

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9835

HOUSE JUDICIARY

02

February 19, 1999


RE: School Vouchers

Honorable Vic Kohring  
State Capitol Room 421  
Juneau, AK 99801-1182

Dear Honorable Vic Kohring,

I am glad to see that you are introducing a bill on school vouchers. I definitely do not like some of the things my child comes home from school with. The schools here, for some reason, think that these kids have to learn the native languages and about parents molesting their children. My child is only in first grade. Their being taught all about environmentalism and their being taught to go around to all the stores and ask for money because businesses have deep pockets. When kids come out of the Sitka school system they do not want to touch natural resources and they all look for government type jobs or anything that is not natural resources. We do not really have any private schools here. We had one, but it had to close because they tried to keep the tuition low which made it too hard to obtain a building. The private school was not at all popular with the public schools in town. The private school did try to keep the tuition so low they never had any money. A voucher would make a better opportunity for new schools here. It would be a parents dream for a better education for our children and a better future. We are not going to get the social teachings and the slanted environmental views out of the public schools. Our only way to combat this problem is for more private schools. I hope you get somewhere with school vouchers. Most people are busy working so you probably will not hear from them but they *are* out there. Another reason why you may not hear from people (especially in small towns) is because teachers will find out which parents are causing what they perceive to be trouble and may take it out on their child. For instance, the child may all of a sudden become a trouble-maker or all of a sudden be classified as slow at reading. From the words I have heard teachers say during wage negotiations, I do not trust them. There are some good teachers out there but you don't hear from them so they are of no value.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike A.", with a long horizontal line extending to the right.

Mike Svenson

104 SHARON DRIVE  
SITKA, AK 99835

**Subject: House Bill No. 5**

**Date: Thu, 18 Feb 1999 03:50:10 -0900**

**From: Bill Malchow <m.alchow@alaska.net>**

**To: Representative\_Vic\_Kohring@legis.state.ak.us**

Vic,

I am in full support of this bill you are sponsoring for Education Vouchers!

Thanks,

William K. Malchow  
17824 Sanctuary Dr.  
E.R. AK 99577

(907) 696-1866

**Subject: School Voucher System**

**Date: Thu, 18 Feb 1999 11:01:48 -1000**

**From: "Andrew J Bond" <ABOND@mail.aai.arco.com>**

**To: Representative\_Vic\_Kohring@legis.state.ak.us, Representative\_Joe\_Green@legis.state.ak.us,  
Senator\_Jerry\_Ward@legis.state.ak.us**

Representative Kohring,

I was very happy to see you had proposed HB-5 to offer school vouchers. Unfortunately when I read the fine print I see that I have no chance to qualify. I can understand trying to base the payment on income level. But I think that will also cause some problems. It is still a huge burden for a family with several kids in private school making as much money as I do. I think a better system would be phase out the voucher amount as income increases. Starting at 200% of the poverty level and maybe phasing out at \$100,000 of taxable income. Those are just rough figures off the top of my head.

I can see a situation developing where families at 200% of the poverty level or below would begin to fill the private schools and force out middle income families who get no benefit. I think you need a system where everyone benefits to a certain level. Your plan might remove a large section of the "trouble makers" from the public schools and send them to private schools. I also think that even those at the low end of the income scale should have to pay some portion of the tuition rather than receiving a full payment voucher. Then they will also be making a sacrifice for their children's education rather than just taking advantage of the system.

The public schools need some competition to bring down soaring education costs and teachers salaries. This will be a great way to start getting the K-12 education budget more under control. As you well know, private schools generally provide better education at half the cost of the public schools on a per student basis.

So in closing, I sure like the voucher plan. I just think it needs modification to benefit more than just the lower income section of the population.

Andy Bond  
House 10, Senate E  
12100 Woodway Circle  
Anchorage, AK 99516  
(907) 263-4623

**Subject: HB 5, education voucher**

**Date: Sat, 20 Feb 1999 10:35:23 -0900**

**From: Peter Brautigam <peter@hartig.com>**

**To: Representative\_Vic\_Kohring@legis.state.ak.us**

I would like to express my support for education vouchers as presented in HB 5. Although private education is a choice, we should all have the same opportunity for our children to have a choice between public and private education. This would provide us all an equal opportunity.

Peter Brautigam  
Anchorage, Alaska  
peter@hartig.com

**Subject:** vouchers

**Date:** Thu, 7 Jan 1999 23:55:15 -0900

**From:** "JACKSON 6 FAMILY" <mjackson1@ideafamilies.org>

**To:** <Representative\_Vic\_Kohring@legis.state.ak.us>

DEAR REP. VIC KOHRING,

I WANT TO THANK YOU FOR THE STEP YOU ARE TAKING IN THE AREA OF THE VOUCHER SYSTEM. I KNOW YOU ARE STANDING UPON A CONTROVERSIAL SUBJECT. JUST WANT YOU TO KNOW THAT WE ARE SUPPORTING YOU IN PRAYER. LOTS OF ATTACKS HAPPEN WHEN YOU ROCK THE BOAT. I HAVE HOMESCHOOLED ALL 4 OF MY CHILDREN. 2 ARE NOW IN PRIVATE SCHOOL AND 2 ARE STILL HOME SCHOOLED AND ARE IN THE IDEA PROGRAM. WHAT A TREMENDOUS BLESSING THIS GALENA PROGRAM IS. ALL THOSE YEARS OF BEING ALL ALONE SO TO SPEAK AND TO THOINK THAT I NOW HAVE HELP THAT DOESN'T CONTROL ME IS WONDERFUL. I TRY TO IMAGINE WHAT IT WOULD BE LIKE TO HAVE ASSISTANCE IN PRIVATE SCHOOL, WHICH IS WHERE MY 2 OLDEST NOW ARE AND IT WOULD BE A BIT OF HEAVEN. I ALWAYS WONDERED WHY WE PAY SCHOOL TAXES AND OUR CHILDREN DID NOT ATTENDSCHOOL. I WONDER ALOT OF THINGS. I JUST WANTED TO TAKE THE TIME TO THANK YOU AND LET YOU KNOW WE AS A FAMILY ARE BEHIND YOU. STAY STRONG. REMEMBER TO KEEP FRESH AND TAKE A WALK IF YOU H AVE TO AS THE PRESSURE MOUNTS.

OUR LOVE AND PRAYERS,  
SHERRI JACKSON AND FAMILY  
907-248-0995

**Subject:** Thanks for your hard work!

**Date:** Sat, 20 Feb 1999 20:33:42 -0900

**From:** vicki hoyman <hoyhouse@mtaonline.net>

**To:** Representative\_Vic\_Kohring@legis.state.ak.us

Dear Mr. Kohring,

I want to take time to sincerely thank you for the stands you take on several issues that mean alot to me. We are a family of 6 in Palmer enjoying our 14th year of home schooling. It has been one of the greatest joys and challenges of my life. I never would have dreamed, growing up in the home of a public school teacher, that I would one day home school all my children! I thank the Lord daily for the privilege and also that I live in a state that is very "home school friendly". This year we hesitantly signed up for Cyber Lynx out of the Nenana school district, I say hesitantly because the whole program seemed to good to be true! We have found it most helpful and it has been so awesome to have some money to purchase materials, lessons etc. I know the Matsu-school district thinks all of us who signed up for these cyb- schools are taking money out of their pockets but I don't know of one family that took their kids out of public school this year to join a cyber school like Cyber Lynx or IDEA. Everyone I know has been doing home school all along. I have 4 children and we have given them a quality education for an incredibly low price. Everyone in the public school fusses about lack of funding, all the money in the world can't promise a good education, it requires a healthy environment, a teacher who really loves the kids, and a contagious love for learning! You are welcome at our home school anyday! I could write volumes about the fun things we have done together, places we've went, projects we've accomplished! Thank you for supporting home schoolers! We truly do appreciate you!

Warmly,

Vicki Hoyman

**Subject: Thanks for the call**

**Date: Sat, 20 Feb 1999 22:09:48 -0900**

**From: Steve Unfreid <unfreids@alaska.net>**

**Organization: Self**

**To: Representative\_Vic\_Kohring@legis.state.ak.us**

Thanks for the call Saturday night reference my article in the Anchorage paper. After reading today's paper and reading Charles Reynolds piece, my wife (a stay-at-home/home school mom) sent in the following (even if it doesn't get printed, it may give you another angle on which to address this issue).

Steve Unfreid

I applaud Charles Reynolds (Letters Feb 20) for his clear grasp of our state constitution--understanding that no funding should go to support "...any religious or other private educational institution."

In fact, maybe we could get together and take every public school district in Alaska to court for their teaching of secular humanism. In the Humanist Manifesto #1, it clearly states that humanism is a religion. This is seen and taught every day in subjects like biology, where the theory and scientifically unprovable belief of evolution is the only thought presented for the origin of life. This belief that man is here by chance and is thus the only entity that can save us, is a religious, not scientific viewpoint.

You can't have it both ways. Either you do as Lawrence J. Freidberger advocated in his February 18 letter, and amend our constitution to allow funding for all (and thus break the religious monopoly held by our public schools), or you have our public schools cease their religious instruction. My guess is that Rep Vic Kohring's amendment is the most fair approach.

Kathe Unfreid  
Wasilla AK  
PO Box 672518  
Chugiak AK 99567  
745-4092

**Subject: House Bill No. 5**

**Date: Mon, 22 Feb 1999 01:19:28 -0500**

**From: "Stuart W. Holland" <swholland@compuserve.com>**

**To: "Rep. Vic Kohring" <Representative\_Vic\_Kohring@legis.state.ak.us>**

Dear Representative Kohring,

Thank you for sponsoring the subject bill to administer a pilot program of education vouchers. I have two children who are currently enrolled in a private school, of which I am a school board member. I am thoroughly convinced that private school education would be the choice for many more families if they could afford it. Your proposed bill would allow more families to afford this choice.

A secondary benefit of this program would be to improve the quality of the public education system. If more families are leaving the current system, then pressure would naturally be placed on the public educators and their governing bodies to provide the quality education that parents are seeking.

Again, thank you for sponsoring this vital legislation! May God bless your efforts to improve the overall quality of our education system.

Sincerely,

Stuart Holland

home phone: 907-272-4460

email address: "swholland@compuserve.com"

**Subject: Independent Board for Charter Schools**

**Date: Mon, 22 Feb 1999 05:14:43 -0900**

**From: Linda Sharp <lsharp@alaska.net>**

**To: Representative\_Vic\_Kohring@legis.state.ak.us, lsharp@alaska.net,  
no\_spam\_allowed@ibm.net, rsaur@alaska.net**

Dear Representative Kohring,

Have you introduced a bill for vouchers? If so, I would like to help you on it any way I can. Please send me a copy (fax 907-245-5502, mail 2710 West 34th Ave. Anchorage, 99517), if you have a bill.

Would you consider introducing a bill to change current charter school law to establish a Board for Charter Schools? I envision that the Board would be 7 to 9 people, all volunteers, equally representing our state's population. In other words, about half from Anchorage, one from Fairbanks, one from Southeast, one from Mat Su, one from Kenai and a 2 or 3 from the balance of state.

They would meet 4 to 6 times a year in Anchorage, so there would be flight and lodging expense. They would need an administrative person to handle papers and coordinate meetings and take minutes, so that would be about \$100K for wages, benefits and office operations. That could be subtracted from the DOE's allotment, as they would be replacing some DOE functions.

This Board would be a CHOICE for both existing charters and for newly proposing charters. This would replace the school districts as the sole authorizing authority, but of course, those preferring the districts could always stay or go with them also.

This is essential for our small charter to survive. We presently have to comply with all ASD Administrative procedures, and it would take us about \$150,000 a year to properly comply with all the reports, forms, procedures and meetings required to know and do that work. Our total funding is less than \$100. Education should be our mission, not administrative fulfillment.

In addition, for example, we needed a waiver to be able to consider using Viking Hall, where about 10 times a year in the evenings, for Sons of Norway social events, a liquor cabinet is unlocked to serve members up to 2 drinks per evening. ASD procedures said "no liquor on the premise." We were required to apply for a waiver to the policy.

The superintendent first decided to get a legal opinion. Then he wrote a memo to the School Board opposing it, although his legal opinion said it should be fine. Then we had to wait for the agenda to clear to allow us to appear and be heard before the School Board. This simple delay took more than two months.

You can't imagine the hours and expertise that have gone into simply finding a facility to please ASD. We were told recently by MOA Planning Officials that the ASD spends hundreds of thousands of dollars hiring MOA Planning Dept. to do what we are doing .... find a site. Then they spend \$1,000,000 to design. Then they spend \$10, \$20, \$30 million

or more to construct. We have only a few thousand dollars to accomplish it all. This is a ridiculous Catch 22.

Other people who I think would support / co-sign your bill, if you'd do it, include Reps. Dyson, James, Mulder, Ogan, Kott, Coghill, Halcro and maybe Kelly. Senators Miller, Taylor, Donley, Torgerson. There may be many others.

Please let me know if this is possible to get going and passed this year. I would do anything I could to help.

Many thanks for all you do.

Linda Sharp  
Tel. 245-5501

**Subject: Alaska PTA position on Vouchers**

**Date: Tue, 16 Feb 1999 13:12:21 -0900**

**From: Bogrens <bogren@alaska.net>**

**To: Representative\_John\_Coghill@legis.state.ak.us**

**CC: Representative\_Fred\_Dyson@legis.state.ak.us**

Testimony

**To:** Alaska House of Representatives Health, Education and Social Services Committee  
**By:** Betsy Turner-Bogren; Alaska PTA, Vice President, Legislative Affairs  
**Date:** February 16, 1999  
**Re:** House Bill 5, Voucher System for Education

The Alaska PTA has an annual membership of over 15,000. Our association is organized to include representation from six geographic regions covering the entire state and four active councils representing Ketchikan, the Mat/Su Borough, Fairbanks and Anchorage. Delegates from across Alaska meet annually to review our Legislative Program and adopt legislative priorities.

Last November delegates to the Alaska PTA Issues Conference adopted five legislative priorities including a statement opposing the creation of education vouchers. Our Association's statement is:

"Alaska PTA believes that public funds should be dedicated to public education. Alaska PTA opposes legislation, including the creation of vouchers or tax credits for private education, that would direct State funding away from public schools."

This statement was adopted by unanimous consent. It was the only priority adopted without discussion.

Support for public education had always been a priority for the Alaska PTA. Our members recognize that the creation of an educational voucher system would undermine State support by diverting funding resources to non-public institutions. We believe that every child in Alaska deserves access to high quality public education and that it is the State's responsibility to support public education with adequate funding.

On behalf of the Alaska PTA I would like to thank members of this Committee for your work to improve the quality of public education in Alaska. We encourage you to continue your efforts to find solutions that address the concerns of the Alaska PTA.

**HB**

**9**



Sec. 09.68.130. Collection of settlement information.

(a) Except as provided in (c) of this section, the Alaska Judicial Council shall collect and evaluate information relating to the compromise or other resolution of all civil litigation. The information shall be collected on a form developed by the council for that purpose and must include

(1) the case name and file number;

(2) a general description of the claims being settled;

(3) if the case is resolved by way of settlement,

(A) the gross dollar amount of the settlement;

(B) to whom the settlement was paid;

(C) the dollar amount of advanced costs and attorney fees that were deducted from the gross dollar amount of the settlement before disbursement to the claimant;

(D) the net amount actually disbursed to the claimant;

(E) the total costs and attorney fees paid by or owed by all parties; and

(F) any nonmonetary terms, including whether the attorney fees incurred by the claimant were based on a contingent fee agreement or upon an hourly rate; if a contingent fee was paid, the percentage of the total settlement represented by the fee must be included; or, if an hourly rate, the hourly rate paid;

(4) if the case is resolved by dismissal, summary judgment, trial, or otherwise,

(A) the gross dollar amount of the judgment;

(B) the amount of attorney fees awarded and to which party;

(C) the amount of costs awarded and to which party;

(D) the net amount, after deduction of (B) and (C) of this paragraph, for which the prevailing party has judgment;

(E) the dollar amount of advanced costs and attorney fees that were deducted from the gross dollar amount of the judgment before distribution to the claimant;

(F) the total costs and attorney fees paid by defending parties; and

(G) any nonmonetary terms, including whether the attorney fees incurred by the claimant were based on a contingent fee agreement or upon an hourly rate; if a contingent fee was paid, the percentage of the total settlement represented by the fee must be included; or, if an hourly rate, the hourly rate paid.

(b) The information received by the council under (a) of this section is confidential. This restriction

does not prevent the disclosure of summaries and statistics in a manner that does not allow the identification of particular cases or parties.

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

(1) divorce and dissolution;

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

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

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

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

(6) small claims under AS 22.15.040.

the judge who is assigned the case is not available and the application concerns a stipulation or uncontested motion; a petition for emergency domestic violence injunction; a motion for temporary restraining order or other emergency motion; findings, judgments and orders based upon decisions previously announced by the judge assigned to the case; or other matters when the application is presented to the presiding judge, or in the presiding judge's absence, to any other available judge within the state, upon good cause shown.

(e) Continuances.\*

(1) All cases set for trial shall be heard on the date set unless the same are continued by order of the court for cause shown. The presiding judge of a judicial district may require that a visiting or pro tem judge obtain approval from the presiding judge before granting any continuance of trial.

(2) Unless otherwise permitted by the court, application for the continuance of the trial of the case shall be made to the court at least five days before the date set for trial. The application must be supported by the affidavit of the applicant setting forth all reasons for the continuance. If such case is not tried upon the day set, the court in its discretion may impose such terms as it sees fit, and in addition may require the payment of jury fees and other costs by the party at whose request the continuance has been made.

(3) When parties are present in court and ready for trial on the day set for trial, but their case is not reached on that day, they will retain their relative position on the calendar and on the next open trial day they will be entitled to precedence over cases set for trial on the last-mentioned day.

(Adopted by SCO 5 October 9, 1959; amended by SCO 36 effective May 8, 1961; by SCO 44 effective February 26, 1962; by SCO 193 effective November 1, 1974; by SCO 229 effective January 1, 1976; by SCO 393 effective January 2, 1980; by SCO 710 effective September 15, 1986; by SCO 717 effective September 15, 1986; by SCO 766 effective March 15, 1987; by SCO 894 effective July 15, 1988; by SCO 1153 effective July 15, 1994; by SCO 1172 effective July 15, 1995; and by SCO 1279 effective July 31, 1997)

\*EDITOR'S NOTE: Subsection (e) (3) of Alaska Civil Rule 40 is hereby suspended for the Anchorage trial courts until further notice. The presiding judge shall determine appropriate alternative calendaring procedures.

Note: In 1997 the legislature enacted AS 18.16.030(c), which required the court to hold a hearing in a proceeding to bypass parental consent to an abortion within five days after the petition is filed. According to ch. 14, § 7 SLA 1997, this provision has the effect of amending Civil Rule 40

by setting a specific timetable for hearing certain cases. Instead of amending individual rules to implement AS 18.16.030, the supreme court has adopted a separate rule on judicial bypass proceedings. See Probate Rule 20.

Annotations

Cases

Refusal to grant a continuance will generally not be disturbed on appeal unless an abuse of discretion is demonstrated. *Gregoire v. National Bank of Alaska*, Op. No. 336, 413 P2d 27 (Alaska 1966)

Counsel's insistence on a full 30-day continuance in order to attempt to honor all conflicting trial commitments except the case for which this continuance was sought, was unwarranted and denial of the continuance by trial judge no abuse of discretion where the trial setting of the instant case was senior to all of counsel's other commitments and counsel might have asked for day-to-day continuances or for a definite short term continuance. *Gregoire v. National Bank of Alaska*, Op. No. 336, 413 P2d 27 (Alaska 1966).

Where appellant had been granted previous continuances and 5½ months' notice had been accorded for his eventual trial setting, counsel was not entitled to insist on a further full 30-day continuance which he had sought on the ground that he had committed himself to the trial of three criminal matters in the month of the trial in another state in which counsel was also admitted to the practice of law. *Gregoire v. National Bank of Alaska*, Op. No. 336, 413 P2d 27 (Alaska 1966).

The "with prejudice" aspect of a judgment of dismissal was set aside and trial judge directed to allow appellants their day in court upon terms and conditions appropriate under this rule, where continuance had been properly denied because of appellant's failure to make a timely attempt to obtain substitute counsel, but the supreme court entertained some doubt that the failure was such that dismissal with prejudice of appellant's counterclaim and third party complaint should stand. *Gregoire v. National Bank of Alaska*, Op. No. 336, 413 P2d 27 (Alaska 1966).

Attorney's understanding that the calendar clerk would call him on September 7 if the trial was to take place as scheduled on September 8 did not justify his failure to call the clerk before instructing his client not to appear, and the trial court's refusal to grant the attorney's request for a continuance on the ground that his client was not present was not an abuse of discretion. *W.E.W. v. D.A.M.*, Op. No. 2222, 619 P2d 1023 (Alaska 1980).

A judge may not be appointed to sign orders in place of the absent judge originally assigned to the case unless good cause specifically is shown. *Fairbanks North Star Borough v. Nolan*, Op. No. 2351, 628 P2d 36 (Alaska 1981).

Successor judge's vacation of orders and judgment was not abuse of discretion since she erred in signing them when judge who heard case on merits was still available. *Gallagher v. Gallagher*, Op. No. 4041, 866 P2d 123 (Alaska 1994).

Rule 41. Dismissal of Actions.

(a) Voluntary Dismissal — Effect Thereof.

(1) *By Plaintiff — By Stipulation.* Subject to the provisions of Rule 23(c), of Rule 66 and of any

statute of the state, an action may be dismissed by the plaintiff without an order of the court: [a] by filing a notice of dismissal at any time before service by the adverse party of an answer or of a motion for summary judgment, whichever first occurs; or [b] by filing a stipulation of dismissal signed by all parties who have appeared in the action. The notice or stipulation must include a certification that the settlement information required under AS 09.68.130 and (a)(3) of this rule has been submitted to the Alaska Judicial Council or that the case is exempt from this requirement because it is one of the types listed in (a)(3) or because all causes of action accrued before August 7, 1997. Unless otherwise stated in the notice of dismissal or stipulation, the dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a plaintiff who has once dismissed in any court of this state, or of any other state, or in any court of the United States, an action based on or including the same claim.

(2) *By Order of Court.* Except as provided in paragraph (1) of this subdivision of this rule, an action shall not be dismissed at the plaintiff's instance save upon order of the court and upon such terms and conditions as the court deems proper. If a counterclaim has been pleaded by a defendant prior to the service upon the defendant of the plaintiff's motion to dismiss, the action shall not be dismissed against the defendant's objection unless the counterclaim can remain pending for independent adjudication by the court. Unless otherwise specified in the order, a dismissal under this paragraph is without prejudice.

(3) *[Applicable to causes of action accruing on or after August 7, 1997.] Settlement Information.* If a voluntary dismissal under this rule is the result of compromise or other settlement of the parties, the parties shall submit to the Alaska Judicial Council the information required under AS 09.68.130. The following types of cases are exempt from this requirement:

- (A) divorce and dissolution;
- (B) adoption, custody, support, visitation, and emancipation of children;
- (C) children-in-need-of-aid cases under AS 47.10 or delinquent minors cases under 47.12;
- (D) domestic violence protective orders under AS 18.66.100 — 18.66.180;
- (E) estate, guardianship, and trust cases filed under AS 13;
- (F) small claims under AS 22.15.040.

(b) *Involuntary Dismissal — Effect Thereof.* For failure of the plaintiff to prosecute or to comply with these rules or any order of court, a defendant may move for dismissal of an action or of any claim

against the defendant. After the plaintiff, in an action tried by the court without a jury, has completed the presentation of the plaintiff's evidence, the defendant, without waiving the right to offer evidence in the event that a motion is not granted, may move for a dismissal on the ground that upon the facts and the law the plaintiff has shown no right to relief. The court as trier of the facts may then weigh the evidence, evaluate the credibility of witnesses and render judgment against the plaintiff even if the plaintiff has made out a prima facie case. Alternatively, the court may decline to render any judgment until the close of all the evidence. If the court renders judgment on the merits against the plaintiff, the court shall make findings as provided in Rule 52(a). Unless the court in its order for dismissal otherwise specifies, a dismissal under this subdivision and any dismissal not provided for in this rule, other than a dismissal for lack of jurisdiction, for improper venue, or for failure to join a party under Rule 19, operates as an adjudication upon the merits.

(c) *Dismissal of Counterclaim, Cross-Claim, or Third-Party Claim.* The provisions of this rule apply to the dismissal of any counterclaim, cross-claim, or third-party claim. A voluntary dismissal by the claimant alone pursuant to paragraph (1) of subdivision (a) of this rule shall be made before a responsive pleading is served or, if there is none, before the introduction of evidence at the trial or hearing.

(d) *Costs of Previously Dismissed Action.* If a plaintiff who has once dismissed an action in any court commences an action based upon or including the same claim against the same defendant, the court may make such order for the payment of costs of the action previously dismissed as it may deem proper and may stay the proceedings in the action until the plaintiff has complied with the order.

(e) *Dismissal for Want of Prosecution.*

(1) The court on its own motion or on motion of a party to the action may dismiss a case for want of prosecution if

- (A) the case has been pending for more than one year without any proceedings having been taken, or
- (B) the case has been pending for more than one year, and no trial or mandatory pretrial scheduling conference has been scheduled or held.

(2) The clerk shall review all pending cases semi-annually and in all cases that are subject to dismissal under (e)(1), the court shall hold a call of the calendar or the clerk shall send notice to the parties to show cause in writing why the action should not be dismissed.

(3) If good cause to the contrary is not shown at a call of the calendar or within sixty days after distribution of the notice, the court shall dismiss the

action. The paragraph

(4) A without prejudice that the case

(5) If a filed again. payment of it may deem the case until

(Adopted by SCO 239 effective No. June 1, 1981 by SCO 834 effective July 15, 1997; amended 1997)

Cases

- I. In General
- II. Voluntary
  - A. Contract
  - B. Tort
- III. Involuntary
  - A. Contract
  - B. Defendant
- IV. Dismissal

I. In General

An order of adjudication on 370 P2d 171, 17

One and one was not state motion to dismiss precluding award. *International Air, Inc.*

Party seeking the existence of of Education, O

To show the show facts which meet affirmative of Education.

Proper test for involves balancing to obtain a result circumstances of Op. No. 1917, 59-

A judgment of final judgment for Laboratories, Op

Trial court had judgment to amend prejudice under the No. 2556, 650 P2d

Where defendant dismissal under the

action. The clerk may dismiss actions under this paragraph if a party has not opposed dismissal.

(4) A dismissal for want of prosecution is without prejudice unless the court states in the order that the case is dismissed with prejudice.

(5) If a case dismissed under this paragraph is filed again, the court may make such order for the payment of costs of the case previously dismissed as it may deem proper, and may stay the proceedings in the case until the party has complied with the order.

(Adopted by SCO 5 October 9, 1959; amended by SCO 239 effective March 1, 1976; by SCO 258 effective November 15, 1976; by SCO 465 effective June 1, 1981; by SCO 798 effective March 15, 1987; by SCO 834 effective August 1, 1987; by SCO 1153 effective July 15, 1994; by SCO 1266 effective July 15, 1997; and by SCO 1283 effective September 2, 1997)

Annotations

Cases

- I. In General
- II. Voluntary Dismissal
  - A. Conditions
  - B. Termination of Right to Dismiss
- III. Involuntary Dismissal
  - A. Conditions
  - B. Denial of Motion to Dismiss
- IV. Dismissal for Want of Prosecution

I. In General

An order of dismissal "with prejudice" operates as an adjudication on the merits. *Miller v. Johnson*, Op. No. 70, 370 P2d 171, 173 (Alaska 1962).

One and one-half page memorandum devoid of authorities was not statement required by Civil Rule 77(b) (2), so that motion to dismiss was frivolous and issue was not joined, precluding award of attorney's fees. *State v. Alaska International Air, Inc.*, Op. No. 1409, 562 P2d 1064 (Alaska 1977).

Party seeking relief from judgment of dismissal must show the existence of a meritorious claim. *Corso v. Commissioner of Education*, Op. No. 1412, 563 P2d 246 (Alaska 1977).

To show the existence of meritorious claim, party must show facts which if established, might reasonably be said to meet affirmative defenses of adversary. *Corso v. Commissioner of Education*, Op. No. 1412, 563 P2d 246 (Alaska 1977).

Proper test for granting motion to dismiss without prejudice involves balancing the interests of both plaintiff and defendant to obtain a result which will be fair and equitable under the circumstances of each case. *Dome Laboratories v. Farrell*, Op. No. 1917, 599 P2d 152 (Alaska 1979).

A judgment of dismissal without prejudice is considered a final judgment for purposes of appeal. *Farrell v. Dome Laboratories*, Op. No. 2556, 650 P2d 380 (Alaska 1982).

Trial court had jurisdiction under rule allowing relief from judgment to amend a voluntary dismissal entered without prejudice under this rule. *Farrell v. Dome Laboratories*, Op. No. 2556, 650 P2d 380 (Alaska 1982).

Where defendant does not object to plaintiff's notice of dismissal under this rule, the validity of the dismissal will not

be questioned on review. *Sisters of Providence v. Van Linder*, Op. No. 2678, 663 P2d 956 (Alaska 1983).

Once an action has been dismissed as of right by a plaintiff pursuant to this rule, the trial court lacks jurisdiction to enforce an interlocutory order entered prior to the dismissal. *Sisters of Providence v. Van Linder*, Op. No. 2678, 663 P2d 956 (Alaska 1983).

The "lack of jurisdiction" exception to the rule that an involuntary dismissal operates as an adjudication on the merits includes dismissals due to a corporation's statutory incapacity to sue. *Blake v. Gilbert*, Op. No. 2947, 702 P2d 631 (Alaska 1985).

A stipulation to dismiss claims with prejudice operates as an adjudication on the merits; it is just as valid as a final judgment resulting from a trial on the merits, and is res judicata as to all issues that were raised or could have been determined under the pleadings. *Tolstrup v. Miller*, Op. No. 3129, 726 P2d 1304 (Alaska 1986).

Order No. 798, adopting an amendment to Civil Rule 41(b), effective March 15, 1987, was signed by three justices. Two justices filed a dissent to the order, expressing doubt that the amendment would result in an overall saving of judicial time and their belief that it creates a distinct risk of premature and inaccurate decisions. *Supreme Court Order 798, dissenting statement of Chief Justice Rabinowitz and Justice Matthews*, dated January 14, 1987.

Where liability and damages issues are tried by the court, prejudgment motion for dismissal rather than for a directed verdict is appropriate. *Frank v. Golden Valley Elec. Ass'n, Inc.*, Op. No. 3264, 748 P2d 752 (Alaska 1988).

A court need not make explicit findings concerning alternatives to dismissal; the record need only clearly indicate a reasonable exploration of possible and meaningful alternatives. *Power Constructors v. Acres American*, Op. No. 3689, 811 P2d 1052 (Alaska 1991).

Civil Rule 16.1 provides the exclusive procedure for dismissing "fast-track" cases and supersedes this and other civil rules in conflict therewith. *Ford v. Municipality of Anchorage*, Op. No. 3703, 813 P2d 654 (Alaska 1991).

In liquidation proceeding, trial court's denial, for lack of jurisdiction, of motion to set aside and terminate irrevocable trust did not constitute dismissal upon which collateral estoppel could be based. *Matter of Pacific Marine Ins. Co.*, Op. No. 4100, 877 P2d 264 (Alaska 1994).

The sanctions of Civil Rule 16.1(g) and Civil Rule 41(d) afford courts the tools necessary to deter litigants from judge shopping through voluntary or involuntary dismissals. *Staso v. State, Department of Transportation*, Op. No. 895 P2d 988 (Alaska 1995).

Consolidated Rule 16.1 cases retain their "fast-track" status and can be dismissed only by following Rule 16.1 dismissal procedures, not Rule 41 dismissal procedures. *Prazak v. Alaska Local No. 1*, Op. No. 4277, 904 P2d 428 (Alaska 1995).

If meaningful alternative sanctions are available, trial court must ordinarily impose those sanctions rather than dismissal with prejudice. *Arbelovsky v. Ebasco Services, Inc.*, Op. No. 4382, 922 P2d 225 (Alaska 1996).

II. Voluntary Dismissal

A. Conditions

Voluntary dismissal of plaintiff's causes of action was with prejudice pursuant to terms stated in the stipulation. *Albritton v. Estate of Larson*, Op. No. 413, 428 P2d 379 (Alaska 1967).

This rule does not authorize court to regard the condemnor's dismissals of its appeals from a master's awards as matters to be determined within the condemnor's discretion and to be granted on such terms as it might think proper. *Inglima v. Alaska State Housing Authority*, Op. No. 594, 462 P2d 1002 (Alaska 1970).

Under AS 09.55.320, which provides that an interested party may appeal a master's award in which case there shall be a trial by jury on the question of the amount of damages and the value of property, unless the jury is waived by the consent of all parties, a condemnor against whom an appeal is taken is entitled to a jury trial as a matter of right. A condemnor cannot, after the jury has rendered verdicts higher than the master's awards, obtain a dismissal of its appeal without the consent of the condemnees. *Inglima v. Alaska State Housing Authority*, Op. No. 594, 462 P2d 1002 (Alaska 1970).

The primary purpose of this rule is to allow the plaintiff to dismiss as a matter of right before an issue has been joined. *Miller v. Wilkes*, Op. No. 788, 496 P2d 176 (Alaska 1972).

Where defendant is dismissed under Civil Rule 41(a)(1)(a) before service of any pleading or motion by defendant that would have required trial court to consider merits of controversy, there is no joinder of issue, or prevailing party, and an award of attorney's fees is precluded. *State v. Alaska International Air, Inc.*, Op. No. 1409, 562 P2d 1064 (Alaska 1977).

No findings of fact should be made in conjunction with a voluntary dismissal when the court has no evidentiary basis for such findings. *Sherry v. Sherry*, Op. No. 2271, 622 P2d 960 (Alaska 1981).

Where plaintiff moved for a voluntary dismissal without prejudice of her motion to modify a child custody agreement, it was abuse of discretion for the court to condition the grant of dismissal on plaintiff not attempting to modify the decree for two years and on a prohibition on psychological or psychiatric examination without the consent of both parents. *Sherry v. Sherry*, Op. No. 2271, 622 P2d 960 (Alaska 1981).

Superior court abused its discretion in amending a prior judgment of voluntary dismissal without prejudice in order to require the plaintiff to refile his suit against defendant by a certain date. *Farrell v. Dome Laboratories*, Op. No. 2556, 650 P2d 380 (Alaska 1982).

Since responses filed by defendants to plaintiff's petition seeking to perpetuate testimony before filling of action required trial court to consider merits of petition, voluntary dismissal without order of court was no longer possible, and condition imposed by court on dismissal, that plaintiff bring no further action on matter until he paid defendants' fees and costs, was not abuse of discretion. *Stahlman v. State*, Op. No. 3987, 856 P2d 1162 (Alaska 1993).

It was abuse of discretion for trial court to condition voluntary dismissal on payment of attorney fees by public interest litigant. *Eyak Elders Council v. Sherstone, Inc.*, Op. No. 4273, 904 P2d 420 (Alaska 1995).

**B. Termination of Right to Dismiss**

Where an affidavit which is filed by the defendant denies several factual allegations of the plaintiff and a memorandum

filed by the defendant raises four defenses, such documents are tantamount to an answer and the plaintiff's right to dismiss the suit is terminated. Thus, although the plaintiff files a voluntary dismissal of the suit the trial court has the authority to award to defendant attorney fees. *Miller v. Wilkes*, Op. No. 788, 496 P2d 176 (Alaska 1972).

If an issue has been joined by means other than those specified in this rule, the plaintiff's right to dismiss by notice is nonetheless terminated. *Miller v. Wilkes*, Op. No. 788, 496 P2d 176 (Alaska 1972).

Not every action by the defendant cuts off the right of the plaintiff to dismiss under this rule, but only those actions which would require the court to consider on the merits of the controversy or which involve considerable expense and effort on the part of the defendant. *Miller v. Wilkes*, Op. No. 788, 496 P2d 176 (Alaska 1972).

Since responses filed by defendants to plaintiff's petition seeking to perpetuate testimony before filling of action required trial court to consider merits of petition, voluntary dismissal without order of court was no longer possible, and condition imposed by court on dismissal, that plaintiff bring no further action on matter until he paid defendants' fees and costs, was not abuse of discretion. *Stahlman v. State*, Op. No. 3987, 856 P2d 1162 (Alaska 1993).

**III. Involuntary Dismissal**

**A. Conditions**

The "lack of jurisdiction" exception to the rule that an involuntary dismissal operates as an adjudication on the merits includes dismissals due to a corporation's statutory incapacity to sue. *Blake v. Gilbert*, Op. No. 2947, 702 P2d 631 (Alaska 1985).

Where plaintiff's evidence does not establish a prima facie case, a motion to dismiss made at the close of plaintiff's case should be granted. *Pope v. Anderson*, Op. No. 72, 370 P2d 185, 187 (Alaska 1962); *Correa v. Stephens*, Op. No. 415, 429 P2d 254 (Alaska 1967).

The trial court's dismissal of a previous complaint brought by another on the behalf of all electors contesting a bond election, on the grounds that plaintiff had not delivered on the borough as sensible a written notice of contest of the election as required by a borough ordinance, operates as an adjudication on the merits in the absence of a specification by the trial court to the contrary and is res judicata to a suit brought by the plaintiff challenging the same bond election. *Jefferson v. Greater Anchorage Area Borough*, Op. No. 536, 451 P2d 730 (Alaska 1969).

Even though a complaint alleges basis for a claimed illegality of a bond election not mentioned in a previous complaint brought by another on behalf of all electors, the doctrine of res judicata is applicable and dismissal of the complaint is not error. *Jefferson v. Greater Anchorage Area Borough*, Op. No. 536, 451 P2d 730 (Alaska 1969).

Where the general doctrine of res judicata is inapplicable and supports the dismissal of a complaint, the contention that the trial court should have permitted ten of the plaintiffs to belatedly sign the complaint is as rendered moot. *Jefferson v. Greater Anchorage Area Borough*, Op. No. 536, 451 P2d 730 (Alaska 1969).

Where plaintiff had received ample notice from opinion on earlier appeal that it was incumbent upon him to promptly take steps to prosecute claim upon his release from prison, and

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during seven-month period had taken no such steps, denial of motion to reconsider dismissal for lack of prosecution was not abuse of discretion. *Brown v. State*, Op. No. 1418, 563 P2d 275 (Alaska 1977).

On appeal from grant of a Civil Rule 41(a)(2) motion, appellant must show that trial court failed to exercise or abused its discretion, or exercised an unpermitted discretion. *Dome Laboratories v. Farrell*, Op. No. 1917, 599 P2d 152 (Alaska 1979).

Where defendants had not incurred extensive expenses in preparation for trial or pecuniary judgment hearing was not abuse of discretion for trial judge to deny award of attorney fees to defendant. *Dome Laboratories v. Farrell*, Op. No. 1917, 599 P2d 152 (Alaska 1979).

Where plaintiff established a prima facie case of breach of contract, superior court was precluded from granting an involuntary dismissal under this rule. *Glover v. Sager*, Op. No. 2703, 667 P2d 1198 (Alaska 1983).

When the trial court dismisses a complaint on the ground that the plaintiff has shown no right to relief, it must enter findings of fact and conclusions of law. *Winn v. Mannhalter*, Op. No. 2988, 708 P2d 444 (Alaska App. 1985).

In order to withstand a motion for involuntary dismissal under this rule, plaintiff must have presented evidence that the defendant breached a duty, thereby causing injury to the plaintiff. *Winn v. Mannhalter*, Op. No. 2988, 708 P2d 444 (Alaska 1985).

#### B. Denial of Motion to Dismiss

The function of the trial court is to deny a motion to dismiss at the close of plaintiff's evidence, if the evidence would be, in a jury case, sufficient to take the case to the jury although the court as trier of the facts would find against the plaintiff on the evidence. Thus where plaintiff has presented a prima facie case based upon unimpeached evidence the trial judge should not grant the motion even though he is the trier of the facts and may not himself feel at that point of the trial that the plaintiff has sustained his burden of proof. *Rogge v. Weaver*, Op. No. 63, 368 P2d 810, 812-13 (Alaska 1962).

Where plaintiff at the close of his evidence presents a prima facie case based on unimpeached evidence, the trial judge should not grant a motion for involuntary dismissal, but should follow the alternative provided by Civil Rule 41(b) and decline to render any judgment until the close of all the evidence. *Trusty v. Jones*, Op. No. 71, 369 P2d 420 (Alaska 1962).

Where an action by a prisoner against the state for injuries allegedly sustained while being transported in a truck after a hip operation is dismissed on the merits without any findings of fact being made, the case will be remanded for purposes of making adequate findings of fact and conclusions of law, including findings as to the court's judgment of credibility of the plaintiff and his witnesses. *Bohm v. State*, Op. No. 543, 453 P2d 410 (Alaska 1969).

Motions under this rule should not invariably be resolved by weighing the evidence. Where the plaintiff has presented a prima facie case based on unimpeached evidence, the trial judge should not grant the motion even though he is the trier of facts and may not himself feel at that point that the plaintiff has sustained the burden of proof. *King v. Alaska State Housing Authority*, Op. No. 917, 512 P2d 887 (Alaska 1973).

The failure of the plaintiff's son, the only witness to the occurrence giving rise to a suit, to appear for deposition is not an appropriate basis for motion to dismiss the suit. *Schandelmeier v. Winchester Western*, Op. No. 1013, 520 P2d 70 (Alaska 1974).

When noncompliance with a discovery order is in issue, this rule, rather than Rule 37, is the source of the court's authority to impose sanctions. *Schandelmeier v. Winchester Western*, Op. No. 1013, 520 P2d 70 (Alaska 1974).

Where plaintiff has been in prison for most of the period since filing his action, is unavailable for deposition and unable to obtain another attorney when his original counsel withdraws, and otherwise attempts to prosecute his complaint, the dismissal for failure to prosecute is an abuse of discretion. *Brown v. State*, Op. No. 1089, 526 P2d 1365 (Alaska 1974).

This rule calls for the exercise of sound discretion by the trial court, and should not be permitted to work an injustice where there are special circumstances impeding the plaintiff's efforts to prosecute his complaint. *Brown v. State*, Op. No. 1089, 526 P2d 1365 (Alaska 1974).

#### IV. Dismissal for Want of Prosecution

This rule applies only where a motion to dismiss is filed before the period of lapse is terminated by some affirmative action. Where the last act in the record occurred more than one year prior to a motion to dismiss and where the plaintiff's motion terminates the lapse, and a motion for summary judgment and a motion to set for trial are filed subsequent to the lapse and prior to the defendant's motion to dismiss, the lapse is insufficient to allow dismissal. *First National Bank of Fairbanks v. Taylor*, Op. No. 723, 488 P2d 1026 (Alaska 1971).

Unless there is another indication by judge dismissal sua sponte for want of prosecution for one year is without prejudice. *Champion Oil Co. v. Herbert*, Op. No. 1293, 552 P2d 670 (Alaska 1976).

Case that had been reinstated and set for trial should not have been dismissed for want of prosecution. *Atlas Enterprises, Inc. v. Consolidated Construction Co.*, Op. No. 1526, 572 P2d 68 (Alaska 1977).

Where letter from plaintiffs requesting trial date was sent prior to filing of defendant's motion to dismiss, dismissal under Civil Rule 41(e) was improper. *Zeller v. Poor*, Op. No. 1610, 577 P2d 695 (Alaska 1978).

Although a case may be dismissed with prejudice under Civil Rule 41(e), this sanction should be reserved only for gross violations of the rule; alternative remedies which do not bar a litigant from his day in court are favored. *Zeller v. Poor*, Op. No. 1610, 577 P2d 695 (Alaska 1978).

A "proceeding" as the term is used in this rule is a step, act or measure of record, by the plaintiff, which reflects the serious determination by the plaintiff to bring the suit to a resolution; or a step, act or measure of record, by either party, which reflects that the suit is not stagnant. *Shiffman v. "K", Inc.*, Op. No. 2603, 657 P2d 401 (Alaska 1983).

The filing of an answer by the defendant was a "proceeding" within the meaning of this rule which indicated that the suit was not stagnant. *Shiffman v. "K", Inc.*, Op. No. 2603, 657 P2d 401 (Alaska 1983).

A case stands stagnant and may be dismissed when to the court it appears that for lack of activity of record neither party has taken the steps, acts or measures to be reasonably expected

in pursuit or defense of the particular cause of action. *Shiffman v. "K", Inc.*, Op. No. 2603, 657 P2d 401 (Alaska, 1983).

Plaintiffs' note asking the court not to dismiss their action for want of prosecution because they had not been able to find an attorney was not a "proceeding" within the meaning of this rule. *Cleary Diving Service v. Thomas, Head and Grelsen*, Op. No. 2873, 688 P2d 940 (Alaska 1984).

Appellate court could not dismiss complaint for failure of timely prosecution where the trial court did not hold a call of calendar or send a show cause notice to the parties. *Reed v. Municipality of Anchorage*, Op. No. 3218, 741 P2d 1181 (Alaska 1987).

A pretrial memorandum filed after the court issues a notice of dismissal does not constitute a "proceeding" under this rule. *Power Constructors v. Acres American*, Op. No. 3689, 811 P2d 1052 (Alaska 1991).

Substitution of counsel and the consequent need for more time to review the case did not, standing alone, constitute good cause for plaintiff's 16-month delay prosecuting the case. *Power Constructors v. Acres American*, Op. No. 3689, 811 P2d 1052 (Alaska 1991).

Plaintiff's unexcused failure to proceed with its case for three years justified dismissal with prejudice. *Power Constructors v. Acres American*, Op. No. 3689, 811 P2d 1052 (Alaska 1991).

Where order gave plaintiff 180 days to take action to prepare malpractice case for trial, here filing of amended complaint and request for appearance of nonresident attorney satisfied the order, thus trial court erred in dismissing case for want of prosecution even though original complaint was not filed until two days before expiration of limitations period and defendant was not served with complaint until 20 months later. *Johnson v. Siegfried*, Op. No. 3890, 838 P2d 1252 (Alaska 1992).

Trial court is not under duty to explore meaningful alternatives before entering dismissal without prejudice for want of prosecution. *Willis v. Wetco, Inc.*, Op. No. 3963, 853 P2d 533 (Alaska 1993).

Pretrial memorandum filed after court issued notice of dismissal did not constitute "proceeding" under rule authorizing dismissal for want of prosecution. *Willis v. Wetco, Inc.*, Op. No. 3963, 853 P2d 533 (Alaska 1993).

Counterclaimant's statement that his injuries at hand of plaintiff were continuing to accumulate did not constitute good cause for failure to prosecute counterclaim. *Willis v. Wetco, Inc.*, Op. No. 3963, 853 P2d 533 (Alaska 1993).

A "proceeding" occurs for purposes of this rule when step is taken by either party which reflects that suit is not stagnant. *Novak v. Orca Oil Co., Inc.*, Op. No. 4091, 875 P2d 756 (Alaska 1994).

Plaintiff's motion to disqualify defendant's attorney was proceeding within meaning of this rule that prevented dismissal of defendant's counterclaim, notwithstanding trial judge's ruling that proceeding did not relate to counterclaim. *Novak v. Orca Oil Co., Inc.*, Op. No. 4091, 875 P2d 756 (Alaska 1994).

**Rule 42. Consolidation—Separate Trials—Change of Judge.**

(a) **Consolidation.** When actions involving a common question of law or fact are pending before the court, it may order a joint hearing or trial of any or all the matters in issue in the actions; it may order all the actions consolidated; and it may make such orders concerning proceedings therein as may tend to avoid unnecessary costs or delay.

A motion requesting consolidation shall be filed in the court where the case is sought to be consolidated. The motion shall contain the name of every case sought to be consolidated. A notice of filing together with a copy of the motion shall be filed in all courts and served on all parties who would be affected by consolidation.

(b) **Separate Trials.** The court, in furtherance of convenience or to avoid prejudice, or when separate trials will be conducive to expedition and economy, may order a separate trial of any claim, cross-claim, counterclaim, or third-party claim, or of any separate issue or of any number of claims, cross-claims, counterclaims, third-party claims, or issues, always preserving inviolate the right of trial by jury as declared by the Alaska Constitution and Statutes of Alaska.

(c) **Change of Judge as a Matter of Right.** In all courts of the state, a judge or master may be peremptorily challenged as follows:

(1) **Nature of Proceedings.** In an action pending in the Superior or District Courts, each side is entitled as a matter of right to a change of one judge and of one master. Two or more parties aligned on the same side of an action, whether or not consolidated, shall be treated as one side for purposes of the right to a change of judge, but the presiding judge may allow an additional change of judge to a party whose interests in the action are hostile or adverse to the interests of another party on the same side. A party wishing to exercise the right to change of judge shall file a pleading entitled "Notice of Change of Judge." The notice may be signed by an attorney, it shall state the name of the judge to be changed, and it shall neither specify grounds nor be accompanied by an affidavit.

(2) **Filing and Service.** The notice of change of judge shall be filed and copies served on the parties in accordance with Rule 5, Alaska Rules of Civil Procedure.

(3) **Timeliness.** Failure to file a timely notice precludes change of judge as a matter of right. Notice of change of judge is timely if filed before the commencement of trial and within five days after notice that the case has been assigned to a specific judge. Where a party has been served or enters an action after the case has been assigned to a specific judge, a notice of change of judge shall also be

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to determine a reasonable award of attorney's fees. *Carr-Gottstein Properties*, Op. No. 4230, 899 P2d 136 (Alaska 1995).

A superior court acting as an intermediate court of appeal from a decision of an administrative agency has broad discretion to award attorney's fees under this rule. *Brodigan v. Alaska Department of Revenue*, Op. No. 4234, 900 P2d 728 (Alaska 1995).

Superior court did not abuse its discretion in awarding \$700 of attorney's fees to the State, approximately 20% of the fees it actually incurred, despite appellants' claims that it was not clear that the State was the prevailing party and that they were public interest litigants. *Brodigan v. Alaska Department of Revenue*, Op. No. 4234, 900 P2d 728 (Alaska 1995).

This rule governs awarding attorney's fees in superior court or an appeal from an administrative decision. The award of these fees is committed to the discretion of the superior court and will not be overturned absent an abuse of discretion. The superior court need not explain its basis for awarding fees; it must only explain denials. *North Slope Borough v. Barraza*, Op. No. 4285, 906 P2d 1377 (Alaska 1995).

Superior court's use of the factor of "measure of success" in awarding attorney's fees in an administrative appeal did not on its face constitute an abuse of discretion. *North Slope Borough v. Barraza*, Op. No. 4285, 906 P2d 1377 (Alaska 1995).

Action of judge of trial court was unnecessary to obtain writ of execution from clerk of trial clerk on supreme court's award of appellate costs and fees. *Barber v. Barber*, Op. No. 4345, 915 P2d 1204 (Alaska 1996).

Fact that prevailing government entity litigated through in-house counsel did not preclude award of attorney's fees. *Agen v. State*, CSED, Op. No. 4874, 945 P2d 1215 (Alaska 1997).

It was error for superior court acting as intermediate appellate court to award fees under Civil Rule 82 rather than under this rule, thus remand was required for recalculation in accordance with this rule. *Agen v. State*, Op. No. 4874, 945 P2d 1215 (Alaska 1997).

In federal diversity cases, Federal Rule of Appellate Procedure 38 preempts this rule. *Hinde v. Provident Life and Acc. Ins. Co.*, 112 F3d 412 (9th Cir. 1997).

**Rule 509. Interest.**

If a judgment for money in a civil case is affirmed, interest at the rate prescribed by law shall be payable from the effective date of the judgment of the trial court. If in a civil case a judgment is modified or reversed with directions that a judgment for money be issued by the trial court, interest on the new judgment at the rate prescribed by law shall be payable from the effective date of the prior judgment which was modified or reversed.

(SCO 439 effective November 15, 1980; amended by SCO 509 effective July 1, 1982)

**Rule 510. Monetary Sanctions.**

(a) **When Appeal Brought for Delay.** Where an appeal or petition for review shall delay the proceed-

ings in the trial court or the enforcement of the judgment or order of the trial court, and shall appear to have been filed merely for delay, monetary sanctions may be awarded in addition to interest, costs and attorney's fees.

(b) **Infraction of Rules.** For any infraction of these rules, the appellate court may withhold or assess costs or attorney's fees as the circumstances of the case and discouragement of like conduct in the future may require; and such costs and attorney's fees may be imposed upon offending attorneys or parties.

(c) **Fines.** In addition to its authority under (a) and (b) of this rule and its power to punish for contempt, the appellate court may, after reasonable notice and an opportunity to show cause to the contrary, and after hearing by the court, if requested, impose a fine not to exceed \$500 against any attorney who practices before it for failure to comply with these rules or any other rules promulgated by the Supreme Court.

(SCO 439 effective November 15, 1980; amended by SCO 476 effective August 17, 1981)

**Annotations**

**Cases**

For specific misconduct on the part of either party, actual costs and fees may be awarded under this rule. *Kenai Peninsula Bor. v. Cook Inlet Reg.*, Op. No. 3671, 807 P2d 487 (Alaska 1991).

There would have been an impermissible double recovery of attorney's fees if both the award of sanctions and the award of attorney's fees had been allowed to stand. *Kenai Peninsula Bor. v. Cook Inlet Reg.*, Op. No. 3671, 807 P2d 487 (Alaska 1991).

Order denying appellant's fifth request for extension of time to file opening brief and dismissing her appeal was vacated, but appellant's attorney was ordered to pay \$500 fine for dedication and to pay appellee's reasonable fees and costs in opposing motion for extension. *Brown v. Brown*, Order No. 28, 854 P2d 732 (Alaska 1993).

Instead of merely referring to a party's "dilatatory conduct" in reducing an award of attorney's fees, the superior court should have specified the particular conduct which might have supported a finding that an infraction of the rules had occurred. *North Slope Borough v. Barraza*, Op. No. 4285, 906 P2d 1377 (Alaska 1995).

**Rule 511. Dismissal of Causes.**

(a) **Dismissal by Agreement.** Whenever the parties, by their attorneys of record, shall file with the clerk of the appellate court an agreement in writing that an appeal or petition be dismissed, specifying the terms with respect to costs, and shall pay to the clerk any fees that may be due the clerk, the clerk shall enter an order of dismissal without further reference to the court.

**(b) Dismissal by Appellant or Petitioner.**

(1) Whenever an appellant or petitioner in the appellate court, by the appellant's or petitioner's attorney of record, shall file with the clerk of that court a motion to dismiss a proceeding to which such appellant or petitioner is a party, with proof of service as prescribed by these rules, and shall tender to the clerk any fees and costs that may be due, the adverse party, within seven days after service thereof, may file an objection, after which time the matter shall be determined by the court.

(2) If no objection is filed, the clerk shall enter an order of dismissal without further reference to the court.

(c) **Certification.** An agreement or motion for dismissal filed under (a) or (b) of this rule must include a certification that the settlement information required under AS 09.68.130 and (e) of this rule has been submitted to the Alaska Judicial Council or that the case is exempt from this requirement because it is one of the types listed in (e) or because all causes of action accrued before August 7, 1997.

(d) **Voluntary Dismissal by Criminal Defendant.** A motion or stipulation for the voluntary dismissal of an appeal by a criminal defendant under paragraph (a) or (b) shall not be granted unless the motion or stipulation includes either:

(1) A signed statement by the defendant stating that the defendant understands the consequences of the dismissal and consents to it, or

(2) Explicit certification by counsel for the defendant that counsel has explained the consequences of dismissal to the client and is satisfied that the client understands the consequences of dismissal and consents to it.

(e) [Applicable to causes of action accruing on or after August 7, 1997.] **Settlement Information.** If a dismissal under (a) or (b) of this rule is the result of a compromise or other settlement between the parties, the parties shall submit to the Alaska Judicial Council the information required under AS 09.68.130. The following types of cases are exempt from this requirement:

(1) divorce and dissolution;

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

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

(4) domestic violence protective orders under AS 18.66.100 — 18.66.180;

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

(6) small claims under AS 22.15.040.

(f) **Mandate Not Required.** No mandate shall issue on a dismissal under this rule or Rule 511.5 without an order of the court. However, the clerk shall notify the court whose judgment was appealed.

(SCO 439 effective November 15, 1980; amended by SCO 510 effective August 30, 1982; by SCO 724 effective December 15, 1986; by SCO 1153 effective July 15, 1994; by SCO 1283 effective September 2, 1997; and by SCO 1301 effective January 15, 1998)

**Annotations****Cases**

Where appellee fails to move to dismiss an appeal from a ruling which is not appealable under these rules and the points raised are briefed as they would have been had a petition for review been sought, the supreme court is entitled to pass on the merits of the controversy *Stokes v. Van Seventer*, Op. No. 18, 355 P2d 594 (Alaska 1960).

An order of dismissal by the supreme court is not in itself a mandate. *Singletary v. State*, Op. No. 1711, 583 P2d 847 (Alaska 1978).

**Rule 511.5. Dismissal for Failure to Prosecute.**

(a) If an appellant or an appellant's counsel fails to comply with these rules, the clerk shall notify the appellant and the appellant's counsel in writing that the appeal will be dismissed for want of prosecution unless the appellant remedies the default within 14 days after the date of notification, time to be computed in accordance with Rule 502 (c). If the appellant fails to comply within the 14-day period, the clerk shall issue an order dismissing the appeal for want of prosecution. In no case, except by order of the court on a motion to reinstate the appeal, shall the appellant be entitled to remedy the default after the appeal has been dismissed under this rule.

(b) The dismissal of an appeal under subsection (a) shall not limit the authority of the court to impose monetary sanctions under Rule 510.

(c) The court may, upon motion of a party or its own motion, dismiss an appeal for failure to comply with these rules, whether or not prior notice of default has been given.

(SCO 510 effective August 30, 1982; amended by SCO 1153 effective July 15, 1994)

**Annotations****Cases**

Appellant was not entitled to a fourteen-day grace period in which to file her opening brief after failing to file a brief for eighteen months. *Cowitz v. Alaska Workers' Compensation Board*, Op. No. 3078, 721 P2d 635 (Alaska 1986).

Trial court did not abuse its discretion in dismissing appeal for want of prosecution where court notified appellant that appeal would be dismissed if she did not transmit record and she did not do so. *Geczy v. State, Dept. of Natural Resources*, Op. No. 4409, 924 P2d 103 (Alaska 1996).

# ALASKA STATE LEGISLATURE

SPEAKER OF THE HOUSE BRIAN PORTER

## SPONSOR STATEMENT – HOUSE BILL 9

One section of the Tort Reform legislation enacted into law two sessions ago requires the collection of settlement and other data in certain categories of civil litigation cases. These provisions appear in AS 09.68.130.

It has become apparent since the enactment of tort reform legislation that five minor housekeeping amendments are needed. The first makes mandatory the reporting of data by attorneys and persons representing themselves. Apparently, some individuals interpret the data collection provisions of the tort Reform Law to be optional. This amendment clarifies the mandatory nature of these reporting requirements in order to ensure that accurate statistics will be compiled. Information must be submitted within 30 days after the settlement or final resolution of all covered cases.

Second, the Alaska Judicial Council has recommended that certain non-tort cases be added to the types of cases already excluded from the reporting requirements. The tort Reform Law excluded divorce and other categories of cases from reporting requirements. The amendment, offered in Section 1 of House Bill 9, adds several categories of cases that should also be excluded.

Third, the bill clarifies that the reporting requirements arise only after final appeals as to cases that are fully litigated. Should any one of multiple plaintiffs, defendants or third party defendants settle out of litigation before its final disposition, the obligation to submit required data arises as of the date the case is fully resolved as it pertains to that party.

Fourth, the bill has the effect of amending two court rules since it limits civil actions found under AS 09.68.130 (a) and specifies who is required to provide settlement information.

Fifth, the effective date as to the collection of settlement and other data is changed to clarify that reporting requirements are applicable to civil litigation cases which are settled or finally adjudicated on or after the bill is signed into law. The reporting requirements are not retroactive to the effective date of the Tort Reform Law.

# ALASKA STATE LEGISLATURE

SPEAKER OF THE HOUSE BRIAN PORTER

## SECTIONAL ANALYSIS – HOUSE BILL 9

**Section 1:** Amends AS 09.68.130 (c), Collection of settlement information. The amendment adds to the list of cases that are excluded from the reporting requirements currently found under this section. The following cases to be added for exclusion are:

- forcible entry and detainer cases
- administrative appeals
- motor vehicle impound or forfeiture actions under municipal ordinance.

**Section 2:** Adds a new subsection (d) to AS 09.68.130. Collection of settlement information. This new subsection states that attorneys and persons representing themselves in all applicable civil cases are under a mandatory duty to furnish settlement and other data to the Alaska Judicial Council within 30 days after the case is settled or finally resolved. The required information is to be submitted on a form specified by the Alaska Judicial Council.

**Section 3:** The provision found under Section 1 of this bill also has the effect of amending Rule 41 (a) (3), Alaska Rules of Civil Procedure, and Rule 511 (e), Alaska Rules of Appellate Procedure, by limiting civil actions subject to AS 09.68.130 (a) and by specifying who is required to provide settlement information.

**Section 4:** This section establishes an effective date as to the reporting requirements for all applicable civil litigation cases which close by way of settlement or other final judicial resolution. The effective date is on or after the date this bill is signed.

**Section 5:** Immediate effective date.

# FISCAL NOTE

STATE OF ALASKA  
1999 LEGISLATIVE SESSION

BILL NO.                      HB 9

Revision Date		Dept. Affected	<u>Alaska Court system</u>
Title	<u>Collection of Settlement Information in Civil Litigation</u>	BRU	<u>Alaska Court system</u>
		Component	<u>Trial Courts</u>
Sponsor	<u>Representative Porter</u>		
Requester	<u>House Judiciary</u>	Component Serial No.	<u>769</u>

**Expenditures/Revenues** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2000	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0

<b>CAPITAL EXPENDITURES</b>						
-----------------------------	--	--	--	--	--	--

<b>CHANGE IN REVENUES ( )</b>						
-------------------------------	--	--	--	--	--	--

**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY99) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

No fiscal impact.

Prepared by: <u>C. S. Christensen III, General Counsel</u>	Phone: <u>264-8228</u>
Agency: <u>Alaska Court System</u>	Date/Time: <u>1/27/99 12:32 PM</u>
Approved by: <u>Stephanie J. Cole, Administrative Director</u>	Date: <u>1/27/99</u>
Agency: <u>Alaska Court System</u>	

**HB**

**28**



REPRESENTATIVE ERIC CROFT

## Sponsor Statement

House Bill 28 would provide additional funding for the Youth Court program. The Youth Court was created in 1988, and has since helped alleviate the Court System's case load. Youth Court has kept at minimum the number of petty juvenile crimes deferred to the Court. Defendants who go through the Youth Court are given community service and fined. The defendant is judged, tried, prosecuted, and defended by members of the Youth Court who have been through training before they are allowed to serve as officers of the Youth Court. Over a three year period, 9 out of 10 Youth Court defendants have not reoffended.

HB 28, would increase the surcharge added to fines for misdemeanors, infraction and violations by adult defendants. The receipts from the surcharge would go into creating a juvenile justice grant fund to provide financial assistance for the operation of youth courts.



HOUSE BILL NO. 28

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE CROFT

Introduced: 1/19/99

Referred: Health, Education and Social Services, Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act imposing a surcharge on fines imposed for misdemeanors, infractions, and  
2 violations and authorizing disposition of estimated receipts from that surcharge;  
3 and creating the juvenile justice grant fund in order to provide financial  
4 assistance for the operation of youth courts."

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

6 \* Section 1. AS 12.25.195(c) is amended to read:

7 (c) Disposition of an offense under (a) of this section may not occur unless the  
8 person cited for the offense pays the surcharges required to be imposed under  
9 [SURCHARGE PRESCRIBED IN] AS 12.55.039 and 12.55.041 in addition to the  
10 scheduled bail or fine amount. The surcharges [SURCHARGE] required to be paid  
11 under this subsection shall be deposited into the general fund and accounted for under  
12 AS 37.05.142.

13 \* Sec. 2. AS 12.25.200(b) is amended to read:

14 (b) A citation issued under AS 12.25.180 must indicate

1 (1) the amount of bail or fine and each [THE] surcharge applicable to  
2 the offense;

3 (2) the procedure a person must follow in responding to the citation;

4 (3) that if the person fails to pay the bail or fine the person must appear  
5 in court;

6 (4) that failure to pay the bail or fine or appear in court for an offense  
7 involving a moving motor vehicle may result in

8 (A) suspension of the person's driver's license, privilege to  
9 drive, or privilege to obtain a license; or

10 (B) attachment of the person's permanent fund dividend to pay  
11 the fine plus court and collection costs under AS 28.05.155; and

12 (5) that the person has a right to

13 (A) a trial;

14 (B) engage counsel;

15 (C) confront and question witnesses;

16 (D) testify; and

17 (E) subpoena witnesses on the person's behalf.

18 \* Sec. 3. AS 12.55 is amended by adding a new section to read:

19 **Sec. 12.55.041. Surcharge for misdemeanors and violations.** (a) In addition  
20 to a fine or other penalty prescribed by law, a defendant who pleads guilty or nolo  
21 contendere to, forfeits bail for, or is convicted of an offense punishable as a  
22 misdemeanor or of an infraction or violation, except the violation of a vehicle or traffic  
23 offense under AS 28, a regulation adopted under AS 28, or a municipal ordinance  
24 under AS 28.01.010, shall be assessed a surcharge of \$25.

25 (b) A court may not fail to impose the surcharge required under this section.  
26 The surcharge may not be waived, deferred, or suspended. A court may allow a  
27 defendant who is unable to pay the surcharge required to be imposed under this section  
28 to perform community work under AS 12.55.055(c) in lieu of the surcharge.

29 (c) The surcharge shall be paid within 10 days of imposition or such shorter  
30 period of time as ordered by the court. Failure to pay the surcharge is punishable as  
31 contempt of court. Proceedings to collect the surcharge may be instituted by the state,

1 by the municipality, or by the court on its own motion.

2 (d) Money collected under this section shall be deposited into the general fund  
3 and accounted for under AS 37.05.142.

4 \* Sec. 4. AS 29.25.074(a) is amended to read:

5 (a) A municipality may not enforce an ordinance for which a fine of \$30 or  
6 more or imprisonment is prescribed as a penalty unless the municipality authorizes the  
7 imposition of and provides for the collection of the surcharges [SURCHARGE]  
8 required to be imposed under AS 12.55.039 and 12.55.041. The surcharges  
9 [SURCHARGE] shall be deposited into the general fund of the state and accounted for  
10 under AS 37.05.142. Subject to appropriation, the legislature may reimburse a  
11 municipality that collects a surcharge required to be imposed under AS 12.55.039 or  
12 12.55.041 for the cost to the municipality in collecting the surcharge and transmitting  
13 the surcharge to the state. The reimbursement may not exceed 10 percent of the  
14 surcharge collected and transmitted to the state.

15 \* Sec. 5. AS 44.47 is amended by adding a new section to read:

16 **Sec. 44.47.201. Juvenile justice grant fund.** (a) There is created in the  
17 department the juvenile justice grant fund. In addition to other appropriations to the  
18 fund, the legislature may appropriate to the fund the annual estimated balance in the  
19 account maintained under AS 37.05.142 for money collected under AS 12.55.041 and  
20 may appropriate from the fund to the department to make grants to youth courts.

21 (b) Nonprofit corporations proposing to establish and operate youth courts  
22 under AS 47.12.400 may apply to the department for a grant under (a) of this section.  
23 A grant under this subsection must be matched on a dollar-for-dollar basis by the  
24 grantee in cash or in kind. The commissioner may waive the match required under  
25 this subsection on a showing satisfactory to the commissioner by the prospective  
26 applicant that matching funds are not available.

27 (c) Grants made under (a) of this section shall be used

28 (1) to defray the costs of organization of youth courts under  
29 AS 47.12.400; the department shall assure that the grant is spent for necessary  
30 organizational assistance and that appropriate accounting procedures are maintained;  
31 grants made under this paragraph may not exceed \$30,000, and only one grant may be

1 made to a grantee under authority of this paragraph; and

2 (2) to defray the costs of operation of youth courts under AS 47.12.400.

3 \* Sec. 6. Notwithstanding the requirements of AS 12.55.041 and AS 37.05.142 that  
4 surcharges collected under AS 12.55.041 be accounted for separately, the Alaska Court System  
5 shall deposit money collected under AS 12.55.041 in the general fund and shall, by February 1  
6 of each year, provide to the Department of Administration, to the Legislative Budget and  
7 Audit Committee, and to each house of the legislature an estimate of the money collected  
8 under AS 12.55.041 for that fiscal year.

9 \* Sec. 7. Section 6 of this Act is repealed on the earlier of (1) the date that the Alaska  
10 Court System has the capability to separately track and account electronically for money  
11 collected under AS 12.55.041, or (2) June 30, 2002. The executive director of the Alaska  
12 Court System shall notify the lieutenant governor and the revisor of statutes when the  
13 electronic capability described in this section has been obtained.

§ 1  
4/21  
AMENDMENT

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: HB 28

- 1 Page 2, line 24:
- 2 Delete "\$25"
- 3 Insert "\$10"

# LEGAL SERVICES

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

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

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

## MEMORANDUM

March 16, 1999

**SUBJECT:** Sectional Summary of HB 28. (Work Order No. 21-LS0212\A)

**TO:** Representative Eric Croft  
Attn: Kate

**FROM:** Gerald P. Luckhaupt *GPL*  
Legislative Counsel

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

**Section 1.** Amends AS 12.25.195(c) to conform the requirements of that section to the new surcharge being added under sec. 3 of the bill.

**Section 2.** Amends AS 12.25.200(b) to make a conforming change for sec. 3 of the bill.

**Section 3.** Creates a new surcharge of \$25 to be assessed against persons committing misdemeanors, infractions, or violations, except vehicle and traffic offenses.

**Section 4.** Makes conforming amendments to AS 29.25.074(a) occasioned by the creation of the surcharge under sec. 3.

**Section 5.** Creates the juvenile justice grant fund and provides non-binding direction that the legislature may appropriate the surcharges collected under sec. 3 to the fund and may appropriate from the fund to the Department of Community and Regional Affairs to make grants for youth courts; requires nonprofit corporations that apply for youth court grants to match the grant funds unless the Commissioner of Community and Regional Affairs waives the matching requirement; restricts the uses of youth court grants.

**Sections 6 and 7.** Allows the Alaska Court System to estimate the amount of money collected under sec. 3 of the bill until the court system's new computer system is on-line.

GPL:glc  
99-101.glc

A M E N D M E N T

OFFERED IN THE HOUSE

BY REPRESENTATIVE CROFT

TO: HB 28

- 1 Page 2, line 24:
- 2 Delete "\$25"
- 3 Insert "\$10"

### Anchorage Youth Court Model Qualities for Effectiveness

- 1) The Anchorage Youth Court model is readily replicated, and allows for the needs of different communities.
- 2) Any Anchorage student in grades 7 - 12 is eligible to register for Anchorage Youth Court classes, including former defendants. Annual membership is approximately 350 students.
- 3) Local attorneys, who volunteer their time, teach an eight week basic law course. Students must pass a rigorous Youth Court bar exam, and a State of Alaska judge swears them into the Youth Court Bar Association in the Alaska State Supreme Courtroom.
- 4) A Youth Court bar association patterned after the adult bar association provides continuing legal education, and a framework to accomplish Youth Court office and court operation. Students who attend two of every three monthly meetings, actively participate in court and AYC Bar Association activities may remain active through their senior year with no further class training.
- 5) Youth Court is a youth and adult partnership, with students comprising 50% of the Board of Directors.
- 6) Adults in the community entrust students with great responsibility, and provide monetary, volunteer, and technical support.
- 7) The court is modeled as closely as possible after the adult criminal court.
- 8) Defendants enter Youth Court voluntarily with parental consent, and may voluntarily withdraw from Youth Court.
- 9) Defendants may enter Youth Court only once.
- 10) Misdemeanors, minor felonies and repeat offenders are accepted, if appropriate for Youth Court, thus relieving the court system of a portion of its case load.
- 11) Youth Court retains right of refusal for any case in which its youth and adult screeners feel the defendant may pose a danger to himself or the community.
- 12) Juveniles may plead not guilty, no contest or guilty.
- 13) All no contest or guilty plea cases will be arraigned and sentenced within an average of 10 days from referral, unless the defendant has extenuating circumstances.
- 14) Three trained youth judges hear and sentence each case in the Alaska State Courthouse.
- 15) Mitigators and aggravators are considered in sentencing.
- 16) Cases are confidential, as required by State of Alaska law.
- 17) No adult may speak on the court floor, but an adult attorney volunteer is present at all court hearings to advise judges or attorneys, if needed. Adults may apply to volunteer as recording clerks or to type charging documents.
- 18) Youth Court serves subpoenas issued through the Alaska State Division of Family and Youth Services Commissioner.
- 19) Defendants must complete their sentence within 4 to 6 weeks, unless the restitution amount is so large it cannot be earned in that time.
- 20) Immediately after arraignment defendants, with their parents, receive the community restitution service assignment, learn when and where the defendant will attend the education programs, and all other expectations, so s/he can begin sentence completion immediately.
- 21) Each sentence includes an essay with required topics: 1) the defendant's responsibility for the offense; 2) everyone s/he hurt and how this affected them; 3) what s/he will do if such a situation arises again; and 4) what s/he plans to do to be a better citizen. Also included is community restitution service, and one or more appropriate educational programs. Monetary restitution is ordered, when warranted.
- 22) All service fees and restitution must be earned by the defendant him/herself. A portion of the Youth Court service fee may be worked off in the Youth Court office.
- 23) Defendants are closely monitored while completing their sentences.
- 24) When no appropriate education program exists, Anchorage Youth Court initiates program development by appropriate organizations or agencies.
- 25) Youth Court serves non profit organizations in the community through defendant community restitution service and member volunteer activities.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
POOR  
ORIGINAL  
COPIES

# ANCHORAGE YOUTH COURT

## \$388/CASE: A BARGAIN

Each case at AYC costs \$388. AYC hears an average of 500 cases per year. Should a defendant elect to have his case heard at AYC, the following occurs;

### DEFENDANT

- within 11 days, he stands in a formal courtroom to hear the charges against him, as if he were an adult
- earns and pays the \$50 AYC court fee
- if found guilty:
  - (1) repays the victim restitution and repays the community by working 8 - 250 unpaid hours
  - (2) earns, pays for and attends anti-shoplifting, drug and alcohol, weapon/fire safety and/or anger management classes
  - (3) may attend an adult arraignment, tour Cook Inlet Pre-Trial Facility, write an essay or letter of apology
- Is invited to take AYC training and join AYC

**Result: 89% WHO COMPLETE AYC DO NOT REOFFEND**

### ANCHORAGE YOUTH COURT MEMBERS (350 Annually)

- participate in trial or hearings as judges, prosecutors, and defense attorneys, rendering real decisions, and thereby learning to understand, appreciate and respect the legal system
- gain speaking, advocacy and team building skills
- run a bar association, a court and a non-profit corporation
- learn respect for each other, the law and community expectations
- appreciate the need for and the personal satisfaction that comes from serving one's community

### COMMUNITY

- savings of approximately \$40,000 per defendant who does not reoffend and reside at McLaughlin for 1 year
- Average of \$9,000 paid annually to compensate victims of juvenile crime
- Average of 9,600 hours of community service annually from AYC defendants
- 30,000 hours of community service annually from AYC members
- 7,000 hours of community service annually, worth over \$300,000 in goods and services from AYC adult volunteers and supporters
- 125 - 150 Anchorage secondary students trained annually to understand and participate in the community and its legal system
- adult and young people working together to serve their community in support of law abiding behavior
- recognition as leading Alaska and the Nation with a model for successful juvenile crime intervention - Anchorage will host the National Youth Court Conference in May 1999

### Anchorage Youth Court Donation

*Please Support Anchorage Youth Court Making a Difference to reduce juvenile crime*



Donor's Name \_\_\_\_\_

Mailing Address \_\_\_\_\_

Donation:  \$100  \$50  \$10  Other: \_\_\_\_\_

If your employer donates matching funds, please consider Anchorage Youth Court for this opportunity. Complete and return this donation slip with your check to Anchorage Youth Court, P.O. Box 102735, Anchorage, AK 99510

Anchorage Youth Court Nonprofit  
501(c)3 Tax ID# 92-012-9615

Date: 1/21/99	Page: 3	Anchorage Youth Court
To: K.L.C.		From: Shavon Lee
Co: Dept of HS & J		
File # 465-4998		Phone #: (907) 274-5800
Fax # 465-4114		Fax #: (907) 274-1141

### ANCHORAGE YOUTH COURT HISTORY

OR MATT NEIL

The idea for Anchorage Youth Court, incorporated as a 501(c)3 non profit in 1989, actually began when Blythe Marston, a local attorney, shared information she had gathered about the Ithaca Youth Court in New York while attending law school at Cornell University. Upon returning to Anchorage and joining the Young Lawyers Section of the Anchorage Bar Association, she and others organized a town meeting to explore development of a local youth court.

The Young Lawyers invited possible supporters from the Anchorage Police Department, the Court, Juvenile Intake, the Anchorage School District, the Anchorage Bar Association, students and parents to the first town meeting. In 1988 a group of dedicated students worked with attorneys and other adult volunteers to create and develop the Anchorage Youth Court model. With community involvement, in-kind donations and \$1,700 from the Anchorage Bar Association, that concept became a new program, which won a national award from the American Bar Association in 1989. Anchorage Youth Court would provide youth with legal education to appreciate the law and with juvenile diversion by including formal legal training, a youth court bar association, and a ~~where youth completely by youth in grades 7 through 12~~ Juvenile Intake would refer cases in were not considered a threat to themselves or society. Adults would participate in advisory capacity.

AYC received its first juvenile criminal cases in March, 1989, after almost 100 Anchorage area youth received training and were sworn-in as Youth Court attorneys and judges. Between 1989 and 1995 the student volunteers adjudicated between 18 and 20 cases annually. Assisted by a coordinator, who worked part time, an attorney who volunteered as primary legal advisor, volunteer attorneys and a budget of up to \$50,000 annually, the defendant recidivism rate was under 5%, according to Juvenile Intake. During this period, Anchorage Youth Court earned two national awards from the American Bar Association and Information America.

However, during this time juvenile crime in Anchorage rose, concerning the public. The Anchorage Assembly began organizing an effort to reduce local juvenile crime. Assembly members also became aware of Anchorage Youth Court's effectiveness, low operating cost and large volunteer base, which had grown to over 250 students annually. Thus, AYC became an active partner, working with others to plan and implement the Making a Difference Program. This pilot project would hold more youth accountable for breaking the law and would reduce the time between arrest and intervention, enabling youth to relate their actions to consequences. Anchorage Youth Court student members reorganized Youth Court to arraign and sentence up to 25 defendants, pleading no contest at Juvenile Intake, weekly. Anchorage Youth Court would, however, continue to accept cases in which the defendant pleads not guilty. These cases receive a judge or jury trial.

1997 figures

By late 1995 referral of cases increased incrementally to 40, testing the new structure. In 1996, Anchorage Youth Court student volunteer membership increased to 350. Juvenile Intake referred 382 cases during 1996, and 515 cases in 1997. Over the two year period, defendants earned and paid victims over \$20,000, and worked over 19,000 hours to repay the community for breaking its laws. Although Anchorage Youth Court now accepts cases in which the defendant may have a previous arrest record, more than 86% of those, who completed their Youth Court obligation over the two year period, have not reoffended. Over 94% of the defendants referred in 1997, have not reoffended. At a cost of \$489 per defendant, \$50 of which is paid by the defendant, and with only 1% of its members arrested for breaking the law, Anchorage Youth Court continues to provide Anchorage youth with low cost legal education, diversion and intervention. As a result, the Office of Juvenile Justice Delinquency Prevention recognized Anchorage Youth Court as a National Promising Program for Juvenile Delinquency Prevention.

1998 Total cases referred 440  
89% over the three yr period haven't reoffended

# MEMORANDUM


# State of Alaska

TO: Representative Eric Croft  
Alaska State Legislature  
State Capitol  
Juneau, AK 99801-1182

DATE: February 22, 1999

FILE NO:

TELEPHONE NO: 465-4378

FROM: Laddie Shaw, Director   
Alaska Police Standards  
P.O. Box 111200  
Juneau, AK 99811-1200

SUBJECT: HB 28

Per your request, these are the numbers I have gathered for a \$5 and \$10 estimates relating to the surcharge collections of HB 28.

Actual collections of fines have historically been in the 50 - 60% range of all citations issued.

Estimated from 1996/1997 dispositions + or -:

17,000 misdemeanor conviction's and 25,000 infraction collections:  
42,000 total estimated collections

@ \$5 = \$ 210,000.00

@ \$10 = \$ 420,000.00

Again as I had mentioned to you, APSC has a graduated collection on our surcharge from \$100 on felony's to \$10 on infractions.

With the crackdown by the Anchorage Police Department on individuals who have not historically paid tickets (40% + or -) we may see a dramatic jump in fine collection's in 1999, and in turn surcharge collection's.

APSC estimates 70% of collection's to come from misdemeanor and infraction violations.

## Anchorage Youth Court Statistics: 1998

The following data has been compiled by the Youth Restitution Program for the Anchorage Youth Court. All statistics were collected from January 1, 1998 until December 31, 1998. Referrals came exclusively from the McLaughlin Youth Center Juvenile Intake Unit.

This report will be divided into three primary sections. The first section examines various program results up to this time. An analysis of monetary restitution, hours of community restitution service worked, recidivism rates, as well as tracking completion within the program are some of the highlights within this section.

The second section of this report will focus on the demographic patterns of the defendants, such as where the defendant goes to school (area of residence), ages, ethnic background, and educational level. It is hoped that over time this may give us some insight into the make up of youthful offenders who commit offenses.

A primary goal of the Making a Difference Program is its ability to carry out a just sentence in a timely manner. To assess this goal, the third section of the report will analyze the functioning of the system from arrest to completion of program. By looking at month by month data we will be able to see what progress is being made in the area of timely intervention, delivery of services, and any areas in the system which can be improved.

### Section One: Completion Statistics

The Anchorage Youth Court received 440 referrals from Juvenile Intake during Calendar Year 1998. This represents a 14% decrease in referrals over Calendar Year 1997. The breakdown of these referrals is as follows:

Cases Completing Program	255 (58.0%)
Cases Not Completed	126 (28.6%)
a) Lack of effort	58
b) Recalled by Intake	20
c) No Show	13
d) Moved/Runaway	10
e) No contact after hearing	10
f) Inappropriate behavior	7
g) Chose MYC	3
h) Threatening behavior	2
i) Been to AYC previously	1
j) Possible gang involvement	1
k) No evidence to prosecute	1
Cases pending outcome	52 (11.8%)
Not accepted	7 ( 1.6%)

Of those cases which came to AYC and had the opportunity to work the program (363 cases), 255 have completed. This works out to approximately 70.25%. This number does not include those cases pending. Upon completion of all 1998 cases, an addendum will be added to the report.

The defendants of the Anchorage Youth Court are often sentenced to perform community restitution service and/ or pay monetary restitution to the victim. At this time 1998 AYC defendants have paid back \$5,083.23 (this does not include civil fines or program fees). In addition, 8851.3 hours have been paid back to the community by working at various non-profit, community centered sites. These numbers do not yet reflect the contribution of those 52 cases pending which are still working their sentence off. Only those who have successfully completed the program and those who have been returned to Juvenile Intake have been counted.

In the three years since the Making a Difference Program has been in existence, the Anchorage Youth Court has collected \$23,444.38 for victims and worked over 27,918.3 hours in Anchorage, Eagle River and Girdwood.

One of the goals of the Anchorage Youth Court is to significantly reduce the number of juvenile offenders who reoffend after completing the program. In October of 1998 a three year study was done on recidivism. The numbers indicate that for the students who completed the AYC program since their original crimes beginning in 1996 over 89.9% have not reoffended. Another recidivism check will be done in July of 1999.

## Section Two: Defendant Demographics

The second portion of this report will focus on the defendants and their collective make up. Varying aspects of AYC defendants have been examined and a number of statistics have been compiled.

<u>Age</u>	<u>N</u>	<u>Percentage</u>
under 12	0	0.00
12	22	5.00
13	61	13.86
14	83	18.86
15	104	23.64
16	79	17.95
17	91	20.68
18	0	0.00
unknown	0	0.00

Overall, the average age of an AYC defendant is 14.98 years.

<u>Grade</u>	<u>N</u>	<u>Percentage</u>
under 6	0	0.00
6	9	2.05
7	48	10.91
8	73	16.59
9	97	22.04
10	63	14.32
11	87	19.77
12	42	9.55
GED	0	0.00
Graduated	2	0.45
Unknown	19	4.32

The average AYC defendant has completed 9.40 grades.

In 1998, AYC defendants have been referred for the following charges:

<u>Charge</u>	<u>N</u>	<u>Percentage</u>
Theft 3	162	30.9
Theft 4	128	24.4
Drug Possession 4	46	8.8
Criminal Mischief 3	30	5.7
Drug Possession 6	23	4.4
Assault 4	21	4.0
Theft 2	21	4.0
Criminal Mischief 2	20	3.8
Vehicle Theft 1	9	1.7
Burglary 1	6	1.1
Burglary 2	6	1.1
Criminal Mischief 4	6	1.1
Resisting Arrest	6	1.1
Criminal Trespass 2	5	1.0
Assault 3	4	0.8
Criminally Negligent Burning	4	0.8
Vehicle Tampering	4	0.8
False Information	3	0.6
Weapons Possession 5	3	0.6
Drug Possession 5	2	0.4
Forgery 2	2	0.4
Forgery 3	2	0.4
Possession Burglary Tools	2	0.4
Weapons Possession 4	2	0.4
Discharge of Firearms	1	0.2
Disorderly Conduct	1	0.2
Eluding	1	0.2
Reckless Endangerment	1	0.2
Tampering with Evidence	1	0.2
Theft of Services	1	0.2
Weapons Possession 3	1	0.2

The school of each defendant was also tabulated. The final, formal program report for this project will categorize zip codes of residence, but for easy recognition the school will be used at this time.

<u>School</u>	<u>N</u>	<u>Percentage</u>
Dimond	54	12.27
Bartlett	51	11.59
Service	45	10.23
East	43	9.77
West	33	7.50
Chugiak	31	7.05
Clark	20	4.55
Wendler	19	4.32
Hanshew	15	3.41
Romig	14	3.18
Not in School	12	2.73
Homeschool	12	2.73
SAVE	9	2.05
Benny Benson	8	1.82
Elementary Schools	8	1.82
Gruening	8	1.82
Mears	8	1.82
Goldenview	6	1.36
Walden Pond	5	1.14
Adult Learning Center	4	0.91
Anchorage Christian	4	0.91
Mirror Lake	4	0.91
Steller	4	0.91
Central	3	0.68
Polaris	3	0.68
Whaley	3	0.68
Denali	2	0.45
Graduated	2	0.45
Jesse Lee	2	0.45
Unknown	2	0.45
Anchorage Jr. Academy	1	0.23
Grace Christian	1	0.23
King Career Center	1	0.23
Lumen Christi	1	0.23
North Anchorage Christian	1	0.23
Truevine	1	0.23

The breakdown of the defendants' ethnic backgrounds are as follows:

<u>Ethnic Group</u>	<u>N</u>	<u>Percentage</u>
Caucasian	280	63.64
African American	45	10.23
Asian/Pacific Islander	34	7.73
Multimacial	31	7.05
AK Native	28	6.36
Hispanic	17	3.86
American Indian	5	1.14

#### Previous Criminal History

The defendants who were first time offenders numbered 326 (74.09%)

The defendants who have previous charges on record numbered 114 (25.91%)

a) one previous charge	90
b) two previous charges	18
c) three previous charges	4
d) more than three prev. charges	2

In assessing the gender make up of AYC defendants, it was found that 271 are male and 169 are female. The exact numbers and percentages are listed.

<u>Gender</u>	<u>N</u>	<u>Percentage</u>
Male	271	61.59
Female	169	38.41

### Section Three: Program Performance

The final section examines AYC's delivery of service and program performance. It is essential that AYC and Juvenile Intake work together to insure a rapid completion of sentence, which in turn allows the defendant to connect the action and the social response. The following numbers reflect the direction that the program is moving towards attaining this goal. Also, the numbers in this section reflect only those cases referred directly to AYC.

An original goal of AYC and the Making a Difference Program was for defendants to attend an arraignment (and sentencing hearing if "guilty" or "no contest" plea) within 10 days of referral. On a month by month basis, the goal of a 10 day or less hearing was measured as follows:

<u>Month</u>	<u>Performance</u>	<u>Percentage</u>
January	met goal 24 out of 25 cases	96.00
February	met goal 36 out of 39 cases	92.31
March	met goal 27 out of 38 cases	71.05
April	met goal 33 out of 33 cases	100.00
May	met goal 38 out of 42 cases	90.48
June	met goal 27 out of 32 cases	84.38
July	met goal 16 out of 19 cases	84.21
August	met goal 42 out of 44 cases	95.45
September	met goal 44 out of 56 cases	78.57
October	met goal 17 out of 19 cases	89.47
November	met goal 21 out of 21 cases	100.00
December	met goal 2 out of 31 cases	6.45
Total	met goal 327 out of 399 cases	81.95

AYC's poorest performance months of March and December were anticipated due to school vacation/ court recess.

Finally, in assessing the speed of completion (from arrest to referral to completion), the following table has been constructed:

<u>Month</u>	<u>Arr. to Ref.</u>	<u>Ref. to Hear</u>	<u>Hear. to Close</u>	<u>Total</u>
January	14.89 days	9.40 days	38.81 days	63.10 days
February	10.80	10.18	38.18	59.16
March	11.76	10.76	42.95	65.47
April	14.03	9.09	46.63	69.75
May	16.51	9.98	45.36	71.85
June	12.61	11.53	42.13	66.27
July	15.13	10.32	40.95	66.40
August	17.26	8.91	53.68	79.85
September	16.78	9.43	50.74	76.95
October	23.37	10.21	43.71	77.29
November	26.83	8.76	No Signif. Data	NSD
December	33.76	18.13	NSD	NSD
Totals	17.13	10.49	45.00	72.62

## Summary

In analyzing the data, it appears that the Anchorage Youth Court is effective not only in the short term, but also over a considerable length of time. Recidivism for defendants that have committed their offense up to 36 months ago is maintaining itself at the 10-11% mark. The recidivism rate is approximately 2% less than the previous recidivism check results. A note of interest is Juvenile Intake's recent use of AYC a middle level intervention. Should this trend continue, results may deviate from the norm due to a more deeply ingrained behavioral pattern and the average defendant being older than previous defendants.

Regarding AYC's delivery of services, outcomes have been extremely encouraging. Despite having Juvenile Intake rehire two Making a Difference slots and both AYC and Juvenile Intake moving, the overall numbers remain similar to previous numbers. It is expected that as all positions are filled and agencies acclimate to new environments, the total numbers will increase. Also, the community restitution site network has held despite the growth in numbers: there is virtually no change in length of time spent in the system.

AYC continues to expand its statistical information by tracking new categories pertaining to parental involvement and frequency of crimes at varying businesses. In addition, the Making a Difference Program is continuing to fine tune procedures to insure that the efficient flow of cases continues uninterrupted. It is fair to say that the initial pilot program has yielded positive results and is extremely encouraging. The Youth Restitution Center will continue to collect data in order to monitor changes in trends as well as long term recidivism.

**Juvenile Arrests January - August 1996 to 1995  
DECREASES IN ARRESTS DURING CURFEW HOURS**

Charge	During Curfew	Non-Curfew Hours	Overall
Robbery	57% ↓	14% ↑	3% ↓
Assaults	68% ↓	13% ↑	4% ↑
Burglary	86% ↓	40% ↑	9% ↑
Thefts	58% ↓	17% ↑	13% ↑
Vandalism	14% ↓	12% ↑	8% ↑
Auto Theft	50% ↓	62% ↓	61% ↓
DWI	25% ↓	500% ↑	100% ↑
Other Alcohol Offenses	73% ↓	83% ↓	80% ↓
Disorderly Conduct	40% ↓	16% ↓	21% ↓
Trespass	38% ↓	10% ↑	5% ↑
Reckless Driving	100% ↓	25% ↓	37% ↓
Fleeing or Eluding	100% ↓	80% ↓	85% ↓
Fail to Appear Warrants	32% ↓	12% ↓	18% ↓
<b>Total Juvenile Arrests</b>	<b>32% ↓</b>	<b>6% ↑</b>	<b>2% ↑</b>

**INCREASES IN ARRESTS DURING CURFEW HOURS**

Charge	During Curfew	Non-Curfew Hours	Overall
Sexual Assault	200% ↑ (2 vs. 0 last year)	67% ↓	44% ↓
Weapons Offenses	20% ↑	4% ↑	6% ↑
Drug Offenses	150% ↑	7% ↑	11% ↑
Reckless Endangerment	500% ↑	61% ↓	33% ↓
Suspended/Revoked Lic.	67% ↑	300% ↑	167% ↑
Parole Violation	300% ↑	100% ↑	120% ↑
Resisting/Interfering	50% ↑	24% ↓	15% ↓
Providing False Info	50% ↑	83% ↑	77% ↑

**CURFEW** 56500% ↑ (1132 vs. 2 last year)

Please refer to the attached arrest category detail report for more information on actual numbers of arrests.

Date 4/20	# pgs 7	Anchorage Youth Court
To: Kate		From: Sharon
Co:		
Pl#		Phone #: (907) 274-5966
Fax: 405-4419		Fax #: (907) 272-0491

ANCHORAGE POLICE DEPARTMENT									
Comparison of Juvenile Arrests JAN. - AUG. 1996 to Same Period in 1995									
CHARGE DESCRIPTION	DURING CURFEW HOURS			DURING NON-CURFEW HOURS			OVERALL		
	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.
MANSLAUGHTER	0	0	0%	1	0	-100%	1	0	-100%
1ST DEGREE SEXUAL ASSAULT	0	2	200%	2	2	0%	2	4	100%
2ND DEGREE SEXUAL ASSAULT	0	0	0%	7	1	-86%	7	1	-86%
SEXUAL ASSAULTS - ALL	0	2	200%	9	3	-67%	9	5	-44%
1ST DEGREE ROBBERY	4	3	-25%	10	8	-20%	14	11	-21%
2ND DEGREE ROBBERY	3	0	-100%	12	17	42%	15	17	13%
ROBBERIES - ALL	7	3	-57%	22	25	14%	29	28	-3%
1ST DEGREE ASSAULT	2	2	0%	0	3	300%	2	5	150%
2ND DEGREE ASSAULT	0	1	100%	6	6	100%	6	7	17%
3RD DEGREE ASSAULT	6	1	-83%	42	36	-14%	48	37	-23%
4TH DEGREE ASSAULT	4	0	-100%	37	42	14%	41	42	2%
ASSAULT & BATTERY	16	5	-69%	134	161	20%	150	166	11%
ASSAULTS - ALL	28	9	-68%	219	248	13%	247	257	4%
1ST DEGREE BURGLARY	2	2	0%	31	63	103%	33	65	97%
2ND DEGREE BURGLARY	12	0	-100%	27	18	-33%	39	18	-54%
POSSESSION OF BURGLARY TOOLS	0	0	0%	4	0	-100%	4	0	-100%
ATTEMPTED BURGLARY	0	0	0%	1	1	0%	1	1	0%
BURGLARIES - ALL	14	2	-86%	58	81	40%	77	84	9%
1ST DEGREE THEFT	0	0	0%	0	8	800%	0	8	800%
2ND DEGREE THEFT	10	0	-100%	49	75	53%	59	75	27%
3RD DEGREE THEFT	19	3	-84%	44	49	11%	63	52	-17%
4TH DEGREE THEFT	2	3	50%	31	39	26%	33	42	27%
LARCENY	5	8	60%	46	43	-7%	51	51	0%
SHOPLIFT	4	3	-25%	48	554	15%	485	557	15%
DEFRAUDING INNKEEPER	0	0	0%	5	3	-40%	5	3	-40%
RETENTION OF LOST PROPERTY	0	0	0%	1	0	-100%	1	0	-100%
THEFTS - ALL	40	17	-58%	651	760	17%	697	785	13%

Comparison of Juvenile Arrests JAN. - AUG. 1996 Same Period in 1995	DURING CURFEW HOURS			DURING NON-CURFEW HOURS			OVERALL		
	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.
3RD DEGREE CRIMINAL MISCHIEF -- VEHICLE	5	0	-100%	31	13	-58%	36	13	-64%
2ND DEGREE CRIMINAL MISCHIEF -- VEHICLE	2	2	0%	16	8	-50%	18	10	-44%
1ST DEGREE CRIMINAL MISCHIEF -- VEHICLE	1	0	-100%	24	4	-83%	25	4	-84%
EFFECT OF VEHICLE AND JOYRIDING	4	4	0%	45	12	-73%	49	16	-67%
3RD DEGREE VEHICLE THEFT	0	0	0%	0	7	700%	0	7	700%
CRIMINAL MISCHIEF VEHICLE/VEHICLE THEFT -- ALL	12	6	-50%	116	44	-62%	128	50	-61%
UNLAWFUL POSSESSION OF PROPERTY	0	2	200%	0	0	0%	0	2	200%
3RD DEGREE ARSON	0	0	0%	4	2	-50%	4	2	-50%
2ND DEGREE ARSON	0	0	0%	5	5	0%	5	5	0%
RECKLESSLY NEGLIGENT BURNING	0	0	0%	0	6	600%	0	6	600%
ARSON - ALL	0	0	0%	9	13	44%	9	13	44%
3RD DEGREE FORGERY	9	0	0%	1	0	-100%	1	0	-100%
2ND DEGREE FORGERY	0	0	0%	9	13	44%	9	13	44%
1ST DEGREE FORGERY	0	0	0%	0	2	200%	0	2	200%
FALSE AND DECEITFUL USE OF A CREDIT CARD -- MISD.	0	0	0%	4	3	-25%	4	3	-25%
ALTERING BUSINESS RECORDS	0	0	0%	0	1	100%	0	1	100%
FORGERY/FORGERY - ALL	0	0	0%	14	19	36%	14	19	36%
3RD DEGREE CRIMINAL MISCHIEF -- VANDALISM	0	0	0%	0	1	100%	0	1	100%
2ND DEGREE CRIMINAL MISCHIEF -- VANDALISM	17	5	-71%	34	36	6%	51	41	-20%
1ST DEGREE CRIMINAL MISCHIEF -- VANDALISM	2	6	200%	21	33	57%	23	39	70%
RECKLESSLY NEGLIGENT DESTRUCTION OF PROPERTY	4	5	25%	61	56	-8%	63	61	-6%
INTERFERING WITH A VEHICLE	5	6	20%	9	16	78%	14	22	57%
GRAFFITI/RELATED VANDALISM 8.05.375	0	1	100%	0	0	100%	0	1	100%
VANDALISM -- ALL	28	24	-14%	132	148	12%	160	172	8%

of Juvenile Arrests JAN. - AUG. 1996 and in 1995	DURING CURFEW HOURS			DURING NON-CURFEW HOURS			OVERALL		
	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.
MISCONDUCT INVOLVING WEAPONS	0	0	0%	0	1	100%	0	1	100%
MISCONDUCT INVOLVING WEAPONS	0	0	0%	0	2	200%	0	2	200%
MISCONDUCT INVOLVING WEAPONS	1	3	200%	2	8	300%	3	11	267%
WEAPON	3	2	-33%	20	15	-25%	23	17	-26%
OF FIREARMS	0	0	0%	7	2	-71%	7	2	-71%
OF WEAPON WITH INTENT TO ASSAULT	0	0	0%	1	0	-100%	1	0	-100%
SCHOOL GROUNDS	0	0	0%	11	16	45%	11	16	45%
MISCONDUCT INVOLVING WEAPONS	0	6	600%	6	13	117%	6	19	217%
MISCONDUCT INVOLVING WEAPONS	4	1	-75%	29	21	-28%	33	22	-33%
OF WEAPONS BY MINOR	2	0	-100%	3	4	33%	5	4	-20%
OFFENSES - ALL	10	12	20%	79	82	4%	89	94	6%
PROSTITUTION	0	0	0%	2	1	-50%	2	1	-50%
OR PROSTITUTION	0	1	100%	0	0	100%	0	1	100%
G A PLACE FOR PURPOSE OF PROST.	0	0	0%	0	1	100%	0	1	100%
ON OFFENSES - ALL	0	1	100%	2	2	0%	2	3	50%
SEXUAL ABUSE OF MINOR	0	0	0%	1	3	200%	1	3	200%
SEXUAL ABUSE OF MINOR	0	0	0%	14	10	-29%	14	10	-29%
SEXUAL ABUSE OF MINOR	0	0	0%	10	19	90%	10	19	90%
SEX OF MINOR OFFENSES - ALL	0	0	0%	25	32	28%	25	32	28%
MISCONDUCT INVOLV--POSS NARCOTIC	1	1	0%	3	2	-33%	4	3	-25%
MISCONDUCT INVOLV--POSS DANG. DRUGS	0	0	0%	4	1	-75%	4	1	-75%
MISCONDUCT INVOLV--SALE NARCOTICS	0	0	0%	2	4	100%	2	4	100%
MISCONDUCT INVOLV--SALE DANG. DRUGS	0	0	0%	1	0	-100%	1	0	-100%
MISCONDUCT INVOLV--SALE MARIJUANA	0	0	0%	3	4	33%	3	4	33%
MISCONDUCT INVOLV--POSS NARCOTIC	0	2	200%	6	9	50%	6	11	83%
MISCONDUCT INVOLV--SALE DANG. DRUGS	0	0	0%	1	1	0%	1	1	0%
MISCONDUCT INVOLV--SALE NARCOTICS	0	0	0%	1	0	-100%	1	0	-100%

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Comparison  
to Same Person



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4TH DEGREE  
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Comparison of Juvenile Arrests JAN. - AUG. 1996 to Same Period in 1995	DURING CURFEW HOURS			DURING NON-CURFEW HOURS			OVERALL		
	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.
CHARGE DESCRIPTION									
4TH DEGREE MISCONDUCT INVOLV-SALE/POSS MARIJUANA	0	0	0%	45	50	11%	45	50	11%
5TH DEGREE MISCONDUCT INVOLV-POSS DANG. DRUG	0	0	0%	0	1	100%	0	1	100%
5TH DEGREE MISCONDUCT INVOLV-POSS MARIJUANA	0	0	0%	2	4	100%	2	4	100%
6TH DEGREE MISCONDUCT INVOLV-POSS MARIJUANA	3	7	133%	54	54	0%	57	61	7%
DRUG OFFENSES - ALL	4	10	150%	122	130	7%	126	140	11%
CHILD ABUSE	0	0	0%	0	1	100%	0	1	100%
POSS/SALE TOBACCO PRODUCT TO MINOR	0	0	0%	2	3	50%	2	3	50%
DRIVING WHILE INTOXICATED	4	3	-25%	0	5	500%	4	8	100%
MINOR IN POSSESSION OF ALCOHOL	5	1	-80%	19	5	-74%	24	6	-75%
MINOR ON PREMISES WHERE ALCOHOL IS SOLD	0	1	100%	0	0	200%	0	1	100%
MINOR CONSUMING ALCOHOL	9	2	-78%	20	2	-90%	29	4	-86%
MINOR ALCOHOL CHGS TITLE 4	1	0	-100%	1	0	-100%	2	0	-100%
MINORS - ALCOHOL OFFENSES - ALL (EXCEPT DWI)	15	4	-73%	40	7	-83%	55	11	-80%
DISORDERLY CONDUCT	5	3	-40%	19	16	-16%	24	19	-21%
RECKLESS ENDANGERMENT	0	5	500%	18	7	-61%	18	12	-33%
PUBLIC EXCRETION/INDECENT EXPOSURE	0	0	0%	1	9	800%	1	9	800%
2ND DEGREE STALKING	0	0	0%	0	1	100%	0	1	100%
KIDNAPPING	0	2	200%	2	0	-100%	2	2	0%
EXTORTION	0	0	0%	2	0	-100%	2	0	-100%
COERCION	0	0	0%	10	0	-100%	10	0	-100%
1ST DEGREE CRIMINAL TRESPASS	2	0	-100%	5	18	200%	8	18	125%
2ND DEGREE CRIMINAL TRESPASS	1	0	-100%	1	7	600%	2	7	250%
UNAUTHORIZED ENTRY - TRESPASS	5	5	0%	60	49	-18%	65	54	-17%
TRESPASS - ALL	8	5	-38%	67	74	10%	75	79	5%
1ST DEGREE HINDERING PROSECUTION	0	0	0%	1	2	100%	1	2	100%
HARASSMENT	0	0	0%	5	0	-100%	5	0	-100%

Comparison of Juvenile Arrests JAN. - AUG. 1996 to Same Period in 1995	DURING CURFEW HOURS			DURING NON-CURFEW HOURS			OVERALL		
	CHARGE DESCRIPTION	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996
ILLEGAL USE OF TELEPHONE	0	0	0%	0	1	100%	0	1	100%
VIOLATION OF DOMESTIC VIOLENCE ORDER	0	0	0%	0	2	200%	0	2	200%
LEAVING THE SCENE OF AN INJURY ACCIDENT	1	0	-100%	0	3	300%	1	3	200%
LEAVING THE SCENE OF A PROPERTY DAMAGE ACCIDENT	0	1	100%	10	8	-20%	10	9	-10%
LEAVING THE SCENE OF ACCIDENT - ALL	1	1	0%	10	11	10%	11	12	9%
DRIVE WITH SUSPENDED/REVOKED LICENSE	3	5	67%	0	3	300%	3	8	167%
RECKLESS DRIVING	3	0	-100%	16	12	-25%	19	12	-37%
REFUSAL TO SUBMIT TO CHEMICAL TESTS	1	0	-100%	0	0	0%	1	0	-100%
FLEEING OR ATTEMPTING TO ELUDE POLICE	3	0	-100%	10	2	-80%	13	2	-85%
MISC TRAFFIC OFFENSE	1	0	-100%	0	0	0%	1	0	-100%
FAILURE TO APPEAR - MISDEMEANOR	28	19	-32%	65	57	-12%	93	76	-18%
CONTEMPT OF COURT - MISDEMEANOR	1	0	-100%	2	1	-50%	3	1	-67%
PAROLE VIOLATION - MISDEMEANOR	0	3	300%	15	30	100%	15	33	120%
FUGITIVE - MISDEMEANOR	1	0	-100%	0	0	0%	1	0	-100%
FAMILY OFFENSES - JUVENILE WARRANT SERVICE	3	4	33%	46	63	37%	49	67	37%
2ND DEGREE ESCAPE	0	0	0%	0	1	100%	0	1	100%
3RD DEGREE ESCAPE	0	0	0%	0	1	100%	0	1	100%
4TH DEGREE ESCAPE	0	0	0%	1	0	-100%	1	0	-100%
RESISTING OR INTERFERING WITH AN ARREST	6	9	50%	41	31	-24%	47	40	-15%
CRUELTY TO ANIMALS	0	0	0%	0	2	200%	0	2	200%
LETTERING AND DEFACING	0	0	0%	3	0	-100%	3	0	-100%
FALSE REPORT OF CRIME	0	0	0%	0	1	100%	0	1	100%

Comparison of Juvenile Arrests JAN. - AUG. 1996 to Same Period in 1995	DURING CURFEW HOURS			DURING NON-CURFEW HOURS			OVERALL		
	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.	Jan-Aug 1995	Jan-Aug 1996	% DIFF.
PROVIDING FALSE INFO	4	6	50%	13	33	83%	22	39	77%
VIOLATION OF CONDITIONS OF RELEASE	0	0	0%	1	0	-100%	1	0	-100%
TOTAL ARRESTS FOR ALL CHARGES EXCEPT CURFEW	230	157	-32%	1365	1575	5%	2095	2132	2%
CURFEW*	2	1132	56500%	2	0	-100%	4	1132	25200%

\*The new curfew ordinance went into effect on January 1st, 1996 but enforcement was conducted on a warranting basis until the end of February. The previous curfew ordinance had enforcement hours different from the new ordinance. The two curfew charges shown as occurring during non-curfew hours in 1995 were issued under the old hours.

February 11, 1999

**Anchorage Youth Court House Bill #28 Position Paper**

Youth and adults volunteer their time to operate youth peer courts. In Anchorage over 350 youth and 100 attorneys volunteer annually. However, youth courts also require funding. Each youth court needs at least one paid person, an office, equipment and supplies to operate effectively. To organize and provide long term operation beneficial to their communities, youth courts need sources of permanent funding that they can depend upon. House Bill #28 will serve as one important source to ensure the ongoing opportunities that youth courts provide in Alaska.

Youth courts benefit their communities and the state by preventing and deterring juvenile criminal behavior. Youth Courts

- teach understanding and respect for the law through classes, hands-on participation and utilizing positive peer influence;
- provide redress to victims, through restitution earned by defendants, and a chance for victims to address the court;
- restore the community for breaking its laws through appropriate community work service;
- mandate education to deter further criminal behavior, such as shoplifting, alcohol and marijuana involvement, fire-starting, fighting, weapons involvement, domestic violence, etc.;
- provide insight through jail tours and adult sentencing hearings for defendants to see first hand what will happen to them, if they continue to break the law;
- require defendants to earn money or work in the youth court office to pay for participating in youth court, which reinforces personal responsibility for consequences;
- offer opportunities for adults to serve as role models for youth, and for youth and adults to build respect and appreciation through working together;
- provide safe, supervised, structured after school experiences for youth in grades 7 - 12;
- build skills such as public speaking, office occupations and management; consensus building; teamwork; running a non profit board of directors, and active citizenship; and
- foster ownership and pride in the community.

Youth Courts, with their low recidivism rate, education programs and active youth involvement, alleviate the court system's case load. Over 1,341 juvenile criminal cases have been referred to Anchorage Youth Court, since 1996. Over 89% of the defendants who completed youth court have not reoffended over the three years. Likewise, the State saves at least \$40,000 annually for each defendant, who does not reoffend and reside in McLaughlin.

Anchorage Youth Court believes that (1) Alaska's youth who work to deter juvenile crime need and deserve stable financial support; (2) a surcharge on adult defendants, who commit misdemeanors, infractions and violations, is appropriate to deter juvenile crime; and (3) support of House Bill #28 will demonstrate to youth and adults Statewide, that the people of Alaska value positive youth involvement and active citizenship.



# Mat-Su Youth Court

1801 Parks Highway, Suite C-06  
Wasilla, AK 99654

Phone: (907) 373-5193 • Fax: (907) 373-5393  
E-Mail: msyc@alaska.net

February 19, 1999

Representative Eric Croft  
State Capitol  
Juneau, AK 99801-1182

Dear Rep. Croft:

I am writing this letter to you to express my support for HB 28. This bill is to help provide funding for Youth Courts statewide through a juvenile justice fund.

I will speak to you from my own personal experience in working with juveniles in Alaska, and how important youth courts are in prevention and intervention of juvenile crime. I have worked in the juvenile justice field for over 15 years. Most of my experience came from working at McLaughlin Youth Center, where I was a youth counselor for youth who were institutionalized for long-term treatment. The families and delinquent youth were sometimes very difficult to work with, as the dysfunction had been going on for many years. Change does not come easily when family problems are not addressed early, before patterns of delinquent behavior are set.

After coming to work for the Mat-Su Youth Court, I became excited to see hope in working with these youth who have committed minor crimes. The families are almost always cooperative, and the youth show remorse for what they have done. The delinquent behavior is given immediate attention, and the youth and their family work together to insure that it doesn't happen again. The youth court members always give a clear message that the misguided youth is still a good person; they just need to stop their unacceptable behaviors that brought them to youth court. The youth that complete the youth court program for their crimes learn more about the juvenile justice system through their peers, by being defended, prosecuted, and judged by them. The offending youth also give back to their community by volunteering their time to help in non-profit agencies. The youth then process all this information by writing a lengthy essay telling about their youth court experience. This kind of intervention is needed if we truly

## ADVISORY BOARD

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DFYS Youth Corrections

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Mat-Su School District

Coyla Sweet, Drug Free Schools  
Mat-Su School District

James Mestlak  
MSYC Volunteer

Student Representative  
MSYC Student Bar Assoc.

## STAFF

Leo Makar  
Program Coordinator

Connessa Cassell  
Case Manager

Ebon Markiel  
Secretary

The logo of the Mat-Su Youth Court is the Ancient Greek Goddess of Justice. The scales symbolize the fair weighing of conflicting claims, and her sword the power to protect the public and punish wrongdoers.

Rep. Eric Croft  
February 19, 1999  
Page Two

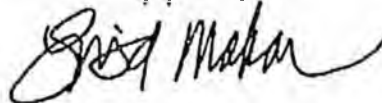
want youth to change their thinking and actions toward committing crimes. Families support their teenager to make this happen by helping the youth complete their youth court sentence. Every youth who goes through the youth court program is invited to join as a member, being told that they have first-hand experience in what it is like to commit a crime, and then make it right to their families and their communities.

Another added benefit is the education the youth court members receive. They are taught by adult attorneys and judges who volunteer their time to work with youth. The student members put in a minimum of ninety hours in the program and are committed to helping in the task of prevention and intervention of juvenile crime. They also receive on-going training in law-related areas while they are in the program.

I truly believe in the youth court concept as a successful prevention/intervention program. Those youth who are arrested for the first time are now receiving direct consequences for breaking the law, and are told that their behavior was not okay, and they now have a chance to set their lives back on the right track.

Please let me know if you would like more information about the Mat-Su Youth Court. If I am able to help out further with the promotion of HB 28 do not hesitate to contact me.

Sincerely yours,



Lisa Makar  
MSYC Program Coordinator

MAT-SU YOUTH COURT  
1997 STATISTICS

126 Total cases.

35 Cases sent back to Youth Corrections for various reasons.

91 Cases processed in MSYC.

3 Cases closed for reoffenses.

Race make-up: 118-White, 2-African American, 3-Alaska Native, 3-Unknown

Gender make-up: 72-Males, 54-Females

Average age of defendants: 14.5 years old

Average time arraignment to completion: 67 days

Average time referral to completion: 103 days

Types of offenses: Theft: 77 cases/62%  
Assault: 8 cases/6%  
Criminal Mischief: 11 cases/9%  
MICS: 17 cases/13.5%  
Criminal Trespass: 6 cases/5%  
Misc. Involving Weapons: 2 cases/1.5%  
Concealment of Merchandise: 4 cases/3%

80 Cases completed successfully this year.

94% Success rate. This means that 94% of the defendants who completed the program in 1997 have not reoffended.

\$620.20 was paid in restitution to victims.

1,767 Hours were worked by defendants at various community work service agencies.

The following is the breakdown of arresting agencies for the cases we have seen in 1997 in MSYC:

Alaska State Troopers - 24 cases/19%  
Anchorage Police Department - 21 cases/17%  
Palmer Police Department - 20 cases/16%  
Wasilla Police Department - 61 cases/48%

The following is the breakdown of defendant resident locations for 1997 MSYC cases:

Anchorage - 1%  
Chickaloon - .5%  
Palmer - 25%  
Talkeetna - 1%  
Willow - 3%

Big Lake - 5%  
Elmendorf AFB - .5%  
Sutton - 2%  
Wasilla - 62%

The following are the resident locations for our Youth Court members:

Big Lake - 5%  
Talkeetna - 12%  
Willow - 3%

Palmer - 29%  
Wasilla - 51%

71 Students successfully completed Youth Court training in 1997.

**MAT-SU YOUTH COURT**  
**1998 STATISTICS**

132 Total cases referred to MSYC.

42 Cases sent back to Youth Corrections for various reasons.

90 Cases processed in MSYC.

3 Cases closed for reoffenses.

Race make-up: 119-Caucasian, 1-African American, 7-Alaska Native,  
3-Asian/Pacific Islander, 2-Hispanic

Gender make-up: 77 Males, 55 Females

Average age of defendants: 14.5 years old.

Average time arraignment to completion: 49 days.

Average time referral to completion: 104 days.

Types of offenses heard in MSYC:

Theft: 88 cases/62%

Assault: 5 cases/4%

Criminal Mischief: 3 cases/2%

MICS: 26 cases/18%

Criminal Trespass: 3 cases/2%

Misconduct Involving Weapons: 2 cases/1%

Concealment of Merchandise: 14 cases/10%

Burglary: 2 cases/1%

99 Cases completed successfully in 1998.

92% Success rate. This means that 92% of the defendants who  
completed the program in 1998 have not  
reoffended.

\$102.00 was paid in restitution to victims.

2,406 Hours were worked by defendants at various community work  
service agencies.

The following is the breakdown of arresting agencies for the cases we have seen in 1998 in MSYC:

Alaska State Troopers: 19 cases/14.5%  
Anchorage Police Department: 16 cases/12%  
Palmer Police Department: 20 cases/15%  
Wasilla Police Department: 77 cases/58.5%

The following is the breakdown of defendant resident locations for 1998 MSYC cases:

Talkeetna: 1/1.5%	Hatcher Pass: 1/1.5%
Palmer: 34/26%	Big Lake: 6/5%
Willow: 2/1.75%	Sutton: 2/1.75%
Chugiak: 1/1.5%	Wasilla: 79/60%
Unalaska: 1/1.5%	King Salmon: 1/1.5%
Houston: 4/3%	

The following are the resident locations for our Youth Court members:

Big Lake: 4%  
Palmer: 32%  
Wasilla: 64%

The following are the schools our Youth Court members attend:

Athenium: 1/2%	Cornerstone Christian: 2/4%
Colony High: 24/51%	Colony Middle: 4/9%
Houston High: 3/6%	Palmer High: 6/13%
Palmer Jr./Mid.: 1/2%	Wasilla High: 5/11%
Wasilla Middle: 1/2%	

21 Students successfully completed Youth Court training in 1998.



Anchorage Youth Court  
PO Box 102735  
Anchorage, AK 99510  
Phone: (907) 274-5986 • Fax: (907) 272-0491

Representative Eric Croft

Enclosed are documents which represent the following:

- 1 Letters of support from members and parents.
2. Parent Evaluations - these are feedback from defendant's parents.
3. Excerpted comments from a defendant survey.
4. 1998 and 1999 evaluation forms for AYC attorneys and judges filled out by volunteer adult attorneys who supervise in-court work.
5. A letter to Commissioner Pugh regarding the AYC jail tour sentencing component.
6. A parent's letter accompanying a donation.
7. Several thank-yous for presentations that AYC staff has made in the community or to training groups.
8. The 25 effectiveness qualities of the Anchorage Youth Court model and some brochure literature.

If we can provide any further information, please let me know.

Sincerely,  
ANCHORAGE YOUTH COURT

A handwritten signature in cursive script that reads "Linda Johnson".

Linda Johnson  
Legal Advisor

*ayc@micronet.net*

*"A New Generation for Justice"*



**Anchorage Youth Court**  
PO Box 102735  
Anchorage, AK 99510  
Phone: (907) 274-5986 • Fax: (907) 272-0491

February 11, 1999

Representative Eric Croft  
State Capitol, Room 400  
Juneau, Alaska 99801-1182

Dear Representative Croft:

Thank you for your sponsorship of House Bill #28, which can provide needed funding for youth courts statewide. Enclosed is the Anchorage Youth Court position paper relating to the Bill. If you need additional information, please call.

Sincerely,  
ANCHORAGE YOUTH COURT

Sharon A. Leon  
Executive Director

*"A New Generation for Justice"*

Date: Wed, 03 Feb 1999 22:31:08 -0800  
From: graham <epgraham@gci.net>  
X-Accept-Language: en  
MIME-Version: 1.0  
To: ayc@micronet.net  
Subject: HB 28

February 3, 1999

Dear Representative Croft,

Our son Germaine Graham, has been an active AYC member since January 1998.

AYC is not only a justice program; it is a self-esteem booster. Germaine,s self-confidence and leadership abilities have greatly improved.

The benefits of this program are invaluable; it allows students to participate on a voluntary basis and still develop a skill that can last them a lifetime.

We have personally witnessed Middle School age students observe AYC members conduct mock trials; with the anticipation that one day they too would be able to enroll in the program.

We also see the program as a way to allow teens that make a mistake for the first time to get a second chance.

We support HB 28, and we encourage you to continue to look out for our youth.

Thank you,  
Elsie and Patricia Graham

OCTOBER 21, 1998

COMMISSIONER MARGARET PUGH  
DEPARTMENT OF CORRECTIONS  
P.O. BOX 112000  
JUNEAU, ALASKA 99811

DEAR COMMISSIONER PUGH,

MY DAUGHTER WAS ASSIGNED TO DO A TOUR OF THE COOK INLET PRETRIAL FACILITY. DUE TO RESTRICTIONS PLACED ON THE ANCHORAGE YOUTH COURT, THE ONLY TIME SHE MAY DO THE TOUR IS ON A FRIDAY MORNING.

THIS PROGRAM IS MEANT TO NIP IN THE BUD JUVENILE CRIME. BY LIMITING THE ACCESS TO THE TOUR TO A SCHOOL TIME DURING THE WEEK ONLY LEADS TO MORE TIME MISSED BY A STUDENT WHO IF IN AYC IS MOST LIKELY ALREADY SOMEWHAT AT RISK. ANY ADDITIONAL MISSED SCHOOL COULD LEAD TO ULTIMATE FAILURE OR LOWER GRADES WHICH THESE AT RISK CHILDREN CAN ILL AFFORD.

I HOPE THAT YOU RECONSIDER THIS SITUATION AND ALLOW AYC TO EITHER DO EVENING TOURS OR WEEKEND TOURS OF THE FACILITY. I THINK THIS IS A VERY GOOD PROGRAM JUST ONE THAT NEEDS TO BE AS POSITIVE TO THE SUCCESS OF OUR CHILDREN AS POSSIBLE.

IF YOU HAVE NOT WITNESSED THE AYC PROGRAM I ENCOURAGE YOU TO DO SO. I WAS HIGHLY IMPRESSED BY THE PROFESSIONAL PRESENTATION DISPLAYED BY BOTH THE STAFF AND THE STUDENTS WHO MAKE UP THE ANCHORAGE YOUTH COURT. IF THIS PROGRAM IS GOING TO WORK AND I BELIEVE IT WILL, IT NEEDS THE SUPPORT OF THE ENTIRE COMMUNITY, POLICE, PROSECUTOR, THE ANCHORAGE ASSEMBLY AND YOUR DEPT. THROUGH THIS TYPE PROGRAM HOPEFULLY WE CAN MAKE YOUR BUDGET EASIER TO LIVE WITH, WITH LESS CRIMINALS FILLING THE WALLS OF ALASKA'S PRISONS.

ANCHORAGE, ALASKA 99504  
(907) :

CARENET, INC.™

January 4, 1999

Dear Anchorage Youth Court -

Enclosed is a small donation to defray a part of the increased rent. My daughter, Jocelyn Hastain, received your letter & asked me to help.

I want to let the officers and staff supporting the Youth Court endeavor that this is a very worthwhile activity for the young people in Anchorage. It would and will be a delight to see more teens participate and learn about our system of governance.

Thank you for all of the effort you put forth on behalf of others.

Regards,  
Linda Hastain  
President

Arinda,

Thank you for presenting the legal issues section of the teen court training in Anchorage. You did a wonderful job making difficult issues easier to understand. The evaluations from participants were also very favorable.

I also appreciate you sitting with me and answering my questions during the youth court trial. I found the whole process very interesting and feel I have a better understanding of how that model works. The youth were great - please let them know - I was impressed.

Thanks again.

Tracy Hodwin

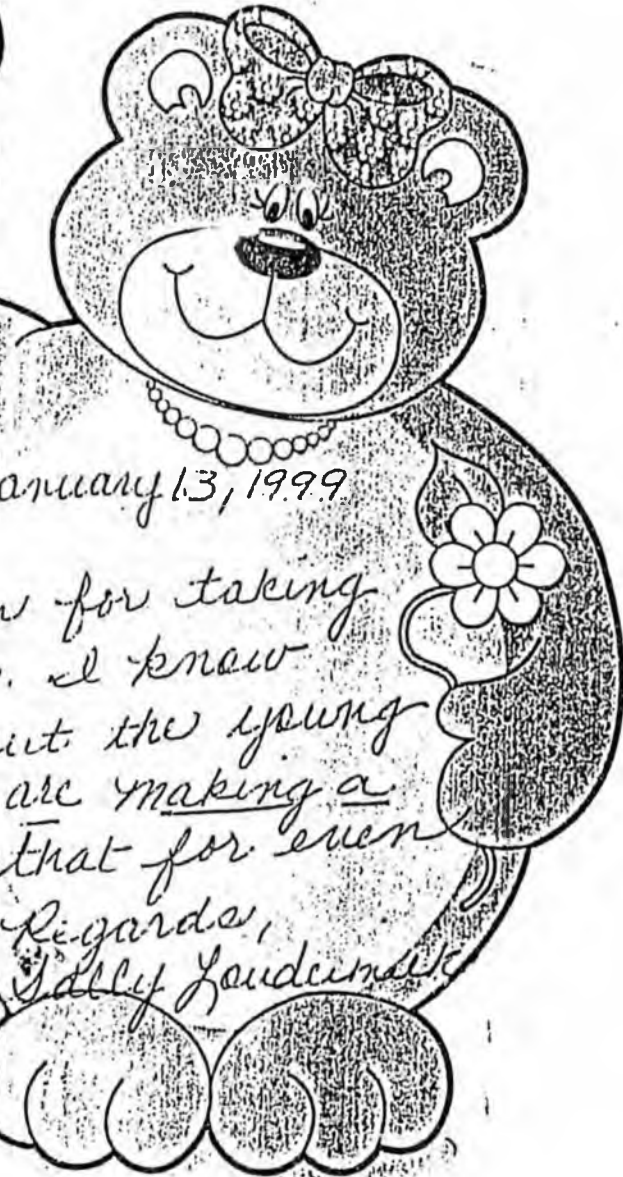
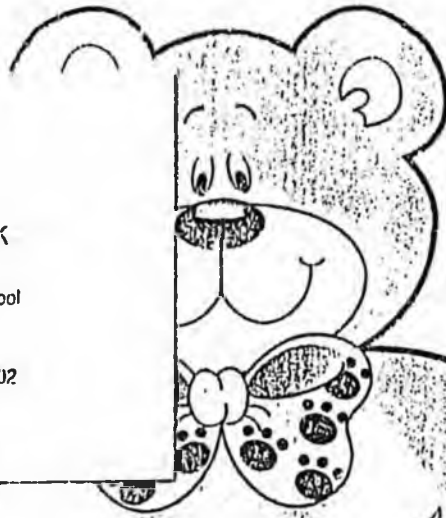


Anchorage  
School  
District

Sally Loudemilk

Teacher  
Lake Hood Elementary School

3601 W. 40th Avenue, Anchorage, AK 99517-2702  
(907) 245-5521 Fax (907) 245-5520  
Loudemilk.Sally@usmail.akd12.akus

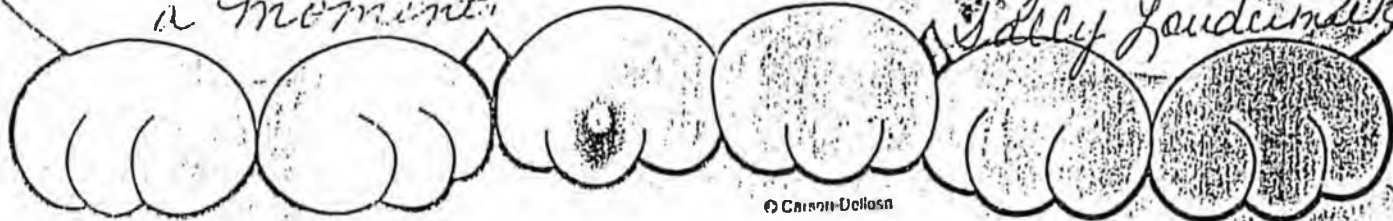


January 13, 1999

Dear Sharon,

Thank you once again for taking  
time to talk to my class. I know  
how deeply you care about the young  
people in Anchorage! You are making a  
difference, never forget that for even  
a moment.

Regards,  
Sally Loudemilk



3601 West 40<sup>th</sup> Ave  
Anchorage, AK 99517  
January, 13, 1999

Dear Mr. Leon,

Thank you, I really  
learned alot. I'm considering joining  
Youth Court. I can't wait till  
next year! I can just imagine  
being an attorney! I just hope the  
bar test isn't too hard. I'm really  
glad Youth Court was formed  
to give juveniles another chance.

Thank you again for taking  
your time to tell us about  
Youth court.

Sincerely,

Ryan Holmquist

3601 West 40<sup>th</sup> Ave.  
Anchorage, AK 99517  
January 13, 1999

Dear Mrs. Leon,

I really enjoyed learning about the Anchorage Youth Court. I think it is a good way to give juveniles who made a bad choice a second chance. I learned that there are many steps as to become in the program such as taking the classes and passing the bar exam. I would someday like to join Anchorage Youth Court and start off as a bailiff.

Thank you for taking time off of your job to share with us about the Anchorage Youth Court. I've heard of the program before, but I never knew that they were actual cases. I have always thought that the kids involved just took turns doing everything. I enjoyed it alot. Thanks again!

Sincerely,

Carolyn Holmes

3601 West 40<sup>th</sup> Ave.  
Anchorage, AK 99517  
Jan. 13, 1999

Dear Ms. Leon,

Thank you for giving us a tour of Anchorage Youth Court. I appreciate that you let us eat lunch in your meeting rooms and talked to us for a long time.

I learned a lot about how it works and I think next year it would be fun to be an attorney. I am very glad there is a system where kids get a second chance.

Sincerely,

Heather Martindale

3601 West 40th Ave.  
Anchorage, AK 99517  
January 18, 1999

Dear Miss Sharon Leon,

I, Loretta Nabony, thank you for teaching me and telling me about the Anchorage Youth Court program. I learned that the program gives a big extra chance for juveniles like myself - as well as other kids younger and older than I. I also learned that during my junior high and high school years the A.Y.C. is a good program to get involved in. To be involved in the A.Y.C. program, I think, it is a big handicap for students who plan to attend law school after high school. I too learned very much that the program is a good way to get to know the justice system as well as the court system.

I thank you very much for explaining to us and for describing how the program works. The things you told us made me interested in the program so much that I told my mother right after school. I especially thank you for letting us use your facilities to have lunch, which I say was pretty comfortable. I hope to see you again, but next time I hope I'll see you in a law exam meeting.

Sincerely, Loretta Nabony

Mat-Su Youth Court  
1801 Parks Hwy Suite C-06  
Wasilla Alaska 99654

Candy Sims  
P.O. Box 202380  
Anchorage AK 99520  
745-4834

March 10, 1999

RE: Support House Bill 28

Last summer I almost lost my son. Not to an accident or drugs or disease. The influence of a group of friends proved a much stronger temptation. After many phone calls and a little research a door opened for us. It lead to Youth Court, and now, nearly nine months later my son has returned. We're discovering things about each other we never knew before. I'm no longer the enemy. And that group of friends are a thing of the past. They're still around, but finally my son has learned that no one is worth destroying his image of himself and his connection with his family.

Thank you to all the people who work to keep Youth Court alive and available to our community. As my son's grades and attitude continue to improve I can only marvel at that door that opened up hope for us. Please help keep that door open for our youth and their families. Please, support your local Youth Court and House Bill 28 which provides for its funding.

Sincerely,

Candy Sims  
Grateful Mother



Anchorage Youth Court  
PO Box 102735  
Anchorage, AK 99510  
Phone: (907) 274-5986 • Fax: (907) 272-0491

February 3, 1999

For confidentiality, a defendant's comments on a survey completed October 31, 1998, are excerpted:

1. What part of the sentencing made the biggest impression on you?

"The fact that its real sentencing, and that they're really serious about things, because before I got there, I thought it was just fake/like a class or something, but now I know it's totally real."

2. Are there any changes in the Anchorage Youth Court that you feel are necessary?

"No, they are doing just fine and I had some good defense attorneys. Also the prosecuting attorneys did a really good job on arguing."

3. What is the most important thing that you have learned from the Anchorage Youth Court?

"That they don't play around, and they have studied for a long time, just to be able to defend kids (their age.) And its really neat."

*"A New Generation for Justice"*

What part of the process you participate in? clerk \_\_\_\_\_ judge \_\_\_\_\_  
 attorney \_\_\_\_\_ volunteer legal advisor  \_\_\_\_\_ bailiff \_\_\_\_\_ AYC staff \_\_\_\_\_

Rate each of the following in overall performance on a scale of 1-5:  
 1 = excellent, 2 = above expectations, 3 = good, 4 = adequate, 5 = poor

2. Prosecution as a team 3 Defense as a team 3 Judges as a panel 2

	Pros. #1	Pros #2	Def. #1	Def. #2	Comments:
Name of attny	<u>Chen H</u>		<u>Harvey</u>	<u>Laumesser</u>	
preparation	<u>3</u>		<u>3</u>	<u>3</u>	
delivery	<u>4</u>		<u>3</u>	<u>4</u>	
decorum	<u>3</u>		<u>3</u>	<u>3</u>	
sensitivity	<u>3</u>		<u>3</u>	<u>3</u>	
personal responsibility	<u>3</u>		<u>3</u>	<u>3</u>	
cooperation	<u>3</u>		<u>3</u>	<u>3</u>	

	Presiding judge	#2 judge	#3 judge	Comments:
Name of judge	<u>Stuart Bannon</u>	<u>Neil Phukaan</u>	<u>Bill Edwards</u>	
presence	<u>1</u>	<u>2</u>	<u>2</u>	
confidence	<u>1</u>	<u>2</u>	<u>2</u>	
attentive	<u>1</u>	<u>2</u>	<u>2</u>	
control	<u>1</u>	<u>2</u>	<u>2</u>	
respectful	<u>1</u>	<u>2</u>	<u>2</u>	
delivery	<u>1</u>	<u>2</u>	<u>2</u>	
side bar	<u>1</u>	<u>2</u>	<u>2</u>	

4. Rate the following on the 1-5 scale: appropriateness of sentence 3

5. Do you think the experience helped the defendant? Why or why not?

*Yes. The presiding judge did an excellent job of educating defendant of the consequences of his actions and the benefits of AYC*

AYC CASE EVALUATION Case No. 386

To Be Completed By All Case Participants. Return to Legal Advisor

What part of the process you participate in? clerk \_\_\_\_\_ judge \_\_\_\_\_  
 attorney \_\_\_\_\_ volunteer legal advisor  \_\_\_\_\_ bailiff \_\_\_\_\_ AYC staff \_\_\_\_\_

Rate each of the following in overall performance on a scale of 1-5:  
 1 = excellent, 2 = above expectations, 3 = good, 4 = adequate, 5 = poor

2. Prosecution as a team 1 Defense as a team 1 Judges as a panel 1

	Pros. #1	Pros #2	Def. #1	Def. #2	Comments:
Name of attny	<u>Jon Pierce</u>	<u>Michael Christoffers</u>	<u>Er. Walker</u>	<u>chugach</u>	
preparation	<u>1</u>	<u>1</u>	<u>2</u>	<u>1</u>	<i>It responded well to the judges' questioning - I got a little flustered.</i>
delivery	<u>1</u>	<u>2</u>	<u>2</u>	<u>1</u>	
decorum	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	
sensitivity	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	
personal responsibility	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	
cooperation	<u>1</u>	<u>1</u>	<u>1</u>	<u>1</u>	

	Presiding judge	#2 judge	#3 judge	Comments:
Name of judge	<u>Bannon</u>	<u>Shepard</u>	<u>Yaeger</u>	
presence	<u>1</u>	<u>1</u>	<u>1</u>	<i>Handled a complicated sentencing process very deliberately &amp; competently.</i>
confidence	<u>1</u>	<u>1</u>	<u>1</u>	
attentive	<u>1</u>	<u>1</u>	<u>1</u>	
control	<u>1</u>	<u>1</u>	<u>1</u>	
respectful	<u>1</u>	<u>1</u>	<u>1</u>	
delivery	<u>1</u>	<u>1</u>	<u>1</u>	
side bar	<u>1</u>	<u>1</u>	<u>1</u>	

4. Rate the following on the 1-5 scale: appropriateness of sentence 1

5. Do you think the experience helped the defendant? Why or why not?

*Yes - the seriousness of her offenses was discussed at length, and she appeared to take the process seriously.*

AYC CASE EVALUATION Case No. \_\_\_\_\_  
To Be Completed By All Case Participants. Return to Legal Advisor

1. What part of the process did you participate in? clerk \_\_\_\_\_ judge \_\_\_\_\_  
attorney \_\_\_\_\_ volunteer legal advisor  bailiff \_\_\_\_\_ AYC staff \_\_\_\_\_

2. Rate each of the following in overall performance on a scale of 1-5:  
1 = excellent, 2 = above average, 3 = average, 4 = below average, 5 = poor  
Prosecution as a team 2 Defense as a team 1 Judges as a panel 1

	Pros. #1	Pros #2	Def. #1	Def. #2
Name of atny	Laurina Finland	Graham S?	Bill Edwards	
preparation	2	1	1	
delivery	2	2	1	
decorum	1	1	1	
sensitivity	1	1	1	
personal responsibility	1	1	1	
cooperation	1	1	1	

	Presiding judge	#2 judge	#3 judge
Name of judge	Kagan	Posen	Jastrzebski
presence	1	1	1
confidence	1	1	1
attentive	1	1	1
control	1	1	1
respectful	1	1	1
delivery	1	1	1
side bar	1	1	1

4. Rate the following on the 1-5 scale: appropriateness of sentence 1

5. Do you think the experience helped the defendant? Why or why not? Yes.

*Δ clearly got carried away in committing the crimes — the process/formality of AYC served as a reality check.*

AYC CASE EVALUATION Case No. \_\_\_\_\_  
To Be Completed By All Case Participants. Return to Legal Advisor

1. What part of the process did you participate in? clerk \_\_\_\_\_ judge \_\_\_\_\_  
attorney \_\_\_\_\_ volunteer legal advisor  bailiff \_\_\_\_\_ AYC staff \_\_\_\_\_

Rate each of the following in overall performance on a scale of 1-5:  
1 = excellent, 2 = above expectations, 3 = good, 4 = adequate, 5 = poor

2. Prosecution as a team \_\_\_\_\_ Defense as a team \_\_\_\_\_ Judges as a panel \_\_\_\_\_

	Pros. #1	Pros #2	Def. #1	Def. #2
Name of atny	Stuart	Robbie	Ian	Ashley
preparation	2	2	2	2
delivery	1	3	1	2
decorum	1	1	1	1
sensitivity	1	2	1	1
personal responsibility	1	1	1	1
cooperation	1	1	1	1

	Presiding judge	#2 judge	#3 judge
Name of judge	Katie	Anaet	Layne
presence	1	1	2
confidence	2	2	2
attentive	1	1	1
control	1	1	1
respectful	1	1	1
delivery	2	2	1
side bar			

Comments:  
Stuart + Ian gave good argument - placed crime in larger context - Stuart explained how Δ's actions affect people around her - Ian explained how Δ interacted with family, friends & community

4. Rate the following on the 1-5 scale: appropriateness of sentence \_\_\_\_\_

5. Do you think the experience helped the defendant? Why or why not?

**AYC CASE EVALUATION** Case No. 91-022  
 To Be Completed By All Case Participants. Return to Legal Advisor

1. What part of the process did you participate in? clerk \_\_\_\_\_ judge \_\_\_\_\_  
 attorney \_\_\_\_\_ volunteer legal advisor X bailiff \_\_\_\_\_ AYC staff \_\_\_\_\_

2. Rate each of the following in overall performance on a scale of 1-5:  
 1 = excellent, 2 = above average, 3 = average, 4 = below average, 5 = poor  
 Prosecution as a team 2 Defense as a team 2 Judges as a panel 1

Name of atny	Pros. #1	Pros #2	Def. #1	Def. #2
preparation	<u>Wheeler</u> 3	<u>Roberts</u> 3	<u>Yaese</u> 1	<u>Wheeler Lanaker</u> 3
delivery	2	2	1	3
decorum			1	
sensitivity			1	3
personal responsibility			1	
cooperation			1	

Name of judge	Presiding judge	#2 judge	#3 judge
presence	<u>Poscy</u> 1	<u>Casey</u> 3	<u>Edwards</u> 2
confidence	1	1	1
attentive	1	2	1
control	1	2	2
respectful	1	2	2
delivery	1	3	2
side bar	1		

*I was very impressed with Ashy Yaese - excellent advocacy & poisc. & with Judge Poscy - excellent control & handling of case.*

4. Rate the following on the 1-5 scale: appropriateness of sentence 1

5. Do you think the experience helped the defendant? Why or why not?

An excerpt from State of Judiciary  
Given by Chief Justice Warren W. Matthews  
March 5, 1999

The Anchorage Youth Court is very well established. It is something of a national model. It handled about 500 cases last year. Anchorage will be hosting the national youth court conference this spring. The court system does not take credit for the youth court idea or its founding. But we support it in various ways with our employees and our facilities. Most of the other major cities in Alaska also have youth court programs. We intend to give them all the support we can.