

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9823 HOUSE HEALTH EDUCATION & SOCIAL SERVICES

HB

321

TONY KNOWLES
GOVERNOR

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 25, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

As part of my administration's continuing effort to improve Alaska's child protection system, I am transmitting a bill that will open to the public information that has generally been closed – court hearings, court records and state agency records in child in need of aid (CINA) matters.

The issues surrounding public disclosure in children's matters can quickly become complicated, but the goal of this bill is simple: Shed more light on the child protection system and the system will improve. I believe public support for the approach taken in this bill will grow when the tragic circumstances affecting so many young lives are more fully understood, along with the daily challenges faced by those who work so hard to protect children.

Concerns have been raised during the past few years about the state's confidentiality laws. These laws were created to protect the privacy of children and their families. But they also have the practical effect of limiting public oversight and understanding of the goals and activities of our child protection agencies.

In response to growing concerns, I established the Governor's Task Force on Confidentiality of Children's Matters, consisting of state and media officials. I asked the task force to determine whether Alaska's confidentiality laws could be relaxed with minimal infringement on the privacy of children, and whether we could design a more open system without jeopardizing child protection programs and continued receipt of federal funding. This bill reflects the task force recommendations to allow greater public

Governor

The Honorable Brian Porter
January 25, 2000
Page 2

access to court hearings, court records and records of state agencies concerning child protection activities.

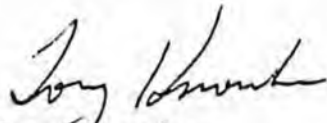
Amending our CINA statutes and court rules requires thoughtful planning. Thus, the bill will not be effective until July 1, 2001 – approximately one full year after it is signed into law. It also requires a report back to the public and legislature by December 2002 to assess these new procedures and make recommendations to address any problems that may arise.

More specifically, the bill affects CINA cases in the following ways:

- Court hearings would be opened to the public with limited exceptions – for example, if the court determines an open hearing would emotionally harm a child, or when other state or federal laws require closed hearings.
- Court records would be opened unless a federal or state law prohibits the release.
- State agency records would be made available to the public in some cases, such as responding to allegations surrounding harm to a child in state custody.

We have launched many initiatives in the past years to make Alaska a healthier, safer place for our children. But we can and must do more. This bill is the next step in our continuing efforts to protect young Alaskans.

Sincerely,



Tony Knowles
Governor

STATE OF ALASKA

TONY KNOWLES, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

P.O. BOX 110300
JUNEAU, ALASKA 99811-0300
PHONE: (907) 465-3600
FAX: (907) 465-2075

February 7, 2000

The Honorable Fred Dyson, Chair
House Committee on Health,
Education & Social Services
Alaska State Legislature
State Capitol
Juneau, Alaska

Dear Representative Dyson:


HB 321 – “An Act relating to the confidentiality of investigations, court hearings, and court and public agency information in child in need of aid matters; relating to immunity regarding disclosure of information in child in need of aid matters; . . .” has been referred to your committee. I am writing today to ask that you schedule it for a hearing at the earliest possible date.

HB 321 reflects the recommendations of the Governor’s Task Force on Confidentiality of Children’s Matters, a group of state and media officials. The task force’s report, issued last spring, proposed changes to laws and court rules to provide greater public access to hearings and records of the court and records of state agencies concerning child protection activities.

If you need additional information about HB 321, please call me at 465-2132. I look forward to seeing this important bill on your committee’s schedule in the near future.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Crystal Stillings Smith
Legislative Liaison

CSS:rew

cc: Pat Pourchot, Legislative Director, Governor’s Office
Jan Rutherford, Assistant Attorney General
Deborah Behr, Assistant Attorney General

Sec. 47.10.090. Court records.

(a) The court shall make and keep records of all cases brought before it.

(b) [Repealed, Sec. 55 ch 59 SLA 1996].

(c) Within 30 days of the date of a minor's 18th birthday or, if the court retains jurisdiction of a minor past the minor's 18th birthday, within 30 days of the date on which the court releases jurisdiction over the minor, the court shall order all the court's official records pertaining to that minor in a proceeding under this chapter sealed. A person may not use these sealed records for any purpose except that the court may order their use for good cause shown.

(d) The name or picture of a minor under the jurisdiction of the court may not be made public in connection with the minor's status as a child in need of aid unless authorized by order of the court.

(e) The court's official records under this chapter may be inspected only with the court's permission and only by persons having a legitimate interest in them. A foster parent is considered to have a legitimate interest in those portions of the court's records relating to a child who is placed by the department with the foster parent or who the department proposes for placement with the foster parent.

CHILD IN NEED OF AID RULES

Rule 3

just be provided by

child who is not of
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sterial psychologi-
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recording of the
examination and

Witnesses may be
to Evidence Rule

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to a hearing.

any hearing with
or more parties,
or out-of-home

which the court is
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by telephone, and
evidence or argu-
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n as required by

Attorney. Unless
representation by
represented by a

non-attorney tribal member or tribal employee. A written authorization for representation by the non-attorney tribal member or tribal employee may represent the tribe. A guardian ad litem need not be represented by an attorney unless the court, for good cause, requires representation by an attorney.

(SCO 845 effective August 15, 1987; amended by SCO 998 effective January 15, 1990; and by SCO 1355 effective July 15, 1999)

Cross References

CROSS REFERENCES: AS 47.10.030(b); AS 47.10.070.

Annotations

Cases

This annotation construes former Children's Rule 12. If, following criminal proceedings, collateral legal disabilities exist apart from the sentence, an appeal is not mooted even though the sentence has already been served. *E.J. v. State*, Op. No. 628, 471 P2d 367 (Alaska 1970).

This annotation construes former Children's Rule 12. Where a child has been declared delinquent without the necessary compliance with statutory and constitutional procedural standards, such child has been deprived of his constitutional rights. If any attendant collateral disabilities remain, the proceedings which were infected with those disabilities cannot stand. *E.J. v. State*, Op. No. 628, 471 P2d 367 (Alaska 1970).

This annotation construes former Children's Rule 12. The provision of this rule providing for closed proceedings must be interpreted and applied in a manner consistent with the child's right to a public trial. *RLR v. State*, Op. No. 706, 487 P2d 27 (Alaska 1971).

This annotation construes former Children's Rule 12. If a child or his guardian ad litem wants the press, friends or others to be free to attend juvenile proceedings, the hearing must be open to them. The court's areas of discretion within which it may refuse to open a hearing involve persons whose presence is not desired by the child. *RLR v. State*, Op. No. 706, 487 P2d 27 (Alaska 1971).

This annotation construes former Children's Rule 12. A hearing in which a chemist testifies that a tablet sent to him for analysis contained LSD should not be conducted in the absence of the infant involved after the attorney explicitly refuses to waive the infant's right to be present. Conducting a hearing in the child's absence under such circumstances is reversible error. *RLR v. State*, Op. No. 706, 487 P2d 27 (Alaska 1971).

This annotation construes former Children's Rule 12. Notions of benevolent protective policies for children cannot be used to validate departures from positive law relating to adjudicative and dispositive phases of children's proceedings. In *re E.M.D.*, Op. No. 737, 490 P2d 658 (Alaska 1971).

This annotation construes former Children's Rule 13. Considering the importance of juvenile proceedings and the fact that juvenile records are easily obtained and can have serious effects upon the life of a minor, the usual principles against entertaining moot controversies do not apply. Where a 12-year old boy has been determined to be delinquent, an appeal of that delinquency order will be considered, notwith-

standing that the order has been vacated. *E.J. v. State*, Op. No. 628, 471 P2d 367 (Alaska 1970).

This annotation construes former Children's Rule 13. Due process requires that detention orders be based on competent, sworn testimony. A child has a right to be represented by counsel at a detention inquiry. Any detention order must state with particularity the facts supporting it. *Doe v. State*, Op. No. 707, 487 P2d 47 (Alaska 1971).

This annotation construes former Children's Rule 13. A detention order based on unsworn hearsay of the district attorney, further based on the court's belief's unsupported by any evidence that the child will engage in unlawful activity if not detained, and containing no facts on which it is based, is invalid. *Doe v. State*, Op. No. 707, 487 P2d 47 (Alaska 1971).

This annotation construes former Children's Rule 12. A child has a vital interest in a dependency proceeding and is an essential party whose presence cannot be dispensed with arbitrarily; in a dependency proceeding the summons and a copy of the petition must be served on the child as well as the parents; failure to make such service results in a lack of jurisdiction over the child. In *re P.N.*, Op. No. 1127, 523 P2d 13 (Alaska 1975).

This annotation construes former Children's Rule 12. Where the children are not given the required notice of a dependency hearing the superior court has no jurisdiction over them and, therefore, cannot validly issue a judgment depriving a parent of his custody. In *re P.N.*, Op. No. 1127, 523 P2d 13 (Alaska 1975).

This annotation construes former Children's Rule 12. A court in a "child in need of supervision" hearing is under a duty to explain to the juvenile his right to counsel. *Wagstaff v. Superior Court, Family Court Division*, Op. No. 1144, 535 P2d 1220 (Alaska 1975).

This annotation construes former Children's Rule 12. In the adjudicative phase of any children's proceeding, the family court may consider only the specific situations set out in the petition. In *re S.D. Jr.*, Op. No. 1255, 549 P2d 1190 (Alaska 1976).

This annotation construes former Children's Rule 12. Court committed error when it commenced the adjudicative phase of the parental rights termination hearing in the absence of the child's counsel and guardian ad litem. *Matter of C.L.T.*, Op. No. 1866, 597 P2d 518 (Alaska 1979).

This annotation construes former Children's Rule 12. Superior court did not abuse its discretion in permitting two relatives of murder victims to attend a juvenile waiver hearing held to determine whether juveniles could be tried as an adult for the murders. *W.M.F. v. Jonstone*, Op. No. 571, 711 P2d 1187 (Alaska App. 1986).

Where father participated telephonically in parental rights termination action, his due process right to confront and cross-examine witnesses was not violated, since his attorney was present in the courtroom and did effectively cross-examine witnesses and since the transcript of the hearing indicated that the father could hear well enough to follow the proceedings. *E.J.S. v. Dept. of Health & Social Serv.*, Op. No. 3318, 754 P2d 749 (Alaska 1988).

In case in which the trial court affirmed the relocation of three children from their mother's home to a foster home, the trial court did not abuse its discretion in not allowing the children to testify regarding their desired placement. *A.H. v. State*, Op. No. 3504, 779 P2d 1229 (Alaska 1989).

Post-it Fax Note	7671	Date	# of pages 2
To	WBS - HHS	From	PAM FINLEY
Co/Dept.		Co.	
Phone #		Phone #	
Fax #		Fax #	4587

Rule 2

ALA

membership in an Indian tribe and is the biological child of a member of an Indian tribe.

(h) "Indian child's tribe" means (1) the Indian tribe in which an Indian child is a member or eligible for membership or (2), in the case of an Indian child who is a member of or eligible for membership in more than one tribe, the Indian tribe with which the Indian child has the more significant contacts.

(i) "Indian custodian" means any Indian person who has legal custody of an Indian child under tribal law or custom or under state law, or to whom temporary physical care, custody and control has been transferred by the parent of the child.

(j) "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians recognized as eligible for services provided to Indians by the Secretary of the Department of the Interior because of their status as Indians, including an Alaska Native village as defined in 43 U.S.C. § 1602(c).

(k) "Parent" means a biological or adoptive parent whose parental rights have not been terminated.

(l) "Party" means the child, the parents, the guardian, the guardian ad litem, the Department, an Indian custodian who has intervened, an Indian child's tribe which has intervened, and any other person who has been allowed to intervene by the court.

(SCO 845 effective August 15, 1987; amended by SCO 1355 effective July 15, 1999)

Cross References

- CROSS REFERENCES:** AS 25.20.010; AS 47.10.990; 25 U.S.C. § 1903.
 (f) 25 U.S.C. § 1903(3).
 (g) 25 U.S.C. § 1903(4).
 (h) 25 U.S.C. § 1903(5).
 (i) 25 U.S.C. § 1903(6).
 (j) 25 U.S.C. § 1903(7).

Annotations

Cases

Legal guardian who has all the authority of a parent may do what a parent may do, so if parent may appoint custodian, guardian may also appoint one. T.B. v. State, Op. No. 4400, 922 P2d 271 (Alaska 1996).

Rule 3. Hearings.

(a) **Notice.** Notice of each hearing must be given to all parties and any foster parent or other out-of-home care provider within a reasonable time before the hearing. Service on the child may be accomplished by serving the child's guardian ad litem, attorney or social worker. Notice to a foster parent

CURRENT OINA RULE 3

or out-of-home care provider must be provided by the Department.

(b) **Presence of the Child.** A child who is not of suitable age to understand or participate in the proceedings need not be present at hearings unless the court so orders. The court may excuse the presence of a child who is of suitable age if attendance would be detrimental to the child. The child or the child's guardian ad litem may waive the child's right to be present at a particular hearing.

(c) **Presence of Foster Parent.** A foster parent or other out-of-home care provider is entitled to be heard at any hearing at which the person is present. However, the court may limit the presence of the foster parent or care provider to the time during which the person's testimony is being given if it is (1) in the best interest of the child; or (2) necessary to protect the privacy interests of the parties and will not be detrimental to the child.

(d) **Parties Excluded.** The court may exclude the child during particular testimony if the effect of that testimony would psychologically harm the child. The court also may exclude a parent, guardian or Indian custodian during the child's testimony in order to protect the child from material psychological harm, provided that the parent, guardian or Indian custodian may listen to a recording of the testimony to prepare for further examination and rebuttal.

(e) **Exclusion of Witnesses.** Witnesses may be excluded from a hearing pursuant to Evidence Rule 615.

(f) **General Public Excluded.** Hearings are not open to the public. However, the court may, after due consideration for the welfare of the child and the family, admit specific individuals to a hearing.

(g) Telephonic Participation.

(1) The court may conduct any hearing with telephonic participation by one or more parties, counsel, witnesses, foster parents or out-of-home care providers, or the judge.

(2) In any proceeding in which the court is authorized to proceed ex parte, the court may contact the non-appearing party or counsel by telephone, and in the interests of justice receive evidence or argument without stipulation of the parties.

(3) Procedures for telephonic hearings are governed by Civil Rule 99(b). Payment of telephone costs is governed by Administrative Rule 48.

(h) **Testimony Under Oath.** All testimony must be given under oath or affirmation as required by Evidence Rule 603.

(i) **Representation by Non-Attorney.** Unless the court for good cause requires representation by an attorney, an Indian tribe may be represented by a

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 321

Revision Date/Time (Note if correction) _____	Dept. Affected _____	Alaska Court System
Title <u>Confidentiality of CINA Proceedings and</u>	BRU _____	Alaska Court System
<u>Records</u>	Component _____	Trial Courts
Sponsor <u>Governor</u>		
Requester <u>House HESS</u>	Component No. _____	768

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	83.2	83.2	83.2	83.2	83.2	83.2
Travel	33.6					
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	116.8	83.2	83.2	83.2	83.2	83.2

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

FUND SOURCE	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
1002 Federal Receipts						
1003 GF Match						
1004 GF	116.8	83.2	83.2	83.2	83.2	83.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	116.8	83.2	83.2	83.2	83.2	83.2

Estimate of any current year (FY2000) cost: _____

POSITIONS

POSITIONS	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Full-time						
Part-time	4	4	4	4	4	4
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached analysis.

Prepared by: <u>Wooliver, Administrative Attorney</u>	Phone <u>463-4750</u>
Division <u>Alaska Court System</u>	Date/Time <u>2/17/00 10:35 AM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date <u>2/17/00</u>
Agency <u>Alaska Court System</u>	

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Alaska Court System
Fiscal Analysis
HB 321
Public Access to CINA Hearings and Records
February 17, 2000

House Bill 321 amends the confidentiality laws governing child in need of aid (CINA) proceedings and records by making most of the proceedings and records open to the public.

With the exception of the initial hearing after a petition is filed (and a subsequent hearing if a party has not had an opportunity to obtain counsel) all CINA proceedings are open to the public unless the judge orders the hearing closed. The order closing the hearing must be written and include specific findings as to why closure is necessary.

Any member of the public who files a request for notice has the right to be notified of any petition to close a hearing. The judge may not rule on that petition until an affidavit has been submitted stating that notice was received. This provision may be waived if the request to close a hearing comes immediately before the hearing and the judge makes additional findings regarding the reasonableness of the request under the circumstances.

The records of CINA proceedings will also be open to public inspection, with certain exceptions. Records will remain confidential if they are confidential pursuant to federal statute or regulation, state statute or regulation, or court rule or order. Other records are public except that any confidential information that is contained in an otherwise public record must be redacted prior to release to the public. A party has the right to petition the court to seal records that would otherwise be public.

As with closing a hearing, a request to close a record cannot be ruled on by the judge until the requester submits an affidavit stating that notice was provided to any member of the public who had requested it. The judge may only seal records after making specific findings.

The above changes will generate court costs in three primary areas. First are costs associated with the initial development of new practices, policies, written instructions and forms for implementing the new record procedures. Second are costs associated with training. Training will consist of one additional day of training at the annual conferences for both court clerks and magistrates as well as training for superior court judges, which will be conducted in the major hub communities. Third are costs to cover four additional part time clerks. These part time positions will be in some of the busiest courts and will be necessary to handle both anticipated record requests and the additional work involved with the new filing procedures.

This note does not include any additional expenses incurred due to lengthened CINA hearings. It is likely that (at least initially) there will be a significant number of motions filed to close hearings and records. This motion practice will take time and the judge must issue a written order with findings in order to close a hearing or a record. No costs are included for this aspect of the bill because it is difficult to estimate the number of motions that will be filed and the time required to address them. However, if these changes result in a consistent lengthening of CINA hearings or a consistent increase in motion practice then the court system may return to the legislature for additional funding.

FISCAL NOTE

Bill Version: HB 321

(H) Publish Date: 1/26/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date _____ Dept. Affected Public Safety
 Title An Act relating to confidentiality of investigations, BRU AST - Detachments; Admin. Services
court hearings ... agency information in child in need of aid matters Component AST - Detachments; Admin. Services
 Sponsor Rules Committee
 Requester Governor Component No. 2325; 525

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation should not adversely impact the budget.

Prepared by: Royce Weller, Special Assistant Phone 465-4322
 Division Office of the Commissioner Date/Time Dec. 27, 1999
 Approved by Commissioner [Signature] Date Dec. 27, 1999
 Agency Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

Bill Version: HB 321
(H) Publish Date: 1/26/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date: _____
Title: "An Act relating to the confidentiality of child in need of aid matters....."
Sponsor: Rules Committee
Requestor: Governor

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (FY 00) cost: \$ 0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary).

This bill does not have a fiscal impact on the Office of Public Advocacy.

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

Phone: (907) 269-3500
Date: 1/5/00

Approved by Commissioner: Robert Poe Jr. *Alison M. Elan*
Agency: Department of Administration

Phone: 465-2200
Date: 1/5/00

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FISCAL NOTE

Bill Version: HB 321

(H) Publish Date: 1/26/00

STATE OF ALASKA

2000 LEGISLATIVE SESSION

Revision Date:
Title: "An Act relating to the confidentiality of child in need of aid matters....."
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BFU: Legal and Advocacy Services
Component: Public Defender Agency
COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

Table with 7 columns: OPERATING EXPENDITURES, FY 2001, FY 2002, FY 2003, FY 2004, FY 2005, FY 2006. Rows include PERSONAL SERVICES, TRAVEL, CONTRACTUAL, SUPPLIES, EQUIPMENT, LAND & STRUCTURES, GRANTS, CLAIMS, MISCELLANEOUS, and TOTAL OPERATING.

CAPITAL EXPENDITURES table with 7 columns.

CHANGE IN REVENUES () table with 7 columns.

FUND SOURCE: (Thousands of Dollars)

Table with 7 columns: 1002 Federal Receipts, 1003 GF Match, 1004 GF, 1005 GF/Program Receipts, 1037 GF/Mental Health, OTHER, and TOTAL.

Estimate of any current year (FY 00) cost: \$ 0

POSITIONS:

Table with 7 columns: FULL-TIME, PART-TIME, TEMPORARY.

ANALYSIS: (Attach a separate page if necessary).

This bill would not have a great impact on our operations. Attorneys will have to file motions in cases where hearings should be closed or records sealed. But this work is not expected to be unduly burdensome.

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

Phone: (907) 264-4414
Date: 1/4/00

Approved by Commissioner: Robert Poe Jr.
Agency: Department of Administration

Phone: 465-2200
Date: 1/5/00

FISCAL NOTE

No: 4

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Number: HB 321
(H) Publish Date: 1/26/00

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: Confidentiality of children's proceedings BRU: Family & Youth Services
 Component: FYS Management
 Sponsor: Rules Committee COMPONENT SERIAL NO. 2306
 Requestor: Governor See also (SN#): 2307

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES	26.1	104.5	104.5	104.5	104.5	104.5
TRAVEL						
CONTRACTUAL	64.2	56.7	56.7	56.7	56.7	56.7
SUPPLIES	0.5	2.0	2.0	2.0	2.0	2.0
EQUIPMENT	11.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	101.8	163.2	163.2	163.2	163.2	163.2

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES	1002		***	***	***	***
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	101.8	163.2	163.2	163.2	163.2	163.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	101.8	163.2	163.2	163.2	163.2	163.2

Estimate of any current year (FY2000) cost: \$0.0

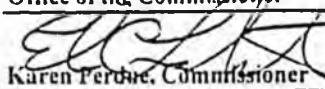
POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Section 17 of the bill authorizes the department to release summaries of information contained in reports of harm if the summary does not contain any information that would readily lead to the identification of 1) the person who made the report of harm; 2) the child; 3) the child's parents or siblings and members of the child's household; or 4) the alleged perpetrator.

The Department has previously published a one-time publication called "Alaska's Children of a Hidden War" which consists of summary information gathered from reports of harm statewide. To comply with Section 17 of the bill, the Department will periodically publish summary information in a format similar to "Alaska's Children of a Hidden War" and make the publication widely available to the public.

Prepared by: Elmer A. Lindstrom Phone: 465-1613
 Division: Office of the Commissioner Date/Time: 1/24/00 3:09 PM
 Approved by Commissioner:  Date: 1/24/00
 Agency: Department of Health & Social Services

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ANALYSIS (cont.):

Regular publication of this information will require the assistance of a Public Information Officer (Range 20) and an Administrative Clerk (Range 10) since gathering and compiling this information (over 17,000 reports of harm annually) is extremely time consuming. The proposed effective date of the bill is 7/1/01. The Department would establish the two positions in the fourth quarter of FY 01 to begin implementation of procedures and to provide for a training period.

The one-time cost for equipment for the two new positions include a computer, telephone and a desk and chair. Ongoing contractual services costs include: telephone charges for basic service and long distance calls and office supplies. Additional funding will also be required to develop and promulgate implementing regulations, train staff, and develop internal policies, procedures and forms regarding the release of confidential information.

Expenditure Analysis (Family & Youth Services Mgmt. Comp. #2306):

	Annual Cost FY01	Annual Cost FY02-06
Personal Services:		
Information Officer III (established the position in the 4th quarter of FY2001)	16.8	67.1
Admin Clerk III - (established the position in the 4th quarter of FY2001)	<u>9.4</u>	<u>37.4</u>
Subtotal	26.1	104.5
Contractual Services:		
Telephone (monthly basic & long distance)	0.8	3.1
Printing Cost of quarterly publication of reports of harm	13.4	53.6
Technical assistance to draft regulations	<u>50.0</u>	<u>0.0</u>
Subtotal	64.2	56.7
Supplies:		
Office supplies:	0.5	2.0
Equipment: (for 2 new positions):		
Computers	6.0	0.0
Telephones/communication equipment:	1.0	0.0
Desk & office chairs	<u>4.0</u>	<u>0.0</u>
Subtotal	11.0	0.0
Total	101.8	163.2

*****Changes in Revenues:**

In opening child protection proceedings as proposed, the Department does incur some risk relating to compliance with federal confidentiality requirements under Titles IV-B and IV-E of the Social Security Act. The federal government's willingness to enforce these confidentiality provisions is in doubt, however, since several states have similarly opened child abuse and neglect proceedings and to date have not been subject to financial sanctions.

The bill largely resolves this problem by recognizing the preeminence of federal law if a conflict between a provision of the bill and federal law adversely affects receipt of federal funds. In the event this situation arises, the Department would act quickly to minimize the loss of federal receipts.

The Department receives approximately \$15 million in federal Title IV-B and IV-E annually. These funds are spread throughout the Division of Family and Youth Services' budget.

FISCAL NOTE

No: 5

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill ^V ion: HB 321
(H) Publish Date: 1/26/00

Revision Date/Time (Note if correction): _____
Title: Confidentiality of children's proceedings
Sponsor: Rules Committee
Requestor: Governor

Dept. Affected: Health and Social Services
BRU: Family and Youth Services
Component: FYS Staff Training
COMPONENT SERIAL NO. 2307
See also (SN#): 2306

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL	15.0	13.0	10.0	10.0	7.0	7.0
CONTRACTUAL	30.0	25.0	20.0	20.0	15.0	15.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS. CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	45.0	38.0	30.0	30.0	22.0	22.0

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES 1002		***	***	***	***	***
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	45.0	38.0	30.0	30.0	22.0	22.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	45.0	38.0	30.0	30.0	22.0	22.0

Estimate of any current year (FY2000) cost: 50.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

The Division will have to conduct training sessions to ensure the successful implementation of the provisions of this bill. Primary training will be conducted in FY 01 with follow-up training done in subsequent fiscal years as necessary.

***Changes in Revenues:

In opening child protection proceedings as proposed, the Department does incur some risk relating to compliance with federal confidentiality requirements under Titles IV-B and IV-E of the Social Security Act. The federal government's willingness to enforce these confidentiality provisions is in doubt, however, since several states have similarly opened child abuse and neglect proceedings and to date have not been subject to financial sanctions.

Prepared by: Elmer A. Lindstrom
Division: Office of the Commissioner

Phone: 465-1613
Date/Time: 1/14/00 9:16 AM

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

Date: 1/18/00

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ANALYSIS (cont.):

The bill largely resolves this problem by recognizing the preeminence of federal law if a conflict between a provision of the bill and federal law adversely affects receipt of federal funds. In the event this situation arises, the Department would act quickly to minimize the loss of federal receipts.

The Department receives approximately \$15 million in federal Title IV-B and IV-E annually. These funds are spread throughout the Division of Family and Youth Services' budget.

FISCAL NOTE

Bill Version: HB 321

(H) Publish Date: 1/26/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept. Affected Law
 Title ... relating to the confidentiality of child in need of BRU Civil Division
aid court hearings, court records, and ... agency records ... Component Human Services
 Sponsor Rules Committee
 Requester Governor Component No. 2208

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services		37.7	28.7	21.0	16.8	13.5
Travel		0.2	0.1	0.1	0.1	0.1
Contractual		6.1	4.6	3.4	2.7	2.2
Supplies		0.6	0.5	0.3	0.3	0.2
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	44.6	33.9	24.9	19.9	15.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF		44.6	33.9	24.9	19.9	15.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	44.6	33.9	24.9	19.9	15.9

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would implement the recommendations of the Governor's Task Force on the Confidentiality of Children's Matters, effective July 1, 2001. Alaska's confidentiality laws relating to child in need of aid cases would be amended to impact three areas: court hearings, court records, and agency records.

The Department of Law workload would be impacted by the bill in two areas: increased court time, and increased advice to social workers. The department believes the impact would be felt most heavily in the first year following enactment.

The legislation requires court hearings be open to the public except in certain specific circumstances listed in proposed amendments to AS 47.10.070. During the first year, we would expect resistance to

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370
 Division Attorney General's Office Date/Time 1/24/00, 10:41 AM
 Approved by Commissioner *Kad Jr* Bruce M. Botelho, Attorney General Date 1/24/00
 Agency Department of Law

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FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

BILL NO. HB 321

ANALYSIS CONTINUATION

this change. For example, requests to close the hearings would be likely from parent's attorneys, wishing to shield their clients from the public airing of negative information. As case law is established to further define just when a hearing may be closed, the number of requests to close a hearing should decline.

It is also possible that assistant attorneys general may be in court defending the state's desire to close a hearing for one of the reasons listed in the proposed amendments to AS 47.10.070, and be facing vigorous opposition from the media, or other interested parties. The department anticipates this will be relatively rare.

We anticipate that only a few, high profile cases will require time consuming written motion practice, whichever party is making the request. Most of the requests for a closed hearing will most likely be dealt with in the courtroom by oral argument. The frequency of the requests will be driven by a number of variables including judicial district, size of the community, and how judges generally rule in those areas. For example, we would expect a higher percentage of the requests to close hearings to come in smaller communities.

The department's current CINA caseload statewide is approximately 1,000 cases (counted by family). A relatively conservative estimate of the number of challenges to open hearings is ten percent, or 100 cases. As noted above, we expect most of the challenges to be dealt with in the courtroom, each requiring anywhere from fifteen minutes to a half an hour of department attorney time to respond to. The few cases requiring written motion practice, perhaps as many as ten, may take an average of two to three hours each.

90 cases x .4 hours x \$93.42 =	\$3,363.12
10 cases x 2.5 hours x \$93.42 =	\$2,335.50
Total Estimated Cost	= \$5,698.62

As discussed above, the new workload generated would be expected to decline as case law is developed. For the purposes of this fiscal note, we assume the new workload will decline by half in the second year, and be minimal in FY04.

This estimate is based on our best guess of what other parties might do. A change in the number of cases, or time needed to deal with the proposed new law, would impact the estimate mathematically using the formulas above.

Of greater fiscal impact to the Department of Law is the expected increase in the amount of time required to advise social workers on the change in law once enacted. Even with the current law having been in place for some time, assistant attorneys general spend a lot of time on the telephone advising social workers on confidentiality issues. We estimate calls in Fairbanks would increase by about four calls per week, in Anchorage by about 10 calls per week, and in Juneau, where DFYS' central office is located, by about 6 calls per week. Assuming each call takes average of 4/10th of an hour to complete, this would add \$38,862.72 to our costs (20 calls x .4 hours x 52 weeks x \$93.42).

As with the increased workload associated with motions to close court hearings, this new workload would decline as well, but at a much slower rate because requests for agency records will need to be reviewed on a case-by-case basis to ensure appropriate safeguards on confidential information are maintained. We are projecting it to decrease by 20 percent per year.

HB

322

TONY KNOWLES
GOVERNOR

HW Jdd
P.O. Box 11000
Juneau, Alaska 99811-0100
1907-465-3600
Fax 1907-465-3532

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 26, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

Part of my Quality Schools Initiative is the provision of adequate, safe and well-maintained schools in which our children can learn. Unfortunately, with declining general fund capital budgets, the backlog of needed school construction and major maintenance projects across our state has continued to grow. Today I am introducing a \$510 million package that will address all of the statewide deferred maintenance list and two-thirds of the current statewide prioritized list of construction projects. In addition, the bill extends the 70 percent school debt reimbursement program for those districts that bond directly for projects.

The revenues for the state portion of the bond proposal rely largely on Alaska's share of national tobacco settlement funds. The settlement proceeds would serve as security for bonds issued by a subsidiary of the Alaska Housing Finance Corporation (AHFC). Additional proceeds would be raised from bonds issued directly by AHFC. This method for raising school construction money preserves the state's debt capacity.

The program will provide \$360 million for all 86 major maintenance projects and 40 of 69 new school construction projects on the current Department of Education and Early Development priority list. The current priority list will remain in effect over the next three years to allow these critical projects to be funded.

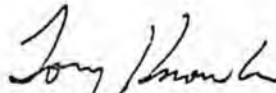
To address funding for school districts with the capacity to bond, my proposal includes \$150 million in authorization for a 70% school debt retirement program. This authorization will provide \$60 million for the state's largest school district and \$90 million for other municipal districts.

Governor

The Honorable Brian Porter
January 26, 2000
Page 2

We know we have needs beyond what is included in this package. However, this proposal will address a significant portion of our existing need, address issues raised in the Kasayulie case, and provide adequate space and safe learning environments for Alaska's children. I urge your prompt and favorable action.

Sincerely,



Tony Knowles
Governor

FISCAL NOTE

Bill Version: HB 322

(H) Publish Date: 1/28/00

**STATE OF ALASKA
2000 LEGISLATIVE SESSION**

Revision Date/Time	Dept. Affected	Education & Early Development
Title	BRU	School Debt Reimbursement
and major maintenance of public school facilities...	Component	
Sponsor	Rules	School Debt Reimbursement
Requester	Governor	Component No. 153

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	0.0	0.0	2,700.0	5,400.0	8,100.0	10,800.0
Miscellaneous						
TOTAL OPERATING	0.0	0.0	2,700.0	5,400.0	8,100.0	10,800.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	0.0	2,700.0	5,400.0	8,100.0	10,800.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	0.0	0.0	2,700.0	5,400.0	8,100.0	10,800.0

Estimate of any current year (FY2000) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation would authorize an additional \$150 million in school construction projects under AS 14.11.100. The debt on these projects will be eligible for 70% reimbursement. This legislation will allocate \$60 million in projects to municipalities with a public school enrollment of 25,000 or more students. The remaining \$90 million will be available for school construction projects to municipalities with a public school enrollment of less than 25,000 students. It is anticipated that as new debt is issued the reimbursement will occur beginning in FY2003. As the annual debt reimbursement on the existing program declines, funds will become available to help offset new debt authorization.

Prepared by:	Eddy Jeans, School Finance Manager	Phone	465-8679
Division	Education Support Services	Date/Time	01/25/00
Approved by	Richard S. Cross, Commissioner <i>[Signature]</i>	Date	1/26/2000
Agency	Education & Early Development		

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FISCAL NOTE

Bill Version: HB 322
 (H) Publish Date: 1/28/00

**STATE OF ALASKA
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) _____ Dept Affected _____ Revenue _____
 Title School Construction Financing BRU Alaska Housing Finance Corp.
 Component Operations
 Sponsor Rules Committee
 Requester Governor Component No. 110

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	120,481.9	122,207.6	108,923.1	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	(29,804.1)	(29,078.5)	(30,265.7)	(30,301.6)	(47,643.5)
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FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

Under AS 18.56.089(a)(2)(A), activities of the corporation that relate to the issuance of obligations and the repayment of debt obligations are exempt from the provisions of the Executive Budget Act. These costs are included in the bond authorizations in the bill, including the cost of issuance, debt service reserves and capitalized interest. Debt service for these bonds will come from tobacco settlement funds and AHFC transfer payments that otherwise would have gone to the state treasury. This will result in a reduction in annual unrestricted revenues to the treasury (shown above).

Estimates for debt service and other costs are included in attached spreadsheets. These estimates are based on a number of assumptions, including future interest rates and bond ratings.

Operational costs for issuing and monitoring these bonds will be done with existing personnel and within the authorized operating budget requests for FY2001 and beyond. No budget authorizations are necessary with this fiscal note.

Prepared by: John Bitney, Legislative Liaison
 Division: Alaska Housing Finance Corporation
 Approved by Commissioner: Wilson Condon
 Agency: Department of Revenue

Phone: 330-8445
 Date/Time: 1/25/00 6:24 PM
 Date: _____

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BOND DEBT SERVICE REPORT - DETAIL

HB322

State Education Bonds, 2000 Series A
 AHFC State Capital Project Bonds
 Under Current Plan
 Fixed Rate

SCP 2000A-1 (BON07)

Date	Bond Debt Service				Bond Valuation		
	Maturing Principal	Rate	Interest Paid	Debt Service	Total Bond Payment	Bond Balance	Accreted Bond-Value
Sep 1, 2000	-	-	-	-	-	102,365,000	102,365,000
Jun 30, 2001	-	-	-	-	-	102,365,000	102,365,000
Jun 30, 2002	3,365,000	4.85%	9,365,822	12,730,821.52	12,730,821.52	99,000,000	99,000,000
Jun 30, 2003	6,900,000	**	5,105,154	12,005,154.25	12,005,154.25	92,100,000	92,100,000
Jun 30, 2004	7,235,000	**	4,762,428	11,997,427.50	11,997,427.50	84,865,000	84,865,000
Jun 30, 2005	7,630,000	**	4,390,376	12,020,375.50	12,020,375.50	77,235,000	77,235,000
Jun 30, 2006	24,550,000	**	4,051,901	28,601,900.50	28,601,900.50	52,685,000	52,685,000
Jun 30, 2007	47,820,000	**	2,177,908	49,997,907.50	49,997,907.50	4,865,000	4,865,000
Dec 1, 2007	4,865,000	5.35%	130,139	4,995,138.75	4,995,138.75	-	-
	102,365,000		29,983,726	132,348,725.52	132,348,725.52		

BOND DEBT SERVICE REPORT

HB322

State Education Bonds, 2000 Series A
AHFC Tobacco Revenue Bonds

Date	Bond Debt Service			Redeemed Principal	Total Bond Payment	Bond Valuation				
	Maturing Principal	Interest Paid	Total Debt Serv			Bond Balance	Unpaid Interest	Accreted Bond-Value		
Dec 1, 2000	-	-	-	-	-	339,424,838	-	339,424,838.00		
Jun 1, 2001	-	8,536,654	8,536,653.50	-	8,536,653.50	339,424,838	-25,894,758	313,530,079.68		
Jun 1, 2002	-	17,073,307	17,073,307.00	-	17,073,307.00	339,424,838	-24,077,470	315,347,368.19		
Jun 1, 2003	-	17,073,307	17,073,307.00	-	17,073,307.00	339,424,838	-22,232,505	317,192,332.60		
Jun 1, 2004	1,195,000	17,073,307	18,268,307.00	-	18,268,307.00	338,229,838	-20,288,233	317,941,605.41		
Jun 1, 2005	1,265,000	17,016,186	18,281,186.00	-	18,281,186.00	336,964,838	-18,174,546	318,790,291.62		
Jun 1, 2006	1,315,000	16,934,363	18,249,363.00	792,200	19,041,563.00	334,857,638	-15,898,514	318,959,124.08		
Jun 1, 2007	1,305,000	16,763,923	18,068,922.75	3,297,745	21,366,667.75	330,254,893	-13,584,625	316,670,267.80		
Jun 1, 2008	8,005,033	16,518,842	24,523,875.25	3,653,297	28,177,172.25	318,596,563	-11,089,019	307,507,544.37		
Jun 1, 2009	7,425,743	16,044,658	23,470,400.50	11,264,402	34,734,802.50	299,906,418	-8,782,698	291,123,919.71		
Jun 1, 2010	7,024,780	15,323,998	22,348,777.50	12,821,504	35,170,281.50	280,060,134	-6,757,684	273,302,449.83		
Jun 1, 2011	6,498,836	14,506,889	21,005,724.50	14,453,995	35,459,719.50	259,107,303	-5,053,386	254,053,917.40		
Jun 1, 2012	6,102,273	13,593,025	19,695,297.50	16,272,088	35,967,385.50	236,732,942	-3,492,651	233,240,291.23		
Jun 1, 2013	5,677,393	12,570,933	18,248,326.25	17,993,205	36,241,531.25	213,062,344	-2,233,165	210,829,178.79		
Jun 1, 2014	5,219,481	11,437,588	16,657,068.50	19,769,157	36,426,225.50	188,073,706	-1,260,843	186,812,862.89		
Jun 1, 2015	4,639,980	10,182,352	14,822,331.50	21,701,904	36,524,235.50	161,731,822	-574,625	161,157,196.63		
Jun 1, 2016	4,067,755	8,790,356	12,858,110.75	23,853,358	36,711,468.75	133,810,709	-172,843	133,637,866.66		
Jun 1, 2017	3,334,331	7,233,529	10,567,859.50	26,446,378	37,014,237.50	104,030,000	-	104,030,000.00		
Jun 1, 2018	1,435,000	5,484,153	6,919,152.75	29,350,000	36,269,152.75	73,245,000	-	73,245,000.00		
Jun 1, 2019	1,065,000	3,820,173	4,885,173.25	22,280,000	27,165,173.25	49,900,000	-	49,900,000.00		
Jun 1, 2020	580,000	2,321,898	2,901,898.25	24,470,000	27,371,898.25	24,850,000	-	24,850,000.00		
Dec 1, 2020	-	767,584	767,583.75	24,850,000	25,617,583.75	-	-	-		
						66,195,605	249,067,021	315,222,626.00	273,269,233	588,491,859.00

**Note: The entire \$8.5 million debt service payment in FY 2001, and \$8.5 million of the FY 2002 debt service payment will be made from Capitalized Interest and will not result in lost earnings to the State's General Fund.

TAPE 00-11, SIDE A
Number 0001

DRAFT

CHAIRMAN FRED DYSON called the House Health, Education and Social Services Standing Committee meeting to order at 3:00 p.m. Members present at the call to order were Representatives Dyson, Whitaker, Brice and Coghill. Representatives Green, Morgan and Kemplen arrived as the meeting was in progress.

#hb277

HB 277-RETIREMENT BENEFITS FOR REHIRED TEACHERS

CHAIRMAN DYSON announced the first order of business is House Bill No. 277, "An Act relating to payment of retirement benefits for subsequently reemployed retired members of the teachers' retirement system." Also, he said that the Alaska Native Health Board (ANHB) had asked him to distribute a booklet to committee members which is in the information packet before them.

Number 0206

JONATHON LACK, Legislative Assistant to Representative Halcro, Alaska State Legislature, came forward to present HB 277. He stated that HB 277 would allow retired teachers in Alaska to be re-employed in Alaska schools without jeopardizing the collection of their retirement benefits. Schools throughout the state of Alaska are experiencing a dire shortage of teachers. Today there are almost 8,000 retired Alaskan teachers living outside. It is unknown how many of these have taken jobs with outside school districts, but they represent a lost opportunity for the people of Alaska. These are experienced teachers who could be filling a need here in Alaska. They understand the Alaskan way of life but have moved on to teach outside so they can collect their Alaskan retirement and a paycheck from the outside school.

MR. LACK went on say the bill is a very broad concept. Representative Halcro drafted it not to restrict the ability of school districts and teachers to negotiate the terms of how to implement the language of this bill. Each school district would go

to their respective bargaining units and establish a system for rehire. Presumably teachers would be able to come back at a lower salary; they might even come back without health benefits because rehired teachers would be eligible for health insurance through the Teachers' Retirement System (TRS). Each school district and bargaining unit would be able to work out a system for rehire that would best benefit that individual school district. Members of the Anchorage School District brought this bill to Representative Halcro's attention, and they support the bill.

MR. LACK indicated that Representative Halcro asks the committee to support it.

DRAFT

Number 0231

CHAIRMAN DYSON asked how present law precludes a retired teacher from working full time.

MR. LACK replied that actual language in AS 14.25.043 prohibits a retired teacher from returning to service in more than a 40 percent capacity. A retired teacher can work for a school district on a part-time basis but if they return full time, they lose their retirement benefits. He said HB 277 allows retired teachers to return to a school district to teach and continue to receive their retirement benefits.

Number 0272

CHAIRMAN DYSON clarified if a retired teacher returned to teach full time, he/she would actually receive two paychecks, one for retirement and one for teaching.

Number 0282

MR. LACK answered yes. He further stated that HB 277 does not address at what step or range a retired teacher would be rehired. He presumed that the school district and the teacher's union bargaining unit would negotiate the pay range of the rehired retired teacher. He believes that school districts will not want to rehire retired teachers at the high twenty-year salary level, so the school districts will probably negotiate less than the high retirement figure. Initially Representative Halcro had wanted to designate that retired teachers return at year one salary level to the school district. In answer to Representative Halcro's idea, school districts indicated they would like to offer more, maybe year four or five. Subsequently, it was Representative Halcro's decision to leave the pay rate issue up to school districts and the teacher's union bargaining unit.

DRAFT

Number 0422

LARRY WIGET, Executive Director, Public Affairs, Anchorage School District, testified via teleconference from Anchorage. He said that the Anchorage School District supports the concept of HB 277 very strongly. He explained that the Anchorage School District sees HB 277 as a tool to attract school psychologists, special education teachers and physical therapists, of which there is a nationwide shortage. Nevertheless, he commented that the Anchorage School District does not see HB 277 as a panacea for all teachers who may think they can retire and then be rehired. He noted that in Anchorage there were up to potentially 300 teachers who would be eligible for rehire but that the Anchorage School District would probably not want to rehire the majority of those eligible. The Anchorage School District is interested in rehiring teachers who

serve the critical needs areas previously mentioned.

Number 0537

DRAFT

GUY BELL, Director, Division of Retirement & Benefits, Department of Administration, testified for the Teachers' Retirement System (TRS) and discussed the implications HB 277 could have on the teachers retirement fund. He said the Teachers' Retirement System is funded from three sources: 1) school district employer contributions, 2) employee contributions and 3) interest earnings on investments.

MR. BELL explained that the TRS fund is used to pay for current benefits of retired members and to provide health benefits for retirees. The number of state employees affected by HB 277 is only about 100 out of about 930 active TRS members now employed in the Department of Education, the Alaska Vocational Technical Institute and Mt. Edgecumbe High School. Therefore, he explained, when the Division of Retirement & Benefits produces a fiscal note on legislation which affects the TRS, very often minimal fiscal impact to the state is cited on the fiscal note even if a piece of legislation could have a financial impact. He reminded the committee that actual impact on employer rates is hard to measure because the employer rate is variable. He noted that the teacher contribution rate is set in statute at 8.65 percent. The school district employer rate has been variable but Teachers' Retirement board policy has set it at 12 percent for the past seven years in an effort to keep the rate level stable for all employers. He indicated that if teachers' behavior did not change as a result of HB 277 and everything stayed the same, there would be no impact on employer rates.

MR. BELL informed the committee that the Division of Retirement & Benefits had asked their actuarial firm to assess the impact of HB 277 on contribution rates if teacher behavior changed. The fiscal note analysis in the last paragraph indicates that if half of the people who had twenty years of service stayed an additional two years, then the impact on employer rates would be .75 percent. He said that figure does not exert a huge impact on rates but .75 percent does add up to about \$3 million on a yearly basis. However, he cautioned the committee to remember that the scenario he has presented is a big "what if."

DRAFT

Number 0755

MR. BELL admitted that there is no way to know how many teachers will take advantage of HB 277 or how many teachers the school districts will allow to return, assuming that the school districts can have the option to rehire retired teachers. He wanted the committee to understand that HB 277 could have a fiscal impact, depending on what happened in response to HB 277 if the legislation is adopted as it is drafted now.

CHAIRMAN DYSON commented that the committee is working with an undetermined fiscal note. He inquired as to what it would cost the state if 100 retired teachers came back to work.

Number 0790

MR. BELL answered by posing a hypothetical scenario of a total teacher salary base of \$1 million. Of that \$1 million, .75 percent would result in \$75,000 of additional cost. However, he believes that due to the size of the TRS system, the first scenario he presented would cost the state about \$3.6 million annually.

REPRESENTATIVE COGHILL said he understands that if a retired teacher is rehired, employer and employee contributions would be deposited in the TRS for that employee.

MR. BELL agreed and said that whenever a retired teacher is rehired, the requirement still exists of employer and employee contribution to TRS.

DRAFT

Number 0867

REPRESENTATIVE WHITAKER asked Mr. Bell to repeat the \$1 million example of percentage because Mr. Whitaker had not heard it clearly and did not think the \$75,000 figure was correct.

MR. BELL explained again that supposing a .75 percent rate increase were imposed on a \$1 million salary cost for state employees, the fiscal impact annually would be \$7,500, not \$75,000 [he had made a mistake in figuring].

Number 0962

JOHN CYR, President, NEA-Alaska [National Education Association], came forward to testify in favor of HB 277. He stated that NEA-Alaska is especially pleased that HB 277 will be bargained at a local level. He believes there is enough variance of need from one school district to another that it is appropriate for union bargaining units to negotiate with school districts about how to use HB 277. He does not believe districts will hire hundreds of retired teachers; he believes districts will recruit new teachers. In his opinion, districts will only use HB 277 when they have no other choice. Therefore, he does not believe there will be any impact on the TRS system. Even if some teachers are rehired, they

will continue to contribute to the TRS system at the same rate as they would have originally.

DRAFT

Number 1048

REPRESENTATIVE COGHILL asked if Mr. Cyr knew, from a bargaining perspective, what the original 40 percent number in AS 14.25.043 was based upon.

MR. CYR answered he did not know; that number has been on the books for years.

BILL CHURCH, Retirement Supervisor, Division of Retirement & Benefits, Department of Administration, came forward to answer questions regarding HB 277. He explained that an employee became a member of the TRS if he/she worked a minimum of 50 percent of a contract for a school district or another employer that qualified for TRS. Individuals who work less than 50 percent of a contract are not covered by TRS.

DARROLL HARGRAVES, Executive Director, Alaska Council of School Administrators, came forward to testify and said he supported HB 277 if certain things are true. He understood from testimony heard that HB 277 is actuarially sound. If HB 277 is actuarially sound in TRS, HB 277 allows teachers to form a hiring pool for school district critical need shortages. Statistics that he has read indicate that there are many certified teachers in Alaska. He reminded committee members that these numerous certificate holders are people in the retired category and that under HB 277, they could be rehired to meet school district needs. It is important that school districts retain jurisdiction over who is rehired. That way school districts can fill a critical need. For this

reason, not all retired teachers will be rehired. He indicated that if a teacher were rehired, that teacher would be rehired under policies, terms and conditions of a negotiated agreement at the local level.

DRAFT

MR. HARGRAVES noted that HB 277 is a winning proposition for both school districts and retired teachers. He said that HB 277 seems to maintain an actuarially sound TRS, saves money for school districts and provides quality instruction performed by certified teachers.

Number 1343

CARL ROSE, Executive Director, Alaska Association of School Boards (AASB), came forward to testify. He said that the AASB is trying to address the teacher shortage issue. His membership has not had an opportunity to address HB 277. He will review HB 277 with his membership within the next two weeks and bring an answer back to the committee.

CHAIRMAN DYSON commented that if HB 277 passes, it is his intention to include a note to the Finance Committee asking them to explore actuarial soundness and advise if anything needs to be added to the fiscal note.

Number 1400

REPRESENTATIVE WHITAKER made a motion to move HB 277 out of committee with individual recommendations, attached note to the Finance Committee and attached fiscal note. There being no objection, HB 277 moved from the House Health, Education and Social Services Standing Committee.

HB

325



TONY KNOWLES
GOVERNOR
governor@gov.state.ak.us

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
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January 31, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

In the interest of recovering medical assistance payments due to the state, I am transmitting this bill that grants the Department of Health and Social Services an express right to a lien against any money recovered from a third party for assistance payments. The bill also strengthens the department's existing right of third party subrogation and extends the time period from six months to one year for medical providers to file claims with the department for medical services provided.

Under the bill, when a state medical assistance recipient recovers money from a third party who is found liable for the recipient's medical expenses, the department would have a lien against that recovery. The department's lien would be reduced by a pro rata share of the recipient's attorney fees and litigation costs incurred in the recovery. If the department incurs attorney fees and costs to enforce the lien, the amount of the lien would be increased to cover those fees and costs. The department's lien would take priority over a lien filed by a hospital, nurse, or physician.

Under existing law, when a state medical assistance recipient has a claim against a third party for the recipient's medical expenses, the department has a right of subrogation. This law allows the department to stand in the place of the recipient to enforce the recipient's claim for medical assistance payments against an insurer or other third party. This bill adds a requirement that the recipient give the department notice if the recipient has an action or claim against a third party so that the department may enforce its subrogation rights. The bill also expressly grants the department the right to bring an

Governor

The Honorable Brian Porter

January 31, 2000

Page 2

action to recover on a subrogated medical assistance claim regardless of whether the recipient acts or fails to act to enforce the claim.

I urge your support of this important legislation.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles", written in a cursive style.

Tony Knowles
Governor

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

February 3, 2000

Honorable Fred Dyson, Chairman
House Health, Education and Social Services Committee
Room 104 Capitol Building
Juneau, AK 99811

Dear Representative Dyson,

The Department of Health and Social Services respectfully requests a hearing in the House Health, Education and Social Services Committee on House Bill 325 "An Act relating to priorities, claims, and liens for payment to certain medical services provided to medical assistance recipients; and providing for an effective date."

The bill contains two distinct provisions: 1) providing the Department of Health and Social Services with unambiguous authority to recover medical costs incurred by the Division of Medical Assistance when a legal settlement making a monetary award to cover injuries has been made; and 2) allowing providers to bill the Division for services up to twelve months from the date of service.

A fiscal note has previously been submitted. Your favorable consideration of this request would be appreciated.

Sincerely,



Elmer A. Lindstrom

Special Assistant to the Commissioner

cc: Pat Pourchot
Legislative Director
Office of the Governor

Bob Labbe
Director
Division of Medical Assistance

FISCAL NOTE

No. 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Ver n: HB 325
(H) Publish-Date: 2/2/00

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: Medicaid lien recovery and filing period BRU: Medical Assistance
 Component: Medicaid Services
 Sponsor: Rules COMPONENT SERIAL NO. 2077
 Requestor: Governor See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)
MISCELLANEOUS						
TOTAL OPERATING	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)

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

CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(1.6)	(6.4)	(6.4)	(6.4)	(6.4)	(6.4)
1003 GF Match	(1.1)	(4.3)	(4.3)	(4.3)	(4.3)	(4.3)
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This legislation would make two changes to the Medicaid program; the net effect of those changes is shown above. First, the legislation would strengthen the Department of Health and Social Services' ability to recover money from third party payors when they are liable for the medical expenses that have been paid by the department for someone receiving medical assistance under Medicaid or the Chronic and Acute Medical Assistance (CAMA) program. This would result in the Department recovering more of these expenditures.

The legislation also extends the timely filing period for providers to submit claims to Medicaid and CAMA from six months to one year. This will increase expenditures as currently some claims are not paid solely because they are not filed within the six month time period. The following page shows the separate impacts. (Note: impacts to CAMA are not included as they are not considered material.)

Prepared by: Jon Sherwood Phone: 465-3355
 Division: Medical Assistance Date/Time: 1/20/00 3:03 PM
 Approved by Commissioner: Karen Perdue, Commissioner Date: 1/24/00
 Agency: Department of Health & Social Services

ANALYSIS (cont.):

Medicaid Lien and Recovery

Giving the Department lien authority and improving its subrogation rights will result in increased third-party settlement recoveries (those recoveries in which liens and subrogation are at issue) for the Medicaid program. Because regulations are necessary to implement some provisions and third party recoveries usually take place well after the Medicaid program has paid for the medical services, recoveries are not expected to increase immediately. The table below shows the projected increase in recoveries.

Year	Increased Recovery (thousands)
FY2001	\$52.7
FY2002	\$210.7
FY2003	\$210.7
FY2004	\$210.7
FY2005	\$210.7
FY2006	\$210.7

Assumption: Third party settlement recoveries will increase by one-third, beginning in the 4th quarter of FY2001.

Timely Filing Period Extension

Currently, some Medicaid providers fail to bill within the six month timely filing period. In some cases, these claims are not reimbursed. In other cases, where providers show good cause for late filing, they may get paid for 50 percent of the normal reimbursement for the claims.

Extending the timely filing period to 12 months and allowing full reimbursement for late claims with good cause will result in more valid claims being paid in full. The amount of late claims can vary widely from year to year, and in some years, more late claims are meet the good cause criteria for partial reimbursement. The table below represents an average estimated amount of increased claims payments as a result of the proposed change, assuming that implementing regulations become effective in the fourth quarter of FY2001.

Year	Increased Payments (thousands)
FY2001	\$50.0
FY2002	\$200.0
FY2003	\$200.0
FY2004	\$200.0
FY2005	\$200.0
FY2006	\$200.0

Assumption: New timely filing limits go into effect beginning the 4th quarter of FY2001.

Net Impact	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Liens and Recovery (decrease)	(52.7)	(210.7)	(210.7)	(210.7)	(210.7)	(210.7)
Timely Filing (increase)	50.0	200.0	200.0	200.0	200.0	200.0
TOTAL	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)

HB

329

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE COGHILL

TO: SSHB 329

1 Page 4, line 29:

2 Delete "that medical assistance benefits may be available"

3 Insert "the possible availability of medical assistance benefits"

4 Page 4, line 31:

5 Delete "that the father is liable"

6 Insert "the father's liability"

7 Page 5, line 2, following "abortion":

8 Insert "; however, the information required under this subparagraph may be omitted
9 by the physician when the physician considers its omission appropriate under the
10 circumstances of the pregnancy"

19 March 2000

In Regard of SSHB 329

I am writing to you regarding the SSHB 329 "Informed Consent." I have thoroughly examined the House Bill and give my full support for the measure.

I agree that the pregnant mother should be told orally, and be given written material on all the risks of abortion and other options. I believe this bill will improve the medical care in our state by educating the residents who are seeking ways to deal with unplanned pregnancies. There have been many findings in the past years that associate abortions with breast cancer and infertility. If we can let women know about these risks than they may choose to give their child to another family who can take care of them and she may be able to have a family at the right time in her life. It is wise to give the mother as much information as possible before she "chooses" to terminate the life of her child before it is naturally born.

It is great that this bill is being considered. There are some parts that I do not feel are specific enough. I do not feel that this terminology, "impairment of a major bodily function," is defined as it should be. Does that mean if a pregnant woman is having an asthma attack that any doctor has the right to terminate her pregnancy without letting her know all the complications and other options she has? Asthma is a respiratory disease and pregnancy can affect it. From what I know you must define all terms completely in a bill so that there are not any misinterpretations.

There are two parts that should be amended and added to this bill. I think that the pregnant woman should be asked what she would like to have done with the body of her baby after the abortion is performed. I believe that the 24-hour waiting period between the time she is given all the information the bill requires and the time of the abortion should be longer. The waiting period before purchasing a gun in the state of Alaska is at least three days. One reason why they probably have a waiting period is so that they can do a background check on the buyer to make sure they do not sell it to a murderer. It would not hurt to have a longer waiting period before an abortion can be performed.

Thank you for your time,



Heidi L. Livengood
P.O. Box 750811
Fairbanks, AK 99775-0811
(907) 474-0366
dew_drops@hotmail.com

Comments regarding SSHB 329

I support the enactment of SSHB 329, as it provides a means of prevention for women who may either unwillingly or unknowingly choose an abortion that will lead to psychological and/or physiological damage.

I also feel that information regarding the use of fetal tissue after an abortion should be included in the written information detailed in Sec. 18.05.032. With recent media coverage of certain parties who are involved in dubious trafficking of fetal tissue, it is important for women to be informed of and have a choice about what happens to their aborted fetus.

Ben Livengood

Ben Livengood
PO Box 750811
Fairbanks, AK 99775

WRITTEN TESTIMONY

3-28-00

HB 329

Do not not pass HB329 out of committee. Women have three safe, legal options when confronted with an unwanted pregnancy. HB329 requires doctors to provide biased counseling which is disrespectful to woman who have chosen abortion as the best choice for her and her family, and unrealistic in terms of the use of the doctors' time (compared with trained nursing, counseling staff).

The bill alludes to post-abortion psychological trauma, a condition unrecognized by either the American Psychological Association, the American Psychiatric Association, or the National Association of Social Workers. There is much more emotional trauma associated with women who carry pregnancies to term. Most women feel relief after an abortion. If she has emotional difficulties it is usually related to the relationships and circumstances surrounding the unwanted pregnancy in the first place. Contraceptive Technologies echoes this conclusion: "...longitudinal studies reveal no evidence of widespread long-term psychological trauma after abortion (p.696)."

The link with breast cancer has been largely disproven. In Contraceptive Technologies (17th ed., 1998) the authors explain that "the most comprehensive analysis of induced abortion and breast cancer to date, found no association between induced abortion and breast cancer (p.697)."

It's much more dangerous for women to carry a pregnancy to term. Nancy Adler, et. al in The New Civil War: The Psychology, Culture and Politics of Abortion (American Psychological Association, 1998) writes "It is clear that the medical risks fo abortion are low, particularly from first tri-mester abortions which constitute the vast majority of procedures. In addition, medical risks from legal abortion are far less than from pregnancy. Mortality risks are 20 times greater for pregnancy and childbirth than for abortion for young women 15 to 19 years of age (p.286)."

The bill alludes to abortion causing future infertility problems. Fertility returns quickly following an abortion, "...even within 10 days, a woman can conceive again (Contraceptive Technologies, p. 697)." Abortions have little effect on subsequent fertility or on the risk of spontaneous abortions, premature delivery, and low birth weight babies (CT, p.696)."

A 24-hour waiting period puts an undue burden on women - especially poor Alaskan women who live outside of southcentral Alaska. This bill assumes that women are not competent, moral decision-makers, and that they haven't been considering all the implications of their decision to abort much longer than 24 hours.

We already have informed consent for medical procedures.

It seems to me that the bigger issue is the high unplanned pregnancy rate in the United States. If you truly want to reduce this number (60% of all pregnancies) then you will support an increase in sexuality education in schools, and an increase in access to reproductive health services - not complicate and convolute her options to the point that she endangers her own life in the desperate attempt to end the pregnancy. Illegal abortion is always an option, remember. What can we do to support women so they are not driven to it?

Finally, please base the laws you subject all Alaskans to on valid research and best medical practices. How can you, in good social conscience, base your decisions on personal religious dogma and not on what medicine, science, and research has to tell us? I urge you to emerge from the influence of emotional, anecdotal, anti-choice storytelling and seek unbiased medical and social science research.

Thank you,

Katherine L. Davey

4880 Newcastle Way

Anchorage, A.K. 99503

907-563-5245

House Bill No. 329—Linda Vlastuin has asked us to let our position be known.

Testimony accepted 9:00 pm. Tuesday, March 27, 2000, at Homer Legislative Information Office, behind Trailhead. (Could take up to one hour.)

They are interested in hearing brief (2 minutes) comments representing a group, or hopefully more than 1 person. They anticipate running through this rather quickly, as there are other bills accepting testimony at the same time.

You will need to state your name, residency, and "HB 329".

~~THE STATE~~ STATEMENT FROM Kachemak Bay Family Planning Clinic of Homer

I (we) are here to testify against House Bill 329. It has been nearly 30 years since American women were granted the right to choose abortion for an unwanted pregnancy. Roe v. Wade was crafted in such a way to make abortion legally possible, accessible and practical. Since 1971, there have been countless attempts to erode this right. House Bill 329 is a perfect example.

This bill incorporates additional shame, pain, and guilt into a woman's decision to have an abortion. The proposal for a 24-hour waiting period after "informed consent" seems as if it is designed to place a woman into a purgatory while she waits for the procedure that BY LAW she is allowed to choose. We don't know of anyone who has ever bopped on down to her physician for an abortion without an intensive decision-making process, or without considering that it is her alternative of last resort. This decision process is totally disrespected and disregarded by the proposed bill.

It is additionally disrespectful to use propaganda tactics such as forcing women to view and study the various anatomical and physiological characteristics of fetuses from conception on, and then sign that she has done this before an abortion can be performed. More guilt and shame? The bill requires women to understand various abortion procedures - are we to assume that this includes information on later-term abortions that may not even be applicable to the woman? Informed consent as proposed in this bill goes far beyond a woman being educated about the procedure she is about to undertake and the medical risks involved.

Additionally, the proposed bill would give a woman lists of resources available that can help her carry her child to term, and inform her of the father's responsibilities. As we all know, parenting a child through adulthood doesn't stop at birth. If the state's goal here is to restrict a woman's right to abortion, then one is to assume that it wants all pregnancies carried to term. But where is the help for the next 18 years of parenting responsibility? It appears the state is attempting to make a woman have a child who does not want a child. If she does not adopt the child out, who is going to be around to take care of that child and where are those resources going to come from? We know that this bill will likely decrease overall number of abortions, but it will NOT decrease numbers of unwanted children.

Alaska women have the right to choose abortion, just like all other American women. The state has no business trying to hurt a woman who has made this difficult choice, nor using scare tactics, propaganda and roadblocks to erode a woman's right to choose. Thank you.

This is representative of 18 Homer citizens: Carri Thurman, Jane Alberts, Melon Purcell, Judy Flora, Jim Meesis, Kathy Steberl, Tarrri Thurman, Michelle Waneka, Lora Wilke, Kate Finn, Donna Rae Faulkner, and Heidi Glotfelty.

+ membership of 40 individuals who adhere to KBFP's mission.

3/28/00

HOUSE BILL 329

Apologies for the unprofessional look of this! We didn't know we had to have this TODAY before it goes out of committee.

immediate attention required!



ALASKA STATE LEGISLATURE

Please enter into the record my testimony to the Rep. Coghill + Committee
Committee on Bill 329 re. Dr. Esada's Dated 3-21-2000
Committee Name
Bill / Subject

Mr. Coghill,

When I arrived at Providence hospital Dr. Esoda did my ultrasound. He told me there was a good chance my 23 week child was likely to have down syndrome. I was in preterm labor and we did not know if he would live or die. I did not need this information at that time. I am 5 feet tall, my boy is short! I was not happy with Dr. Esada's skill and requested that his partner do subsequent ultrasounds. She reassured me that he was fine. I believe he is not an expert with regards to which information should be ~~given~~ given and when this information should be shared. A woman needs the facts and all the information for any informed decision she must make.

SIGNED:

Alatha Martin
Testifier

Representing

479-4773

Address / Phone Number

PLEASE PUT THIS IN MY PACKET WHEN
I HEAR GOGHILL'S INFORMED COMMENT

Subject: [breakpoint] Infanticide's Profit Motive , 03/08/2000 Bill,

Date: Wed, 08 Mar 2000 14:40:48 -0600

From: <BreakPoint_Staff@pfm.org>

To: BreakPoint by Charles Colson <breakpoint@lists.netcentral.net>

After reading today's BreakPoint commentary, you will want to contact ABC and your congressional representatives. BreakPoint has just received new information that some congressmen are trying to close tomorrow's hearings to the public. Please let your representatives know that you believe hearings on this issue should not be conducted behind closed doors. The information you'll need to contact both ABC and your representatives is available on our website's News & Views section. Visit us at: <http://www.breakpoint.org>

This e-mail newsletter provides transcripts of Chuck Colson's daily "BreakPoint" radio program. To subscribe to this free service, simply log onto our website at <http://www.breakpoint.org> and click on "subscribe."

BreakPoint Commentary #000308 - 03/08/2000
Infanticide's Profit Motive : The Market for Aborted Baby Parts
by Charles Colson

[Parents should be warned that today's commentary may be too disturbing for children.]

Tonight, the ABC television news magazine, 20/20, has scheduled an alarming broadcast. Their three-month investigation has helped uncover an industry that traffics in fetal body parts, turning abortion clinics into wholesalers for human experimentation.

This explosive revelation, brought to light in part by researcher Mark Crutcher, makes clear that the abortion lobby is not as interested in promoting "choice" as it is in promoting profits.

When President Clinton lifted the ban on fetal tissue research, after just two days in office, organizations like the Anatomic Gift Foundation seized the opportunity. They quickly entered into relationships with abortion clinics to, as they put it, "harvest" and distribute the tissue and organs of aborted babies.

Organizations like this provide clinics with promotional brochures and consent forms for women having abortions. These brochures are chilling. Instead of pledging speedy delivery of pencils and paperclips, they offer "fresh fetal tissue: harvested and shipped to your specification ... where and when you need it." With the incentive of promoting medical advances, they describe "how [abortionists] can turn [their] patient's decision into something wonderful."

Although it's still illegal to buy or sell human tissue, abortion providers, collection firms, and medical researchers have entered into an unholy but profitable alliance to skirt the law. Middle-men pay the clinics for the chance to harvest the organs, and researchers pay to receive them, while all parties claim that no one is buying or selling fetal tissue.

Baby body parts are sold on a "fee for service" basis. As World magazine put it, the price charts look "like a cannibal's wish list:" eyes, livers, spines, and other organs fetch up to \$1000 apiece.

Well, the market for fetal tissue and organs makes it clear that abortion kills babies -- if they weren't human, there would be no demand.

All of this casts the opposition to ending partial-birth abortion in a whole new light. Certain forms of abortion are specifically used to harvest intact and fresh body parts. And this may explain the abortion lobby's support for partial-birth abortion despite overwhelming public opposition.

In partial-birth abortion, everything but the baby's head is delivered. The child is just inches from being born. Since it results in the delivery of an intact child, the abortion allows for carving up and selling the child's organs for profit.

As Gene Rudd of the Christian Medical and Dental Society's Bioethics Commission puts it, this is "the inevitable logical progression of a society that, like Darwin, believes we came from nothing. When we fail to see life as sacred and ordained by God as unique, this is the reasonable conclusion ... the inevitable slide down the slippery slope."

Tonight's 20/20 broadcast will help bring this issue to light. If you can stomach it, you might want to watch. And if ABC does a good job, (we have not yet seen the broadcast), encourage them -- they'll be under fire from the abortion lobby.

And we need to register our concern with our congressional representatives. Tomorrow, Congress begins hearings on this monstrous industry. This practice must stop. Because the only thing more horrible than abortionists slaughtering babies is greasing their own palms with innocent blood.

Useful resources:

- Lynn Vincent, "Harvest of Shame." World Magazine (October 23, 1999).
- Celeste McGovern, "Secrets of the Dead-baby Industry." Alberta Report (August 23, 1999).
- Life Dynamics Incorporated, P.O. Box 2226, Denton, TX 76202

Testimony for Bill 329 – Informed Consent

My name is Aleatha Martin, thank you for allowing me to give my testimony in support of house bill 329 on informed consent. I would like to share my professional history, my personal experience with abortion, and why I support passage of this bill.

Professional History:

I received a bachelor of science degree in nursing from the University of Alaska in 1984 and went to work as a staff nurse in a neonatal intensive care unit. I worked there for 6 years and transferred to the pediatric and pediatric intensive care unit where I served as a staff nurse and supervisor for 6 more years. At the same time I worked intermittently for the Alaska Native Medical Center on their pediatric unit and adult ICU as a staff nurse and instructor. I served as the statewide coordinator for the cystic fibrosis clinic for 7 years. In 1995 I completed a Master of Science degree in nursing. My thesis was a qualitative study on the experience of living with cystic fibrosis in Alaska. It provided a vehicle for improving the way we educate children with this life-shortening disease. I am now a certified Family Nurse Practitioner in the State of Alaska. As a nurse practitioner I was part of the management team that developed Pediatric Night Call, an after hours telephone triage program for parents of children who need information or medical care. I have taught for the Community Health Aide Program at the Alaska Native Medical Center in the Emergency Room, Women's Health department, and Pediatric clinics.

Abortion Experience:

I had an abortion over 15 years ago after I experienced an unplanned pregnancy. I was in my early twenties and single at that time. I felt backed into a corner, desperate to preserve my life, with no hope ⁱⁿ I needed help but did not know where to get it. I went to the Public Health Clinic for a pregnancy test and after being told it was positive I started to cry. Their response to my distress regarding pregnancy was to provide me with a list of numbers to call for an abortion. They did not provide me with information on alternatives to abortion, services available for pregnant women needing assistance, a description of the risks associated with the abortion procedure, or information on the adverse physical and psychological effects of abortion. I decided to have an abortion, thinking that it would take me back to the state I was in before my pregnancy. I was young and inexperienced, easily intimidated, and sadly ignorant of the potential consequences of my choice. I read in an entry-level psychology book that, "there are no lasting psychological effects to abortion". When I went to the clinic I was not given any information regarding alternatives to abortion, a description of the abortion procedure, or the risks involved. I was simply given a form to sign saying I would not hold the clinic liable for damages. I was not ^{at} told the name of the doctor that performed the abortion. I knew during the procedure that I had made a mistake but by then it was too late. Nobody told me how painful the actual procedure would be. I experienced complications from excessive bleeding following the procedure that resulted in a period of unconsciousness and a long recovery. The risk of excessive bleeding was undisclosed. Immediately following the procedure I just wanted to forget it. I drove myself to succeed in many areas of my life trying to blot out the memory and make up for

the loss. Despite my efforts the memory remains and I still feel the loss of the child. I continue to live with the consequences of my choice.

Years later when my husband and I wanted to start a family, I had difficulty carrying a baby to term due to cervical incompetence and premature uterine contractions. I lost four babies before our son was born. We nearly lost our son when I went into premature labor at 23 weeks. In order to save his life I was transported on a medivac flight from Fairbanks to Providence hospital. I spent 6 weeks in the hospital and over 3 months on complete bed-rest. Standard drug therapy would not stop the contractions. The experimental medications that stopped my uterine contractions also stopped both my sons and my kidneys from working. As a result, both our lives were nearly lost. I believe these complications were due to the abortion.

Support for House Bill 329:

I encourage the passage of house bill 329. Providing women with concise written medical information on what an abortion procedure involves, the risk factors, side effects, and the available alternatives to abortion is critical in making an informed decision.

IN REVIEW OF SECTION 1

(1) I believe that geographically-indexed material designed to inform a woman of agencies and services that can help her could give her the hope she needs to believe that there are other options. It is important that there be local phone numbers listed, a woman who has an unplanned pregnancy may be unable to think rationally.

(2) Information on medical assistance benefits, as stated in the bill, would be helpful.

(4,6,7) I believe that the name of the physician performing the procedure should be disclosed and that informed consent should include a detailed description of the abortion procedure. When I worked in the hospital I observed physicians describing procedures that patients were about to experience. It was then neatly written out for the patient to sign and a nurse was present when the form was signed. It was all done professionally with ample time for patients to ask questions. Providing a patient with the risks and side effects of a surgical procedure is common practice in the medical industry and should be applied to abortions. The entire procedure should be described as stated in the bill in section 1:7.

The physical and emotional pain is real and these risk factors need to be disclosed. The risk factor of danger to subsequent pregnancies needs to be disclosed!

- (5) Information on the state of the unborn child with photographs would be helpful when trying to make a life-changing decision like aborting or parenting a child. Even with my training I had not consciously registered that my baby was formed and had fingers and toes. It was devastating to find this out after the abortion that my baby's heart was beating. You do not think rationally when in a crisis. The 24-hour waiting period may give a woman time to think and evaluate all of the options. The bill states that the information would be presented objectively to convey scientific information, I believe this is essential.

I have had extensive post-abortion counseling and now am involved in a program providing post-abortion counseling and education for women. I have seen many women seeking support and healing for physical and emotional problems following abortion. I have heard the testimony of these women trying to heal post-abortion and the comments that describe the pain they feel. One young woman described the way she felt about herself after an abortion saying, "When I look in the mirror I see a monster".

I can testify that many women experience real and significant physical and emotional problems following an abortion. Therefore, it is vital that they be provided with information relating to abortion alternatives, support services available, the details of the procedure, and the medical risks involved. Again, I would like to express my support for passage of house bill 329.

Thank you.

A handwritten signature in cursive script, appearing to read "Alicia Motta".

Subject: Public Opinion Message HB 329

Date: Mon, 27 Mar 2000 10:45:15 -0800

From: "Katherine Davey" <Katherine.Davey@ppfa.org>

To: "Rep. Whitaker" <Representative_Jim_Whitaker@legis.state.ak.us>,
"Rep. Morgan" <Representative_Carl_Morgan@legis.state.ak.us>,
"Rep. Kemplen" <Representative_Allen_Kemplen@legis.state.ak.us>,
"Rep. Green" <Representative_Joe_Green@legis.state.ak.us>,
"Rep. Dyson" <Representative_Fred_Dyson@legis.state.ak.us>,
"Rep. Coghill" <Representative_John_Coghill@legis.state.ak.us>,
"Rep. Brice" <Representative_Tom_Brice@legis.state.ak.us>

CC: "Fish, Karen" <Karen.Fish@ppfa.org>

Dear House HESS Member,

I am writing to ask you to **not** pass HB329 out of committee. Women have three safe, legal options when confronted with an unwanted pregnancy. HB329 requires doctors to provide **biased counseling** which is disrespectful to woman who have chosen abortion as the best choice for her and her family, and unrealistic in terms of the use of the doctors' time (compared with trained nursing, counseling staff).

The bill alludes to post-abortion psychological trauma, a condition unrecognized by either the American Psychological Association, the American Psychiatric Association, or the National Association of Social Workers. There is much more emotional trauma associated with women who carry pregnancies to term. Most women feel relief after an abortion. If she has emotional difficulties it is usually related to the relationships and circumstances that created the unwanted pregnancy in the first place. Contraceptive Technologies echoes this conclusion: "...longitudinal studies reveal no evidence of widespread long-term psychological trauma after abortion (p.696)."

The link with breast cancer has been largely disproven. In Contraceptive Technologies (17th ed., 1998) the authors explain that "the most comprehensive analysis of induced abortion and breast cancer to date, found no association between induced abortion and breast cancer (p.697)."

It's much more dangerous for women to carry a pregnancy to term. Nancy Adler, et. al in The New Civil War: The Psychology, Culture and Politics of Abortion (American Psychological Association, 1998) writes "It is clear that the medical risks fo abortion are low, particularly from first tri-mester abortions which constitute the vast majority of procedures. In addition, medical risks from legal abortion are far less than from pregnancy. Mortality risks are 20 times greater for pregnancy and childbirth than for abortion for young women 15 to 19 years of age (p.286)."

The bill alludes to abortion causing future infertility problems. Fertility returns quickly following an abortion, "...even within 10 days, a woman can conceive again (Contraceptive Technologies, p. 697)." Abortions have little effect on subsequent fertility or on the risk of spontaneous abortions, premature delivery, and low birth weight babies (CT, p.696)."

A 24-hour waiting period puts an undue burden on women - especially poor Alaskan women who live outside of southcentral Alaska. This bill assumes that women are not competent, moral decision-makers, that they haven't been considering all the implications of their decision to abort much longer than 24 hours.

We already have informed consent for medical procedures.

It seems to me that the bigger issue is the high unplanned pregnancy rate in the United States. If you truly want to reduce this number (60% of all pregnancies) then you will support an increase in sexuality education in schools, and an increase in access to reproductive health services - not complicate and convolute her options to the point that she endangers her own life in the desperate attempt to end the pregnancy. Illegal abortion is always an option, remember. What can we do to support women so they are not driven to it?

Finally, although I'm learning this is a polyanna notion, please base the laws you subject all Alaskans to on valid research and best medical practices. How can you, in good social conscience, base your decisions on personal religious dogma and not on what medicine, science, and research has to tell us? I urge you to emerge from the influence of emotional, anecdotal, anti-choice storytelling and seek unbiased medical and social science research.

Thank you,
Katherine L. Davey
907-563-5245
4880 Newcastle Way, Anchorage, AK 99508
Katherineinalaska@yahoo.com

Subject: HB 329 OPPOSITION

Date: Mon, 27 Mar 2000 11:51:12 -0900

From: "Karen Fish" <Karen.Fish@ppfa.org>

To: "Rep. Jim Whitaker" <Representative_Jim_Whitaker@legis.state.ak.us>,
"Rep. Carl Morgan" <Representative_Carl_Morgan@legis.state.ak.us>,
"Rep. Allen Kemplen" <Representative_Allen_Kemplen@legis.state.ak.us>,
"Rep. Joe Green" <Representative_Joe_Green@legis.state.ak.us>,
"Rep. Fred Dyson" <Representative_Fred_Dyson@legis.state.ak.us>,
"Rep. Tom Brice" <Representative_Tom_Brice@legis.state.ak.us>,
"Rep. John Coghill" <Representative_John_Coghill@legis.state.ak.us>

Dear House HESS Member,

I am writing in response to the possibility of HB329 coming out of committee. It appalls me to think that this is even a possibility and I **STRONGLY OPPOSE THIS BILL**. Let me tell you my story.

I am a 40-year-old woman who was faced with making a decision when I was 20 years old, single and pregnant. My life style at that time was not a healthy one in which drugs and alcohol were much more important to me than the health and welfare of myself, let alone a baby.

I was scared, felt alone and was told, "What do you expect me to do...marry you?! With the amount of drugs I had put through my system, I decided that the best option for me was to terminate the pregnancy. This already was an extremely emotional and traumatic time for me. Would I have been FORCED to look at pictures and have biased counseling, it would NOT have changed my mind. It would only have ADDED to my traumatic time and possibly delayed the procedure. I was already at 12 weeks and a few more weeks would have moved it from a 1st tri-mester procedure to a 2nd tri-mester procedure which statistics show is at much higher risk to the woman.

The fact that the bill alludes to abortion causing future infertility problems is absurd. I am happily married for 15 years, been drug free for 15 years and have two children, 10 and 13 years old.

When I **CHOSE TO BECOME PREGNANT**, I was not FORCED to look at pictures of the birth or have a FORCED counseling on my decision to give birth. Why should a woman be FORCED to look at pictures or have biased counseling when she **CHOOSES** to terminate the pregnancy.

I do not feel that passing this bill will reduce the number of abortions. I do believe it will increase the number of fatalities due to the desparate attempts to terminate the pregnancy without going to a safe and legal medical professional so they won't be FORCED to look at the pictures.

Isn't it sad to note that 60% of all pregnancies are unplanned pregnancies. Instead of spending money on time, energy and resources to get this bill passed through the committee, why not focus on education and PREVENTING unplanned pregnancy from happening in the first place. Why not target the places that women like me were "hanging out" (i.e. the bars) and give them the options of preventing pregnancy.

Lastly, I realize this bill does not affect me personally; however, I have a daughter and I would like to know that she will continue to have options and decisions to make without being FORCED to make a decision because of what lawmakers believe what is right for her.

Thank you for taking the time to read this.

Karen Fish
7821 Porsche Street
Anchorage, AK 99502
907-349-9383
fourfish@gei.net

Subject: sshb329

Date: Sat, 25 Mar 2000 12:48:47 -0900

From: LaVerne Pettigen <laverne@alaska.net>

To: Representative_Fred_Dyson@legis.state.ak.us

Please vote YES on SSHB329 Women need to have all the facts before making a huge decision that will affect the rest of their lives. LaVerne Pettigen

-- Thankyou for co-sponsering this bill. It is a very important piece of legislation...

--

To get your private, free email account, go to:
<http://www.isirep.com/rens/2078>

Earn \$ 760.00 per month with just 20 people!
<http://www.teamideals.com/leaders.cgi/2078>



Alaskans for Life, Inc.

... Our First Inalienable Right

P.O. Box 32186
Juneau, AK 99803-2186

March 29, 2000

To: Members of the HESS Committee
From: Ida Barnack, President
Subject: House bill 329, relating to informed consent and a 24 hour waiting period for abortion.

We support House Bill 329.

Informed consent before obtaining any medical procedure is a necessity. It is a cornerstone for good medical practice. When it comes to deciding whether to have an abortion a generic consent to the procedure is not sufficient.

Abortion can have grave physical, psychological and emotional effects on a woman and she must be aware of these effects before she can really give consent. To make a truly wise decision a woman must know the gestational age and development of the child she is carrying and the alternative aid available to her. The 24 hour waiting period is important to allow time for consideration of the information provided to the mother.

All people who support the woman's right to "Choice" should welcome this opportunity to support a bill that will demand that a woman be given the information necessary to make an informed, knowledgeable, and wise "Choice".

Thank you.



HB 329

Alaska State Legislature

Please enter into the record my testimony to the H. Hess
 committee on HB 329, dated 3/21/00
 bill/subject committee name

I support women (all) have
 a right to be informed of
 all options before abortion.

Handwritten signature: Xandra H. Hess

Signed:

Handwritten signature

 Testifier

Representing (Optional)

PO Box 39 Delta Jct AK 99737

Address

895-4411

Phone No.



Alaskans for Life, Inc.

... Our First Inalienable Right

P.O. Box 32186
Juneau, AK 99803-2186**FAX**TO REP. JOHN COGHILL, JR. DATE MARCH 28, 2000FROM SID HEIDERSDORFSUBJECT H.B. 329

MESSAGE:

Attached is a statement of support for H.B. 329 from our President, Ida Bunnick.

I thank you and the other sponsors for this legislation which is badly needed.

I am always surprised when I see just how far the opposition to H.B. 329 will go to protect abortion. Surely there is no concern about informed "choice." The important thing to abortion supporters is that the truth about abortion be kept from women.

Thanks again!

Page 1 of 2

March 28, 2000

Re: HB329

Dear Honorable Representative:

I object to this proposed legislation on a variety of grounds. As a person who supplies abortion as part of my work, I have very specific insight on the effects of this legislation. I do NOT have anything monetary to gain from opposing this legislation. If the number of abortions decreases in Alaska, the options are delivery of a fetus, and that also is part of my work, and represents a larger income to me than abortion, so this is not financially motivated.

- The mandatory 24 hour waiting period, as written, will be discriminatory to Alaskan Natives. There is a large database of information maintained by the State epidemiologist. Women who fly in from outlying areas where abortion is not available will have to spend extra time in the location where the procedure is being performed. This means that, as a group, the procedures will cost them more money than compared to a person who lives where the procedures are locally available. Since the majority of women who live in the bush are Alaskan Natives, this has the effect of making abortions less accessible, and more expensive than for their non-Native counterparts. This makes the law discriminatory to Alaskan Natives. Data analysis on the abortion database will clearly demonstrate this discrimination toward Alaska Natives.
- The bill legislates material to be given to the patient that provides information about the possibility of an "unborn child's" survival at the various gestational ages. It should be noted that "unborn child" is a term not listed in the index on the noted book "Williams Obstetrics", an authoritative text in Obstetrics. However, even if one substitutes a medically correct term such as "fetus", this information is argued over by experts in the field, and an agreement could not be reached as to what this information should be.
- Section 18.16.060 paragraph (b), subheading (1) lists requirements for informed consent, and information that must be available and given to a patient. Subheading (2) states that the Department of Health and Social Services provides written information that describes the fetus (the bill uses "unborn child" here) at various gestational ages, and lists the agencies that offer alternatives to abortion; that the women has the right to review the information, and that a copy will be given to the women at no cost. This information is already available, and is given by me to any patient who requests it, but I do not force it on her. Last week I did abortions on two women who wanted to be pregnant, and were carrying desired pregnancies. Unfortunately, prenatal diagnosis found that both of the women were carrying pregnancies that were incompatible with life. Both chose to have abortions, rather than carry these pregnancies and wait for either intrauterine deaths, or deliver fetuses, only to have them die shortly after birth. The extensive descriptions that are mandated by this bill would have been very difficult for these patients to go through. They wanted these pregnancies, and this type of counseling would have been emotional torture for them.
- C. Everette Koop, when he was a Pro-Life Surgeon General, analyzed the medical literature and could demonstrate no link between abortion and psychological risk. This bill devotes an entire

subheading to a risk that is non-existent according to our prior Surgeon General. This represents clear bias on the part of the crafters of the bill.

- Links between abortion and breast cancer have similarly been investigated by the American College of Obstetrics and Gynecology, and no link could be demonstrated, leading ACOG to issue a statement stating that no demonstrable link exists. This purported risk is alluded to in the bill, again demonstrating clear bias on the part of the crafters of the bill.
- The word "conception" was defined as the fusion of a human spermatozoon with a human ovum. Stedman's Medical dictionary, 23rd Ed. defines it as "Implantation of a blastocyst". Currently, in Alaska, it is possible for couples to undergo invitro fertilization (IVF), where fertilized eggs can be frozen when too many eggs result from a stimulated ovarian cycle. If a woman has fertilized eggs stored somewhere, how does this bill affect storage of these fertilized ova? If a woman finds that she has all the children that she wants, does this mean that destruction of those fertilized eggs is actually an abortion, and, if so, does she need to be similarly counseled on these abortions issues? Does she need to be advised that there may be women who would agree to be surrogate mothers with these fertilized ova? Would the laboratory director be required to do abortion counseling if fertilized eggs are destroyed?
- According to this bill, "fertilization" has the same meaning as conception. If that is so, why do physicians and scientists have two separate words with two separate meanings?

No other surgical procedure is singled out in Alaskan Law where the legislative branch attempts to define medical informed consent. Informed consent is a fluid process. As medical techniques evolve, risks and benefits of given procedures change. The physicians who perform procedures are the ones most knowledgeable in providing current, state of the art discussions about this, or any other procedure. Inherently, it is unreasonable to expect that the legislature could write a law containing any specifics at all, since these specifics will change over time. As specific risk and benefits change the law would have to be rewritten; a daunting task indeed. That is why informed consent needs to remain in the hands of the medical provider.

This bill is highly biased, essentially forcing information on a woman who selects to seek an abortion, no matter what the reason. There is no parallel bill requiring women who choose to carry a pregnancy to term to be supplied with alternatives, including abortion providers in their area, whom they could turn to if they chose not to carry the pregnancy. There is no parallel bill outlining the risks of carrying a pregnancy to term, nor educational material outlining the responsibilities of raising a child, or potential psychological risks of having a child when a woman isn't prepared for it.

Psychological damage has never been proven to occur as a result of abortions, but this bill, if passed and enforced, may change the situation. If women are forced to undergo biased counseling, it is possible that psychological damage may occur, thus causing a problem where none now exists. Contrary to "protecting" Alaska women, this bill may actually harm them.

Taken as a whole, this bill has a number of flaws. It is discriminatory to Alaskan Natives. It is biased in that it forces information on a person seeking an abortion who may or may not want this information, and the information is already available for the patient who wants it. It attempts to define informed consent – a process wholly in the purview of the provider, not the legislature. It "defines" medical terms such as "conception," which already have medical definitions, and by doing so needlessly introduces ambiguities such as in the area of embryo storage.

Please veto this bill if it ever is brought to a vote in the senate or house.

Sincerely,

Jan Whitefield, M.D., Ph.D.

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 25, 2000

The Hon. Fred Dyson
The Hon. John Coghill, Jr.
Co-Chairs, House HESS Committee
Alaska State Legislature
Juneau, AK 99801-1182

Re: SSBH 329

Dear Representatives Dyson and Coghill:

SSBH 329 proposes to establish particular information, to be obtained or prepared by the Department of Health and Social Services (DHSS), that must be provided by a physician to a patient who is seeking an abortion. It further proposes to establish a 24-hour waiting period from the time the patient is provided with the information to the time that the patient may receive the abortion. It also proposes to establish that a physician may be subject to civil lawsuit for failure to provide the specific information required by this bill to a patient before the patient receives an abortion, except in the case of a medical emergency.

The imposition of the requirements set out in this bill are likely to be held unconstitutional under the privacy provisions of the Alaska Constitution, Art. I, Sec. 22. In *Valley Hospital Association v. Mat-Su Coalition*, 948 P.2d 963 (Alaska 1997), the Alaska Supreme Court explicitly rejected the lessening of protections of the right to an abortion that were articulated in the plurality opinion in *Planned Parenthood v. Casey*, 505 U.S. 833 (1992). Instead, the Alaska Supreme Court established a test similar to that expressed in *Roe v. Wade*, 410 U.S. 113 (1973), affirming the right to an abortion as a fundamental right that can be legally constrained only when the constraints are justified by a compelling state interest and no less restrictive means could advance this interest. The application of this test to specified information requirements, a 24-hour waiting period, and the physician liability provision will likely result in a determination that one or more of these provisions are unconstitutional because they employ excessive means to accomplish the ends of assuring that a patient is informed and has given her consent before receiving an abortion.

This bill, as presently written, raises the following legal problems:

Section 1: Concerning the information required to be obtained or prepared by DHSS and given to each woman who seeks an abortion, in accordance with this bill:

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

☐ 1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-1994
PHONE: (907) 269-5100
FAX: (907) 276-3697

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

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

(FAX) 465-2539

Page 2, line 4 requires a statement that "a person may not lawfully coerce a woman to undergo an abortion." This is not a legally accurate statement. There are many things that constitute coercion and that are lawful that can be leveled against a woman who may not want to undergo an abortion; i.e., a husband may threaten divorce or a boyfriend may threaten not to marry. As worded, this statement is inaccurate and should be rephrased.

Page 2, line 9 of this bill requires that the informational pamphlet contain a statement that "the father of the child is liable to assist in the support of the child . . ." This may lead a woman to believe that she will, in fact, obtain that support unless a provision is added to explain that child support may be difficult to obtain.

Page 3, line 1 requires that the pamphlet be written in easily comprehensible language; however, this bill fails to address the responsibilities of the department or the physician in circumstances in which a patient has limited English proficiency or is developmentally disabled. These concerns raise legal issues and need to be addressed.

Page 3, line 7: Testimony was offered by DHSS at a recent HESS committee hearing that these definitions, and the definitions included in Sec. 4, are not medically accurate or meaningful. This will lead to confusing medical information in the pamphlet and create confusion for physicians about the requirements of the law. Additionally, the definitions, as applied, may be considered to be in conflict with pre-viability and post-viability distinctions made by the courts when dealing with the subject of abortion.

Section 2: There is a long-standing Attorney General's opinion that advises that some of the provisions of AS 18.16.010 are unconstitutional or may only have limited application. (See October 21, 1976 Op. Att'y Gen.) Some of these same provisions are restated in Sec. 2. The legislature should consider amending these provisions to bring them into compliance with this opinion. Furthermore, while amendments are being made to AS 18.16.010, it is important to note that *Valley Hospital Association v. Mat-Su Coalition* explicitly found that AS 18.16.010(b) is unconstitutional to the extent it applies to quasi-public institutions.

Section 3: Concerning physician liability

Page 4, line 2: In some states, the imposition of civil liability on physicians on the basis of requiring that specific information be provided to a patient seeking an abortion has been determined unconstitutional where there was no *scienter* (knowing) requirement. (Please see *Okpalobi v. Foster*, 190 F.3d 337 (5th Cir. 1999), *rehearing granted en banc*, 201 F.3d 353 (5th Cir. 2000); *Planned Parenthood, Sioux Falls v. Miller*, 63 F.3d 1452 (8th Cir. 1995), *cert. denied*, 517 U.S. 1174 (1996).) Though the cited cases do not address the same kind of liability provisions as the one that appears in this bill, they do address the importance of establishing a standard that is sufficiently clear so that a physician is able to determine whether he or she is complying with the law. In this case, the term "knowingly" that appears at AS 18.16.060 may be

read into AS 18.16.010(h). However, the confusion caused by definitions that do not conform to medical practice creates too much uncertainty for a physician to be able to make a "knowing" determination of what constitutes lawful action. Consequently, the uncertainty created by inaccurate definitions may be found to have a chilling effect on the availability of abortions because physicians will face uncertain civil liability. The definitions must be revised to prevent this confusion.

Furthermore, since some of the specific information requirements will likely be found unconstitutional in their application to certain circumstances (see comments on Sec. 4), the clear application of the law is going to be compromised. Even with the severability provision included in this bill, a physician will face potential civil liability for guessing incorrectly about which information is required or whether some information can be omitted because it serves no medical purpose. Generally, physicians are required, both by sound medical practice and by their malpractice insurance providers, to assure that informed consent is obtained from their patients. To the extent that there is reasonable confusion about the specific information requirements, the civil liability provision is likely to have a chilling effect on the availability of abortions.

Section 4: Information requirements and 24-hour waiting period:

The 24-hour waiting period presents legal problems on both equal protection and privacy grounds. Abortion is a medical procedure sought only by women. Abortion would be the only medical procedure on which a requirement of a 24-hour delay is imposed as a matter of law if the bill is enacted. This intrusion into the physician-patient relationship for this sole procedure may fail an equal protection challenge.

Furthermore, because this state has a significant rural population and many urban communities in which abortion services are not available, many patients must travel away from home to obtain this kind of medical care. The imposition of a 24-hour delay will often result in greater expenses for these patients and may result in delays in seeking the abortion procedure until it is possible for the patient to be away from home for a longer period of time. Placing this burden on a woman seeking an abortion will not likely meet the requirement of being the the least restrictive means to accomplish the purpose of assuring a woman is informed and has given her consent to the abortion procedure.

Page 4, lines 29-31, through page 5, lines 1-2: These provisions require the physician or referring physician to convey information about state medical assistance benefits that may be available for the child and that the father of the child is liable to assist in the support of the child. However, in *Karlin v. Foust*, 975 F. Supp 1177 (W.D.Wis. 1997), the court opined that a requirement that physicians provide this type of information to a woman who is pregnant as a result of rape or incest or who is carrying a fetus that has been diagnosed with a lethal fetal anomaly would not be constitutional since it would likely cause psychological harm and serve no

Hon. Fred Dyson
Hon. John Coghill, Jr.
Co-Chairs, HESS Committee

March 25, 2000
Page 4

medical purpose. (These circumstances were further addressed in the appeal of the same case, *Karlin v. Foust*, 188 F.3d 446 (7th Cir. 1999) affirming that such information need not be given to these women because the provision of this information would further no legitimate interest; rehearing and rehearing en banc denied, *Karlin v. Foust*, 198 F.3d 620 (7th Cir. 1999).)

Changes should be made to the bill in order to permit a physician to make special considerations for women who are pregnant due to rape or incest, are carrying fetuses that have been diagnosed with a lethal fetal anomaly, or are facing comparable circumstances where the information may serve no legitimate purpose.

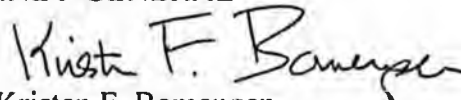
Page 5, line 25: The medical emergency definition fails to provide for an exception to consider the emotional health of the woman. This provision will be vulnerable to constitutional challenge unless the definition is amended to include an exception that can address emotional conditions that the physician believes will affect the patient's health.

In summary, abortion law in the state of Alaska is undergoing clarification through the appeals that are working their way through the Alaska courts. In the meantime, it is almost certain that, if this bill passes and is enacted into law, a lawsuit will be filed. A conservative estimate of the cost of the defense of this lawsuit by the State of Alaska begins at about \$50,000, plus costs for the hiring of legal experts. If the state does not prevail, the attorney's fees and costs that will be assessed against the state are estimated to be at least the same. The Department of Law will be able to provide clearer legal guidance on the constitutionality of the provisions of this bill once these pending appeals before the Alaska Supreme Court are decided.

Please accept my apologies for not being available to discuss these matters at the House HESS hearing on March 28, 2000. I will be returning to Juneau by April 3rd and will be available to discuss these issues with the House HESS Committee or with legislative counsel at that time.

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: 
Kristen F. Bomengen
Assistant Attorney General

/KFB:ebc

cc: DHSS Commissioner, Karen Perdue
Pat Pourchot
Chrystal Smith
Deborah Behr

Copy to Rep ~~Ired~~^e
Dyson

To: Representative Jim Whitaker

3-20-00

From: Jonathan and Ruth Ewig
2325-30th Avenue
Fairbanks, Alaska 99701
phone and fax: 907-452-5538

F.Y.I.

RE: Informed Consent Bill HB 329

As your constituents we urge you to support this bill without hesitation or reserve. When you receive medications, there are warning labels of possible dangers. When you buy a pack of cigarettes there are warning labels. There is an entire encyclopedic-sized book of information with warnings and cautions and hard facts in writing that would possibly save a person's life.

No less is a pregnant mother worthy of such consideration. She needs to know that there are many risks attached to getting abortions. She needs the hard facts in order to make an intelligent decision. She needs to make decisions as to the disposition of the body just as you would for your parents or family members.

The book Lime 5 is filled with women who are dead or maimed and had no idea of what risks were involved when deciding to get an abortion. And for the baby, you know the process is fatal.

The medically unethical practice of abortion without the Informed consent of the patient has got to stop. Abortionists need to be accountable just like any other physicians. And as in other surgery the patient should have the right to get another opinion concerning surgery.

Support HB 329 through the entire process.

Thank you for your work down in Juneau.

Respectfully yours,


Jon and Ruth Ewig

(copy to John Coghill)

Interior Right to Life

Y To be included in brochures... from A. Ewing
[Notes taken from a video magazine titled "LifeTalk" February 2000]

Women need to be presented with the good hard facts on paper so that they know that they run real risks when they have an abortion.

Patient's Rights Brochure

1. **You have the right** to insist that your abortion will be performed by a licensed physician."
2. **You have the right** to verify that this physician has malpractice insurance that will compensate you if you are injured or killed during this procedure.
3. **You have a right** to know if an abortionist has had his license suspended or revoked in another state.
4. **You have a right** to know whether or not your physician has any pending claims for medical malpractice or wrongful death.
5. **You have a right** to insist that during the procedure you be immediately transferred to the nearest emergency medical center if you're injured.

Your Name _____
 Abortion Clinic _____
 City _____

Name of abortionist _____
 Malpractice Insurance Carrier _____

2/

Is there one? _____

What state is malpractice insurance carrier located in _____

What are the limits of the insurance policy _____

Name & Street Address of nearest trauma hospital emergency room

I verify that all of the above information is true.

Signature of Abortionist _____

Printed Name _____

On back: Your rights do not leave if you sign a paper that you will not hold the abortionist responsible. You still have civil rights if something goes wrong.

Qualifying Brochure--

If something goes wrong, what are the problems you're experiencing?

Your medical history _____

Have you had any problems with breast cancer?

“ “ “ “ “ “ cervical cancer?

A business card with the telephone number (1-800 _____) of where women can call if they've been injured or need legal, medical, or emotional help.

Subject: 3:00 Hearing

Date: Tue, 21 Mar 2000 09:55:06 -0900

From: "The Cloyds" <wendyc@mosquitonet.com>

To: <Representative_John_Coghill@legis.state.ak.us>

The following is my testimonial (Wendy S. Cloyd) which I request to be included in the bill packet.

When I began my family in 1993 with the birth of my daughter, Carli Ann, I was thrilled to begin the journey of parenthood. I don't think I'd ever contemplated the miracle of life until I'd been a part of such a miracle. I had my second daughter, Candra, in 1994 then my son, Matthew, in 1996. I was pregnant with my fourth child in 1998 when I first learned that my son had Fragile X Syndrome, an inherited genetic disorder which causes a myriad of issues including mental retardation and autistic like behavior. >From that moment forward there was a change in attitude in almost every health professional I encountered. Each of them seemed to express with urgency the need for me to have an amniocentesis to determine if the child I was carrying was Fragile X positive, also. My immediate response was to tell them that I would wait for the child to be born before I had any test; after all, the information would not be used in determining whether or not I would keep the child, only for the purpose of preparation, if needed. Whispered and hushed tones usually followed suggesting that if I changed my mind to let them know. They seemed to imply, that, when I came to my senses, to let them know!

In the meantime, my other two children were tested and the results of those test determined them to be positive for the full mutation of Fragile X Syndrome, also. Each child has a 50/50 chance of inheriting the defective gene from a carrier mother or father. Three of three, so far, were positive. With these results doctors again urged me to have my unborn child tested. Again, I wondered what urgency they saw, other than to give me the option of terminating the pregnancy. Often, with tears, I let them know that to consider my current pregnancy "disposable" gave the unarguable implication that the three already living in this world had less value.

I tell you, not one medical professional ever volunteered to give me the entire story of abortion. It was presented as the only logical choice if a child were found to be carrying the full mutation of Fragile X Syndrome. The idea that those in the medical profession might find it an "unnecessary nuisance" to treat abortion with the seriousness that it demands is lunacy. A doctor will tell you not to be out in the sun if you are taking certain anti-biotics, to avoid driving after taking a sedative and on and on. Why would it be too much to ask for a doctor to tell a patient the ramifications of abortion on a woman's body? I would have to assume that, in their minds, to do so would put the responsibility of a woman's physical and emotional health in their hands and that seems to be more than they want to be accountable for.

I urge you to make informed consent a simple and mandatory event in the discussion of abortion by those in the medical profession.

Sincerely,

Wendy Cloyd

2148 Old Steese Hwy
Fairbanks, AK 99712

(907) 458 - 8237

wendyc@mosquitonet.com

An Informed Decision
By Wendy Cloyd

A man walked into an art gallery and with a painting under his arm and asked to speak to an appraiser. "My dear aunt has passed away and left me this painting. I hear that it has been our family for generations. I'd like to know if you can tell me about it."

The owner unwrapped the painting from the sheet that encased it. After careful examination the man could not contain his excitement. "Why, you have inherited a painting with tremendous value! I cannot give you a true measure of it's worth at this time. I would recommend that you take care to preserve this painting. I can recommend a man who can help you restore the painting and then take the precautions necessary to preserve it for future generations! Guard this with your life! It could never be replaced for it is one of a kind."

The owner of the painting got up from his seat and shook the hand of the appraiser. "Thank you for your time. This is quite unexpected. I was not prepared to hear such news and I'm not sure what to think. You see, I am a very busy man. Owning such a painting would require me to take the time to do all these things that you have asked and they are time consuming. Then, for the rest of my life I'd feel responsible to ensure it's preservation. I just don't think I'm ready for that." A moment of tense silence followed. The man got to his feet, turned and walked out of the gallery. The stunned appraiser watched the man walk down the street directly to a dumpster. Without a thought, the man opened the dumpster and threw the painting in.

Now, what happens next does not require much imagining. Afraid for the painting, the gallery owner ran to the dumpster to retrieve it. As he carried it back to his shop, he wondered how anyone could have done such a thing. He immediately contacted his friend who gladly agreed to help restore the painting to it's glory. A year later the painting was proudly displayed in the most prominent place in the shop guarded by an alarm system. A sign underneath read "Not For Sale." You see, the man could not bring himself to put a price on the piece of art.

As the original owner happened to pass the gallery one day, he noticed the painting hanging for all the world to see. He entered the shop quite distressed. "That is my painting! I want it back." The stunned owner could only reply, "But...you threw it away. You didn't want it."

"For a year I have thought of that moment...replayed it in my mind. I went back to the dumpster the next day and found the painting gone. I had no idea who had taken it. I had no idea of how to get it back. You see, I loved my aunt dearly and was quite shaken by her death. The painting, I thought, would act as a reminder of her, causing me great pain. It was in that moment of intense grief that I threw the painting away. When I had a day to think and be more rational, I realized that keeping it would have brought me great joy. I would not have minded the responsibility simply because of the joy of looking at such a beautiful piece of artwork and being reminded of my special aunt. Not a day has gone by that I haven't regretted that momentary act. I was sure that the garbage truck had hauled it to the dump. I imagined it sitting under piles of trash and rotting. I cried for my stupidity. What I don't understand is why you didn't try to talk some sense into me when I sat here with you? I see now, that you have gained from my loss. I just don't understand."

Sheepishly the gallery owner answered, "You seemed so sure of yourself. I never dreamed you would change your mind. Had I known, I would have done more to show you the value of your

painting and discuss your options. I would have even offered to buy it from you. But you left and immediately threw it away. How was I to know you'd regret that? "

You see, many women make the decision to terminate pregnancy because of momentary feelings of emotion that overwhelm them. Even when others see the value of the life within them, they are unwilling to step forward to preserve that life when a person seems set on a decision. The same doctors who will take every step possible step to save an unborn child when the mother wants that child will consent and encourage the abortion of an unwanted child based on an emotional response. It is just as unrealistic as thinking that the moment the man threw his painting in the dumpster, it no longer had value. Of course it had value. His emotional response did not take the value away. It only determined his actions. If doctors and others valued the life of the unborn then they would surely not mind giving all the options at the moment of decision. They would surely not mind giving informed consent, for abortion does not end at the moment the child is terminated. Women often live to regret their decision for the rest of their live.



HB329 Testimony

My name is Debbie Joslin. My husband, Steven and I live in Delta Junction with our three children; Matthew, Emily and Victoria. Steven is the resource forester in our area. I am a homeschooling mom. I teach 3rd and 4th grade Sunday School and Kings Kids at my church.

On January 15, 1999 I was 22 weeks pregnant when we drove 100 miles to Fairbanks for an ultrasound on our child. After a lengthy examination of the baby, I was told we were expecting a male child with multiple anomalies. The baby we named Isaiah John had a brain cyst, a missing or unconnected stomach and a hypoplastic left heart. We were given the name of a Perinatologist in Anchorage. A Perinatologist, as I understand it, is a doctor who specializes in unborn babies who have serious health complications. I spoke to this specialist over the phone and made arrangements to go to Anchorage and have another ultrasound. During that phone conversation she urged me to have the pregnancy terminated. The reasons she listed were that the baby would probably die anyway, the medical expenses would be too great and that my own life was probably in danger. Keep in mind, she had not examined me at this point. I made an appointment with this doctor, since I was told she was the only Perinatologist in the state. My husband and I drove 350 miles to keep that appointment, leaving Delta at 40 below zero. When we arrived for our appointment we first saw a genetic counselor who went over some family history with us and explained that they thought Isaiah had Trisomy 18, a chromosomal abnormality (an extra number 18 chromosome). She expressed surprise that we were not considering terminating the pregnancy and asked several times whether we wanted to consider terminating the pregnancy. Another ultrasound was performed by a technician and then the Perinatologist took over the exam and listed the following anomalies: Brain cyst, missing or unconnected stomach, hypoplastic left heart, eyes not properly spaced, underdeveloped chin, something wrong with spinal development, something wrong with his penis, rocker bottom feet, possibly an extra toe and fluid in the abdominal cavity and lungs. We were told the fluid indicated that Isaiah was already in congestive heart failure and that he would never make it to his due date in May. The Perinatologist told us that Isaiah would never respond to us if he were to live, we were told that all Trisomy infants were severely mentally retarded. She described a somewhat vegetative state but more probably he would be stillborn any day. She said that if he were to be born alive he would only live for a few minutes. Later they adjusted it to a few hours and then later yet they said maybe a day at most and then finally they said a few days. We agreed to an amniocentesis to determine whether Isaiah did actually have Trisomy 18. Our hope was that he would not, and we could begin to make plans for heart surgery. She told us doctors will not operate on Trisomy infants since they ALL die in infancy anyway.

You can imagine what heavy hearts we had as we drove back to Delta. The plans and dreams I had had for my son were shelved as we instead discussed his funeral. Within a few days I got a call from the genetic counselor with the preliminary test results which showed Isaiah had Trisomy 13. I asked how that differed from Trisomy 18 and she said it was worse. She asked again about termination and I told her again that we were not

interested in that. Almost immediately I got a call from my doctor in Fairbanks who asked me about termination. I told her (again) that I was not interested in that. She told me that since my life was in danger and I had chosen to continue with the pregnancy, she could no longer be my doctor as she was a general practitioner and not qualified to handle such a case. I began seeing the osteopath doctor in Delta and an OB/GYN in Fairbanks. I told them what I had been told about the baby and about my own health. The OB/GYN doctor told me he could not understand why I had been told my life was in danger. He treated me during the remainder of the pregnancy and I never had any complications or problems. Only the usual complaints pregnant women suffer from.

A couple of weeks after the preliminary results, the genetic counselor called with the final results from Isaiah's amniocentesis. It was final - Isaiah had Trisomy 13. She asked me again about termination and I told her no again. I then asked her out of curiosity what she would do if I did say yes. She got very excited and told me that "there is the most wonderful clinic in Kansas". I asked if she meant Tiller's and she said "yes, do you know him"? "No, I told her, but I know about him". She offered to have other women who had had abortions call me but I declined. Sensing that I was not interested in pursuing this any further she told me in a very apologetic voice that "there is a parent support group, but well...they are rather positive". She made it sound as though positive was a bad thing to be. She then went on to tell me that she had information on the group including an 800 number as well as pamphlets and books in her office that gave detailed information about Trisomy 18, 13 and related disorders including pictures. I called S.O.F.T. (Support Organization for Trisomy 18, 13 and Related Disorders) right away and found that they were indeed positive - but realistic. I told the woman over the phone about Isaiah's diagnosis and she told me that probably they were right but there was a chance he could live. She talked to me about the other "parents" and I remember asking her, "parents, you mean they have children?" "Yes, some did," she said. "How old?" I was told that they varied but there were a few children who were teenagers and even a couple of adults. The lady took my name and address and told me she would send me a family packet right away. I also requested the books they had available; Trisomy 13, a Guideline for Families and Care of the Infant and Child with Trisomy 18 or 13. These were the books the genetic counselor had described, the very ones she had in her office. While the information was heartbreaking, it also offered some hope and some help. Two things we hadn't had much of. Not only did some of these children live - they played and smiled and laughed and talked and learned things and showed affection and responded to love and affection.

We located a wonderful pediatrician in Fairbanks who agreed that Isaiah's chances were not good but she was willing to do what she could to help him. We made the decision to hire her and made plans to deliver our baby in Fairbanks. On May 10, only 11 days before his due date, Isaiah John Joslin was born at Fairbanks Memorial Hospital. He weighed 6 lbs 1 oz and was 18 1/4 inches long. Isaiah was a pretty baby with lots of bright red hair. Isaiah had difficulty breathing when first born but as the doctors and nurses checked him over they could find no sign of the problems seen earlier on three different ultrasounds. The brain cyst, stomach problem and hypoplastic heart were all missing as were all of the other problems earlier noted. However, Isaiah suffered from a ventricular septal defect

(VSD) - a hole in his heart. Although very serious, it was a far cry from the problems he had had earlier. Isaiah required oxygen and a nasal gastric tube for feeding. Because of the hole in his heart he was too weak to nurse and had to be fed with a tube. Isaiah looked so normal that even the nursing staff agreed we should retest him. Test results again showed Isaiah to have Trisomy 13. He stayed in the hospital for 12 days and then came home where we cared for him for 20 days before he left us to go to be with the LORD in heaven. Those were some of the hardest but sweetest days of my life.

I am telling you this story so you can understand why I stand before you today and ask that you pass HB329.

After talking to other doctors and doing a great deal of research and reading about Trisomy infants and because of my own personal experience, I believe my life was never in any danger. Yet, this undue burden was placed on me at a time when I already had plenty to worry about. I believe this was done to try and convince me to have the abortion.

I was told that ALL Trisomy infants die. I now know that somewhere between 90 and 95% of all Trisomy infants die before one year of age. That doesn't leave much room for hope I realize but it is quite different than saying they ALL die.

I was not told about the parent support group (S.O.F.T.) for over two weeks not until they had finally given up on talking me into an abortion. Well, you may say they were not sure your child had Trisomy until the final results were in. Perhaps, but they were sure enough that they continually brought up termination. I drove 350 miles to see the doctor and was never shown the written information about this disorder that they had right there..

Though they were careful to tell me every negative thing they could about the baby, I was never told of any of the risks of having an abortion. There was never any mention made of the risk to my health, either physical or emotional from having the abortion.

I believe the doctors who repeatedly brought up termination probably meant well. The problem comes in where they apparently believed that their professional status, or their medical degrees placed them in a position to know better than me what was best for me, my family and my baby. That simply is not true.

Giving life to Isaiah was hard on our family. But it wasn't TOO hard. It was expensive. But it wasn't TOO expensive. It was hard on the other children. But it wasn't TOO hard on my other children. Giving life to Isaiah blessed our family, including the other children. Because of his heart condition Isaiah was always lethargic and sleepy and tired acting but he was never in pain. The equipment which monitored his oxygen saturation rate showed that whenever we held him or showed affection to him, Isaiah was aware of it. His saturation levels would soar when he was being loved on. My daughter, Emily who is five loves to recount the story of how Isaiah's oxygen saturation level was in the 60s the night before he died. I laid him in Emily's arms and immediately his saturation level rose to 100. There seems to be a feeling out there that a successful life is one that is free from pain or

suffering or trials and that isn't true. Isaiah's life was successful. We loved him and he loved us.

We have been comforted and encouraged even since Isaiah's death by reading of other families with Trisomy children in the S.O.F.T. newsletter. The letters and testimonials are all expressions of the love each family has for their infant or child. Many of them include pictures of their precious children, most of them deceased but some still living. Some of them telling stories of medical professionals pressing them to have abortions are very similar to our experience. Without exception every family expressed love and gratitude for the time they had had with their children, no matter how short.

Uniform written information should include basic facts regarding fetal development and the risks associated with continuing the pregnancy versus terminating the pregnancy. Crisis pregnancies come in many different forms. For some women it can be as simple as finding out about WIC, others are not even aware that the child's father is legally responsible for helping to provide support. Over 90% of all babies diagnosed prenatally with Downs Syndrome are aborted. Could it be that those women don't know about the parent support groups out there? Information on adoption agencies should be as readily available as information on abortion. There is a wealth of information out there and it would be a great help to doctors to have a booklet they could hand out to their patients.

Of course I would like for every mother to make the same decision I did but I realize that won't happen. But every mother deserves to have all of the information pertinent to her situation so that she can make an intelligent informed decision. I stand before you today and say that if you vote against HB329 you are saying, in effect, that women are not competent enough to be trusted with the facts regarding the health of their own bodies and that of their unborn children. A "no" vote says that you have no compassion for families and believe that doctors are better suited to make decisions for women and their unborn babies.

A "yes" vote for HB329 sends an entirely different message. A vote *for* informed consent says that you have respect for the intelligence of women and believe that they have the right to be trusted with the information necessary to make decisions for themselves. I trust and hope that this body of legislators will prove themselves to be in favor of women's rights.

Thank you.

Debbie Joslin



HB 329

Alaska State Legislature

Please enter into the record my testimony to the H. Hess
 committee on HB 329, dated 3/21/00
 bill/subject committee name

*I support women (all) have
 a right to be informed on
 all options before abortion.*

Yoncho H. St. John
[Signature]

Signed:

Testifier

Representing (Optional)

Po Box 39 Delta Jct AK 99737

Address

895-4411

Phone No.

Alaska Civil Liberties Union

An Affiliate of the American Civil Liberties Union

P. O. Box 201844, Anchorage, AK 99520-1844

Phone: (907) 258-0044 Fax: (907) 258-0288 Email: akclu@alaska.net

To: House HES Committee
From: Jennifer Rudinger, Executive Director
Date: Tuesday, March 21, 2000

Re: HB 329: BIASED COUNSELING AGAINST ABORTION AND MANDATORY DELAY

The US Supreme Court's 1992 decision in Planned Parenthood of Southeastern Pennsylvania v. Casey upheld, among other restrictions, a Pennsylvania law requiring that physicians provide women with state prepared anti-choice materials at least 24 hours prior to the abortion procedure. The law forces a doctor to provide every woman seeking an abortion with information that is intended to discourage the procedure – even if the information is irrelevant, unnecessary, and ultimately harmful to her health.

Such "biased counseling" laws are currently enforced in more than a dozen states. In a number of other states, these laws have been enacted but are enjoined or otherwise unenforced. Often introduced under the deceptive label of "Informed Consent" or "Women's Right to Know," biased counseling laws in fact serve to hamper women's access to abortion.

Alaska, however, is one of several states that evaluate restrictions on women's reproductive choices under the stricter standard of judicial review established by the US Supreme Court in 1973 in Roe v. Wade. Therefore, the Casey analysis and conclusion do not apply when an Alaska court reviews laws such as HB 329, and it is our opinion that HB 329 is unconstitutional under the Alaska Supreme Court's decision in Valley Hospital Association, Inc. v. Mat-Su Coalition for Choice, et al. in 1997.

Aside from our concerns that HB 329 violates the Alaska Constitution, there are many reasons why the bill is bad public policy.

1. Biased Counseling Gives Women Inaccurate and Incomplete Medical Information.

Mandatory anti-choice lectures do not give women accurate or meaningful medical information. Women are not told, for example, that a legal, first-trimester abortion has a lower complication rate than any other surgery, but in fact, the mortality risk of full-term pregnancy and childbirth is more than 20 times greater than that of a first-trimester abortion. Rather, women are read a list of possible complications from the abortion procedure, which in reality occur very rarely. HB 329 does not require that women be told about the psychological effects of giving a child up for adoption or carrying an unwanted pregnancy to term – rather, HB 329 requires that women be told only that *abortions* pose risks of psychological injury. In fact, according to a 1987-88 investigation by the former Surgeon General of the United States, Dr. C. Everett Koop (who is no champion of choice), as well as a study by the World Health Organization, there is no medical evidence that abortion causes psychological injury. On the contrary, relief is the



Alaska State Legislature

Please enter into the record my testimony to the H. Hess
 committee on HB 329, dated 3/21/00
 bill/subject committee name

*I support women (all) have
 a right to be informed on
 all options before abortion.*

Signed:

Yonko H. St. John
W.C. St. John

 Testifier

Representing (Optional)

PO Box 39, Delta Jct, AK 99737

Address

895-4411

Phone No.

HB 329 Position Paper
Page 2 of 4

most common reaction to a voluntary abortion, whereas women who are forced to continue unwanted pregnancies suffer adverse and sometimes severe psychological consequences.

HB 329 requires physicians to tell their patients that abortion increases a woman's chance of developing breast cancer. This is a scientifically unsupported statement mandated not out of concern for women's health, but in order to scare women away from choosing abortion. In fact, the most recent and most conclusive research about abortion and breast cancer, a study of more than 1.5 million women in Denmark, found that "induced abortions have no overall effect on the risk of breast cancer."

2. Requiring That Physicians Deliver the Biased Lectures Makes Access to Quality Reproductive Health Care More Difficult and Expensive.

HB 329 prohibits a trained counselor, nurse, or other health care practitioner from providing the biased counseling to the patient, requiring instead that a doctor deliver the state's anti-choice message. This stipulation has a direct effect on women's health. Many clinics experience serious difficulty in finding doctors willing and able to perform abortions, and the few who are available often find themselves barely able to meet the needs of their patients. By prohibiting doctors from delegating counseling and related tasks to other trained professionals, these laws make it far more difficult for clinics to provide women with the quality health care they deserve. Furthermore, since a doctor's time costs much more than that of a nurse, clinician, social worker, or counselor, the doctor-only stipulation drives up the costs of abortion and other health services provided by clinics.

3. Informed Consent Is Already Required For Medical Procedures.

A woman must give her informed consent before undergoing any surgical procedure, including abortion. The standards of the medical profession, as well as state laws, ensure that health care practitioners provide women with accurate and unbiased information regarding the risks and benefits of their various treatment options, and obtain their informed consent. HB 329 singles out abortion from all other medical procedures. Implicit in the requirement of a biased lecture is the assumption that women do not adequately think through their abortion decision and that the state must do their thinking for them. This assumption reflects a lack of respect for women's moral decision-making. In fact, virtually all women have carefully considered their decision to have an abortion by the time they arrive at the clinic. Clinics in Alaska routinely refer for additional counseling the small number of women who remain ambivalent.

4. Biased Counseling Requirements Violate Standard Medical Practice and the Doctor/Patient Relationship.

HB 329 requires a doctor to supply all of the state-mandated information to every woman in every instance in order to avoid liability. This state-imposed litany may conflict with the doctor's ethical obligation to give the best medical advice to the patient, in view of her individual circumstances. For example, it is both pointless and cruel to "inform" a victim of rape or incest that the "father" of the "unborn child" is liable for financial assistance if she carries the