

ALABAMA LEGISLATURE COMMITTEE FILES 1997-1998 0072

9555 SENATE JUDICIARY

1998

Senate Bill 1
Sponsor Statement
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The legislation adds a new cost saving provision by instituting a fee (not more than \$2 a month) for use of electrical utilities. The bill also allows the department to recoup costs for certain health care services provided to prisoners.

Senate Bill 1 will reduce state costs for prisoner medical expenses. It requires inmates to reimburse the state for either the full or partial costs of treatment for any pre-existing medical condition. Also the term "severely medically disabled" is amended by Senate Bill 1 allowing the department greater flexibility in granting "special medical paroles". Parole would only be granted if the inmate's physical ability to commit an offense similar to the offense for which the inmate was convicted or an offense punishable by a felony is substantially eliminated. The parole of only one such prisoner could save the state as much as \$500,000.

The legislation incorporates standards regarding the possession of televisions in inmate's cells which clearly define the circumstances for possessing a television. Inmates who pay for their own television and cable service and are incapable of obtaining or have attained a high school or general education development diploma would still be allowed to possess a television in their living quarters as an incentive for:

- actively engaging in an educational, vocational training, or employment program;
- satisfying restitution orders or complying with a regular and current payment schedule for all restitution orders entered by court as part of the prisoner's sentence and, if applicable, actively engaging in a rehabilitation program ordered by the court.

The legislation also prohibits prisoners in pre-trial facilities from making unmonitored phone calls, except for calls to their legal counsel. An additional provision mandates that prisoners shall be productively employed for as many hours each day as feasible.

The Department of Corrections has stated that a new prison is needed in Alaska to ease the overcrowding and accommodate Alaska's ever increasing prison population. Unfortunately, past governors and legislatures neglected to address the prison capacity problem. Now, more than ever, Alaskans understand that prison overcrowding is a serious problem. Most Alaskans would support the state building more correctional facilities if they didn't feel that prisons were currently too soft.

Senate Bill 1 is a balanced cost saving proposal in compliance with the Alaska Constitution's requirements for public safety, community condemnation, and rehabilitation.



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sectional Analysis for Senate Bill 1 "The No Frills Prison Act"

Section #1 - refers to Sections 3-5 of this act as the "Alaska No Frills Prison Act".

Section #2 - amends the definition of "severely medically disabled" inmates. Parole could granted in instances where:

- 1) the inmate suffers from a medical condition that reduces the likelihood of that inmate committing an offense similar for which the inmate was convicted.
- 2) the inmate suffers from a medical condition that reduces the probability of that inmate committing an offense punishable as a felony.
- 3) the inmate suffers from a medical condition and is likely to suffer from that condition for the remainder of the parole.
- 4) the inmate is likely to die from the medical condition.

Rationale: expands the definition of "severely medically disabled" inmates to allow the Department of Corrections to parole certain inmates. Parole would only be granted under this clause if the inmate's physical ability to commit an offense similar to the offense for which the inmate was convicted or an offense punishable by a felony is substantially eliminated. When the department began "furloughing" individuals under the existing "severely medically disabled" clause, only 5 or so individuals qualified for release. With this expanded definition, the department expects that certain individuals could qualify as "severely medically disabled" saving the state a significant amount in medical costs. The parole of only one such prisoner could save the state as much as \$500,000.

Section #3 - Requires the Commissioner to establish, maintain, operate, and control each correctional facility in a manner consistent with Section #4 of the bill. It also requires the Commissioner to determine who is responsible for medical costs when inmates are provided medical services. This section also adds language requiring the commissioner to incorporate policies that will protect victims of crime in addition to other existing programs.

Rationale: defines the duties of the Commissioner with respect to section #4 of the bill which places limits on certain luxuries including access to premium cable television, free weights and pornographic material. The section also requires the Commissioner to establish programs to better protect the rights of crime victims.

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

Section #4 - mandates that the Commissioner shall:

when providing food service, not exceed 90% of what the United States Army expends for food service to its enlisted personnel stationed in Alaska.

Rationale: gives the Department clear parameters when budgeting for food services costs. Currently, the Department of Corrections spends less on food service costs per capita than the United States Army. In 1995 the Department of Correction spent \$4.71 per person on food service costs while \$5.91 was spent on per day food services costs at Elmendorf Air Force base.

This section also mandates that the Commissioner may not provide:

- 2a) living conditions and access to recreational opportunities that substantially exceed what is required under the Constitution of the United States or the state constitution.
- b) living quarters in which the view into the quarters is obstructed; certain state facilities already in operation would be exempt from this language.
- c) access to equipment or facilities for publishing or broadcasting material whose content is not consistent with facility guidelines or discipline.
- d) access to premium cable television service.

This section also prohibits:

- 3a) making unmonitored telephone calls, except for calls to the prisoner's legal counsel.
- b) possessing a compact disc player or video cassette recorder in individual living quarters.
- c) viewing of "R", "X", or "NC-17" rated movies.
- d) possessing pornographic material.
- e) participating or receiving instruction in any activity, in the opinion of the commissioner, that would facilitate violent behavior.
- f) using or possessing free weights.
- g) possessing a coffee pot, hot plate, appliance, or heating element in their living quarters or more than three electrical appliances.
- h) possessing apparel or appearing in a state of dress that is not consistent with the guidelines of the facility.
- i) using a computer other than those approved by the institution, the use may only be part of an education, vocational or employment program.
- j) use of tobacco products.

The commissioner determines whether the provisions of this section apply to half-way houses and correctional facilities not run by the state.

On January 1, 1998 the commissioner may not allow televisions in a prisoner's cell if that prisoner has been classified as maximum custody.

The commissioner may also allow a prisoner in a medium or minimum security prison to possess a television in their individual living area as long as the prisoner:

- 1) is incapable of obtaining or has attained a high school diploma or general education development diploma.
- 2) is engaged in a educational, vocational training, or work program.
- 3) has satisfied all restitution orders or is on a regular and current payment schedule for all restitution orders entered by the court and, if applicable, engaged in court ordered counseling programs.
- 4) pays for the cost of providing the television and cable service.

Rationale: helps better implement the constitutional standards adopted in 1994 of "community condemnation" and "victim restitution" for penal administration by limiting certain "frills" and making court order restitution to victims.

This language also permits the Commissioner of Corrections to allow television in personal living quarters as an incentive for good behavior. Television is a powerful incentive to motivate prisoners compliance with important rehabilitation programs. Under existing law, little can be done to force inmate compliance with court ordered restitution or rehabilitation programs. The potential removal of a very visible, powerful behavioral reward like television will increase inmate compliance with court orders.

This section also mandates that the commissioner shall charge a fee of \$2 a month for prisoners who possess electrical appliances to help offset the costs of providing electrical utilities. Prisoners who are developmentally disabled, severely medically disabled, housed in a mental health or psychiatric unit or awaiting classification are exempt from this provision.

Rationale: conveys a message to the public that the department is fiscally responsible and makes inmates responsible for themselves.

Section #5 - This section requires inmates to pay two dollars for each primary visit to sick calls initiated by the inmate. The two dollar fee would only be charged for initial visits for a complaint or condition. Those prisoners lacking the necessary resources to pay for the fee, at a minimum, will be required to pay a portion of the costs based on their ability to pay. No inmate will be refused medical treatment for an inability to pay the fee.

Section #6 - allows a law enforcement agency to recoup medical costs for medical services provided to prisoners in their care. The agency may require inmates to compensate the agency for the cost or for a portion of the cost of medical services provided for any preexisting medical condition.

Section #7 - states that it is the policy of the department to have prisoners be productively employed for as many hours each day as feasible.

Rationale: establishes a strong work ethic which will better prepare inmates for their post-institution life. "Reformation" is one component of penal administration used to rehabilitate inmates. This section helps implement this principle by requesting that the department actively employ as many inmates as feasible.

Section #8 - allows the commissioner to limit access and use of legal materials and legal assistance in a correctional facility. The section further stipulates the court may not enter an order to gain relief from such limits without first finding the restrictions hinder the inmate from gaining meaningful access to the court for the purpose of challenging:

- a) the prisoner's sentences; or
- b) the conditions of the prisoner's confinement.

The court may also provide relief to these restrictions if a state court specifically determines that a provision of the state constitution necessarily requires a prisoner to have access to and use of the legal reference materials or legal assistance.

Rationale: places clear guidelines on when inmates may file lawsuits in an effort to curtail "recreational litigation". Numerous states have been facing astronomical increases in law suits filed by prisoners. No monetary damages are awarded in 95% of these suits.

Section #9 - requires the department to monitor the telephone conversations of inmates in correctional facilities. Additional language states that a person may not bring a civil action for damages against the department for the failure to monitor or record a telephone conversation or for the failure to take action based upon a telephone conversation that was monitored or recorded.

Section #10 & 11 - allows the department, at its discretion, to provide vocational training for inmates.

Rationale: provides vocational training opportunities to those individuals who lack necessary job skills.

Section #12 - states that the commissioner of corrections is not required under this bill to establish or administer a vocational training program under correctional industries.

Rationale: removes liability from the department in situations where it is not possible to provide vocational training programs.

Section #13 - gives the commissioner the authority to collect fees for electrical services as referenced in Section #4 of the bill.

Rationale: conforms with the requirements set out in Section #4 of the bill regarding charges for utilities.

Section #14 - extends the sunset date for the Correctional Industries Program from the year 1999 to the year 2005.

Rationale: allows the department to develop a stable and long range plan to provide more marketable products and work opportunities for inmates.

DD/jja

*Judee Mettler**Ketchikan*

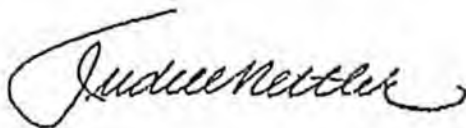
To: Senator Robin Taylor
From: Judee Mettler
Date: 1/27/97
Subject: Trooper Heck's death

Dear Senator Taylor:

I am sending the following letter to the Commissioner of the Department of Corrections. I feel very strongly about this. Please be sure and note that I do not know if Trooper Heck's alleged killer had access to any exercise equipment. But if he did, it could be instrumental in his being able to kill Trooper Heck.

I would appreciate your keeping apprised of this man's trial and his background while in prison.

Thank you for you time.



Judee Mettler
P.O. Box 8493
Ketchikan, AK 99901

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907 225-6869 home

Ms. Margaret Pugh, Commissioner
Department of Corrections
240 Main Street, Suite 700
Juneau, AK 99801

27 January, 1997

Dear Commissioner Pugh:

My letter concerns the tragic death of Trooper Bruce Heck. I had the pleasure of working at times with Trooper Heck when I volunteered with the Ketchikan Fire Department Emergency Medical Squad. (I volunteered from 1982 until 1993). Trooper Heck was stationed here from 1982 until 1986. When you are on a call and on scene, it is a great comfort to know that the City Police or State Troopers are there to lead the way in on a call, or there beside you to assist you in any way. You would be surprised how attitudes change when some people see these authority figures.

My concern lies with the man accused of killing Trooper Heck. I don't know this man, have never even heard of him. The only thing I can go on are the reports in the paper. According to the Ketchikan Daily News, this man had just been released from prison (jail) the day before he allegedly stole the cab and killed Trooper Heck.

I do not have the details of the actual crime, I cannot figure out how he got Trooper Heck down and either smothered him or strangled him. I think he must have knocked Trooper Heck out. (All this is speculation on my part) It is a documented fact that it takes 4 to 10 minutes to actually strangle or choke someone to death. A person would have to be very strong to be able to maintain strength for this period of time. I watched a special on a serial killer the other night, and he said he had to specifically work out his lower and upper arms and shoulder areas to be able to have the strength to choke his victims, he said 4-10 minutes is a very long time to hold a victim that is for the most part thrashing around. Sad scenario isn't it?

I'm wondering if this alleged killer had access to this type of exercise equipment while in prison or jail. Are we fostering a training ground for would-be murderers. Sometime, somewhere along the line the rights for prisoners have gotten out of hand. Why do they have access to things like this? Unfortunately, I think this is just the tip of the iceberg, but we have to start somewhere.

I ask that you please look into this, and if this equipment was available to this man, I ask that you consider taking a strong step by removing such equipment, it's time we stopped rewarding the "bad" guys and concentrated on their rehabilitation from crime, not whether they exercised or not.

Thank you for your time and consideration.

Regards,



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RECEIVED JAN 27 1997

Daniel Hykes
Spring Creek Correctional Center
POB 5001
Seward, AK 99664

January 23, 1997

The Honorable Senator Taylor:

Congratulations on your re-election. I've been hopeful your chairmanship of the Judiciary Committee would accomplish much to promote constitutional liberties and the principles that made America and Alaska great. At this time, you can make one small decision that will greatly promote those objectives. I refer to SB 1 ("No Frills Prison Act").

As you know, last year the House removed the prohibition of computers (for good reasons). Because the spirit of SB 1 seeks to promote rehabilitation, it doesn't take a rocket scientist to understand rehab is greatly promoted by encouraging inmates to cultivate their computer skills into marketable job skills. That way, after their inevitable release, they'll be employable, hence less likely to "support themselves" by relying on crime as a way of life.

Computers in schools have already proven themselves to be one of the greatest educational tools ever. Even their games are frequently designed to be educational in nature. But you know they are far more a "work tool" than a "toy". Hence one wonders how they could be considered a "luxury" for purposes of SB 1.

Therefore I'd ask your committee to greatly enhance inmates learning of marketable job skills by modifying SB 1 to explicitly allow computers so they are easier to get where DOC already prohibits them. You see DOC, who knows their job best, already has the power to limit such at their discretion. Only as the executive branch abuses that discretion do I see any need for Legislative action; and now might be one of those situations, as I'll attempt to explain later.

You see, contrary to what you said, there are people in here for "singing too loud in the choir". You would know that if you examined the hidden details of my case. I've met you personally, and considered myself a friend and supporter of you before my incarceration on false charges. You may recall my "outspoken" ("singing too loud" if you will) style of communication was offensive to some, (particularly to those engaged in illegality, and afraid I'd "blow the whistle", even though I had no intentions of doing so).

Since my incarceration, I've been shocked to realize how many others are being held illegally by abuses of executive and judicial power in blatant violation of the guidelines established by the legislature. It is only a matter of time before the people find out; and meanwhile the injustice of it all is only breeding convicts with a greater contempt for the system and those who allow such injustices to happen. In an effort to keep prisoners who don't have the money for an attorney, but who could nevertheless with the help of a computer and printer, compose an intelligible presentation for the court, the executive branch has pressured DOC to outlaw printers. The reason is obvious since the units in the educational department are expressly prohibited for "legal work". The excuse of prohibiting "frivolous" suits is bogus since courts have the power to reject frivolous claims. The real reason is to prevent prisoners from presenting legitimate constitutional claims in court.

So if SB 1 is truly designed to benefit the public, the Committee should include a provision specifically permitting inmates to have printers. Such a provision would be consistent with policies in the Federal prisons, and with court rulings that have been made on the issue. Courts will still have the power to dismiss frivolous claims, and DOC would still have the discretion to punish those who abuse the privilege. The difference would be that punishing inmates for exercise of their legal and constitutional rights could be subject to legal review. As it is now, it's only a matter of time until there will be a lawsuit against those who are using these lame excuses to prevent prisoners from fighting for their legally entitled freedom.

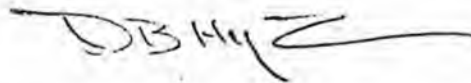
Prisoners are in a better position than anyone to fight for the rights all people hold dear. Hence the Legislature authorizing them to have the tools to do so would greatly benefit society. Hitler knew by depriving a despised class of persons their rights, that he could ultimately deprive everyone of those same rights. Today, contrary to what the liberals would have us believe, people are more concerned with an increasingly oppressive government than they are with common crime. If the Legislature focuses more on promoting conservative liberties, rather than restricting them, there would be many positive benefits. It could even solve the problem(s) of prison overcrowding and hence budgetary concerns.

It would also have more subtle benefits. Besides promoting education as mentioned, inmates could also design nice greeting cards for their friends and families, thus promoting goodwill. As for people like me who have not fallen prey to the anger caused by injustice, I still seek to sacrifice my time to help improve the State. I type things to help keep the legislature and governor informed on important issues. When I had access to a computer and printer, I composed a report on proposed legislative changes for the Lt. Governor at his request, and sent copies to some legislators. Usually proposed legislation warrants input from those who may be affected by it. Does that apply in this case? If so I could within a week (if I had access to a computer and printer) give you a far more detailed report on the provisions of SB 1. In short it prohibits things already prohibited, and sanctions things already sanctioned, hence appears to be a peice of unresponsive legislation, wasting precious legislative time by trying to micro-manage DOC. (Hence they who know their job best, they grudgingly support it.)

But if you add the explicit provisions for computers and printers it could accomplish much good. Hence it would be opposed by those who really don't want positive changes, seeking only instead to increase bureaucratic power, while practicing ineffective "feel-good" politics and stifling those who know the truth.

But I write you because you are reputed by people I respect to be a man concerned with the truth, and doing what is right. Therefore I impore you to include these provisions to enable us to share the truth with you. I can assure you that you will then hear of these well intended provisions of SB 1 being boiled down in practice to "If you don't confess to a crime, we won't let you watch TV." (Already the executive denies manditory parole to those who maintain their innocence, thus aggravating overcrowding.) If you seek more info, I'll send what I can, although without a printer, it will take me longer. I pray you'll promote freedom and justice for all Alaskans. Keep up the good work.

Truly,



WHAT'S TOUGH ENOUGH

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

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

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

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

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

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

CONSTITUTIONAL CHALLENGES

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

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

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

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

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

PRISON POPULATION BURGEONS

Just the sheer number of inmates seems to demand some sort of new approach. As of 1995, the number of people in the nation's prisons topped the 1 million mark, up from about 400,000 in 1984. At the same time, average state spending on "corrections" has more than tripled, from about \$6 billion in 1984 to just under \$20 billion today, constituting nearly 10 percent of the average state's spending in 1994.

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

Garry Bollard, a free-lance writer from New Orleans, writes regularly for the Los Angeles Times, the Christian Science Monitor and State Legislatures magazine.

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

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

VIOLENCE BEGETS LONGER, TOUGHER TIME

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

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

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

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

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

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

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

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

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

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

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

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

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

Thomas also contends that, as the get-tough movement produces more prison facilities, private management may also be seen as a more viable alternative simply because "the private sector has a much smaller lag time between the awarding of a contract to build a new prison and actually opening it, than the public sector does. On average, private prisons are up and running in about 12 to 18 months, while it may take up to 36 months for the public sector to do it."

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

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

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

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

supporting the death penalty and other hardline positions."

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

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

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

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

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

tions, have been enacted in 17 other states.

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

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

DIVERGENT VIEWS ON TOUGH TIME

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

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

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

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

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

1996

Leader to Leader Meeting

IMPLEMENTING DEVOLUTION: LEGISLATIVE LEADERS ON THE FRONT LINES

FEBRUARY 7-9, 1996 • WASHINGTON, D.C.

Last spring 150 legislative leaders gathered for the 1995 Leader to Leader Meeting, and many called it the best meeting they had ever attended.

The 1996 Leader to Leader Meeting promises to be even more exciting, with the added impetus of the fall elections and the unresolved tension between the agendas of Congress and the president.

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

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

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

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

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

Jones also thinks his get-tough approach could prove to be more economical. Already, through staff layoffs and scaled-down programs, Jones estimates that he's reduced the average costs per prisoner in Alabama from \$9,500 in 1994 to \$9,000 this year, which is substantially lower than the national per inmate cost of about \$16,000. "And I think we can get it down to about \$8,500 by 1996," he added.

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

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

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

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

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Jailhouse CROCK

Today's prison inmates are flooding the courts with suits designed to kill time, improve prison life—or just plain annoy the hell out of the rest of us.

He preferred chunky-style peanut butter. He got a sandwich made with creamy. So he sued....

He wanted to attend church service naked. The warden said no. So he sued....

His entire adult life he'd been dealing heavy drugs. Now people were forcing him to stop. So he sued....

THAT THE above lawsuits were filed at all seems absurd enough. What's truly mind-boggling to many observers is that these lawsuits are among the tens of thousands filed each year from inside prison.

And at guess-who's expense.

"This is one of the most under-recognized problems in criminal justice today," says James Gomez, who, as director of California's Department of Corrections, supervises the state's massive prison network. "These suits create an administrative logjam and drain the system of funds."

The number of suits has soared from a few hundred per year in the 1960s to some 50,000 in 1993 (the last year for which figures were available). Far from being just another of life's harmless outrages, the flurry of prison lawsuits has far-reaching side effects. Like a malignant cancer, the bogus actions crowd out other types of claims, forcing people with legitimate complaints to wait many extra months for their day in court. In the federal courts of Arizona and Iowa, prisoners account for 48 percent of all civil litigation: Missouri and Arkansas check

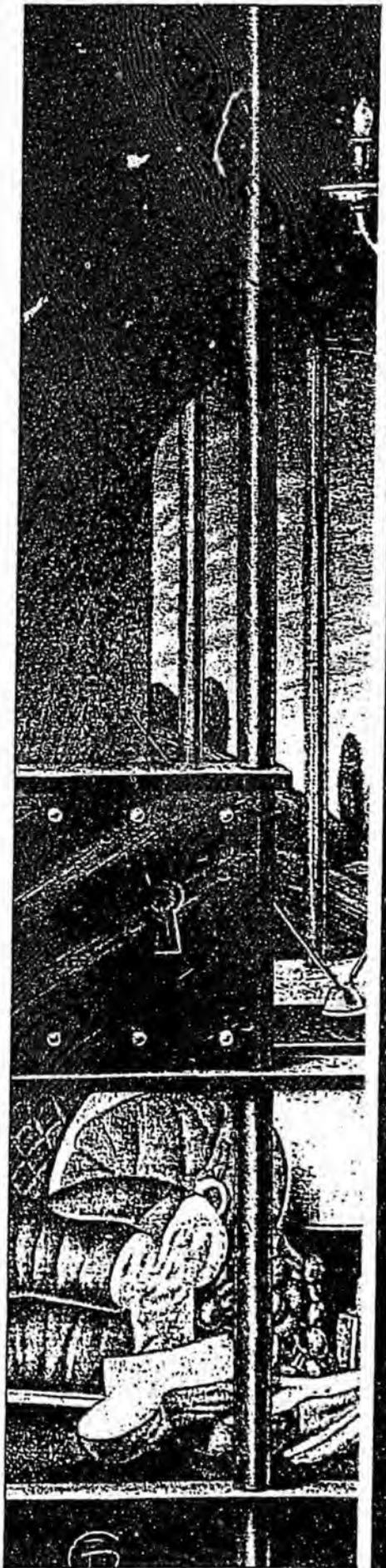
in at 46 and 42 percent, respectively. At one point in mid-1994, Illinois had over 1,200 ongoing cases.

Defending the suits requires an enormous withdrawal from already overburdened state treasuries. Former New York Attorney General Oliver Koppell once estimated that a fifth of his departmental budget went toward prisoners' lawsuits. This, in turn, has a direct bearing on the number of new cases that are plea-bargained or shelved entirely because the legwork to pursue them is not considered cost-effective. The upshot? "Dangerous thugs go back on the streets much sooner than they ought to," noted Koppell.

Once law-enforcement budgets are stretched to capacity, the money to fight jailhouse lawsuits must be siphoned out of general funds. When this happens, the pinch is felt everywhere. Florida's efforts to rebuild from Hurricane Andrew were hampered, at least in part, by the need to divert increasing sums to the processing of lawsuits brought by its inmates, according to Kim Tucker, a senior attorney who has overseen many of the cases on Florida's behalf.

The fact that many of the suits are dismissed or decided in the state's favor is beside the point. "For us and the taxpayers the cost is the simple fact of litigation—the actual running of the lawsuits through multiple years in court," says Tucker. "Even where we win, we lose." On average, each action ends up costing Florida taxpayers \$50,000.

"The things that really are important to the good citizens don't get done





because of some clown down at the prison who raped your sister, abused your daughter, robbed your store," says Arizona attorney general Grant Woods. "We thought we put them away to protect society, but they're still ruining things for everyone else."

MUCH of the litigation is generated by lifers or men on death row—cons who have little or nothing to lose by jamming court dockets with an endless stream of paperwork. (Inmates with a shot at parole are less likely to make waves for fear of being labeled troublemakers.) These convicts file suits simply to kill time or alleviate boredom. "[Filing lawsuits] gives them an opportunity to travel outside the prison system," says California's Gomez. "They may get to visit different cities, stay in hotels, do things they'd normally never have a chance to do. At the very least, they get to leave the grounds to attend court."

For others, glamour plays a role. If the case catches the eye of the media, reaches the appeals stage, or changes prison policy, the convict wins celebrity status. Sometimes a suit filed from prison ends up rewriting the law. The best-known examples are *Escobido* (where suspects won the right to have counsel present at questioning) and *Miranda* (the case that inspired the familiar litany of "rights" now read to someone upon arrest).

Granted, the legislation resulting from those cases is considered an important addition to civil rights. But too often the men at the heart of such cases become jailhouse legends whose crimes, and victims, tend to be forgotten.

Even when the results are less dramatic, the suit can pay huge chest-thumping dividends. For many cons, lawsuits constitute payback time, an opportunity to turn the tables on cops, guards, wardens and others who enjoy authority over them.

"They want to stick it to the system," says Nevada Attorney General Frankie Sue Del Papa, citing actions that frivolously hinged on the shape of
Please turn to page 51

WHAT THEY SUE FOR

- Special meats and shellfish
- Access to automobiles
- Premium mattresses
- Controlled substances
- Chunky-style peanut butter
- Male strippers and prostitutes
- Salad at lunch
- Better shoes and clothing

JAILHOUSE

Continued from page 33

a birthday cake or the color of a pair of prison-issued long johns.

"We've had one inmate state publicly that his purpose was to break the State of Nevada." In 95 percent of the cases, these "frequent filers" get no damage awards for themselves, says Del Papa, "so that tells you something about their motives. It's recreational litigation."

According to a special report by ABC's *20/20*, the modern-day record for jailhouse litigation is held by Florida's Robert Procup, who has filed more than 300 nuisance lawsuits costing the state a total of some \$15 million. Procup, serving a life sentence for killing his business partner then cementing him into a storage cubicle, has sued because he didn't get a salad at lunch; because his shoes wore out; because he didn't have a TV in his room.

Of course, some convicts have a more pragmatic agenda: making their prison stays more comfortable by enhancing the "country-club" atmosphere that has taxpayers up in arms. A sampling of the top items on the cons' wish list:

Expanded conjugal-visit privileges. One prisoner successfully sued to have his trysts at a local hotel because he felt the accommodations provided by the prison were "not conducive to romance."

Special meals, including costly shellfish and prime cuts of beef. These suits typically are brought on the grounds that standard prison fare is either unhealthy, incompatible with a con's "special dietary needs" or against someone's religious beliefs.

Access to automobiles. An inmate with six months remaining on his sentence sued for the right to drive a car outside the prison compound twice a week. He said he feared that his driving skills had deteriorated markedly during his seven years in prison, and he didn't want to be a "public menace" once he got out. He won his case, provoking actions by other inmates suddenly concerned about their driving.

Controlled substances. Some inmates have had success demanding powerful prescription narcotics like Percodan and Demerol to treat a variety of dubious medical conditions. Says one bemused jailer, "We end up

handing them stuff for free that's better than what they had to steal on the street!"

And so it goes. Unhappy with being dubbed "the B.O. bandit" by the FBI, a bank robber sues the agency for defamation of character. A convicted child molester goes to court because prison officials wouldn't let him receive a publication glorifying sex between adults and children. Another con alleges brutality after a guard conks him with a flashlight; what the con neglects to mention in his complaint was that at the time of the incident, he had just stabbed the guard with an ice pick. An Indianapolis man sues to collect the life-insurance proceeds of the woman he was sent to jail for murdering.

"The audacity of some of these characters is amazing," says Sam Knott, a leading voice in the victims'-rights movement since his daughter was murdered in 1986. "They're turning hard time into play time, and we're letting them get away with it."

THE OBVIOUS question is *why?* Why do we sit still for it? "The Constitution is on their side," explains eminent San Diego appeals court Judge Richard Huffman. "The right to bring suit for some perceived injustice supersedes almost every other consideration."

Several states that tried to plug the dike by stipulating that no prisoner be allowed to have more than two suits pending at one time saw their meager efforts run aground in the higher courts. When Florida sought relief from Robert Procup's nonstop litigating, the state's position was upheld in the lower court, then overturned on appeal.

Making matters worse, the normal constraints that work to mitigate this syndrome in society-at-large are absent in the prison environment. A private citizen who undertakes litigation has to pay filing fees, attorneys' per diems and other associated expenses. Most of us won't stay the course unless the issue is one of grave personal concern. Too, in most jurisdictions, a private citizen faces penalties for bringing frivolous litigation. At the very least, he will be compelled to pay court costs for the other side.

None of this is much of a factor in jail. For convicts, the filing process is as painless as signing an affidavit claiming insolvency. The state waives all fees—and even pays postage. For the same reasons, cons couldn't care less about losing cases. "With nothing

at stake," says Arizona's Woods, "they can go file their lawsuits and who knows, maybe they'll hit the jackpot."

As for legal expertise, the U.S. Supreme Court in 1977 ordered every state prison to provide inmates access to an up-to-date law library. As one attorney general laments, "Prisoners in this state have a better law library than I have in my office." Incoming prisoners are shown the ropes by seasoned cons who practically live their lives studying case law. The savvy old-timers circulate standardized legal forms, teaching novices to simply white out the name of the previous litigant and fill in their own name wherever applicable.

The result is a system turned on its ear. As one state attorney general puts it, "The worst of the worst in our society get special privileges across the board."

Recently, high-ranking officials of several states hardest hit by prison litigation formed a task force. Their activities show some early promise. Now, at least in a handful of jurisdictions, if the court decides that a suit is frivolous—as in the case of the inmate who tried to sue because he didn't get his dental floss—officials can dock the inmate's so-called good time. Nevada officials have come up with an "early intervention" approach where the courts take a preliminary peek at the case to determine if it's off the wall. Del Papa also is hopeful about new federal legislation, the Prison Litigation Reform Act, that was wending its way through Congress at press time. Sources in the Nevada attorney general's office said in early January that the legislation had passed the Senate and was temporarily stalled in the house. (The bill had been attached to budget legislation and thus got bogged down in the partisan give-and-take over the government's balancing act.) The legislation came out of several meetings Del Papa and some of her disgruntled colleagues have had with Utah Sen. Orrin Hatch and others sympathetic to the problem.

Meanwhile, things get curiously and curiously. Prison administrators are wringing their hands over a landmark June 1994 Supreme Court ruling that animal sacrifice is legal, so long as it's part of a religious ceremony. Presumably it's only a matter of time before prisoners start asking for live goats to kill, and the knives to kill them with.

At some point, concludes Sam Knott, "we as a society better say, this bull must stop."

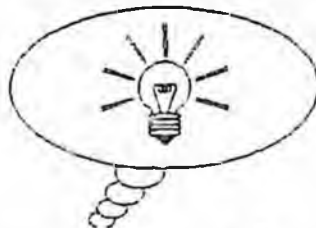
—By Steve Salerno

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

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

~~NB. One inmate at FCC has his own tv by court order.~~

IDEAS THAT WORK



On July 8, 1996, at the National Governors' Association Annual meeting, Wisconsin Gov. Tommy Thompson announced the release of *Ideas That Work*, a series of seven publications.

Ideas That Work began last year, when Governor Thompson asked the members of the National Governors' Association to submit programs (current programs or new reforms) that they felt worked in their home state. Subject areas included: Crime/Public Safety; Business/Environment; Self-Supportive (Welfare); Job Creation; Tax Policy; Infrastructure; and Education Reforms.

Ideas That Work has more than 500 ideas from around the country. The cost of a single publication is \$30, or \$180 for a complete volume set. *Ideas That Work* can be ordered at 1-301-498-3738.

How to keep prison healthy

Inmates in Nevada are required to pay \$4 for initial "walk-in" appointments with institutional physicians, nurse practitioners, dentists, optometrists, or psychiatrists. After health care has been provided, charges are posted to the inmate's account and are reflected in monthly statements sent to the inmate. If an inmate does not have sufficient funds to cover the charges, his or her account is frozen until enough funds are submitted (through work programs) to cover the charge. The collection rate is approximately 52 percent.

Savings have resulted primarily from reduced demand for health care services. Since the program conception, there has been a 50 percent decrease in the demand for health care services by inmates statewide and a 76 percent decrease at the maximum-security prisons.

In Alaska last year, the Department of Corrections spent \$14,739,700 for "Inmate Health Care".

Source: *Managing Prison Health Care and Costs*, National Institute of Justice, May 1995

State revenues are perched on the edge of a steep and steady decline.

- Do we apply a meat axe approach to cutting the bureaucracy?
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- Or do we initiate reasonable spending cuts now to avoid imposing new burdens on Alaska's citizens?

If you have an idea for Common Sense For Alaska Newsletter, contact Kym Swift at (907) 276-7648

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Copayment System Reduces Sick Call Visits in Kansas

The Kansas Department of Corrections has a contract for medical services with a private provider at an annual cost of roughly \$16.6 million. So when it implemented a system of copayments for its inmates, the DOC didn't expect those copayments to offset the costs of the medical contract. But it did want to put individual inmates in a position of accountability and responsibility for their decisions to visit sick call.

In the year since the \$2 copayment for a visit to a primary care provider was implemented, the DOC has seen a significant reduction in the number of sick call visits it experiences each month.

"In fiscal year 1994, the Department experienced an average of 15,172 sick call visits every month," says Bill Miskell, public information officer for the Kansas DOC. "In the first month that we implemented

Savings at a Glance...

Idea: Require inmate copayments for medical services.

Result: Inmates are held accountable for sick calls.

Bottom line: Sick call visits are reduced by 65 percent.

these fees, that number decreased to 5,003 sick call visits."

Although Miskell says that the major costs of medical care in the prison population are not related to sick call visits, they are a very time- and staff-consuming aspect of the operation.

"You're still going to have to treat cancer, AIDS, and other major conditions, but you do limit the number of people who are standing in line waiting to go to sick bay who really don't need to be there," he says. "When inmates only make \$5 a

month, they're going to be less likely to spend \$2 unless they have a real reason to go to sick call."

Miskell stresses, however, that no inmate is ever denied access to medical service because of an inability to pay. If an inmate initiates a visit to sick call but does not have the \$2 for the copayment, they are still able to see the health care provider and the charge is debited to their accounts. In addition, the DOC does not charge inmates when they are referred to sick call by a member of the correctional staff or medical personnel.

Kansas has an inmate population of 7,180 housed in nine facilities throughout the state. Eight of these institutions have medical facilities on-site. The one facility that houses offenders on work-release does not have a medical component and inmates are responsible for obtaining and paying for their own routine medical care.

Copayment for Creature Comforts

In Arizona, inmates who want to watch television or listen to the radio must own their own equipment to do so — because the state no longer furnishes its institutions with these appliances. Now the Arizona Department of Corrections has received legislative approval to start charging inmates a fee to offset the utility costs for operating such appliances.

According to Public Information Officer Michael Arra, this latest fee imposition is a way to defray costs as well as impose some responsibility on the inmates for paying their own way. Once the initiative is finalized, the DOC will begin to charge a flat fee of \$2 a month for all inmates who own electrical appliances, regardless of the number of appliances they own. Such appliances include television sets, radios, and cassette players, as well as oscillating fans and hair dryers. The fees will be deducted directly from inmate trustee accounts. The legislation that allows these fees to be imposed was enacted in 1995.

"We've done a number of things to convey the message to inmates that they have to learn to take responsibility for themselves as well as to convey the message to the public that we are a fiscally responsible corrections department," says Arra. "The public knows that the Arizona prison system is a place where there are few creature comforts for inmates and a place where inmates have to work and pay some of their own way."

Since October 1994, inmates in Arizona have been required to contribute to their own health care costs through a system of copayments. A self-initiated visit to a health care provider costs an inmate \$3.

According to Arra, the copayment was instituted for several reasons, including reducing inmate abuse of the health care delivery system, placing some ownership for medical care with the inmates themselves, and returning some funds to the general fund to reduce the increasing costs of inmate health care.

Arra notes that during the period from October 15, 1994, to June 30, 1995, Arizona collected \$105,700 in inmate medical copayments.

Arizona currently has about 22,000 offenders incarcerated in its system, the majority of whom have jobs either in prison support operations or in the Arizona correctional industries system.

Prison support jobs pay inmates between 10 cents and 50 cents an hour; prison industry jobs pay slightly more. Inmates who work for industries that are a joint venture with private enterprises are paid as much as minimum wage. These inmates are required, however, to give back 30 percent of their wages for room and board, restitution, family support and mandatory savings.

For more information, contact Michael Arra at 602/542-3133.

8 CORRECTIONAL CENTE
SEVEN DAY MENU

DATE: 9-17-95 Through 9-23-95

WEEK - 2

MONDAY	FRIED EGGS	2 oz.	100	SPLIT PEA SOUP	8 oz.	MEAT LOAF	6 oz.	17
	TURKEY HAM	8 oz.	109	PEANUT BUTTER & JELLY SANDWICH	1 ea.	MASHED POTATOES	2 oz.	
	HASH BROWN POTATOES	4 oz.	200	CARROT SALAD	4 oz.	GRAVY	2 oz.	
	COLD CEREAL	2 oz.	100	BEVERAGE	8 oz.	GREEN BEANS ALMONDINE	4 oz.	
	COFFEE or TEA			CRACKERS	2 ea.	SALAD BAR w/DRESSING	4 oz.	
	MILK	8 oz.	121			DINNER ROLL w/BUTTER	1 ea.	
	TOAST w/BUTTER	2 sl.	171			APPLE CHIPS	1 ea.	
FRESH FRUIT	1 ea.	02			BEVERAGE	8 oz.		
JELLY	1 pk.	00						
		1021						
TUESDAY	CREAMED BEEF	8 oz.	160	BEEF BARLEY SOUP	8 oz.	FRIED FISH	6 oz.	18
	BISCUITS	2 oz.	210	CHILI	8 oz.	SCALLOPED POTATOES	6 oz.	
	HASH BROWN POTATOES	4 oz.	200	HOT DOG ON A BUN	1 ea.	SPINACH	4 oz.	
	HOT CEREAL	8 oz.	204	POTATO CHIPS	1 oz.	TARTAR SAUCE	1 pk.	
	COFFEE or TEA			TOSS SALAD w/DRESSING	4 oz.	SALAD BAR w/DRESSING	4 oz.	
	MILK	8 oz.	121	COOKIES	2 ea.	BREAD & BUTTER	2 sl.	
	FRESH FRUIT	1 ea.	02	BEVERAGE	8 oz.	CHEESE CAKE	1 ea.	
			CRACKERS	2 ea.	BEVERAGE	8 oz.		
		1070						
WEDNESDAY	SCRAMBLED EGGS	2 ea.	150	CHICKEN RICE SOUP	8 oz.	Beef Lasagna	1 ea.	19
	BACON	2 ea.	100	Grilled Ham/Cheese Sand.	8 oz.	STEAMED CAULIFLOWER	4 oz.	
	HASH BROWN POTATOES	4 oz.	200	BAKED BEANS	8 oz.	GARLIC BREAD	2 oz.	
	COLD CEREAL	2 oz.	100	TOSS SALAD w/DRESSING	4 oz.	SALAD BAR w/DRESSING	4 oz.	
	COFFEE or TEA			LEMON PUDDING	1 ea.	PUMPKIN PIE w/TOPPING	1 ea.	
	MILK	8 oz.	121	BREAD & BUTTER	2 sl.	BEVERAGE	8 oz.	
	TOAST w/BUTTER	2 sl.	171	BEVERAGE	8 oz.			
FRESH FRUIT Juice	1 ea.	02	CRACKERS	2 ea.				
JELLY	1 pk.	00						
		1184						
THURSDAY	PANCAKES	2 ea.	150	NAVY BEAN SOUP	8 oz.	BEEF STEW	8 oz.	20
	SYRUP	1.5 oz.	124	Chicken Pattie/Bun	1 ea.	STEAMED RICE	8 oz.	
	PORK SAUSAGE	2 oz.	210	OVEN BROWNED POTATOES	2 ea.	ORZOCCA BROUATA	4 oz.	
	HOT CEREAL	8 oz.	204	TOMATO /ONION LETTUCE	2 oz.	SALAD BAR w/DRESSING	4 oz.	
	COFFEE or TEA			TARTAR SAUCE	1 pk.	BREAD & BUTTER	2 sl.	
	MILK	8 oz.	121	PUDDING	1 ea.	Chilled Plums	1 ea.	
	FRESH FRUIT	1 ea.	02	BEVERAGE	8 oz.	BEVERAGE	8 oz.	
			CRACKERS	2 ea.				
		031						
FRIDAY	CHEESE OMLET	8 oz.	200	VEGETABLE SOUP	8 oz.	B B O CHICKEN	14 ea.	21
	BACON	8 oz.	100	Cheeseburger/Bun	1 ea.	O'BRIEN POTATOES	8 oz.	
	HASH BROWN POTATOES	4 oz.	200	FRENCH FRIES	4 oz.	GREEN PEAS	4 oz.	
	COLD CEREAL	2 oz.	100	TOMATO /ONION LETTUCE	2 oz.	SALAD BAR w/DRESSING	4 oz.	
	COFFEE or TEA			COOKIES	2 ea.	BREAD & BUTTER	2 sl.	
	MILK	8 oz.	121	BEVERAGE	8 oz.	CINNAMON ROLL	1 ea.	
	TOAST w/BUTTER	2 sl.	171	CRACKERS	2 ea.	BEVERAGE	8 oz.	
FRESH FRUIT	1 ea.	02						
JELLY	1 pk.	00						
		1182						
SATURDAY	FRENCH TOAST			CLAM CHOWDER	8 oz.	BWIBB STEAK	6 oz.	22
	SYRUP	1.5 oz.	124	Salmon Pattie/Bun	1 ea.	BROWN GRAVY	2 oz.	
	TURKEY SAUSAGE	8 oz.	144	Spanish Rice	8 oz.	BUTTERED POTATOES	8 oz.	
	HOT CEREAL	8 oz.	204	TOMATO /ONION LETTUCE	2 oz.	BUTTERED CORN	4 oz.	
	COFFEE or TEA			BROWNIE	1 ea.	CORNBREAD & BUTTER	1 ea.	
	MILK	8 oz.	121	BEVERAGE	8 oz.	SALAD BAR w/DRESSING	4 oz.	
	FRESH FRUIT Juice	1 ea.	02	CRACKERS	2 ea.	CHOCOLATE CAKE w/ICING	1 ea.	
					BEVERAGE	8 oz.		
		1051						
SUNDAY	FRIED EGGS	2 oz.	100	TOMATO RICE SOUP	8 oz.	ROAST TURKEY	6 oz.	23
	PORK SAUSAGE	2 oz.	210	BOLOGNA & CHEESE SANDWICH	1 ea.	MASHED POTATOES	8 oz.	
	HASH BROWN POTATOES	4 oz.	200	TOMATO /ONION LETTUCE	2 oz.	NATURAL PAN GRAVY	2 oz.	
	COLD CEREAL	2 oz.	100	MACARONI SALAD	4 oz.	Steamed Asparagus	4 oz.	
	COFFEE or TEA			BEVERAGE	8 oz.	SALAD BAR w/DRESSING	4 oz.	
	MILK	8 oz.	121	CRACKERS	2 ea.	BREAD & BUTTER	2 sl.	
	TOAST w/BUTTER	2 sl.	171			CARROT CAKE	1 ea.	
FRESH FRUIT	1 ea.	02			BEVERAGE	8 oz.		
JELLY	1 pk.	00						
		1200						

STANDARD MENU

This menu is subject to change due to non-availability of product.

C. E. Tolson
FOOD SERVICE DIRECTOR

[Signature]
FOOD SERVICE DIRECTOR

BANKS CORRECTIONAL CEN

SEVEN DAY MENU

DATE: 9-24-95 Through 9-30-95

WEEK - 3

DATE	ITEM	QTY	PRICE	ITEM	QTY	PRICE	ITEM	QTY	PRICE	TOTAL
S	FRIED EGGS	2 oz.	180	POTATO SOUP	8 oz.		BEEF ROUND	8 oz.		24
	TURKEY HAM	8 oz.	108	TURKEY SALAMI & CHEESE SANDWICH	1 ea.		MASHED POTATOES	8 oz.		
	HASH BROWN POTATOES	4 oz.	208	POTATO SALAD	4 oz.		NATURAL GRAVY	2 oz.		
	COLD CEREAL	2 oz.	100	TOMATO / ONION / LETTUCE	2 oz.		GREEN BEANS	4 oz.		
	COFFEE or TEA			BEVERAGE	8 oz.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	CRACKERS	2 ea.		BREAD & BUTTER	2 ea.		
	TOAST w/BUTTER	2 ea.	171				PEACH COBBLER	1 ea.		
FRESH FRUIT	1 ea.	82				BEVERAGE	8 oz.			
JELLY	1 pk.	50								
			1088							
M	SCRAMBLED EGGS	8 oz.	158	VEGETABLE SOUP	8 oz.		BEEF TACO	2 ea.		25
	BISCUITS	2 oz.	210	TURKEY ala KING	1 sp.		BURRITO	1 ea.		
	HASH BROWN POTATOES	4 oz.	288	BUTTERED NOODLES	3/4 cp		SPANISH RICE	8 oz.		
	HOT CEREAL	2 oz.	204	TOBB SALAD w/DRESSING	4 oz.		REFRIED BEANS	4 oz.		
	COFFEE or TEA			BREAD & BUTTER	2 ea.		BREAD & BUTTER	2 ea.		
	MILK	8 oz.	121	OATMEAL COOKIES	2 ea.		Chilled Plums	1 sp.		
	FRESH FRUIT	1 ea.	82	BEVERAGE	8 oz.		BEVERAGE	8 oz.		
			52	CRACKERS	2 ea.					
			1078							
B	SCRAMBLED EGGS	2 ea.	180	CHICKEN RICE SOUP	8 oz.		BAKED FISH FILLET	8 oz.		26
	BACON	2 ea.	108	BLOPPY JOE ON A BUN	1 ea.		MACARONI & CHEESE	4 oz.		
	HASH BROWN POTATOES	4 oz.	200	FRENCH FRIES	4 oz.		Steamed Asparagus	4 oz.		
	COLD CEREAL	2 oz.	188	TOBB SALAD w/DRESSING	4 oz.		SALAD BAR w/DRESSING	4 oz.		
	COFFEE or TEA			PEANUT BUTTER COOKIE	2 ea.		TARTAR SAUCE	1 pk.		
	MILK	8 oz.	121	BEVERAGE	8 oz.		BREAD & BUTTER	2 ea.		
	TOAST w/BUTTER	2 ea.	171	CRACKERS	2 ea.		LEMON CREAM PIE	1 ea.		
FRESH FRUIT Juice	1 ea.	82				BEVERAGE	8 oz.			
JELLY	1 pk.	50								
			1184							
D	PANCAKES	2 ea.	120	PINTO BEAN SOUP	8 oz.		SPAGHETTI w/MEAT SAUCE	1 cp.		27
	SYRUP	1.5 oz.	124	CHEESEBURGER ON A BUN	1 ea.		BROCCOLI	4 oz.		
	PORK SAUSAGE	2 oz.	210	FRENCH FRIES	4 oz.		GARLIC BREAD	2 ea.		
	HOT CEREAL	8 oz.	204	TOMATO / ONION / LETTUCE	2 oz.		SALAD BAR w/DRESSING	4 oz.		
	COFFEE or TEA			BROWNIES	1 ea.		CHEESE CAKE w/TOPPING	1 ea.		
	MILK	8 oz.	121	BEVERAGE	8 oz.		BEVERAGE	8 oz.		
	FRESH FRUIT	1 ea.	82	CRACKERS	2 ea.					
			831							
T	CHEESE OMELET	8 oz.	208	BEEF NOODLE SOUP	8 oz.		BEEF VEGETABLE STEW	8 oz.		28
	BACON	8 oz.	108	CHILI	8 oz.		BUTTERED ROTINI	4 oz.		
	HASH BROWN POTATOES	4 oz.	288	HotDOG ON A BUN	1 ea.		BUTTERED CAULIFLOWER	4 oz.		
	COLD CEREAL	2 oz.	100	STEAMED RICE	4 oz.		SALAD BAR w/DRESSING	4 oz.		
	COFFEE or TEA			TOBB SALAD w/DRESSING	4 oz.		CORNBREAD & BUTTER	1 ea.		
	MILK	8 oz.	121	WHITE CAKE	1 ea.		CINNAMON ROLL	1 ea.		
	TOAST w/BUTTER	2 ea.	171	BEVERAGE	8 oz.		BEVERAGE	8 oz.		
FRESH FRUIT	1 ea.	82	CRACKERS	2 ea.						
JELLY	1 pk.	50								
			1152							
F	FRENCH TOAST			CLAM CHOWDER	8 oz.		SOUTHERN STYLE CHICKEN	1/4 ea.		29
	SYRUP	1.5 oz.	124	Salmon Pattie/BUN	1 ea.		MASHED POTATOES	8 oz.		
	TURKEY SAUSAGE	2 oz.	144	OVEN BROWNED POTATOE	8 oz.		GRAVY	2 oz.		
	HOT CEREAL	8 oz.	204	TOMATO / ONION / LETTUCE	2 oz.		CORN ON THE COB	4 oz.		
	COFFEE or TEA			TARTAR SAUCE	1 pk.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	CHOCOLATE CHIP COOKIES	2 cp.		BREAD & BUTTER	2 ea.		
	FRESH FRUIT Juice	1 ea.	82	BEVERAGE	8 oz.		Blueberry Pie	1 ea.		
			82	CRACKERS	2 ea.		BEVERAGE	8 oz.		
			1051							
A	FRIED EGGS	2 oz.	180	BEEF BILLEY SOUP	8 oz.		ROAST TURKEY	8 oz.		30
	PORK SAUSAGE	2 oz.	210	BOLOGNA & CHEESE SANDWICH	1 ea.		MASHED POTATOES	8 oz.		
	HASH BROWN POTATOES	4 oz.	288	TOMATO / ONION / LETTUCE	2 oz.		NATURAL PAN GRAVY	2 oz.		
	COLD CEREAL	2 oz.	100	CARROT SALAD	4 oz.		Steamed Asparagus	4 oz.		
	COFFEE or TEA			BEVERAGE	8 oz.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	CRACKERS	2 ea.		BREAD & BUTTER	2 ea.		
	TOAST w/BUTTER	2 ea.	171				PUMPKIN PIE w/TOPPING	1 ea.		
FRESH FRUIT	1 ea.	82				BEVERAGE	8 oz.			
JELLY	1 pk.	50								
			1288							

STANDARD MENU

This menu is subject to change due to non-availability of product.

CC Adams FOOD STEWARD

MS FOOD SERVICE SUPERVISOR

SEVEN DAY MENU

4-16-95

Through 4-22-95

WEEK-4

DAY	BRKFAST	SIZE	CAL	LUNCH	SIZE	CAL	DINNER	SIZE	CAL	DAY
SUNDAY	FRIED EGGS	2 oz.	180	CHICKEN NOODLE SOUP	8 oz.		MEAT LOAF	5 oz.		
	TURKEY HAM	8 oz.	108	BOLOGNA & CHEESE SANDWICH	1 ea.		MASHED POTATOES	8 oz.		
MONDAY	HASH BROWN POTATOES	4 oz.	288	TOMATO / ONION / LETTUCE	2 oz.		GRAVY	2 oz.		
	COLD CEREAL	2 oz.	180	MACARONI SALAD	4 oz.		STEAMED BROCCOLI	4 oz.		
TUESDAY	COFFEE or TEA			BEVERAGE	8 oz.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	CRACKERS	2 ea.		CORNBREAD & BUTTER	1 ea.		
WEDNESDAY	TOAST w/BUTTER	2 sl.	171				WHITE CAKE w/ICING	1 ea.		
	FRESH FRUIT	1 ea.	82				BEVERAGE	0 oz.		
THURSDAY	JELLY	1 pk.	50							
			1085							
FRIDAY	CREAMED BEEF	8 oz.	158	VEGETABLE SOUP	8 oz.		COUNTRY STYLE CHICKEN	1/4 ea.		
	BISCUITS	2 oz.	210	CHEESEBURGER ON A BUN	1 ea.		MASHED POTATOES	8 oz.		
SATURDAY	HASH BROWN POTATOES	4 oz.	288	FRENCH FRIES	4 oz.		CHICKEN GRAVY	2 oz.		
	HOT CEREAL	0 oz.	204	TOMATO / ONION / LETTUCE	2 oz.		BUTTERED CORN	4 oz.		
SUNDAY	COFFEE or TEA			PEANUT BUTTER COOKIES	2 ea.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	BEVERAGE	8 oz.		BREAD & BUTTER	2 sl.		
MONDAY	FRESH FRUIT	1 ea.	82	CRACKERS	2 ea.		BREAD PUDDING w/ VANILLA SAUCE	1 CP.		
			1070				BEVERAGE	8 oz.		
TUESDAY	SCRAMBLED EGGS	2 ea.	190	MINESTRONE SOUP	8 oz.		BWISS STEAK	5 oz.		
	BACON	8 oz.	108	FISH SANDWICH ON A BUN	1 ea.		BROWN GRAVY	2 oz.		
WEDNESDAY	HASH BROWN POTATOES	4 oz.	288	MACARONI & CHEESE	0 oz.		BUTTERED POTATOES	0 oz.		
	COLD CEREAL	2 oz.	180	TOMATO / ONION / LETTUCE	2 oz.		MIXED VEGETABLES	4 oz.		
THURSDAY	COFFEE or TEA			TARTAR SAUCE	1 pk.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	RICE PUDDING	1 cp.		CORNBREAD & BUTTER	1 ea.		
FRIDAY	TOAST w/BUTTER	2 sl.	171	BEVERAGE	8 oz.		PEACH COBBLER w/ TOPPING	1 ea.		
	FRESH FRUIT	1 ea.	82	CRACKERS	2 ea.		BEVERAGE	0 oz.		
SATURDAY	JELLY	1 pk.	50							
			1184							
SUNDAY	PANCAKES	2 ea.	120	CREAM OF BROCCOLI SOUP	8 oz.		BEEF LIVER & ONIONS	5 oz.		
	SYRUP	1.5 oz.	124	POOR BOY SANDWICH	1 ea.		BUTTERED POTATOES	8 oz.		
MONDAY	PORK SAUSAGE	2 oz.	210	POTATO CHIPS	1 oz.		BROWN GRAVY	2 oz.		
	HOT CEREAL	8 oz.	284	TOSSED SALAD w/DRESSING	4 oz.		GREEN BEANS	4 oz.		
TUESDAY	COFFEE or TEA			CHOCOLATE PUDDING	1 cp.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	BEVERAGE	8 oz.		BREAD & BUTTER	2 sl.		
WEDNESDAY	FRESH FRUIT	1 ea.	82	CRACKERS	2 ea.		APPLE BROWN BETTY	1 ea.		
			921				BEVERAGE	0 oz.		
THURSDAY	CHEESE OMELET	8 oz.	208	VEGETABLE SOUP	8 oz.		BEEF BTI	8 oz.		
	BACON	8 oz.	108	HAMBURGER ON BUN	1 ea.		STEAL SAUCE	8 oz.		
FRIDAY	HASH BROWN POTATOES	4 oz.	288	FRENCH FRIES	4 oz.		CAULIFLOWER	4 oz.		
	COLD CEREAL	2 oz.	180	TOMATO/ONION/LETTUCE	2 oz.		SALAD BAR w/DRESSING	4 oz.		
SATURDAY	COFFEE or TEA			OATMEAL COOKIES	2 ea.		BREAD & BUTTER	2 sl.		
	MILK	8 oz.	121	BEVERAGE	8 oz.		APPLE BROWN BETTY	1 ea.		
SUNDAY	TOAST w/BUTTER	2 sl.	171	CRACKERS	2 ea.		BEVERAGE	8 oz.		
	FRESH FRUIT	1 ea.	82							
MONDAY	JELLY	1 pk.	50							
			1152							
TUESDAY	FRENCH TOAST	2 ea.	180	CLAM CHOWDER	8 oz.		BREADED VEAL PATTY w/ CREAM MUSHROOM SAUCE	5 oz.		
	SYRUP	1.5 oz.	124	PIZZA PIE	1 sl.		SCALLOPED POTATOES	6 oz.		
WEDNESDAY	TURKEY SAUSAGE	8 oz.	144	TOSSED SALAD w/DRESSING	4 oz.		BUTTERED PEAS/CARROTS	4 oz.		
	HOT CEREAL	3 oz.	284	BROWNIE	1 ea.		SALAD BAR w/DRESSING	4 oz.		
THURSDAY	COFFEE or TEA			BEVERAGE	8 oz.		BREAD & BUTTER	2 sl.		
	MILK	8 oz.	121	CRACKERS	2 ea.		WHITE CAKE w/ICING	1 ea.		
FRIDAY	FRESH FRUIT	1 ea.	82				BEVERAGE	8 oz.		
			1051							
SATURDAY	FRIED EGGS	2 oz.	180	CHICKEN RICE SOUP	8 oz.		ROAST TURKEY	5 oz.		
	PORK SAUSAGE	2 oz.	210	TURKEY DALAMI & CHEESE SANDWICH	1 ea.		MASHED POTATOES	8 oz.		
SUNDAY	HASH BROWN POTATOES	4 oz.	288	TOMATO / ONION / LETTUCE	2 oz.		NATURAL PAN GRAVY	2 oz.		
	COLD CEREAL	2 oz.	180	COLE SLAW	4 oz.		MIXED VEGETABLES	4 oz.		
MONDAY	COFFEE or TEA			BEVERAGE	8 oz.		SALAD BAR w/DRESSING	4 oz.		
	MILK	8 oz.	121	CRACKERS	2 ea.		BREAD & BUTTER	2 sl.		
TUESDAY	TOAST w/BUTTER	2 sl.	171				JELLY ROLL	1 ea.		
	FRESH FRUIT	1 ea.	82				BEVERAGE	8 oz.		
WEDNESDAY	JELLY	1 pk.	50							
			1280							

STANDARD MENU

This menu is subject to change due to non-availability of product.

FOOD STEWARD

FOOD SERVICE SUPERVISOR

SB

3

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR PEARCE

TO: SB 3

1 Page 1, line 2, following "violations":

2 Insert "and providing for punishment of minors upon conviction for violation of
3 a curfew ordinance"

4 Page 1, following line 3:

5 Insert a new bill section to read:

6 "* Section 1. AS 29.35.085 is amended by adding new subsections to read:

7 (b) Notwithstanding AS 29.25.070(a), for a violation of this section, the court
8 may impose a fine of not more than \$250.

9 (c) The community work provisions of AS 47.12.030(b)(6) apply to
10 punishment for a minor's conviction of a violation of a curfew ordinance for which
11 a penalty is provided under AS 29.25.070(a)."

12 Page 1, line 4:

13 Delete "Section 1."

14 Insert "Sec. 2."

15

16 Page 2, line 9, following "municipality":

17 Insert "in place of any fine imposed for the violation of a municipal curfew
18 ordinance, the court shall allow a defendant the option of performing community work;
19 the value of the community work, which may not be lower than the amount of the fine,
20 shall be determined under AS 12.55.055(c); in this paragraph, "community work"
21 includes the work described in AS 12.55.055(b) or work that, on the recommendation
22 of the municipal or borough assembly, city council, or traditional village council of the
23 defendant's place of residence, would benefit persons within the municipality or village

1 who are elderly or disabled"

ALASKA STATE LEGISLATURE



Sen. Robin Taylor, Chair
Sen. Drue Pearce, Vice Chair
Sen. Mike Miller
Sen. Sean Parnell
Sen. Johnny Ellis

State Capitol
Juneau, AK 99801-1182
(907) 465-3717
Fax: (907) 465-3922

Senate Judiciary Committee MEMORANDUM

TO: Jack Chenoweth, Legislative Counsel
FROM: Laura Chase, Senate Judiciary Committee Aide *Laura Chase*
DATE: March 8, 1997
RE: CSSB3(JUD)

Senate Judiciary Committee members have passed SB 3 out of committee as a CS.

Please incorporate Senator Pearce's amendment 0-LS0078VA.2 (3/6/97) into the final and forward the CS to me so it can be read across.

Please don't hesitate to call me at x3717 if you have any questions. Thanks for your assistance.

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CS SB3(JUD)

Revision Date: _____
 Title: Prosecution in district court of municipal curfew violations.
 Sponsor: Senator Pearce
 Requestor: Senate (JUD)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Probation Services
 COMPONENT SERIAL NO. 2134
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

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

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

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

FUND SOURCE

(Thousands of Dollars)

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

DFYS is not able to accurately project the fiscal impact of this bill on the division's detention beds. Changes to the juvenile code in recent years have given district courts authority to handle an increasing number of juvenile offenses, with minor consuming and smoking being two examples. District judges and magistrates in some jurisdictions have been issuing bench warrants for failure to appear and contempt citations for failure to pay fines, resulting in juveniles being detained for smoking infractions. We have no way to anticipate what the increase would be if municipal curfew violations were added. However, serious overcrowding already exists in DFYS detention facilities, and it seems unnecessary to increase detention admissions for such minor violations when there is inadequate space to house serious offenders.

Prepared by: L. Diane Worley, Director
 Division: Family & Youth Services
 Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Phone: 465-3191
 Date: 03/10/97
 Date: 3/10/97

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SENATE COMMITTEE REPORT

DATE: 2/21/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 3/10/97

Judiciary Committee considered

SENATE BILL NO. 3

"An Act authorizing prosecution and trial in the district court of municipal curfew violations."

and recommends:

be replaced with CS SB3 (JUD)

adopt previous CS _____

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

Senate Bill:

same title

new title

House Bill:

same title

technical change

new: SCR# _____

SIGNING DO PASS	DP	OTHER REGOMMENDATIONS	NR	DNP	AM
<i>Mike Miller</i>	<input checked="" type="checkbox"/>	<i>John Ellis</i>	<input checked="" type="checkbox"/>		
<i>Jan Parnell</i>	<input checked="" type="checkbox"/>				
CHAIR: <i>Pence</i>	<input checked="" type="checkbox"/>	CHAIR:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

<i>FNEC</i>			

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

No. 4
Bill Version: SB3
(S) Publish Date: 2/21/97

Revision Date: _____ Dept. Affected: Health and Social Services
Title: Prosecution in district court of municipal BRU: Family and Youth Services
curfew violations. Component: Probation Services
Sponsor: Senator Pearce COMPONENT SERIAL NO. 2134
Requestor: Senate (HESS) See also (SN#): _____

Expenditures/Revenues:	(Thousands of Dollars)					
OPERATING	FY98	FY99	FY00	FY01	FY02	FY03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****
CAPITAL EXPENDITURES						
CHANGES IN REVENUES ()						

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

POSITIONS:						
FULL-TIME						
PART-TIME						
TEMPORARY						

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

ANALYSIS: (Attach a separate page if necessary)

DFYS is not able to accurately project the fiscal impact of this bill on the division's detention beds. Changes to the juvenile code in recent years have given districts court authority to handle an increasing number of juvenile offenses, with minor consuming and smoking being two examples. District judges and magistrates in some jurisdictions have been issuing bench warrants for failure to appear and contempt citations for failure to pay fines, resulting in juveniles being detained for smoking infractions. We have no way to anticipate what the increase would be if municipal curfew violations were added. However, serious overcrowding already exists in DFYS detention facilities, and it seems unnecessary to increase detention admissions for such minor violations when there is inadequate space to house serious offenders.

Prepared by: L. Diane Worley, Director Phone: 465-3191
 Division: Family & Youth Services Date: 02/10/97
 Approved by Commissioner: Karen Perdue, Commissioner Date: 2/12/97
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

N 3
BILL NO: Bill Version: SB3
 (S) Publish Date: 2/21/97

Revision Date: 02/17/97 Dept. Affected: Public Safety
 Title: Prosecute Juvenile Municipal Curfew BRU: Alaska State Troopers
Violations In District Court Component: Detachments
 Sponsor: Sen. Pearce
 Requestor: Senate HESS Committee **COMPONENT SERIAL NO.** 0799

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

OPERATING	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Revenue Code						

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 97) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

This bill would not have any significant fiscal impact on AST.

Prepared By: Capt. Ted M. Bachman Phone: 269-5650
 Division: Alaska State Troopers Date: 02/17/97
 Approved by Commissioner: Ronald L. Otte Date: 2/18/97
 Agency: Department of Public Safety

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FISCAL NOTE

No. 2
 Bill Version: SB 3
 (S) Publish Date: 2/21/97

STATE OF ALASKA
 1997 LEGISLATIVE SESSION

Revision Date: _____
 Title: "An Act authorizing prosecution and trial in the district court of municipal curfew violations"
 Sponsor: Senator Pearce
 Requestor: (S) HES

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME	***	***	***	***	***	***
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill changes jurisdiction for violation of a municipal curfew ordinance from juvenile court to district court where the child will be prosecuted and sentenced in the same manner as if an adult. Fiscal impact will vary depending upon what degree of crime the municipal curfew ordinance establishes and whether or not the potential punishment gives rise to the right to appointed counsel. Without accurate numbers regarding referrals to the district court, fiscal impact is impossible to quantify.

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

Phone: (907) 264-4414
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Department of Administration

Alison M. Edge
 Date: 2/12/97

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FISCAL NOTE

No. 1

Bill Version: SB3

(S) Publish Date: 2/21/97

STATE OF ALASKA 1997 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Minor's Curfew Violation Heard in District Court BRU: Trial Courts
 Component: _____
 Sponsor: Sen. Pearce and Donley
 Requestor: _____ COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	24.3	24.3	24.3	24.3	24.3	24.3
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	24.3	24.3	24.3	24.3	24.3	24.3

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

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

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	24.3	24.3	24.3	24.3	24.3	24.3
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	24.3	24.3	24.3	24.3	24.3	24.3

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

Positions

Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: C. S. Christensen III, Staff Counsel *CSC*
 Agency: Alaska Court System
 Approved by: Arthur H. Snowden, II, Administrative Director *AS* *CSC*
 Agency: Alaska Court System

Phone: 264-8228
 Date: 02/20/97
 Date: 02/20/97

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Alaska Court System
Fiscal Analysis
SB 3

SB 3 amends AS 47.12.030(b) to provide that if a minor is cited for violating a municipal ordinance which mandates a curfew, the minor shall be charged, prosecuted and sentenced in district court in the same manner as an adult.

It is anticipated that most municipalities will enact curfew ordinances. As drafted, SB 3 would allow municipalities to adopt criminal ordinances for which the penalty can be jail time, mandatory community service, or loss of a valuable license. Such ordinances would require the state to provide a jury trial. In addition, SB 3 would allow municipalities to require mandatory court appearances by juveniles. All citations which are contested will come before the court system, unless the municipality decides to pay for its own municipal hearing officer.

Based upon statistics generated during the first year of Anchorage's civil curfew system, which uses a municipal hearing officer rather than the court system, this note assumes that HB 474 will generate 3000 citations per year statewide. Noncontested citations may be paid directly to the municipalities; however, defendants may contest citations or enter guilty pleas at court. Thus, many persons subject to this section will come before a district judge and/or pay citations through the court's accounting system. This note assumes that no municipality will require a mandatory court appearance (probably an incorrect assumption), and that one-third of juvenile citations will be run through the court system; this is the rate at which the courts deal with other municipal citations. It should be kept in mind that the rate at which juveniles contest citations will depend on the size of fines set by the municipalities in their ordinances. This note also assumes that no municipality will criminalize curfew violations and require six-person jury trials. This last assumption is probably optimistic, in that some municipalities will likely criminalize repeat offenses or offenses by business owners who allow minors to remain on premises after curfew, if only to impose community service on the offenders.

Alaska Court System

Fiscal Analysis

SB 3

Personal Services

Positions

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Court Clerk II, range 10A, PPT, 4 months, Anchorage/statewide	\$8,420	\$2,169	\$10,589
Committing Magistrate, range 22B, PPT, Anchorage/statewide, 1 1/2 months	7,266	1,872	9,138
Overtime for In-Court Clerks at range 12A for additional trials			<u>4,600</u>
Estimated Total Cost			<u><u>\$24,327</u></u>

Alaska State Legislature

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Juneau, AK 99801-1182
(907) 465-4993
Fax (907) 465-3872

Senator Drue Pearce
District F

SPONSOR STATEMENT FOR SB 3

Currently, juvenile offenses other than traffic, tobacco, fish and game, parks and recreational facilities, or alcohol violations, are handled through municipal courts where these exist, or are not handled at all because of the Division of Family and Youth Services caseload.

SB 3 will put in place a uniform approach to handling curfew violations. It will enable those communities who so wish to put a curfew ordinance into effect, with the ability to prosecute.

SB 3 will help the City of Juneau, where plans for a youth curfew were set aside because they had no avenue to prosecute offenders. This bill will relieve municipalities from the burden of prosecution and will allow for more effective and expeditious handling of these offenses.

SB 3 will mandate that all juvenile curfew violations be handled in District Court. Alaska Delinquency Rules will not apply, and the minor accused of the offense will be charged, prosecuted, and sentenced in the district court in the same manner as an adult. When a minor is charged, prosecuted and sentenced for an offense under this subsection, the minor's parent, guardian, or legal custodian will be present at all proceedings.

SENATE COMMITTEE REPORT

First Committee of Referral

DATE: 1/13/97

FURTHER: Judiciary *Finer*

Date of 5-Day Notice: 2/13/97
(in accordance with Uniform Rule 23)

DATE TURNED IN TO OFFICE: 2/21/97

Health, Education and Social Services Committee considered SENATE BILL NO. 3

"An Act authorizing prosecution and trial in the district court of municipal curfew violations."

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# _____

~~DP~~

SIGNING DQ PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Approved way</i>	✓	<i>Loren A. Jensen</i>			✓
		<i>John Ellis</i>	X		
		<i>Lyle Green</i>	✓		
CHAIR: <i>Bill White</i>	✓	CHAIR:			

NEW FISCAL NOTE(S):

Department	Date	Zero	Fiscal
<i>Alaska Court System</i>	<i>2/20/97</i>		✓
<i>Admin - Public Defender</i>	<i>2/12/97</i>	indet	
<i>Public Safety</i>	<i>2/18/97</i>	✓	
<i>Health + Social Services</i>	<i>2/12/97</i>	indet	

PREVIOUS FISCAL NOTE(S):*

Department	Date	Zero	Fiscal

APPROPRIATION -- no fiscal note

*Include fiscal notes accompanying Governor's bill

Previous Committee Report(s)

SB

15

CS FOR SENATE BILL NO. 15(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATOR TAYLOR

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to civil actions; amending Rules 16.1, 26, 41, 49, 72.1, 79(b),
2 82(b), 95, and 100, Alaska Rules of Civil Procedure; amending Rules 1 and 4,
3 Alaska District Court Rules of Civil Procedure; amending Rule 511, Alaska Rules
4 of Appellate Procedure; and repealing Rule 72.1, Alaska Rules of Civil Procedure;
5 and providing for an effective date."

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

7 * Section 1. PURPOSE. It is the purpose of this Act to

8 (1) reduce the time and costs associated with civil litigation;

9 (2) improve access to justice for individuals and small businesses;

10 (3) provide for fair but not excessive compensation for persons injured through
11 the fault of others;

12 (4) increase the predictability of case outcomes to reduce inappropriate
13 litigation and settlement behavior; and

1 (5) collect information on the civil justice system and on the insurance industry
2 to inform the public policy debate on tort reform related issues.

3 * Sec. 2. AS 06.05.473(h) is amended to read:

4 (h) After the payment of all other claims, including interest at the rate of 10.5
5 percent a year [ESTABLISHED UNDER AS 09.30.070], the department shall pay
6 claims that are otherwise valid but that were not filed within the time prescribed.

7 * Sec. 3. AS 09.10.050 is repealed and reenacted to read:

8 **Sec. 09.10.050. Certain property actions to be brought in six years.** Unless
9 the action is commenced within six years, a person may not bring an action for waste
10 or trespass upon real property.

11 * Sec. 4. AS 09.10 is amended by adding a new section to read:

12 **Sec. 09.10.065. Contract actions to be brought in three years.** Unless an
13 action is commenced within three years, a person may not bring an action upon a
14 contract or liability, express or implied, excepting those described in AS 09.10.040 or
15 as otherwise provided by law.

16 * Sec. 5. AS 09.10.070(a) is amended to read:

17 (a) A person may not bring an action (1) for libel, slander, assault, battery,
18 seduction, false imprisonment, or for any injury to the person or rights of another not
19 arising on contract and not specifically provided otherwise; (2) for taking, detaining,
20 or injuring personal property, including an action for its specific recovery; (3)
21 upon a statute for a forfeiture or penalty to the state; or (4) [(3)] upon a liability
22 created by statute, other than a penalty or forfeiture; unless the action is commenced
23 within two years.

24 * Sec. 6. AS 09.17.010(c) is amended to read:

25 (c) The limit under (b) of this section does not apply to damages for severe
26 disfigurement or severe physical impairment.

27 * Sec. 7. AS 09.17.020 is repealed and reenacted to read:

28 **Sec. 09.17.020. Punitive damages.** (a) In an action in which a claim of
29 punitive damages is presented to the fact finder, the fact finder shall determine,
30 concurrent with all other issues presented, whether punitive damages shall be allowed
31 by using the standards set out in (b) of this section. If punitive damages are allowed,

1 a separate proceeding under (c) of this section shall be conducted before the same fact
2 finder to determine the amount of punitive damages to be awarded.

3 (b) The fact finder may make an award of punitive damages only if the
4 plaintiff proves by clear and convincing evidence that the defendant's conduct

5 (1) was outrageous;

6 (2) was the result of malicious or hostile feelings toward the plaintiff;

7 or

8 (3) evidenced reckless indifference to the rights or safety of others.

9 (c) At the separate proceeding to determine the amount of punitive damages
10 to be awarded, the fact finder may consider

11 (1) the likelihood at the time of the conduct that serious harm would
12 arise from the defendant's conduct;

13 (2) the degree of the defendant's awareness of the likelihood described
14 in (1) of this subsection;

15 (3) the amount of financial gain the defendant gained or expected to
16 gain as a result of the defendant's conduct;

17 (4) the duration of the conduct and any intentional concealment of the
18 conduct;

19 (5) the attitude and conduct of the defendant upon discovery of the
20 conduct;

21 (6) the financial condition of the defendant; and

22 (7) the total deterrence of other damages and punishment imposed on
23 the defendant as a result of the conduct, including compensatory and punitive damages
24 awards to persons in situations similar to those of the plaintiff and the severity of the
25 criminal penalties to which the defendant has been or may be subjected.

26 (d) At the conclusion of the separate proceeding under (c) of this section, the
27 fact finder shall determine the amount of punitive damages to be awarded, and the
28 court shall enter judgment for that amount.

29 (e) Unless that evidence is relevant to another issue in the case, discovery of
30 evidence that is relevant to the amount of punitive damages to be determined under
31 (c)(3) or (6) of this section may not be conducted until after the fact finder has

1 determined that an award of punitive damages is allowed under (a) and (b) of this
2 section. The court may issue orders as necessary, including directing the parties to
3 have the information relevant to the amount of punitive damages to be determined
4 under (c)(3) or (6) of this section available for production immediately at the close of
5 the initial trial in order to minimize the delay between the initial trial and the separate
6 proceeding to determine the amount of punitive damages.

7 (f) Except as provided in (g) or (h) of this section or otherwise provided by
8 law, an award of punitive damages may not exceed the greater of

9 (1) three times the amount of compensatory damages awarded to the
10 plaintiff in the action; or

11 (2) the sum of \$500,000.

12 (g) Except as provided in (h) of this section or otherwise provided by law, if
13 the fact finder finds that the conduct proven under (b) of this section was motivated
14 by financial gain, it may award an amount of punitive damages not to exceed the
15 greatest of

16 (1) the amount calculated under the limitation in (f) of this section;

17 (2) the average net annual income earned by the defendant for the five
18 years before the date the trial began; or

19 (3) two times the amount of financial gain that the defendant received
20 or expected to receive as a result of the defendant's misconduct.

21 (h) Notwithstanding (f) or (g) of this section and except as otherwise provided
22 by law, if the fact finder finds that the conduct proven under (b) of this section was
23 employment related, an award of punitive damages may not exceed

24 (1) the amount calculated under the limitations of (f) of this section if
25 the conduct of the employer affected only one employee; or

26 (2) the greater of the amounts calculated under the limitations of (f) or
27 (g) of this section if the employer engaged in a pattern or practice affecting more than
28 one employee.

29 (i) Punitive damages may not be awarded against a person that is immune by
30 law from an award of punitive damages.

31 (j) In this section, "employment related" includes conduct of hiring, firing,

1 transferring, promoting, demoting, or terminating an employee by an employer.

2 * Sec. 8. AS 09.17.900 is amended to read:

3 **Sec. 09.17.900. Definition.** In this chapter, "fault" includes acts or omissions
4 that are in any measure negligent, [OR] reckless, or intentional toward the person or
5 property of the actor or others, or that subject a person to strict tort liability. The term
6 also includes breach of warranty, unreasonable assumption of risk not constituting an
7 enforceable express consent, misuse of a product for which the defendant otherwise
8 would be liable, and unreasonable failure to avoid an injury or to mitigate damages.
9 Legal requirements of causal relation apply both to fault as the basis for liability and
10 to contributory fault.

11 * Sec. 9. AS 09.30.065 is amended to read:

12 **Sec. 09.30.065. Offers of judgment.** At any time more than 10 days before
13 the trial begins, either the party making a claim or the party defending against a claim
14 may serve upon the adverse party an offer to allow judgment to be entered in complete
15 satisfaction of the claim for the money or property or to the effect specified in the
16 offer, with costs then accrued. If within 10 days after the service of the offer the
17 adverse party serves written notice that the offer is accepted, either party may then file
18 the offer and notice of acceptance together with proof of service, and the clerk shall
19 enter judgment. An offer not accepted within 10 days is considered withdrawn, and
20 evidence of that offer is not admissible except in a proceeding to determine the form
21 of judgment after verdict. If the judgment finally entered on the claim as to which an
22 offer has been made under this section is not more favorable to the offeree than the
23 offer, the interest awarded under AS 09.30.070 and accrued up to the date judgment
24 is entered shall be adjusted as follows:

25 (1) if the offeree is the party making the claim, the interest rate shall
26 be adjusted as follows:

27 (A) if the offer was served no later than 30 days after both
28 parties made the disclosures required by Rule 26(a)(1), Alaska Rules of
29 Civil Procedure, the interest rate shall be reduced by five percent;

30 (B) if the offer was served more than 30 days after both
31 parties made the disclosures required by Rule 26(a)(1), Alaska Rules of

1 Civil Procedure, but more than 90 days before the trial began, the interest
2 rate shall be reduced by three percent:

3 (C) if the offer was served 90 days or less but more than 10
4 days before the trial began, the interest rate shall be reduced by two
5 percent; this subparagraph does apply if the offer is also subject to (A) of
6 this paragraph [REduced BY FIVE PERCENT A YEAR];

7 (2) if the offeree is the party defending against the claim, the interest
8 rate shall be adjusted as follows:

9 (A) if the offer was served no later than 30 days after both
10 parties made the disclosures required by Rule 26(a)(1), Alaska Rules of
11 Civil Procedure, the interest rate shall be increased by five percent:

12 (B) if the offer was served more than 30 days after both
13 parties made the disclosures required by Rule 26(a)(1), Alaska Rules of
14 Civil Procedure, but more than 90 days before the trial began, the interest
15 rate shall be increased by three percent:

16 (C) if the offer was served 90 days or less but more than 10
17 days before the trial began, the interest rate shall be increased by two
18 percent; this subparagraph does not apply if the offer is also subject to (A)
19 of this paragraph [INCREASED BY FIVE PERCENT A YEAR].

20 * Sec. 10. AS 09.30.070(a) is amended to read:

21 (a) Notwithstanding AS 45.45.010, the [THE] rate of interest on judgments
22 and decrees for the payment of money, including prejudgment interest, shall be
23 determined in accordance with (c) of this section [IS 10.5 PERCENT A YEAR],
24 except that a judgment or decree founded on a contract in writing, providing for the
25 payment of interest until paid at a specified rate not exceeding the legal rate of interest
26 for that type of contract, bears interest at the rate specified in the contract if the
27 interest rate is set out in the judgment or decree.

28 * Sec. 11. AS 09.30.070 is amended by adding a new subsection to read:

29 (c) Except as otherwise provided in (a) of this section, the rate of interest on
30 judgments and decrees for the payment of money is the rate for a five-year constant
31 maturity United States Treasury note published in the applicable Federal Reserve H.15

1 Statistical Release, plus one and one-half percent. This rate is the rate in effect as of
2 the first business day of the month during which prejudgment interest begins to accrue
3 on a claim under (b) of this section and remains constant with respect to the claim
4 until the judgment or decree is satisfied. This rate of interest shall be determined as
5 of the first business day of every month by the administrative director of the Alaska
6 Court System.

7 * Sec. 12. AS 09.43 is amended by adding a new article to read:

8 **Article 3. Alternative Dispute Resolution.**

9 **Sec. 09.43.310. Findings; purpose.** The legislature finds that providing a
10 formalized program of alternative dispute resolution procedures within the existing
11 civil litigation system can promote the timely and efficient resolution of many civil
12 disputes. The purpose of AS 09.43.310 - 09.43.390 is to provide for an initial pilot
13 program of alternative dispute resolution of certain civil cases filed in the superior
14 court on or after January 1, 1998.

15 **Sec. 09.43.320. Pilot program for alternative dispute resolution.** (a) The
16 supreme court shall provide for a pilot program under AS 09.43.310 - 09.43.390 for
17 the submission of civil cases filed in the superior court, Third Judicial District, to
18 alternative dispute resolution procedures. The program shall begin January 1, 1998,
19 and operate for at least five years.

20 (b) The following types of cases may not be included in the pilot program:

- 21 (1) divorce and dissolution;
22 (2) adoption, custody, support, visitation, and emancipation of children;
23 (3) children in need of aid cases under AS 47.10 or delinquent minors
24 cases under AS 47.12;
25 (4) domestic violence protective orders under AS 18.66.100 -
26 18.66.180;
27 (5) estate, guardianship, and trust cases filed under AS 13;
28 (6) cases when no answer to the complaint or petition is filed by any
29 party to the case with the court.

30 **Sec. 09.43.330. Structure of pilot program.** (a) The supreme court shall
31 provide criteria for the screening of covered cases under the program to determine if

1 the cases are appropriate for referral to alternative dispute resolution. The criteria shall
2 be constructed so that at least 50 percent of the estimated number of covered cases
3 filed in a calendar year are referred to alternative dispute resolution.

4 (b) The supreme court shall establish minimum qualifications for a person to
5 be listed to conduct alternative dispute resolution procedures under AS 09.43.310 -
6 09.43.390. The supreme court shall establish a list of persons determined to meet
7 those qualifications and the current schedule of fees charged by the person listed.

8 (c) For a case referred under the program, the parties may mutually agree to
9 select a person to conduct the alternative dispute resolution procedure regardless of
10 whether the person appears on the list established under (b) of this section or whether
11 the person meets the minimum qualifications to be selected for the list. If an
12 agreement cannot be reached, the trial court judge assigned the case shall appoint a
13 person from the list. A person selected or appointed under this subsection has judicial
14 immunity for conducting the alternative dispute procedure to the same extent as a
15 judge and shall abide by applicable rules of confidentiality related to alternative dispute
16 resolution procedures established by the supreme court.

17 (d) Fees and costs to conduct an alternative dispute resolution procedure under
18 AS 09.43.310 - 09.43.390 shall be shared equally among the parties to the case being
19 referred unless the court finds a party wholly or partially indigent and orders total or
20 partial payment at public expense. The supreme court shall establish guidelines for the
21 determination of total or partial indigency under the program. Fees and costs borne
22 at public expense under this subsection constitute a lien on any recovery in the case
23 by that party and shall be paid first from the recovery.

24 (e) The superior court shall establish standards for the timely referral to and
25 the conclusion of the alternative dispute resolution procedure required under this
26 program. The standards must include that the alternative dispute resolution procedure

27 (1) shall terminate no more than 100 days after the defendant's answer
28 is served unless the trial court grants a time extension in an exceptional case and for
29 good cause shown; and

30 (2) be limited to no more than 12 hours for the procedure unless the
31 parties mutually agree to a longer period.

1 **Sec. 09.43.340. Evaluation of pilot program.** (a) The Alaska Judicial
2 Council shall evaluate annually the efficacy of the pilot program. Among other
3 factors, the evaluation shall address the speed with which cases are resolved, the
4 satisfaction of the parties to the cases, the expenditures made by the parties to the
5 cases, and the expenditure of court resources.

6 (b) The council shall work with the court system to create a system for
7 efficient collection of information needed to evaluate the program. The council shall
8 report the results of its evaluation to the governor and legislature each year by
9 March 31.

10 **Sec. 09.43.390. Definitions.** In AS 09.43.310 - 09.43.390,

11 (1) "alternative dispute resolution procedure" includes mediation and
12 early neutral evaluation;

13 (2) "covered cases" means civil cases described in AS 09.43.320(a) and
14 not excluded from participation in the program by AS 09.43.320(b);

15 (3) "program" means the alternative dispute resolution pilot program
16 established in AS 09.43.320.

17 * **Sec. 13.** AS 09.50.280 is amended to read:

18 **Sec. 09.50.280. Judgment for plaintiff; punitive damages.** If judgment is
19 rendered for the plaintiff, it shall be for the legal amount found due from the state with
20 interest as provided under AS 09.30.070 [LEGAL INTEREST FROM THE DATE
21 IT BECAME DUE] and without punitive damages.

22 * **Sec. 14.** AS 09.55.440(a) is amended to read:

23 (a) Upon the filing of the declaration of taking and the deposit with the court
24 of the amount of the estimated compensation stated in the declaration, title to the estate
25 as specified in the declaration vests in the plaintiff, and that property is condemned
26 and taken for the use of the plaintiff, and the right to just compensation for it vests in
27 the persons entitled to it. The compensation shall be ascertained and awarded in the
28 proceeding and established by judgment. The judgment must include interest at the
29 rate of 10.5 percent a year [SET OUT IN AS 09.30.070] on the amount finally
30 awarded that [WHICH] exceeds the amount paid into court under the declaration of
31 taking. The interest runs from the date title vests to the date of payment of the

1 judgment.

2 * Sec. 15. AS 09.55.535 is repealed and reenacted to read:

3 Sec. 09.55.535. **Mandatory arbitration.** (a) A person who files an action for
4 personal injury, death, or property damage shall also submit the claim to the court for
5 arbitration unless the action is excluded under (b) of this section.

6 (b) A person is not required to comply with (a) of this section if the

7 (1) amount in controversy, excluding interest, costs, and attorney fees,
8 exceeds \$100,000;

9 (2) parties have, under a written agreement made before the accrual of
10 the action, agreed to submit the claim to arbitration; or

11 (3) action

12 (A) is a class action;

13 (B) seeks equitable or declaratory relief;

14 (C) concerns the title to real property;

15 (D) is a probate action;

16 (E) is an appeal from a court of limited jurisdiction;

17 (F) involves divorce or domestic relations;

18 (G) is an appeal from action by an administrative agency;

19 (H) is subject to the alternative dispute resolution procedure

20 under AS 09.43.320.

21 (c) When a claim is submitted as required by (a) of this section, the court shall
22 appoint an arbitrator to review the claim. The arbitrator appointed to review the claim
23 shall interview the parties and examine all records or materials relating to the claim
24 and may compel the attendance of witnesses, interview the parties, or consult with
25 medical specialists.

26 (d) An arbitrator appointed under this section shall conduct a prehearing
27 settlement conference within 30 days after the appointment. The arbitrator shall
28 establish a period for discovery and a date for a hearing. The hearing date may not
29 be more than 120 days after the settlement conference.

30 (e) An arbitrator shall render a decision within 30 days after hearing a claim
31 under (d) of this section. The decision must contain findings of fact and conclusions

1 of law. The decision of the arbitrator may be rejected by a party.

2 (f) If the decision of the arbitrator is rejected by a party, the action may
3 proceed in the appropriate court. The arbitrator's decision is admissible in that action
4 to the extent allowed under the Alaska Rules of Evidence and may be used by a party
5 to support or oppose a claim of damages. If a party rejects the decision of the
6 arbitrator and litigates the action in court but is not the prevailing party in the action,
7 the court shall award actual costs and attorney fees to the opposing party.

8 (g) The provisions of AS 09.43.010 - 09.43.180 (Uniform Arbitration Act)
9 apply to an arbitration under this section to the extent the provisions do not conflict
10 with the provisions of this section.

11 * Sec. 16. AS 09.65.210 is repealed and reenacted to read:

12 **Sec. 09.65.210. Damages resulting from the commission of a felony or**
13 **other conduct that would constitute a felony.** (a) Except as provided in (b) of this
14 section, a person who suffers personal injury or death may not recover damages for
15 the personal injury or death if the injury or death occurred while the person was

16 (1) engaged in the commission of a felony, and the person has been
17 convicted of the felony, including conviction based on a guilty plea or plea of nolo
18 contendere, and the felony substantially contributed to a personal injury or death;

19 (2) engaged in conduct that would constitute the commission of an
20 unclassified felony or a class A or class B felony for which the person was not
21 convicted and if the conduct

22 (A) substantially contributed to the injury or death; and

23 (B) is proven by the defendant in the civil trial by clear and
24 convincing evidence; or

25 (3) fleeing after the commission, by that person, of conduct that would
26 constitute an unclassified felony or a class A or class B felony, or being apprehended
27 for conduct that would constitute an unclassified felony or class A or class B felony
28 if

29 (A) the conduct during the flight or apprehension substantially
30 contributed to the injury or death; and

31 (B) the conduct that would constitute a felony is proven by the

1 defendant in the civil trial by clear and convincing evidence.

2 (b) If the person is acquitted of all unclassified, class A, and class B felonies
3 arising from the conduct, this section does not preclude the person from recovering
4 damages for those injuries or death.

5 (c) This section does not affect a right of action under 42 U.S.C. 1983.

6 * **Sec. 17.** AS 09.68 is amended by adding a new section to read:

7 **Sec. 09.68.130. Collection of settlement information.** (a) Except as
8 provided in (c) of this section, the Alaska Judicial Council shall collect and evaluate
9 information relating to the compromise or other settlement of all civil litigation. The
10 information, including the case name and file number, a general description of the
11 claims being settled, the dollar amount of the settlement, to whom it is to be paid, and
12 any nonmonetary terms, shall be collected on a form developed by the council for that
13 purpose.

14 (b) The information received by the council under (a) of this section is
15 confidential. This restriction does not prevent the disclosure of summaries and
16 statistics in a manner that does not allow the identification of particular cases or
17 parties.

18 (c) The requirements of (a) of this section do not apply to the following types
19 of cases:

20 (1) divorce and dissolution;

21 (2) adoption, custody, support, visitation, and emancipation of children;

22 (3) children in need of aid cases under AS 47.10 or delinquent minors
23 cases under AS 47.12;

24 (4) domestic violence protective orders under AS 18.66.100 -
25 18.66.180;

26 (5) estate, guardianship, and trust cases filed under AS 13;

27 (6) small claims under AS 22.15.040.

28 * **Sec. 18.** AS 21.06 is amended by adding a new section to read:

29 **Sec. 21.06.087. Insurance report.** (a) The director shall require reporting of
30 and shall compile information necessary to evaluate

31 (1) the effect of the measures enacted in this Act on the availability and

1 cost of insurance in the state; and

2 (2) the financial health and profitability of insurers doing business in
3 the state.

4 (b) Information described in (a) of this section shall be provided by all insurers
5 doing business in this state in the format specified by the director and must include
6 factual information stating premiums, claims, expenses, and an allocation of investment
7 profits or losses by line of business written in this state. Information shall be compiled
8 by the division in a way that protects the identity of individual insureds.

9 (c) The director shall adopt regulations to implement and interpret this section,
10 including requiring insurers doing business in the state to provide information
11 necessary for the division of insurance to carry out its responsibilities under (a) and
12 (b) of this section.

13 (d) Beginning June 1, 1999, the information compiled under (a) of this section
14 shall be reported to the governor and the legislature annually.

15 (e) The division may consult with the Alaska Judicial Council when
16 determining what information to require to be reported under (a) - (c) of this section
17 and when implementing the compilation required under (a) of this section.

18 * Sec. 19. AS 22.10.020(i) is amended to read:

19 (i) The superior court is the court of original jurisdiction over all causes of
20 action arising under the provisions of AS 18.80. A person who is injured or aggrieved
21 by an act, practice, or policy that [WHICH] is prohibited under AS 18.80 may apply
22 to the superior court for relief. The person aggrieved or injured may maintain an
23 action on behalf of that person or on behalf of a class consisting of all persons who
24 are aggrieved or injured by the act, practice, or policy giving rise to the action. In an
25 action brought under this subsection, the court may grant relief as to any act, practice,
26 or policy of the defendant that [WHICH] is prohibited by AS 18.80, regardless of
27 whether each act, practice, or policy, with respect to which relief is granted, directly
28 affects the plaintiff, so long as a class or members of a class of which the plaintiff is
29 a member are or may be aggrieved or injured by the act, practice, or policy. The court
30 may enjoin any act, practice, or policy that [WHICH] is illegal under AS 18.80 and
31 may, subject to AS 18.80.225, order any other relief, including the payment of money,

1 that is appropriate.

2 * Sec. 20. AS 22.15.030(a) is amended to read:

3 (a) The district court has jurisdiction of civil cases, including foreign
4 judgments filed under AS 09.30.200 and arbitration proceedings under AS 09.43.170,
5 as follows:

6 (1) for the recovery of money or damages when the amount claimed
7 exclusive of costs, interest, and attorney fees does not exceed \$100,000 [\$50,000];

8 (2) for the recovery of specific personal property [,] when the value of
9 the property claimed and the damages for the detention do not exceed \$100,000
10 [\$50,000];

11 (3) for the recovery of a penalty or forfeiture, whether given by statute
12 or arising out of contract, not exceeding \$100,000 [\$50,000];

13 (4) to give judgment without action upon the confession of the
14 defendant for any of the cases specified in this section, except for a penalty or
15 forfeiture imposed by statute;

16 (5) for establishing the fact of death or cause and manner of death of
17 any person in the manner prescribed in AS 09.55.020 - 09.55.069;

18 (6) for the recovery of the possession of premises in the manner
19 provided under AS 09.45.070 - 09.45.160 when the value of the arrears and damage
20 to the property does not exceed \$100,000 [\$50,000];

21 (7) for the foreclosure of a lien when the amount in controversy does
22 not exceed \$100,000 [\$50,000];

23 (8) for the recovery of money or damages in motor vehicle tort cases
24 when the amount claimed exclusive of costs, interest, and attorney fees does not
25 exceed \$100,000 [\$50,000];

26 (9) over civil actions for taking utility service and for damages to or
27 interference with a utility line filed under AS 42.20.030;

28 (10) over cases involving protective orders for domestic violence under
29 AS 18.66.100 - 18.66.180.

30 * Sec. 21. Rule 16.1(c), Alaska Rules of Civil Procedure, is amended to read:

31 (c) Motion to Set Trial and Certificate. Unless otherwise ordered by the

1 court, a [A] motion to set trial may not be filed until after the meeting of parties
2 under paragraph (n) of this rule has occurred and the scheduling order under
3 Rule 16(b) has been issued [105 DAYS AFTER SERVICE OF THE SUMMONS
4 AND COMPLAINT]. A party seeking to obtain a trial date must serve and file a
5 motion to set trial together with a certificate, signed by counsel, stating:

6 (1) That the issues in the case have actually been joined;

7 (2) That all parties have completed discovery or will have a reasonable
8 opportunity to do so within the next 60 days;

9 (3) That the procedure for listing witnesses and exhibits and providing
10 exhibit copies, as set forth in paragraph (d) of this rule has been completed;

11 (4) Whether trial by jury has been timely demanded;

12 (5) The estimated number of days for the trial, including estimates for
13 each party's case and for jury selection;

14 (6) The names, addresses and telephone numbers of all attorneys and
15 pro se parties who are responsible for the conduct of the litigation;

16 (7) Which, if any, statute or rule entitles the case to preference on the
17 trial calendar;

18 (8) That the parties have complied with paragraph (k) of this rule.

19 * Sec. 22. Rule 16.1(n), Alaska Rules of Civil Procedure, is repealed and reenacted to read:

20 (n) **Meeting of Parties.** Except when otherwise ordered, the parties shall, as
21 soon as practicable after the exchange of initial disclosures required under Rule
22 26(a)(1) and in any event at least 14 days before a scheduling conference is held or
23 a scheduling order is due under Rule 16(b), meet to discuss the nature and basis of
24 their claims and defenses and the possibilities for a prompt settlement or resolution of
25 the case and to develop a proposed discovery plan. The attorneys of record and all
26 unrepresented parties that have appeared in the case are jointly responsible for
27 arranging and being present or represented at the meeting, for attempting in good faith
28 to agree on the proposed discovery plan, and for submitting to the court within 10 days
29 after the meeting a written report outlining the proposed discovery plan. The proposed
30 discovery plan shall indicate the parties' views and proposals concerning

31 (1) what changes should be made in the timing or forms of subsequent

1 disclosures under the rules, including a statement as to when the disclosures required
2 under Rule 26(a) were made;

3 (2) the subjects on which discovery may be needed, when discovery
4 should be completed, and whether discovery should be conducted in phases or be
5 limited to or focused upon particular issues;

6 (3) what changes should be made in the limitations on discovery
7 imposed under these rules and what other limitations should be imposed;

8 (4) whether a scheduling conference is unnecessary;

9 (5) whether there will be dispositive or partially dispositive motions
10 filed in the case and whether other deadlines should be set aside pending resolution of
11 the dispositive or partially dispositive motions by the court; and

12 (6) any other orders that should be entered by the court under
13 Rule 16(b) and (c).

14 * **Sec. 23.** Rule 41(a), Alaska Rules of Civil Procedure, is amended by adding a new
15 paragraph to read:

16 (3) **Settlement Information.** If a voluntary dismissal under this rule is
17 the result of compromise or other settlement of the parties, the parties shall submit to
18 the Alaska Judicial Council the information required under AS 09.68.130. A notice
19 of dismissal made under (1)[a] of this subsection must be accompanied by a
20 certification signed by or on behalf of the plaintiff that the information required under
21 AS 09 68.130 has been submitted to the Alaska Judicial Council. A stipulation of
22 dismissal made under (1)[b] of this subsection must be accompanied by such a
23 certification signed by or on behalf of all parties who have appeared in the action.
24 The requirements of this paragraph do not apply to the types of cases listed in
25 AS 09.68.130(c).

26 * **Sec. 24.** Rule 68, Alaska Rules of Civil Procedure, is repealed and reenacted to read:

27 **Rule 68. Offer of Judgment.** (a) At any time more than 10 days before the
28 trial begins, either the party making a claim or the party defending against a claim may
29 serve upon the adverse party an offer to allow judgment to be entered in complete
30 satisfaction of the claim for the money or property or to the effect specified in the
31 offer, with costs then accrued. The offer may not be revoked in the 10-day period

1 following service of the offer. If, within 10 days after service of the offer, the adverse
2 party serves written notice that the offer is accepted, either party may then file the
3 offer and notice of acceptance together with proof of service, and the clerk shall enter
4 judgment. An offer not accepted within 10 days is considered withdrawn, and
5 evidence of the offer is not admissible except in a proceeding to determine costs. The
6 fact that an offer is made but not accepted does not preclude a subsequent offer.

7 (b) If the judgment finally rendered by the court is not more favorable to the
8 offeree than the offer, the prejudgment interest accrued up to the date judgment is
9 entered shall be adjusted as follows:

10 (1) if the offeree is the party making the claim, the interest rate will be
11 reduced by the amount specified in AS 09.30.065;

12 (2) if the offeree is the party defending against the claim, the interest
13 rate will be increased by the amount specified in AS 09.30.065.

14 (c) If the judgment finally rendered by the court is not more favorable to the
15 offeree than the offer, the court's award of attorney's fees under Rule 82 shall be
16 adjusted as follows:

17 (1) if the offeree is the party making the claim, the court shall adjust
18 its award of attorney's fees to the offeree as follows:

19 (A) if the offer was served no later than 30 days after both
20 parties made the disclosures required by Rule 26(a)(1), the attorney's fees
21 award shall be reduced by 50 percent;

22 (B) if the offer was served more than 30 days after both parties
23 made the disclosures required by Rule 26(a)(1) but more than 90 days before
24 the trial began, the attorney's fees award shall be reduced by 30 percent;

25 (C) if the offer was served 90 days or less but more than 10
26 days before the trial began, the attorney's fees award shall be reduced by 20
27 percent;

28 (2) if the offeree is the party defending against the claim, the court
29 shall adjust its award of attorney's fees to the offeror as follows:

30 (A) if the offer was served no later than 30 days after both
31 parties made the disclosures required by Rule 26(a)(1), the attorney's fees

1 award shall be increased by 50 percent;

2 (B) if the offer was served more than 30 days after both parties
3 made the disclosures required by Rule 26(a)(1) but more than 90 days before
4 the trial began, the attorney's fees award shall be increased by 30 percent;

5 (C) if the offer was served 90 days or less but more than 10
6 days before the trial began, the attorney's fees award shall be increased by 20
7 percent.

8 (d) When the liability of one party to another has been determined by verdict,
9 order, or judgment, but the amount or extent of the liability remains to be determined
10 by further proceedings, the party adjudged liable may make an offer of judgment,
11 which shall have the same effect as an offer made 90 days or less but more than 10
12 days before trial begins, if it is served not less than 10 days before the commencement
13 of hearings to determine the amount or extent of liability.

14 * Sec. 25. Rule 72.1(g), Alaska Rules of Civil Procedure, is amended to read:

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

19 * Sec. 26. Rule 95(b), Alaska Rules of Civil Procedure, is amended to read:

20 (b) In addition to its authority under (a) of this rule and its power to punish
21 for contempt, a court may, after reasonable notice and an opportunity to show cause
22 to the contrary, and after hearing by the court, if requested, impose a fine not to
23 exceed \$10,000.00 [\$1,000.00] against any attorney who practices before it for failure
24 to comply with these rules or any rules promulgated by the supreme court.

25 * Sec. 27. Rule 1(a)(1), District Court Rules of Civil Procedure is amended to read:

26 (1) The procedure in civil actions and proceedings before district judges
27 and magistrates shall be governed by the rules governing the procedure in the superior
28 court to the extent that such rules are applicable. However, unless otherwise agreed
29 by all parties or permitted by order of the court in exceptional cases and for good
30 cause shown, discovery shall be limited to the disclosures required under Civil
31 Rule 26(a) and to the taking by each party of the deposition of one or more

1 opposing parties and of one additional person who is not a party.

2 * **Sec. 28.** Rule 4, District Court Rules of Civil Procedure, is amended by adding a new
3 subsection to read:

4 (b) Unless otherwise permitted by order of the court in exceptional cases and
5 for good cause shown, all parties shall file a memorandum to set the case for trial, as
6 set out in Civil Rule 40(b), no later than 180 days after service of the complaint on all
7 parties to the case. The parties shall submit a joint memorandum to set the case for
8 trial, which may state their separate positions if they do not agree concerning the
9 information or estimates to be provided in the memorandum. The court shall set the
10 trial to commence on a date not less than 30 and not more than 90 days after the filing
11 of the memorandum to set the case for trial, unless a continuance is granted by the
12 court under Civil Rule 40(e).

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

15 (e) **Settlement Information.** If a dismissal under (a) or (b) of this rule is the
16 result of compromise or other settlement between the parties, the parties shall submit
17 to the Alaska Judicial Council the information required under AS 09.68.130. A
18 dismissal by agreement under (a) of this rule must be accompanied by a certification
19 signed by the attorneys of record for all parties that the information required under
20 AS 09.68.130 has been submitted to the Alaska Judicial Council. A dismissal by the
21 appellant or petitioner made under (b) of this rule must be accompanied by such a
22 certification signed by the appellant's or petitioner's attorney of record. The
23 requirements of this subsection do not apply to the types of cases listed in
24 AS 09.68.130(c).

25 * **Sec. 30.** AS 08.64.326(a)(12); AS 08.68.270(10); AS 09.55.536, 09.55.560(2), and
26 09.55.560(3) are repealed.

27 * **Sec. 31.** Rules 16.1(k)(4) and 72.1, Alaska Rules of Civil Procedure, are repealed.

28 * **Sec. 32.** AS 09.17.020(a), (c), (d), and (e), as repealed and reenacted by sec. 7 of this
29 Act, have the effect of amending

30 (1) Rule 49, Alaska Rules of Civil Procedure, by requiring the jury to conduct
31 a separate proceeding for the determination of a punitive damages award after it has

1 determined that punitive damages are allowed in a case; and

2 (2) Rule 26(b) and (d), Alaska Rules of Civil Procedure, by affecting the
3 scope, limits, timing, and sequence of discovery allowed in a case.

4 * Sec. 33. AS 09.30.065, as amended by sec. 9 of this Act, has the effect of amending
5 Rule 68, Alaska Rules of Civil Procedure, by altering the manner in which interest under
6 AS 09.30.070 is adjusted under AS 09.30.065 when a judgment is not more favorable to the
7 offeree than the offer.

8 * Sec. 34. AS 09.43.310 - 09.43.390, as enacted by sec. 12 of this Act, has the effect of
9 amending Rule 100, Alaska Rules of Civil Procedure, by making the mediation process
10 mandatory for certain civil cases in the superior court, Third Judicial District, and by
11 expanding the scope of the rule to include other forms of alternative dispute resolution in
12 addition to mediation.

13 * Sec. 35. AS 09.55.535(f), as enacted in sec. 15 of this Act, has the effect of amending
14 Rule 79(b), Alaska Rule of Civil Procedure, by allowing the award of actual costs in certain
15 actions.

16 * Sec. 36. AS 09.55.535(f), as enacted in sec. 15 of this Act, has the effect of amending
17 Rule 82(b), Alaska Rule of Civil Procedure, by allowing the award of actual attorney fees in
18 certain actions.

19 * Sec. 37. APPLICABILITY. (a) Sections 1, 9, 15, 20 - 22, 24 - 28, 30, and 31 of this
20 Act apply to all civil actions filed on or after the effective date of those sections.

21 (b) Sections 3 - 8, 10, 11, 13, 16, and 19 of this Act apply to all causes of action
22 accruing on or after the effective date of those sections.

23 (c) Section 12 of this Act applies only to those civil actions covered by the pilot
24 program for alternative dispute resolution established under the provisions of AS 09.43.310 -
25 09.43.390, as enacted by sec. 11 of this Act, filed on or after January 1, 1998.

26 (d) Sections 17, 23, and 29 of this Act apply only to all voluntary dismissals of civil
27 actions filed with the state court on or after January 1, 1998.

28 (e) Section 18 of this Act applies to all insurers doing business in this state on or after
29 the effective date of that section.

30 * Sec. 38. SEVERABILITY. Under AS 01.10.030, if any provision of this Act or the
31 application of a provision of this Act to any person or circumstance is held invalid, the

1 remainder of this Act and the application to other persons shall not be affected.

2 * **Sec. 39.** REVISOR'S INSTRUCTION. Due to the addition of AS 09.43.310 - 09.43.390
3 in sec. 12 of this Act, in AS 21.89.100(d), the revisor of statutes shall substitute
4 "AS 09.43.010 - 09.43.220" for "AS 09.43."

5 * **Sec. 40.** (a) AS 09.17.020(a), (c), (d), and (e), as repealed and reenacted by sec. 7 of
6 this Act, take effect only if sec. 32 of this Act receives the two-thirds majority vote of each
7 house required by art. IV, sec. 15, Constitution of the State of Alaska.

8 (b) AS 09.43.310 - 09.43.390, as enacted by sec. 12 of this Act, takes effect only if
9 sec. 34 of this Act receives the two-thirds majority vote of each house required by art. IV,
10 sec. 15, Constitution of the State of Alaska.

11 (c) The amendments or the repeal of the following court rules takes effect only if all
12 amendments and the repeal listed in this subsection receive the two-thirds majority vote of
13 each house required by art. IV, sec. 15, Constitution of the State of Alaska:

14 (1) Rule 16.1(c), Alaska Rules of Civil Procedure, as amended by sec. 21 of
15 this Act;

16 (2) Rule 16.1(n), Alaska Rules of Civil Procedure, as amended by sec. 22 of
17 this Act;

18 (3) Rule 16.1(k)(4), Alaska Rules of Civil Procedure, repealed by sec. 31 of
19 this Act.

20 (d) AS 09.68.130, as enacted by sec. 17 of this Act, takes effect only if secs. 23 and
21 29 both receive the two-thirds majority vote of each house required by art. IV, sec. 15,
22 Constitution of the State of Alaska.

23 * **Sec. 41.** Sections 17, 23, and 29 of this Act take effect January 1, 1998.

24 * **Sec. 42.** Except as provided in sec. 41 of this Act, this Act takes effect immediately
25 under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 15 (JUD)

Revision Date: <u>1/9/98</u>	Dept. Affected: <u>Department of Law</u>
Title: <u>... to civil actions; ... to motor vehicle liability insurance and bonds; amending ... Rules of Civil Procedure ...</u>	BRU: <u>Criminal Division/Civil Division</u>
Sponsor: <u>Senator Taylor</u>	Component: <u>Criminal Justice Litigation/Special Litigation, Environmental Law</u>
Requester: <u>Senate Finance Committee</u>	COMPONENT SERIAL NO. <u>2202/2213, 2092</u>

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	92.8	92.8	92.8	92.8	92.8	92.8
TRAVEL	1.3	1.3	1.3	1.3	1.3	1.3
CONTRACTUAL	352.4	352.4	352.4	352.4	352.4	352.4
SUPPLIES	2.0	2.0	2.0	2.0	2.0	2.0
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	448.5	448.5	448.5	448.5	448.5	448.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	183.2	183.2	183.2	183.2	183.2	183.2
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Intergovernmental Receipts	265.3	265.3	265.3	265.3	265.3	265.3
TOTAL	448.5	448.5	448.5	448.5	448.5	448.5

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

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS (Attach a separate page if necessary)

This bill amends Title 9, the Alaska Code of Civil Procedure; AS 18.80.225, relating to punitive damages for unlawful employment practices; AS 22.15.030(a), relating to the jurisdiction of the district court; AS 21.06, relating to the responsibilities of the Division of Insurance; AS 21.36, relating to insurance claim settlement practices; AS 28.22, relating to motor vehicle liability insurance; and a number of the Rules of Court to provide various changes intended to bring about reforms in the manner in which the state's civil justice system handles personal injury claims. The Judiciary Committee Substitute is intended to decrease the costs of resolving cases, discourage frivolous litigation, promote fair compensation for injured parties, and promote the predictability of outcomes in civil litigation.

Among the changes proposed in the bill are limits on punitive damages, clarification that people who intentionally hurt others will be held liable for their fair share of the harm, the establishment of an alternative dispute resolution project to facilitate resolution of cases without the expense of trial, streamlined district court

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone: <u>465-5370</u>
Division: <u>Attorney General's Office</u>	Date: <u>1/9/98</u>

Approved by Commissioner: <u>Bruce M. Botelho, Attorney General</u>	Date: <u>1/9/98</u>
Agency: <u>Department of Law</u>	

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ANALYSIS CONTINUATION:

procedures and changes in superior court procedures intended to decrease overall litigation expense, and changes in the interest rate on judgments and decrees and changes in court procedures designed to encourage early settlement and payment of damages.

CSSB 15 (JUD) would also require mandatory arbitration for all personal injury, death, or property damage cases where the amount of controversy is \$100,000 or less, with certain limited exceptions.

The Department of Law anticipates that some costs would be incurred for payment of the state's share of the alternative dispute resolution project, and those increased costs would probably be offset by savings due to the streamlining of court procedures. However, the requirement for mandatory arbitration would cause new costs. The department anticipates that approximately 100 cases per year would require mandatory arbitration: 65 tort claims, 30 prisoner litigation cases, and 5 cases in other categories, primarily environmental claims. This estimate is based on the number of cases the department currently has where claims for damages are \$100,000 or less. If future plaintiffs claim damages greater than \$100,000, they could avoid the effect of the bill and the number of cases going to mandatory arbitration could be less.

Each case going to arbitration would require, on average, approximately 20 hours of attorney time specifically to prepare for and attend the arbitration hearing, in addition to the time ordinarily spent preparing the case (20 hours @ \$93/hr, or \$1,860). In addition, witness fees and costs could be expected to be approximately \$1,500 per case. The bill does not specify who would pay the cost of arbitration, and our estimate of costs assumes the state would be required to pay one-half of the arbitrator's fee, estimated at \$150/hr for 25 hours. These cost estimates of \$5,235 per case are conservative. Medical cases, for example, could be expected to involve considerably more in-house attorney time and increased costs for expert witnesses.

The estimated cost for mandatory arbitration would be offset by any savings from cases settling at the arbitration level, and not proceeding to trial. As a practical matter, very few of these types of cases go to trial. Most are either won or lost on motion practice, or settled prior to trial. An average of three tort cases, where the amount in controversy is \$100,000 or less, actually proceed to trial each year, and if all are assumed to be settled at the arbitration level, a potential savings of \$75,000 is possible (\$25,000 per case). This potential savings is reflected in our cost estimate.

The cost estimate is based on the department's FY98 standard attorney cost schedule (\$93/hour) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Witness and arbitrator costs are included separately.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 15 (JUD)

ANALYSIS CONTINUATION:

	<u># cases</u>	<u>cost/case</u>	<u>total</u>	
CIVIL DIVISION				
<u>Special Litigation (torts)</u>				
Department of Law attorney time	65	\$1,860	\$120,900	
Witness costs/fees		\$1,500	\$97,500	
Arbitrator cost/fees		\$1,875	<u>\$121,875</u>	
Total		<u>\$5,235</u>	<u>\$340,275</u>	
Estimated potential savings	3	(\$25,000)	<u>(\$75,000)</u>	
			<u>\$265,275</u>	IAR
<u>Environmental Law</u>				
Department of Law attorney time	5	\$1,860	\$9,300	
Witness costs/fees		\$1,500	\$7,500	
Arbitrator cost/fees		\$1,875	<u>\$9,375</u>	
Total		<u>\$5,235</u>	<u>\$26,175</u>	GF
CRIMINAL DIVISION				
<u>Criminal Justice Litigation/Legal Services (prisoner litigation cases)</u>				
Department of Law attorney time	30	\$1,860	\$55,800	
Witness costs/fees		\$1,500	\$45,000	
Arbitrator cost/fees		\$1,875	<u>\$56,250</u>	
Total		<u>\$5,235</u>	<u>\$157,050</u>	GF
TOTAL DEPARTMENT OF LAW	<u>100</u>		<u>\$448,500</u>	

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 15

Revision Date: _____ Dept. Affected: Department of Law
 Title: ... to punitive damages ... related to employ- BRU: Criminal Division/Civil Division
ment; ... to arbitration in a civil action; amending Rules 79(b) ... Component: Criminal Division
 Sponsor: Senator Taylor General Legal Services
 Requester: Senate Judiciary Committee COMPONENT SERIAL NO. 2085/2087

Expenditures/Revenues

(Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES	83.8	83.8	83.8	83.8	83.8	83.8
TRAVEL	1.1	1.1	1.1	1.1	1.1	1.1
CONTRACTUAL	350.0	350.0	350.0	350.0	350.0	350.0
SUPPLIES	1.6	1.6	1.6	1.6	1.6	1.6
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	436.5	436.5	436.5	436.5	436.5	436.5

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

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

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	179.0	179.0	179.0	179.0	179.0	179.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
1007 Interagency Receipts	257.5	257.5	257.5	257.5	257.5	257.5
TOTAL	436.5	436.5	436.5	436.5	436.5	436.5

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

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

SB 15 would require mandatory arbitration for all personal injury, death, or property damage cases where the amount of controversy is \$100,000 or less, with certain limited exceptions. The bill would also cap punitive damages for actions against an employer to recover damages for an unlawful employment practice prohibited by AS 18.80.220.

While the second change would have no impact on the Department of Law, the requirement for mandatory arbitration would cause new costs. The department anticipates that approximately 100 cases per year would require mandatory arbitration: 65 tort claims, 30 prisoner litigation cases, and 5 cases in other categories, primarily environmental claims. This estimate is based on the number of cases the department currently has where claims for damages are \$100,000 or less. If future plaintiffs claim damages greater than \$100,000, they could avoid the effect of the bill and the number of cases going to mandatory arbitration could be less.

Prepared by: Joan M. Kasson *Joan M. Kasson*
 Division: Administrative/Services Division
 Approved by Commissioner: Bruce M. Botelho, Attorney General *Bruce M. Botelho*
 Agency: Department of Law

Phone: 465-5370
 Date: 3/11/97
 Date: 3/11/97

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ANALYSIS CONTINUATION:

Each case going to arbitration would require, on average, approximately 20 hours of attorney time specifically to prepare for and attend the arbitration hearing, in addition to the time ordinarily spent preparing the case (20 hours @ \$87/hr, or \$1,740). In addition, witness fees and costs could be expected to be approximately \$1,500 per case. The bill does not specify who would pay the cost of arbitration, and our estimate of costs assumes the state would be required to pay one-half of the arbitrator's fee, estimated at \$150/hr for 25 hours. These cost estimates of \$5,115 per case are conservative. Medical cases, for example, could be expected to involve considerably more in-house attorney time and increased costs for expert witnesses.

The estimated cost for mandatory arbitration would be offset by any savings from cases settling at the arbitration level, and not proceeding to trial. As a practical matter, very few of these types of cases go to trial. Most are either won or lost on motion practice, or settled prior to trial. An average of three tort cases, where the amount in controversy is \$100,000 or less, actually proceed to trial each year, and if all are assumed to be settled at the arbitration level, a potential savings of \$75,000 is possible (\$25,000 per case). This potential savings is reflected in our cost estimate.

The cost estimate is based on the department's standard attorney cost schedule (\$87/hour) and includes clerical support, communications, space, supplies, data processing, and other normal overhead expenses. Witness and arbitrator costs are included separately.

	<u># cases</u>	<u>cost/case</u>	<u>total</u>	
GENERAL LEGAL SERVICES				
<u>Special Litigation (torts)</u>				
Department of Law attorney time	65	\$1,740	\$113,100	
Witness costs/fees		\$1,500	\$97,500	
Arbitrator cost/fees		\$1,875	\$121,875	
Total		<u>\$5,115</u>	<u>\$332,475</u>	
Estimated potential savings	3	(\$25,000)	<u>(\$75,000)</u>	
			<u>\$257,475</u>	IAR
<u>Other, non-tort, claims for damages</u>				
Department of Law attorney time	5	\$1,740	\$8,700	
Witness costs/fees		\$1,500	\$7,500	
Arbitrator cost/fees		\$1,875	\$9,375	
Total		<u>\$5,115</u>	<u>\$25,575</u>	GF
CRIMINAL DIVISION				
<u>Prisoner litigation cases</u>				
Department of Law attorney time	30	\$1,740	\$52,200	
Witness costs/fees		\$1,500	\$45,000	
Arbitrator cost/fees		\$1,875	\$56,250	
Total		<u>\$5,115</u>	<u>\$153,450</u>	GF
TOTAL DEPARTMENT OF LAW	<u>100</u>		<u>\$436,500</u>	

FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 15

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Mandatory Arbitration BRU: Trial Courts
 Component: _____
 Sponsor: Sen. Taylor
 Requestor: Senate Judiciary COMPONENT SERIAL NO. 768

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 98	FY 99	FY 00	FY 01	FY 02	FY 03
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	464.4	464.4	464.4	464.4	464.4	464.4
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	464.4	464.4	464.4	464.4	464.4	464.4
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

Fund Source (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	464.4	464.4	464.4	464.4	464.4	464.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	464.4	464.4	464.4	464.4	464.4	464.4

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

Positions

Full-Time					
Part-Time					
Temporary					

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

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

Phone: 264-8228
 Date: 03/12/97

Approved by: Stephanie J. Cole, Acting Administrative Director
 Agency: Alaska Court System

Date: 03/12/97

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Alaska Court System
Fiscal Analysis
SB 15

Section 1 of SB 15 requires all tort claims of \$100,000 or less to be submitted to non-binding arbitration. A total of 1520 tort claims were filed in superior and district court in FY 96 (this note assumes that SB 15 will not apply to small claims cases). The Alaska Judicial Council estimates that 85% of those, or 1292, are for \$100,000 or less.

Arbitrators in Anchorage who are attorneys or former judges typically charge \$150 - \$175 per hour for their services. Although non-attorney arbitrators in Anchorage typically charge around \$100 per hour, there are few, if any, such arbitrators that work with tort cases. The American Arbitration Association, (which is the primary arbitration association and the one that most arbitrators are affiliated with) works with 81 arbitrators in Alaska. Of the 46 who are non-attorneys, none arbitrate tort cases. Because of the lack of non-attorney arbitrators available to handle tort cases, this note assumes that arbitration services will be provided by attorneys and retired judges. However, at some point non-attorneys will presumably be available to arbitrate tort cases and so this note has been figured based on the lower \$150 per hour rate even though it may average more than that initially.

The time required for most tort arbitration varies between 1 and 5 days. However, because the typical case can be handled in around 2 days, this note assumes 16 hours per case. At \$150 per hour, this results in an estimate of \$2400 per case. This note further assumes that there will be 2 litigants per case (2584 total) and that \$15 will be indigent (387).

Note that 95% of all tort cases already settle before trial, and thus arbitration will not appreciably reduce court costs for those cases. The cases that do go to trial are those in which after full discovery, the parties still can not agree on the value a jury will put on a claim. Those cases are unlikely to settle as a result of an arbitrator's opinion rendered early in the process. Thus this section will probably not reduce the state's costs of running the civil justice system.

Alaska Court System
Fiscal Analysis
SB 15

Contractual Services

Cost of mandatory arbitration for indigent parties. This fiscal note assumes that 1,292 cases fall within the \$100,000 limit of this legislation. With 2 litigants in each case, there are 2,584 litigants, of which 15% or 387 are assumed to be indigent. It is further assumed that each case will require 16 hours of arbitration at a cost of \$150 an hour. The total cost of each case is \$2,400 and the cost per indigent litigant is \$1,200.

\$464,400



ALASKA STATE HOUSE
OF REPRESENTATIVES

David S. Pree
Legislative Assistant
to
Representative Joe Ryan

Alaska State Capitol
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*at the request of
Glenn Clavay*

0-LS0763VF
Ford
4/4/97

HOUSE BILL NO.
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY

Introduced:
Referred:

A BILL
FOR AN ACT ENTITLED

1 "An Act relating to civil liability of certain nonprofit corporations; and providing
2 for an effective date."

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

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

5 **Sec. 09.65.168. Immunity of certain nonprofit corporations.** (a) A
6 nonprofit corporation is not liable for civil damages resulting from a negligent act or
7 omission if the civil damages arise out of injury to or death of a person who is in any
8 degree a beneficiary of the services or products provided by the nonprofit corporation
9 and the services or products are provided at no cost to the person.

10 (b) In this section,

11 (1) "negligent" includes all degrees of negligence;

12 (2) "nonprofit corporation" means a corporation organized exclusively
13 for religious, charitable, or educational purposes and incorporated under AS 10.20.

14 * Sec. 2. This Act applies to civil actions that accrue on or after the effective date of this

1 Act.

2 * Sec. 3. This Act takes effect July 1, 1997.

es. With spade support, he raises. Without support, he retreats to three no trump. So, what is four clubs? It cannot show five cards in the suit. North is being asked only about spades, not another suit. It is called

So, the right answer to the question is 12, not 13. If you finesse the spade queen, you lose when West has the singleton king.

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3 ♠	Pass	4 ♠	Pass
4 ♠	Pass	4 ♥	Pass
6 ♠	Pass	Pass	Pass

Opening lead: ♠ 10

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Demolition ar

A permit must be burning. A permit c Station. A permit co Glacier Fire Station.

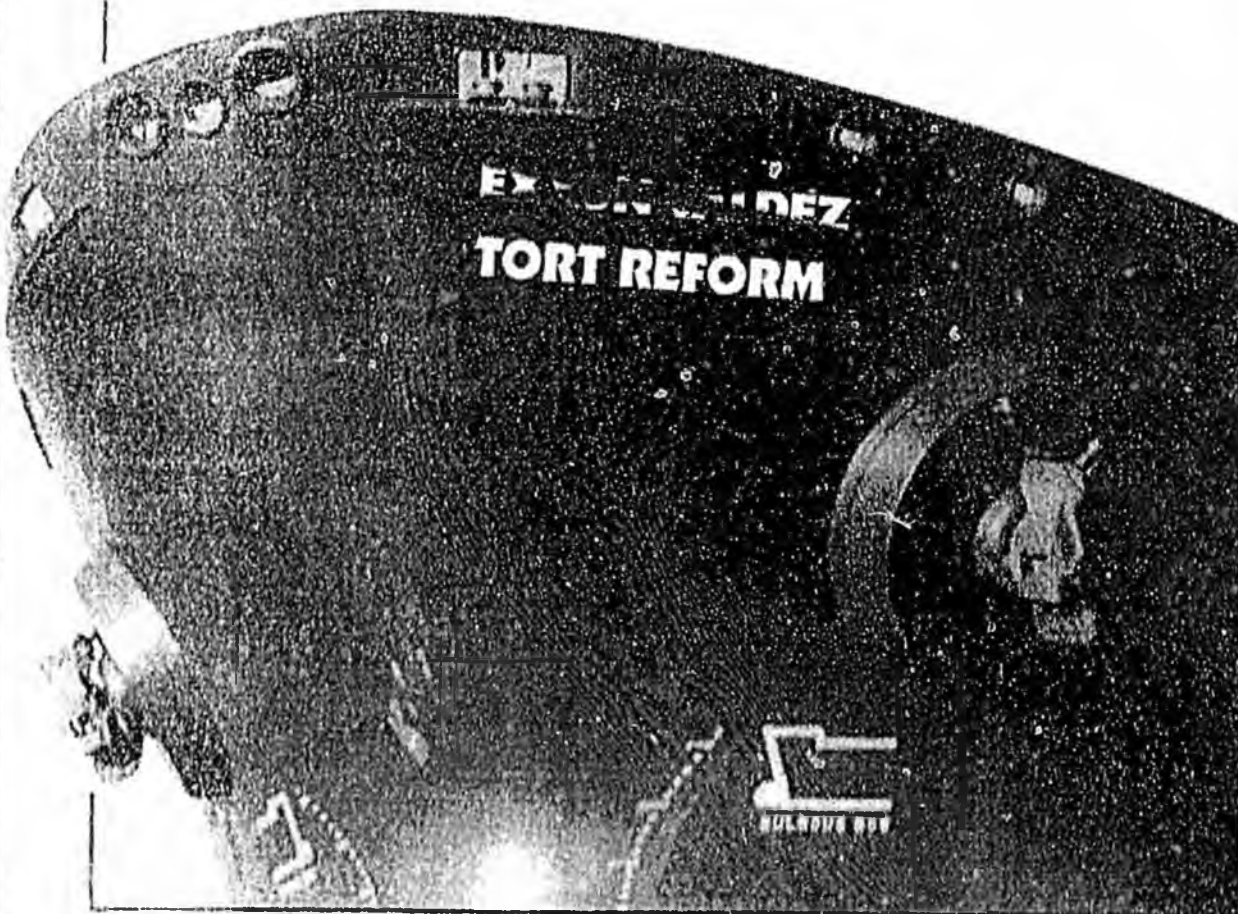
Open burnir

IT'S BAAACK.

A jury of Alaskans dealt out \$5 billion in penalties to the owners of the Exxon Valdez for the devastation caused by the '89 oil spill. After weighing evidence from both sides, the jury believed these stiff penalties to be just. Now the Exxon Valdez is ready to sail into Prince William Sound again, under a new name, and our state legislature is getting ready to launch Tort Reform again, under the same old name.

So-called Tort "Reform" turns the tide against the jury process when determining punitive damages. It could cap penalties at insignificant amounts if another big spill occurred. It could even lead to a reversal of the \$5 billion Exxon still owes and is currently appealing.

If you believe control over cases like this belongs with a jury of Alaskans rather than with big corporations and their insurance companies, call your legislator now. Because you don't get to vote on Tort Reform. Only the politicians do. And that vote may sail through Juneau very quickly.



CITIZENS FOR CIVIL JUSTICE, A COMMITTEE OF THE ALASKA ACTION TRUST
P.O. BOX 102323, ANCHORAGE, ALASKA 99510

FOI
Publish April 3, 6, 1997

Alaska State Legislature

Representative Brian S. Porter

HOUSE MAJORITY LEADER

MEMBER
HOUSE JUDICIARY COMMITTEE
HOUSE RULES COMMITTEE
HEALTH, EDUC. & SOCIAL SERVICES COMMITTEE
LEGISLATIVE COUNCIL JOINT COMMITTEE



DISTRICT 20

April 11, 1997

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Robert Merle Cowan
Cowan Gerry & Aaronson
909 Cook Avenue
Kenai, Alaska 99611

Re: HB 58 Tort Reform

Dear Mr. Cowan:

I am in receipt of your letter dated April 9, 1997. For the record, while I appreciate your point of view, I cannot join in your conclusions.

I am in the process of having legal counsel take a thorough look at the Alaska Supreme Court decision in *Hughes v. Foster Wheeler Company*. In the meantime, I have tentatively concluded that the case simply does not stand for the proposition for which you cite it. While my reading is that of a layman, it is clear to me that the issue before the court had absolutely nothing to do with punitive damages. The issue squarely before the court was whether Rule 82 attorney fees and costs could be imposed when an admiralty case was dismissed on a basis of forum non conveniens, without ever getting to the merits of the admiralty claims. Additionally, it seems logical to me that only the federal courts will have the final say over the scope and applicability of federal admiralty law, rather than the Alaska Supreme Court. If I am advised by our counsel of any different reading, I will let you know.

As to the remaining assertions in your letter, I guess we must agree that we disagree over your other interpretations, including your reading of *Cummings v. Sea Lion Corporation*. In any event, our differences are probably meaningless, since HB 58 will likely be amended to clarify what the Alaska Supreme Court has already determined to be the standard for punitive damages.

Thank you for your interest,

Sincerely yours

Handwritten signature of Brian Porter in cursive.
Brian Porter

cc: Majority Legislators
cc: Governor's office

AB 250 Assembly Bill - INTRODUCED

http://www.leginfo.ca.gov/pub/bill...ab_250_bill_970211_introduced.html

BILL NUMBER: AB 250 INTRODUCED
BILL TEXT

INTRODUCED BY Assembly Member Kuehl

FEBRUARY 11, 1997

An act to amend Section 3333.2 of the Civil Code, relating to liability.

LEGISLATIVE COUNSEL'S DIGEST

AB 250, as introduced, Kuehl. Liability: health care providers. Under existing law, in an action for injury against a health care provider based on professional negligence, the injured plaintiff may not recover damages for noneconomic losses in excess of \$250,000.

This bill would provide that this limitation does not apply if the health care provider consumed alcohol or illegal drugs that impaired his or her ability to perform professional services causing injury to the plaintiff, the health care provider has had 3 or more disciplinary actions before the Medical Board of California or other licensing board, or has been subject to other specified disciplinary action, the health care provider committed sexual abuse or misconduct upon the plaintiff, the injury resulted from the health care provider's gross negligence, the negligence or misconduct of the health care provider caused death, or the injury was to a person under the age of 14 years.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local programs: no.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. The people of the State of California recognize that health care practitioners play a vital part in protecting the health of its citizens. Nevertheless, studies indicate that a relatively small number of doctors are responsible for a disproportionately large share of injuries and death and that incompetent doctors are rarely disciplined or removed from practice.

SEC. 2. Section 3333.2 of the Civil Code is amended to read:

3333.2. (a) In any action for injury against a health care provider based on professional negligence, the injured plaintiff shall be entitled to recover noneconomic losses to compensate for pain, suffering, inconvenience, physical impairment, disfigurement, and other nonpecuniary damage.

(b) In no action shall the amount of damages for noneconomic losses exceed two hundred fifty thousand dollars (\$250,000).

(c) The protection of subdivision (b) shall not apply if the trier of fact finds one or more of the following:

(1) The health care provider consumed alcohol or illegal drugs that impaired, in whole or in part, his or her ability to perform professional services causing injury to the plaintiff.

(2) The health care provider has had three or more disciplinary actions before the Medical Board of California or other licensing board in which disciplinary action has been imposed, has had his or her license revoked or suspended in whole or in part, for conduct, acts, or omissions at issue in the action against the health care provider, or has had three or more adverse judgments against him or her in the past 10 years for actions arising out of professional negligence.

(3) The health care provider committed sexual abuse or misconduct upon the plaintiff.

(4) The injury resulted from the health care provider's gross negligence.


(5) The negligence or misconduct of the health care provider caused death.

(6) The injury was to a person under the age of 14 years.

(d) For the purposes of this section:

(1) "Health care provider" means any person licensed or certified pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code, or licensed pursuant to the Osteopathic Initiative Act, or the Chiropractic Initiative Act, or licensed pursuant to Chapter 2.5 (commencing with Section 1440) of Division 2 of the Health and Safety Code; and any clinic, health dispensary, or health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code. "Health care provider" includes the legal representatives of a health care provider

(2) "Professional negligence" means a negligent act or omission to act by a health care provider in the rendering of professional services, which act or omission is the proximate cause of a personal injury ~~or wrongful death~~, provided that such ~~the~~ services are within the scope of services for which the provider is licensed and ~~which~~ are not within any restriction imposed by the licensing agency or licensed hospital.

 **Robert W. Nestel**
429 D Street #313
Anchorage, AK 99501-2300



Ms. RARIA TAYLOR
5192 CANTON

RECEIVED APR 11 1997

ANCHORAGE, AK 99501 1680

INFORMATION RELATED TO: SB 15 & HB 58

Distributed by Senate Judiciary

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Juneau, Alaska 99801-2105

MEMORANDUM

March 15, 1997

SUBJECT: Sectional Summary of CSSB 15(JUD).

TO: Senator Robin Taylor
Attn: Laura

FROM: Michael F. Ford 
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. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Purpose.

Section 2. Fixes the interest rate for state bank liquidation proceedings. This provision is required by amendment to the existing interest rate law contained in sec. 10.

Section 3. Requires that a civil action for waste or trespass upon real property be brought within six years.

Section 4. Requires that a civil action based on a contract, except for a judgment or sealed instrument, be brought within three years.

Section 5. Requires that an action for injury to personal property be brought with two years.

Section 6. Provides that the limit on damages for pain and suffering, or noneconomic damages does not apply to damages for severe disfigurement or severe physical impairment.

Section 7. Provides that punitive damages may only be awarded as provided under this section. Imposes a cap on punitive damages under subsections (f) and (g).

Section 8. Amends the definition of "fault" to include intentional acts or omissions.

Senator Robin Taylor

March 15, 1997

Page 2

Section 9. Establishes a formula for increasing or reducing the rate of interest applicable to a judgment by either two, three, or five percent, depending on whether an offer of judgment is accepted or rejected.

Section 10. Changes the rate of interest applicable to a judgment from a fixed rate of 10.5 percent to a floating rate determined under subsection (c) enacted in sec. 11.

Section 11. Establishes a method for determining the rate of interest to be paid on a judgment.

Section 12. Establishes an alternative dispute resolution pilot program for certain civil cases. Only certain cases filed in Anchorage are required to be mediated. Requires that the program operate for at least five years, under a structure set by the supreme court. Requires fees and costs be shared equally by the parties to the case. Requires the Alaska Judicial Council to annually evaluate the program.

Section 13. Provides that in a judgment entered against the state, the rate of interest is the floating rate established under AS 09.30.070.

Section 14. Provides that in eminent domain actions, the compensation awarded must include interest at a rate of 10.5 percent.

Section 15. Requires that certain civil actions must be arbitrated. Requires the court to appoint an arbitrator and establishes time lines for reaching a decision. Provides that the decision is admissible in the civil action and that a party that rejects the decision and loses in later civil litigation is liable for actual costs and attorney fees.

Section 16. Provides that a person who is injured or killed cannot recover civil damages, if the person was committing a felony, or was engaged in conduct that constitutes the commission of a felony and the conduct substantially contributed to the injury or death and is proved by clear and convincing evidence. Provides that the section does not apply if the person is acquitted.

Section 17. Requires that the Alaska Judicial Council collect and evaluate certain information regarding civil litigation.

Section 18. Limits the amount of punitive damages that can be recovered in an unlawful employment action.

Section 19. Requires the director of the division of insurance to evaluate the effect of the provisions of this Act and the financial health and profitability of insurers doing business in the state. Requires insurers to provide information to the state and provides for an annual report to the legislature and the governor.

Senator Robin Taylor

March 15, 1997

Page 3

Section 20. Establishes a private cause of action for a violation of the unfair trade practice provisions of AS 21.36.125, or of a trade practice or claim regulation adopted by the director. Requires notice be given to the insurer and to the director. Allows for the recovery of foreseeable damages, costs, attorney fees, and punitive damages.

Section 21. Limits the authority of the court to award punitive damages in employment cases.

Section 22. Increases the jurisdiction of the district court to claims that do not exceed \$100,000.

Section 23. Imposes a penalty on insurers who deny medical coverage under a motor vehicle insurance policy and later are determined to have wrongfully denied coverage.

Section 24. Requires that uninsured and underinsured motor vehicle insurance be excess coverage, payable even when other policy coverage is not exhausted.

Section 25. Amends civil rule 16.1(c) to prohibit filing of a motion to set trial until after the parties meet to discuss settlement required under sec. 26.

Section 26. Amends civil rule 16.1 to require a meeting of the parties to discuss settlement and to establish discovery guidelines.

Section 27. Amends civil rule 41(a) to require parties to a civil action to submit certain information required under AS 09.68.130.

Section 28. Repeals and reenacts civil rule 68, to provide a formula for increasing or decreasing the interest rate applicable to a judgment depending on an offer of judgment made in the case. The rule is changed to be consistent with sec. 9.

Section 29. Changes the limit the use of discovery in a medical malpractice action from 80 to 60 days.

Section 30. Increases the fine that can be imposed by a court against an attorney to \$10,000.

Section 31. Amends district court civil rule 1(a)(1) to limit the use of discovery.

Section 32. Amends district court civil rule 4 to require a maximum of 270 days before a case goes to trial.

Section 33. Amends appellate rule 511 to require parties to a civil action to submit certain information required under AS 09.68.130.

Section 34. Repealers.

Section 35. Repealers.

Section 36. Repealers.

Section 37. This section sets out the intent of the legislature to amend civil rules 49 and 26(b) and (d).

Section 38. This section sets out the intent of the legislature to amend civil rule 68.

Section 39. This section sets out the intent of the legislature to amend civil rule 100.

Section 40. This section sets out the intent of the legislature to amend civil rule 79(b).

Section 41. This section sets out the intent of the legislature to amend civil rule 82(b).

Section 42. This section sets out the intent of the legislature to amend civil rule 82(b).

Section 43. Applicability section.

Section 44. Severability clause.

Section 45. Instruction to the revisor of statutes regarding technical amendment.

Section 46. Effective date for court rule change sections.

Section 47. Effective date.

MFF:pl
97-069.plm

By JEFF BUSH

JUNEAU -- Remember when everyone, except maybe ice cream salesmen, thought all cholesterol was bad? And everyone, except a few trial lawyers, thought any tort reform was good? Well, we now know that some cholesterol is actually good for you. And while almost everyone, myself included, supports reform of our civil justice laws, some tort reform actually is bad for you.

Tort reform comes in many shapes and sizes. Let's look at a typical lawsuit. Say Vic is walking across the street when he's hit by a car driven by Sue. His legs are crushed in the accident. Fortunately, Vic has health insurance to pay the \$200,000 hospital bill, but he can no longer work as a home builder and will have to get a lower-paying job as a clerk for an insurance agency. He'll also have to learn to live in pain the rest of his life.

Vic hires one of those trial lawyers he sees on TV and agrees to pay the guy a third of any settlement. The lawyer files suit and the case winds its way through the endless process of depositions, motions and medical examinations. Five years later, the case goes to trial and the jury awards Vic \$750,000 -- \$200,000 for his medical expenses; \$150,000 for lost wages, since he now works for less, and \$400,000 to him and his family for pain and suffering. Meanwhile, Sue's insurance company has shelled out another \$250,000 to its \$200-an-hour attorney to defend the case.

Before Vic gets a penny, the trial lawyer deducts his third and all his expenses, such as thousands of pages of depositions at \$10 per page and medical experts at \$350 per hour. The money awarded for medical expenses is used to reimburse Vic's insurance carrier. Vic has been crippled for life, and if he's lucky, he and his family will get about \$200,000 in compensation. Almost 60 percent of the money paid by the insurance company has been eaten up by the "system."

The problem seems obvious; the solutions, however, are not.

Good Tort Reform tries to reduce that 60 percent figure. That was the approach taken by Gov. Tony Knowles' Task Force on Civil Justice Reform and included in the governor's tort reform bill. The bill includes a pilot project to require most cases to go to mediation or other alternative dispute resolution, rather than fester for years in the courts. Another proposal would require cases filed in District Court to go to trial within a year and reduce the amount of money spent on depositions and other legal mumbo-jumbo. A third proposal would encourage parties to settle cases early.

Bad Tort Reform doesn't reduce the 60 percent figure but instead puts limits on compensation. For instance, Rep. Brian Porter's tort reform bill, HB 58, places a "cap" on non-economic damages, which in this case would have reduced the jury's award by \$100,000. Guess whose share that comes out of? (Hint: Neither the lawyers nor the insurance company gives up much.)

Bad Tort Reform also lets a defendant point the finger at anyone. Sue could blame the state for failing to properly maintain the road, or her doctor for giving her medication that made her drowsy, or the Japanese maker of her car because something was wrong with the steering, or even the used car salesman she bought it from.

The courts currently deal with these kinds of claims by requiring the plaintiff to bring that carmaker or salesman into court so the judge and jury can weigh the evidence and decide the appropriate level of responsibility. But under Bad Tort Reform, the more people whom Sue and her lawyer can point a finger at, even if they are not around to defend themselves, the more money