

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

9558 SENATE JUDICIARY

1998

SB

19

FISCAL NOTE

No. 1

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO: _____

Version: SB 19

(S) Publish Date: 2/6/97

Revision Date: _____ Dept. Affected: Public Safety
 Title: An Act relating to the Commissioner of Fish BRU: Fish and Wildlife Protection
Game Component: Detachments
 Sponsor: Senator Sharp
 Requestor: S. RES COMPONENT SERIAL NO. 0490

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: \$ -0-

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 This Bill will not impact this Department's programs or budget.

Prepared By: Lt. Joel L. Hard Phone: 269-5409
 Division: Fish and Wildlife Protection Date: January 31, 1997
 Approved by Commissioner: *Dee Smith* Date: 1/31/97
 Agency: Ronald L. Otte, Department of Public Safety

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SENATE COMMITTEE REPORT

DATE: 2/6/97

FURTHER:

DATE TURNED
IN TO OFFICE: 2/20/97

Judiciary Committee considered SENATE BILL NO. 19

"An Act repealing the power and duty of the commissioner of fish and game to assist in the enforcement of federal laws relating to fish and game."

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 change

new: SCR# _____

| SIGNING DQ PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|--------------------------------|----|-----------------------|----|-----|----|
| <i>Henry B. Powell</i> | ✓ | | | | |
| <i>Kenice</i> | ✓ | | | | |
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| CHAIR: <i>Adrian L. Taylor</i> | ✓ | CHAIR: | | | |

NEW FISCAL NOTE(S):

| Department | Date | Zero | Fiscal |
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PREVIOUS FISCAL NOTE(S):*

| Department | Date | Zero | Fiscal |
|----------------|----------------|------|--------|
| <i>DPS/FEW</i> | <i>1/31/97</i> | 0 | |
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APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

SPONSOR STATEMENT

Senate Bill 19- Senator Bert Sharp

Senate Bill 19 repeals the present statutory mandate <AS 16.05.050.(1)> that the State of Alaska will assist the federal government agencies in the enforcement of federal laws and regulations as they apply to fish and game resources in Alaska.

In light of aggressive federal actions to assume management of fish and game over large areas of our state in violation of our statehood compact, I believe repeal of this statute is prudent and in the best interests of the citizens of Alaska. I urge your expeditious and favorable approval of SB 19.

ENATE COMMITTEE REI RT

First Committee of Referral

DATE: 1/13/97

FURTHER: Judiciary

Date of 5-Day Notice: 1/30/97
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2/6/97

Resources Committee considered SENATE BILL NO. 19

"An Act repealing the power and duty of the commissioner of fish and game to assist in the enforcement of federal laws relating to fish and game."

and recommends:

be replaced with _____ CS _____

adopt previous _____ CS _____

attached amendment(s)

adopt Letter of Intent by _____ Committee

further referral to the _____ Committee

QFN

Senate Bill:

same title

new title

House Bill:

same title

technical title

new: SCR# _____

| SIGNING DQ PASS | DP | OTHER RECOMMENDATIONS | NR | DNP | AM |
|----------------------------|-------------------------------------|-----------------------|-------------------------------------|-----|----|
| <i>Robert L. Taylor</i> | <input checked="" type="checkbox"/> | <i>[Signature]</i> | <input checked="" type="checkbox"/> | | |
| <i>John Johnson</i> | <input checked="" type="checkbox"/> | <i>[Signature]</i> | | | |
| <i>Henry D. Kewan</i> | <input checked="" type="checkbox"/> | | | | |
| <i>Ludwig Green</i> | <input checked="" type="checkbox"/> | | | | |
| <i>Bea Sharp</i> | <input checked="" type="checkbox"/> | | | | |
| CHAIR: <i>Rich Hatford</i> | <input checked="" type="checkbox"/> | CHAIR: | | | |

NEW FISCAL NOTE(S):

| Department | Date | Zero | Fiscal |
|----------------------|-------------|-------------------------------------|--------|
| <i>Public Safety</i> | <i>1/31</i> | <input checked="" type="checkbox"/> | |
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PREVIOUS FISCAL NOTE(S):*

| Department | Date | Zero | Fiscal |
|------------|------|------|--------|
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APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

STATE OFFICE
ALASKA PEACE OFFICERS ASSOCIATION

P.O. Box 240106 Anchorage, Alaska 99524-0106 Phone (907) 277-0515 Fax (907) 272-5355

January 17, 1997

Business Manager

Joseph E. Young
Anchorage

Board of Directors

Michael Corkill, President
Fairbanks

Robin Lown, Vice President
Juneau

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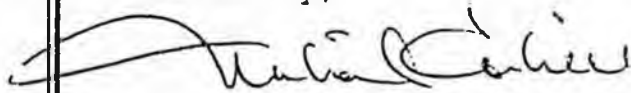
Senator Bert Sharp
Alaska State Legislature
State Capitol (MS 3100)
Juneau, Alaska 99801-1182

Dear Senator Sharp,

On behalf of the Alaska Peace Officers Association, I would like to inform you of our position on Senate Bill 19. At a recent meeting of the APOA State Board, we decided unanimously to oppose this piece of legislation. We believe that this bill is contrary to a unified and consolidated effort in the enforcement of fish and game laws and would only hamper interagency cooperation in the investigation of fish and game violation cases.

We encourage you to call on us when there are hearings on this bill. Please call me at 451-5316, or our business manager, Joseph Young at 277-0515, if you have questions about the position the Alaska Peace Officers Association has on this issue.

Sincerely,



Michael Corkill
APOA State President

SB

24

SENATE COMMITTEE REPORT

DATE: 2/3/97

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 2/21/97

Judiciary Committee considered SENATE BILL NO. 24

Require consent before minors receive an abortion; amend Rules 40 and 79, Alaska Rules of Civil Procedure; Rules 204, 210, 212, 213, 508, and 512.5, Alaska Rules of Appellate Procedure; and Rule 9, Alaska Administrative Rules.

and recommends:

- be replaced with CS 5324 (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 RECOMMENDATIONS | NR | DNP | AM |
|-------------------------------|-------------------------------------|-----------------------|----|-------------------------------------|----|
| <i>Mike Miller</i> | <input checked="" type="checkbox"/> | <i>J. Hall</i> | | <input checked="" type="checkbox"/> | |
| <i>Sean P. Powell</i> | <input checked="" type="checkbox"/> | | | | |
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| CHAIR: <i>Robin L. Taylor</i> | <input checked="" type="checkbox"/> | CHAIR: | | | |

NEW FISCAL NOTE(S):

| Department | Date | Zero | Fiscal |
|------------------------|-------------|-------------------------------------|-------------------------------------|
| <i>COURT SYSTEM</i> | <i>1/28</i> | | <input checked="" type="checkbox"/> |
| <i>DPA</i> | <i>1/28</i> | | <input checked="" type="checkbox"/> |
| <i>PUBLIC DEFENDER</i> | <i>1/28</i> | <input checked="" type="checkbox"/> | |
| <i>HSS</i> | <i>1/24</i> | <input checked="" type="checkbox"/> | |
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PREVIOUS FISCAL NOTE(S):*

| Department | Date | Zero | Fiscal |
|------------------------|------|------|--------|
| <i>Previous FN's</i> | | | |
| <i>Apply to Jud CS</i> | | | |
| | | | |
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| | | | |

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

0-LS0210VE
Lauterbach
2/19/97

CS FOR SENATE BILL NO. 24(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTIETH LEGISLATURE - FIRST SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): SENATORS LEMAN, Halford, Green, Miller, Taylor

A BILL
FOR AN ACT ENTITLED

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

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

9 * Section 1. PURPOSE; FINDINGS. (a) It is the intent of the legislature in enacting this
10 Act to further the important and compelling state interests of

- 11 (1) protecting minors against their own immaturity;
- 12 (2) fostering the family structure and preserving it as a viable social unit;
- 13 (3) protecting the rights of parents to rear children who are members of their

1 household; and

2 (4) protecting the health of minor women.

3 (b) The legislature finds that

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

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

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

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

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

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

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

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

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

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

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

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

1 LESS THAN 18 YEARS OF AGE]; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (5) a statement as to whether the complainant has retained an attorney
31 and, if an attorney has been retained, the name, address, and telephone number of the

1 attorney.

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

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

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

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

1 subsection, it shall dismiss the complaint.

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (3) an attorney will be appointed to represent the minor if the minor
31 does not retain an attorney;

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

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

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

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

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

12 (C) remove a dead unborn child;

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

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

16 (B) become employed and self-sustaining;

17 (C) been emancipated under AS 09.55.590; or

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

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

21 (a) The office of public advocacy shall

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

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

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

31 (4) provide legal representation in cases involving judicial bypass

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

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

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

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

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

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

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

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

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

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

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

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

SENATE BILL NO. 24

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - FIRST SESSION

BY SENATORS LEMAN, Halford, Green, Miller, Taylor

Introduced: 1/13/97

Referred: HESS, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

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

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

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

1 household; and

2 (4) protecting the health of minor women.

3 (b) The legislature finds that

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

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

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

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

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

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

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

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

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

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

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

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

1 THAN 18 YEARS OF AGE]; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (5) a statement as to whether the complainant has retained an attorney
31 and, if an attorney has been retained, the name, address, and telephone number of the

1 attorney.

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

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

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

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

1 subsection, it shall dismiss the complaint.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (C) remove a dead unborn child;

31 (2) "unemancipated" means that a woman who is unmarried and under

1 18 years of age has not done any of the following:

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

3 (B) become employed and self-subsisting;

4 (C) been emancipated under AS 09.55.590; or

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

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

8 (a) The office of public advocacy shall

9 (1) perform the duties of the public guardian under AS 13.26.360 -
10 13.26.410;

11 (2) provide visitors and experts in guardianship proceedings under
12 AS 13.26.131;

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

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

25 (5) provide legal representation and guardian ad litem services under
26 AS 25.24.310; in cases arising under AS 47.15 (Uniform Interstate Compact on
27 Juveniles); in cases involving petitions to adopt a minor under AS 25.23.125(b) or
28 petitions for the termination of parental rights on grounds set out in
29 AS 25.23.180(c)(3); in cases involving petitions to remove the disabilities of a minor
30 under AS 09.55.590; in children's proceedings under AS 47.10.050(a) or under
31 AS 47.12.090; in cases involving appointments under AS 18.66.100(a) in petitions for

1 protective orders on behalf of a minor; and in cases involving indigent persons who
2 are entitled to representation under AS 18.85.100 and who cannot be represented by
3 the public defender agency because of a conflict of interests;

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

8 (7) provide guardian ad litem services in proceedings under
9 AS 12.45.046;

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

14 (9) provide visitors and guardians ad litem in proceedings under
15 AS 47.30.839;

16 (10) provide legal representation to indigent parents under
17 AS 14.30.195(e).

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

19 * Sec. 7. AS 18.16.030(c), added by sec. 4 of this Act, has the effect of amending Rule
20 40, Alaska Rules of Civil Procedure, by setting a specific timetable for hearing certain cases.

21 * Sec. 8. AS 18.16.030(j), added by sec. 4 of this Act, has the effect of amending Rules
22 204, 210, 212, and 213, Alaska Rules of Appellate Procedure, by establishing specific time
23 limits applicable to certain appeals and by instructing the supreme court to modify or dispense
24 with formal requirements applicable to certain briefs.

25 * Sec. 9. AS 18.16.030(k), added by sec. 4 of this Act, has the effect of amending Rule
26 512.5, Alaska Rules of Appellate Procedure, by making certain appellate records and papers
27 confidential.

28 * Sec. 10. AS 18.16.030(m), added by sec. 4 of this Act, has the effect of amending Rule
29 9, Alaska Administrative Rules; Rule 79, Alaska Rules of Civil Procedure; and Rule 508,
30 Alaska Rules of Appellate Procedure, by prohibiting filing fees and assessment of court costs
31 in certain actions.

FISCAL NOTE

No. 1

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill. Version: SB 24
(S) Publish Date: 2-3-97

Revision Date: _____ Dept. Affected: Alaska Court System
 Title: Parental consent before a minor's BRU: Trial Courts
 abortion Component: _____
 Sponsor: Sen. Leman
 Requestor: Senate HESS COMPONENT SERIAL NO. 766

Expenditures/Revenues (Thousands of Dollars)

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

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

Fund Source (Thousands of Dollars)

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

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

Positions

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

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

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

Approved by: Arthur H. Snowden, II, Administrative Director *AS* *AS*
 Agency: Alaska Court System

Phone: 264-8228
 Date: 01/28/97
 Date: 01/28/97

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ALASKA COURT SYSTEM
FISCAL ANALYSIS
SB 24

SB 24 provides that a person may not knowingly perform an abortion upon a woman who is unmarried, under 18 years of age, and unemancipated, unless, before the abortion, one of the woman's parents or the woman's guardian or custodian has consented to the abortion in writing; a court issues an order authorizing the woman to consent to the abortion; or a court, by its inaction, constructively authorizes the woman to consent to the abortion. A woman who seeks a court order authorizing an abortion is required to have an attorney. If she cannot afford an attorney, one must be appointed by the court from the Office of Public Advocacy (OPA). Because we are dealing with unemancipated minors, it must be assumed that all attorneys will be paid for by the state. OPA has estimated that 112 minor females will seek judicial approval for an abortion each year.

SB 24 requires a superior court judge to hold a hearing in these cases on an expedited basis. This note assumes that the review of documents, the hearing, the decision process and the preparation of the order will average two hours of judicial time. This note also reflects clerical costs associated with processing 112 filings which involve expedited hearings and which require court clerks to actively follow cases to make certain that time limits are met and that constructive consent has been given in cases in which a court takes no action within the specified period. This note does not reflect costs for appeals in cases where a court denies permission for an abortion.

FISCAL NOTE

No. 2

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 24

(S) Publish Date: 2-3-97

Revision Date: 1/28/97 3:30 p.m.
 Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."
 Sponsor: Senator Leman
 Requestor: (S) HESS

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

EXPENDITURES/REVENUES:

(Thousands of Dollars)

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

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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

FUND SOURCE:

(Thousands of Dollars)

| | | | | | | |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 168.0 | 168.0 | 168.0 | 168.0 | 168.0 | 168.0 |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| OTHER | | | | | | |
| TOTAL | 168.0 | 168.0 | 168.0 | 168.0 | 168.0 | 168.0 |

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary.)

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

(continued)

Prepared by: Brant McGee, Public Advocate
 Division: Office of Public Advocacy

Phone: 274-1684
 Date: _____

Approved by Commissioner: Mark Bover
 Agency: Administration

Date: 1/28/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. SB 24

#2

ANALYSIS: (continued)

Thus, OPA could be expected to provide attorney representation to 112 young women each year in judicial proceedings in which the minor sought to obtain approval for an abortion. The legal representation in these cases would be short but intense. The Office of Public Advocacy estimates that such services would cost an estimated \$1,500 per case for a total of \$168.0 per year.

FISCAL NOTE

No. 3

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 24

(S) Publish Date: 2-3-97

Revision Date: _____

Department Affected: Administration

Title: "An Act relating to a requirement that a parent, guardian, or custodian consent before certain minors receive an abortion..."

BRU: Public Defender Agency

Component: Public Defender Agency

Sponsor: Senator Leman

Requestor: (SIHESS)

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES:

(Thousands of Dollars)

| OPERATING EXPENDITURES | FY 98 | FY 99 | FY 00 | FY 01 | FY 02 | FY 03 |
|------------------------|-------|-------|-------|-------|-------|-------|
| PERSONAL SERVICES | | | | | | |
| TRAVEL | | | | | | |
| CONTRACTUAL | | | | | | |
| SUPPLIES | | | | | | |
| EQUIPMENT | | | | | | |
| LAND & STRUCTURES | | | | | | |
| GRANTS, CLAIMS | | | | | | |
| MISCELLANEOUS | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

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

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

FUND SOURCE:

(Thousands of Dollars)

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

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

POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

ANALYSIS: (Attach a separate page if necessary.)

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

Prepared by: Barbara K. Brink, Acting Director

Phone: (907) 264-4414

Division: Public Defender Agency

Date: _____

Approved by Commissioner: Mark Boyer

Agency: Department of Administration

Date: 1/28/97

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FISCAL NOTE

No. 4

STATE OF ALASKA
1997 LEGISLATIVE SESSION

Bill Version: SB 24

(S) Publish Date: 2-3-97

Revision Date: _____
Title: Relating to parental consent before
certain minors receive an abortion
Sponsor: Leman
Requestor: _____

Dept. Affected: Health and Social Services
BRU: Medical Assistance
Component: Medicaid Non-Facility
COMPONENT SERIAL NO. 229
See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

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

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|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

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|---------|--|--|--|--|--|--|
| CHANGES | | | | | | |
|---------|--|--|--|--|--|--|

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: 90.0

ANALYSIS: (Attach a separate page if necessary)

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

Prepared by: Nancy Weller
Division: Medical Assistance

Phone: 465-5825
Date: 01/10/97

Approved by Commissioner: Karen Perdue
Agency: Department of Health & Social Services

Date: 1/24/97

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 26, 1997

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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

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

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

(FAX)465-2539

The Honorable Robin Taylor, Chair
Senate Judiciary Committee
Alaska State Legislature
Juneau, AK 99801-1182

Re: Responses to Committee Questions re: SB 24

Dear Senator Taylor:

This letter is a response to some of the concerns raised following the Department of Law testimony on SB 24 on February 13, 1997.

1. Concerning other states that have explicit privacy provisions in their state constitutions and the status of provisions relating to parental consent or notification:

There are about nine states, in addition to Alaska, that have specific privacy protections in their constitutions. In five of these states, Arizona, Illinois, Louisiana, South Carolina, and Washington, the privacy provision is attached to the search and seizure provision of the state constitution, so that the constitutional analysis may be more involved with place privacy rights than personal privacy rights. Arizona's and Louisiana's parental consent provisions are subject to permanent injunctions in federal court and the states are appealing the cases to the U.S. Court of Appeals in their respective circuits. Illinois' parental notification provision is subject to permanent injunction in federal court and a Washington parental consent requirement was found unconstitutional in state court in 1975. South Carolina has legislated a parental consent requirement that does not appear to have been challenged in a published decision.

The other states with specific privacy provisions include California, Florida, Hawaii and Montana. In California, a state trial court found a parental consent requirement failed to meet the privacy test under the California constitution because the legislation did not actually further the proclaimed state interests. *American Academy of Pediatrics v. Lungren*, 32 Cal. Rptr. 2d 546 (Cal. App. 1 Dist. 1994). Upon review by the California Supreme Court, however, a divided court upheld the constitutionality of the parental consent requirement with a judicial bypass (*American Academy of Pediatrics v. Lungren*, 912 P.2d 1148 (Cal. 1996)), but enforcement of that provision has been stayed pending a rehearing. In Florida, the state Supreme Court held that the state interests to be advanced by the parental consent statute were not compelling, so that it failed to meet state constitutional scrutiny. *In re: T.W., A Minor*, 551 So. 2d. 1186 (Fla. 1989) (*rehearing denied*). Montana's parental notification provision is not enforceable because the provision has been

determined unconstitutional in federal court. *Wicklund v. Salvagni*, 93 F.3d 567 (Mont. 1996). Montana has petitioned for certification to the U.S. Supreme Court. Hawaii does not appear to have an explicit parental consent or notification requirement.

2. Concerning the enforceability of certain parental consent requirements in Alaska Statutes (responding to a list of references provided in a memorandum from legislative counsel):

First, many of the statutes listed in the memorandum do not exactly require enforcement by the state or the Department of Law. In a number of instances, the listed statutes provide guidance to others who conduct programs involving minors. In the case of the criminal provisions, which are enforceable by the department, a parental consent component appears when an act that involves a minor may be considered criminal unless a parent has provided approval, such as when a minor under 16 possesses a firearm and would be guilty of misconduct involving weapons unless the minor has the consent of a parent or guardian under AS 11.61.220(a)(3). In addition to the provisions listed in law, there may be many instances in which private parties or businesses offering services to minors ask for parental permission, but this is not because of legal requirements.

However, a provision in Missouri state law that required parental consent for an abortion, without providing for a procedure that met constitutional standards to allow a minor to obtain an abortion without parental consent was determined by the U.S. Supreme Court to be unconstitutional in *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 96 S. Ct. 2831, 49 L.Ed.2d 788 (1976). Because the Alaska provision set out at AS 18.10.010(a)(3) imposed a blanket restriction that is even more uncompromising than the Missouri restriction reviewed in *Danforth*, in that the Alaska provision does not make an exception for preserving the life of the mother, the Attorney General's office issued an opinion on October 21, 1976, stating that the parental consent requirement in Alaska law was clearly unconstitutional and that enforcement of that law would be a problem. Consequently, the state has not attempted to enforce a provision that is clearly unconstitutional under U.S. Supreme Court precedent.

Consequently, the major distinction between the consent requirement articulated in Alaska abortion statute and the other parental consent provisions that appear in law is that parental consent requirements in relation to abortion rights have been examined by the U.S. Supreme Court and determined to be unconstitutional. To the extent that other parental consent or permission requirements are set out in statute, they are appropriately applied or enforced unless a court has ruled they are unenforceable.

3. Concerning the requirement that the judicial bypass may be obtained only by clear and convincing evidence:

The clear and convincing burden is a higher burden of persuasion than the more familiar preponderance of the evidence burden that is generally imposed in civil proceedings. The U.S. Supreme Court has held that this standard is required in cases involving state action to deprive individual liberties, such as in a mental commitment or termination of parental rights proceeding.


McCormick on Evidence, §340 (4th ed.1992). It is considered a special standard of persuasion that also has been applied in cases involving fraud or undue influence, claims related to modifying written transactions, or "miscellaneous types of claims and defenses, varying from state to state, where there is thought to be special danger of deception, or where the court considers that the particular type of claim should be disfavored on policy grounds." *Id.*

In certain stages of child protection proceedings, such as when the state agency may be removing children from a home or terminating parental rights, a clear and convincing evidence standard is used in this state. In an emancipation proceeding, a proceeding in which a judge must make a determination of the maturity of a minor, a clear and convincing standard is not specified, so that the usual preponderance of evidence standard is applicable. In judicial bypass for parental consent proceedings in other states, the more customary standard appears to be a preponderance of the evidence, though the U.S. Supreme Court upheld a clear and convincing standard in an Ohio parental notification law in *Ohio v. Akron Center for Reproductive Health*, 497 U.S. 502, 110 S. Ct. 2972, 111 L.Ed.2d. 405 (1990).

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:


Kristen F. Bomengen
Assistant Attorney General

KFB:ebc

cc: Senate Judiciary Committee Members
Pat Pourchot, Legislative Director
Bruce Botelho, Attorney General
Deborah Behr, Assistant Attorney General
Chrystal Smith, Legal Administrator
Hon. Karen Perdue, Commissioner, Department of Health & Social Services
Elmer Lindstrom, Special Assistant, Department of Health & Social Services

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 24

Revision Date: _____
Title: Parental Consent for Abortion
Sponsor: Leman
Requestor: Senate (JUD)

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

Expenditures/Revenues:

(Thousands of Dollars)

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

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| CAPITAL EXPENDITURES | | | | | | |
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| 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)

No fiscal impact.

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

Phone: (907) 465-3090
Date: 02/25/97
Date: 2/26/97

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FISCAL NOTE

STATE OF ALASKA
1997 LEGISLATIVE SESSION

BILL NO. CSSB 24 (JUD)

Revision Date: _____
 Title: Relating to parental consent before
certain minors receive an abortion
 Sponsor: Leman
 Requestor: Senate Finance

Dept. Affected: Health and Social Services
 BRU: Medical Assistance
 Component: Medicaid Non-Facility
 COMPONENT SERIAL NO. 229
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

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

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| CAPITAL EXPENDITURES | | | | | | |
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|-------------------------|--|--|--|--|--|--|
| 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) | | | | | | |
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POSITIONS:

| | | | | | | |
|-----------|--|--|--|--|--|--|
| FULL-TIME | | | | | | |
| PART-TIME | | | | | | |
| TEMPORARY | | | | | | |

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

ANALYSIS: (Attach a separate page if necessary)

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

Jmy KOB
2/25/97

Prepared by: Nancy Weller *NW*
 Division: Medical Assistance
 Approved by Commissioner: *Karen Perdue*
 Agency: Department of Health & Social Services

Phone: 465-5825
 Date: 02/24/97
 Date: 2/26/97

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STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

February 26, 1997

TONY KNOWLES, GOVERNOR

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PHONE: (907) 451-2811
FAX: (907) 451-2846

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

(FAX) 465-2539

The Honorable Robin Taylor, Chair
Senate Judiciary Committee
Alaska State Legislature
Juneau, AK 99801-1182

Re: Responses to Committee Questions re: SB 24

Dear Senator Taylor:

This letter is a response to some of the concerns raised following the Department of Law testimony on SB 24 on February 13, 1997.

1. Concerning other states that have explicit privacy provisions in their state constitutions and the status of provisions relating to parental consent or notification:

There are about nine states, in addition to Alaska, that have specific privacy protections in their constitutions. In five of these states, Arizona, Illinois, Louisiana, South Carolina, and Washington, the privacy provision is attached to the search and seizure provision of the state constitution, so that the constitutional analysis may be more involved with place privacy rights than personal privacy rights. Arizona's and Louisiana's parental consent provisions are subject to permanent injunctions in federal court and the states are appealing the cases to the U.S. Court of Appeals in their respective circuits. Illinois' parental notification provision is subject to permanent injunction in federal court and a Washington parental consent requirement was found unconstitutional in state court in 1975. South Carolina has legislated a parental consent requirement that does not appear to have been challenged in a published decision.

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First, many of the statutes listed in the memorandum do not exactly require enforcement by the state or the Department of Law. In a number of instances, the listed statutes provide guidance to others who conduct programs involving minors. In the case of the criminal provisions, which are enforceable by the department, a parental consent component appears when an act that involves a minor may be considered criminal unless a parent has provided approval, such as when a minor under 16 possesses a firearm and would be guilty of misconduct involving weapons unless the minor has the consent of a parent or guardian under AS 11.61.220(a)(3). In addition to the provisions listed in law, there may be many instances in which private parties or businesses offering services to minors ask for parental permission, but this is not because of legal requirements.

However, a provision in Missouri state law that required parental consent for an abortion, without providing for a procedure that met constitutional standards to allow a minor to obtain an abortion without parental consent was determined by the U.S. Supreme Court to be unconstitutional in *Planned Parenthood of Missouri v. Danforth*, 428 U.S. 52, 96 S. Ct. 2831, 49 L.Ed.2d 788 (1976). Because the Alaska provision set out at AS 18.10.010(a)(3) imposed a blanket restriction that is even more uncompromising than the Missouri restriction reviewed in *Danforth*, in that the Alaska provision does not make an exception for preserving the life of the mother, the Attorney General's office issued an opinion on October 21, 1976, stating that the parental consent requirement in Alaska law was clearly unconstitutional and that enforcement of that law would be a problem. Consequently, the state has not attempted to enforce a provision that is clearly unconstitutional under U.S. Supreme Court precedent.

Consequently, the major distinction between the consent requirement articulated in Alaska abortion statute and the other parental consent provisions that appear in law is that parental consent requirements in relation to abortion rights have been examined by the U.S. Supreme Court and determined to be unconstitutional. To the extent that other parental consent or permission requirements are set out in statute, they are appropriately applied or enforced unless a court has ruled they are unenforceable.

3. Concerning the requirement that the judicial bypass may be obtained only by clear and convincing evidence:

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McCormick on Evidence, §340 (4th ed.1992). It is considered a special standard of persuasion that also has been applied in cases involving fraud or undue influence, claims related to modifying written transactions, or "miscellaneous types of claims and defenses, varying from state to state, where there is thought to be special danger of deception, or where the court considers that the particular type of claim should be disfavored on policy grounds." *Id.*

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Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By:



Kristen F. Bomengen
Assistant Attorney General

KFB:ebc

cc: Senate Judiciary Committee Members
Pat Pourchot, Legislative Director
Bruce Botelho, Attorney General
Deborah Behr, Assistant Attorney General
Chrystal Smith, Legal Administrator
Hon. Karen Perdue, Commissioner, Department of Health & Social Services
Elmer Lindstrom, Special Assistant, Department of Health & Social Services



RECEIVED
FEB 14 1997
Ans'd.....

February 3, 1997

Senator Robin Taylor
716 West 4th Avenue
Anchorage, Alaska 99501

Dear Senator Taylor:

As Medical Director of Alaska Women's Health Services, I am very concerned about SB-24 and HB-37. I would like to tell you the real life implications of this proposed legislation. Both of these bills deal with obtaining parental consent or judicial bypass in order for a person under the age of 18 or 16 years old to have an abortion. This legislation would be bad law for a number of reasons. I have been doing abortions in Alaska for approximately 13 years, and what is clear to me is that teenagers often have a difficult time trying to bring up their pregnancy to their parents and at the time that they choose to have an abortion, they have sometimes reached a relatively advanced gestation. This delay makes the procedure more dangerous to them and, with Valley Hospital's ability to do second trimester abortions being challenged, may place them in a point in gestation when abortion services are not acceptable to them.

In addition to having difficulties bringing these issues up with their parents, teenagers are absolutely intimidated by having to ask for judicial bypass. My experience is that even for parents who have good relationships with their teenagers, bringing up the concept of abortion is quite difficult. This bill will place a significant impediment in front of these teenagers, will prevent them from getting information they need in a timely manner, and ultimately lead to more dangerous abortions in this age group and an increase in unplanned, unintended, and unwanted pregnancies.

If all families were perfect working units and all parents were supportive of their children in issues regarding teenage pregnancy, such laws would make sense. However, the reality of life is that there are many dysfunctional families, and for the teenagers who are in dysfunctional families this impediment may be insurmountable to many of them.

Thank you for taking the time to read this letter. I am available to answer any questions you have about this issue and can supply data from the Centers for Disease Control, which you may find useful. As written, this legislation puts teenagers in our State at unnecessary and increased risk. Thank you for your time.

Sincerely,

Jan Whitefield, M.D., Ph.D.
Medical Director, Alaska Women's Health Services.
JW:FasType,jlb

Alaska Women's Lobby

P.O. Box 210685 Anchorage 99521
211 Fourth Street Suite 108 Juneau 99801

phone: 907-586-1107

fax: 907-586-1097

February 16, 1997

Senator Robin Taylor
Chairman, Senate Judiciary Committee
Capital Building, Room 30
Juneau, Alaska

Dear Senator Taylor:

Here are some statistics you requested at the last hearing on SB 24. According to my sources, after enactment of a parental involvement statute in Massachusetts, court proceedings there delayed the termination of pregnancy by as much as six weeks with no substantial impact on birth rates. In the first month of the law, teens who left the state for abortions increased by 300%; eight months after the law took effect, an average of 91 teens traveled per month.

In Minnesota, the average delay was 1 to 3 weeks, the number of teen births rose sharply and the number of abortions obtained by 15-17 year olds increased by 38.4% between 1980 (pre-law) and 1984 (after the law). The ratio of late to early abortions increased by 26.6%.

Missouri teens apparently got their abortions in Kansas. During the first three years of the Missouri law the percent of abortions obtained in Kansas rose 62%; second trimester abortions increased by 36%.

In Mississippi, a parental consent requirement increased by 19% the ratio of minors to adults who underwent their procedures after 12 weeks gestation; and while there was a small decrease in the proportion of minors who obtained abortions in the state, there was a large increase in the proportion of minors who traveled to other states to have abortions.

New York State saw a 28% increase in abortions after 13 weeks and an 8% increase after 20 weeks for minors from Massachusetts between 1981-1984.

I would also like to make a few additional comments on issues brought up during public discussion of this issue:

1. **FAMILY VALUES:** Many supporters of this legislation cite the need to bolster and reaffirm the parents right to decide what is best for their child. We agree that parents should be in charge. But, as in all things, there are case by case exceptions. In fact, we have learned from testimony that there are many exceptions in Alaska law where parental consent is not required. And what could be more appropriate for an additional exception than the unique, intensely personal experience of pregnancy?

As important, according to the AMA, there is no evidence that legislation mandating parental involvement against the wishes of the adolescent has any added benefit in improving effective family communication or changing the outcome of her decision. In the words of Judge Donald D. Alsop, Federal District Court Judge from Minnesota: "A minor's unplanned pregnancy is a crisis which is not conducive to an attempt to build good family communication."

It is ironic that under this legislation a pregnant teen cannot decide for herself whether or not to have an abortion but will continue to be considered mature enough to make all parental decisions for her newborn baby.

2. **BEST INTERESTS:** While this technically is a parental consent/judicial bypass bill, it is hard to avoid discussion of the underlying issue - abortion. Many supporters of SB 24 argue that any deliberative requirements that slow down the decision are in the best interest of the unborn fetus. This may or may not be the case. But, hasn't the Supreme Court already settled the question of abortion rights so shouldn't government leave well enough alone - directly or indirectly?

Second, what about the teen mother who runs away from home or ends up dead or injured thanks to an illegal back alley abortion because she is not willing or able talk to her parents or a judge? Shouldn't we be even more concerned about what is in her best interests? Like adults, minors have a profound need for privacy. Because this need for privacy may be compelling, minors may be driven to desperate measures to maintain the confidentiality of their pregnancies. At the very least, this may result in delays in seeking appropriate and timely professional advice and medical care: teenagers are twice as likely to delay the diagnosis of first trimester pregnancy, according to the American Academy of Pediatrics. This substantially increases the risk of emotional and physical harm to the teen mother.

These are never easy questions and many competing concerns must be balanced. In this case, we believe the balance tips in favor of letting the teen mother make this very personal decision, hopefully in cooperation with her parents.

3. **COMMON GROUND:** Senator Miller is right. Both sides appear to agree that society must find ways to reduce the number of abortions. He also suggests that our side never seems to like the other side's proposed solutions. He has asked for

constructive ideas that will lead us to common ground. We suspect that there never will be full agreement on the question of abortion rights and efforts to restrict those rights. But we do believe that there is potential for substantial agreement on ways to deal with the underlying problem - teen pregnancy.

The bottom line is that abortion among teenagers should be made less necessary, not more difficult and dangerous. A comprehensive approach to promoting adolescent reproductive health and reducing teenage pregnancy will require an array of components, including age appropriate health and safety education; access to confidential health services; life options programs that offer teens practical life skills and the motivation to delay sexual activity; and programs for pregnant and parenting teens that teach parenting skills and help ensure that teens finish high school.

While it has been argued by critics of this view that such programs are ineffective, the fact is that this approach has never been implemented on a significant scale in Alaska, or the United States for that matter. As a starting point for future efforts on this question, we urge you to review and initiate public discussion of the report "Three a Day: Children Having Children in Alaska" prepared in 1989 by the Senate Advisory Council.

As for improving SB 24, alternatives to judicial bypass have been adopted in other states that are worth considering. For example:

a) West Virginia allows a doctor - who must be other than the physician who will perform the abortion and who may not have any professional or financial association with that physician - to waive the state's mandatory notification requirement if he or she concludes that a minor is mature enough to make her own decisions, or that notification would not be in her best interests.

b) A 1990 Connecticut statute requires a teenager under 16 to be counseled by a doctor or other qualified professional (a psychiatrist, psychologist, social worker, family therapist, minister, physicians's assistant, nurse or guidance counselor); and,

c) a 1989 Maine statute contains similar counseling provisions. The law gives a teenager two options: obtaining parental consent or judicial authorization for an abortion, or the option of receiving extensive counseling form a qualified professional.

Thanks for your time and willingness to listen, Mr. Chairman.

Yours truly,


David E. Rogers
For the Alaska Women's Lobby

ALASKA WOMEN'S LOBBY
P.O. Box 210685 Anchorage 99521
211 Fourth Street Juneau #108 99801
586-1107
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POSITION PAPER

SB 24: Parental Consent Before Minor's Abortion

The Alaska Women's Lobby is a statewide advocacy organization representing thousands of Alaskans working toward expanded opportunities, equal access, and enhanced representation for women. The Lobby is supported solely by contributions.

The Alaska Women's Lobby opposes Senate Bill 24. We wholeheartedly encourage open and honest communication between parents and their children, and support efforts to prevent teenage pregnancy. We don't believe, however, that SB 24 will accomplish either of those goals.

Responsible parents should be involved when their young daughters face crisis pregnancies. It is the hope of every parent - liberal and conservative- that a child confronting this crisis will seek the advice and counsel of those who care for her most and know her best. In fact, most young women do turn to their parents when they are considering an abortion. We are told that in states that enforce no mandatory consent or notice requirements, more than 75% of minors under 16 involve one or both parents.

Young Women Who Do Not Involve a Parent Often Have Good Cause

Unfortunately, some women cannot or will not because they come from homes where physical violence or emotional abuse are prevalent or because their pregnancy is the result of incest or rape. There were approximately 2.9 million cases of child abuse reported in 1992 in the United States. Among minors who did not tell a parent of their abortion, 30% experienced violence in their family or feared violence or being forced to leave home. And, young women considering abortion are particularly vulnerable because family violence is often at its worst during a family member's pregnancy.

Mandatory Parental Consent and Notice Laws Endanger Health

The government cannot force healthy family communication where it does not already exist. Ironically, laws mandating parental notice or consent can actually harm the young women they are trying to protect by increasing illegal and self-

induced abortion, family violence, suicide, later abortions and unwanted childbirth. For example, in Idaho, a 13 year old sixth grade student named Spring Adams was shot to death by her father after he learned that she was to terminate a pregnancy caused by his acts of incest. In Indiana, Rebecca Bell, a young woman who had a very close relationship with her parents died from an illegal abortion because she did not want her parents to know about her pregnancy but Indiana law required parental notice before she could have a legal abortion.

These views are shared by many experts. The American Medical Association takes the position that: "Physicians should not feel or be compelled to require minors to obtain consent of their parents before deciding whether to undergo an abortion...(M)inors should ultimately be allowed to decide whether parental involvement is appropriate. Because the need for privacy may be compelling, minors may be driven to disparate measures to maintain the confidentiality of their pregnancies. They may run away from home, obtain back alley abortions or resort to self-induced abortion. The desire to maintain secrecy has been one of the leading reasons for illegal abortion deaths since 1973."

They also concluded in a 1992 study that parental notice and consent laws "increase the gestational age at which the induced pregnancy termination occurs, thereby also increasing the risk associated with the procedure. Although a first or second trimester abortion is far safer than childbirth, the risk of death or major complications significantly increases for each week that elapses after eight weeks."

The American Academy of Pediatrics similarly contends that: "Legislation mandating parental involvement does not achieve the intended benefit of promoting family communication, but it does increase the risk of harm to the adolescent by delaying access to appropriate medical care...(M)inors should not be compelled or required to involve their parents in their decisions to obtain abortions, although they should be encouraged to discuss their pregnancies with their parents and other responsible adults."

Instead of consent mandates, we believe that it makes more sense to require health practitioners to encourage young women to talk to their parents before making any final decisions.

It is interesting to note that all states have laws permitting minors to receive medical treatment for sexually transmitted diseases without parental consent, recognizing that maintaining confidentiality is essential to a minor's willingness to obtain necessary health care related to sexual activity. It is also interesting to observe that once a teen has a baby she has the right to make all the decisions for her child that her parents have a right to make for her.

Judicial Bypass Provisions Fail to Protect Young Women

Will SB 24 solve these well recognized problems by allowing teens to ask a judge

for permission to terminate their pregnancy as an alternative to parental consent? We don't think so. For most adults, going to court for a judicial order for any purpose is difficult. For young women, it can be an overwhelming and at times impossible, especially under these circumstances. Assuming they have reasonable access to a court in the first place, some young women will not go or delay going because they fear that the proceedings are not confidential or that they will be recognized by people at the courthouse. Many will experience general fear and distress and will not want to reveal intimate details of their personal lives to strangers. Others will not be able to attend hearings because they are in school.

Still others, victims of rape or incest, will fear the consequences of possibly having to identify the perpetrators who must under state law then be reported to the proper authorities. And if they do eventually find the courage to go to court, even under the tight deadlines proposed in this bill the time it takes to go to schedule the court proceeding and obtain a decision (not to mention appeals) may result in delays that significantly increase the health risks of the abortion

In its 1992 decision in Planned Parenthood of Southeastern Pennsylvania v. Casey, the U.S. Supreme Court made it clear that states may not veto a woman's decision to terminate her pregnancy, but that states could impose restrictions so long as those restrictions don't have the "purpose or effect of placing a substantial obstacle in the path of a woman seeking an abortion." By requiring young Alaskan women to obtain judicial approval in order to terminate a pregnancy, SB 24 creates just the kind of "substantial obstacle" the U.S. Supreme Court decision prohibits.

Making Abortion Less Necessary Among Teenagers Requires a Comprehensive Effort to Reduce Teen Pregnancy

The bottom line is that abortions among teenage should be made less necessary, not more difficult and dangerous. A comprehensive approach to promoting adolescent reproductive health and reducing teen pregnancy will require an array of components, including age appropriate health and safety education; access to confidential health services; life options programs that offer teens practical life skills and the motivation to delay sexual activity; and programs for pregnant and parenting teens that teach parenting skills and help ensure that teens finish school. While it has been argued by critics of this view that such programs are ineffective, the fact is that such an approach has never been implemented on a significant scale in Alaska, or the United States for that matter. For more information on this subject, we encourage you to review a 1989 report by the Senate Advisory Council for Senator Pearce entitled "Three a Day: Children Having Children In Alaska".

Conclusion

SB 24 places an untenable judicial burden on young women who, by virtue of their situation, are already facing difficult decisions. By requiring a teenager to

seek judicial redress, this bill incorrectly assumes that young women in these situations not only have the resources to seek but also the access to obtain such redress.

We understand and sympathize with the goals of SB 24's sponsors and supporters. In a perfect world, all children should talk to their parents before any decisions are made about a teenage pregnancy; and, in fact, most do. But this is not a perfect world. For a wide variety of reasons, many young women will not or cannot talk to their parents or a judge about this unique, very personal and very difficult decision.

Unfortunately, instead of transforming dysfunctional families into stable ones it will force many teens to have their father's or rapist's child, to risk their lives by having illegal or self-induced abortions, or suffer with the results of exacerbating an already troubled or dangerous home life. That is a pretty dear price to pay for a message that will not be heard by its intended audience.

For these reasons, the thousands of Alaskans represented by the Alaska Women's Lobby oppose SB 24.



Cynthia Brooke, MD
A balance of treatment
and prevention.

Written testimony regarding House Bill #37 Introduced by Rep. Kelly, Kohring, Vezey and Molder. Senate Bill #24, Robin Taylor.

I would like to thank the members of the legislature for allowing me to testify both verbally and in writing. As a brief introduction, my name is Cynthia Brooke and I am a board certified Obstetrician/Gynecologist practicing in Anchorage. I did my medical school training at the University of Washington and was a WAMI student in Alaska for 3 months in the summer of 1985 and have considered myself lucky to be able to come back to Alaska to practice medicine. I did my specialty training at the University of Texas in San Antonio which is a very busy county hospital serving south Texas and central Mexico. I have been practicing Obstetrics and Gynecology in Alaska since 1992 and have been a solo practitioner in Anchorage since 1995. I am currently on the Board of Trustees of the Alaska State Medical Association and have been asked to review any legislative bills that may impact on my specialty.

Obstetrics and Gynecology is a specialty that deals with pregnancy, pregnancy complications and any medical or surgical diseases associated with female reproduction. Because of this, we also deal with infertility, hormonal disorders, pelvic anatomy dysfunction including bladder and rectal problems and pelvic tumors. Our daily interaction with patients include detailed histories which because of the nature of our specialty impacts on very private issues. We would be of little use to patients if they could not confide such private matters such as sexual dysfunction, unwanted pregnancies, inability to become pregnant, abuse issues including physical, psychological and sexual abuse and anatomical dysfunctions. The privacy of this relationship between the doctor and the patient is absolutely essential to provide appropriate treatment, care and support. Those of us who live in Alaska and understand what a small community this really is, can probably understand the importance of this confidentiality better than persons who live in more urban settings.

I have some significant concerns about this bill and most of them center around the confidentiality issues. We all know that teenage pregnancy is far too common. I deal with this issue on a daily basis. Whether or not one considers teenagers too immature to make decisions about their own health, future and reproduction; as human beings they deserve to expect the same level of confidentiality and professionalism from their health care providers as their parents would expect. I treat many families in my practice. I would never consider breaking the confidence of one of my teenage patients with one of her family members without that teenager's permission any more than I would tell the

teenager of a personal issue that her mother has discussed with me. We actively encourage teenage patients to confide in their parents and the vast majority of them do. However, they do this on their own terms and I think with more honesty than in any artificial scenario I could manipulate. In this way I can keep my relationship with both the mother and daughter intact as confidant and health care provider, giving them unbiased medical facts versus being a policewoman or unwanted arbiter of family tensions.

I think you as a legislature should also know that some teenage pregnancies are the result of extremely harmful, abusive living situations in which it is not in the patient's best interest to inform one or both of her parents. Specifically in the case of incest or abuse by a mother's boyfriend or rape by a close family friend, it is sometimes unrealistic or even unwanted to inform certain family members without the patient's permission. There are some situations where this could even put the patient in harm's way. I think it is absolutely inconceivable to think that a teenager who cannot tell her parents or family members that she is pregnant would be willing to go in front of a judge and a bunch of strangers and tell them of her dysfunctional situation. I know for a fact that there are many teenagers out there who would rather die than confront relatives, friends, parents or strangers who would be disapproving of what they have done and of their situation. Anyone who works with teenage pregnant girls can tell you the risk of suicide, botched abortion attempts (sometimes even conducted by a fellow teenager) and even as evidenced recently in a case in Delaware, attempted infanticide. As you have already stated in your bill, teenagers may not always think clearly. Situations that to many adults may seem tough but not insurmountable can seem insurmountable to a teenager. They may truly feel that their life is not worth living anymore.

In my experience, teenagers with unwanted pregnancies who come from loving households do eventually tell their parents. I cannot imagine the loving parents of a teenage girl not wanting their daughter to get all the medical facts so that she can make the best decision about her own health, body and reproductive future. The fact is, she is five times more likely to die if she carries the pregnancy to term than if she has a legal first trimester termination of pregnancy. I cannot imagine loving parents forcing their daughter to make the decision one way or another that so heavily impacts on her health and her future. In my experience this does not happen. In the opposite situation when teenagers do not come from loving homes, sometimes the situation is so dysfunctional and so bizarre it is not feasible for the parents to participate in the decision making. It is these girls that are at risk with this bill. They are at risk and if this bill passes it is just a matter of time before one of them dies as a result. We have already seen this happen in Ohio. There a couple who spearheaded a similar law in Ohio requiring parental consent for teenagers to receive an abortion lost their own daughter to an illegal, botched abortion. They changed their point of view 180 degrees, but at what cost??

Page 3 Written testimony

I have included with my testimony some statistics for you, a copy of an oath based on the Hippocratic Oath which has been adopted by the AMA that illustrates succinctly the importance of confidentiality. Whether or not you pass this law, I will not violate this oath with my patients, and I think that you will find a similar response from other physicians in my association. You can call it a misdemeanor, you can call it a felony, you can put me in jail. I need to act in the best interest of my patient. I welcome parents and other interested parties to help me with this commitment to my patients but I am realistic that sometimes relatives including parents do not have the patient's best interests at heart. It is those patients for whom I am the only advocate and if I betray them, who do they have left? We have had many examples in the past where the interference of big government, or legislators and well-meaning community members has resulted in disaster. I cannot support this bill and I have urged all members of the Alaska State Medical Association to do the same.

Sincerely,

Cynthia Brooke, M.D.

Cynthia Brooke M.D.



Cynthia Brooke, MD
A balance of treatment
and prevention.

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teenager of a personal issue that her mother has discussed with me. We actively encourage teenage patients to confide in their parents and the vast majority of them do. However, they do this on their own terms and I think with more honesty than in any artificial scenario I could manipulate. In this way I can keep my relationship with both the mother and daughter intact as confidant and health care provider, giving them unbiased medical facts versus being a policewoman or unwanted arbiter of family tensions.

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Sincerely,

Cynthia Brooke, M.D.

Cynthia Brooke M.D.



Alaska State Legislature

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

committee on SB 24, dated 2/19/97
bill/subject

Please remember that you can't mandate morality.

Consider that young pregnant mothers will not involve their parents unless they have a good relationship. This leaves them few choices - Remember desperation leads to drastic measures. Please do not close all doors. Please leave this decision to those who are directly involved. Please do not make i.e. long decisions for people you do not know, without meeting these + treating these people as individuals.

Signed: Cheryl Creek
Testifier

Representing (Optional)
101 WINCHESTER Wy
Address
907-747-3290
Phone No.

47-5807



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary
committee name
 committee on SB 24, dated Feb 19, 1997.
bill/subject

I strongly urge you not to pass this bill.

- 1) Parental consent for abortion delays early terminations and increases the incidence of later term abortions.
- 2) Judicial bypass is very intimidating to young people and would discourage teens from early terminations, increasing the health risk to teenagers choosing to terminate a pregnancy.
- 3) This is part of a plan to make it harder to have abortion services available in the State of Alaska.

Signed: Glanne Chazy
Testifier

Representing (Optional)

PO Box 2122, Sitka, AK 99835

Address

747 6127

Phone No.



Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary Committee
 committee name
Parental Consent
 committee on SB 24 - for Minor's, dated 2-19-97
 bill/subject Abortion

I am strongly opposed to SB 24 as a woman, mother, mental health counselor, and Advisory Council Chair for Sitka's Planned Parenthood chapter.

Family relationships are not strengthened by parental involvement laws - unhealthy families may actually be hindered by forced breach of confidentiality mandating parental involvement poses health risks to teenagers because they will wait longer to inform anyone of the pregnancy.

This is part of a plan to abolish abortion in Alaska - this is a threat to Alaskans explicit right to privacy as outlined in our state Constitution.

Signed: Seannette M. Rutherford
 Testifier

Representing (Optional)
301 Melcor Ave Sitka AK 99835
 Address
907 747-5379
 Phone No.



Alaska State Legislature

Please enter into the record my testimony to the SJUD
 committee name
 committee on SB 24 . dated 2-19-97

I am Elizabeth Barry, 39 y.o. wife + stepmother of 3 teenagers, 2 still living at home. I hold a license as a paraprofessional in the mental health field.

I support SB 24 This is an issue of parental rights and responsibilities not an issue of abortion rights or privacy rights.

This undoubtedly would not be such a hotly debated topic if the Bill was called SB 24 "Parental Consent Before Minor's Surgery".

According to AK Statutes, parents are legally responsible for their minor children until they reach the age of majority which in Alaska is 18 years old. Parents also have the legal authority and legal responsibility for their minor children's actions. (There are cases that the responsibility extends beyond 18 y.o.) Parents are held accountable for the misdeeds of their minor children as well and this, merely how minors are subject to the authority of his or her parents. As of 1-31-97 we had thirty one Bills in the State House + Senate pertaining specifically to minors because minors legally come under different authority than adults.

On the issue of minors with abusive parents fearing further parental abuse and the intimidation of facing the judicial bypass procedure on her own being to intimidating: AK Statute 47.10.010 "Delinquent Minors and Children in Need of Aid" is already in place and active. I believe most minors in Jr. High + High School realize that any abuse by parents or guardians reported by a student to a school official must be reported to D.F.S. + then must be followed up on. If an abusive situation is discovered and the minor is removed from her home + placed in foster care,

Signed: Elizabeth Barry
 Testifier

Representing (Optional)
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 Address
262-9790
 Phone No.

she receives a caring, supportive home and all of the legal representation and assistance she could need.

On the issue of emotional and psychological consequences: Even if an abortion has been performed safely the emotional and psychological consequences can be devastating, teens have simply not been on the planet long enough to understand about this aspect of life, long range consequences. Even though it has been stated at these ~~the~~ conferences that 98% of women claim they would repeat their abortion, I question if they were asked this during an initial period of relief following a crisis once it ^{was} seemingly resolved, or if asked many years later. A ministry called "Open Arms" created specifically to aid women suffering emotional consequences of abortion, states 94% of women they came into contact with said they were properly informed of the fetal development prior to having their abortions, they would not have carried through with it. In one hour on the telephone on Friday 2-14-97 I contacted ~~four~~ organizations that offer aid or referrals to aid to women seeking help with post abortion stress. One was a Crisis Pregnancy Center that offers counseling at all of its 3,000 centers nationwide. There are 16 groups on the internet that offer assistance for this. And yes, I am aware that the A.P.A. and A.M.A. do not officially recognize any such problem. Especially since Dr. C.E. Koop was so grossly misquoted in the 1980's. Please note what Dr. Koop said in an interview in the "Rutherford Institute Magazine, Spr. 1989:

"Instead of saying 'the Surgeon General could not find sufficient evidence to issue a scientifically statistically accurate report that could not be assailed,' the Associated Press said,

'He could find no evidence.' I know there are detrimental effects [from abortion]. I have counseled women with this problem over the last fifteen years. There is no doubt about it." . . . When I got home, my wife was in a frenzy. "You won't believe what they are saying on television," she said. "Rather said it, Brokaw said it, Jennings said it, that you had not been able to find any evidence that there are psychological effects of abortion."

"So that's where it all began. And I spent that entire night on the telephone, until about one o'clock in the morning, doing as much damage control as I could."

I urge you to please vote in favor of parental rights so parents can take their responsibility and continue to do all in their power to protect their children.

A list of Organizations I contacted or was referred to:

Project Rachael - through Catholic Charities 1800-CARE-002
 CARE NET - 703-478-5661 - 1800-395-HELP
 APL Crisis Pregnancy Center - Kenai, AK.
 Open Arms - 314-449-7672
 Post Abortion Ministries - Tenn. 901-937-3343
 Last Harvest - 800-472-4542
 Institute for Pregnancy Law - 603-431-1904
 American Rights Coalition - 904-474-6091
 Legal Action for Women - 1145 Candlewood Circle
 Birth Right 800550-4900 Pensacola, FL 32514
 National Office for Post Abortion Support Services 1800-593-2273
 Nurturing Network - 800-TNN-4MOM
 Americans United for Life 800-626-6149
 Alaska Woman's Resource Center - 246-0528
 E. BARRY 383



Alaska State Legislature

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

committee on SB24, dated 2-19-97
bill/subject:

I am a fifteen year old boy, and I am in favor of SB#24. I think it will give the parents more of their God given rights back that the parents have so gradually given away. This will promote a more stable and united family. It will make teens more responsible with their sex life knowing that they will have to be accountable to their parents about abortion if that is what the teen wants. This will allow the parents to tell their teens of some abortion risks that teens need to know. Please do not take away the rights of parents, because in doing so you will be taking away my future rights as a parent. Please vote in favor of SB#24.

Signed: Connor Barry
Testifier

Representing (Optional)
P.O. Box 3514 Soldotna, AK 99669
Address
(907)-262-9790
Phone No.



Alaska State Legislature

Please enter into the record my testimony to the SJUD
 committee name
 committee on SB24, dated 2-19-97
 bill/subject

I am a seventeen year old girl in favor of SB24 for many reasons. I believe that parental rights, responsibility, safety, and not abortion are the issues.

I do not see the difference between a surgery and abortion. Parental consent is mandatory for a minor to have surgery. What makes abortion so different? It is a medical surgery. Many argue that it is of a different nature and that girls need privacy. If so, then, I believe we have a whole lot of private things to get out of media. Some argue that family communication cannot be legislated. I say what about the laws that require minors to notify their parents about speeding tickets. Is this trying to enforce family communication? Just because the communication might not work the way the state thinks would be prime, the state still knows that it is the responsible thing to do. If it is

Signed: Chelsea Bagg
 Testifier

 Representing (Optional)

P.O. Box 3514
 Address

Soldotna, AK 99669 907-267-9700
 Phone No.

such a different private matter than why do we have illicit sex shown across the country to young and old alike on television? It doesn't take a rocket scientist to figure out the natural progression of things after sex. The girl would get pregnant and do one of three things: have the baby and rear it; have the baby and put it up for adoption (with two million couples waiting to adopt a child in the U.S. I would say that our country is not against adoption); or have an abortion. Abortion is not a new or unknown idea. It still can be private within the family.

Just yesterday a trained counselor from a crisis pregnancy center asked me a few basic questions about my medical history. "Are you allergic to penicillin? When was your last tetanus shot? Do you have Rh?" I had absolutely no idea and immediately turned to my stepmom, who was present for the answers. I am seventeen. Some of these thirteen and fourteen year old girls going in to get abortions without their parents will most likely not know this information that is imperative for the safety of the girl. My great aunt almost died due to an allergic reaction to a dose of penicillin.

We need to take a serious look at the health consequences down the road. The initial response of a girl after the abortion is relief but nobody talks about after that. What about girls who have had abortions having miscarriages because of the torn, damaged muscles of the

cervix caused by the abortions? What about all the infertility caused by scarring inside the uterus after abortions? What about breast cancer? Researchers at Penn State University discovered in an analysis of twentythree studies from around the world of cases dating back to 1957 that women are much more prone to breast cancer in later years after abortions. What about the psychological aspect? There are sixteen support groups on the internet alone for post abortion stress. To me that implies that it does affect a girl after the abortion and not just in a physical way.

Being at the end of the age group that this bill refers to I plead with you to help protect the girls who I am representing. Girls need to have independence, however, we have enough trouble already making small decisions, and do need that loving, holding hand to depend on. Don't leave your daughters alone on this, parental involvement is crucial. Please vote for SB24.

Chelsea Barry 3 of 3



Alaska State Legislature

RECEIVED
FEB 14 1997

Ans'd.....

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

committee on SB-24 (MINOR ABORTION) PARITIAL CONSENT, dated 02-13-97 bill/subject

AT AGE 22, I HAD MY FIRST ABORTION. STATISTICS REPORT A HIGH PERCENTAGE RATE FOR REPEAT ABORTION. IT'S TRUE. SIX MONTHS LATER I HAD A SECOND ABORTION. THESE PROCEDURES MADE A PROFOUND IMPACT ON MY LIFE. NOT ONLY WAS I LEFT EMOTIONALLY NUMB, BUT THIS SET A PATTERN FOR SUBSEQUENT DECISION MAKING IN THE YEARS YET TO COME.

I EXPERIENCED MANY OF THE UNHEALTHY ASPECTS ABORTION BRINGS TO A WOMAN'S LIFE. MY SELF-ESTEEM PLUMMETED. A PROLONGED, DEEP DEPRESSION SETTLED OVER ME. SECRETLY, I WAS ASHAMED OF WHAT I HAD DONE TO MY BABIES. AND, I SOON RECOGNIZED A COMPLETE DISLIKE OF MEN. FOR MANY, MANY YEARS I FOUND NO ONE WITH WHOM I COULD DISCUSS THIS INCREDIBLE TURMOIL WITHIN ME. I'D BECOME EMOTIONALLY NUMB AND VOID OF HAPPINESS.

NOW, I AM 45 YEARS OF AGE AND HAVE SUCCESSFULLY MADE MANY GOOD & HEALTHY LIFESTYLE CHANGES. HOWEVER, THERE IS AN ACCOUNTABILITY FOR THOSE DECISIONS MADE IN MY YOUTH. I HAVE NO GRANDCHILDREN IN MY LIFE BECAUSE THERE ARE NO CHILDREN. ALWAYS THERE ARE HOLLOW REMINDERS OF THIS DURING CHRISTMAS AND BIRTHDAY MILESTONES... EVEN HIGH SCHOOL GRADUATIONS.

IF I FIRST MADE THIS DECISION TO ABORT MY BABY (BABIES) ALONE AT AGE 22, AND QUIETLY GRIEVED OVER THIS MOST OF MY ADULT LIFE, HOW CAN WE ASSUME A GIRL OF 13, 14, OR 15 CAN COPE WITH THIS? WOULD YOU HOPE FOR THE SAME SAD LEGACY YOUR YOUNG DAUGHTERS TO REAP? REGARDLESS OF THE DECISION TO KEEP THE CHILD OR END THE LIFE, IT IS OF UTMOST IMPORTANCE THAT THERE IS STRONG PATERNAL INVOLVEMENT HERE.

ABORTION IS A VERY LONELY CALL TO MAKE - IT CAN CAUSE A QUIET DESPERATION DEEP WITHIN... PROTECT YOUR DAUGHTERS, SUPPORT SB-24.

Signed: *Teressa Lundy*
Testifier

Representing (Optional)

P.O. Box 2975 SITKA AK 99835

Address

907-747-5861 (w) 907-966-2204/111

Phone No.



LEGISLATIVE AFFAIRS AGENCY

DIVISION OF PUBLIC SERVICES

DATE: 2-12-97

Please accept the enclosed original(s) of written testimony for the Senate/Judiciary teleconference hearing that was scheduled on 2-12-97.

A copy of this testimony was transmitted to your committee via fax on 2-12-97.

Thank you,

LEGISLATIVE AFFAIRS AGENCY
Sitka Legislative Office
210 Lake Street
Sitka, Alaska 99835
747-6276



Alaska State Legislature



Please enter into the record my testimony to the Senate Judiciary
 committee name
 committee on SB 24, dated 2/12/97
 bill/subject

Signed: _____

Testifier

Representing (Optional)

Address

Phone No.

12 February, 1997

To: Senate Judiciary Committee

Re: SB 24, Parental consent or Judicial Bypass for Minor Women

From: Natasha I. Calvin for Sitkans for Choice

Honorable Senators:

Why require a pregnant 13 year old girl to go to court to get the safest of all alternatives, i.e. a safe, legal abortion? Under former Surgeon General Koop, it was determined that carrying a pregnancy to term is 7 to 24 times as likely to cause a woman's death as a safe first trimester abortion.

Alarms raised about dangers of abortion are true for illegal, unsafe abortions, not for those performed by qualified personnel. Illegal, unsafe abortions require no parental consent or judicial bypass. It is illegal, unsafe abortions that kill women by the thousands. Roe v Wade was promulgated to protect the lives and health of women. Should we in Alaska do less for our children?

Please do not pass SB 24 out of your committee.

Thank you.

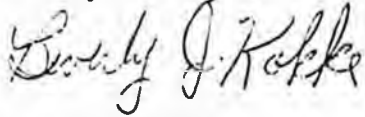


Natasha I. Calvin for
Sitkans for Choice
PO Box 2966
Sitka, Alaska 99835
(907) 747- 8950

WRITTEN TESTIMONY ON SB 24

I am writing to ask the Legislature to support SB 24 which upholds the requirement of parental consent in the case of a minor seeking an abortion. This bill is necessary to support family unity and protect and support a minor in making this momentous decision. I feel it will allow parents to be more involved in their children's lives by supporting them in this critical time and helping them to make a difficult decision. The family unit and value system is chiseled away enough in our society by the media and externals that parents have no control over. Please support this piece of legislation that strives to uphold the family unit and allow parents to have a say in this vital decision that will follow their children all their lives-no matter what decision is made.

Thank you for your time.



Beverly J. Kokke

31 DeGroff
Sitka, AK 99835

966-2570

Alaska State Legislature

Please enter into the record my testimony to the Senate Judiciary Committee on S.B. 24, Parental Consent before a minor receives an abortion with a judicial by pass option. dated February 12 1997.

Many years ago five years after the end of the Second World War, I was living in Vienna Austria and became pregnant. My husband was having an affair and became desperate because he had convinced his girl friend that we were only living together for the sake of our three children. My husband forced me to have an abortion. This abortion was performed in a famous women's clinic by the head Doctor. Feel free to ask questions how this all came about. Now for the reasons I am telling you this:

1. I was terrified when I went into the Clinic and was terrified the whole time I was there. Young mothers to day are terrified when they go to have an abortion, they need the protection and comfort of their parents if that is their decision. And parents often want their young daughter who is already a mother, to have an abortion. Make no mistake, the mother has 2 choices, one ,that they will give birth to a live baby, or, two, a dead baby.

2. After the abortion I had physical problems because my body like all other women's had naturally been nourishing the baby and preparing for child birth. The physical effects of the abortion reversed all my hormones and other physical systems violently. An abortion is not a "friendly" or a compassionate procedure. There is no way these young mothers will not experience these physical symptoms, because it is the natural progression of events.

3. Emotionally and mentally I "stuffed" the reality of what happened to me because not only did I have three small children to care for but the brutality of the whole situation was to painful to think about. Some of my problems that I have worked through are fears of being alone in a strange place after dark, but most damaging of all is the inability to trust other people. especially men, and I am still working on that one. Know that young women who receive abortions will have the same and other problems that they will become aware of them sooner or later.

4. How many Abortions performed in a hospital have been bungled and the mother suffered serious injury or death and the Drs. + Hosp. hide this fact behind the prickly rights of the patient?

Alaska

Finally, do not trust the false words of compassion for young mothers spoken by "experts" who are actually expressing compassion for their bank accounts. If they were truly compassionate they would be performing these services for free.

Please pass SB 24. Thank you.

Signed Virginia C. Phillips T
Testifier J

Self
Representing(Optional)
404 LAKE ST, 2-D SITKA, AK 99835

Address
907-747-8024

Phone Number

2/14/97

The Honorable Robin Taylor
Chair, Senate Judiciary

Please include a copy of the following letter in the record for SB 24. Thank You.

Valdez Medical Clinic

Andrew R. Embick, M.D.
Kathleen G. Todd, M.D.
John S. Cullen, M.D.

P.O. Box 1828
Valdez, Alaska 99686

Telephone
(907) 836-4811
Telefax
(907) 836-5162

2/7/97

Pete Kelly, Representative
Alaska House of Representatives

Dear Sir,

I am adamantly opposed to parental consent laws for abortion for two reasons. First, judicial bypass is not a real option. Judges are only available on certain days on certain weeks ^{or at great distance} in much of our state. Courts are intimidating to anyone, especially a teenager. In rural Alaska they are anything but confidential, since at least one of your parents' best friends works in the building or is there getting a driver's license or checking out the job service (if not working directly for the judge!). Second, and more important, you are confusing your personal views on abortion with trying to protect children. Abortion is a medically safer procedure than having a baby. For the minor who is pregnant, abortion would be the best option if we focused only on

on abortion with trying to protect children. Abortion is a medically safer procedure than having a baby. For the minor who is pregnant, abortion would be the best option if we focused only on the physical. However, there is also a psychological and relief system focus to consider, as we both know. Some would consider abortion the only reasonable option for a pregnant 14 year old, some would never consider abortion even if the mother's life were at stake. Therefore, we need to honor each other's beliefs and let women choose. If we allow teenagers to choose to be mothers against their parents' will (this happens quite often), we must also allow them to have abortions against their parents' will. If not, fair play demands that you also legislate that all those less than 18 get parental permission to carry to term!

Kathleen St. Todd M.D.

FAX TRANSMISSION

TO: Senate Judiciary
FAX: 1-907-465-3922
DATE: 2-12-97
MESSAGE:

1 page to follow

T/C # 70249

2/12/97

ROBIN SMITH

February 3, 1997

RE: SB 24 PARENTAL CONSENT

Dear Honorable Senators:

Dealing with an unwanted pregnancy is extremely difficult. Unfortunately in the United States today, if a woman becomes pregnant there is only one acceptable choice, have the child and become a good mother. An abortion is considered heinous and society does not really accept giving up a child as a wonderful, loving act. (We prosecute parents who abandon a child at someone's door.)

What position do we really put women in who have an unwanted pregnancy. If a woman feels cornered and threatened her actions can become extreme. Examples are numerous: The young couple who recently may have killed their new born and Jerry Sander's unwanted grandchild who died of starvation. Abortion was not chosen and the results were deadly. In both cases I am sure the couples' parents wanted to help their (older) children through their desperation. It did not happen. The communication process was not there.

You cannot legislate family interaction. I understand your good intentions. I pray for good family communication. I prefer birth control or abstinence to abortion. But when abortion is not readily accessible, dangerous back alley procedures befall and worse.

The way to reduce abortion is to reduce unwanted pregnancy. I *implore* you to spend your time and effort in this direction. All research shows the vast majority of Americans support more money spent on family planning. Community involvement in a parent/child relation program is another possibility, or required high school community service programs.

We are wasting time, energy, money and losing goodwill in this ongoing debate over abortion. Please use your religious convictions for the common good and address the prevention of unwanted pregnancies not the consequences. After all, women are capable of making their own decisions.

Sincerely,



14100 Jarvi Drive
Anchorage, AK 99515
345-4407

| | | | |
|--|------------|------------|----------|
| Post-It™ brand fax transmittal memo 7671 | | # of pages | 1 |
| To | Ann Taylor | From | And LIO |
| Co. | (S) LIO | Co. | |
| Dept. | | Phone # | 258-8111 |
| Fax # | 465-3922 | Fax # | |

Written (7) SB 24

Regarding Senate Bill No. 24
Regarding House Bill No. 37

Wednesday, February 12, 1997
Thursday, February 13, 1997

"Parental Consent of Minors Seeking Abortion"

My name is Sharylee Zachary,

My husband, Dan, and I have 3 daughters, ages 7, 9, & 11.

We have already sent in written and oral testimony regarding our concerns about this vital issue of parental rights in guiding the health care of our children and medical procedures performed on them, - especially when done without our knowledge. So I will keep this short.

It is important that our Alaskan laws are so designed as to strengthen the family unit and make it possible for the family to work through problems and crisis together. It is neither beneficial to the family nor to Alaska to allow for a situation in which people outside of the family step in-between the parent and child when a child is faced with a situation as serious as a pregnancy. This type of situation allows others to convince the child to keep secrets from their family and allows others to tell the child that they will help them out of the situation, which, - in this case results in the death of a viable baby. This situation, also, does nothing to teach or support the child in taking responsibility for their actions. Our society is breeding a whole generation of people who do not take responsibility for their actions, but take the easy way out.

Minors do not have the maturity to make such decisions on their own. Minors need the wisdom and support of their parents in order to make decisions for life and for taking responsibility for their actions.

We are grateful that this bill is designed to strongly recognize the rights of the family and the parents to support their children through such a crisis and to guide them in making wise decisions for both themselves and their unborn babies.

Very Sincerely and respectfully,

Sharylee M Zachary

Sharylee Zachary
Box 1531
Petersburg, AK 99833
907-772-3681

Question: Does this bill also allow a minor to go to the court to get consent to have the baby - when a parent, guardian, etc, wants to force her to have an abortion?

February 16, 1997

**Senator Robyn Taylor
Chair, Sen Judiciary
Capitol Bldg
Juneau AK 99811**

Dear Senator Taylor and Members of Senate Judiciary:

I am a voter in House District 26, Senate District M. I am writing this letter to let you know that I am opposed to CSHB37 concerning parental consent for abortion for girls under the age of 18. My reasons are listed below.

1) Apparently the legislature hopes this bill will compel family communication and reduce the numbers of teen pregnancy and abortion. However, statistics from other states make it clear that this type legislation will likely serve no such purpose.

I obtained some information from Planned Parenthood and learned that in Michigan a similar law was passed and the teen pregnancy rates actually increased by over 5%.

As for teen abortion rates, when a similar law was passed in Missouri, the girls went to Kansas to get their abortions. The abortion rate in Kansas rose 62%.

In Massachusetts, after a similar law was passed, the pregnant teens went to another state. During the first month of this Massachusetts law, the number of teens who left the state increased by 300%. Eight months after this law went into effect, Massachusetts teens traveled at an average of 91 a month.

In several states including New York, Missouri and Minnesota, there was a substantial increase (close to 1/3 of the cases) in late (which of course are more dangerous) abortions for teens.

2) This bill will obviously cause a cost burden and case-load burden to the courts. There will be a need to monitor the time lines for the cases and to provide an attorney in most, if not all, cases. I understand there is a fiscal

Sen Taylor
Page 2

note with this bill, but I wonder if it will be large enough to cover the costs involved. I keep hearing that the courts are already overburdened with case-load and I wonder what the overall fiscal impact really is. I also wonder if this legislation will effect other peoples rights to a speedy trial.

3) I think this legislation is unnecessary particularly in light of the information provided by the Chicago Attorney, Ms Kohler (spell?) that was presented at the February 11th SA hearing on this matter. She stated that only a very small number of girls who petitioned the court for abortion without consent were denied (I recall it was around 60 out of over 3,600 — I'm not exactly sure of the numbers, but this is close). The rest of them were successful in their petition. It seems that the court expenses involved here are not worth the trouble.

It is also my understanding that the greater majority of young girls in this state already obtain parental consent before they abort a fetus anyway.

This legislation appears to attempt to get teenagers to talk to their parents and this should be handled through good parenting skills that would include dialog about sex before marriage.

4) We have all heard stories about how some girls would literally rather die than to tell their parents they are pregnant and many of them do through suicide and self abortion or they arrange illegal life-threatening abortions performed by incompetent people.

There must be a provision included in this bill to assure protection of the girls who reluctantly come forward to their parents. There should also be some assurance that girls who are emancipated by their parents as a result of the pregnancy or the request for abortion are able to obtain some type of public assistance to assure their survival.

5) The legislation places the entire burden of the episode directly on the shoulders and minds of the girls and their families and the males apparently do not have to take any responsibility for impregnating them.

Sen Taylor

Page 3

The boy involved must also be required to notify his parents, and he and his parents must take responsibility (including financial responsibility) in the matter. Keeping in mind, of course, the ultimate decision lies with the one whose body it is that is carrying the fetus.

6) Our bodies are our own and each person should be able to make decisions (especially medical decisions) on his or her own.

7) Shades of discrimination creep up in this bill. Not only toward the female population but perhaps Alaskan Natives and others who live in rural areas and are unable to obtain court petitions and assistance that we enjoy in the larger cities.

In closing, I am sure there are a number of other issues that I have not addressed such as the impact on the medical community, school officials, individual rights of privacy, etc., but I hope the information I have provided will encourage you to withdraw this legislation from the process.

I very much appreciate your consideration of my views on this important legislation.

Sincerely,



Sue Doggett

PO Box 190808

Anchorage AK 99519-0808

Tel 248-3402 * fax 248-4068

February 19, 1997

Kimberly Miller
3320 Nowell Ave., Apt. 4
Juneau, AK 99801
586-1569

Senator Robin Taylor
State Capitol Rm. 30
Juneau, AK 99801

Dear Senator Taylor:

I am writing to express my strong opposition to SB 24 regarding requiring parental consent for minors seeking an abortion. I feel that SB 24 is an attempt to end safe and legal abortions by erecting insurmountable barriers for young women. The argument that SB 24 would enhance teen-parent communication is inaccurate. The following is a list of reasons why I am adamantly opposed to SB 24:

* Studies have shown that nationally the majority (61%) of minors who have abortions do so with at least the knowledge of one parent. The younger the minor the more likely she is to voluntarily discuss the abortion with a parent. The study looked at states without parental consent laws.

* Studies have shown that parental consent laws do not encourage young women to tell their parents. The minority of minors who do not tell their parents come from families where communication is difficult or dangerous due to a variety of circumstances. The belief that telling their parents would result in further abuse, family violence or increased drug/alcohol use for example is real. Thus, SB 24 would act to further victimize these young women.

* The judicial bypass process is not an adequate safety valve for these young women. The judicial process can be a fearful, anxiety and shame producing experience where a young woman who is already in a vulnerable and difficult situation is subjected to further barriers in finding a resolution to her situation. The judicial system is not an appropriate venue for this type of decision to be made.

* Minors in rural Alaska will have to maneuver additional obstacles to receive a safe and legal abortion if SB 24 is enacted. If the young woman's situation was such that she could not tell her parents she would be forced to go to a local judge who more that likely knows her to seek a judicial bypass. The process, coupled with the fact that she already has to travel to a strange place to receive an abortion, makes young women in rural communities even more penalized by SB 24.

The net effect of SB 24 will be to chip away at women's legal right for a safe abortion. After enacting a parental consent law in Minnesota the state had a 18% increase in second-trimester abortions among minors, and the birth rate in Minneapolis for 15-17 year olds increased by 38.4%. These statistics show how detrimental SB 24 will be for Alaskan's. I urge you to take Alaska in a safe, healthy and positive direction rather than cause more hardship for Alaska's children and families.

Thank you,
Kimberly Miller, MSW

Robert G. Thompson, M.D., F.A.C.O.G.

*Reproductive Surgeon - Society of Reproductive Surgeons
Diplomate - American Board of Obstetrics and Gynecology*

FAX: (907) 465-3973

Catherine A. Thompson, R.N., M.S.N.

Advanced Nurse Practitioner

February 18, 1997

The Honorable Loren Leman
Senator - State of Alaska
Juneau, Alaska 99811

ATTENTION: Mike Pauley

Re: Written Testimony
SB 24 and HB 37

Dear Senator Leman and Judiciary Committee Members:

My name is Robert Thompson. I am a physician and surgeon specializing in obstetrics, gynecology, infertility, and reproductive surgery. I've read numerous other testimonies of other physicians, colleges, societies, and organizations regarding the issue of parental consent for minors before proceeding with an elective surgical procedure, in this case, as an "abortion." There seems to be three major objections physicians and various organizations have in regards to accepting this bill.

First, the legal obligations and consequences of violating this obligation. Being a practicing physician does not exempt physicians of the numerous and extensive responsibilities to the law and the numerous consequences for violations to such responsibility within the practice of medicine. Any argument with regards to criminalization versus aspects of practicing medicine need only to be considered in this light. It is difficult for me to understand why a surgical procedure such as abortion could have ever come to be considered an exempt procedure for parental consent when its consequences can include significant life-threatening and permanent complications which could include death, sterility, infection, and psychological difficulties. While these complications are usually considered to be fairly rare, they exist. The treatment of complications after an abortion is completed would also require parental consent, therefore, I feel it is in the best interest of a physician practicing medicine to involve a responsible guardian or parent in the consent for this surgical procedure.

The second objection involves physician concerns about breach of confidentiality. Again, this is an exceedingly weak argument and continues to be so in all levels of the practice of medicine. It remains the patient's (that is the teenager) responsibility to inform and involve the parents with regards to the diagnosis and treatment of this medical problem.

*A Professional Corporation, 4001 Dale Street, Suite 117, Anchorage, Alaska 99508
(907) 562-5328, FAX (907) 562-4363, Fertility (907) 562-3562*

