ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672
9866 HOUSE JUDICIARY

HB

311

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

Testimony by: Denny Ray Weathers
For: House Bill 311
In: House Judiciary

Mr. Chairman:

HB 311 is a great piece of legislation. I only request that it be amended to include Non-commercial driver's licenses. Commercial fishing permits & crew licenses. Contrary to what some Legislators say...there is no federal law requiring the State to obtain SSN for the above rights, benefits or priv. eges.

Remember that SCS CSHB 344(FIN) am S that passed in 1998 (cover copy inclosed) was made under duress from the federal government which would lead me to believe that the legislators were opposed to it from the beginning and were blackmailed into passing it.

Inclosed with my written testimony please find a copy of the CRS Report for Congress, chronology of developments affecting use of the social security number which was mailed from Washington, D.C. on April 13, 1994 as verification of my following statements:

1935 Enactment of social security act. My note: this was a federal act not a State act.

1971 The social security administration issues a task force report on issues raised by nonprogram SSN use. The task force report proposes that SSN take a "cautious and conservative" position toward SSN use and do nothing to promote the use of the SSN as an identifier.

1974 Congress enacts the Privacy Act of 1974, Pub. L. 93-579 which limits governmental use of the SSN. The federal government and State and local governments are prohibited from withholding a right, benefit or privilege from a person simply because the individual refuses to furnish his or her SSN, except under certain circumstances, such as when required by federal law, or under certain grandfathered systems of record...My note: there is no federal law or grandfather clause requiring a SSN for non-commercial State driver's licenses or any of the State fishing and hunting licenses, tags or permits.

1976 section 121(b) of the same Act, Pub. L. 94-455, authorizes States to use the SSN in the administration of any tax, general public assistance, driver's license or motor vehicle registration law...My note: the federal government did not require the use it only authorized the State the right to use SSN's if the State wanted to.

1986 section 12006 of the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570, gives the Secretary of Transportation authority to require that a State includes a driver s SSN on commercial vehicle licenses. 49 U.S.C. App. ss2705. My note: here it does require the State to get a SSN.

Summary: The State is only required by federal law to get an SSN for those persons receiving federal benefits (public assistance, federal child support, food stamps, SSI, AFDC, WIC, unemployment programs), blood donors or a commercial vehicle license within the State other than that there is no requirement. Please note that Michigan the 26th State admitted to the union and New Mexico the 47th state to be admitted to the union do not require a SSN for identification and they have not lost their federal monies. Be advised that the People of Montana at present are working on an initiative to repeal there State SSN laws as well as a law suit against the State.

The reason that the federal government can not make a federal law that requires the State to collect a SSN for everyone is because the Constitution of the united states of America will not allow it, remember Article X. The powers not delegated to the united states by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.

Please pass HB 91 and quit selling us out to the federal government.

Dunstan Ward
Third Judicial District
c/o PO Box 1791
Cordova, Alaska
No Zip

CRS Report for Congress

The Social Security Number: Chronology of Federal Developments Affecting Its Use

Kathleen S. Swendiman
Legislative Attorney
American Law Division

November 21, 1991

Congressional Research Service • The Library of Congress

Chronology of Developments Affecting Use of the Social Security Number[10]

1935 -- Enactment of the Social Security Act, with authority for development of appropriate record keeping and identification scheme. Section 807(b) of Pub. L. 74-271.

1937 -- By June 30, 1937, approximately 30 million applications for Social Security Numbers are processed.

1943 -- Executive Order 9397, issued by President Roosevelt, authorizes the use of the SSN as a Federal Government identifier. 3 C.F.R. (1943-1948 Comp.) 283-284 (1943).

1961 -- The Civil Service Commission adopts the SSN as the official employee identification number.

Pub. L. 87-397 adds Section 6109 to the Internal Revenue Code, which authorizes the use of identifying numbers for tax purposes. 26 U.S.C. § 6109.

1962 -- The Internal Revenue Service adopts the SSN as the official taxpayer identification number.

1964 -- Treasury Department, via internal policy, requires buyers of series H savings bonds to provide their SSNs.

1966 -- The Veterans Administration begins to use the SSN as the hospital admissions number and for patient recordkeeping.

1967 -- The Department of Defense, via a Secretary of Defense memorandum, adopts the SSN as the service number for all military personnel.

1970 -- The Treasury Department issues regulations under Section 101 of the Bank Records and Foreign Transactions Act, Pub. L. 91-508, requiring all banks, savings and loan associations, credit unions and brokers/ dealers in securities to obtain the SSNs of all their customers. 12 U.S.C. § 1829b(c) and § 1730d. Also under Section 101, financial institutions are required to file a report with the IRS, including the SSN of the customer, of each deposit, withdrawal, exchange of currency or other payment or transfer

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[10] The principle Federal laws not covered in this chronology are those related to computer matching programs which use the SSN to cross match data from two or more Federal programs. For example, see 7 U.S.C. § 2025(e), which authorizes computer matching between food stamp recipients and Supplemental Security Income recipients for verification of income information. See generally, 5 U.S.C. § 552a(a)(8), (o), (p) (1988).

involving more than $10,000. 12 U.S.C. § 1829(e); see also 26 U.S.C. § 6050I(b).

1971 -- The Social Security Administration issues a task force report on issues raised by nonprogram SSN use. The task force report proposes that SSA take a "cautious and conservative" position toward SSN use and do nothing to promote the use of the SSN as an identifier.

1972 -- The Secretary of HEW (now HHS) is required, pursuant to Section 137 of the Social Security Amendments of 1972, Pub. L. 92-603, to issue SSNs to all aliens permitted to work in the United States, as well as to all recipients of benefits paid for by Federal funds. 42 U.S.C. §§ 405(c)(2)(B)(i)(I) and (II). The Secretary is authorized to issue SSNs to children below school age at the request of parents and guardians and to children of school age at their time of enrollment. 42 U.S.C. § 405(c)(2)(B)(iv) and (v). This section also requires the Secretary to obtain evidence establishing age, citizenship, or alien status of applicants of SSNs. 42 U.S.C. § 405(c)(2)(B)(ii).

Section 130(a) of Pub. L. 92-603 also adds subsection (g) to Section 208 of the Social Security Act, setting forth penalties for furnishing false information to obtain a SSN and for deceptive practices involving SSNs. 42 U.S.C. § 408(g).

1973 -- Buyers of series E savings bonds are required by the Treasury Department to provide their SSN's.

1974 -- Congress enacts the Privacy Act of 1974, Pub. L. 93-579 which limits governmental use of the SSN. The Federal Government and State and local governments are prohibited from withholding a right, benefit or privilege from a person simply because the individual refuses to furnish his or her SSN, except under certain circumstances, such as when required by Federal law, or under certain grandfathered systems of records maintained by a governmental entity prior to 1975. 5 U.S.C. § 552a.

1975 -- Under Section 101(c)(5)(C) of the Social Services Amendments of 1974, Pub. L. 93-647, disclosure of an individual's SSN becomes a condition of eligibility for AFDC benefits. 42 U.S.C. § 602(a)(25) and § 654.

1976 -- Section 1211(a) of the Tax Reform Act of 1976, Pub. L. 94-455, makes misuse of the SSN for any purpose a violation of the Social Security Act. 42 U.S.C. § 408(g).

Section 1211(b) of the same Act, Pub. L. 94-455, authorizes States to use the SSN in the administration of any tax, general public

assistance, driver's license or motor vehicle registration law and to require individuals affected by such laws to furnish their SSNs to the States. 42 U.S.C. § 405(c)(2)(C)(i). In addition, States are permitted to use the SSN for responding to requests for information from any agency operating pursuant to the Aid to Families with Dependent Children program and the Child Support and Establishment of Paternity program. 42 U.S.C. § 405(c)(2)(C)(iii).

Section 1211(c) of the same Act, Pub. L. 94-455, amends Section 6109 of the Internal Revenue Code to provide that the SSN be used as the tax identification number for all tax purposes. While the Treasury Department had been using the SSN as the tax identification number by regulation since 1962, this law codifies that requirement. 26 U.S.C. 6109(d).

1977 -- Section 4 of the Food Stamp Act of 1977, Pub. L. 96-58, authorizes the Secretary of the Department of Agriculture to require that the SSN of all household members be disclosed as a condition of eligibility for participation in the food stamp program. 7 U.S.C. § 2025(e).

1981 -- Section 803b of the Omnibus Reconciliation Act of 1981, Pub. L. 97-35, requires the disclosure of the SSNs of all adult members in the household of children applying for the school lunch program. 42 U.S.C. § 1758(d).

Under Section 916 of the Department of Defense Authorization Act, 1982, Pub. L. 97-86, the Director of Selective Service is authorized to require Selective Service registrants to submit SSNs when registering for the draft and requires the Secretary of HHS to furnish to the Director of Selective Service the names, dates of birth, addresses and SSNs of individuals required to register for the purpose of enforcement of the Military Selective Service Act. 50 U.S.C. App. §§ 453(f) and 462.

Section 4 of The Omnibus Reconciliation Act of 1981 - Social Security Benefits Act, Pub. L. 97-123, amends the Social Security Act to add alteration and forgery of a social security card to the list of prohibited acts and increases the penalties for such acts under Section 208 of the Social Security Act. 42 U.S.C. § 408.

Section 6 of the same law, Pub. L. 97-123, requires any Federal, State or local government agency to furnish the name and SSN of prisoners convicted of a felony to the Secretary of HHS, upon written request, in order to enforce suspension of disability benefits to certain imprisoned felons. 42 U.S.C. § 423.

1982 -- Section 4 of the Debt Collection Act of 1982, Pub. L. 97-365, requires all applicants for loans under any Federal loan program

to furnish their SSNs to the agency supplying the loan. 26 U.S.C. § 6103 note.

1983 -- Section 345 of the Social Security Amendments of 1983, Pub. L. 98-21, requires that the Secretary of HHS issue a social security card at the same time as an SSN is issued, and requires that new and replacement social security cards be made of banknote paper and (to the maximum extent practicable) not be subject to counterfeiting. 42 U.S.C. § 405(c)(2)(F).

1984 -- Section 146(a) of the Deficit Reduction Act of 1984, Pub. L. 98-369, amends Section 6050I of the Internal Revenue Code to require that persons engaged in a trade or business file a report (including SSNs) with the IRS for cash transactions over $10,000. 26 U.S.C. § 6050I(a).

Section 422(b) of the same law, Pub. L. 98-369, amends Section 215 of the Internal Revenue Code to authorize the Secretary of HHS to prescribe regulations requiring a spouse paying alimony to furnish the Internal Revenue Service with the taxpayer identification number (i.e, SSN) of the spouse receiving alimony payments. 26 U.S.C. § 215.

Section 2651(a) of the same law, Pub. L. 98-369, requires that States have in effect an income and eligibility verification system meeting Federal standards for certain programs, and that SSNs be required as a condition for eligibility for benefits under such programs, which include the following: AFDC, Medicaid, Unemployment Compensation, Food Stamps, and SSI. 42 U.S.C. § 1320b-7(a)(1).

1986 -- Section 407(a) of the Higher Education Amendments of 1986, Pub. L. 99-498, requires student loan applicants to submit their SSN as a condition for eligibility. 20 U.S.C. § 1091(a)(4).

Section 1524 of the Tax Reform Act of 1986, Pub. L. 99-514, requires that any dependent age five or older listed on a tax return be identified by a SSN. 26 U.S.C. 6109(e).

Section 12006 of the Commercial Motor Vehicle Safety Act of 1986, Pub. L. 99-570, gives the Secretary of Transportation authority to require that States include a driver's SSN on commercial vehicle licenses. 49 U.S.C. App. §2705.

Under Section 101(e) of the Immigration Control and Reform Act of 1986, Pub. L. 99-603, the Secretary of HHS is required to undertake a study of the feasibility and costs of establishing a SSN validation system for employment eligibility verification of

aliens under 8 U.S.C. § 1324a, and of the privacy concerns that would be raised by the establishment of such a system.

1988 -- Section 165 of the Housing and Community Development Act of 1987, Pub. L. 100-242, authorizes the Secretary of the Department of Housing and Community Development to require disclosure of a person's SSN as a condition of eligibility for any HUD program. 42 U.S.C. § 3543(a).

Section 125 of the Family Support Act of 1988, Pub. L. 100-485, requires each State, in issuing birth certificates, to obtain the SSNs of the parents, unless the State determines that there is good cause for not furnishing such number. The SSNs are not to be recorded on the birth certificate but are to be used for child support enforcement activities. 42 U.S.C. § 405(r)(7).

Section 704(a) of the same law, Pub. L. 100-485, requires that any dependent age two and older listed on a tax return be identified by a SSN. 26 U.S.C. § 6109(e).

Section 8008 of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, authorizes any State and any authorized blood donation facility to require blood donors to furnish their SSN for purposes of identification. 42 U.S.C. § 405(c)(2)(D)(i) and § 1320b-11(c).

Section 7088 of Pub. L. 100-690, the Anti-Drug Abuse Act of 1988, deleted the $5,000 and $25,000 upper limits on fines that can be imposed for violations of Section 208 of the Social Security Act. The general limit of $250,000 for felonies in Title 18 of the United States Code now applies to violations under the Social Security Act. 42 U.S.C. § 408(a).

1989 -- Section 202(b)(2)(A) of the Child Nutrition and WIC Reauthorization Act of 1989, Pub. 101-147, amends the National School Lunch Act to specify that the member of the household who executes the application for the school lunch program must furnish only the SSN of the parent or guardian who is the primary wage earner responsible for the care of the child for whom the application is made. Only if verification of the application data is necessary may the Secretary require the SSNs of all adult household members. 42 U.S.C. § 1758(d).

Section 2008 of Pub. L. 101-239, the Omnibus Budget Reconciliation Act of 1989, requires that the National Student Loan Data System, set up by the Secretary of the Department of Education, include, among other things, the names and SSNs of student loan borrowers. 20 U.S.C. § 1092(b).

4/10/2000

HB 311

My name is Tom Carpenter, I am a Commercial fisherman and owner of Whiskey Ridge Trading Co. - a Sporting goods Store in Cordova. I am a vendor of State fish & game licenses and tags. Each year I offer more & residents/non residents that purchase licenses are very frustrated and angry they are required to give me their Social Security number, I would also say 10% even refuse this hunting/fishing illegally having no license. This is solely a ploy for the US Government. This State ought to stand up for itself for once. How this

State been insulted enough by the Federal takeover of our Fish & Game Resources. Please do not cave to Federal Funding, lets Stand on our own feet. Please pass House Bill 341.

Tom Cooper 4/10/2000.

From Real testimony, the So Calle Blocked Social Security # is Still Legible on the Departments Copy.

I support HB 311. Social Security #'s are for social security purposes only.

Eric J. Deathrage Jr.
4-10-00
Box 1584 Cordova
Alaska

To

I support HB 311, in that the pistol safety should be used on every state D

Dagmar J Davis

Dear Sirs:

Reame HB-311

I want to go on record as supporting this bill. I don't want my social security number on my hunting & fishing license. The social security number is a Federal identification number for my social security benefits. There is no reason for it to be on any State of Alaska documents. Please get it off the Hunting and Fishing Licence. Also put in an amendment to remove it from the Permanent Fund, Drivers Licence and my Commercial Entry Permits.

With all the white type of people stealing other peoples identity and opening bank accounts, you are giving a dis-honest person all the information they need to steal from honest people.

Thank You for listening to my comments.
Resident 48 yrs. of Cordova, Alaska

Sincerely:

Dean Curran

9/13/00
JAD
(Cos: 11)

LEGAL SERVICES

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

(907) 465-3867 or 465-2450
FAX (907) 465-2029
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130 Seward Street, Suite 409
Juneau, Alaska 99801-2105

MEMORANDUM March 23, 1999

SUBJECT: Social Security Numbers on Hunting and Fishing Licenses (Work Order No. 21-LS0740)

TO: Representative Scott Ogan

FROM: Terri Lauterbach
Legislative Counsel

You have asked whether federal law requires social security numbers to be on applications for hunting and fishing licenses and, if so, whether the state could eliminate the related requirement that is currently in state law and forgo federal funds.

Federal law requires social security numbers to be on applications for "recreational licenses" but does not define that term. See copy of 42 U.S.C. 666(a)(13), enclosed. I have not located any attempt to define "recreational license" in federal regulations. In my opinion, the inclusion of hunting and fishing licenses is a reasonable interpretation of "recreational license."

This requirement is part of Congress' effort to improve child support enforcement and, thereby, to reduce use of governmental welfare payments to support a family that should be getting private child support but isn't. It is thought that social security numbers might be useful to locate a person who is delinquent on child support payments. Therefore, Congress requires the recording of social security numbers on many types of documents, including recreational licenses, as part of what a state must do in order to obtain federal funds for child support enforcement. In turn, having a child support enforcement program that meets federal requirements is part of what a state must do in order to get federal TANF/ATAP funds.

The state may choose to be out of compliance with 42 U.S.C. 666(a)(13). Such an action would jeopardize not only the federal funds received for child support enforcement efforts but also federal funds received as block grant money for the TANF/ATAP program under AS 47.27. The Department of Revenue and the Department of Health and Social Services could provide more information about these amounts and/or the likelihood of federal sanctions, or you could authorize me to contact them on your behalf in regard to these matters.

Please let me know if I can be of further assistance.

TML:jdr
99-146.jdr
Enclosure

ALASKA STATE HOUSE OF REPRESENTATIVES

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119 N. Cushman, Suite 211
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State Capitol
Room 416

REPRESENTATIVE JOHN COGHILL

Date: April 12, 2000

To: Representative Pete Kott, Chairman
House Judiciary Committee

From: Representative John Coghill

Re: HB 311

HB 311 passed out of House Resources Monday. I am requesting HB 311 be heard in House Judiciary at your earliest convenience and have attached back up for the legislation.

Thank you for your consideration.

Representative_John_Coghill@LEGIS.state.ak.us

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

HB 311 Social Security Numbers & Recreational Licenses
SPONSOR STATEMENT

A requirement to provide your social security number before obtaining a recreational hunting and fishing license was a recent federal mandate accepted by the legislature under the Smart Start legislation of 1998.

The reasoning for imposing the social security requirement for a casual license was to track people for child support enforcement agencies nationwide. While an integrated national system such as this may be efficient it is a double-edged sword. First, the requirement is an instrument for the abuse of privacy. Secondly the federal government tempts us to erode our constitutional responsibilities and rights through mandates that are accepted when taking federal funds.

Lets remember that our social security started in 1935 as a means of tracking earnings and benefit qualification for those workers who had jobs under this system. The social security number was never intended to be use for general identification purposes. Most importantly our social security number was not intended for invasion of anyone's privacy.

> "The right to be left alone – the most comprehensive of rights, and the right most valued by free people."
>
> Justice Louise Brandeis, Olmstead v. U.S. (1928
>
> "The right of the people to privacy is recognized and shall not be infringed."
>
> Alaska State Constitution. Article 1, Section 22.

The privacy issue here is that information being gathered by vendors issuing licenses all over Alaska is available for purchase by anyone. The information of about 600,000 licensees can be purchased for $350. While the social security number is purged from the database, the information provided on the application is collected by a vendor which is less secure.

The states' rights issue was created by a Supreme Court challenge by South Dakota of the federal mandate of legal drinking age requirement to receive federal highway funds. While the Court determined that the Tenth Amendment prevented the federal government from requiring states to impose a mandatory seatbelt law, the federal government did have the authority to withhold federal highway funds from a state that did not enforce a mandatory seatbelt law.

Since this decision, states have been surrendering individual and states' rights in return for federal dollars. We must ask our selves how much our individual and states' rights are worth.

Representative_John_Coghill@LEGIS.state.ak.us

No: 1

FISCAL NOTE

Bill Version: HB 311
(H) Publish Date: 4/10/00

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction) _____ Dept. Affected Revenue

Title: No Social Security Number Required on Hunting and Fishing Licenses
BRU: Child Support Enforcement Division
Component: Child Support Enforcement Division
Sponsor: Representative Coghill
Requester: House Resources
Component No.: 111

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES	(77,000.0)	(77,000.0)	(77,000.0)	(77,000.0)	(77,000.0)	(77,000.0)

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: _____

POSITIONS

Full-time						
Part-time						
Temporary						

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

According to federal law, Alaska will lose all of its federal funding for the child support division and public assistance (IV-A) programs if we do not have a law requiring that Social Security numbers be provided on applications for recreational hunting and fishing licenses. The federal funding lost will be over $14 million a year for child support and $63 million a year for public assistance.

Prepared by: Barbara Miklos Phone 269-6800
Division: Child Support Enforcement Division Date/Time 4/7/00 - 3 p.m.
Approved by: Commissioner Wilson Condon Date 04/07/2000
Agency: Department of Revenue

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courierpress.com
Evansville Courier & Press Tuesday, April 11, 2000

Social Security thieves can do number on you

By JOHN LANG, Scripps Howard News Service

The government's got your number.

With the nine digits on your Social Security card, the government keeps track of you — where you live, where you work, how much you earn — and eventually, where to send your Social Security check.

So if somebody steals your number, what's also stolen is much of your life.

On the Social Security Administration's own Internet site, http://www.ssa.gov, is a history page that gives a serious lesson on what can go wrong.

The most misused Social Security number of all time was 078-05-1120.

It belonged to Hilda Whitcher, secretary to an executive at a wallet manufacturer, the E.H. Ferree Co.

When Social Security cards were first issued in 1936 they were a novelty to the public. In 1938, Whitcher's boss, Douglas Patterson, decided it would be a clever idea to show how the cards could be showcased in a wallet. He used Whitcher's actual number.

The wallet was sold by stores all over the country. Even though the card had "specimen" written across the face, many people who bought wallets somehow thought they were getting their personal Social Security numbers included.

Within five years, there were 5,755 people across the United States using Hilda Whitcher's number. Even though the Social Security Administration publicized the mistake and voided the number (Whitcher was

given a new number), the problem went on and on and on.

Ultimately, more than 40,000 people reported the number as their own. Even as late as 1977, a dozen people were found to be still using the number that was put in those wallets and sold at Woolworth's all over the country.

It was a real headache for Whitcher. The FBI showed up at her door to ask about all those people using her number.

"I can't understand how people can be so stupid," she said. "I can't understand that."

The problem of your number getting in the wrong hands can be far more serious today because the power of the card is well understood by almost everyone. Lose your wallet, with license and credit cards inside, and you can lose your identity. There are numerous cases of people having their credit ruined by others who get their hands on both Social Security and credit card numbers.

"It was never meant to be a national identification number," says Social Security Administration spokesman Mark Hinkle. But he concedes, "Over the years it's become an identifier and it seems everywhere you go, people are asking for it."

However, Hinkle points out, "There's no law that says you have to give that number. No law requires its use for any other purpose than paying Social Security. We tell people it's a voluntary decision whether to give out that number."

Nobody but the Social Security Administration has the right to the number or to access its data on your earnings records or your benefit payments. "It's strictly confidential," says Hinkle.

The Social Security number has a billion combinations. Everybody's is different. To date 390 million have been used. That's just about 40 percent, with plenty of reserve, so the Social Security Administration has no plans to issue any dead person's number to anybody else.

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COLUMN: Social Security Number should be kept private

Updated 12:00 PM ET April 7, 2000

By Sohrab Ghassemi
The Hoya
Georgetown U.

(U-WIRE) WASHINGTON -- I suggest that the Georgetown University administration use an arbitrarily invented number as our student identification number instead of our Social Security number.

The use of our Social Security number as our student identification number raises enormously pressing privacy concerns. The Social Security number should remain a very private matter, given out in only the most appropriate and needed situations. The university's use of this number as our student ID number is inappropriate and misguided.

As a result of this usage, our Social Security number appears on our student ID cards (when it should only appear on one card, our Social Security card). The Social Security number does not even appear on a United States passport; we are given a separate passport number. Yet the Social Security number appears on the Georgetown student ID card. Moreover, we are often asked to write our "student identification number" on exam blue books and papers.

This number, though, is actually our Social Security number. Yates uses our Social Security number to admit us into their facilities. Munch Money transactions, on and off campus, use this number. Our Georgetown student telephone bills use our Social Security number as our account number. AT&T does not use my mother's Social Security number as her account number. We are asked to type in our Social Security number on an insecure line over the Internet in order to get to Student Access. And the list goes on.

All this usage of our Social Security number as our student ID number increases the chance that this very private number goes into the domain of public knowledge. This is dangerous. Second and third parties can access an abundance of information about a student by knowing their Social Security number. They can also fraudulently use your identity.

A student ID number should be just that, in its own right. Our Social Security number should not double as our student ID number. A

U-Wire Odd News

Can't buy me love?

Pseudo arrests sweep U. Minnesota for philanthropy

A chocolate bar a day will keep the doctor away

Georgetown Media Group auctioned classes on eBay, stays mum on profits

April 10

Calif. man plans another trip across U.S. in golf cart

April 7

Michigan State U.'s 'ugly man contest' to benefit society

Bus riders provide amusement to fellow Penn State students

Indiana U. students kiss Jeep to bring it home

U. Illinois barn helps horse owners in births of foals

U. Kentucky student within the mascot reflects on life as the Cat

Rowing, lacrosse clubs shy away from U. Michigan's 'Naked Mile' tradition

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university such as UCLA, with 35,000 plus students, uses arbitrary and newly invented numbers for their students' identification numbers. The Social Security number remains in the private domain and only is used under very special and exceptional circumstances. Georgetown is a small school; it can handle inventing numbers specifically to act as the student ID numbers. The fact that it is easier to use the Social Security number is no excuse. In fact, it ignores blatant privacy concerns. Social Security number usage is reserved for filling out federal census forms and IRS forms, not for entering a gymnasium or buying food from the campus store.

The Social Security number must not double as our student ID number. The latter number, due to its wide and open use, is very much in the public domain. The Social Security number should not be. Each student should be given a Georgetown student identification number for use in university-related matters. The Social Security number must not be this number. When you want to buy Domino's and use Munch Money, and they ask for your student ID number, this is more or less harmless. But when that number is your Social Security number, as it is now, that knowledge in the broader public domain is dangerous.

In fact, it is in Georgetown University's interest to stop using our Social Security number as our student ID number. They are setting themselves up for a series of lawsuits regarding the negligent and careless use of students' Social Security numbers. It is, after all, only a matter of time before this precious number, as a result of university policy, falls into the wrong hands. This especially is a problem in this information age with the growing Internet-ization of the United States.

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4/13/00 JAD H.R. 3130 (Micklaus (pH) CSED)

US Code as of: 01/26/98

Sec. 666. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement

- (a) Types of procedures required
  In order to satisfy section 654(20)(A) of this title, each State must have in effect laws requiring the use of the following procedures, consistent with this section and with regulations of the Secretary, to increase the effectiveness of the program which the State administers under this part:

- (1)
  - (A) Procedures described in subsection (b) of this section for the withholding from income of amounts payable as support in cases subject to enforcement under the State plan.
  - (B) Procedures under which the income of a person with a support obligation imposed by a support order issued (or modified) in the State before January 1, 1994, if not otherwise subject to withholding under subsection (b) of this section, shall become subject to withholding as provided in subsection (b) of this section if arrearages occur, without the need for a judicial or administrative hearing.

- (2) Expedited administrative and judicial procedures (including the procedures specified in subsection (c) of this section) for establishing paternity and for establishing, modifying, and enforcing support obligations. The Secretary may waive the provisions of this paragraph with respect to one or more political subdivisions within the State on the basis of the effectiveness and timeliness of support order issuance and enforcement or paternity establishment within the political subdivision (in accordance with the general rule for exemptions under subsection (d) of this section).

- (3) Procedures under which the State child support enforcement agency shall request, and the State shall provide, that for the purpose of enforcing a support order under any State plan approved under this part -
  - (A) any refund of State income tax which would otherwise be payable to a noncustodial parent will be reduced, after notice has been sent to that noncustodial parent of the proposed reduction and the procedures to be followed to contest it (and after full compliance with all procedural due process requirements of the State), by the amount of any overdue support owed by such noncustodial parent;
  - (B) the amount by which such refund is reduced shall be distributed in accordance with section 657 of this title in the case of overdue support assigned to a State pursuant to section 608(a)(3) or 671(a)(17) of this title, or, in any other case, shall be distributed, after deduction of any fees imposed by the State to cover the costs of collection, to the child or parent to whom such support is owed; and
    (C) notice of the noncustodial parent's social security

State shall review and, if the requesting party demonstrates a substantial change in circumstances, adjust the order in accordance with the guidelines established pursuant to section 667(a) of this title.

- (C) Notice of right to review. - Procedures which require the State to provide notice not less than once every 3 years to the parents subject to the order informing the parents of their right to request the State to review and, if appropriate, adjust the order pursuant to this paragraph. The notice may be included in the order.

- (11) Procedures under which a State must give full faith and credit to a determination of paternity made by any other State, whether established through voluntary acknowledgment or through administrative or judicial processes.
- (12) Locator information from interstate networks. - Procedures to ensure that all Federal and State agencies conducting activities under this part have access to any system used by the State to locate an individual for purposes relating to motor vehicles or law enforcement.
- (13) Recording of social security numbers in certain family matters. - Procedures requiring that the social security number of -

- (A) any applicant for a professional license, driver's license, occupational license, recreational license, or marriage license be recorded on the application;
- (B) any individual who is subject to a divorce decree, support order, or paternity determination or acknowledgment be placed in the records relating to the matter; and
(C) any individual who has died be placed in the records relating to the death and be recorded on the death certificate.
For purposes of subparagraph (A), if a State allows the use of a number other than the social security number to be used on the face of the document while the social security number is kept on file at the agency, the State shall so advise any applicants.

- (14) High-volume, automated administrative enforcement in interstate cases. -

- (A) In general. - Procedures under which -

- (i) the State shall use high-volume automated administrative enforcement, to the same extent as used for intrastate cases, in response to a request made by another State to enforce support orders, and shall promptly report the results of such enforcement procedure to the requesting State;

- (ii) the State may, by electronic or other means, transmit to another State a request for assistance in enforcing support orders through high-volume, automated administrative enforcement, which request -

- (I) shall include such information as will enable the State to which the request is transmitted to compare the

4/13/00
JUD
Moss
HB 311

MINUTES OF STATE GAME COMMISSION MEETING

April 8, 1999
State Capitol, Room 307
Santa Fe, New Mexico

Agenda Item No. 1... Meeting Called To Order

Meeting was called to order at 9:15 am.

Agenda Item No. 2...Roll Call - Jerry Maracchini

Secretary Maracchini calls roll of Commissioners

Bill Brininstool - Present
Gail Cramer - Present
George Ortega - Present
Steve Padilla - Present
Steve Emery - Present
Bud Hettinga - Present
Steve Doerr - Present

Chairman Brininstool - Introduces Commissioner Emery and states that he is representing District 5 and that Commissioner Padilla has been re-appointed.

Jerry Maracchini - States for the audience that there is a new procedure for audience participation. When a member of the public wishes to speak on a particular agenda item they will need to fill out one of the participation cards that will be located on the table with the extra copies of the agenda. These cards then need to presented to the recording secretary prior to the agenda item being presented.

Commissioner Hettinga - Asks if we will allow many members of one organization to speak or if we will require that they get together and present their comments all at one time.

Jerry Maracchini - States that if there is a large group of people who wish to speak on the same agenda item then it would be preferable if they all get together and have one person do the presenting for them. These cards also allow for those individuals who do not wish to get up and speak in public to present their comments in writing to the Commission.

Agenda Item No. 3...Closed Executive Session

MOTION: Commissioner Doerr makes a motion to go into closed executive session to discuss - director's performance with respect to personnel assignments, department organization and areas of emphasis and the legal implications of the Uniform Licensing Act relating to Outfitter's and the Rock Lake Hatchery delinquent lease. Commissioner Hettinga seconds.

VOTE: Roll call vote taken - all present voted in the affirmative. Motion passes unanimously.

Agenda Item No. 4...Approval of Minutes - January 6, 1999.

MOTION: Commissioner Doerr makes a motion to approve the minutes of the January 6, 1999 meeting

as presented. Commissioner Cramer seconds.

VOTE: Roll call vote taken - 6 of the 7 present voted in the affirmative. Commissioner Emery who was not present at the meeting chose not to vote. Motion carried.

Agenda Item No. 5...Consent Agenda
· Budget Report - Pat Block
· Auction of Department Vehicles and Equipment

Commissioner Hettinga - States he would like to have the budget report faxed or mailed to the commission so that they have time to review and then if there are no questions, they can just vote on it right away.

MOTION: Commissioner Hettinga makes a motion to approve the Consent Agenda. Commissioner Cramer seconds.

VOTE: Roll call vote taken - all present voted in the affirmative. Motion passes unanimously.

Agenda Item No. 6...1998-1999 Oryx Hunter Accommodations

Jerry Maracchini - Explains that back in January the Commission gave the Director the authority to negotiate with White Sands Missile Range to try and come up with a reasonable method of accommodating the oryx hunters who were successful in drawing a license but whose hunts were cancelled. We have done so and we had to come up with some type of intermediate plans to handle the hunters and we came up with the spring hunts. We realize that when we came up with the spring hunts that these are far different than those that the hunters originally applied for. So in order to be as accommodating as possible on the once-in-a-lifetime hunts, we are presenting an opportunity for those hunters who participated but were not successful or for those hunters who could not participate another opportunity to hunt this fall (1999-2000).

MOTION: Commissioner Hettinga makes a motion to approve Agenda Item #6 as proposed. Commissioner Doerr seconds.

Commissioner Cramer - Commends the Department with the way they have handled these hunts and feels that we have gone above and beyond what needed to be done.

Steve Henry - Thanks Commissioner Cramer for the comment. He acknowledges that Commissioner Hettinga should get some of the credit. We have had about 180 hunters and about 4 have not killed an oryx. We will probably have about 30 +/- that have chosen not to hunt. There are four or five more hunts still to be held. We feel that these hunts have been successful and according to the missile range they are getting a bigger selection of trophy oryx taken than there has ever been.

Commissioner Cramer - Asks if what the commission is voting on and that it may involve 30 - 40 people.

Steve Henry - More than likely. There may still be a different understanding among the hunters.

Bob Atwood - Just wanted to say thanks and feels that the people who did not get to participate be allowed to hunt next year.

Oscar Simpson - Offers his gratitude. His concern is that only the people who were not given the opportunity to hunt be allowed. He did not want to see the elimination of the once-in-a-lifetime hunts.

Stan Lundy - Would like the opportunity to go on his oryx hunt that he was not able to go on. He is concerned with the take it or leave it attitude that the letter he received portrayed.

Jerry Maracchini - We still do not have a guarantee that the hunts published for this year will even be

held.

Commissioner Hettinga - States he is optimistic about the hunting at WSMR.

Commissioner Ortega - Thanks Jerry for the job he did on one of the more controversial individuals from here in Santa Fe.

VOTE: Roll call vote taken - all present voted in the affirmative. Motion passes unanimously.

Agenda Item No. 7... Removal of "Once in a lifetime" restriction for 1998-1999 oryx hunters.

MOTION: Commissioner Hettinga makes a motion to remove Item No.7 from the agenda. Commissioner Ortega seconds.

VOTE: Roll call vote taken - all present voted in the affirmative. Motion passes unanimously.

Agenda Item No. 8...Social Security Number Requirements Discussion

Larry Bell - States that this was brought up because of some questions brought up by the public and commissioners. There are a variety of concerns and we just want to have a little discussion. Back in 1998 and maybe even in 1997 the Commission had concerns relating to the use of prisoner's inputting the application information. We were just about to have a solution for this and then the Parental Responsibility Act came along. As with other laws there are exceptions and this PRA has some of these exceptions and because of these we now need to collect this information on our applications.

MOTION: Commissioner Hettinga makes a motion to require the NM Department of Game and Fish to NOT collect SS# on applications or licenses in any form. Commissioner Doerr seconds.

Commissioner Hettinga - There are no safe guards and we have a lot of public outcry not to require this information. There are no safe guards on any of our information because we are a public agency and therefore anyone can come to our office and request this information. The NM Driver's licenses do not require SS#'s. Feels that if it is required then we should have a court order to direct us to collect this information.

Larry Bell - Just to make something a little more clear, if someone came into the office with a public inspection request, and since we can only collect a SS# for a specific purpose and only make it mandatory for a specific purpose. Then on any public records request that we receive where that number may be contained the SS# would have to be redacted from this request. As a matter of fact even before the SS# request we have always had requests from outfitters and such for information and we have taken the SS#'s off. As for driver's license the SS# does not show up on the license but it is asked for as part of the application and then that application is then retained in their files.

Alvin Garcia - Larry is correct in that SS#'s are redacted from any document requested through public records act. This advice from the Attorney General's office for all state agencies it that these numbers be taken off any public records. The State Human Services Department is tied to the enforcement of this act. There are federal monies tied to this act. The adoption of this motion may force his office to withdraw as counsel for the State Game Commission.

Commissioner Padilla - Mentioned the importance of this act and he opposed it because of the fact that it is not funded and does not reimburse the Department for loss of revenue.

Commissioner Hettinga - Feels that we should enforce the child enforcement act, but there are other ways to do this. The Department has lists and Human Services should provide a list of those in violation and the Department can then check their records and start the revocation. States that Alvin's version of how public records are given out is not how it happens, maybe it should but it does not always happen the correct way.

Alvin Garcia - The lists are required by Human Services Department. Lists that contain these SS#'s are checked against lists of those not in compliance. This is all done by data disks.

Chairman Brininstool - Feels that federal money would be lost and feels that we are hurting ourselves.

Oscar Simpson - Does not like the SS# requirement and if we have some sort of protocol to assure that the SS#'s were not given out then maybe more people would support this action. He would like for the Department to explore some way for the in the future of not having to use SS#'s.

Commissioner Hettinga - States that the Health and Human Services asks for names. Feels that there are ways to go about this and he feels that the Department would find a way without having to hold the license buyers hostage.

Larry Bell - We get from Human Services a datadisk and on this disk is a list of SS# of those not in compliance and we then match it to what records we have. We would be more than happy to work with Human Services to find out if they would accept some other method. They are not only dealing with Game and Fish but all other agencies as well and that he cannot speak for them, but he will work with them.

VOTE: Roll call vote taken and Commissioner's Hettinga, Ortega, Emery and Padilla voted in the affirmative. Commissioner's Doerr, Cramer, and Brininstool voted in the negative. Motion carries with a 4 to 3 in the affirmative.

Larry Bell - Informs the commission that since we already have our licenses printed and distributed that we will try to conform to the wishes of the Commission.

Representative Begay - Introduces himself and states that he represents legislative district 4 which covers great deal of the Navajo Nation Reservation. He is from the NW portion of the state. A couple of years ago a bill was introduced regarding amphibians and reptiles. He introduced a bill this year and he received some support. Has done some research and has found that other states have restrictions on removing native species from their states and during the research he has discovered that New Mexico does not have similar restrictions and he would like to see some set in place. There are native amphibians and reptiles that are very important to his heritage. He would like the Department of Game and Fish to take a look at this and see what they can do to help.

Commissioner Hettinga - Asks Rep. Begay to get the Department a copy of the bill and the analysis and he would like to see this on the next agenda.

Rep. Begay - Yes, he would get us all of these copies and is willing to come for the next meeting if needed.

Commissioner Doerr - As he understands it, the Department does not have jurisdiction over these and asks if this bill allows for more personnel and funding.

Commissioner Padilla - Agrees with Commissioner Hettinga and with this on the next agenda he would like to see a copy of Representative Porter's bill. We need to analyze both bills together and see what the differences are.

Jerry Maracchini - States that he would like to answer Commissioner Doerr's question with regard to personnel and money. When we first analyzed the bill we are always cautious about additional personnel and money and the bill was modified as Rep. Begay mentioned to be a little bit more regulatory friendly to the commission. In other words it would have given the commission the authority to regulate only those species that it felt necessary instead of a blanket for all species. Feels that the next step would be for the Department to analyze and come up with legislation that it feels the Commission could support. The Commission was never afforded the opportunity to look at what the implications would be in regards to manpower and money

Commissioner Hettinga - Feels that we should investigate the TWW/OCS money and see how it could help with this.

Jerry Maracchini - States that if it ever happens yes it would go to help this.

Agenda Item No. 9...Deer Management Long-Range and Action Plan Update

Barry Hale - Gives the background on this subject and explains how we have gotten to where we currently are. We have updated the Long-Range Deer Management Plan and we have created a Deer Management Action Study.

We have identified the areas where we would like to
Criteria for Selecting Locations:
· Study location must have deer
· Study location has historic information on deer populations
· Land status should be primarily public, with cooperation from administering land management agency
· No depredation complaints about deer in the area
· Predator management must be an option

We have selected two areas: Unit 23 Burro Mountains and Unit 51 west of El Rito in the Carson National Forest. We have begun the planning effort for these areas.

For both areas:
· Deer - trap and collar (90), monitor (moralities) and survey (mark/recapture and sightability)
· Predator - survey (scent stations, howl counts, etc), removal (ground/aerial), and monitor of removal.
· Areas - Two - Burro Mountains in Unit 23 and El Rito Area of Unit 51.
· Cost - average of $400,000 per year.

We have some ground work that still needs to be laid before we can get the bulk of the work started. We need to hire the deer manager, complete the project plan, prepare FY2001 budget request and allocate FY 2000 budget for project.

We are looking to start the bulk of the work in FY2000 and we plan to: test predator survey techniques, initiate predator surveys, initiate deer sightability

Commissioner Hettinga - Asks if we were specifically asked not to institute one of these areas, Unit 51. He requests that we use an alternate area. He would also like for it all to be started at one time (law enforcement, habitat, etc).

Commissioner Padilla - Asks what the opposition to Unit 51.

Commissioner Hettinga - Feels that it is hard to get the law enforcement needed up there to enforce the poaching. It is hard to get in the middle of the Carson forest and the Gila country to get law enforcement out there all the time. We need to get it started where it will at least have a chance to work.

Commissioner Padilla - States that Utah has a program called dedicated hunter program. He asks if anyone knows what this is.

Commissioner Doerr - We also talked about trying to get in addition to these two areas we are going to try and improve the habitat in other areas of the state at the same time we are monitoring these two areas.

Santiago Gonzales - We have some preliminary plans to begin habitat work with Sikes Act money. We have started on the predator removal at this time because we thought it was the most controversial portion. We have not ignored the habitat request, but we just wanted to present this portion to see if we are on the correct track.

Commissioner Hettinga - Feels that Santiago Gonzales knows that if we just focus on predator removal

HB 318

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

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM February 18, 2000

SUBJECT: Police Custody and Disposal of Property (Work Order No. 21-LS1294/G)

TO: Representative Pete Kott
Attn: Lesil McGuire

FROM: Gerald P. Luckhaupt
Legislative Counsel

Enclosed is the bill draft you requested. I have a few comments.

1. It seems obvious to me that law enforcement can keep property that comes into their custody personally (for example, in the police property room) or constructively by leaving the property with someone else (for example, in a towing company's impound lot or a vicious dog with the humane society). Providing that in this CS seems unnecessary to me.

2. Similarly, I question the need to provide that law enforcement may require that a person who finds property and delivers it to law enforcement must provide their name and address and must indicate if they want the property if the property remains unclaimed. I don't understand why law enforcement would not be able to do this anyway.

3. And, finally, I question the need to clarify that the provisions of AS 18.65.340 do not apply to a firearm or ammunition found by a person who is considered the owner of the property after one year due to the operation of AS 12.36.045. If the person is considered the owner under AS 12.36.045 and they want the firearm or ammunition the firearm or ammunition is not unclaimed any longer and AS 18.65.340 does not apply. The clarification is not necessary.

GPL:glc:jr
00-073.glc

1-LS1294\G
Luckhaupt
2/18/00

CS FOR HOUSE BILL NO. 318(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUNDE, Dyson, Croft

A BILL

FOR AN ACT ENTITLED

"An Act relating to custody and disposal of property by law enforcement agencies."

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

*** Section 1.** AS 12.36.010 is amended to read:

Sec. 12.36.010. Property <u>custody and</u> **disposition.** When property not belonging to a law enforcement agency comes into the custody of the agency, the property shall be <u>**kept in the direct or constructive custody of the law enforcement agency until**</u> disposed of in accordance with this chapter.

*** Sec. 2.** AS 12.36.040(a) is amended to read:

(a) When the owner of property is unknown and the property comes into the possession of a law enforcement agency as suspected evidence of a crime but is not used in a criminal proceeding or a children's court proceeding, or when the property comes into the possession of a law enforcement agency by other means, the property shall be held for <u>one year</u> [TWO YEARS]. If the property is not claimed within <u>one</u>

year [TWO YEARS] of the date it comes into the possession of a law enforcement agency, the property shall be disposed of as provided in AS 12.36.030(b).

* **Sec. 3.** AS 12.36 is amended by adding a new section to read:

Sec. 12.36.045. When finder of property is considered the owner. (a) When a private individual obtains property of another that is lost, mislaid, or delivered to the individual by mistake, the individual delivers that property to a law enforcement agency, and the true owner of the property remains unknown for a period of one year or does not claim the property within one year, the individual delivering the property shall be considered the owner of the property under this chapter if possession of the property by the individual is otherwise legal. If, after the one-year period, the private individual who delivered the property to the law enforcement agency cannot be found or does not want the property, the property shall be disposed of by the agency as if the owner is unknown.

(b) A law enforcement agency may require a person who delivers to the agency lost or mislaid property or property delivered by mistake to provide the person's name and address and to indicate the person's interest in receiving the property if the property remains unclaimed.

(c) This section does not apply to property that comes into the custody of a law enforcement agency of a municipality that has adopted an ordinance providing for the custody and disposition of property that meets the requirements specified in AS 12.36.030(c).

* **Sec. 4.** AS 18.65.340 is amended to read:

Sec. 18.65.340. Disposal of firearms and ammunition by the state. The state may only dispose of forfeited, surplus, or recovered but unclaimed, firearms and ammunition by sale or trade to a federally licensed firearms dealer. Only firearms and ammunition that are serviceable and safe and legal for a federally licensed firearms dealer to possess may be sold or traded under this section. Firearms and ammunition that are not serviceable and safe shall be destroyed. Firearms and ammunition that are not legal for a federally licensed firearms dealer to possess shall be disposed of only by destruction or by transfer to a law enforcement agency that can legally possess the firearms or ammunition. **In this section, "unclaimed" does not include a firearm**

or ammunition obtained by a person who is considered the owner under AS 12.36.045.

Alaska State Legislature

Representative Con Bunde
District 18

Vice Chair: House Finance Committee
Member: Legislative Budget & Audit Committee

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(907)- 465-4843

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MEMORANDUM

DATE: February 8, 2000

TO: House Judiciary Committee Members

FROM: Representative Con Bunde

RE: Changes to HB 318, "Return Found Property to Finder"

The Department of Public Safety has recommended changes to HB 318, "Return Found Property to Finder". These changes have been incorporated into the attached blank CS that will be before you at the House Judiciary Committee meeting on February 9th.

This memo explains those changes.

Change #1, Page 1, Lines 8 and 9: This change amends AS 12.36.040 to say that property will be held for one year instead of two. The Department of Public Safety feels that making this one year provision consistent throughout the statute will simplify law enforcement's procedures for handling property.

Change #2, Page 2, Lines 3 to 6: This change makes clear that the law enforcement agency may continue to dispose of property as current statute now reads in cases where the finder cannot be located or does not want the property. (AS 12.36.030(b))

Trooper Hudson, of the Department of Public Safety, will be available by teleconference from Fairbanks to answer questions about the bill and these changes.

1-LS1294\D
Luckhaupt
2/8/00

CS FOR HOUSE BILL NO. 318( )

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVES BUNDE, Dyson

A BILL

FOR AN ACT ENTITLED

"An Act relating to property disposal by law enforcement agencies."

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

*** Section 1.** AS 12.36.040(a) is amended to read:

(a) When the owner of property is unknown and the property comes into the possession of a law enforcement agency as suspected evidence of a crime but is not used in a criminal proceeding or a children's court proceeding, or when the property comes into the possession of a law enforcement agency by other means, the property shall be held for <u>one year</u> [TWO YEARS]. If the property is not claimed within <u>one year</u> [TWO YEARS] of the date it comes into the possession of a law enforcement agency, the property shall be disposed of as provided in AS 12.36.030(b).

* Sec. 2. AS 12.36 is amended by adding a new section to read:

Sec. 12.36.045. When finder of property is considered the owner. (a) When a private individual obtains property of another that is lost, mislaid, or delivered to the individual by mistake, the individual delivers that property to a law enforcement agency, and the true owner of the property remains unknown for a period of one year

or does not claim the property within one year, the individual delivering the property shall be considered the owner of the property under this chapter if possession of the property by the individual is otherwise legal. If, after the one-year period, the private individual who delivered the property to the law enforcement agency cannot be found or does not want the property, the property shall be disposed of by the agency as if the owner is unknown.

(b) This section does not apply to property that comes into the custody of a law enforcement agency of a municipality that has adopted an ordinance providing for the custody and disposition of property that meets the requirements specified in AS 12.36.030(c).

POINTS OF INQUIRY
HB 318

- **Does the one year period is the statute serve to completely extinguish the rights of the property's rightful owner? What happens if the rightful owner comes back 1 and ½ years later to claim his/her property? Or even 3 years later? Is there any method by which the rightful owner can seek to recover his/her property?** → nope. But D Smith says there needs to be a limit (some time period) we have to cut this off at some point.
- **What record-keeping provisions are in place? After what length of time will those records be destroyed, if ever? Are those records made available to the rightful owner if he/she comes forward after rights to the property have been transferred to the finder?**

→ the SOL for crime would still apply

- **Is the term property sufficiently defined?**

Hypo - 2 kids steal watch
ditch it in the lawn
lawn Homeowner turns
in. Years later after
Homeowner takes possession
connect crime to 2 kids
what happens.

Alaska State Legislature

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REPRESENTATIVE CON BUNDE
District 18

VICE-CHAIR: HOUSE FINANCE COMMITTEE
MEMBER: LEGISLATIVE BUDGET & AUDIT COMMITTEE

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Sponsor Statement

HB 318
"An Act relating to property disposal by law enforcement agencies."

Common law, the basis of modern-day law, provides that a private individual who finds property and takes the responsibility to give it into safekeeping has a greater right to claim that property than anyone else other than the true owner of the property. This makes sense. Unfortunately, Alaska Statute provides less than clear guidance to state departments about what they may do when an individual finds property and turns it in.

HB 318 affects property that is lost, mislaid, or delivered to a private individual by mistake, and turned in to a law enforcement agency, and is unclaimed by the rightful owner for one year.

HB 318:

- Allows private individuals who responsibly deliver property to a law enforcement agency to own that property after one year if possession of that property by that private individual is otherwise legal.
- Would not affect any municipal ordinance.
- Provides clear guidance to state law enforcement agencies.
- Encourages individuals to turn property into law enforcement agencies to find the rightful owner.

The Alaska Department of Public Safety and the Alaska Department of Revenue support this legislation, and I urge your support.

MEMORANDUM

State of Alaska

Department of Revenue, Office of the Commissioner

TO: Representative Con Bunde

DATE: Jan. 27, 2000

PHONE: 465-5469

FROM: Larry Persily
Deputy Commissioner

SUBJECT: HB 318

The Department of Revenue has reviewed House Bill 318 (An Act Relating to Property Disposal by Law Enforcement Agencies) and believes it would not affect the operations of the Unclaimed Property Section at the department's Tax Division.

Please let me know if I can offer any additional information on the bill or our unclaimed property operations.

HB 324

WARREN W. MATTHEWS
CHIEF JUSTICE

Alaska Supreme Court

303 K STREET
ANCHORAGE, ALASKA
99501-2083

(907) 264-0618
FAX (907) 264-0878

November 16, 1999

The Honorable Drue Pearce
President of the Senate
716 West Fourth Avenue, Suite 500
Anchorage, AK 99501-2133

The Honorable Brian Porter
Speaker of the House
716 West Fourth Avenue, Suite 360
Anchorage, AK 99501-2133

Re: Select Committee on Legislative Ethics

Dear President Pearce and Speaker Porter:

I have reappointed Shirley McCoy to serve a full term as a public member on the Select Committee on Legislative Ethics, commencing January 1, 2000.

Very truly yours,

Warren W. Matthews
Chief Justice

cc: Shirley McCoy
Susan Barnett, Staff, Select Committee on Legislative Ethics

HB 324

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

STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

P.O. Box 110001
Juneau, Alaska 99811-0001
(907) 465-3500
Fax (907) 465-3532
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January 31, 2000

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

Dear Speaker Porter:

I am transmitting a bill relating to consent before releasing personal information contained in motor vehicle records to comply with recent changes to the federal Driver's Privacy Protection Act of 1994. Provisions in this bill must be in effect by June 1, 2000, to avoid any possible federal fines.

Alaska law currently restricts the release of personal information by the division of motor vehicles (DMV) in the Department of Administration to government agencies, including law enforcement and the courts, to businesses to verify information submitted to them by individuals, and to other persons for purposes prescribed by law. It also allows the release for commercial purposes or any other purpose if the person who is the subject of the information is given an opportunity to request that the information not be released for these purposes. This bill provides that information may be released for commercial or other purposes only if the person who is the subject of the information has provided written consent to the release. Thus, rather than giving a person an opportunity to object to the release of personal information, the DMV cannot release the information unless the person has affirmatively consented in writing to the release.

These amendments will protect the privacy of Alaskans.

Sincerely,

Tony Knowles
Governor

FISCAL NOTE

No: 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 324
(H) Publish Date: 2/2/00

Revision Date/Time (Note if Correction): _____
Title: An Act relating to consent before releasing personal information contained in motor vehicle records.....
Sponsor: Rules Committee
Requestor: Governor

Department Affected: Administration
BRU: Division of Motor Vehicles
Component: Motor Vehicles

COMPONENT SERIAL NO. 2348

Expenditures/Revenues: (Thousands of Dollars)
Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2001	FY 2002	FY2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ( )	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)	(200.0)

FUND SOURCE: (Thousands of Dollars)

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

Estimate of any current year (FY 2000) cost: $_____

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

Vehicle and driver records are sold across the counter at DMV for $5 per record and the entire vehicle Database is sold to Information Services providers at $50 per 1000 records. The use of vehicle records will be restricted to only a limited number of authorized uses under this bill and that will reduce the revenue derived from the sale of vehicle records by approximately $200.0 per year.

There will be no operating cost to implement this bill.

Prepared by: Charles R. Hosack, Deputy Director
Division: Motor Vehicles
Phone: (907) 269-5559
Date 12/15/99

Approved by Commissioner: Robert Poe Jr.
Agency: Department of Administration
Phone: 465-2200
Date: 12/15/99 12/15/99

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HB

325

AMENDMENT

OFFERED IN THE HOUSE BY REPRESENTATIVE _____

TO: CSHB 325(HES)

Page 3, line 4:

Following "recipient of medical assistance"

Insert "or the recipient's attorney"

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

March 1, 2000

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

P[illegible] BOX 110601
JU[illegible]EAU, ALASKA 99811-0601
PH[illegible] (907) 465-3030
FAX: (907) 465-3068

Honorable Pete Kott, Chairman
House Judiciary Committee
Room 118 Capitol Building
Juneau, AK 99811

Dear Representative Kott,

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

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

The House Health, Education, and Social Services Committee has heard the bill and has recommended a Committee Substitute. The Department supports the House (HES) amendment. A fiscal note has previously been submitted.

Your favorable consideration of this request would be appreciated.

Sincerely,

Elmer A. Lindstrom
Special Assistant to the Commissioner

Cc: Pat Pourchot
Legislative Director
Office of the Governor

Bob Labbe
Director
Division of Medical Assistance

HB 325

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

STATE OF ALASKA
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JUNEAU

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January 31, 2000

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

Dear Speaker Porter:

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

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

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

HB 325

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

I urge your support of this important legislation.

Sincerely,

Tony Knowles
Governor

No: 1

FISCAL NOTE

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Version: HB 325
(H) Publish Date: 2/2/00

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

Expenditures/Revenues: (Thousands of Dollars)

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

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

FUND SOURCE (Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

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

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

Prepared by: Jon Sherwood
Phone: 465-3355
Division: Medical Assistance
Date/Time: 1/20/00 3:03 PM

Approved by Commissioner: Karen Perdue, Commissioner
Date: 1/24/00
Agency: Department of Health & Social Services

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ANALYSIS (cont.):

Medicaid Lien and Recovery

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

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

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

Timely Filing Period Extension

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

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

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

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

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

HB

329

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

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

☐ KEY BANK BUILDING
100 CUSHMAN ST., SUITE 400
FAIRBANKS, ALASKA 99701-4679
PHONE: (907)451-2811
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☐ P.O. BOX 110300-DIMOND COURT HOUSE
JUNEAU, ALASKA 99811-0300
PHONE: (907)465-3600
FAX: (907)465-6735

(FAX)465-2539

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 25, 2000

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

Re: SSHB 329

Dear Representatives Dyson and Coghill:

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

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

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

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

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

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

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

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

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

Section 3: Concerning physician liability

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

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

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

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

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

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

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

medical purpose. (These circumstances were further addressed in the appeal of the same case, *Karlin v. Foust,* 188 F.3d 446 (7th Cir. 1999*) affirming that such information need not be given to these women because the provision of this information would further no legitimate interest; rehearing and rehearing en banc denied, Karlin v. Foust,* 198 F.3d 620 (7th Cir. 1999).) Changes should be made to the bill in order to permit a physician to make special considerations for women who are pregnant due to rape or incest, are carrying fetuses that have been diagnosed with a lethal fetal anomaly, or are facing comparable circumstances where the information may serve no legitimate purpose.

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

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

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

Sincerely,

BRUCE M. BOTELHO
ATTORNEY GENERAL

By: Kristen F. Bomengen
Kristen F. Bomengen
Assistant Attorney General

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

4/10/00
JUD

TO: Representative John Coghill

FROM: Denise M. Burke
Staff Counsel, Americans United for Life

DATE: 10 April 2000

SUBJECT: Alaska House Bill 329

Thank you for your request that Americans United for Life provide testimony and input on Alaska House Bill 329. I have reviewed the legislation and will provide testimony later today. I also would like to propose the following changes and additions to the legislation. The proposed changes and additions are bolded and in italics. The purposes of these proposed changes and additions are to add specificity and clarity to portions of House Bill 329 and to enhance its constitutionality and enforceability.

1. **Section 18.05.032: Information Relating to Unborn Children and Abortion.**

Section 18.05.032(a) should read: "The department shall obtain or prepare ***comprehensive*** written information, ***updated annually***, that"

Section 18.05.032(a)(1) (line 2) should be modified to read: " ... private agencies and services, including ***but not limited to*** adoption agencies"

Section 18.05.32(a)(1) (line 5) should be modified to read: "... manner in which the agencies may be contacted, including telephone numbers ***and addresses.***"

I would also add the following language to the end of Section 18.05.32(a) (1): "...locality of the caller ***and of the services they offer. The department shall ensure that the materials described in this section are comprehensive and do not directly or indirectly promote, exclude, or discourage the use of any agency or service described in this section.***"

Section 18.05.032(a)(6) (line 1) should be modified to read: "... inform the woman of the ***probable*** anatomical and physiological..."

I would add the following definitions to Section 18.05.032(c):

"Department" means the Department of Health and Social Services.

"Physician" means any person licensed to practice medicine in this State. The term includes medical doctors and doctors of osteopathy."

"Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse or physician."

2. **Section 18.16.060: Informed Consent Requirements:**

Section 18.16.060(b) should be modified to read: "Consent to an abortion is voluntary and informed ***if and*** only if all the following are true."

Section 18.16.060(b)(1) should be modified to read: " ... the referring physician has orally ***and in person*** informed the woman of"

Section 18.16.060(b)(1)(B) should be modified to read: "... medical risks includ[***ing***] ***but not limited to***"

I would add the following line to Section 18.16.060(b)(1)(G): ***"In the case of rape or incest, this information may be omitted."***

I would add the following line to Section 18.16.060(b)(2)(B): ***"If the woman is unable to read the materials, they will be read to her. If the woman asks questions concerning any of the information or materials, answers shall be provided."***

I would add the following definitions to Section 18.16.060(c):

"Department" means the Department of Health and Social Services.

"Physician" means any person licensed to practice medicine in this State. The term includes medical doctors and doctors of osteopathy."

"Qualified person" means an agent of the physician who is a psychologist, licensed social worker, licensed professional counselor, registered nurse or physician."

3. **Additional Provisions**: I propose that the following additional provisions be added:

a. **Certification of Compliance with Law**: I proposed that Section 18.16.060(b)(4)(A) be modified to read: ***"The woman certifies in writing on a checklist provided by the department prior to the abortion that the information required to be given under (1) – (3) of this subsection has been received. Prior to the performance of the abortion, the physician who is to perform the abortion or a qualified person shall receive a copy of the written certification and a copy of the certification shall be maintained in the woman's medical record. Physicians who perform abortions shall report the total number of certifications received monthly to the department. The department shall make the number of certifications received available to the public on an annual basis."***

Currently, the bill does not indicate what type of written certification of informed consent is required. The Department of Health and Social Services should produce and provide a checklist certification form for distribution to abortion providers. A provision requiring the Department to produce or procure this checklist can be added

to Section 18.05.032. This will ensure standardize practice and more complete compliance with the law.

b. **Delegation of Counseling Responsibility**: Section 18.16.060(b)(2) allows either the physician who is performing the abortion or the referring physician to delegate a portion of the required counseling to a third party. However, the bill does not specify limitations on this delegation or qualifications for the delegatee. This third-party delegatee should be a "qualified person"; the definition of a "qualified person" should be added, as recommended to Sections 18.05.032(c) and 18.16.060(c). This change could be accomplished by modifying the language of Section 18.16.060(b)(2)(B) to read: ***"at least 24 hours before the abortion, the physician who is to perform the abortion, the referring physician, or a qualified person has informed the woman, orally and in person, that:"***

c. **Medical Emergencies**: As drafted, the bill has no requirement, when an abortion is performed in a medical emergency, that a physician inform the woman of the medical indications supporting his or her judgment that an abortion is necessary to avert the woman's death or to avert substantial and irreversible impairment of a major bodily function. Even in such an emergency, it is still important that the woman receive information about the abortion procedure. I would propose that the following provision be added to House Bill 329:

> ***"Where a medical emergency compels the performance of an abortion, the physician shall inform the woman, before the abortion if possible, of the medical indications supporting his or her judgment that an abortion is necessary to avert her death or to avert substantial and irreversible impairment of a major bodily function."***

4. **Proposed Deletion:** Finally, I recommend that Section 18.16.010(a)(4), the section requiring a 30-day domicile in Alaska before receiving an abortion, be deleted for the legislation. The Supreme Court has upheld the constitutionality of a 24-hour waiting period to allow for an informed and mature decision and has even allowed for a 48-hour waiting period for minors seeking abortions. However, Section 18.16.010(a)(4) could be construed as requiring a 30-day waiting period for some abortions. Abortion rights proponents have been successful in challenging the constitutionality of state laws that would require a woman to wait until later in her pregnancy to obtain an abortion, recognizing that the risks associated with abortion increase as the pregnancy progresses. Under this analysis, Section 18.16.010(a)(4) could be deemed an undue burden and unconstitutional. There is a severability provision in Alaska Statute 01.10.030 and this section could be severed if a court determined it to be unconstitutional. However, leaving this provision in the statute will almost certainly subject the entire piece of legislation to a constitutional challenge.

Testimony of

Vincent M. Rue, Ph.D.
Institute for Pregnancy Loss
Stratham, New Hampshire

Regarding

HB 329

Before the House
Judiciary Committee

Juneau, Alaska

April 10, 2000

By way of introduction, I am a traumatologist, psychotherapist and researcher. I have testified before several federal legislative committees in Washington and have provided testimony in numerous state abortion-related statutory challenges. I have provided testimony or consultation with 18 states regarding abortion decision making and the psychological aftereffects of abortion. In addition, I am a practicing psychotherapist and have treated hundreds of women who have elected abortions over the past 25 years. I am also an author, international lecturer and researcher on abortion related trauma and treatment.

One of the best kept secrets about induced abortion pertains to its emotional aftereffects. *Greater than any other single physical health risk, the psychological complications of abortion range from 5% - 60% depending on the study.* Even Planned Parenthood has acknowledged that abortion causes significant depression in 10% of women! Yet the mental health complications from abortion are underestimated and underreported by state health departments & the Centers for Disease Control, perhaps by a factor of 50%. In my opinion, women rarely return to the site of trauma to acknowledge their emotional injury and seek palliative care.

From the evidence presented below, it is apparent that the abortion decision is a complex and terrifying one, that the current practice of abortion counseling does not adequately address women's mental health care needs, that abortion carries certain and significant mental health risks, and that a statute enhancing informed consent is necessary to prevent further harm. I support HB 329 and believe such a bill would benefit Alaska women with unwanted pregnancies if enacted into law.

1. The Nature of the Abortion Decision

The process of informed consent and abortion decision making has all too often been left to the discretion of a non-professional, well-meaning, but likely misinformed "abortion counselor" whose typical job requirement is a "pro-choice" sentiment. The women of Alaska and throughout the United States deserve far more and better precautions for their mental and physical health.

The abortion decision is a unique one, complex in nature, necessitating due deliberation and the evaluation of considerable information, some of which may be emotionally trying. The U.S. Supreme Court has ruled: (1) "Abortion is inherently different from other medical procedures, because no other procedure involves the purposeful termination of potential life." Harris v. McRae, 448 U.S. 297, 325 (1980); (2) that the decision whether or not to abort should be made "in light of all circumstances - psychological and emotional as well as physical - that might be relevant to the well being of the patient." Planned Parenthood v. Danforth 428 U.S. 52, 66 (1976); and (3) that the "medical, emotional and psychological consequences of an abortion are serious and can be lasting..." H.L. v. Matheson 450 U.S. 411 (1981).

Alaska is not alone in setting forth minimum standards of informed consent and abortion counseling. Because of the medical, moral, societal and psychological controversies surrounding abortion, some states are now insisting that reasoned and deliberate abortion decision making be legally mandated. In particular, women's "right to know" laws have been enacted that precisely determine the content of information and the timing as to when information should be made available before an abortion may be performed.[1]

In the United States today, the following elements of informed consent have been mandated in a number of states: (1) the medical risks associated with pregnancy termination; (2) the probable gestational age of the unborn child; (3) the alternative risks associated with carrying to term; (4) the medical assistance benefits if childbirth were elected; (5) the father's liability for financial assistance; (6) the opportunity to

review printed information descriptive of fetal development; and (7) some waiting period for deliberation, usually 24-48 hours.

These informed consent requirements are additive in nature, insuring the woman has more rather than less information. These requirements do not appear to restrict the patient's decision making capacity - they enhance it. How is it possible for a woman to weigh the benefits and risks of electing an abortion if information regarding abortion alternatives are conspicuously absent in the "counseling process?" Indeed, if informed consent is not obtained prior to an abortion, then grounds for medical malpractice litigation are warranted based on personal injury.[2]

Because the doctrine of informed consent is well established, courts and legislatures have consistently required physicians to provide a minimum of information to the patient prior to making a decision regarding treatment. This information is generally composed of a determined diagnosis, reasonable prognosis, the risks and benefits of proposed treatment and non treatment, all of which should be provided in terms that the patient can comprehend. The practice of abortion has been a lamentable and solitary exception to this standard of care.

2. The Known Deficiencies of Abortion Counseling

The two most common causes of action in abortion malpractice are: (1) negligence in evaluating/screening a patient preabortion; and (2) lack of informed consent which constitutes battery. Because abortion is a medical procedure, legally it is the physician's duty to evaluate, counsel and assess the patient beforehand.

Current abortion practice though severely limits physician-patient contact and instead preabortion counseling is most typically delegated to the physician's agent, i.e., the abortion counselor. Nevertheless, it is the physician who actually performs the abortion, and it is always his/her ultimate responsibility to (a) protect the patient's health; (b) to see to it that the patient's decision is firm, freely made, and duly thoughtful; and (c) that her consent is truly informed.

The Abortion Counselor

Abortion counseling in most countries suffers from obvious and serious conflicts of interest and procedural inadequacies. Abortion counseling between physician and patient is largely nonexistent. Instead, the patient is "counseled" by someone other than a physician, i.e., his agent, who most typically is not professionally trained and who receives "on the job training." In the U.S., abortion counselors as a "profession" are unlicensed and are unregulated in 95% of the states. "Professional background is considered less important than such personal attributes as warmth, caring, empathy and a commitment to the pro-choice cause."[3]

Counselor bias can clearly be a negative force in the counseling process, particularly if the situation is compounded by a conflict of interest, i.e. pecuniary benefit in the outcome, namely, abortion.

All too often the abortion counselor has only a high school diploma, has herself had one or two abortions and feels compelled to assist others by affirming the abortion decision. She thereby affirms her own decision, unknown to her and her client. Because she may be in denial about the emotional aftereffects of her own abortion, she is either unaware of postabortion emotional trauma because she needs to be, or is simply uninformed.

One abortion counselor worked two days at the clinic and the remainder of her work week as a bartender at a "biker's bar." Another abortion counselor responded at her deposition when asked when human life began: "it begins at birth." Sadly, this kind of counselor and counseling may be more normative than the exception.

Duration of Preabortion Counseling

Contemporary abortion counseling is so time limited and volume oriented as to be impossibly tailored to the unique needs and circumstances of the individual patient. Indeed, thorough, thoughtful, and deliberative pregnancy outcome decision making is handicapped by existing abortion counseling procedures.

Several empirical studies in the U.S. have indicated the deficiencies of current abortion counseling practices with the majority of respondents reporting insufficient information provided by the abortion counselor, insensitive, unhelpful abortion clinic personnel with respect to providing assistance in decision making, and the provision of misinformation thereby contributing to increased anxiety, confusion and levels of post abortion depression and hostility.[4]

Clearly, effective counseling that is empathic, durational and substantive in content benefits women considering abortion as a solution to an undesired pregnancy. On the other hand, biased "counseling" which is of 5-15 minutes duration, one outcome oriented, deficient of sufficient information and not allowing for multiple visits or time deliberation is harmful of women considering abortion.

Nature of Preabortion Counseling

Current standards of care for abortion counseling have appropriately been criticized in the U.S. on at least three counts: (1) the health profession inadequately fulfills women's needs for abortion counseling; (2) current laws, by not mandating or regulating the practice of abortion counseling, fail to address women's needs for abortion counseling, thus undermining maternal health; and (3) abortion counseling must of necessity expand and include assistance in remediating post procedural problems.[5]

The value of nondirective crisis pregnancy counseling was underscored by Cook. She reported: "When women may act only within a short span of gestation, they may be denied the opportunity to consider their options fully and take necessary steps for continuation or termination. Women could thereby be denied the choice to continue a pregnancy and give birth. The agendas of both antichoice and prochoice activists may be served by affording women opportunities for nondirective counseling and planning, and not obliging them to make their decisions in haste."[6]

Information Deficiencies

It is a tragic reality that abortion clinics go to great lengths to disguise, minimize, deny, disavow or dissaude their patients' concerns about the humanity of the fetal child.

Not offering a woman the opportunity to receive fetal information is also not following good counseling procedures for, in the absence of such, a directive counseling environment is created. In the absence of an opportunity to receive fetal information, the woman's attention is focused on the limited information which the counselor chooses to disclose and her decision is thereby directed by the limited information she receives. In such a directive counseling situation, the woman is denied the opportunity to consider thoroughly all her options, as information that would allow such has been withheld by the counselor.

In addition, many women are not familiar with the facts of fetal development, but would consider information on fetal development to be important in making their abortion decision because they would not wish to have an abortion if their unborn child were sufficiently developed to have readily identifiable arms, legs, a beating heart, etc.

The provision of information on fetal development further insures that, in deciding whether or not to have an abortion, a woman has an opportunity to use her own personal values, including her view of the time at which human life begins. If she is informed about fetal development and concludes that the unborn child is indeed a human life, then given her legal options, she can act accordingly in light of her own values. If she concludes that either the product of conception or the aborted material is not human,

and decides to abort it, then she will have minimized the risk of future potential psychological harm arising from post-operative reflection prompted by obtaining fetal information not made available to her before it took place.

If information causes discomfort or dissonance, this does not mean it is antithetical to the doctrine of informed consent. According to former U.S. Supreme Court Chief Justice Rehnquist and Justice White: "It is in the very nature of informed consent provisions that they may produce some anxiety in the patient and influence her in her choice. This is in fact their reason for existence, and - provided that the information required is accurate and nonmisleading - it is an entirely salutary reason."[7]

Decision-Expediting & Non-Evaluating

One of the most important roles of the abortion counselor is to ascertain whether or not a woman's decision is indeed her own, made with sufficient information and reflection, is made voluntarily, and that undue pressure or coercion is not present. In addition, the counselor should obtain a psychosocial history as well as a medical history, and accordingly assess the risk for any postabortion negative emotional adjustment.

The current nature of preabortion counseling virtually insures the impossibility of achieving its objectives. This is so because of: (a) the lack of professional education and training on the part of the counselor; (b) the severe time constraints placed upon the session (5-15 minutes); (c) the often reliance upon group versus individual counseling; (d) the absence of objective information; (e) the non-exploration of alternatives; (f) the absence of information on fetal development; (g) the conflict of interest for the abortion counselor; and (h) the counselor biases.

3. Psychological Risk Factors for Postabortion Trauma

Research evidence is clear that certain women are predisposed to significant negative post abortion adjustment. Existing biased abortion counseling places maternal health of these women at risk. These women are in need of more counseling, more information, exploration and deliberative time, and more assistance than others.

Abortion traumatization may in many cases be prevented or remediated if women who give evidence of documented risk factors receive adequate counsel to make a decision that fits their unique psychological and social needs.

Empirical evidence suggests emotional harm from abortion is probable when the following risk factors are present:

1. *preabortion emotional maladjustment*
2. *immature interpersonal relationships*
3. *unstable, conflicted relationship with one's partner*
4. *history of a negative relationship with one's mother*
5. *conflicted abortion decision, including considerable ambivalence*
6. *when abortion violates personal beliefs, morals and values*
7. *single status, especially if one has not borne children*
8. *age, particularly adolescents versus adult women*
9. *mid or late-term abortions*
10. *abortion for genetic reasons, i.e., fetal anomaly*
11. *pressure or coercion to abort*
12. *prior abortion*
13. *prior children*

14. maternal orientation
15. when the abortion choice is not duly considered, counseled or informed & biased preabortion counseling
16. a secret abortion
17. when a woman perceives her uterine contents as "human" and a "child"
18. when the abortion event is perceived by the woman as violent and death producing

4. The Research Evidence of Postabortion Psychological Harm

Extensive research has documented how traumatic stress can significantly alter individuals' lives. Traumatic stressors are strong predictors of PTSD (Foy, Osato, Houskempt & Neuman 1992). While the prevalence of PTSD has been estimated to affect up to 12% of the U.S. population (Breslau, Davis, Andreski & Peterson 1991), limited research has examined the role of elective abortion as a traumatic stressor causing symptoms of PTSD.

Most trauma victims encounter feelings of horror or terror at the time of the traumatic episode. Bagarozzi has reported that women who came for mental health treatment were in complete denial that they had experienced an abortion and that indeed it was a traumatic and horrific experience for them. "This denial was seen as a major contributing factor to the development of post traumatic stress in these women" (1993:67). Clinical research findings highlighting the power of denial before, during and after an abortion have also been reported by Torre-Bueno (1996). As a pro-choice advocate and long-time Planned Parenthood abortion counselor, her assertion is all the more compelling:

> *"I believe passionately that I can be supportive of every woman's right to make her own pregnancy decisions, and still recognize the fact that her decision may cause her tremendous suffering. While many women do not have emotional or spiritual difficulty after an abortion, I know from twenty years of experience working with women before, during, and after abortions, that many women have more emotional and spiritual pain after abortion than the current research suggests." (1996:3)*

In another clinical study, pro-choice psychotherapists De Puy and Dovitch (1997:13-14) reported that 10% of women experience "severe emotional trauma" following abortion. According to these clinician/researchers: "Many women acknowledge a feeling of relief after their abortion, yet are understandably upset by facets of the experience that they had never anticipated. Many are distressed and unaware of the ways in which their choice has changed their lives and, sometimes, the lives of those around them."

In a study of 80 women in the U.S., Barnard (1990) used standardized posttraumatic stress disorder (PTSD) instruments and found: 3-5 years following the abortion, 18% of the sample met the full diagnostic criteria for posttraumatic stress disorder (PTSD) and 46% displayed high stress reactions to their abortion. Her findings were not explained by religiosity as 68% reported that at the time of the abortion they had little to no religious involvement.

Subsequently, similar findings were also reported by Hanley et al. (1992) in a comparison study of women distressed postabortion which also used standardized PTSD instruments and interviews. They found: "*Women who were distressed following an abortion scored significantly higher than the non-distressed group on PTSD symptoms of intrusion and avoidance.*" The investigators evaluated whether some women in outpatient mental health treatment with a presenting problem of postabortion distress met Diagnostic & Statistical Manual of Mental Disorders III Revised (DSM-III-R) criteria for the posttraumatic stress disorder (PTSD) categories of intrusion, avoidance, and hyperarousal. One hundred and five women were administered the SCID-PTSD module, the Impact of Event Scale, as well as the Social Support Questionnaire and the Interview for Recent Life Events, in addition to completing a semi-structured

interview. The researchers concluded: "*the data from this study are suggestive that women can report abortion-related distress similar to classic PTSD symptoms of intrusion, avoidance and hyperarousal and that these symptoms can be present many years after the abortion.*"

Posttraumatic reexperiencing has also been documented in anniversary reactions. In a small study conducted by Franco et al. (1989:154), 30 out of 83 women reported experiencing anniversary reactions that included intense emotional psychosomatic pain. They noted: "Unresolved grief and preexisting dysphoria have been suggested as increasing the likelihood of anniversary reactions."

Another recent study compared two groups of 25 women who elected abortion: those who identified themselves as distressed (D) and those who reported more neutral or non-distressing responses (ND). PTSD symptomatology was found in the distressed group: changes in male-female relationships, suppression of feelings/thoughts about the abortion, reactions to catalytic events that aroused thoughts/feelings about the abortion, trying to get pregnant again, becoming promiscuous, and avoiding reminders of babies. More than two out of three women in Group D were distinguished by reports of "suppression" or "denial" of parts of the abortion experience or negative emotional reactions to it. Additionally, women in the distressed group were more than twice as likely to report abortion trauma related symptoms on the Impact of Event Scale than those in the non-distressed group (Congleton and Calhoun 1993).

In this same study, women who identified themselves as distressed postabortion indicated feeling: a sense of loss/emptiness (48%); shock/detachment (28%); anger toward partner/others (24%); depression (20%); loneliness, betrayal, loss of self-worth, and relief (16%); guilt and sorrow (12%); confusion (8%); fear of dying and suicidal thoughts (4%). Interestingly, in the group of women who elected abortion and did not believe they were distressed, 20% had symptoms of depression, an equivalent percentage experienced by the distressed group. The authors concluded: (1) for some women, abortion is a "critical event" which produces high levels of psychological distress; (2) informed consent should insure accurate information is conveyed about physical pain and possible negative and positive emotional reactions; and (3) when dealing with depression among women, exploring reproductive history for unresolved emotional reactions to pregnancy termination may prove beneficial.

In a large scale prospective cohort study (N=13,261, of whom 6410 experienced a pregnancy termination) conducted in the United Kingdom, Gilchrist et al. (1995) found evidence of the traumagenic nature of abortion when examining relative risks of suicidal behavior in women who had previously terminated their pregnancy, and who had no prior history of psychiatric illness. A recent study in Finland of all deaths of women of childbearing age concluded: "Our data clearly show, however, that women who have experienced an abortion have an increased risk of suicide which should be taken into account in the prevention of such deaths" (Gissler, Hemminki and Lönnqvist 1996:8).

A recent Swedish study examined emotional distress (ranging from 1 month to 12 months follow-up) after abortion at a university hospital. Risk factors identified were: living alone, poor emotional support from family and friends, adverse postabortion change in relations with partner, underlying ambivalence or adverse attitude to abortion, and being actively religious. The researchers concluded: "Thus, 50-60% of women undergoing induced abortion experienced some measure of emotional distress, classified as severe in 30% of cases." (Soderberg, Janzon & Sjoberg, 1998:173)

In a study just published, Reardon & Ney (2000) examined the mental health risks of abortion relating to subsequent substance abuse. They found that women who aborted a first pregnancy were five times more likely to report subsequent substance abuse than women who carried to term, and they were four times more likely to report substance abuse compared to those who suffered a natural loss of their first pregnancy due to miscarriage, ectopic pregnancy or stillbirth.

In addition to the above, there are a number of reviews of the literature on postabortion sequelae that are instructive (Speckhard & Rue, 1992; Rue, 1995; Speckard, 1997; Ney & Wickett, 1989; and

Angelo, 1992).

5. The Need for Mandated Informed Consent & Waiting Period

The nature of an unwanted pregnancy suggests pressure and str There is considerable pressure on the woman to make a decision as quickly as possible. Women who make decisions in haste and without sufficient time for reflection are less likely to be satisfied with the quality of their decision making later on. Then too, many women change their minds regarding the outcome of the pregnancy a number of times due to the daily pressures of life, relationships and feelings. Reardon (1988) reported that 83% of women in his study felt "rushed" to make a decision. He also found the majority of women in his study were dissatisfied with the kind of preabortion counseling they received, 71% stating they believed the preabortion counseling at the abortion clinic was biased.

In a joint U.S. & Russian study, Rue et al. (2000) reported a number of factors women found disturbing in their preabortion counseling experiences. Specifically, in Table 1 several factors are identified by women who have had abortions that were contributory to postabortion emotional injury. These factors included lack of preabortion counseling, needing more time to decide, having sufficient opportunity to discuss alternatives, pressured abortion decision, preabortion counseling adequacy, uncertainty about abortion decision, etc. In this sample, 49% needed more time to make their decision. Sixty-two percent of the women studied felt pressured to abort. Only 89% of women who elected to abort were satisfed with the quality of the abortion counseling they received. Slightly more than one out of two women (52%) felt unsure about their decision at the time of their abortion. It is clear that a waiting period can benefit women who feel pressured; that counseling must be unbiased and include alternatives to abortion, and that decision certainty is critical before proceeding with what amounts to an irrevocable decision, one that can affect them for the rest of their lives.

In my opinion, HB 329 is a step in the right direction to help remedy these known deficiencies. HB 329 is critical in safeguarding Alaska women's health; it will help insure that women's abortion decisions are their own, that sufficient information is conveyed so as to be informative versus perfunctory, that women's abortion decisions be formed without pressure and bias, and that alternatives are objectively presented and considered. In the final analysis, if women choose to terminate their pregnancies, they deserve the best assistance we can offer them in their decision making process, and at the very least, provide the context and content of a consent that is voluntary and informed.

Table 1. Selected Preabortion Factors by Number & Percent of U.S. Women Who Have Aborted (N = 320)*

	N	%
Received counseling beforehand	95	29.7
Needed more time to decide	157	49.1
Was counseled on alternatives	59	18.4
Felt pressure to abort	200	62.5
Preabortion counseling was adequate	36	11.3
Partner was supportive	77	24.1
Unsure about decision at time of abortion	166	51.9
Personal beliefs oppose abortion	151	47.2
Multiple emotional stressors preabortion	152	48.0
Kept pregnancy/ abortion a secret	121	37.8

*Rue et al. (forthcoming) Abortion & Trauma

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FOOTNOTES

1. In the U.S , there are approximately 25 states that have enacted statutes that expressly proscribe the nature and content of informed consent in pre-abortion counseling and decision making and proscribe a minimum waiting period

2. Stuart, J. "Abortion and Informed Consent: A Cause of Action," Ohio Northern University Law Review XIV:1 (1987), 1-20.

3. Landy, U. "Abortion Counseling - A New Component of Medical Care," Clinics in Obstetrics & Gynecology 33 (1986), page 37.

4. Barnard, C. The Long Term Psychological Effects of Abortion, Portsmouth, New Hampshire Institute for Abortion Recovery & Research, 1990, and Vaughan, H. Canonical Variates of Post Abortion Syndrome, Portsmouth, New Hampshire: Institute for Abortion Recovery & Research, 1990.

5. Steinberg, T. "Abortion Counseling: To Benefit Maternal Health," American Journal of Law & Medicine 15 (1989), page 483.

6. Cook, R. "Abortion Laws and Policies: Challenges and Opportunities," International Journal of Gynecology and Obstetrics (1989), Suppl. 3, 61-87, page 74.

7. White, B. and Rehnquist, R. Dissenting Opinion, Thornburgh v. American College of Obstetrics and Gynecologists 84-495, 1985, p. 16.

Palmer, Alaska
March 29, 2000

To Whom It May Concern on SSHB 329;
Importance of INFORMED CONSENT bill:

First of all I'd like to address FERTILIZATION and how it occurs: Fertilization occurs when sperm enter the woman's vagina and swim through the cavity of the uterus and enter the fallopian tubes, the egg released by the ovary is penetrated by one of the sperm and immediately, within a split-second, a chemical reaction occurs preventing other sperm from entering the egg. When this process is complete a NEW HUMAN BEING exists. This single celled human being divides and splits and continues on its way through the fallopian tube where it implants itself into the lining of the uterus and continues to grow, if allowed, for the next nine months into the human being we are or would like to become as adults.

ABORTION on the other hand is the interruption of a pregnancy or the expulsion of the contents of a pregnant uterus before the fetus is viable and in some cases even after it is viable.
THESE ARE THE THINGS NEEDED TO BE TOLD TO THE MOTHER.
Complications post abortion are: 10,000 deaths occur due to infections (PID), rupture of the uterus, hemorrhage and drug overdosage. Most common delayed complications are bleeding caused by part of the placenta remaining in the uterus, infections (pelvic inflammatory disease) and blood clots in the legs. Also, scarring of the inside of the uterus can cause sterility. Then there are the psychological and psychiatric problems such as feelings of loss, guilt and anger. Sooner or later this mother will go through the five (5) stages of grief.
Then what about the unsuccessful abortions when you have children who survive with partial limbs? Because babies do not want to be aborted and it's a known fact that they fight the suction or instruments of the abortionist. If the woman (mother) really does not want this child, give her the opportunity of having it because there are plenty of people who want children. If you have the funds to pay for abortions then the same amount of funds should be used to help those people who want to adopt.
EQUALITY!!!!

Respectfully submitted,
Janice C. Barrett R.N.
Janice C. Barrett R.N.

CREED MAMIKUNIAN, M.D.
2401 EAST 42ND AVENUE, SUITE 206
ANCHORAGE, ALASKA 99508
(907) 562-1860 • FAX (907) 562-1865

Otolaryngology
Head and Neck Surgery

Facial Plastic and
Reconstructive Surgery

March 31, 2000

Re: House Bill #HB329

TO WHOM IT MAY CONCERN:

It is my strong opinion that informed consent be a mandatory requirement for any considered abortion. All surgical procedures require informed consent detailing the possible risks and complications of any surgical procedure. In the situation where an abortion is to be performed, there are obvious risks which the mother would be exposed to. It is an essential requirement that the patient understand what the potential risks and complications are, regardless of whom is performing this procedure. This is only common sense in the medical field.

If I can be of any further help to you, please feel free to contact me at any time.

Sincerely yours,

Creed K. Mamikunian, M.D.

CKM:ken

Tanana Valley Clinic
Family Medical Care
Since 1959

April 7, 2000

Representative John Coghill, Jr.
State Capital, Room 416
Juneau, AK 99801-1182

RE: Informed Consent Bill
#CHSB329 - House Version
#SB300 - Senate Version

Dear Sir,

I am a Family Practitioner who has been in practice in Fairbanks for the last seven years, both in the Native and non-Native health care systems. I have cared for many pregnant women, following them through to their delivery during this time. I have also cared for many woman both pre and post abortion during this time.

On multiple occasions, I have had patients who have later regretted their choice to obtain an abortion. Most of these patients were inadequately educated and/or given a one-sided pro abortion position. They never understood the procedure in terms of the fetal development and especially, the potential psychological trauma to themselves. It is this aspect in particular which have haunted the patients I have seen. Many come to deeply regret and cannot forgive themselves for a decision made during an emotionally charged stressful time. This can then lead to an ongoing battle with depression in later adult life.

I strongly support this bill mandating proper education and a waiting period prior to obtaining an abortion for all women. I feel that the consequences can be too grave following a rapid, emotionally charged, uninformed decision.

Please feel free to call if you have any questions. Thank you for your time.

Sincerely,

Donald L. Ives, M.D.
Family Practice

DLI/dr

1001 Noble Street • Fairbanks, Alaska 99701
(907) 459-3500 • FAX (907) 456-8770

FISCAL NOTE

STATE OF ALASKA **BILL NO. HB 341**

2000 LEGISLATIVE SESSION

Revision Date/Time:

Dept Affected: Natural Resources

Title: Farm Operations:Disclosure / Nuisances

BRU: Agricultural Development

Component: Agricultural Development

Sponsor: Rep. Harris

Requestor: (H) JUD

Component No 455

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES (fund code)	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2000) cost: $ none

POSITIONS

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

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

The Department does not anticipate any associated costs with this proposed legislation.

Prepared by: Robert Wells Phone : 907-745-7200

Division: Division of Agriculture Date : 10-Apr-00

Approved by Commissioner:

John Shively Date: 10-Apr-00

Agency: Natural Resources

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NOTES/COMMENTS:

Lesil,
Just received this FAX. Could you make sure the committee members receive a copy?
Thank you, sorry for the short notice.

Danielle

PHYSICAL DAMAGES

The term 'a woman's right to choose' is the banner for many people in this nation. I raise the question-How can anyone make an intelligent decision when much of the information during abortion counseling is withheld? The tragic truth is that physical and psychological damages that are incurred by abortion are not revealed during abortion counseling. Nor is information given about the developing child.

There are a few states that have passed 'woman's right to know' informed consent legislation, but, unfortunately Alaska is not one of them. So, until we have complete disclosure when seeking abortion information, here are some interesting and informative facts.

In the medical profession, the debate is not over whether there are risks, but, rather how often complications will occur.

Federal Court rulings have sheltered the practice of abortion in a 'zone of privacy.' This prohibits any meaningful form of state or federal regulation other than broad general requirements as to the maintaining of sanitary facilities and minimal building code standards.(A Lawyer Looks At Abortion.) As a result, any laws which attempt to require that deaths and complications resulting from abortion be recorded, much less reported, <u>are unconstitutional.</u> (Abortion and the Constitution) Thus, the only information available on abortion complications in the U.S., is the result of data which is voluntarily reported. Since abortionists hide their failures, under reporting of complications is the rule, rather than the exception.(Handbook on Abortion. John and Barbara Wilke)

⟹Many European nations have socialized medicine, including Britain and Sweden, and in these cases government control provides a more systematic method for gathering of abortion statistics. I will be including these statistics within the following information.

There are over 100 potential complications associated with abortion. Some can be be immediatly spotted such as a puncture to the uterus or other organs, convulsions, or cardiac arrest. Other complications reveal themselves within a few days, such as slow hemorrahage, pulmonary embolisms, infection and fever. Records at one University hospital in Great Britain revealed a 27% infection rate among aborted women;9.5% hemorrhaged enough to require blood transfusions. Long term complications usually result from damage to the reproductive system and can result in chronic infection or inability to carry a subsequent pregnancy to term or even sterility. According to one Japanese study, women undergoing abortions experienced the following complications: 9% were subsequently sterile; 14% suffered from recurring miscarriages; and there was a 400% increase in ectopic pregnancies.(Handbook on Ab.) Swedish and Norwegian studies indicate an incidence of total sterility following 4 to 5% of all abortions. (Some Consequences - Wynn) Assuming this conservative 4% figure is applicable in America where 1.3 million women are aborted each year, one could conclude that over 52,000 women per year are inadvertently rendered sterile by abortion. In Czechoslovakia, permanent complications such as chronic inflammatory conditions of female organs, sterility and ectopic pregnancies are registered in 20-30% of all women....A high incidence of cervical incompetence resultant from abortion has raised the incidence of spontaneous abortons (miscarriage) to 35-40% (Handbook on Abortion) The Czechoslovia Deputy of Health states that "Roughly 25% of the women who interrupt their first Pregnancy have remained permanently childless. (Handbook on Abortion Wilke) In Great Britain, two meticulous studies revealed 35.6% and 30% of aborted women suffer from abortion related complications. (Some

PSYCHOLOGICAL DAMAGES

Depression and a sense of loss are extremely common after abortion. These 'post-abortion blues' generally fade within a few months, but prolonged, deep depressions are not uncommon. Uncontrollable crying is often part of post-abortion depression. Daily crying may continue for years, sometimes lasting hours or even days at a time. Most women report a 'sense of loss' following their abortion. They feel empty. Those who report this symptom describe a number of related reactions such as inability to look at other babies or pregnant mothers, or a jealousy of mothers.

Abortion often creates feelings of low self-esteem, feelings of having compromised values, having 'killed my child.' The damage abortion inflicts on a woman's sense of confidence and self respect is even worse when these traits are already weak.

Feelings of guilt are among the most common reactions to abortion. Sometimes the feelings of guilt are vague. Other times they are quite specific. Denial and suppression of negative feelings is a common reaction to abortion. In one report, a psychiatrist treated fifty women who had come to him for problems which were supposedly not abortion related. But, after prolonged therapy, it was discovered that their disabilities stemmed from long-buried reactions to previous abortions. On a conscious level, each of these women believed that she has effectively resolved herself to her previous abortion. Each woman believed that the psychological turmoil which had led her to seek treatment was due to other situations in her life. But, in fact, they each revealed under therapy that it was unresolved conflicts associated with their abortions, hidden at a subconscious level, which were precipitating the new problems in their lives. It was only after recognizing their repressed grief that these women were able to make progress towards improving their emotional and mental states.

The suicide ~~The~~ rate among aborted women is phenomenally high. According to one study, women who have had abortions are nine times more likely to attempt suicide than women who have not aborted. The fact of high suicide rates among aborted women is well known among professionals who counsel suicidal persons. In a 35 month period, the Cincinnati chapter of Suiciders Anonymous,worked with 4,000 women.(aprox. 1,800 of these women had abortions) 1,400 of these women were between the ages of 15 and 24, which is the age group with the highest suicide rate in the country. There has been a dramatic increase in the suicide rate since the early 1970's, when abortion was first legalized. Between 1978 and 1981 alone, the suicide rate among teenagers increased 500%!!!

Sleeping problems are often reported. Some women complain of nightmares concerning the abortion. The experience of a 'phantom child' is not uncommon. This is when a woman imagines her aborted child as old as it would've been if it has been born. Others report frightening flashbacks of the abortion procedure as late as six years after the fact.

General feelings of helplessness, isolation, loneliness, and frustration are expressed. Others claim they are "going crazy."

Studies have found that 90% of aborted women have psychological problems after abortion.