specify on an Advance Directive form. He or she must also

follow your known wishes. If your representative does not know what you want, he or she must act in your best interest. Your representative does not have to pay your medical bills.

Can my representative prevent or stop life support? Yes, if your Advance Directive form says so. If you have not given specific instructions, the law specifies four critical medical conditions in which your representative may decide about life support for you:

- Life support would not benefit you and would cause you permanent and severe pain;
- You are close to death and life support would only postpone the moment of your death;
- You are permanently unconscious; or
- You are in an advanced stage of a progressive, fatal illness.

The law also allows your representative to decide about life support in other circumstances you designate on the form. But you must get routine care for your cleanliness and comfort. Life support will not be prevented or stopped if your form says you would want it continued.

Can my representative order or stop food or water by tube? Yes, if your Advance Directive form says so. In addition, your representative may prevent or stop tube feeding if you have clearly said that you would refuse it. Otherwise, you must get tube feeding that would prolong your life, unless you have one of the four critical medical conditions that the law specifies. Your representative cannot refuse food or water you can take in a normal way.

How are decisions made for me if I do not have an official form? If you have one of the four critical medical conditions that the law specifies, an Oregon statute allows close relatives and friends to decide about life support for you. Otherwise, the law does not clearly identify the decisions that relatives or friends may make for you. Relatives, friends or others may seek clear authority from a court by being appointed your guardian.

Is an advance directive I signed under another state's law good in Oregon? Yes, if you did not live in Oregon when you signed it. Oregon residents may only use an Oregon form.

Are Oregon's earlier official forms still good? Yes. If you signed a "Power of Attorney for Health Care" or a "Directive to Physicians" before November 4, 1993 you can still use it. Even though the old forms are similar to the Advance Directive, there are some big differences:

- A Directive to Physicians says that you do not want life support which would only postpone your death when you are close to death. It does not cover any other situation.
- A Power of Attorney for health care allows your representative to stop life support if you checked the line on the form referring to "life sustaining procedures." It allows your representative to prevent or stop food and water by tube if you checked the line on the form referring to "artificially administered nutrition and hydration." Otherwise, the form allows your representative to forego tube feeding for you only if you have one of the four critical medical conditions that the law specifies.
- Unless you sign an Advance Directive, the directive to physicians remains in effect unless or until you revoke it. The Power of Attorney for health care expires after seven years unless you are already incapable when it expires.

How can I find out more? By calling Oregon Health Decisions, a private nonprofit corporation (241-0744 or toll free 1-800-422-4805), or by consulting an attorney.

NOTE: This statement reflects Oregon law effective November 4, 1993. It is a general summary of the rights of competent adults in Oregon. It does not contain all the technical details of the law. Also, it does not deal with decisions for minors, for those who are now mentally incapable, or about treatment outside Oregon.

Advance Directive

You do not have to fill out and sign this form

PART A

Important Information About This Advance Directive

This is an important legal document. It can control critical decisions about your healthcare. Before signing, consider these important facts:

Facts About Part B (Appointing a Healthcare Representative). You have the right to name a person to direct your healthcare when you cannot do so. This person is called your "healthcare representative." You can do this by using Part B of this form. Your representative must accept on Part E of this form.

You can write in this document any restrictions you want on how your healthcare representative will make decisions for you. Your healthcare representative must follow your desires as stated in this document or otherwise made known. If your desires are unknown, your healthcare representative must try to act in your best interest. Your healthcare representative can resign at any time.

Facts About Part C (Giving Healthcare Instructions). You also have the right to give instructions for healthcare providers to follow if you become unable to direct your care. You can do this by using Part C of this form.

Facts About Completing this Form. This form is valid only if you sign it voluntarily and when you are of sound mind. If you do not want an Advance Directive, you do not have to sign this form.

Unless you have limited the duration of this Advance Directive, it will not expire. If you have set an expiration date and you become unable to direct your healthcare before that date, this Advance Directive will not expire until you are able to make those decisions again.

You may revoke this document at any time. To do so, notify your healthcare representative and your healthcare provider of the revocation.

Despite this document you have the right to decide your own healthcare as long as you are able to do so.

If there is anything in this document that you do not understand, ask a lawyer to explain it to you.

You may sign Part B, Part C or both parts. You may cross out words that do not express your wishes or add words that better express your wishes. Witnesses must sign Part D.

PRINT YOUR NAME, BIRTH DATE AND ADDRESS HERE:

_____

Name Birth Date

_____

Address

UNLESS REVOKED OR SUSPENDED, THIS ADVANCE DIRECTIVE WILL CONTINUE FOR:

Initial One: ___ My Entire Life ___ Othe: Period (___ Years)

PART B

Appointment of Healthcare Representative

I appoint _____ as my healthcare representative. My healthcare representative's address is _____ _____ and my healthcare representative's telephone number is _____.

I appoint _____ as my alternate healthcare representative. My alternate healthcare representative's address is _____ _____ and my alternative healthcare representative's telephone number is _____.

I authorize my healthcare representative (or alternate) to direct my healthcare when I cannot do so.

Note: You may not appoint your doctor, an employee of your doctor or an owner, operator or employee of your healthcare facility unless that person is related to you by blood, marriage or adoption or that person was appointed before your admission into the healthcare facility.

1. Limits. Special conditions or instructions:

_____

_____

Initial if this applies:

____ I have executed a Healthcare Instruction or Directive to Physicians. My healthcare representative is to honor it.

2. Life Support. "Life support" refers to any medical means for maintaining life, including procedures, devices and medications. If you refuse life support, you will still get routine measures to keep you clean and comfortable.

Initial if this applies:

____ My healthcare representative MAY decide about life support for me. (If you do not initial this space, then your healthcare representative MAY NOT decide about life support.)

3. Tube Feeding. One sort of life support is food and water supplied artificially by medical device, known as tube feeding.

Initial if this applies:

____ My healthcare representative MAY decide about tube feeding for me. (If you do not initial this space, then your healthcare representative MAY NOT decide about tube feeding.)

SIGN HERE TO APPOINT A HEALTHCARE REPRESENTATIVE

_____

Signature of Person Making Appointment

_____

Date

PART C

Healthcare Instructions

Note: In filling out these instructions, keep the following in mind:

1. The term "as my physician recommends" means that you want your physician to try life support if your physician believes it could be helpful and then discontinue it if it is not helping your health condition or symptoms.

2. "Life support" and "tube feeding" are defined in Part B above.

3. If you refuse tube feeding, you should understand that malnutrition, dehydration and death will probably result.

4. You will get care for your comfort and cleanliness no matter what choices you make.

5. You may either give specific instructions by filling out Items 1 to 4 below or you may use the general instruction provided by Item 5.

Here are my desires about my healthcare if my doctor and another knowledgeable doctor confirm that I am in a medical condition described below:

1. **Close to Death.** If I am close to death and life support would only postpone the moment of my death:

A. **Initial One**

____I want to receive tube feeding.
____I want tube feeding only as my physician recommends.
____I **DO NOT WANT** tube feeding.

B. **Initial One**

____I want any other life support that may apply.
____I want life support only as my physician recommends.
____I want **NO** life support.

2. **Permanently Unconscious.** If I am unconscious and it is very unlikely that I will ever become conscious again:

A. **Initial One**

____I want to receive tube feeding.
____I want tube feeding only as my physician recommends.
____I **DO NOT WANT** tube feeding.

B. **Initial One**

____I want any other life support that may apply.
____I want life support only as my physician recommends.
____I want **NO** life support.

3. **Advanced Progressive Illness.** If I have a progressive illness that will be fatal and is in an advanced stage and I am consistently and permanently unable to communicate for any means, swallow food and water safely, care for myself and recognize my family and other people, and it is very unlikely that my condition will substantially improve:

A. **Initial One**

____I want to receive tube feeding.
____I want tube feeding only as my physician recommends.
____I DO NOT WANT tube feeding.

B. **Initial One**

____I want any other life support that may apply.
____I want life support only as my physician recommends.
____I want NO life support.

4. **Extraordinary Suffering.** If life support would not help my medical condition and would make me suffer permanent and severe pain:

A. **Initial One**

____I want to receive tube feeding.
____I want tube feeding only as my physician recommends.
____I DO NOT WANT tube feeding.

B. **Initial One**

____I want any other life support that may apply.
____I want life support only as my physician recommends.
____I want NO life support.

5. **General Instruction.**

Initial if this applies:

____ I do not want life to be prolonged by life support. I also do not want tube feeding as life support. I want my doctors to allow me to die naturally if my doctor and another knowledgeable doctor confirm I am in any of the medical conditions listed in Items 1 to 4 above.

6. **Additional Conditions or Instructions.**

_____

_____

_____

Insert Description of What You Want Done

7. **Other Documents.** A "healthcare power of attorney" is any document you may have signed to appoint a representative to make healthcare decisions for you.

Initial one:

____ I have previously signed a healthcare power of attorney. I want it to remain in effect unless I appoint a healthcare representative after signing the healthcare power of attorney.

___ I have a healthcare power of attorney and, I REVOKE IT.
___ I DO NOT have a healthcare power of attorney.

_____
Date

SIGN HERE TO GIVE INSTRUCTIONS

_____
Signature

PART D

Declaration of Witnesses

We declare that the person signing this Advance Directive:

1. Is personally known to us or has provided proof of identity;

2. Signed or acknowledged that person's signature on this Advance Directive in our presence;

3. Appears to be of sound mind and not under duress, fraud or undue influence;

4. Has not appointed either of us as healthcare representative or alternative representative; and

5. Is not a patient for whom either of us is attending physician.

WITNESSED BY:

_____	_____	_____
Signature of Witness	Date	Printed Name of Witness
_____	_____	_____
Signature of Witness	Date	Printed Name of Witness

Note: One witness must not be a relative (by blood, marriage or adoption) of the person signing this Advance Directive. That witness must also not be entitled to any portion of the person's estate upon death. That witness must also not own, operate or be employed at a healthcare facility where the person is a patient or resident.

PART E

Acceptance by Healthcare Representative

I accept this appointment and agree to serve as healthcare representative. I understand I must act consistently with the desires of the person I represent, as expressed in this Advance Directive or otherwise make known to me. If I do not know the desires of the person I represent, I have a duty to act in what I believe in good faith to be that person's best interest. I understand that this document allows me to decide about that person's healthcare only while that person cannot do so. I understand that the person who appointed me may revoke this appointment. If I learn that this document has been suspended or revoked, I will inform the person's current healthcare provider if known to me.

_____	_____	_____
Signature of Healthcare Representative	Date	Printed Name of Healthcare Representative
_____	_____	_____
Signature of Alternative Healthcare Representative	Date	Printed Name of Alternate Healthcare Representative

THE OREGONIAN, WEDNESDAY, NOVEMBER 22, 1995

Death with dignity remains an illusion

A national study finds that many doctors aren't following patients' requests to let them die

By SUSAN GILBERT
New York Times News Service

After 25 years of public outcry about the right to die with dignity, doctors still are ignoring patients' last wishes, according to a new study of terminally ill patients.

The study, reported in the current issue of The Journal of the American Medical Association, has found that doctors often misunderstand or ignore the patients' requests, with the result that large numbers of people still die alone, in pain and tethered to mechanical ventilators in intensive-care units.

Twenty-five years since the living will movement began, the study's authors say they have discovered that the wills, which are supposed to give terminally ill patients legal safeguards against unwanted medical treatment, offer virtually no protection.

The study also found that increasing communication between doctors and patients did not help. "People think advance directives are solving the problem," said Dr. William Knaus, one of the researchers who directed the study.

"We have very good information that they aren't, that nothing has changed — the amount of pain at the end of life, the number of people dying alone attached to machines."

The $28 million study, financed by the Robert Wood Johnson Foundation, took place at six medical centers around the

Please turn to

Death: 50 percent spend last days in pain, study says

Continued from Page One

country. It was divided into two parts, each one lasting two years and involving similar groups of terminally ill patients.

During the first phase, the researchers gathered base-line information, including the percentage of patients who did not want aggressive medical treatment such as cardiopulmonary resuscitation and mechanical ventilation, the percentage of doctors who knew their patients' wishes, how often aggressive treatment was used and how much pain patients were in before they died.

Thirty-one percent of patients said they did not want cardiopulmonary resuscitation, but 80 percent of the doctors misunderstood or ignored their patients' wishes.

Forty-nine percent of the patients who wanted to avoid cardiopulmonary resuscitation by having their doctors write do-not-resuscitate orders did not get their wish.

Half the patients spent eight or more days in what the researchers defined as an undesirable state — comatose or receiving mechanical ventilation in an intensive-care unit. Half of all patients were also in moderate to severe pain during their last three days of life.

The second phase of the study tested a system called Support, designed to help patients avoid pain and unwanted treatments by fostering better communication between them and their doctors.

After phase two, there was no overall change in the percentage of do-not-resuscitate requests that were written, the amount of time it took for doctors to write them, the number of days that dying patients spent in undesirable states and the percentage of patients who died in pain.

"The findings were startling to us," said Knaus, who is chairman of the department of health evaluation sciences at the University of Virginia in Charlottesville.

Dr. Susan W. Tolle, director of the Center for Ethics in Health Care at Oregon Health Sciences University, said the end-of-life picture is not nearly as gloomy in Oregon.

Tolle said 90 percent of the adults who die at University Hospital have made arrangements for physicians not to resuscitate them. Tolle said the figure indicates that advance planning is the rule among Oregonians rather than the exception.

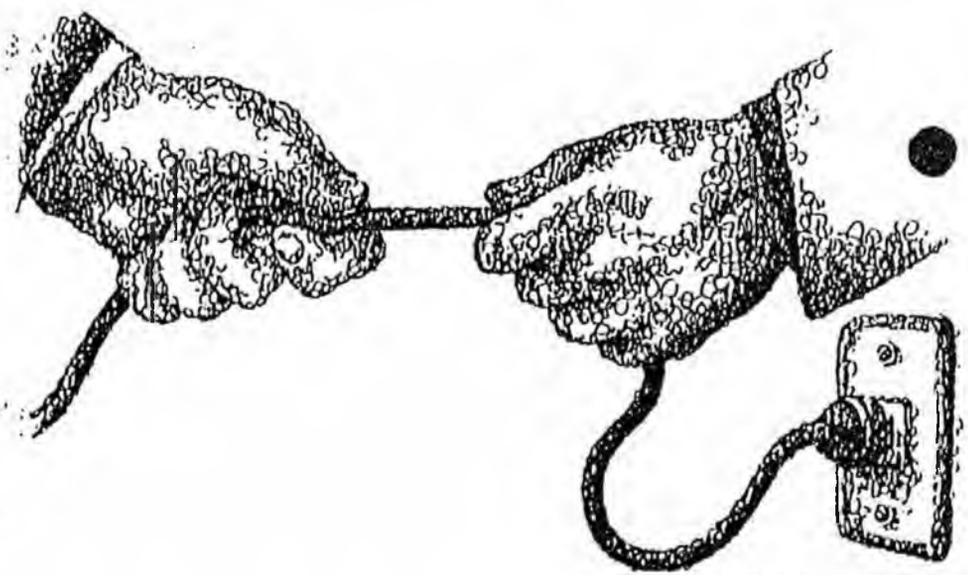
Tolle said special training programs encourage Oregon doctors to find out what kind of care their patients want as they reach the end of their lives. Oregon has progressive laws requiring physicians to administer as many drugs as necessary to ease a patient's pain. Also, she said, public debate over a physician-assisted suicide measure has heightened people's awareness about the rights of terminally ill patients.

The Boston Globe

THE BOSTON GLOBE • THURSDAY, JUNE 28, 1990

The high-tech twilight zone

ELLEN GOODMAN



GEOFFREY MOSS ILLUSTRATION

If you are headed for Missouri – a layover in St. Louis, a weekend in Kansas City – let me suggest that you pack a little something extra in your baggage. A Living Will, for example.

Better yet, a signed and notarized Durable Power of Attorney. Or perhaps a checklist of 30 life-sustaining treatments and your personal attitudes toward them.

You might be wise to send copies of these to a lawyer and to a member of your family. And be sure to tell them that if get sick or have an accident in Missouri, they'd better get your body out of the state as quickly as possible.

This traveler's advisory comes to you courtesy of the Supreme Court. On Monday, the court ruled that people do have the right to stop medical treatment, but only if they are conscious and competent or have left "clear and convincing evidence" of what they want. Otherwise, you may have no more rights than a museum exhibit, a comatose testimony to some state's definition of "life."

If you are like Nancy Cruzan, for example, 25 years old at the time of a car crash, you could end up in a permanent vegetative state for 10, 20, 30 years with no way out. If you are struck down without leaving behind a full record of your attitudes about the major bioethics questions of the day, you could become, as Justice Brennan put it in his eloquent dissent, "a passive prisoner of medical technology."

This is the bottom line in the case of Joe and Joyce Cruzan's daughter. She has spent the seven unconscious years in a Missouri hospital being fed what the nurses call "supper" through a feeding tube. It's the case as well for Christine Busalacchi, a 20-year-old patient in the same hospital, who is wheeled in the same unconscious state to "music therapy" where they play gospel to the former fan of heavy metal.

The court ruled that Nancy had not made her wishes known clearly enough. She had only talked about life and death the way most of us do, conversationally, casually. She "wouldn't want to live that way." She "didn't want to live as a vegetable."

Without more certainty, the majority ruled that Missouri's right to protect "life" was greater than the family's right to defend her "liberty" from medical treatment. In a striking passage, Justice Rehnquist said that there is "no automatic assurance that the view of close family members will necessarily be the same as the patient's."

In short, the state was more trustworthy than the family. Especially the state of Missouri, which has set itself on the extreme end of the pro-life spectrum.

"Once you become incompetent, you're out of it, and your family's out of it" says Boston University bioethicist George Annas. "The view of the court is that Nancy Cruzan should exist to protect the state's unqualified interest in life. That it's always better to be alive than dead. You can treat someone without her consent, but you can't *stop* treating her without consent."

This decision cannot help but raise the anxiety of Americans who have come to regard the end of life, the high-tech "twilight zone," with fear and loathing. For the overwhelming majority of Americans, some 70 to 80 percent, death comes after a series of decisions between patients, families and doctors about treatments to begin, try, end. For each American in a Cruzan-like condition, there are many more who are or will become incompetent before they die.

"I think it is important for people to know they will not lose control at the end," says Susan Wolf, an ethicist at the Hastings Center. "That knowledge allows people to keep going."

Indeed, without that assurance, we may see more preemptive suicides by people like Janet Adkins, who sought out the so-called suicide machine before she would lose her mind to Alzheimer's. We will also, surely, see doctors who hesitate to try experimental treatments out of fear they can't be ended.

Missouri is so far the most intrusive state but the court gives the green light to others. In the meantime, the Cruzans' only hope for an end to the intrusive treatment is to move their daughter, perhaps down the road to Arkansas.

Once, in the '70s, there were families that took a brain-dead child from one state to another that recognized this death. In the 1990s, we may have to shop again for a state that will allow patients and families to end treatment without a suitcase full of documents.

For now, however, a recommendation. The Living Will. Don't leave home without it.

Ellen Goodman is a Globe columnist.

News 7/27/95

Living wills not always binding

ANN LANDERS

❑ **Dear Ann Landers:** Last year, I buried my 91-year-old father. After recurring bouts of cancer, he suffered a stroke. To see this once-vital man reduced to such a condition was heartbreaking.

The doctor insisted on inserting a permanent feeding tube. I explained that my father had made provisions for his care in such an event and did not want to continue his life that way. The doctor's reply was "Do you want your father to starve to death?"

The shock of being the sole caretaker for my 85-year-old mother, and now a dying father, was too much for me. I let the feeding tube be inserted. My father died in the ambulance on the way to the nursing home.

Ann, please tell your readers that the person making the medical decisions for an ill person must be very strong. And just as important as a living will is a medical power of attorney. Without it, a living will doesn't always hold much weight. — Virginia in Farmington, Mich.

Dear Virginia: I received a great deal of mail after my column on the Medical Directive appeared. Many readers made a point of saying that living wills are not binding in every state and, even when they are honored, the laws often change.

One woman let me know that her grandmother had made specific provisions in her living will for pain killers, but when the time came, her doctor refused her request. Another reader sent alarming information about how unrelated people can file suit in court to prevent a person from terminating medical treatment, even though they have no personal involvement in the situation.

The next letter might provide some help:

❑ **Dear Ann Landers:** Your informed and compassionate column about living wills and the Medical Directive gave millions of Americans invaluable information about the medical choices available to them at the end of their lives.

The Medical Directive is quite comprehensive and includes a power-of-attorney form, an organ-donor form and a place for a physician's signature. However, some states have their own requirements that may not be covered in the Medical Directive. For this reason, we recommend that people attach a state-specific form to their Medical Directive.

State-specific advance directives are available free of charge from state health departments, local hospitals and state bar associations. Choice in Dying will also provide a copy of a state-specific advance directive to anyone who writes us at Choice in Dying, 200 Varick St., New York, N.Y. 10014 or calls our toll-free number: 1-800-989-WILL.

Thank you, Ann, for getting the word out. — Karen Orloff Kaplan, executive director, Choice in Dying

Dear Karen Kaplan: Thank you for your fine suggestion. For my readers who may have missed it the last time, you can order the Medical Directive (two for $6; five for $11) by writing to The Medical Directive, P.O. Box 6100, Holliston, Mass. 01746-6100.

For five years 22-year-old Christine Busalacchi has lain in a Missouri medical facility in what her doctors call a "persistent vegetative state."

Eventually the case wound up in court. The doctors petitioned to withdraw nonbeneficial medical care; the court declined to intervene. Six months later, still comatose but receiving aggressive treatment, Helga died. Her treatment cost in excess of $700,000, paid for by her insurance and Medicare.

"If we have the right to keep a comatose woman on a respirator for over a year, then how does that justify the *lack* of health care for so many others?" Dr. Miles asks.

No Easy Answers

It's true that the financial toll of maintaining a terminally ill patient has become mind-boggling. Life-support costs range widely, up to or even exceeding $2,000 a day, and these patients take up needed space in intensive-care units.

The emotional cost to families is also immeasurable. Many have likened it to "living in a funeral home, waiting for the funeral."

As serious as these problems are, even worse ones could result from legalized euthanasia. In the Netherlands—where mercy killing is technically illegal but openly practiced—some people are worried. The guidelines for "justified euthanasia," spelled out by the Dutch courts, say the patient must request death and that his condition must be irreversible. Frits Wester, a spokesman for The Netherlands Christian Democrats party and a leading voice against euthanasia, says: "We get a lot of letters from old people who are afraid to go in hospital because they're afraid somebody will kill them."

Other critics point to a possible slide from "voluntary" death toward coerced death, instigated either by medical personnel who deem a patient too costly to maintain, or by family members who may want to speed up inheritance.

In this country more than a million deaths occur in institutions annually; 70 percent of them are the result of a noncontroversial decision not to medicate, operate or resuscitate. Although only about 12 to 20 cases a year actually end up in court, those that do can alter state and Federal laws, as occurred in the now-historic Cruzan case. Nancy Cruzan had lain for eight years in a Missouri Rehabilitation Center (the same one now housing Christine Busalacchi), while her family fought the state all the way to the U.S. Supreme Court for permission to remove her feeding tube in accordance with her own previously stated wishes. They won, and the ruling became a major catalyst for the Patient Self-Determination Act *(see below)*.

Who Plays God?

Even so, the controversy continues to rage. At one end of the debate are people who believe the Hippocratic oath compels physicians *always* to prolong life—never to assist, even passively, in cutting it short. At the other extreme—Derek Humphry and his suicide manual, *Final Exit*; Dr. Jack Kevorkian and his "suicide machine"—are those who believe assisted suicide is an act of mercy. In the middle are people who feel that withholding life support in accordance with a patient's instructions is acceptable, while actively helping someone to die is not.

Opinions may be shifting. In a recent Washington State referendum a proposition calling for physician-assisted euthanasia was defeated by only a narrow margin. Like it or not, Americans are being brought face to face with the issue of dying. Although no one can choose *whether* to die, more and more we are being given a choice of *how* (or how not) to die. Signing a living will and naming a medical proxy can help insure that our wishes will be carried out. ■

"Advance Directives" Advice

If you check into a hospital, expect to be asked about your "advance directives." This query is required by the 1990 Federal Patient Self-Determination Act. You don't have to sign a living will, but you must be informed of that choice. Here's how to prepare advance directives on your own:

- ***Assign a health-care proxy and an alternate.*** **To do this, make out a health-care proxy form *(see below)*. You don't need a lawyer, just two adult witnesses. Be sure that the people you name know your wishes and are willing to make life-and-death decisions for you.**
- ***Sign a living will.*** **Include what you *do* want as well as what you *don't*. For example: Don't say "no medication" if you would want painkillers. Instead, specify "comfort care." Update your living will and health-care proxy every year or so and alert your doctor to their existence. You can cancel your advance directives at any time.**
- ***Send for free living-will and health-care proxy forms.*** **Write to Choice in Dying, Box FC, 200 Varick St., New York, NY 10014. (For appropriate forms, specify your state.)**

Pascal Alexandre

[redacted] the author's seriousness of purpose and ensures that the court is not being asked to make a life-or-death decision based upon casual remarks." *In re O'Connor*, 72 N.Y.2d at 531, 531 N.E.2d at 613.

Among the typical reasons for choosing a health care proxy rather than a Living Will is the flexibility of the proxy. For example, a proxy provides a mechanism for making many types of health care decisions at the time when a decision must be made. A Living Will, to be effective, must set forth the maker of the Will's decisions with respect to medical treatment prior to his or her incompetency and before decisions need to be made. In addition, a proxy allows for decisions about all aspects of health care. A proxy is not limited to decisions regarding life sustaining treatment and may encompass many other kinds of care the individual may need.

Nevertheless, a Living Will can be extremely important in several respects. First, it does provide a mechanism which allows the patient to specify with clarity his or her wishes regarding life sustaining medical treatment rather than relying upon the decisions of a health care agent. Second, the Living Will provides evidence of the patient's wishes regarding the refusal of medical treatment, which evidence should meet even the strict "clear and convincing" standard adopted by some states. Therefore it should be respected by other jurisdictions as well as the one under whose laws it was executed. As indicated, it is not clear whether a health care agent has the power to act in a jurisdiction which has not enacted a health care proxy statute. Even if it has such a statute, it is not certain what the effect may be if the other jurisdiction prescribes a form, a method of execution or a time limit for using the proxy which is different from that specified by the law governing the form actually executed by the patient. For instance, some states limit the agent's authority. *See, e.g.*, Cal. Civ. Code § 2435 (prohibiting, among other acts, consent to psychosurgery and abortion). Nonetheless, it could well be that a patient's direction on these matters would be binding.

Most important, health care proxies and Living Wills are not incompatible. Indeed, it may be possible to incorporate both in the same document. *See* the Appendix for a sample form of instrument (not effective in all jurisdictions) which [redacted] Will and a health care proxy.

CONTENTS OF THE LIVING WILL

The Living Will should state completely and explicitly those areas of health care about which the individual has made definite decisions as to whether he or she wishes, or does not wish, to refuse the treatment.[6] Moreover, the individual should decide whether any desired treatment is to be tried only for a limited period of time and then discontinued if significant improvement is not made after that period of time.

The American Medical Association has prepared a Medical Directive[7] which sets forth in simple chart form common treatments and procedures (from blood transfusions to the use of pain medications) on which an individual records whether he or she definitely wants a particular medical treatment, does not want it, is undecided about it, or wants the treatment tried (at least for a time). The Medical Directive also suggests that these "common" decisions be made based upon various "scenarios", from a persistent vegetative state to one in which the individual suffers from some brain damage which impairs the ability to recognize people and to communicate understandably, but does not have a terminal illness. Many practitioners will find reviewing the "Medical Directive" helpful in counseling clients as to the types of decisions which they should consider expressing in a Living Will.

There are three areas in which it seems to be of particular importance that the individual state a preference as to whether he or she wishes the treatment to be commenced and continued (at all costs), whether it should be tried, but continued only if there is significant improvement or not administered at all. These are: (1) providing artificial nutrition and hydration (the termination of which will end life in a relatively short time); (2) administering pain medications even though they may hasten death and/or retard consciousness; and (3) use of other means of prolonging life (such as mechanical breathing machines, kidney dialysis, and organ transplants) especially those which can be extremely expensive. In some jurisdictions, such as New York, a health care agent may make a decision about artificial nutrition and hydration only if the patient's wishes in that regard are reasonably known or can be reasonably ascertained with diligence. N.Y. Pub. Health Law § 2982(2)(B). In fact, New York encourages an individual to state in the proxy his or her wishes regarding artificial nutrition and hydration and other specific areas of health care. N.Y. Pub. Health Law § 2981(5)(D).

These statements should be as specific as is practicable under the circumstances. Even if the decision is to attempt to prolong life for as long as possible, that should be stated explicitly in the Living Will. If the indi-

vidual is unsure of his or her wishes in a particular area, that lack of assurance should be expressly stated so that other language in the Living Will or other evidence is not used to "construe" what the individual wished.

For many people these decisions are extremely difficult to make. Certain clients will prefer that others make them when they are no longer able to do so. Further, the Living Will cannot cover every conceivable circumstance which may arise. Therefore, individuals should also consider executing a health care proxy.

Although the Supreme Court indicated in the *Cruzan* case that a person could designate someone to make health care determinations, such as the termination of artificial hydration and nutrition, it did not state whether the designee could be empowered to make less "drastic" decisions, such as placing the individual in a permanent health care facility (e.g., a nursing home) when the individual is not terminally ill but has lost the capacity to make such decisions. State law often does not expressly provide whether a medical attorney-in-fact may make such decisions. Unless proscribed by state law, it may be appropriate to consider adding to the document an express provision covering the authority of the surrogate decisionmaker in this (or similar) situations. Where it is not certain that this can be done, it is appropriate, as it generally is in the proxy, to ensure that a "severability" clause is added.

In addition to discussing an individual's wishes regarding health care, the Living Will should state explicitly that the document is intended to constitute a statement which is an expression of the wishes and directions of the individual as to his or her health care in the event that he or she is unable to make those decisions. It should specify that it is intended to be binding upon all persons, including the individual's physician, other health care providers and family. Furthermore, whether or not the Living Will is contained in the same document as the health care proxy, it should state explicitly whether the wishes and directions contained in the Living Will are, or are not, binding upon any health care agent or whether the health care agent is to have the authority to override the Living Will in some or all circumstances. The Living Will also should state whether or not the individual intends the document to expire and, if so, when.

If state law provides how a Living Will is to be executed, that method should be followed precisely. If state law does not set forth the formalities for execution, it is recommended that the instrument be dated, signed at the end by the individual, witnessed by at least two persons, who, as in the case of a Last Will and Testament, set forth their addresses, and that it contain an attestation or acknowledgment provision which is completed by a notary public. The instrument should also contain a statement immediately before the witnesses' signatures that they personally know the individual, that he or she appears to be over the age specified by state law to execute such an instrument (18 years in almost all jurisdictions in the United States) and of sound mind, and that the person has executed the document willingly and free of duress.

Unless prohibited by state law, the Living Will should also contain a "severability" clause.

CONTENTS OF THE HEALTH CARE PROXY

Some states, such as California, have extraordinarily complex and "strict" rules governing the contents of a health care proxy. For example, in California, any printed form of durable power of attorney for health care intended for use by someone who is not receiving the advice of a lawyer, must contain a warning, prescribed in the statute, printed in ten point boldface type. Cal. Civ. Code § 2433. Although, as indicated above, it would appear that a majority of the Supreme Court at the time it decided the *Cruzan* case would have held that there was a constitutional right to appoint a surrogate decisionmaker for health care purposes, it is uncertain whether the Court would hold that a state statute which prescribed strict procedural requirements regarding the form, contents, method of execution and duration of a health care proxy was forbidden by the Constitution. However, since the Supreme Court in *Cruzan* allowed a state to prescribe a standard of evidence for a decision as to health care decisions that is "higher" than that usually applied in civil cases, it is probable that the Court would also uphold a state's right to prescribe a certain form, etc. for a health care proxy. Accordingly, it seems prudent for practitioners to attempt to use a form which complies exactly with the statutory rules of the jurisdiction. Nevertheless, as will be discussed below, it is unclear whether a health care proxy executed in accordance with the formalities of one jurisdiction will be respected in another.

Although the laws of some states (such as California) offer the alternative of witnessing or "notarizing" the health care proxy or durable power of attorney for health care, it seems best, where practicable, that the document be both witnessed and notarized.

SB

293

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: SB 293
(S) Publish Date: 2-12-98

Revision Date:
Title: Contracts for Providing Public Assistance
Sponsor: Rules Committee
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Public Assistance
Component: ATAP
COMPONENT SERIAL NO. 220
See also (SN#):

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY98	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	0.0	0.0	0.0	0.0	0.0	0.0
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

This legislation will provide grant funds to Alaska Native organizations that have federal approval to operate tribal familiy assistance programs (TFAP). It also allows the department to establish regional public assistance plans to serve all families living in the geographic area covered by the federally approved TFAP. The legislation also authorizes the department to contract with the Alaska Native organization operating a TFAP to serve these families. This legislation provides that grants to eligible Alaska Native organizations will represent a fair and equitable portion of the state appropriations intended to serve state residents served by an approved regional plan.

Federal welfare reform law provides that the 12 Alaska Native regional non-profits and the Indian community of Metlakatla may submit TFAP plans for federal approval. At this time, no Native organizations have submitted a TFAP plan.
Fiscal impacts are dependent on which Native organizations have approved plans and the population to be served. In the future, department budget requests will reflect the financial impact which will result from Native organizations administering approved plans.

2/10/98

Prepared by: Jim Nordlund
Division: Public Assistance
Phone: 465-2680
Date: 02/10/98

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services
Date: 2/10/98

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

[redacted] SENATE COMMITTEE [redacted]
First Committee of Referral

DATE: 2/18/98

FURTHER: State Affairs
Finance

Date of 5-Day Notice: 4/16/98
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 4/24/98

Health, Education and Social Services Committee considered SENATE BILL NO. 293

"An Act relating to contracts for the provision of state public assistance to certain recipients in the state; providing for regional public assistance plans and programs in the state; relating to grants for Alaska tribal family assistance programs; and providing for an effective date."

and recommends:

Senate Bill:
[ ] same title
[ ] new title

[ ] be **replaced** with _____ CS _____(_____)

[ ] adopt **previous** _____ CS _____(_____)

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR#_____

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
Ellis	X				✓
		Green			✓
		Leman			✓
CHAIR:		*CHAIR:* Wilken			↘

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal
H+SS Public Assistance	3/10/98	✓	

[ ] APPROPRIATION -- no fiscal note

***include fiscal notes accompanying Governor's bill**

TONY KNOWLES
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 10, 1998

The Honorable Mike Miller
Senate President
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

SB 293

Dear President Miller:

In accepting the challenge of reforming Alaska's welfare system, the state must make every effort to build a successful public assistance program. This bill I transmit today continues Alaska's efforts to implement effective and responsible welfare reform, particularly in rural areas. This legislation takes advantage of a provision in federal welfare reform allowing regional non-profit Native corporations to develop and implement welfare programs. Not only would this promote local responsibility for program success, it will better tie program assistance to local economic and social conditions. Under the bill, the Department of Health and Social Services may contract with regional Native organizations for operating family assistance plans.

The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996, established that specifically named Alaska Native organizations could propose to operate tribal family assistance plans, independent of the state plan, to serve the native population within a specific geographical region. A state- and federally-approved tribal family assistance plan will receive, directly from the federal government, a portion of Alaska's allocation of the Temporary Assistance for Needy Families block grant funds to provide public assistance to the families the plan serves. The federal funds, however, will only be about half of the funds that have historically been appropriated to serve this purpose. This bill establishes standards by which the state will provide grants to these organizations to match the federal funds.

The regional plans are expected to be custom designed to meet the economic conditions and needs of the area. Regional plans may depart from some requirements of the state assistance program, as long as the plans contain specifically identified program elements.

Additional provisions in the bill address record sharing and confidentiality, data reporting and financial records, program termination, and procedures for appeal.

This bill will contribute to making our public assistance programs more effective by considering regional conditions in plan developments. I urge your support of this bill.

Sincerely,

Tony Knowles
Governor

Objectives in Developing SB 293

* Promote self sufficiency for families on public assistance; particularly in rural Alaska.

* Promote flexibility in designing local approaches to achieving self sufficiency.

* Assure that both the State and Regional programs are managed efficiently and cost effectively.

* Discourage disparity in benefits and services for Alaskans living in the same community or region.

* Address the complex legal issues relating to the delegation of State authority.

Sectional Analysis HB 401 \ SB 293

Section 1. Findings and Intent

Section 2. This section exempts contracts with Native Regional organizations who are providing public assistance services and have an approved tribal assistance plan under AS 47.27.072 from the procurement code.

Section 3. Authorizes the department, if it is appropriate, to establish regional public assistance plans for the administration of the Alaska temporary assistance program.

Section 4. Allows the Department, in its administration of the Alaska Temporary Assistance Program, to adopt program standards that may vary by region so long as the standards still meet the requirements in AS 47.27.072 and the program requirements of AS 47.27.071.

Section 5. This section allows the Department to award tribal family assistance grants to Alaska Native Regional Organizations that have a Federally approved tribal assistance plan that meets the requirements of AS 47.27.070. This section also establishes a process for Departmental review of the tribal assistance plan before it is submitted by the Alaska Native Regional Organization.

Additionally, this section provides that in the first year of a tribal assistance plan the State grant will represent a fair and equitable portion of the State appropriation for the State public assistance program administered by the department. For the second and subsequent years, the grant represents a fair and equitable portion of the State appropriations made for public assistance programs that is allocated for tribal family assistance grants.

This section also lists the specific requirements that must be included in the tribal plan if it is to be eligible for a state grant. Additionally, this section allows the Commissioner of the Department of Health and Social Services to require that non-tribal members be served through the tribal plan if doing so would be an efficient and cost - effective way to administer the State's public assistance program.

If the Commissioner designates the tribal plan to be the public assistance plan for all State residents within the service area, the Department will contract with the Native organization administering the tribal plan to provide a fair and equitable share of dollars appropriated to provide services to these recipients.

Section 6. This section defines " federally approved tribal family assistance plan" as a plan that meet requirements of Federal law and has been approved for funding by the United States Department of Health and Human Services.

Section 7. Establishes an immediate effective date.

Native Organization sends Letter of Intent to the Department with a proposed plan 8 months before proposed effective date of plan[1]

→ Department reviews plan to identify service boundaries and other important elements*.

* STATE REQUIREMENTS:
Plan Must:
- Facilitate self-sufficiency within the region
- Provide for a reasonable pattern of service delivery
- Serve a specified region which is geographically coherent and shares common resources, traditions and interests
- Include the following standards:
  - Must have dependent child in household
  - Payment amounts cannot exceed State amount
  - Minor parent must live in an approved adult-supervised setting
  - Able-bodied participants must work
  - Participants must comply with child support

If Native Organization does not adhere to requirements, Department notifies Native Organization of any significant deficiencies.

Native Organization may make a supplemental submission to the Department to resolve any deficiencies

If plan meets requirement, Native Organization is eligible for State Match for Tribal members

Plan submitted to Federal Government

Federal Approval

Native Organization receives grant for Tribal members

→ At discretion of Commissioner, Adopt Tribal Plan for all recipients within geographic boundary. Native Organization receives funds to serve non-Tribal members

[1] The Commissioner may waive the time deadline specified if the Commissioner:
(1) Enters into a joint planning agreement between the department and the Native organization; or
(2) finds good cause and the waiver is in the state's best interest.

SB 306

SENATE COMMITTEE R[illegible]
First Committee of Referral

DATE: 2/16/98

FURTHER: Judiciary

Date of 5-Day Notice: 2/19/98
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2/25/98

Health, Education and Social Services Committee considered SENATE BILL NO. 306

"An Act relating to the authority to claim a child who is the subject of a child support order as a dependent for purposes of a federal income tax exemption; relating to certification of child support arrears; amending Rule 90.3, Alaska Rules of Civil Procedure."

and recommends:

[ ] be **replaced** with _____ CS _____(_____)

[ ] adopt **previous** _____ CS _____(_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[ ] same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR#_____

SIGNING DO PASS	*DP*	*OTHER RECOMMENDATIONS*	*NR*	*DNP*	*AM*
Drew Thomas	✓	Lyda Green	✓		
	✓				
CHAIR:	✓	*CHAIR:*			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
Revenue	2/20/98		✓

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SENATOR DAVE DONLEY
ALASKA STATE LEGISLATURE

Sponsor Statement
for Senate Bill 306
"Tax Deductions for Custodial Parents"

This legislation keeps a parent who is in arrears of child support from unfairly claiming an exemption for a child they are not supporting. Currently many custodial parents are being unfairly denied legitimate tax deductions because of a prior agreement in the child support order.

Senate Bill 306 enables a custodial parent to claim their child as a tax deduction if the parent paying support is in arrears for more than four months. Four months is an existing standard for revocation of licenses used by the State Board of Licensing and is defined in AS 25.27.244q(6). To facilitate the process of changing the recipient of the exemption, the court shall require, at the issuance of a support order, the payer to submit signed copies of IRS form 8332, waiving the tax exemption. These documents, signed for all tax years, will be held in the court file until such a time, if it occurs, when the payer is in arrears. This legislation also requires the Child Support Enforcement Agency provide the payee with a document certifying that the payer was indeed in arrears under AS 25.27.244q(6).

This legislation only applies to future support orders and cannot be retroactive.

DD/ljh

January-May: STATE CAPITOL • JUNEAU, AK • 99801-1182 • (907) 465-3892 • FAX: (907) 465-6595
June-December: 716 W. 4TH AVE. • STE. 430 • ANCHORAGE, AK • 99501 • (907) 258-8181 • FAX: (907) 258-1648

MEMBER: Senate Finance Committee • Legislative Budget & Audit Committee
• Senate Community & Regional Affairs Committee

STATE OF ALASKA
1998 LEGISLATIVE SESSION

FISCAL NOTE

BILL NO: SB 306

Revision Date:
Dept. Affected: Revenue
Title: Tax Exemptions in Child Support Cases
BRU: Child Support Enforcement Division
Component: Child Support Enforcement Division
Sponsor: Senator Donley
Requestor: (S) HES
COMPONENT SERIAL NO. 111

Expenditures/Revenues: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	12.2	12.2	12.2	12.2	12.2	12.2
TRAVEL						
CONTRACTUAL	7.2	7.2	7.2	7.2	7.2	7.2
SUPPLIES						
EQUIPMENT	6.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	25.4	19.4	19.4	19.4	19.4	19.4
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	16.8	12.8	12.8	12.8	12.8	12.8
1003 GF Match						
1004 GF	8.6	6.6	6.6	6.6	6.6	6.6
1001 CBRF						
1048 University of AK receipts						
Other						
TOTAL	25.4	19.4	19.4	19.4	19.4	19.4

Estimate of any current year cost $ 0.0

POSITIONS:

FULL-TIME						
PART-TIME	1.0	1.0	1.0	1.0	1.0	1.0
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Senate Bill 306 would amend AS 25.27. The amendment would mandate that the Child Support Enforcement Division (CSED) certify, in writing, whether the case obligor is in arrears more than four times the monthly obligation, regardless of whether or not a payment schedule has been established. The information must be available to the custodial parent within 30 days of submitting a written request to obtain it. Rule 90.3, Alaska Rules of Civil Procedure would then be amended to entitle the custodial parent to claim the child(ren) as dependents for federal tax purposes (assuming they are entitled to do so under federal law and assuming accumulated arrearages in excess of four months.)

Prepared by: Barbara Mikos, Director
Phone: 269-6800
Division: Child Support Enforcement Division
Date: February 20, 1998
Approved by Commissioner: Wilson L. Condon
Date: February 20, 1998
Agency: Revenue

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SB

318

SENATE COMMITTEE REPORT
First Committee of Referral

DATE: 2/16/98

FURTHER: Judiciary

Date of 5-Day Notice: 4/2/98
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 4/7/98

Health, Education and Social Services Committee considered SENATE BILL NO. 318

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

and recommends:

[~~]~~ be **replaced** with _____ CS SB 318 (HES)

[ ] adopt **previous** _____ CS _____ (_____)

[ ] attached amendment(s)

[ ] adopt Letter of Intent by _____ Committee

[ ] further referral to the _____ Committee

Senate Bill:
[~~]~~ same title
[ ] new title

House Bill:
[ ] same title
[ ] technical title
[ ] new: SCR*_____

SIGNING: DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
Lorew A. Leman	✓	J. Ellis	✓		
		Lyda Green	✓		
CHAIR:		CHAIR: Gary Wilken	✓		

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
SB H+SS	3/20/98		13.3
CSSB H+SS	4/6/98		8.3

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

[ ] **APPROPRIATION -- no fiscal note**

***include fiscal notes accompanying Governor's bill**

0-LS1581\E
.Lauterbach
4/3/98

CS FOR SENATE BILL NO. 318( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR LEMAN

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) a recitation by each party that the party

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

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

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

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

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

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

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

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

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

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

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

(4) the notarized signatures of both parties.

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

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

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

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

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

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

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

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

(2) adultery;

(3) conviction of a felony;

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

(5) either

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

(B) personal indignities rendering life burdensome; or

(C) incompatibility of temperament;

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

(7) [REPEALED

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

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

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

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

(1) the other spouse has committed adultery;

(2) the other spouse has physically abused the petitioning spouse;

(3) the other spouse has physically or sexually abused a child of the marriage or a child of one of the spouses;

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

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

(6) the other spouse has been convicted of a felony under AS 11.41;

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

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

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

Sec. 25.24.110. Separate domicile or residence. In an action for divorce or

separation from bed and board, a spouse may acquire a separate residence or domicile from that of the other spouse without reference among other factors to misconduct or consent of the other spouse.

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

Sec. 25.24.130. Defenses to other divorce grounds. When the divorce action is for any of the grounds provided in **AS 25.24.050(a)(4) - (6) or (b)(4) or (7)** [AS 25.24.050(4) - (6)], the defense of procurement or that the defendant has been expressly forgiven may be made. When the divorce action is for the ground provided in **AS 25.24.050(a)(3) or (b)(5) or (6)** [AS 25.24.050(3)], the defense of procurement or that the defendant has been expressly forgiven or that the action was not brought within two years after conviction may be made.

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

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

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

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

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

(2) if there are unmarried children of the marriage under the age of 19 or the wife is pregnant, and the spouses have agreed on which spouse or third party is to be awarded custody of each minor child of the marriage and the extent of visitation, including visitation by grandparents and other persons if in the child's best

interests, and support to be provided on the children's behalf, whether the payments are to be made through the child support enforcement agency and the tax consequences of that agreement;

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) the other spouse has

(A) committed adultery;

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

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

(D) physically abused the petitioning spouse;

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

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

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

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

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

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

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

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

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

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

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

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

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CS SB 318 (HES)

Revision Date:
Title: An act relating to charter marriages
Sponsor: Leman
Requestor: Senate HESS

Dept. Affected: Health and Social Services
BRU: State Health Services
Component: Bureau of Vital Statistics
COMPONENT SERIAL NO. 961
See also (SN#):

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY99	FY00	FY01	FY02	FY03	FY04
PERSONAL SERVICES						
TRAVEL	2.0					
CONTRACTUAL	2.5					
SUPPLIES	3.8					
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	8.3	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ( )						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	8.3					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	8.3	0.0	0.0	0.0	0.0	0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

Line 200 - $2.0 is needed for travel to Anchorage and Fairbanks to conduct training for the new marriage processing requirements.

Line 300 - $2.5 for the revision of the bureau's computer programs to accommodate the new certificate design.

Line 400 - $3.8 for redesign and reprint of marriage applications and licenses, and for the design and printing of the declarations for charter marriages.

Prepared by: Peter M. Nakamura, MD, MPH
Division: Public Health
Phone: (907) 465-3090
Date: 04/06/98

Approved by Commissioner: Karen Perdue, Commissioner
Agency: Department of Health & Social Services
Date: 4/6/98

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SENATOR LOREN LEMAN

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Sponsor Statement – Senate Bill 318

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

SB 318 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 judgment of divorce only under four conditions: adultery committed by the other spouse; felony conviction by the other spouse resulting in a sentence of three or more years incarceration; abandonment by the other spouse 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.

Prepared by Mike Pauley, Staff Aide to Senator Loren Leman (465-3841)
Last updated: February 19, 1998

Summary of Changes in Proposed CS for Senate Bill 318

[Page & line numbers refer to the original SB 318 – draft 0-LS1581\A]

1) Page 2, lines 1 –14: all material deleted.

This change was made at the request of the Bureau of Vital Statistics. Paragraph (b) provided that couples who were already married under existing law could "upgrade" to a charter marriage. A representative from the Bureau of Vital Statistics testified that the agency cannot change the terms of marriage licenses for Alaska couples who were married in other states. Only couples married under Alaska law would be able to "upgrade" to a charter marriage. This could create a legal problem on equal protection grounds.

2) Page 2, line 28: after "charter marriage" insert: **governed by the laws of this state**

This is a technical change to make the bill consistent with the change discussed under (1) of this document.

3) Page 3, line 11: after "psychological associate" insert: **licensed clinical social worker**

This change adds "licensed clinical social worker" to the list of persons (e.g., clergy member, marital therapist) authorized to provide the premarital counseling required before a couple can enter into a charter marriage. This change was made at the suggestion of the Alaska Chapter of the National Association of Social Workers.

4) Page 4, beginning on line 24: new paragraphs added under subsection (b)

The proposed CS adds four new conditions to the "grounds for divorce" allowed under a charter marriage:

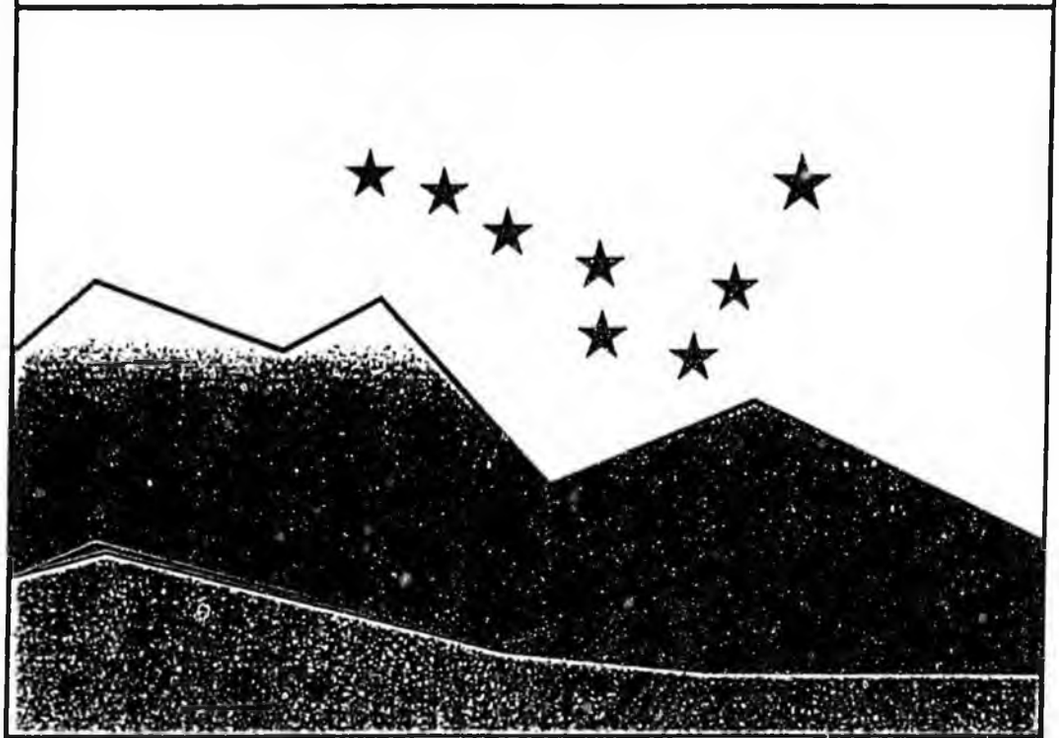
1) **the other spouse has physically abused the petitioning spouse;**
2) **the other spouse has physically or sexually abused a child of the marriage or a child of one of the spouses;**
3) **the other spouse has treated the petitioning spouse cruelly in a manner that impairs the health or endangers the life of the petitioning spouse;**
4) **the other spouse has been convicted of a felony under AS 11.41**;

These changes were made at the suggestion of the Alaska Women's Political Caucus to address the concern about spouses who are victims of domestic violence.

Prepared by Mike Pauley, Office of Senator Loren Leman (465-3841)
April 6, 1998

ALASKA

BUREAU OF VITAL STATISTICS



1995 ANNUAL REPORT

TONY KNOWLES
Governor

STATE OF ALASKA

STATE of ALASKA
DEPARTMENT of HEALTH and SOCIAL SERVICES

KAREN PERDUE
Commissioner

DEPT. OF HEALTH & SOCIAL SERVICES

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.

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 4.1B MARRIAGES BY NATIVE REGIONAL CORPORATION OF OCCURRENCE, GROOM'S RESIDENCE, AND BRIDE'S RESIDENCE, ALASKA, 1995

NATIVE REGIONAL CORPORATION	OCCURRENCES	RESIDENT GROOMS	RESIDENT BRIDES
AHTNA INC.	21	14	16
ALEUT CORP.	44	47	46
ARCTIC SLOPE CORP.	34	41	40
BERING STRAITS CORP.	50	53	52
BRISTOL BAY CORP.	42	47	46
CALISTA CORP.	112	119	123
CHUGACH NATIVES INC.	124	94	95
COOK INLET REG CORP.	3,197	2,911	2,941
DOYON LTD.	953	853	847
KONIAG INC.	114	111	108
NANA REGIONAL CORP.	33	32	33
SEALASKA CORP.	790	646	643
TOTAL	5,514	4,968	4,990

TABLE 4.2 MARRIAGES BY CENSUS AREA OF BRIDE'S RESIDENCE, AND BY CENSUS AREA OF GROOM'S RESIDENCE, ALASKA, 1995

BRIDE'S RESIDENCE	GROOM'S RESIDENCE														
	ALE	ALW	ANC	AHS	BET	BRB	DEN	DIL	FBK	HNS	JUN	KPB	KET	KOD	LKP
ALEUTN EAST	8														
ALEUTN WEST		37													
ANCHORAGE		1	2,058						5		4	16	1	3	1
ANG-HNH-SKG				25							1				
BETHEL			5		88	1		1							
BRISTOL BAY						10			1						
DENALI							10								
DILLINGHAM					1			28							1
FAIRBANKS			1						711						
HAINES										14					
JUNEAU			4								256		1		
KENAI PEN			4				1		2			371			
KETCHIKAN													149		
KODIAK			2									1		101	
LAKE-PENIN															6
MAT-SU			19									5			
NOME			1		1										
NORTH SLOPE			2												
NW ARCTIC							1								
PRINCE-WALES															
SITKA											1		1		
SE FAIRBANKS															
VALDEZ-CORDV			3								1			1	
WADE HAMPTON															
WRANGELL-PBG			1									1			
YAKUTAT															
YUKON-KOY					1										
OUT OF STATE		1	54		1	1	2	1	38	2	6	7	3	6	
TOTAL	8	39	2,155	25	92	12	14	30	757	16	269	401	155	111	8

Continued →

TABLE 4.2 CONTINUED

BRIDE'S RESIDENCE	GROOM'S RESIDENCE													TOTAL
	MSB	NOM	NSB	NAB	POW	SIT	SEF	VAL	WAH	WRF	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														65
MAT-SU	359												10	393
NOME		48											2	52
NORTH SLOPE			37										1	40
NW ARCTIC		1	1	30										33
PRINCE-WALES					47								2	49
SITKA						63							1	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	35-39	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		4	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	48	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.

- 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-HOONAH-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

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

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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 relationships?' " 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.

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The Associated Press contributed to this report.

Fairbanks Daily News-Miner • March 4, 1998

Stronger marriages needed

Legislature should offer the option

Guest Opinion

By DEBBIE JOSLIN

The '60s brought us the concept of "free love." The '70s brought us "no fault" divorce and told us how resilient kids are in recovering from divorce. Now in the '90s we are finding out that we bought into a lie.

■ Since "no-fault" divorce was first introduced in 1970, the national divorce rate has risen 279 percent, resulting in 352 percent more kids living with a divorced parent. The majority of those children are living with their mothers. (Statistical Abstract of the U.S., quoted in Focus on the Family magazine, January 1995 edition.)

■ The national statistics on children from broken homes are staggering. Fatherless daughters are 111 percent more likely to have children as teenagers, 164 percent more likely to given birth to an illegitimate child and 92 percent more likely to fail in their own marriages. Fatherless sons are 300 percent more likely to be incarcerated in state juvenile facilities. Seventy percent of all young men incarcerated in the United States come from fatherless homes. Fatherless children are twice as likely to drop out of schools and are failing school not because they are intellectually or physically impaired but because they are emotionally incapacitated. (Statistics from "The Five Key Habits of Smart Dads" by Paul Lewis, quoting from Barbara Whitehead in the April 1993 Atlantic Monthly; Myron Magnet in Fortune magazine, Aug. 10, 1992, and; Nancy Gibbs in Time, June 28, 1993.)

■ According to the National Center of Health Statistics, fatherless children are from 100 to 200 percent more likely to have emotional and behavioral probelsm. The most reliable predictor of crime is neither poverty nor race but growing up fatherless.

We need to turn this situation around and quick! The breakdown of the family is causing the breakdown of our society and our country.

In an attempt to provide a solution to the disintegration of the family, the Alaska Legislature has been introduced to the concept of charter marriage in HB 390 and its companion bill SB 318. With this legislation, couples contemplating marriage would have a choice between the existing "no fault" (testament) marriage and the new charter marriage. Those choosing a charter marriage will be making a higher level of commitment that in the "no fault" marriage.

There are some similarities between the proposed charter marriage and the marriages couples entered into 30 years ago, with some notable differences. Premarital counseling is a requirement of charter marriage contracts. In a charter marriage, the engaged couple must execute a "declaration of intent" to enter into a charter marriage and agree that the marriage will be a lifelong relationship. The must obtain premarital counseling emphasizing the nature, purposes and responsibilities of marriage. That in itself serves to give the marriage a much better start. Who hasn't seen a couple get married who seemed doomed from the start and thought it too bad they did not get counseling before entering into an ill-advised marriage? The fact that both parties must agree on this form of marriage is a plus, as it helps assure that they both have the same level of commitment to the relationship. I would certainly think twice if my intended were not willing to make the same level of commitment to the marriage contract.

You may ask what significant effect premarital counseling will have after the romance wears out. An answer to that question can be found in several cities in the Lower 48 where the clergy have banded together and required premarital counseling before performing marriage ceremonies. These cities have shown a marked decrease in the number of divorces.

Just as it is harder to enter a charter marriage, it is harder to get out of one. Not impossible, just harder. Isn't that how it should be? If you truly meant it when you said you intended for this to be a lifelong relationship, then you wouldn't want it ended unless that was the only option left. To obtain a legal separation, they must show proof of having had personal counseling within the six months preceding the date of filing. Divorces are granted only after a finding of fault by the other spouse, such as adultery, conviction of a felony, abandonment for one year, physical abuse of the spouse, physical or sexual abuse of a child in the marriage, being habitually intemperate in the consumption of alcohol or in the use of drugs, or inflicting upon the spouse personal indignities rendering life burdensome. Divorce for other grounds, such as incompatibility, would only be granted after a significant waiting period, as well as additional counseling. The net result of this legislation will be that couples who enter into a charter marriage had better think it through clearly and mean what they say when they say "I do." The bones of matrimony will be stronger and harder to break. This is good news for families and especially for children in families.

It has been said that we cannot legislate morality. However, we have done a great job of legislating immorality for the last 25 years. "No fault" marriage is a prime example. The idea of "choice" has been given such high ranking in our society that it seems this is a bill that should please everyone. The state is not mandating either one but is allowing us to choose. Our legislators deserve a big thank you for addressing one of the biggest problems in our state.

Debbie Joslin is chairwoman of the District 35 Republican Party of Alaska. She lives in Delta Junction with her husband, Steven, and their three children. She notes that her father has married five times and divorced four; her mother has married and divorced three times.

FAMILY RESEARCH COUNCIL
In Focus

STATE-BY-STATE DIVORCE RATES: MASSACHUSETTS LOWEST; NEVADA HIGHEST

Massachusetts and Connecticut rank first and second, respectively, for having the lowest divorce rates in the nation, according to new 1994 divorce data from the National Center for Health Statistics. Both states experienced a moderate drop in divorce rates between 1992 and 1994 to remain at the top of the list. Massachusetts fell from 2.8 in 1992 to 2.4 in 1994, while Connecticut fell from 3.1 to 2.8.

Nevada once again had the highest divorce rate in the country, even though it experienced the most marked drop in divorce rates during the two-year period. Nevada fell from 11.4 in 1992 to 9.0 in 1994.

The divorce rate per 1,000 population for the entire United States was 4.6 in 1994, down from 4.8 in 1992. Generally, rates were lower in the Northeast and Midwest and higher in the West and Southeast.

Only four states (New York, South Dakota, Missouri, and Mississippi) experienced a rise in divorce rates between 1992 and 1994. Eight other states held the same rate during 1992 and 1994. Vermont, with a drop in the divorce rate from 5.2 to 4.0, rose in rank from 27th to a tie for 15th position.

1994 Numbers and Rates for Each State

Rank	State	Number	Rate	Rank	State	Number	Rate
1	Massachusetts	14,530	2.4	28	Delaware	3,385	4.8
2	Connecticut	9,095	2.8	29	Montana	4,153	4.9
3	New Jersey	23,899	3.0	30	Missouri	26,324	5.0
4	Rhode Island	3,231	3.2		West Virginia	9,179	5.0
5	New York	59,195	3.3	32	North Carolina	36,292	5.1
	Pennsylvania	40,040	3.3		Colorado	18,795	5.1
7	Wisconsin	17,478	3.4	34	Georgia	37,001	5.2
	North Dakota	2,201	3.4	35	Oregon	16,307	5.3
9	Maryland	17,439	3.5	36	Texas	99,073	5.4
10	Minnesota	16,217	3.6	37	Alaska	3,354	5.5
	Louisiana	***	3.6	38	Washington	29,976	5.6
12	Illinois	43,398	3.7	39	Mississippi	15,212	5.7
13	District of Columbia	2,244	3.9	40	Kentucky	22,211	5.8
	Iowa	10,930	3.9		Arizona	23,725	5.8
15	Nebraska	6,547	4.0	42	Florida	82,963	5.9
	Vermont	2,316	4.0	43	New Mexico	9,882	6.0