

ALASKA LEGISLATURE COMMITTEE FILES 1997-1998 8672

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SB

275

Alaska State Legislature

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MIKE MILLER
President of the Senate

Senate District Q

SPONSOR STATEMENT CSSB275(STA)

Senate Bill 275 amends Alaska law to place all candidates for state office under the same campaign financing rules.

AS 15.13.072 currently allows candidates who are the Governor and the Lieutenant Governor to raise funds during sessions, while legislators are prohibited. With the passage of SB275, all candidates for state office will be under the same campaign financing rules: prohibition on raising funds during regular and special legislative sessions.

AS 15.13.074 currently allows candidates for the office of governor or lieutenant governor to receive campaign funds during regular legislative sessions, while candidates for legislative office are prohibited. With the passage of SB275, all candidates for state office will be under the same campaign financing rules: prohibition on contributing funds to candidates for state office during regular and special legislative sessions.

There is an exemption from these fundraising restrictions during the 90 days immediately preceding an election in which the person is a candidate for state office.

This change will help level the playing field among candidates and will make the system more fair and equitable for all candidates seeking public office in Alaska.

Collateral references. — Power of corporation to make political contribution or expenditure under state law. 79 ALR3d 491.

State regulation of the giving or making of political contributions or expenditures by private individuals. 94 ALR3d 944.

Sec. 15.13.072. Restrictions on solicitation and acceptance of contributions. [Effective January 1, 1997.] (a) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may not solicit or accept a contribution from

- (1) a person not authorized by law to make a contribution;
- (2) an individual who is not a resident of the state at the time the contribution is made, except as provided in (e) of this section;
- (3) a group organized under the laws of another state, resident in another state, or whose participants are not residents of this state at the time the contribution is made; or
- (4) a person registered as a lobbyist if the contribution violates AS 15.13.074(g) or AS 24.45.121(a)(8).

(b) A candidate or an individual who has filed with the commission the document necessary to permit the individual to incur election-related expenses under AS 15.13.100, or a group, may not solicit or accept a cash contribution that exceeds \$100.

(c) An individual, or one acting directly or indirectly on behalf of that individual, may not solicit or accept a contribution

- (1) before the date for which contributions may be made as determined under AS 15.13.074(c); or
- (2) later than the day after which contributions may not be made as determined under AS 15.13.074(c).

(d) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may not solicit or accept a contribution if the legislature is convened in a regular or special legislative session, and the candidate or individual is a member of the legislature, or employed as a member of the legislator's staff or as a member of the staff of a legislative committee.

(e) A candidate or an individual who has filed with the commission the document necessary to permit that individual to incur election-related expenses under AS 15.13.100 may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made if the amounts contributed by individuals who are not residents do not exceed

- (1) \$20,000, if the candidate or individual is seeking the office of governor or lieutenant governor;
- (2) \$5,000, if the candidate or individual is seeking the office of state senator;
- (3) \$3,000, if the candidate or individual is seeking the office of state representative or municipal or other office.

(f) A group or political party may solicit or accept contributions from an individual who is not a resident of the state at the time the contribution is made, but the amounts accepted from individuals who are not residents may not exceed 10 percent of total contributions made to the group or political party during the calendar or group year in which the contributions are received. (§ 11 ch 48 SLA 1996)

Effective dates. — This section took effect on January 1, 1997. See editor's note at beginning of chapter.

Sec. 15.13.074. Prohibited contributions. [Effective January 1, 1997.] (a) A person or group may not make a contribution if the making of the contribution would violate this chapter.

(b) A person or group may not make a contribution anonymously, using a fictitious name, or using the name of another.

(c) A person or group may not make a contribution

(1) to a candidate for governor or lieutenant governor or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for governor or lieutenant governor, when the office is to be filled at a general election, before the later of the following dates:

(A) the date the individual

(i) becomes a candidate; or

(ii) files with the commission the document necessary to permit the individual to incur certain election-related expenses as authorized by AS 15.13.100; or

(B) January 1 of the year of the general election;

(2) to a candidate for the state legislature or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for the state legislature, when the office is to be filled at a general election, while the legislature is convened in its regular legislative session and before the later of the following dates:

(A) the date the individual

(i) becomes a candidate; or

(ii) files with the commission the document necessary to permit the individual to incur certain election-related expenses as authorized by AS 15.13.100; or

(B) January 1 of the year of the general election;

(3) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the later of the following dates:

(A) the date the individual

(i) becomes a candidate; or

(ii) files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100;

(B) is nine months before the date of the general or regular municipal election or that is before the date of the proclamation of the special election at which the candidate or individual seeks election to public office; or

(4) to any candidate later than the 45th day

(A) after the date of a primary election if the candidate

(i) has been nominated at the primary election or is running as a write-in candidate; and

(ii) is not opposed at the general election;

(B) after the date of the primary election if the candidate was not nominated at the primary election; or

(C) after the date of the general election, or after the date of a municipal or municipal runoff election, if the candidate was opposed at the general, municipal, or municipal runoff election.

(d) A person or group may not make a contribution to a candidate or a person or group who is prohibited by AS 15.13.072(c) from accepting it.

(e) A person or group may not make a cash contribution that exceeds \$100.

(f) A corporation, company, partnership, firm, association, organization, business trust or surety, labor union, or publicly funded entity that does not satisfy the definition of group in AS 15.13.400 may not make a contribution to a candidate or group.

(g) An individual required to register as a lobbyist under AS 24.45 may not make a contribution to a candidate for the legislature at any time the individual is subject to the registration requirement under AS 24.45 and for one year after the date of the individual's initial registration or its renewal. However, the individual may make a contribution under this section to a candidate for the legislature in a district in which the

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individual is eligible to vote or will be eligible to vote on the date of the election. An individual who is subject to the restrictions of this subsection shall report to the commission, on a form provided by the commission, each contribution made while required to register as a lobbyist under AS 24.45. This subsection does not apply to a representational lobbyist as defined in regulations of the commission.

(h) Notwithstanding AS 15.13.070, a candidate for governor or lieutenant governor and a group that is not a political party and that, under the definition of the term "group," is presumed to be controlled by a candidate for governor or lieutenant governor, may not make a contribution to a candidate for another office, to a person who conducts a write-in campaign as a candidate for other office, or to another group of amounts received by that candidate or controlled group as contributions between January 1 and the date of the general election of the year of a general election for an election for governor and lieutenant governor. This subsection does not prohibit

(1) the group described in this subsection from making contributions to the candidates for governor and lieutenant governor whom the group supports; or

(2) the governor or lieutenant governor, or the group described in this subsection, from making contributions under AS 15.13.116(a)(3)(A). (§ 11 ch 48 SLA 1996)

Contingent amendment of Subsection (c). — Section 33(b), ch. 48, SLA 1996 provides that § 12 of ch. 48, SLA 1996, which has the effect of amending subsection (c) of this section, takes effect only if the following occurs: a court order is entered and becomes final declaring that in subsection (c), as enacted by § 11, ch. 48, SLA 1996, the dates set out as being the dates before which campaign contributions may not be accepted are unconstitutional. If this contingency occurs, under § 12, ch. 48, SLA 1996, subsection (c) will read as follows: "A person or group may not make a contribution

"(1) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 when the office is to be filled at a general election before the date that is 18 months before the general election;

"(2) to a candidate or an individual who files with the commission the document necessary to permit that individual to incur certain election-related expenses as authorized by AS 15.13.100 for an office that is to be filled at a special election or municipal election before the date that is 18 months before the date of the regular municipal election or that is before the date of

the proclamation of the special election at which the candidate or individual seeks election to public office; or

"(3) to any candidate later than the 45th day

"(A) after the date of a primary election if the candidate

"(i) has been nominated at the primary election or is running as a write-in candidate; and

"(ii) is not opposed at the general election;

"(B) after the date of the primary election if the candidate was not nominated at the primary election; or

"(C) after the date of the general election, or after the date of a municipal or municipal runoff election, if the candidate was opposed at the general, municipal, or municipal runoff election."

Section 34, ch. 48, SLA 1996 provides that if § 12, ch. 48, SLA 1996, which contingently amends subsection (c) of this section, takes effect, it takes effect on the day after the date a court order described in § 33(b), ch. 48, SLA 1996.

Effective dates. — This section took effect on January 1, 1997. See editor's note at beginning of chapter.

Sec. 15.13.076. Authorized recipients of contributions. [Effective January 1, 1997.] A contribution to a

(1) candidate may be received only by

(A) the candidate; or

(B) the candidate's campaign treasurer or a deputy campaign treasurer;

(2) group may be received only by the group's campaign treasurer or a deputy treasurer. (§ 11 ch 48 SLA 1996)

Effective dates. — This section took effect on January 1, 1997. See editor's note at beginning of chapter.

Sec. 15.13.078. Contributions and loans from the candidate. [Effective January 1, 1997.] (a) The provisions of this chapter do not prohibit the individual who is a candidate from giving any amount of the candidate's own money or other thing of value to the campaign of the candidate. Donations made by the candidate to the candidate's

Lawmakers debate bill to ban fund raising during

By PAUL QUEARY
The Associated Press

JUNEAU — New visions of campaign finance reform lived briefly and died quickly Wednesday during debate on the House floor.

The House was debating a bill that would prohibit all candidates for governor and lieutenant governor from raising campaign cash while the Legislature is in session.

Currently, candidates for governor and lieutenant governor can raise money during the session, but lawmak-

ers and candidates for the Legislature cannot.

That provision allows Democratic Gov. Tony Knowles to raise money while lawmakers are meeting but works against Sen. Robin Taylor, R-Wrangell, who is running for governor. Senate President Mike Miller, R-North Pole, introduced the bill, saying he wanted to level the playing field.

Democratic Rep. Tom Brice of Fairbanks accused the sponsor of "changing the rules in the middle of the

game."

Most attempts to change the bill failed Wednesday, and the measure was scheduled for a final vote on Friday.

Rep. Kim Elton proposed exempting candidates who don't currently hold office. The amendment put Elton, a Democrat, in the odd position of defending Wayne Anthony Ross, a conservative Republican candidate for governor.

The bill as written would put Ross at a disadvantage.

Another Republican candidate for governor, Anchorage businessman John Lindauer, has said he can rely on his own wealth.

"I think the immediate effect of this is as a torpedo that's going to sink (Ross) ship," Elton said.

Elton also tried to remove an earlier amendment to the bill that would let lawmakers raise money if they were running for a municipal office.

Rep. Ethan Berkowitz proposed eliminating the ban on fund raising during the session altogether to promote free speech and public discourse.

"Money can't buy you love, but it can buy you TV time," Berkowitz, D-Anchorage, quipped.

Rep. Fred Dyson, R-Eagle River, floated a proposal that may have alarmed many of his colleagues: ban fund raising for incumbents during

session

the session, but let challengers raise money.

Before the bill reached the House, the Senate Finance Committee amended it to allow lawmakers to raise money during the 90 days before an election, even if the Legislature is called into special session.

That provision is intended to prevent the governor from calling a special session as a way of blocking lawmakers' fund-raising efforts.

SB

284



SENATOR DAVE DONLEY

ALASKA STATE LEGISLATURE

Sponsor Statement

Sponsor Substitute for Senate Bill 284

"An Act relating to cruelty to animals"

SSSB 284 was introduced in response to concerns about the treatment of animals and the difficulty of prosecuting cases which involve animal cruelty.

There have been numerous incidents of animal cruelty and neglect in Alaska which have gone un-prosecuted because of the current statutory language. One district attorney testified that the language, which reads, "intentionally inflicts severe and prolonged physical pain or suffering on an animal", is "un-prosecutable". SSSB 284 gives the state a more workable statute. The following outlines the changes the bill would make.

- ❖ Changes "intentionally" to "knowingly" which lowers the state of mind the state must prove in prosecuting an animal cruelty case. This would help in cases of starving animals. An owner's actions may not have been "intentional", but a reasonable person would "know" that lack of food causes starvation.
- ❖ Changes "recklessly" to "with criminal negligence" which lowers the criminal standard. Recklessness is indicated by an awareness and conscious disregard. Criminal negligence is indicated by a "failure to perceive a substantial and unjustifiable risk that the result will occur..." AS 11.81.900.
- ❖ Does not affect existing statute which protects farmers, ranchers, hunters and trappers who are conducting accepted veterinary practices including castration, dehorning, branding, euthanizing, etc. AS 11.61.140
- ❖ Does not affect the existing statute which designates cruelty to animals as a class A misdemeanor.

Supporters of this bill include: *Alaska Animal Control Association* (statewide), *Alaska Society for the Prevention of Cruelty to Animals* (Anchorage), *Iditarod Race Winner Libby Riddles* (Wasilla), *Fairbanks Animal Control* (Fairbanks), *Kenai Animal Control* (Kenai), *Friends of Pets* (Anchorage), and the *Gastineau Humane Society* (Juneau).

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

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



SENATOR DAVE DONLEY ALASKA STATE LEGISLATURE

HOW SB 284 DIFFERS FROM PAST ANIMAL CRUELTY PROPOSALS

In 1996, HB 386 "An Act relating to cruelty to animals and to the power of first and second class boroughs to prohibit cruelty to animals" passed the House but died in the Senate Finance Committee in the last days of session.

HB 386 contained two sections. Section 1 made a simple wording change to the criminal code, while Section 2 gave first and second class boroughs the authority to prohibit (or regulate) animal cruelty issues in the borough.

Section 1 received little comment or opposition throughout the committee hearing process in both the House and Senate. The question was asked, "will farmers, hunters and trappers be prosecuted if they castrate, dehorn, brand, euthanize, hold in traps, etc?" The answer is no because there is protection under existing law AS 11.60.140 for these kinds of traditional practices:

(b) It is a defense to a prosecution under (a)(1) or (2) of this section that the conduct of the defendant (1) conformed to accepted veterinary practice; (2) was part of scientific research governed by accepted standards; or (3) was necessarily incident to lawful hunting or trapping activities.

State Veterinarian Bert Gore and Ed Kern from the Division of Agriculture confirmed that castration, dehorning, docking, branding, euthanasia, etc., are "accepted veterinary practices" and do not have to be performed by veterinarians. Ann Carpeneti of the Department of Law agreed. Additionally, the American Veterinarian Medical Association lists "accepted practices" in their AMVA Policy Statements and Guidelines. Hunters and trappers are also protected under the current statutory language. Section 1 of HB 386 did not change these protections.

Throughout the testimony and hearings on HB 386, any objections voiced by legislators and members of the public were almost entirely related to Section 2. Mainly, farmers were concerned about giving more powers to local governments when it came to the regulation of their animals. Section 2 was debated and amended and eventually, it was apparently the problems with Section 2 that killed the bill.

SB 284 is basically identical to Section 1 of HB 386, with a few wording changes suggested by the Department of Law to clarify the intent of the legislation. Section 2 from HB 386 is not included in this current bill.

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• Senate Community & Regional Affairs Committee

SB

287



SENATOR LOREN LEMAN

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SPONSOR STATEMENT SB 287: Parole Considerations

In 1994, the Legislature passed, and the voters approved a constitutional amendment that strengthened the rights of victims of crimes. Among the rights enumerated is the right of a victim to be present at parole hearings.

Senate Bill 287 addresses the emotional trauma for victims when an inmate, eligible for parole, waives that parole hearing and essentially ends up on an automatic schedule of reappearances before the Parole Board.

This situation is not a common one, but it is still traumatic for the victim or the victim's family to gird themselves up for a planned parole hearing and to have that hearing canceled within 24 hours at the direction of the inmate, only then to be rescheduled and canceled every 30 days.

This bill puts the inmate on a schedule set by the Board, while meeting the ex post facto requirements of Alaska's Constitution in Article 1, Sections 1 and 7 and the U.S. Constitution in Article 1, Section 15.

This bill is supported by Victims for Justice.

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22 AAC 20.150 DEPARTMENT OF CORRECTIONS 22 AAC 20.150

(2) continue the applicant's case for review at any subsequent board hearing;

(3) deny the application for discretionary parole and require the prisoner to serve the remainder of the sentence without further review; or

(4) defer action as set out in 22 AAC 20.170. (Eff. 1/30/91, Register 117)

Authority: AS 33.16.060
AS 33.16.100
AS 33.30.130

22 AAC 20.150. APPLICANT'S RESPONSIBILITIES AND PROCEDURAL OPPORTUNITIES. (a) The parole applicant shall provide the department's staff with all information requested for inclusion in the parole progress report.

(b) The applicant shall completely and truthfully fill out a parole application. The completed application must be turned in to the parole officer a minimum of seven weeks before the week of the scheduled board hearing. Failure to submit the completed application in a timely manner constitutes the applicant's waiver of the right to apply until the following hearing at the institution where the applicant is housed.

(c) The applicant shall obtain and provide the department's staff with written documentation of the parole plan. This should include verification of employment, job training, educational plan, treatment plan, housing, and other letters of reference relevant to the applicant's plan. An applicant expecting to return to a small community where no parole officer is located should obtain documentation from the community's governing body of its willingness to receive the applicant in the community.

(d) The applicant should be prepared to discuss any topic that could reasonably relate to the applicant's possible success or failure on parole. These topics include present offense, prior criminal or antisocial behavior, family situation, possible emotional problems, employment, training or treatment plans, institutional record, alcohol and drug use, relationships with other people, financial solvency, and release plans.

(e) The applicant should also be prepared to discuss possible conditions of parole if released and how these might relate to the applicant's adjustment in the community.

(f) The applicant should be prepared to discuss possible mandatory parole conditions if discretionary parole is denied and if the applicant is subject to mandatory parole.

(g) Payment for the residence, sustenance, transportation, programming, treatment, or education of the applicant granted parole is

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solely the responsibility of the applicant. Under no circumstances is the board responsible for these costs.

(h) Discretionary parole release hearings are non-adversary hearings and an applicant is not entitled to legal representation except as set out in (n) of this section. The applicant has no right to present witnesses. The applicant may present any relevant written information from any interested person, group, or agency.

(i) The applicant must present written documentation of the proposed parole plan. This documentation should be supplied to the board through the applicant's institutional parole officer if the applicant is incarcerated in an Alaska correctional facility. This documentation should be sent directly to the board office by an applicant residing in a contract correctional facility outside of Alaska.

(j) The applicant will be interviewed by a quorum of the board. The applicant may make any relevant comments to the board, subject to 22 AAC 20.095(d).

(k) The applicant may waive the board's consideration of his or her case by signing a waiver. An applicant who, after notice, does not come to the hearing when requested will be deemed to have waived his or her hearing.

(l) The applicant may request reconsideration under 22 AAC 20.175 of a decision to continue the applicant's case or deny the applicant further parole consideration.

(m) The applicant may request a special review under 22 AAC 20.185 — 22 AAC 20.190.

(n) The applicant may be represented by an attorney at the hearing. No person other than an attorney licensed to practice law in the State of Alaska may represent the applicant. If the applicant is housed in a contract correctional facility outside Alaska, the applicant may be represented by an attorney licensed to practice law in that jurisdiction. It is the applicant's responsibility to obtain such representation. Neither the board, the department, nor the staff of any contract correctional facility have any responsibility to help arrange for or pay for representation. No other prisoner advocate is allowed.

(o) The applicant will be provided a copy of the parole progress report and attachments and have access to other records to be considered by the board, subject to AS 33.16.170(b). The applicant will be given a summary of any document provided to the board but withheld from the applicant under AS 33.16.170(c).

(p) The applicant may make any relevant comments about possible supplemental conditions of discretionary parole, subject to 22 AAC 20.095(d).

(q) The applicant may make any relevant comments about possible mandatory parole conditions if the applicant is subject to mandatory parole, subject to 22 AAC 20.095(d).

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(r) The applicant is entitled to access to and may make any relevant comments about the applicability of numerical guidelines that the board might consider in making its parole release decision.

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(s) The applicant may not question a victim who testifies before the board under 22 AAC 20.105(c) and 22 AAC 20.155(c). (Eff. 1/30/91, Register 117)

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Authority: AS 33.16.060 AS 33.16.150
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22 AAC 20.155. VICTIM'S RESPONSIBILITIES AND PROCEDURAL OPPORTUNITIES.

(a) A victim who has requested notification of a discretionary parole or parole rescission hearing and who has provided the commissioner with a current, valid mailing address will be advised in writing of the prisoner's discretionary parole release hearing 30 days before the hearing.

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(b) The victim will be provided a copy of the prisoner's parole application that does not include the proposed residence and employment addresses of the applicant.

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(c) The victim will be advised of the victim's right to personally appear at the hearing and to submit written comment to the board regarding the impact of the crime on the victim or the victim's family, the applicant's suitability for parole, and the conditions of parole, subject to 22 AAC 20.105.

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(d) The victim will be advised of board regulations regarding appearance at a discretionary parole release or parole rescission hearing and of the victim's responsibilities under 22 AAC 20.105 if the victim wishes to appear at the hearing. The victim is responsible for any costs associated with appearing at the hearing.

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(e) The victim will be notified of the victim's right to receive the following information, if applicable, once the board makes the decision to grant parole, continue the applicant's case to a future date, or deny the application for parole for the remainder of the sentence:

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- (1) the decision of the board on the prisoner's application for discretionary parole;
- (2) the expected date of release of the prisoner;
- (3) the expected geographic area of release of the prisoner;
- (4) the conditions of parole of the prisoner;
- (5) the address of the parole office in Alaska that is expected to be responsible for the supervision of the prisoner.

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(f) The victim does not have the right to notification of or appearance at a revocation hearing of the parolee conducted under AS 33.16.220.

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(g) The victim of a crime other than one described in 22 AAC 20.105(a), who has complied with (a) of this section, will be notified of

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that crime, the board shall send notice of the hearing to the victim at least 30 days before the hearing. The notice must be accompanied by a copy of the prisoner's application for parole submitted under AS 33.16.130(a). However, the copy of the application sent to the victim may not include the prisoner's proposed residence and employment addresses.

(b) A victim who requests notice under this section shall maintain a current, valid mailing address on file with the board. The board shall send the notice required by this section to the last known address of the victim. The victim's address may not be disclosed to the prisoner or the prisoner's attorney.

(c) The victim has a right to attend meetings of the parole board in which the status of the prisoner convicted of the crime against that victim is officially considered and to comment, in writing or in person, on the proposed action of the board. Copies of any written comments shall be provided to the prisoner and the prisoner's attorney before action by the board.

(d) The board shall consider the comments presented under (c) of this section in deciding whether to release the prisoner on parole.

(e) If the victim requests, the board shall make every reasonable effort to notify the victim as soon as practicable in writing of its decision to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c). The notice under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

(f) Upon request of the victim, if a prisoner is released under AS 33.16.010(c), the board shall make every reasonable effort to notify the victim before the prisoner's release date. Notification under this subsection must include the expected date of the prisoner's release, the geographic area in which the prisoner is required to reside, and other pertinent information concerning the prisoner's conditions of parole that may affect the victim.

(g) A victim of a crime involving domestic violence shall be informed by the board at least 30 days in advance of a scheduled hearing to review or consider discretionary parole for a prisoner. The board shall inform the victim of any decision to grant or deny discretionary parole or to release the prisoner under AS 33.16.010(c). If the prisoner is to be released, the victim shall be notified of the expected date of the release, the geographic area in which the prisoner will reside, and any other information concerning conditions of parole that may affect the victim. The victim shall also be informed of any changes in the conditions of parole that may affect the victim. The board shall send the notice required to the last known address of the victim. A person may not bring a civil action for damages for a failure to comply with the provisions of this subsection. (§ 2 ch 88 SLA 1985; am §§ 12 — 15 ch 59 SLA 1989; am § 51 ch 64 SLA 1996)

↙ Cross references. — For rights of victims generally, see AS 12.61.

Effect of amendments. — The 1996 amendment, effective July 1, 1996, added subsection (g).

Sec. 33.16.130. Application for discretionary parole. (a) A prisoner eligible for discretionary parole may apply to the board for discretionary parole. As part of the application for parole, the prisoner shall submit to the board a parole release plan that includes the prisoner's plan for employment, residence, and other information concerning the prisoner's rehabilitative plans if released on parole.

(b) Before the board determines a prisoner's suitability for discretionary parole, the prisoner is entitled to a hearing before the board. The prisoner shall be furnished a copy of the preparole reports listed in AS 33.16.110, and permitted access to all records that will be considered by the board in making its decision except those that are made confidential by law. The prisoner may also respond in writing to all materials considered by the board, be present at the hearing, and present evidence to the board.

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considered and to the
parole board. Copies of any
written report of the
prisoner's attorney before

(c) of this section in
the best possible effort to notify the
prisoner or deny discretionary
parole under this subsection
in the geographic area in which the
prisoner is residing concerning the prisoner's

AS 33.16.010(c), the board
shall determine the prisoner's
release date, the date of the prisoner's
parole, and other
factors that may affect the

decision formed by the board at
the discretion of the parole
board to grant or deny
parole. (c). If the prisoner is to
be released, the geographic
area concerning conditions
of release formed of any changes in
the area shall send the notice
to bring a civil action for
violation of this section. (§ 2 ch 88 SLA
1995)

amendments. — The 1996 amendment,
added subsection (g)

(a) A prisoner eligible for
parole. As part of the
parole release plan that
contains information concerning

discretionary parole, the
parole board shall be furnished a copy
of access to all records that
except those that are made
available to all materials considered
for release to the board.

(c) The board shall issue its decision in writing and provide the basis for a denial of discretionary parole. A copy of the decision shall be provided to the prisoner. (§ 2 ch 88 SLA 1985)

new section added here

NOTES TO DECISIONS

Section inapplicable to mandatory parolee. Mandatory parolees are not denied equal protection of the laws because they are not permitted to appear before the parole board prior to their release while discretionary parolees are granted the right of an in-person appearance; the purpose of the parole hearing under this section is to allow the discretionary parolee an opportunity to persuade the board for

release on parole whereas the mandatory parolee must be released on parole at the end of the parolee's sentence less time deducted for good conduct. Accordingly, there is nothing for the board to consider with regard to whether a mandatory parolee should be released. *Smith v. State, Dep't of Cors., 872 P.2d 1218 (Alaska 1994).*

Sec. 33.16.140. Order for parole. An order for parole issued by the board, setting out the conditions imposed under AS 33.16.150(a) and (b) and the date parole custody ends, shall be furnished to each prisoner released on special medical, discretionary, or mandatory parole. (§ 2 ch 88 SLA 1985; am § 6 ch 70 SLA 1995)

Effect of amendments. — The 1995 amendment, effective September 3, 1995, inserted "special medical," near the end and made minor stylistic changes.

Sec. 33.16.150. Conditions of parole. (a) As a condition of parole, a prisoner released on special medical, discretionary, or mandatory parole

(1) shall obey all state, federal, or local laws or ordinances, and any court orders applicable to the parolee;

(2) shall make diligent efforts to maintain steady employment or meet family obligations;

(3) shall, if involved in education, counseling, training, or treatment, continue in the program unless granted permission from the parole officer assigned to the parolee to discontinue the program;

(4) shall report

(A) upon release to the parole officer assigned to the parolee;

(B) at other times, and in the manner, prescribed by the board or the parole officer assigned to the parolee;

(5) shall reside at a stated place and not change that residence without notifying, and receiving permission from, the parole officer assigned to the parolee;

(6) shall remain within stated geographic limits unless written permission to depart from the stated limits is granted the parolee;

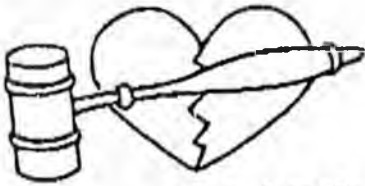
(7) may not use, possess, handle, purchase, give, distribute, or administer a controlled substance as defined in AS 11.71.900 or under federal law or a drug for which a prescription is required under state or federal law without a prescription from a licensed medical professional to the parolee;

(8) may not possess or control a firearm; in this paragraph, "firearm" has the meaning given in AS 11.81.900;

(9) may not enter into an agreement or other arrangement with a law enforcement agency or officer that will place the parolee in the position of violating a law or parole condition without the prior approval of the board;

(10) may not contact or correspond with anyone confined in a correctional facility of any type serving any term of imprisonment or a felon without the permission of the parole officer assigned to a parolee;

(11) shall agree to waive extradition from any state or territory of the United States and to not contest efforts to return the parolee to the state.

VICTIMS

for Justice 619 East Fifth Avenue • Anchorage, AK 99501
(907) 278-0977 • Fax: (907) 258-0740

February 4, 1998

Senator Loren Leman
716 W. 4th Ave. Suite 520
Anchorage, Alaska 99501

Dear Senator Leman,

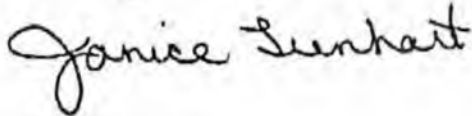
Thank you for sponsoring a bill that will lessen some of the trauma that is created by the criminal justice system. Victims for Justice has fought for victims' rights issues over the years with the goal of ensuring that victims' rights are equal to those of the defendant. Victims for Justice supports the legislation you are proposing regarding parole hearings. A defendant should not be able to use parole hearings as a way to manipulate the system.

It is rewarding to see the criminal justice system gain new insights and try to consider victims in their process; however, it is a slow process and many victims' rights are violated without any recourse. The victim cannot sue the state nor does the victim have an attorney to represent their violations. A beneficial component to this bill would be one that places limits on the defendants' ability to apply for parole and then reapply at a later date. An additional step that would be beneficial to the victim is one that would require the judge to consider the victim when making decisions about continuances. The victim needs to be a component on each part of the process. Restorative justice includes all parties, especially the victim.

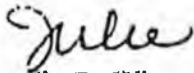
I also ask you to consider adding a section that limits the delays that seem to be commonplace throughout the trial process. After a homicide or violent crime, survivors experience a plethora of feelings related to their loss and to relearning a new way to live. This is a challenging feat in and of itself. Add to it the notification of continuances and delays in the trial process and one can imagine the pain, frustration, and stress that a victim experiences. Victims, according to their constitutional rights, are allowed to be present and make impact statements at the hearings in which a defendant is present. In order to be present and be heard, a victim must prepare both emotionally and spiritually prior to every hearing that takes place. The preparation process is often very draining and requires the victim to relive, in a sense, the loss of their loved one or the traumatic event that occurred. Imagine, if you will, how it must feel to prepare one's self for this and to then be informed that the hearing has been delayed. Multiply that two or three times and one can imagine

the pain, frustration, and anger a victim often feels when being exposed to this kind of victimization. I urge you to consider the Constitutional Rights of victims, especially the one that gives them the right to timely disposition of the case following the arrest of the defendant. It is time for victims' rights to be considered with as much concern and respect as defendants' right are in the criminal justice system.

Sincerely,



Janice Lienhart
Executive Director



Julie D. Winsor
Victim Services Advocate
Victims for Justice

SB

309



Alaska State Legislature

Senate

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Sponsor Statement SB 309

“An Act relating to the use of force by peace officers and correctional officers.”

SB 309 will protect law enforcement officers from legal action when acting within their training and operational guidelines. The use of non-lethal munitions, such as rubber bullets and bean bag rounds, are an accepted method of rendering certain suspects harmless without doing long-term or permanent injury. A bean bag round or other non-lethal projectile is designed to serve as a far reaching baton which does not require the officer to get too close to a person who might want to harm themselves or others. However, accidents do happen. It is this unlikely accident that SB 309 addresses.

Under current law, a fully trained police officer acting within departmental guidelines could be held civilly liable for injuries resulting from the use of non-lethal projectiles. SB 309 would protect law enforcement officers and continue to allow police departments the full range of tools needed to protect the citizens of Alaska.

Bullet stops suicide

Beanbag draws bruise, not blood

By RACHEL D'ORO
Daily News reporter

A woman sat on the steps outside of her Muldoon home Tuesday with a butcher knife in her hand.

Twenty feet away, Anchorage police crouched behind a mailbox, a parked car and a snow berm in case the woman charged them with the knife.

Sobbing, she told officers she wanted to hurt herself. She asked police to kill her. Then she pressed the knife to her wrist.

A member of the Crisis Intervention Response Team took aim and shot the woman in the thigh. But instead of a bullet, he fired a beanbag made from lead shot and canvas. The round, flat bullet shot out of a 37 mm tear-gas gun only bruised the woman. She dropped the knife and ended up in the hospital for psychiatric evaluation.

Anchorage police have joined a growing number of law enforcement agencies across the country to add beanbag ammunition to their cache of what are called "less-lethal" weapons. The idea of shooting beanbags is decades old but in the last few years has been refined to make them more accurate and easier to use.

The technology became part of the Anchorage arsenal two years ago, but CIRT officers use it very infrequently and, so far, only in certain cases of attempted suicide. Alaska State Troopers have never used the bullets, although they've had them on hand for a year.

"It's a very good intermediate tool for resolving a cri-

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"It's a very good intermediate tool for resolving a cri-

BEANBAG: When a bullet isn't needed

Continued from Page A-1

sis," said CIRT supervisor Sgt. Ken Spadafora. "We would rather send someone home with a few bruises than have them kill themselves."

But beanbag bullets are not without controversy. Delivering the punch of a heavyweight boxer or a fastball, they have caused at least five deaths Outside, including that of a suicidal Canadian man who died last year after Ottawa-Carleton police shot him with a beanbag from a 12-gauge shotgun. The beanbag struck him right above the heart, lodging in his chest.

Sometimes they don't work at all, especially when the targets are feeling no pain, either because they are seriously wounded or hyped-up on drugs, police agree.

The first time police in Springfield, Mo., used beanbag bullets four years ago, nine 12-gauge rounds failed to stop a frail, 72-year-old man who had already shot himself in the head, said Lt. Ron Hartman of the Springfield Police Department. Hartman trained Anchorage police in the proper technique two years ago and trains officers nationwide. The elderly man finally sat down, and an officer grabbed him while he was momentarily distracted, he said.

Beanbag mishaps are rare, and the bullets save more lives than not, authorities say. Misfires can happen when the bullets, which are packed inside shells, fail to properly unfold. Serious injury or death is possible if the bullets strike vulnerable body parts instead of large muscle masses like legs or abdomens, Hartman said.

"The bottom line is, they are important tools for preventing further deaths," he said. "Basically, it's like delivering a baton strike from a safe distance. Everybody's getting in on it."

Anchorage police have used beanbag bullets at least a dozen times since they got them, Spadafora said. In one case, a round broke a small bone of one suicidal person. All the others caused only bruises. As far as he's concerned, making too much of the risk factor is misleading.

"A baton can kill you if it hits you in the wrong place too many times," he said.

In the '60s, some police agencies used a crude and clumsy version of beanbag ammunition for riot and crowd control, said Larry Glick, executive director of the National Tactical Officers Association in Pennsylvania. The old-style beanbags were inaccurate, however, and fell from favor until the improved version came out in mid-1990s.

"They're a real hot item right now," said Glick, who added that about 3,000 officers a year are trained to use beanbags instead of bullets. "They're definitely a wave of the future."

Police have used the new beanbags for such a short time that no one yet keeps complete statistics, Glick said.

Hartman's colleague, Springfield Police Capt. Steve James, told the Ottawa Citizen newspaper last year, however, that four people had died from beanbags before the Ottawa death. And none of the beanbags in those earlier cases pierced the skin. For example, a Texas man died in 1994 after a beanbag struck him in the throat, said James, a leading authority on less-lethal weapons, who also helped train Anchorage CIRT officers.

Locally, police use two sizes of beanbag bullets, Spadafora said. The smaller, square bullets can be fired from 12-gauge shotguns while the larger, round ones are fired from 37 mm tear gas guns.

So far, only about 30 of the 325 officers in Anchorage have been trained in the use of beanbag ammunition. Eventually, all officers

Non-lethal bullets



■ **Material:** Canvas and lead shot

■ **Sizes:** 12-gauge shotgun and 37 mm tear-gas gun are the two sizes that Anchorage police use.

■ **12 gauge:**

Surface: Two-inch square (pictured above upper right)

Weight: 40 grams or 1.4 ounces

Velocity: 300 feet per second

Operating range: 10 to 25 yards

Cost: \$5 per bullet

■ **37 mm:**

Surface: Three-inch diameter circle (pictured above lower left)

Weight: 150 grams or 5.2 ounces

Velocity: 180 feet per second

Cost: \$18-20 per bullet

■ **What happens:**

The bag is wrapped tightly into a shell and is shot out of a 12-gauge shotgun or a 37 mm tear-gas gun. As it moves toward the target, the bag unfolds. Upon impact, the bag collapses and conforms to the target. The lead shot acts as a fluid medium, distributing the energy over the whole surface.

■ **What can go wrong:**

The 12-gauge bag doesn't completely unfold until it reaches 25 yards.

If shot at close range, 30 or 40 feet away, the impact could cause serious injury or death.

Sources: Anchorage Police Department, The Oregonian

RON ENGSTROM / Anchorage Daily News

Anchorage police have used beanbag bullets at least a dozen times since they got them, Sgt. Ken Spadafora said. In one case, a round broke a small bone of one suicidal person. All the others caused only bruises. As far as he's concerned, making too much of the risk factor is misleading.

will be trained. But the new bullets will never supplant real guns or bullets, which always will be on hand as a back-up in every situation, Spadafora said.

"Beanbags are just another option," he said. "They're not replacing anything."

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SENATOR JIM DUNCAN
ALASKA STATE LEGISLATURE

Alaska State Senate

State Capitol • Room 119 • Juneau, Alaska 99801-1182 • (907) 465-4766 • Fax 465-4748

SPONSOR STATEMENT

SB 322, ALASKA CHILDREN'S DIVIDEND FUND

This bill establishes the Alaska Children's Dividend Fund to permit children's permanent fund dividends to be deposited in a tax-deferred trust account for college or vocational education expenses.

Children between the ages of 0 to 18, or their parents on their behalf, can chose to participate in the program annually through a check-off on the Dividend Application Form. Participants would receive quarterly statements of the balance in their trust accounts.

Partial withdrawals will be allowed for post secondary or vocational educational purposes as well as for medical disability with high expenses.

Withdrawal of funds for non-educational purposes will only be allowed when the participant reaches the age of majority. If a participant is not attending school full-time at age 21 all funds will be disbursed. At age 25 all funds will be disbursed regardless of the participant's educational status.

The Alaska Children's Dividend Fund will be entirely self-funding and will not impact the State General Fund.

Alaska Children's Dividend Fund

Goal: Establish a program that permits Alaskan children to avoid current taxation on receipt of their Permanent Fund Dividends while providing a tax-advantaged vehicle to invest for college or vocational education expenses.

Concept: Set up a separate and distinct savings/investment Fund under the auspices of the Department of Revenue into which parents may direct the deposit of their children's Permanent Fund Dividend. Structured correctly under the applicable Internal Revenue Code, the children will not be taxed for receiving the Dividend, and the growth in the Fund will also be free of current taxation. The Children's Fund could be invested in a manner similar to the Permanent Fund.

Structure: In order to qualify for the favorable tax treatment accorded to non-qualified Deferred Compensation programs under the I.R.C., the Fund would be structured as a Rabbi Trust. Our research indicates that several criteria need to be addressed in the design of the program:

- Dividend must be *deferred* to the Fund prior to receipt by child/parent.
- The dividends must legally remain an asset of the State in a trust relationship to avoid the question of constructive receipt.
- There must be fairly precise restrictions on who can participate.
- Participants can access balances only in certain limited circumstances. (see suggestions under Detail section below.)
- Participant control of investment choices would be prohibited.
- Program will be self-funding and would not impact the State's General Fund.

Procedural steps:

- Gain bi-partisan legislative support, direct Legislative Research to determine if program design can comply with Deferred Compensation/Rabbi Trust requirements and I.R.C.
- Modify application to allow parents to elect to defer receipt of Permanent Fund Dividends for minors into Fund *prior* to determination of eligibility for Dividend.
- Department of Revenue establish an investment management contract with Permanent Fund Corporation for fund management and accounting/operations.
- Department of Revenue, Legislature, Permanent Fund Corporation, and fund management firm coordinate preparation of documents to implement program prior to application cycle for 1999 Permanent Fund Dividend.

- External fund management/operations assist Permanent Fund, Legislature, and Governor's office to prepare literature and public announcement material. Announce program to citizens of Alaska !

Details (miscellaneous): The following additional points/suggestions should be considered in the design and implementation of the Alaska Children's Dividend Fund:

- Eligibility for participation for deferral should be limited to children ages 0 - 18.
- Withdrawals from the account should be permitted only under the following circumstances:
 - Participant reaches age of majority (18) or becomes emancipated.
 - Participant enrollment in post-high school training/education institution will allow partial withdrawals based on tuition and room & board costs.
 - Participant suffers significant medical disability that results in either high treatment costs or permanent impairment.
 - Mandatory disbursement at age 21 if not enrolled, age 25 regardless of educational status. Mandatory disbursement any time after age 21 if participant has not satisfactorily completed 24 credit hours during prior twelve month period. Burden is on participant to provide proof of status
- Participant statements will be provided quarterly.
- Investment of the deferred dividends will **not** be self-directed: to ensure low operating costs, ease of administration, and remove concerns over constructive receipt, the trust assets will be managed on a pooled basis with an asset allocation roughly similar to the Permanent Fund. Administrative expenses would be paid from the pooled fund in a manner similar to the internal expenses of a mutual fund.
- Withdrawals scheduled twice per year, with exception for medical emergency.
- Public education concerning the benefits of the program is critical - many parents may not easily understand the significant tax advantages inherent in the deferral and the growth cycles. Most of this burden can be carried by the fund's external management, support, and operations staff.

Benefits: There are many obvious and not-so-obvious benefits to this program. The obvious ones include the tax-advantages arising from the deferral and the avoidance of taxation while account balances are growing; a disciplined investment program that will probably produce better results than most parents are able to achieve on their own; and a tie-in with Alaskan educational institutions may result in higher in-state enrollment. Other less obvious benefits include the probability that use of this program will provide college funding for worthy students that may not otherwise be able to afford higher education.

Detriment: The one obvious detriment is the reduced injection of cash into the economy which would be occasioned by this deferral process, but that would be more than off-set by the significantly larger dollar amounts which will be available in later years for spending either on tuition or other needs if the child does not attend college or vocational school.

SAMPLE CALCULATION WHERE DIVIDEND AND INTEREST IS SUBJECT TO TAX																					
Analysis assumes Dividend is received at end of Calendar year and that taxes are paid at beginning of following year.																					
Assumed Rate of Return	7.50%	Dividend Payout Growth/YR	2.42%																		
Standard Deduction	\$650	Population Growth/YR	1.00%																		
Assumed Marginal Tax Rate-Child	15.00%	Estimated Growth in Dividend Amount/YR	1.42%																		
Assumed Marginal Tax Rate-Parent	28.00%																				
Initial Dividend Amount	\$1,296																				
		VALUE AT END OF YEAR																			
Dividend Received End of YR	Estimated		Dividend less Tax																		
	Dividend	Tax		1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
1997	1,296	97	1,199	1,264	1,332	1,404	1,480	1,560	1,644	1,733	1,826	1,925	2,029	2,138	2,254	2,376	2,504	2,629	2,782	2,932	3,090
1998	1,314	102	1,213		1,278	1,347	1,420	1,497	1,578	1,663	1,753	1,847	1,947	2,052	2,163	2,280	2,403	2,533	2,670	2,814	2,966
1999	1,333	107	1,226			1,293	1,362	1,436	1,513	1,595	1,681	1,772	1,868	1,969	2,075	2,187	2,305	2,430	2,561	2,699	2,845
2000	1,352	112	1,240				1,307	1,378	1,452	1,530	1,613	1,700	1,792	1,889	1,991	2,098	2,211	2,331	2,457	2,589	2,729
2001	1,371	117	1,254					1,322	1,393	1,468	1,547	1,631	1,719	1,812	1,910	2,013	2,122	2,236	2,357	2,484	2,618
2002	1,391	123	1,268						1,336	1,409	1,485	1,565	1,649	1,738	1,832	1,931	2,035	2,145	2,261	2,383	2,512
2003	1,411	128	1,282							1,351	1,424	1,501	1,582	1,668	1,758	1,853	1,953	2,058	2,169	2,287	2,410
2004	1,431	134	1,297								1,367	1,440	1,518	1,600	1,687	1,778	1,874	1,975	2,082	2,194	2,312
2005	1,451	140	1,311									1,382	1,457	1,535	1,618	1,706	1,798	1,895	1,997	2,105	2,219
2006	1,472	146	1,326										1,398	1,473	1,553	1,637	1,725	1,818	1,916	2,020	2,129
2007	1,493	151	1,341											1,414	1,490	1,570	1,655	1,745	1,839	1,938	2,043
2008	1,514	157	1,357												1,430	1,507	1,588	1,674	1,765	1,860	1,960
2009	1,535	163	1,372													1,446	1,524	1,607	1,693	1,785	1,881
2010	1,557	170	1,388														1,463	1,542	1,625	1,713	1,805
2011	1,579	176	1,404															1,480	1,559	1,644	1,732
2012	1,602	183	1,459																1,552	1,651	1,756
2013	1,625	186	1,479																	1,573	1,673
2014	1,648	190	1,498																		1,594
TOTAL																					40,275

**COMPARISON OF DISPERSAL OPTIONS
LUMP SUM COMPARED TO 4 and 7 YEAR PAYOUT**

	LUMP SUM	4-YEAR PAYOUT				7-YEAR PAYOUT				
		TOTAL	YEAR 1	YEAR 2	YEAR 3	YEAR 4	YEAR 5	YEAR 6	YEAR 7	
TOTAL	54,706	54,706	13,676	13,676	13,676	13,676				
LESS: EXEMPTION (\$2,650) AND STANDARD DEDUCTION (\$4,150)	6,800	27,200	6,800	6,800	6,800	6,800				
TAXABLE INCOME	47,906	27,506	6,876	6,876	6,876	6,876				
TAX ON DISPERSAL (\$24,650 @ 15 %; Balance @ 28 %)	10,209	4,126	1,031	1,031	1,031	1,031				
AFTER TAX	44,496	50,580	12,645	12,645	12,645	12,645				
TOTAL	54,706	54,706	7,815	7,815	7,815	7,815	7,815	7,815	7,815	7,815
LESS: EXEMPTION (\$2,650) AND STANDARD DEDUCTION (\$4,150)	6,800	47,600	6,800	6,800	6,800	6,800	6,800	6,800	6,800	6,800
TAXABLE INCOME	47,906	7,106	1,015	1,015	1,015	1,015	1,015	1,015	1,015	1,015
TAX ON DISPERSAL (\$24,650 @ 15 %; Balance @ 28 %)	10,209	1,066	152	152	152	152	152	152	152	152
AFTER TAX	44,496	53,640	7,663	7,663	7,663	7,663	7,663	7,663	7,663	7,663

SB

326



Alaska State Legislature

Senate

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Sponsor Statement SB 326

“An Act relating to requirements for registration of sex offenders.”

Senate Bill 326 requires those persons convicted of sex crimes to register prior to their release from a Correctional Institution within the State of Alaska. This legislation also accelerates the time frame for registration by sex offenders who move into the state, as well as those who are not sentenced to jail time.

SB 326, when enacted, will require persons convicted of sex crimes to register at least 10 days before release from an Alaska institution. Current law requires registration within 7 days of release from an institution. The public feels that many sex offenders simply disappear and never register. It is estimated that between 800 and 1700 sex offenders living in Alaska are not registered. Many of these are thought to have been convicted prior to the registration laws being introduced, or they moved from the state, are deceased or simply ignored the registration laws. This bill will insure that this number does not grow as a result of newly released inmates. Once a person has been released, extensive resources must be expended to find the offenders who choose not to register. Due to privacy laws, until a sex offender is registered, information on the offender cannot be entered on the Internet or made available to the public.

SB 326 also requires a shortened registration period, for those convicted of sex crimes that are not sentenced to do jail time, to 24 hours of that conviction. Currently, this group has 7 days to register. In addition, SB 326 will require sex offenders who move into the State of Alaska to register within 7 days instead of the 14 days now required.

SB 326 will greatly enhance the confidence that the people of Alaska have in the system designed to protect them from dangerous sexual predators.

S B

3 3 8

Alaska State Legislature

Senator Lyda Green, Chairman
Senator Jerry Ward, Vice Chairman
Senator Jerry Mackie
Senator Mike Miller
Senator Jim Duncan



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Senate State Affairs

SPONSOR STATEMENT

Senate Bill 338

Tuition Waiver for EMT Widow/Child

Currently, the State of Alaska grants tuition waivers to the University of Alaska for the families of members of the armed services killed in the line of duty. Senate Bill 338 provides this tribute to families of emergency medical service providers that are killed in the line of duty. It establishes a tuition waiver for the spouse and child to obtain an undergraduate degree from a state-supported Alaskan educational institution.

Often emergency medical service providers are placed in dangerous and life-threatening situations, while providing life-saving medical care. Some of the situations emergency medical service providers are involved in are: domestic disputes, assaults, fires, hostage situations, hazardous materials spills and extrications from motor vehicles, from rivers and from the sides of cliffs. Ten emergency medical service providers have been killed in the State of Alaska since 1985.

Extending a tuition waiver to their families is a tribute to their life and service to the citizens of the State of Alaska.

LEGAL SERVICES

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

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

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

MEMORANDUM

March 11, 1998

SUBJECT: Sectional Summary of SB 338.

TO: Senator Lyda Green
Attn: Renee

FROM: Michael F. Ford *M.F.F.*
Legislative Counsel

You have requested a sectional summary of the above-described bill.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

Section 1. Provides that a spouse or dependent child of a member of an emergency medical service who dies while performing duties as a member of an emergency medical service, is entitled to receive a waiver of undergraduate tuition and fees at a state university or college. Adds definitions of "emergency medical service" and "spouse".

Section 2. Applicability section providing that the death of the person who triggers eligibility for tuition waiver, may occur at any time and that a person cannot get a refund of tuition already paid. Also a person enrolled as a graduate student when this Act takes effect is excluded from this Act.

Section 3. Effective date.

MFF:pl:glc
98-053plm



INTERIOR REGION EMERGENCY MEDICAL SERVICES COUNCIL, INC.

3522 INDUSTRIAL AVE. • FAIRBANKS, ALASKA 99701
PHONE (907) 456-3978 • FAX (907) 456-3970



March 17, 1998

Renee Howell
C/O Senator Lyda Green
Alaska State Senate
State Capitol, Juneau 99801-1182

Ms. Howell:

Just a sort note to thank you for taking the time to meet with me during my recent visit to Juneau. It is clear that this year will be challenging given the current price of oil.

Your assistance in sheparding SB 338 through the process is much appreciated. EMS is a part of the public safety community and its provider's are customarily in harms way as a regular part of their job. Including them with law enforcement officers and firefighters is not only appropriate, but the right thing to do. This bill will materially improve the provision of EMS in Alaska by signaling EMS providers that they are an equivalent part of the Public Safety team and should be treated the same.

Again, thanks for your time and assistance. Please do not hesitate to contact me if I can be of assistance. I will forward my testimony for your file under separate cover.

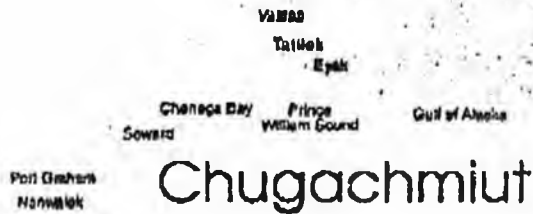
Sincerely,

A handwritten signature in black ink, appearing to read "Craig R. Lewis". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Craig R. Lewis
Executive Director

CRL/crl

||| Clinical Care Division
Homer Field Office
4252 Hohe St., Suite B
Homer, Alaska 99803



Chugachmiut

MAR 18 1998

Honorable Senator Green
Alaska State Senate

Dear Senator Green,

I would like to support SB338. Fortunately there are few EMS personnel killed in the line of duty in our state, but if it does happen, I would like to help the survivors in any way possible. SB338 would do just that and at minimal fiscal cost to the State.

Thank you for supporting this bill.

Sincerely,

Skip Richards

EMS Coordinator



**Cooper Landing
Vol. Amb. Svc.**

Cooper Landing Vol. Amb Svc.
PO Box 510
Cooper Landing, AK.
99572

Phone: 907-546-1000
FAX: 907-695-1015
email: rusechej@arcotic.net

MAR 18 1998

Tuesday, March 17, 1998

Dear Senator Green,

We, of Cooper Landing Volunteer Ambulance and Rescue Service, endorse your support of Senate Bill 838. We believe it is highly appropriate that the State of Alaska support its Emergency Medical Service's efforts.

Sincerely,



Michelle Stewart
Administrator

MAR 13 1998

March 13, 1998

Senator Lyda Green, Chairperson
Senate State Affairs Committee
Alaska State Legislature
State Capitol (MS 3100)
Juneau, AK 99801-1182

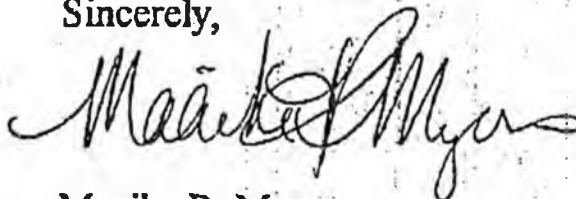
Dear Senator Green:

I wish to thank you and the Senate State Affairs Committee for introducing Senate Bill 338. I strongly support this bill. Please do all you can to pass this important bill.

I will be contacting my local Senator, Jerry Mackie to make sure he also gets behind this well deserved piece of legislature.

Thank you again for your efforts.

Sincerely,



Maaïke R. Myers
P.O. Box 12
Kodiak, AK 99615

486-9800 work
487-2627 home

3-12-98

MAR 12 1998

TO SENATOR Lyda GREEN

SENATE STATE AFFAIRS COMMITTEE

FAX NUMBER (907) 465-3805

WE THE MEMBERS OF "TWIN HILLS FIRST
 RESPONDERS GROUP", SUPPORT SB338
 THE BILL IS TO WAIVE UNIVERSITY TUITION
 AND FEES FOR FAMILIES MEMBERS OF AN
 EMERGENCY MEDICAL SERVICES MEMBER KILLED
 IN THE LINE OF DUTY.

John Mark CAP EMT1

Mathiasort ETT

Walter Kuhn ETT

Kodiak Area Native Association

MAR 12 1998



3449 Reznof Dr. East
Kodiak, Alaska 99615
Phone (907) 486-9800

March 12, 1998

Senator Lyda Green
Alaska State Legislature
State Capitol [MS 3100]
Juneau, AK 99801-1182

Dear Senator Green,

RE: Senate Bill #338

As an EMS Provider with 20 years experience, I very much support this bill for waiving university tuition and fees for some family members of EMS members killed in the line of duty. It is not often that Providers are killed in the line of duty, this bill would help those families that have had such an incident in their lives.

Thank you for your support of this bill.

Sincerely,

KODIAK AREA NATIVE ASSOCIATION
RITA STEVENS, PRESIDENT

Teresa D. Stone
EMS Specialist/Coordinator

Post-it® Fax Note	7671	Date	3/12	# of pages	1
To	Sen Lyda Green	From	T. Stone		
Co./Dept	State Capitol	Co.	KANIA-EMS		
Phone #	485-	Phone #	486-9827		
Fax #	465-3805	Fax #	486-9898		



Bristol Bay Area Health Corporation

6000 Kanakanak Road
P.O. Box 130
Dillingham, AK 99576
(907) 842-5201
FAX (907) 842-9354
800-478-5201

COMMUNITY HEALTH AIDE PROGRAM

Bristol Bay Area Health Corporation is a tribal organization representing 32 villages in Southwest Alaska:

- Aleknagik
- Chignik Bay
- Chignik Lagoon
- Chignik Lake
- Clark's Point
- Dillingham
- Egegik
- Ekuk
- Ekwek
- Goodnews Bay
- Ipiugig
- Iliamna
- Ivanof Bay
- King Salmon
- Kokhanok
- Koliganek
- Levelock
- Manokotak
- Naknek
- New Stuyahok
- Nawaholen
- Nondalton
- Pedro Bay
- Perryville
- Pilot Point
- Platinum
- Port Heiden
- Portage Creek
- South Naknek
- Tagiak
- Twin Hills
- Ugashik

PLEASE DELIVER THE FOLLOWING PAGE(S) TO:

NAME: Senator Lynda Green PHONE #: _____

COMPANY: _____ FAX #: 907 465 3905

FROM: BBAHC - CHAP DEPARTMENT PHONE #: 1-800-478-5201 or (907)842-5201

FAX #: 1-800-842-3873 or (907)842-9301

FAXED BY:	_____ CHAP DIRECTOR	_____ VINCENT THRUTCHLEY
	_____ JUDY BEACH	_____ ANN EVANS
	_____ MARILYN LUDDEN	_____ vacant
	<input checked="" type="checkbox"/> _____ TERESA SEYBERT	_____ SUE ARCE
	_____ MARK YOUNG	_____ LYNN SCHUSTER

COMMENTS: I am a Volunteer EMS

responder & I am very much in favor of Senate Bill 338 EMS.

My children give up a lot when I am making runs, I think it is a great idea to compensate them somehow, should I be killed in the line of duty especially as a Volunteer.

Teresa Seybert

DATE: 3/12/98 # OF PAGES (INCLUDING COVER) 1

To promote health with competence, a caring attitude & cultural sensitivity

MAR 12 1998

Sherry Ingham
Box 130
Dillingham, AK. 99576

March 12, 1998

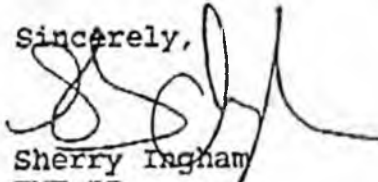
Senator Lyda Green
Capital Building
Juneau Alaska, 99811

Dear Senator Green,

I'm writing to show my support of SB # 338, waiving university tuition and fees for family members of an emergency medical service member killed in the line of duty.

Thank you for your support of EMS in Alaska.

Sincerely,



Sherry Ingham
EMT II

To: Senator Lyda Green

From: Patricia Buholm
EMS Provider

Patricia ☺

Date: March 12, 1998

Subject: Senate Bill 338

I'd just wanted to let you know that I'm in support of Senate Bill 338, for EMS Providers who have been killed in the line of duty.

I have been an EMT in Dillingham for the past 7 years, and thankfully we have not had this happen in our city. But, with the growth rate of Dillingham, it may happen. If it does I'd like to know that family members of the deceased are welcomed with funding provided for them to join our Volunteer service and have the funding provided for them for the training.

If you have any questions, please call me at (907) 842-9453. Thanks for your time and consideration.

Janette McArthur
Box 795
Dillingham, AK. 99576

March 12, 1998

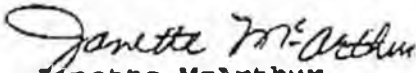
Senator Lyda Green
Capital Building
Juneau Alaska, 99811

Dear Senator Green,

I am in support of SB # 338, waiving university tuition and fees for some family members of an emergency medical service member killed in the line of duty.

Thank you for your support of EMS in Alaska.

Sincerely,


Janette McArthur
BMT III

fax cover sheet - fax cover sheet

Date: 2-24-98

To: RENÉE (Rm 125) STATE AFFAIRS

From: DI NELSON

2 # of pages (including this cover sheet)

PLEASE NOTIFY THIS OFFICE AS SOON AS POSSIBLE IF YOU DO NOT RECEIVE ALL PAGES. THANK YOU.

OUR TELECOPIER NUMBER IS 907-832-5503

OUR OFFICE NUMBER IS 907-832-5441

MESSAGE: Hi - HERE IS MY LETTER FOR THE

SENATE STATE AFFAIRS COMMITTEE -

SENATOR DUDMAN,

ALSO AT THE REQUEST OF SENATOR WARD -

Thanks -

See you THURS

* Plate survey going well!



1998-02-24

NENANA VOLUNTEER FIRE/EMS

P. O. Box 0070 Nenana, Alaska 99760

Office: (907) 832-5632

Fax: (907) 832-5503

Emergency: 911



Dear Senator Duncan,

February 24, 1998

I would like to thank you for your time in addressing my letter in consideration of HB 334. With family and friends as police officers and married to a fire fighter I have an obvious personal interest in seeing this approved. However on a professional level as a Fire Chief as well as an EMT, I have a basic concern that was not addressed when the original Bill was introduced. My concern is the exclusion of EMT's, which is considered a third factor of Public Safety in order with police officers and firefighters.

EMT's play a major role in Public Safety on a day to day basis, responding with the police department for the victims of such incidents as assaults, domestic violence, as well as sexual assaults/abuse, suicides and attempted suicides. EMT's respond with the fire department to fires and hazardous materials incidents, either for the victims, or standing by and assisting with rehab of the firefighters. But more often than not the triad of Police, Fire, and EMS is evident at motor vehicle accidents.

One scenario that comes to mind is if these three departments are involved in an auto extrication, and a passing motorist loses control and hits these people, Bill 334 has made provisions for only two of the three groups that have dedicated their life to the protection of others.

In my employment by the City of Nenana, Department of Public Safety, I have found myself in all of the above situations. One example of this situation is when this departments EMT's had to literally fight family members under the influence of alcohol to remove an elder who had fallen and broken a hip.

I am in full support of Bill 334, but it is my hope that either this Bill can be amended to include the EMS service in accordance with 7AAC26.330 and or 7AAC26.230 (a) & (b) or an additional Bill be introduced for EMS.

I would again like to thank you for your time in addressing these concerns. I hope that the issue of inclusion of EMT's can be addressed without bring Bill 334 to a grinding halt.

Respectfully,

Rj Nelson
Fire Chief
Nenana Volunteer Fire/EMS Department

cc: Senate State Affairs Committee Members

"We still make house calls"

MAR 03 1998

CENTRAL EMERGENCY SERVICES

Central Kenai Peninsula Fire & EMS Providers

231 SOUTH BINKLEY

SOLDOTNA, AK 99669-8084

907-262-4792 • Fax 907-262-5770



*"Prepared for the Worst,
Providing the Best"*

March 3, 1998

Senator Lyda Green
Alaska State Capital
Room 125
Juneau, AK 99801-1182

Dear Senator Green:

I would like to support the development and passage of a bill that would afford the same benefits to Emergency Medical Technicians and Paramedics as is proposed in HB 334c for firefighters and police officers who are killed in the line of duty. Steven O'Connor, Central Emergency Services Assistant Chief, testified in favor of HB 334c at the public hearing teleconference held on Tuesday, February 24, 1998. It became apparent at the teleconference that HB 334c could not be legally amended to include EMTs and Paramedics, and that a companion bill would need to be introduced from the committee. At that hearing, a request was made from the committee to those testifying that letters supporting a companion bill be sent to your office.

I think everyone would agree that the three main components of a community public safety system includes police, fire, and emergency medical services. It is very common to have all three entities working side by side at emergency scenes and exposed to the same hazards. These hazards include but are not limited to motor vehicle accidents, domestic violence situations, assaults, fires, and hazardous materials incidents. These situations place public safety responders in harms way with the potential for loss of life.

To me, the bottom line centers on the fact that public safety has three responding components, Police, Firefighters, and Emergency Medical Technicians and Paramedics. Each places the providers in harms way in different settings. Each have individuals killed in the line of duty, in spite of aggressive programs designed to prevent it. To omit Emergency Medical Technicians and Paramedics is to miss one third of the public safety team and sends the wrong message to those who also risk their lives to save others. I strongly encourage you to support a companion bill providing the same benefits to Emergency Medical Technicians and Paramedics as provided in HB 334c.

Yours in Public Safety,

Len A. Malmquist, Chief



Haines Volunteer Fire Department
Box 849
Haines, AK. 99827

Chief Scott Bradford Telephone 766-2115 Fax 766-3373

Senator Jerry Ward
Transportation Committee
Juneau, Alaska 99827

Feb. 24, 1998

RE: House Bill 334

Dear Jerry

The Haines Volunteer Fire Department urges you to support House Bill 334. There seems to be one group of emergency providers that seem to not clearly be included and that being Emergency Medical Providers. As you are probably well aware of medical responses far outweigh fire responses. Many agencies may have ambulances services. Many responders are EMS affiliated only and they too put their lives on the line for the betterment of our community. The Haines Volunteer Fire Department unanimously voted to support adding **EMERGENCY MEDICAL PROVIDERS** to House Bill 334.

Thank you for your time & consideration in this matter.

Sincerely,

A handwritten signature in cursive script that reads 'Al Badgley'.

Al Badgley
(Haines Volunteer Fire Department Training Officer)

Southern Region
EMERGENCY
Medical Services Council, Inc.

February 26, 1998

Senator Jerry Ward
Alaska State Legislature
State Capitol (MS3100)
Juneau, AK 99801-1182

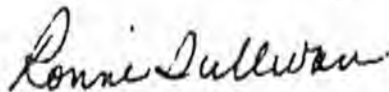
Dear Senator Ward:

I understand you are considering introducing a companion bill for House Bill 334 ("An act relating to waiver of tuition and fees for certain family members of a peace officer or a fire fighter killed in the line of duty.") to allow the inclusion of emergency medical technicians and paramedics. I don't pretend to understand the complexities involved which make it difficult to modify the existing bill, and really appreciate your willingness to find a solution and move this important issue forward.

Although I could not get to the teleconference last Tuesday, my previous letter to Senator Green clearly voiced the position of the region. We are very much in support of providing this benefit to survivors police officers, firefighters, EMTs and paramedic who die in the line of duty. We're all thankful it this kind of tragedy doesn't happen very often, but when it does the impact is tremendous. Alaska could convey its appreciation for the important work done by public safety providers, and do so with a very small fiscal note. It's a good solution.

If a companion bill is introduced those of us in EMS will do whatever we can to help you with it. If I can be of any assistance don't hesitate to contact me at 562-6449. Your support of those providing emergency medical services is greatly appreciated.

Sincerely,



Ronni Sullivan
Executive Director

cc: Senator Green



Southeast Region Emergency Medical Services Council
207 Moller Drive, Room 113 Sitka, Alaska 99835 907-747-8005

February 26, 1998

The Honorable Jerry Ward
Alaska State Senate
State Capitol, Room 423
Juneau, AK 99801

Dear Senator Ward,

I am writing to you about House Bill 334. The bill provides for free tuition and fees for certain family members of military personnel, peace officers or fire fighters killed in the line of duty

Throughout the state, EMS personnel volunteer to assist their fellow Alaskans during times of emergency. They often place themselves in jeopardy, working in dangerous conditions like fire fighters and law enforcement personnel. EMS responders are called to the scenes of traffic accidents, domestic violence, etc. They are exposed to risks from bloodborne pathogens and other infectious diseases. They also perform medevacs in small planes in unfriendly weather.

We are requesting that EMS personnel be included along with military personnel, peace officers and fire fighters in this bill because they also place their lives on the line to help others. If there is anything you can do to help get them included in this bill or if you could introduce new legislation that would provide these benefits to EMS personnel, we would greatly appreciate it

Sincerely,

A handwritten signature in black ink, appearing to read "Tim Everson".

Tim Everson
Executive Director

501 Hilltop
PO Box 47 Drive
Craig, AK 99921

February 23, 1998

Senator Ward
State Capitol Building
Juneau, AK 99811

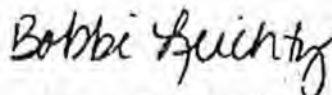
Dear Senator,

I'm writing to express my support of HB 334 but I am concerned by the lack of inclusion of EMS. Many of the EMS organizations in communities are not affiliated with the local fire departments and would fail to qualify for these benefits should something happen to those volunteers doing their job.

EMS responders are also in harms way with every call. Many communities have no organized police or fire departments and depend on their EMT's to do it all. Those volunteers do extrication from entrapment, low and high angle rescue, medevac their neighbors in all modes of transportation and in all the treacherous weather. They are as deserving of this benefit as a peace officer or firefighter.

Please keep up the great work. This bill is a great start but please find some way to include EMS as an equal part of the public safety triangle. Thanks for your consideration.

Sincerely,



Bobbi Leichthy, MICP
Captain-Craig EMS

**THE FOLLOWING PAGES MAY
NOT FILM LEGIBLY BECAUSE OF
THE POOR QUALITY OF THE ORIGINAL**

Pat & Ray Chapman
P.O. Box 9
Meyers Chuck, Ak 99903
Feb 28, 1998

Dear Senator Wada

We are not in your area but have heard that you were considering a bill to address EMTs being included in a bill similar to SB 334.

We would like to join in asking you to do this. Most EMS personnel are volunteers and not paid but often put their life in danger to assist others. It would be nice if we could know that our families would be considered for assisted education in the event of our death in the line of service.

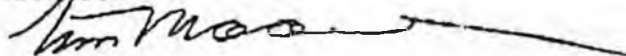
Thank you,
Pat & Ray Chapman
Meyers chuck F.D. & EMS
volunteers

Dear Senator Jerry Ward.

It has come to my attention that House Bill 334 will be presented today, as President of the City of Kake's Emergency Medical Council I would like to say we are in support of the waiver of tuition to family members of Peace Officers and Fire Fighters who lose their lives in the line of duty, however this bill would greatly fall short with cut including EMS personnel as well.

Tuesday, February 24, 1998

Thank You



Tim W. Moore Kake EMS President

S B

3 3 9

Alaska State Legislature

Senator Lyda Green, Chairman
Senator Jerry Ward, Vice Chairman
Senator Jerry Mackie
Senator Mike Miller
Senator Jim Duncan



State Capitol
Room 125
Juneau, Alaska 99801
(907) 465-4522

Senate State Affairs

SPONSOR STATEMENT

Senate Bill 339

“An Act relating to a volunteer firefighter license plate.”

Currently, volunteer firefighters make up 80% of Alaska's 4,255 firefighters. Senate Bill 339 will establish a volunteer firefighter license plate available for purchase only by volunteer firefighters. The purchase price is \$50. The license plate will provide recognition for volunteer firefighters and will provide a possible source of revenue for firefighter training around the state.

Historically, small communities do not have the money to pay for a full-time fire department and they rely on volunteers. These volunteers, in addition to their full-time careers, dedicate their spare time to firefighting and firefighter training. A volunteer receives comparable training as that of a full-time paid firefighter. They risk their lives and are the unsung heroes of many communities across the state. Let us honor their dedication and sacrifice by establishing a visible means of recognition for these important and dedicated community volunteers.

APR 09 1998

Alaska State Legislature

Senate

JERRY WARD

State Capital
Juneau, AK 99801-1182
Phone (907) 465-4940
Fax (907) 465-3766

716 W. 4th Ave., Ste. 450
Anchorage, AK 99501-2133
Phone (907) 258-8183
Fax (907) 258-0820

145 Main Street Loop
Kenai, AK 99611
Phone (907) 283-7996
Fax (907) 283-3075



April 6, 1998

Mr. Dusty Piland
9499 Brayton, #97
Anchorage, AK 99507

Dear Mr. Piland:

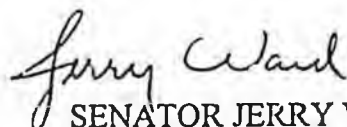
Thank you for your recent letter concerning license plates for Alaska fire fighters. As I'm sure you know, Senator Lyda Green has introduced SB 339 relating to volunteer fire fighters license plates.

It is my understanding that the purpose of this legislation, in addition to giving volunteer fire fighters their well deserved recognition, is to identify their vehicles to the public and law enforcement officers when they are on duty.

Certainly, Alaska's full time fire fighters are also deserving of recognition for the invaluable service that they provide to the citizens of our state. I will be happy to discuss the possibility of including a provision for our full-time fire fighters in SB 339 with Senator Green.

Thank you again for your letter, and I will keep you updated on this issue.

Sincerely,


SENATOR JERRY WARD

cc: Senator Lyda Green

MAR 30 1998

03/23/98

Alaska State Legislature
716 W. 4th Ave
Anchorage, AK

Dear sir or madam,

In my line of work I came across an out of state plate from Oklahoma that displayed the firefighters symbol. I have enclosed a copy of this plate. It is my understanding that I need to write to your office in order to have this considered.

Since I am a firefighter I would like to know how to get such a plate instituted in Alaska. Any information, ideas or suggestions you have would be greatly appreciated.

Sincerely,

Dusty Piland
9499 Brayton #97
Anchorage, AK 99507
(907) 563-8110

SB

348

Alaska State Legislature

Senator Lyda Green, Chairman
Senator Jerry Ward, Vice Chairman
Senator Jerry Mackie
Senator Mike Miller
Senator Jim Duncan



State Capitol
Room 125
Juneau, Alaska 99801
(907) 465-4522

Senate State Affairs

Sponsor Statement

SB 348

“An Act relating to certain rights of conscience protection for persons who directly or indirectly provide or perform health care services.”

The Alaska Constitution is dedicated to the principles that all persons have a natural right to life, liberty, the pursuit of happiness, and the enjoyment of the rewards of their own industry. Increasingly health care providers are finding that pressure to participate in certain health care practices against their consciences is robbing them of these rewards.

In Alaska, we have been careful to articulate the rights of the individual, through both the Alaska Constitution and law. In 1970, when the state legalized abortion, the legislature added AS 18.16.010, which protected hospitals and persons from being required to provide or participate in this procedure. The protection was based on an individual's moral conscience, not religious belief.

In 1972, we added the right of privacy to the Constitution to shield citizens from intrusive government information collecting. A recent court ruling under the right to privacy has removed the protection that health care providers had relied upon under state law. The court ruled that the constitutional right to obtain a certain medical procedure outweighed the statutory right of conscience. The ruling forced a hospital to allow procedures against their policy and gave the individual right of conscientious refusal only to 'direct' participants.

Indirect participants including nurses, orderlies, radiologists, and lab technicians are now particularly vulnerable to pressure because they occupy subordinate positions in the hospital/medical hierarchy and they have no constitutional right to refuse.

Their jobs may now present them with grave moral problems that rob them of the happiness and rewards of their industry. Other social and medical developments such as assisted suicide and infanticide may soon become governmental policy as well.

House Bill 348, in concert with Senate Joint Resolution 35 restores the intent of the Constitution and State law to protect the rights of conscience of health care providers. Everyday people and community institutions should not be compelled by another person's exercise of the right to privacy to act in a manner that violates their convictions of conscience.

Alaska State Legislature

Senator Lyda Green, Chairman
Senator Jerry Ward, Vice Chairman
Senator Jerry Mackie
Senator Mike Miller
Senator Jim Duncan



State Capitol
Room 125
Juneau, Alaska 99801
(907) 465-4522

Senate State Affairs

Sectional Analysis SB 348

"An Act relating to certain rights of conscience protection for persons who directly or indirectly provide or perform health care services."

Section 1 adds a new chapter (Chapter 17) to Title 18 (Health, Safety and Housing):

Sec. 010 (Policy) makes the statement that it is the public policy of the state that the rights of conscience of all persons involved in providing health care are protected; describes what actions are covered; and prohibits all forms of retaliatory action for refusing to participate in an action that violates the person's conscience.

Sec. 020 (Civil rights of conscience) states that a person has a right to refuse to do certain procedures that are intended to end the life of an individual or involves an abortion; subject to AS 18.12.050.

Sec. 030 (Individual rights of conscience) states that an individual may not be required to participate in certain actions that violate the individual's religious or moral convictions and involves a procedure intended to end the life of an individual or involves abortion; that the individual may not be held civilly, criminally, or administratively liable for the individual's refusal, if certain conditions of notice are met and except as provided under AS 18.12.050; and provides a list of retaliatory actions that another person is prohibited from engaging in if an individual refuses to participate in certain actions that violate the individual's religious or moral convictions.

Sec. 040 (Institutional rights of conscience) is essentially the same as the preceding section, except that it applies to the rights of conscience of a majority of an institution's board of directors or an administrative head and the procedure is intended to end the life of an individual or involves abortion. Also allows an

institution not to admit or keep a patient who seeks a medical procedure that is against the religious or moral convictions of a majority of the board or the administrative head.

Sec. 050 (Exceptions) provides exceptions if the patient is in danger of imminent death, the success of the medical procedure requires the participation of the person asserting religious or moral objections, and the procedure would have to be performed before a replacement staff can be obtained. Does not relieve a person from paying for a medical procedure the person freely contracted for, and that was performed before the person asserted a conscientious objection. Also allows a health care institution to refuse to employ a person who objects to the type of health care services primarily or solely performed at the institution, if the person's religious or moral objections cannot be accommodated.

Sec. 060 (Remedies) provides that a person injured by a violation of this chapter may obtain an injunction and is entitled to damages of \$3,000 or three times actual damages for each violation, whichever is greater, in addition to other remedies available under federal or state law.

Sec. 070 (Federal requirements not affected) states that nothing in this chapter changes, modifies, or otherwise affects requirements of 42 U.S.C. 1395cc, 42 U.S.C. 1395dd, or 42 U.S.C. 1396a (a)(57) or (58).

Sec. 080 (Definitions) provides comprehensive definitions for the phrases, "abortion," "health care institution," and "health service."

Section 2 provides a severability clause so that if any part of the above chapter is held invalid, the remainder is not affected.

Notice: This opinion is subject to formal correction before publication in the Pacific Reporter. Readers are requested to bring errors to the attention of the Clerk of the Appellate Courts, 303 K Street, Anchorage, Alaska 99501, phone (907) 264-0608, fax (907) 264-0878.

THE SUPREME COURT OF THE STATE OF ALASKA

VALLEY HOSPITAL ASSOCIATION,)	
INC., and JAMES G. WALSH,)	Supreme Court No. S-7417
Valley Hospital Executive)	
Director,)	Superior Court No.
)	3PA-92-01207 CI
Appellants,)	
)	
v.)	<u>OPINION</u>
)	
MAT-SU COALITION FOR)	
CHOICE, DR. SUSAN LEMAGIE,)	[No. 4906 - November 21, 1997]
and JANE DOES I-X,)	
)	
Appellees.)	

Appeal from the Superior Court of the State of Alaska, Third Judicial District, Palmer, Dana Fabe, Judge.

Appearances: Brian J. Brundin, Brundin, Inc., Anchorage, and James Bopp, Jr., Bopp, Coleson & Bostrom, Terre Haute, Indiana, for Appellants. Stephan H. Williams, Cooperating Attorney for the Alaska Civil Liberties Union, Anchorage, and Janet L. Crepps and Kathryn Kolbert, Center for Reproductive Law & Policy, New York, New York, for Appellees. Susan Wright Mason, Atkinson, Conway & Gagnon, Anchorage, for Amicus Curiae Alaska State Hospital and Nursing Home Association. Paul Benjamin Linton, Americans United for Life, Chicago, Illinois, and Kenneth P. Jacobus, Kenneth P. Jacobus, P.C., Anchorage, for Amici Curiae Members of the Alaska Legislature. Jeffrey M. Feldman and Susan Orlansky, Young, Sanders & Feldman, Anchorage, for Amici Curiae American College of Obstetricians and Gynecologists and American Medical Women's Association, Inc.

Before: Compton, Chief Justice, Rabinowitz, Matthews, and Eastaugh, Justices. [Fabe, Justice, not participating.]

COMPTON, Chief Justice.

I. INTRODUCTION

Valley Hospital Association (VHA) seeks to reverse the superior court's summary judgment declaring unenforceable and permanently enjoining enforcement of its policy limiting abortion. We affirm the superior court. We hold that (1) Article I, section 22 of the Alaska Constitution encompasses reproductive rights, including abortion; (2) VHA is a quasi-public institution subject to the Alaska Constitution; (3) VHA's abortion policy is an unconstitutional restriction on the right to abortion; (4) AS 18.16.010(b), is unconstitutional to the extent it applies to quasi-public institutions; and (5) the superior court's award of attorney's fees was not an abuse of discretion.

II. FACTS AND PROCEEDINGS

VHA is a nonprofit corporation organized under Alaska law. It owns and operates a thirty-six-bed hospital in Palmer. The hospital is licensed by the State of Alaska (State); it is the only hospital in the Matanuska-Susitna (Mat-Su) Valley. The hospital facility currently in use was rebuilt and expanded in the early 1980s, using \$10.7 million in State funds and five acres of land donated by the City of Palmer. VHA is not affiliated with or operated by any religious organization. The corporation "is organized to serve public interests."

VHA's Board of Directors is divided into two boards, the Association Board and the Operating Board. The Association Board raises money and acquires property for the hospital and elects the Operating Board. The Operating Board has all the other powers and

functions of the Board of Directors, including establishing hospital policy.

VHA is a membership organization. Any adult may become a VHA member upon paying a five dollar application fee. Members who are residents of the Mat-Su Borough, denominated "general members," annually elect the Association Board.

Abortion has been permitted in Alaska since 1970, when the state legislature passed the current abortion law.¹ VHA permitted lawful abortion procedures at its facility from 1970 until 1992.² In 1992 abortion opponents organized a campaign to

¹ AS 18.16.010 provides:

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

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

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

(b) Nothing in this section requires a hospital or person to participate in an abortion, nor is a hospital or person liable for refusing to participate in an abortion under this section.

² In July 1991 Humana Hospital in Anchorage stopped allowing elective abortions. VHA concedes that except pursuant to the superior court injunction, there is no hospital or other facility available in the Anchorage/Mat-Su area at which a woman
(continued...)

enlarge the membership of VHA. In April 1992 a larger-than-usual membership elected the Association Board, which then elected the Operating Board. In September 1992 the Operating Board enacted a new policy on abortion. The policy prohibits abortions at the hospital unless (1) there is documentation by one or more physicians that the fetus has a condition that is incompatible with life; (2) the mother's life is threatened; or (3) the pregnancy is a result of rape or incest. All VHA Operating Board members supported this new policy.

The Mat-Su Coalition for Choice, Dr. Susan Lemagie, and ten unnamed women (Coalition) filed suit against VHA and its executive director, seeking declaratory and injunctive relief. The Coalition then filed a motion for a preliminary injunction against VHA's abortion policy. The superior court granted the motion.³ Its order temporarily enjoined enforcement of VHA's new abortion policy and restored the status quo existing before the policy was enacted. The court then granted the Coalition's motion for summary

²(...continued)
can have a second trimester elective abortion.

³ In its order granting the Coalition a preliminary injunction, the superior court determined that the Coalition had shown a clear probability of success in establishing the following propositions: (1) Valley Hospital is a quasi-public hospital; (2) the Alaska Constitution provides greater protection for individual rights than the United States Constitution; (3) the right to choose an abortion is a fundamental right guaranteed by article I, section 22 of the Alaska Constitution; (4) there is no compelling state interest in Valley Hospital's ban on abortions; and (5) AS 18.16.010(b) does not immunize Valley Hospital from violating Alaskans' constitutional right to reproductive choice, including abortions.

judgment⁴ and permanently enjoined VHA

1. from enforcing any policy, rule, regulation, practice, or custom prohibiting the performance of any lawful abortion procedure at Valley Hospital;
2. from refusing to permit the facilities of Valley Hospital to be used for the performance of any lawful abortion procedure by qualified medical personnel;
3. and from imposing any restriction on the performance or scheduling of any lawful abortion procedure at Valley Hospital which is not based on accepted, established medical practices or requirements with respect to such procedures.

The superior court noted that nothing in the permanent injunction required anyone affiliated with the hospital "to participate directly in the performance of any abortion procedure if that person, for reasons of conscience or belief, objects to doing so."

The superior court granted full reasonable attorney's fees in the amount of \$110,000 to the Coalition in a separate order. VHA appeals the injunction, the summary judgment, and the award of attorney's fees to the Coalition.

⁴ The superior court's order granting summary judgment was

based on the reasons articulated in the Court's earlier decision granting a preliminary injunction, the protections of the right to privacy contained in Article I, § 22 of the Alaska Constitution, and the fact that Valley Hospital is a non-sectarian, non-profit, quasi-public hospital.

(Citation omitted.)

III. DISCUSSION

A. Standard of Review

We apply our independent judgment in reviewing the questions of law presented in this appeal, adopting rules of law which are most persuasive in light of precedent, reason, and policy. Guin v. Ha, 591 P.2d 1281, 1284 n.6 (Alaska 1979). We review the award of attorney's fees for abuse of discretion. Bromley v. Mitchell, 902 P.2d 797, 804 (Alaska 1995). An abuse of discretion is established only where the court's determination is manifestly unreasonable. Id.

B. The Alaska Constitution Protects Reproductive Autonomy, Including the Right to Abortion, More Broadly Than Does the United States Constitution.

1. The United States Constitution

The Supreme Court's articulation of the United States Constitution's protection of reproductive rights establishes the minimum protection provided to women in Alaska.⁵ This protection includes the right to an abortion. Under Roe v. Wade, 410 U.S. 113, 155 (1973), this right could be limited only where required by a compelling state interest. Id. States could regulate abortions performed before a fetus became viable only when such regulation was necessary to ensure the life and health of the mother. Id. at 163.

The compelling state interest test no longer accurately reflects federal constitutional law. Arguably, the prevailing

⁵ See Planned Parenthood v. Casey, 505 U.S. 833 (1992); Webster v. Reproductive Health Servs., 492 U.S. 490 (1989); Roe v. Wade, 410 U.S. 113 (1973).

federal view is that a state may regulate abortions so long as their regulation does not impose "an undue burden on a woman's ability" to decide to have an abortion. Planned Parenthood v. Casey, 505 U.S. 833, 875 (1992) (joint opinion of Justices O'Connor, Kennedy, and Souter). The O'Connor plurality substituted the undue burden test for the compelling state interest test in recognition of the view that there "is a substantial state interest in potential life throughout pregnancy." Id. at 876. The following paragraphs from the joint opinion in Casey suggest the current state of federal constitutional law concerning reproductive rights:

(a) To protect the central right recognized by Roe v. Wade while at the same time accommodating the State's profound interest in potential life, we will employ the undue burden analysis as explained in this opinion. An undue burden exists, and therefore a provision of law is invalid, if its purpose or effect is to place a substantial obstacle in the path of a woman seeking an abortion before the fetus attains viability.

(b) We reject the rigid trimester framework of Roe v. Wade. To promote the State's profound interest in potential life, throughout pregnancy the State may take measures to ensure that the woman's choice is informed, and measures designed to advance this interest will not be invalidated as long as their purpose is to persuade the woman to choose childbirth over abortion. These measures must not be an undue burden on the right.

(c) As with any medical procedure, the State may enact regulations to further the health or safety of a woman seeking an abortion. Unnecessary health regulations that have the purpose or effect of presenting a

substantial obstacle to a woman seeking an abortion impose an undue burden on the right.

(d) Our adoption of the undue burden analysis does not disturb the central holding of Roe v. Wade, and we reaffirm that holding. Regardless of whether exceptions are made for particular circumstances, a State may not prohibit any woman from making the ultimate decision to terminate her pregnancy before viability.

(e) We also reaffirm Roe's holding that "subsequent to viability, the State in promoting its interest in the potentiality of human life may, if it chooses, regulate, and even proscribe, abortion except where it is necessary, in appropriate medical judgment, for the preservation of the life or health of the mother." Roe v. Wade, 410 U.S. at 164-65.

505 U.S. at 878-79.

2. The Alaska Constitution

We sometimes have taken a broad view of our role in defining state constitutional rights:

[W]e are under a duty to develop additional constitutional rights and privileges under our Alaska Constitution if we find such fundamental rights and privileges to be within the intention and spirit of our local constitutional language and to be necessary for the kind of civilized life and ordered liberty which is at the core of our constitutional heritage.

Baker v. City of Fairbanks, 471 P.2d 386, 401-02 (Alaska 1970) (extending the constitutional right to a jury trial).⁶ Thus, our

⁶ VHA interprets this language as a two-prong test which must be met before we may find a constitutional right. We did not interpret this language from Baker as VHA now urges us to do when we decided either Breese v. Smith, 501 P.2d 159 (Alaska 1972) (holding that governmental control of personal appearance is antithetical to the concept of personal liberty), or Ravin v. State, 537 P.2d 494 (Alaska 1975) (holding that privacy in the home
(continued...))

articulation of the protection of reproductive rights under Alaska's constitution may be broader than the minimum set by the federal constitution. Id. at 401 ("[This court is] at liberty to make constitutional progress in Alaska by our own interpretations, as long as we measure up to the national standards which are required by the United States Supreme Court.").⁷

Article I, section 22 of the Alaska Constitution provides:

The right of the people to privacy is recognized and shall not be infringed.

This express privacy provision was adopted by the people in 1972. It provides more protection of individual privacy rights than the United States Constitution. Messerli v. State, 626 P.2d 81, 83 (Alaska 1980) (balancing the individual right to personal autonomy

⁶(...continued)
is a fundamental right), although we found a right to exist under the Alaska Constitution in each of those cases.

⁷ Other states have interpreted their constitutions to protect reproductive rights more extensively than does the federal constitution. Committee to Defend Reprod. Rights v. Myers, 625 P.2d 779 (Cal. 1981) (striking down legislation restricting public funding of abortions as unconstitutional under the state's constitutional privacy guarantee); American Academy of Pediatrics v. Van de Kamp, 263 Cal. Rptr. 46 (Cal. App. 1989) (upholding an injunction preventing implementation of restrictions on abortion rights of minors, requiring a compelling state interest before invasion of minors' privacy rights); In re T.W., 551 So. 2d 1186 (Fla. 1989) (reaffirming the right to choose to terminate a pregnancy as a fundamental state constitutional right and striking down legislation restricting abortion rights); Hope v. Perales, 571 N.Y.S.2d 972 (Sup. Ct. 1991) (applying a strict scrutiny standard for fundamental rights and determining that state failure to fund medically necessary abortions violated state constitution); Davis v. Davis, 842 S.W.2d 588 (Tenn. 1992) (extending state constitutional right to privacy beyond federal right in a custody dispute over divorced couple's frozen embryos).

and free speech with the need for an informed electorate); Ravin v. State, 537 P.2d 494, 514-15 (Alaska 1975) (Boochever, J. concurring) ("Since the citizens of Alaska, with their strong emphasis on individual liberty, enacted an amendment to the Alaska Constitution expressly providing for a right to privacy not found in the United States Constitution, it can only be concluded that that right is broader in scope than that of the Federal Constitution.").

A woman's control of her body, and the choice whether or when to bear children, involves the kind of decision-making that is "necessary for . . . civilized life and ordered liberty." Baker, 471 P.2d at 401-02. Our prior decisions support the further conclusion that the right to an abortion is the kind of fundamental right and privilege encompassed within the intention and spirit of Alaska's constitutional language. "[D]ecisions whether to accomplish or prevent conception are among the most private and sensitive." Falcon v. Alaska Pub. Offices Comm'n, 570 P.2d 469, 479 n.42 (Alaska 1977) (holding that a physician who specialized in contraception and abortion could not be required to disclose the names of his patients); see also Cleveland v. Municipality of Anchorage, 631 P.2d 1073, 1080 (Alaska 1981) (holding that abortion clinic protests cause patients to "suffer emotional distress as a result of appellants' invasion of their privacy during a particularly sensitive period"); Ravin, 537 P.2d at 502 (holding that decisions about contraception involve "significantly personal areas").

We stated in Breese v. Smith, 501 P.2d 159, 169 (Alaska 1972), that "few things [are] more personal than one's body."⁸ In Breese, a school policy regulating hair length was at issue; the regulation was held unconstitutional because the State failed to show a compelling interest that justified the policy. Id. at 170-72. Surely "few things are more personal" than a woman's control of her body, including the choice of whether and when to have children.

Of all decisions a person makes about his or her body, the most profound and intimate relate to two sets of ultimate questions: first, whether, when and how one's body is to

⁸ Breese was decided before the 1972 passage of the privacy amendment now found in article I, section 22 of the Alaska Constitution. Breese relied exclusively on the inherent rights provision found in article I, section 1 of the Alaska Constitution. The Coalition argues that article I, section 1 of the Alaska Constitution protects abortion as a fundamental right. Because we hold this right is grounded in the privacy provision of the constitution, we do not address whether the right could be based solely on article I, section 1. While Breese's discussion of personal autonomy remains instructive, we choose to analyze reproductive rights under the privacy provision of our constitution, as other states have done. See, e.g., In re T.W., 551 So. 2d at 1193.

The relationship between a woman and her doctor is threatened by VHA's abortion policy, and thus privacy rights are implicated in addition to the notions of personal autonomy that were at issue in Breese. The information exchange between a woman and her doctor about the woman's health and her reproductive choices is intensely private. The reasons a doctor and patient choose a medical procedure, so long as it is legal, must not be subject to the approval of a hospital's board of directors, according to their own values.

Other privacy interests are also implicated. If a woman is unable to obtain an abortion near her home, there is an increased chance that she will have to reveal her pregnancy to others in order to arrange the necessary travel. The fact that a woman has visited a certain doctor can be intensely private, when the doctor is one who specializes in abortion services.

become the vehicle for another human being's creation; second, when and how--this time there is no question of "whether"--one's body is to terminate its organic life.

Laurence H. Tribe, American Constitutional Law 1337-38 (2d ed. 1988). We agree that "[t]he decision whether or not to have a child is fraught with specific physical, psychological, and economic implications of a uniquely personal nature for each woman." In re T.W., 551 So. 2d 1186, 1193 (Fla. 1989) (citing Roe, 410 U.S. at 153).

For the above reasons, we are of the view that reproductive rights are fundamental, and that they are encompassed within the right to privacy expressed in article I, section 22 of the Alaska Constitution. These rights may be legally constrained only when the constraints are justified by a compelling state interest, and no less restrictive means could advance that interest. These fundamental reproductive rights include the right to an abortion. The scope of the fundamental right to an abortion that we conclude is encompassed within article I, section 22, is similar to that expressed in Roe v. Wade. We do not, however, adopt as Alaska constitutional law the narrower definition of that right promulgated in the plurality opinion in Casey.

VHA argues that there can be no state constitutional protection for reproductive rights under article I, section 22, because the section was intended to encompass protection from unwarranted surveillance and data collection by the State and private businesses. It cannot extend beyond this "informational"