

ALASKA LEGISLATURE COMMITTEE FILES 1999-2000 8672

9867 HOUSE JUDICIARY

## 14 weeks

(16 WEEKS after the first day of the last normal menstrual period)

- The fetus is about four and three-fourths ( $4\frac{3}{4}$ ) inches from head to rump.
- The head is erect and the legs are developed.

*The fetus can kick, swallow and sleep*

## 16 weeks

(18 WEEKS after the first day of the last normal menstrual period)

- The fetus is about five and one-half ( $5\frac{1}{2}$ ) inches from head to rump.
- The ears stick out from the head.



The photo here is nearly a third of the actual size.

*The fetus has been moving for several weeks. Now the woman begins to feel these movements*



The photo here is two-thirds actual size.

## 20 weeks

(22 WEEKS after the first day of the last normal menstrual period)

- The fetus is about seven and one-half ( $7\frac{1}{2}$ ) inches from head to rump.
- The fetus has fingerprints, and may have some head and body hair.
- Although the fetus has been able to move for several weeks, movements, known as "quickenings," are now felt by the pregnant woman.

CREED MAMIKUNIAN, M.D.

2401 EAST 42<sup>ND</sup> AVENUE, SUITE 206  
ANCHORAGE, ALASKA 99508  
(907) 562-1860 • FAX (907) 562-1865

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March 31, 2000

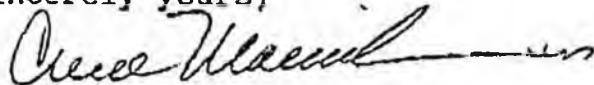
Re: House Bill #HB329

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

FROM : ST MICHAELS

PHONE NO. : 907 746 7040

Mar. 30 2000 10:50AM F1

*This woman is a retired nurse  
from Sherrod Ele. - Palmer AK.*

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 multiplies and divides 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,

*Janice C. Barrett*  
Janice C. Barrett



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Tuesday March 28, 1:39 pm Eastern Time

**Company Press Release**

*SOURCE: American Life League*

**American Life League: Abortion-Breast Cancer Connection - Recognized By Law and Medicine**

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WASHINGTON, March 28 /PRNewswire/ -- Britain's Royal College of Obstetricians and Gynecologists (RCOG) has issued its new "Evidence-based Guidelines No. 7: The Care of Women Requesting Induced Abortion."

The 1996 "Comprehensive review and meta-analysis," by Dr. Joel Brind and colleagues at the Pennsylvania State College of Medicine, found overwhelming evidence of an abortion-breast cancer connection and was found to be credible by the RCOG.

The RCOG report says of the Brind review, "The conflicting review by Brind has examined the same studies and concluded that induced abortion is a significant, independent risk factor for breast cancer. The assessor concluded that both were carefully conducted reviews and that the Brind paper had no major methodological shortcomings and could not be disregarded."

Brind, director of the Breast Cancer Prevention Institute (Poughkeepsie, NY) and a member of the American Bioethics Advisory Commission (a division of American Life League), said he is encouraged that RCOG has clearly acknowledged "the existence of valid evidence of the abortion-breast cancer connection."

"The RCOG represents the abortion practitioners themselves," said Brind. "This is the first time that any such group has clearly acknowledged the evidence of the abortion-breast cancer connection."

In a related matter, silence over the evidence of an abortion-breast cancer connection was broken recently in a landmark lawsuit filed in Fargo, North Dakota. The plaintiff in the case, Amy Jo Mattson, an employee of North Dakota Life League (an associate of ALL), alleges that the Red River Women's Clinic broke North Dakota laws against false advertising when it gave Mattson a deceptive brochure about abortion health risks.

In reference to claims that abortion increases a woman's chance of developing breast cancer, the brochure reads, "None of these claims are supported by medical research or established medical organizations."

A circuit judge in Cass County District Court denied the abortion clinic's motion to dismiss the lawsuit in January. Mattson's attorney, John Kindley, is arguing that medical research shows that having an induced abortion increases the average woman's risk of breast cancer by about half. Kindley's law review article on the scientific evidence connecting induced abortion with increased breast cancer risk can be found online at <http://www.johnkindley.com>.

Judie Brown is president of American Life League, the nation's largest pro-life educational organization with more than 367,000 supporting families.  
ALL / P.O. Box 1350 / Stafford, VA 22555 / 540-659-4171 / <http://www.all.org>

SOURCE: American Life League

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Questions or Comments?

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## John Kindley J.D.

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Author of 'The Fit Between the Elements for an Informed Consent Cause of Action and the Scientific Evidence Linking Induced Abortion with Increased Breast Cancer Risk,' 1998 Wisconsin Law Review, Pages 1595-1644.

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The above article was distributed in August 1999 to every member of the House of Representatives by U.S. Rep. Dave Weldon, R-Fla., a physician who described it in an accompanying letter as making a "persuasive case for the potential legal liability of abortion providers who do not inform women about the prospect of increased risk for breast cancer following an induced abortion." An Executive Summary of this article as well as the complete article are posted on this site.

Scientists have long suspected that the hormonal disruption that occurs when a woman's pregnancy is artificially interrupted leaves the breasts with an abnormally high number of cells vulnerable to cancerous mutation. The first American study on abortion as a risk factor for breast cancer was published in 1981 and reported that abortion "appears to cause a substantial increase in risk of subsequent breast cancer." Almost two decades later, thirteen out of fourteen American studies bear out this early warning, but to this day women considering abortion are still not informed about this significant health threat.

In fact, the Red River Women's Clinic, an abortion provider in Fargo, North Dakota, was until recently not only failing to warn women about the abortion-breast cancer link, but actually distributing to prospective customers a pamphlet that included the following false statement: "Anti-abortion activists claim that having an abortion increases the risk of developing breast cancer and endangers future childbearing. **None** of these claims are supported by medical research or established medical organizations." (Emphasis in original.)

I am lead counsel in a suit filed in December 1999 to enjoin this clinic from its false advertising. This suit was brought on behalf of women considering abortion and the general public, and thus seeks prospective relief rather than money damages. A woman who has already had an abortion, without being told that it would increase her risk of breast cancer, may be able to sue the abortion provider for compensatory and/or punitive damages, even if she has not yet developed breast cancer. Indeed, women in several states are now considering suing their abortion providers for failing to warn them about the abortion-breast cancer link.

It is time for the American people to decide for themselves whether the evidence is such that it warrants disclosure. As noted by Marcia Angell, M.D., executive editor of the New England Journal of Medicine, it is a "false belief that medical research is somehow too

complex to be understood by nonscientists." I am convinced that once juries have the opportunity to hear fully both sides of this scientific controversy they will agree that women had a right to know about this evidence decades ago.

Please e-mail me with any questions or suggestions, especially if you:

1. know a woman who has had an abortion and might need a referral to a medical malpractice attorney in her state;
2. know an attorney who might be interested in taking cases based on the cause of action outlined in my law review article;
3. would like to help raise necessary funding for the costs of pending litigation;
4. are interested in spreading the word about these health and legal issues and would like to order informational materials for this purpose.

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John Kindley is a Wisconsin licensed attorney. While the information on this site is about legal issues, it should not be construed as legal advice.

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You may contact me at [jkindley@johnkindley.com](mailto:jkindley@johnkindley.com)

Phone: (608) 294-6936

This page was last updated on 03/11/00

# BREAST CANCER

## has a proven link to abortion

**“A woman who finds herself pregnant at age 15 will have a higher breast cancer risk if she chooses to abort that pregnancy than if she carries the pregnancy to term, correct?” “Probably yes.” Response of Lynn Rosenberg, Ph.D., Boston Medical School, in sworn testimony as the expert witness for the abortion providers in a case involving Florida's parental notification law, Nov. 1999**

◆ **“(I)t will surely be agreed that open discussion of risks is vital and must include the people - in this case the women concerned. I believe that if you take a view (as I do), which is often called pro-choice, you need at the same time to have a view which might be called ‘pro-information,’ without excessive, paternalistic censorship (or interpretation) of the data.” Dr. Stuart Donnun, editor-in-chief, British Medical Association's Journal of Epidemiology and Community Health editorial (1996) 50:605**

◆ **“Some 1.5 million women undergo abortion in this country each year; if the breast cancer connection is valid, we will be seeing a continuous rise in breast cancer in this country for many years to come.” Bernadine Healy, M.D., former director of the National Institutes of Health, A New Prescription for Women's Health: Getting the Best Medical Care in a Man's World, Viking Penguin (1995), p. 237**

◆ **“Among women who had been pregnant at least once, the risk of breast cancer in those who had experienced an induced abortion was 50% higher than among other women.” “Highest risks (more than double) were observed when the abortion was done at ages younger than 18 years... or at least 30 years of age or older.” Dr. Janet Daling, lead author of the only published study specifically commissioned by the National Cancer Institute to investigate the link between abortion and breast cancer, Journal of the National Cancer Institute, Vol. 86, No. 21, pp. 1584-1592, Nov. 2, 1994**

◆ **“I have three sisters with breast cancer and I resent people messing with the scientific data to further their own agenda, be they pro-choice or pro-life. I would have loved to have found no association between breast cancer and abortion, but our research is rock solid and our data is accurate.” Dr. Janet Daling, who is strongly pro-choice, L.A. Daily News, Sept., 1997**

◆ **“This reasoning overlooks the more likely role of other factors, especially induced abortion. Induced abortion before first term pregnancy increases the risk of breast cancer.” In 1986, four prominent epidemiologists (including Bruce Stadel of the National Institutes of Health and Phyllis Wingo of the Centers for Disease Control, now with the American Cancer Society) published a letter in Lancet (Feb. 22, 1986, p. 436) criticizing another group's suggestion that the increasing incidence of breast cancer among Swedish women was due to oral contraceptive use.**

◆ **“Interruption during the first trimester of a first pregnancy causes a cessation of cell differentiation, which may result in a subsequent increase in the risk of cancerous growth in these tissues.” Planned Parenthood Federation of America (1994)**

◆ **Jose and Irma Russo, in a landmark 1980 experiment published in the American Journal of Pathology (Vol. 100, pp. 497-512), found that 77% of laboratory rats whose first pregnancy was surgically aborted developed breast cancer after exposure to a carcinogen, compared to 0% of identically exposed rats in the control group whose pregnancy was carried to term.**

**HOW?**

Abortion interrupts the natural process of breast development, leaving the breast with more cells that can become cancerous. Extra estrogen of pregnancy causes cells to proliferate. Third trimester hormones of a full-term pregnancy turn cells into milk-producing cells and turn off their growth (and cancer-forming) potential.

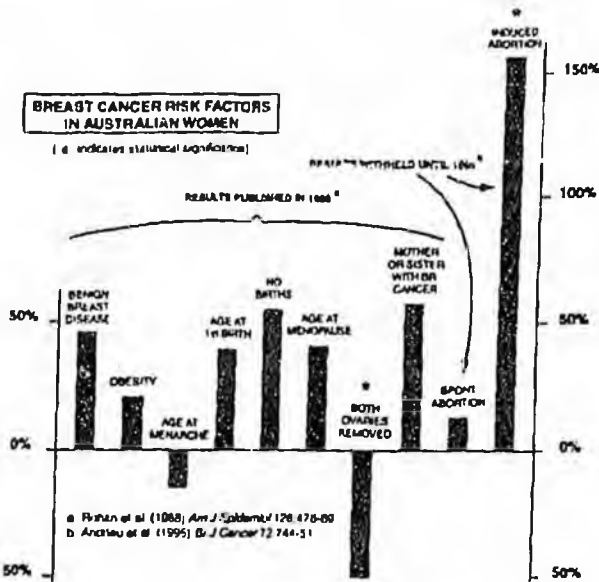
As of February, 2000, twenty-seven out of the thirty-three studies in the world-wide literature indicate an increased risk of breast cancer associated with induced abortion. Seventeen of the twenty-seven are "statistically significant," a technical term which means the data provided at least 95% certainty that the association measured was not due to chance.



The Coalition on Abortion/Breast Cancer is a women's health organization founded to protect the health and save the lives of women by educating and providing information on abortion as a risk factor for breast cancer.

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This 1988 study shows the reluctance of researchers to publish data showing the abortion/breast cancer link. Abortion data (see two rightmost bars) were withheld for seven years. Note that spontaneous abortion has no significant effect on risks; whereas, induced abortion does significantly increase a woman's breast cancer risk.  
 a. Thomas E. Rohan et al, "A Population-Based Case-Control Study of Diet and Breast Cancer in Australia," American Journal of Epidemiology (1988), Vol. 128, pp. 478-489. b. Nadine Andrieu et al, "Familial Risk, Abortion and Their Interactive Effect on the Risk of Breast Cancer," a combined analysis of six case-control studies, British Journal of Cancer (1995), Vol. 72, pp. 744-751.

If you would like to help dispense information about the abortion/breast cancer link or wish to offer financial assistance, please contact:

**Coalition on Abortion/Breast Cancer**  
 AN INTERNATIONAL WOMEN'S ORGANIZATION

P.O. Box 152  
 Palos Heights, IL 60463

Call Toll-free 1-877-803-0102  
[www.abortionbreastcancer.com](http://www.abortionbreastcancer.com)

# Abortion raises Breast Cancer risk.



L - A - C - I - N - O



# Pro-Life America

*Saving babies and families from abortion!*  
 Speakers • TV • Radio • Videos • Literature

Testimonials of Women Who Have Had Abortions		
Name	---	Statement
Mac Abbott		<ul style="list-style-type: none"> <li>• I was told "that I would be out for 8 minutes and I would feel only a little discomfort afterwards (they lied, it ruined 10 years of my life)"</li> <li>• Surgery -- (that's what they call it). They put us on gurneys and put us through like cattle on a conveyer belt. So sad.</li> <li>• They never explained anything about the procedure or let me see the baby. They gave me no alternatives and never mentioned the killing my baby would affect me emotionally.</li> </ul>
Tewannah Aman		<ul style="list-style-type: none"> <li>• I was 18 when I got pregnant. At three months pregnant I had an abortion. About seven years later I was listening to a Christian radio broadcast. It described an unborn child during an abortion procedure. It talked about the baby's frantic attempts to escape the tools of the abortionist and how the child's heartbeat accelerated as it sensed apparent danger. My heart broke. I was overcome with grief. How could I have taken the life of my unborn child?</li> <li>• About seven years later I married a wonderful man. Five months later, surprise! I'm pregnant. I had always longed to be a wife and mother. Now my dream was going to come true.</li> <li>• The pregnancy was going well but 21 1/2 weeks into my pregnancy I went into labor. I gave birth to a little boy. He lived three hours. The doctor said there was nothing they could do. He was too small. We named him David Nathan. I had imagined us feeding the ducks, playing in the park, but instead I was saying goodbye.</li> <li>• In the book, "What to Expect When You're Expecting", I came across information that said a miscarriage in the fifth month could be due to previous abortions.</li> <li>• It said that I understood there was a probability or a possibility that I might not go on to have children. That meant I wouldn't be a parent.</li> <li>• Women need to know the facts regarding abortion. If I could share my story, then others might be spared the heartbreak that I have had to go through. If we remain silent the other side wins. There are many more like me. If more people come forward the truth can't be denied. And confession is good for the soul.</li> <li>• Below is part of the information from the "Release Form" that</li> </ul>

		<p style="text-align: center;">TEWANNAH SIGNED FOR HER ABORTION.</p> <p>Ambulatory Surgical Facility</p> <p>Consent to Operation, Anesthetics and Other Medical Services</p> <p>I authorize the performance upon Tewannah Harper of the following operation Therapeutic Vacuum Curettage</p> <p>*** It has been explained to me, and I am aware, that I may be sterile as a result of this operation and that I may no longer have menstrual periods, although no such result is warranted or guaranteed. I know that a sterile person is incapable of becoming a parent, and in giving consent to this operation I have in mind the probability or possibility of such a result.</p>
Margaret Birky		<ul style="list-style-type: none"> <li>• Panic in my heart. Knowing it was too late.</li> <li>• What have I done? What kind of person could do this? I want it all to do over, Please God. Obsessed with how old my child would be – what he looked like, if he forgave me. Hatred for myself, for being weak. Anger at boyfriend for not being white knight and saying "it's all going to be o.k., I love you, I will love this baby, together we'll make it work." Now, I cried hysterically most times and my arms would ache so terribly from agonizing hold that child that I'd hug a teddy bear just to have something there.</li> <li>• An abortion can take your baby from your body but never from your heart.</li> </ul>
Lisa Burroughs		<ul style="list-style-type: none"> <li>• It helped me to seek the face of Jesus through His word and He has turned my sorrow into joy.</li> <li>• Please understand that by aborting your unborn child that does not make the baby go away. Your baby will be in your heart until you die. After abortion – the guilt and shame and loneliness is horrible. Once you abort, you cannot go back and change it.</li> </ul>
Carrie Camilleri		<ul style="list-style-type: none"> <li>• Women and men need to know the truth!</li> <li>• I was an emotional wreck. The following day I was empty, sad, numb. I knew that day I had made a huge mistake. I wish with my heart I would have done things differently</li> </ul>
Cecilia Gomez		<ul style="list-style-type: none"> <li>• I had 4 abortions. Due to one of them, my uterus was lacerated will never deliver a child natural. My first child delivered, Dillon Matthew, could not be carried to full term because of my incompetent cervix and uterus. My membranes apparently ruptured at 24 ½ weeks gestation. My son died 13 weeks later. That was the most traumatic experience I've ever gone through</li> <li>• After the first abortion, I did get more depressed, I developed a very angry character; I became very violent. The second, I really</li> </ul>

		<p>didn't notice a change. By the third I had a really low self-esteem and after the fourth, I became extremely promiscuous and self-destructive, throughout the years, with each abortion, I became more and more depressed and I gained more and more weight.</p> <ul style="list-style-type: none"> <li>• What would you say to a friend who's considering having an abortion? PLEASE DON'T! This is something that damages a woman forever! You can never get over it! Praise the Lord, one can get beyond, but never over it.</li> <li>• What has helped you heal from the pain of your abortion? It's just been the Lord and this gift of eternal life.</li> </ul>
<p>Michaelene Jenkins</p>		<ul style="list-style-type: none"> <li>• Abortion appeared to be the only answer. At the clinic I was told the procedure would be quick and safe, allowing me to continue my activities the next day.</li> <li>• I turned to the nurse and told her I didn't think I could go through with it. She held my hand, telling me it would be over in a few minutes. Before I could reply, the suction machine was turned on, causing tremendous pain.</li> <li>• I was frightened, it hurt so much. I wanted to scream I wanted to stop. I suddenly knew there was a baby inside. They were killing my baby!</li> <li>• Limping to the recovery room I felt nauseated, weak and defeated. I couldn't stop crying, and neither could the other women there. My life was irreversibly changed at that moment. I cried for days and weeks – eventually years. I felt so dirty, so guilty, so unworthy to live.</li> <li>• I could have died from the operation and that my future ability carry a baby full term had been lessened.</li> <li>• I would end up sobbing in a corner, fearful I was going crazy. It culminated one evening when I tried to cut my wrists with a broken plate. This desperate act scared me into getting help.</li> <li>• Through counseling I let go of my anger and accepted the forgiveness that Jesus offers. Months later I forgave myself and began to mourn the loss of my child.</li> </ul>
<p>Jeniece Learned</p>		<ul style="list-style-type: none"> <li>• I never realized I was going in for a surgery to have my baby killed.</li> <li>• Explain what the abortion provider told you about other options. They had never even mentioned the word "Adoption." They would not have made any money by doing that. Abortion is a business. They had nothing to profit by giving me the help I needed.</li> <li>• Don't believe them. 'They want your money!' Which ever decision you choose between adoption or abortion you will always wonder about that child, his or her looks, personality, smile, character. I wonder those things. You are a mother if you are pregnant. You will still be a mother if you abort, only you will be the mother of</li> </ul>

		<p>him life.</p> <ul style="list-style-type: none"> <li>• Immediately after my abortion I went to my job at a local fast food restaurant. I proceeded to the restroom and filled the toilet with blood. I was very, very scared. I knew this was not normal. I knew my periods weren't like this. The cramping was excruciating. The bleeding got worse. I believe now when I look back, I was hemorrhaging. I had blood clots the size of grapefruit. I bled like that for two more days.</li> <li>• It was as if we were in an assembly-line, we were all waiting to have our babies vacuumed out of our bellies. I know how this has shattered lives.</li> <li>• When the actual procedure was over I felt very empty. It was such a roller-coaster ride because of the bleeding.</li> <li>• Do you feel you were lied to or deceived by the abortion provider? Absolutely! They were concerned about the money. We are not animals, we are human beings with a conscience, with the ability to stay pure for the person God has intended us to marry. I wish I could have given my virginity to my husband whom I truly adore. I felt violated and raped for \$350.</li> <li>• Without the Lord's healing I would have a hard time dealing with the blood on my hands. Abortion is not a quick fix. It's not a bandage you can put on the sore. When that bandage falls off, a scar remains forever.</li> <li>• Growing and maturing in a relationship with God has taken the pain from my past sins. Jesus alone is the only healer of our hearts. Going through the grieving process for my child, as you would for anyone you've lost to death is very important. For those that have had multiple abortions, your sin is not worse than my abortion of one. Sin is sin. Ask God for forgiveness, repent - He sees them no more.</li> <li>• Don't believe the lies! Everyone makes mistakes, but we can take responsibility for them and make the right choices. Choices we can truly live with and be proud of. You who are reading this have had abortion thrown in your faces your whole life. You are precious and your aborted siblings and peers were precious. You can change the world, you can say enough is enough. You can say, "LIFE IS OUR FIRST INALIENABLE RIGHT!" <b>Stay Pure and Stay Free.</b></li> </ul>
<p>Susan Carpenter McMillan</p>		<ul style="list-style-type: none"> <li>• Susan Carpenter McMillan, a long time feminist and activist, received international acclaim in 1986 when she spearheaded a campaign which gave "Baby Jesse" a much needed heart transplant.</li> <li>• Susan has been an active media spokesperson since 1980, appearing on more than 4,000 radio and television shows ranging from Donahue to Politically Incorrect and she has guest hosted CNN and other media programs. Susan was also a commentator from 1991 to 1994 on KABC TV Channel 7 News.</li> </ul>

		<ul style="list-style-type: none"> <li>• She was appointed by the Board of Supervisors as a Commissioner on the Los Angeles County Commission for Women, where she currently heads the Los Angeles Rape Task Force.</li> <li>• Susan's unrelenting determination to end all child molestation is her greatest passion. In 1996 she personally wrote and sponsored the first chemical castration law to ever pass in the United States.</li> <li>• I remember that horrible day 21 years ago. The drive to the abortion clinic, the waiting, the other women, those last seconds of consciousness before the anesthesia set in, lying alone on the gurney as I placed my hands on my stomach and inwardly screamed "I'm sorry. I'm so, so sorry." As I drifted into unconsciousness, I remembered feebly pulling the hospital gown down and sliding it between my legs, semi-consciously hoping that then they couldn't get to my baby.</li> <li>• My deep pain about the unnecessary death of a child...my child. It was like reading an obituary. I'd close my eyes and see this tiny helpless little baby peacefully floating in amniotic fluid, did it struggle, did it die quickly...oh, how I hurt.</li> <li>• My eldest daughter's response... "Mom, you knew I always wanted an older brother or sister, so why did you kill them?...I had no answer.</li> <li>• I know millions and millions of women across this country feel I do about abortion, we all somehow know deep down inside that we alone made a horrible decision and no coined phrase about choice and rights or the denial of biological and fetal facts can ever erase the truth. For we as mothers instinctively know during those still moments of aloneness, that we ended the life of a separate human being growing inside of each and every one of us.</li> </ul>
Michele Slaffey		<ul style="list-style-type: none"> <li>• I could find no one to help me.</li> <li>• Planned Parenthood is a big lie! What happened to me was not counseling, it was a plan to make money off my mother and myself by lying and tricking us at a very vulnerable time.</li> <li>• Having sex before marriage is the wrong move. It leads to all kinds of problems. Avoid this by not having pre-marital sex.</li> <li>• I realized that my baby would die a horrible death and I knew I would be in pain both physically and mentally and I knew this was wrong. Planned Parenthood told me nothing about the saline abortion procedure but the way it sounded, just the name itself "saline", I knew I was in for the worst experience of my life.</li> <li>• The physical pain of a saline abortion is very great. After being injected with the saline, the pain begins. I felt labor pains for approximately 16 to 18 hours, there is never a moment when the pain stops. The medication given to me to help the pain not only didn't work but caused much vomiting and diarrhea.</li> <li>• I felt so, so, so lonely!!</li> <li>• I really thought I loved the baby's father but I don't know if I was just with him because I was desperate for someone to love. He</li> </ul>

		<p>wanted a serious relationship and I just gave up thinking I could handle it, but I couldn't. After the abortion I just didn't feel the same about him anymore. He wanted to continue to have sex as I was in too much pain (emotionally). We stopped seeing each other and when I did see him he would curse me out and call me a "baby killer." He did that 2 times. One time when I saw him at a party and another time when I saw him at a bar. I believe he was very hurt to lose a child to abortion. I'm sure he felt like he had no say in this decision. I believe, that men can be emotionally traumatized by abortion.</p>
Stephanie Williams		<ul style="list-style-type: none"> <li>• I can share that as a result of that abortion it has been difficult for me to get pregnant or carry a baby to term. Now at the age of 3 my husband and I are still in hopes that one day we will bear children.</li> <li>• I remember coming out of the anesthesia and being in tremendous pain, lots of severe cramping. I moaned and groaned because of the discomfort and the nurse kept coming by and telling me to shut-up the noise. The pain was so intense that I began vomiting.</li> <li>• I was deceived because I was not told the truth about what an abortion means to the life of an unborn baby. I was not told that there were other options. I was not told that at 10 weeks (which is when I had my abortion) my child was already fully formed. I was made to believe that I was doing something that was as natural as going to the dentist for teeth cleaning.</li> <li>• But there will come a time when you will regret not knowing the joy of raising your child. There is always a reminder of what kind of person your child would have been.</li> </ul>
Lisa Windham		<ul style="list-style-type: none"> <li>• Now that I think about it, it really was a selfish choice.</li> </ul>

[Back to Home Page](#)

# League of Women Voters of Alaska

P. O. Box 484  
Koslof, Alaska 99610  
(907)262-3941

April 10, 2000

The Honorable Pete Kott, Chair  
The House Judiciary Committee  
And All Committee Members  
Alaska State House of Representatives  
Juneau, Alaska

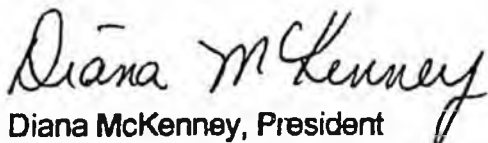
Dear Representative Kott,

I have faxed a copy of the League of Women Voters of Alaska Resolution 00-1 to be considered in your meeting today, April 10, 2000. We adopted this resolution at our state convention on April 9, 2000.

The League of Women Voters of Alaska urges you to oppose House Bill 329. League members strongly support reproductive rights and the Constitutional right of privacy pertaining to reproductive choices. Many of those that would be most affected by the types of excessive restrictions recommended in this bill are those who do not have the means, skill, or emotional stability to operate within these proposed parameters.

The League respectfully requests that you oppose House Bill 329. The unfortunate reality of our society is that many women find themselves in life situations that leave them in impossible situations. While we do not have all the answers to the ills in our society, we do not believe that this bill is in the best interest of the citizens of Alaska.

Sincerely,



Diana McKenney, President  
League of Women Voters of Alaska

**LEAGUE OF WOMEN VOTERS OF ALASKA  
RESOLUTION 00-1**

**A RESOLUTION OPPOSING  
HOUSE BILL 329 AND SENATE BILL 300  
RELATED TO BIASED COUNSELING AND  
A WAITING PERIOD FOR ABORTION**

**Whereas**, the League of Women Voters holds a public policy position, protecting the Constitutional right of privacy of the individual to make reproductive choices; and

**Whereas**, the Alaska Constitution protects reproductive autonomy, including the right to abortion, more broadly than does the United States Constitution; and

**Whereas**, reproductive rights are fundamental and that they are encompassed within the right to privacy expressed in Article 1, Section 22 of the Alaska Constitution; and

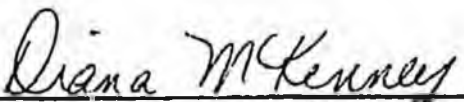
**Whereas**, these rights may be legally constrained only when the constraints are justified by a compelling state interest, and no less restrictive means could advance that interest; and

**Whereas**, House Bill 329 and Senate Bill 300 employ excessive means that constrain reproductive rights; and

**Whereas**, House Bill 329 and Senate Bill 300 violate privacy protections assured under the Constitution of the State of Alaska,

**NOW, THEREFORE, BE IT RESOLVED**, that the League of Women Voters of Alaska Convention 2000 delegates urge the Alaska State Legislature to oppose House Bill 329 and Senate Bill 300 relating to biased counseling and a waiting period for abortion

**Passed and approved** this 9<sup>th</sup> day of April, 2000, by the delegates to the League of Women Voters of Alaska convention in Anchorage, Alaska.

  
\_\_\_\_\_  
Diana McKenney, President  
League of Women Voters of Alaska

# STATE OF ALASKA

TONY KNOWLES, GOVERNOR

## DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

1031 WEST 4<sup>TH</sup> AVENUE, SUITE 200  
ANCHORAGE, ALASKA 99501-1994  
PHONE: (907)269-5274  
FAX: (907)278-7022

March 22, 2000

The Honorable Pete Kott  
Chair, House Judiciary Committee  
Alaska State House  
State Capitol  
Juneau, Alaska 99801

Re: House CS for CS for Senate Bill No. 24 (Work Draft R, February 15, 2000)

Dear Representative Kott:

On February 7, 2000, at your invitation, I submitted a letter reviewing Work Draft P of Senate Bill 24. Subsequently, the Committee moved to Work Draft E. Yesterday I received Work Draft R, which deletes one set of provisions from the versions previously under discussion and rearranges the others. Because it will be difficult to correlate the comments on Work Draft P with the rearranged sections of Work Draft R, I am submitting this letter to specifically address Work Draft R. In substance, however, all of the comments made in this letter are comments I have made before.

The first six sections of Work Draft R apply to all agencies and relate to the procedure for giving notice of regulations. My comments do not address that portion of the bill.

Section 7 of Work Draft R would enact provisions aimed at regulations proposed by the Department of Environmental Conservation (DEC). The first part of Section 7 is a marked expansion of the public notice process for DEC regulations, including amendments and repealers. It increases both the volume of material to be published and the amount of time required to complete the process. The second part of Section 7 attempts to ensure that regulations are adopted soon after the effective date of the authorizing statute. Both parts of Section 7 are problematic as currently drafted.

As you know, Senate Bill 24 was first conceived as a broad regulatory reform bill governing several agencies. As a partial response to industry and Administration concerns raised about that earlier version, Section 7 of the bill has been narrowed to cover only DEC. Special administrative procedures applicable to only a single department should appear in the statutory title for that agency (Title 46 in the case of the Department of Environmental Conservation). Currently, the statutes already contain some special departures from the Administrative

Procedure Act for DEC, and those are codified in Title 46. An example is AS 46.35.090. To avoid confusing the public, the new statutory section proposed in Section 7 should be revised to appear in Title 46 rather than Title 44.

I now turn to the particular subsections of the new AS 44.62.213, which Section 7 would create.

Subsection (b) presents two technical issues that need correction. First, the thrust of subpart (1) apparently is to require the agency to provide continuing notice to commenters as the multiple rounds of public notice called for in subpart (d) go forward. In other words, if someone comments on the first draft regulation put out to public comment, that person should receive notice of any revised draft following the first round of comment. If this is the intent, the subpart should be clarified by deleting the words "on the" from line 25 of page 4 and replacing them with the phrase: "under AS 44.62.210 upon a substantially similar". Otherwise, the language could require notice to people who have commented informally, outside of the Administrative Procedure Act context and not on the record.

Second, subsection (b), as simply an addition to the list of requirements in AS 44.62.190, should be tied to the limitation in AS 44.62.190(c) that applies to the other items on the list.

Subsection (d) requires a new round of public notice and comment each time the agency responds to previous comments by "substantially chang[ing] the substance" of the proposed regulation, provided the agency "would not normally consider the change to be significant enough to require additional notice." The quoted language creates an uncertain standard. As a practical matter, the agency will feel it must go back out to comment if it makes any change other than a change to form in response to public comments. The process will then be longer and more expensive.

Frequently, it is industry that is most anxious to get new regulations in place. An illustration of how this requirement might operate in practice is found in the recent process of adopting a site-specific water quality criteria regulation for Point Woronzof. The Municipality of Anchorage, which operates a water treatment plant at the location, desired an immediate state regulatory change to protect itself from potential liability for federal penalties. DEC took the new criteria from public notice through adoption in four months. However, the adopted version of the regulation contained a substantive change from the proposed version, because a criterion had been proposed for total chromium whereas it became apparent that the limit should apply to only one type of chromium. Had SB 24 been law, the agency would have had to put the regulation out to a second round of comment. This would have lengthened the process from four months to at least seven, and made it impossible to meet the municipality's target date for putting the new regulation in place.

Subsection (e) requires the agency to explain a negative, that is, to publish an explanation of why subsection (d) does not apply to a particular situation. The benefit of this added effort and expense, in terms of informing the public, is questionable.

Subsection (f) attempts to create certain exceptions to the multiple notice rounds envisioned by subsection (d). Exception (2) is vague, and it would be risky to rely on it. It speaks of reducing "any burden imposed by a federal requirement" in connection with a "situation in the state." Whether a particular requirement imposes or relieves burdens often depends on one's point of view, and to avoid this uncertainty and the attendant risk of litigation the agency is likely to choose to re-notice. Note that the Point Woronzof regulation would not have qualified with any degree of confidence for either of the listed exceptions.

Subsections (g) through (j) appear to be aimed at requiring DEC to announce its intention to adopt, or not to adopt, regulations as soon as the authorizing statute is passed, and to complete the process of proposing regulations within two years. The premise of these subsections is unreliable: they are based on the assumption that each regulation draws on a single authorizing statute and that the statute is static. Instead, most regulations draw on multiple statutes, all enacted at different times and all amended from time to time. Applying the time limits imposed by subsections (g)-(j) would frequently entail guesswork.

Adding to the confusion is Section 12 of Work Draft R, the applicability provision for Section 7. That section makes the time limit provisions applicable only to regulations for which "the" statutory authority comes from an act with an effective date on or after July 1, 2000. Again, the multiple bases of authority for most regulations, and the tendency of statutes to be amended from time to time, makes this provision difficult to put into practice.

The difficulty of applying these subsections would be a serious problem indeed if regulations could be invalidated because some later litigant was able to convince a court that a deadline had been missed. Lines 19-20 of page 6 appear to be aimed at preventing that from occurring. However, to be fully effective in this regard, line 20 must be changed to "to comply with subsections (g) through (i) of this section."

\* \* \*

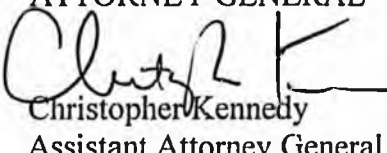
The Honorable Pete Kott

March 22, 2000  
Page 4

Thank you for the opportunity to comment on Work Draft R of Senate Bill 24.  
Should the committee require further information, please do not hesitate to ask.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:   
Christopher Kennedy  
Assistant Attorney General

cc: The Honorable Dave Donley (by fax and hand delivery)  
Committee Members, House Judiciary  
Commissioner Michele Brown  
Pat Pourchot  
Shari Kochman  
Janice Adair  
Chrystal Smith  
Deborah Behr

Justified before House Judiciary 4/10/00

To: House Judiciary Committee  
From: Dixie Hood, Juneau, Alaska  
Date: April 10, 2000  
RE: HB 329

Thank you for allowing me the opportunity to express my opposition to house bill 329 which would impose a 24 waiting period on women seeking an abortion, and which would require a woman go through biased counseling before getting an abortion.

I certainly favor health professionals giving a patient informed consent before undertaking a medical procedure, and to my knowledge, there is no reason to think women seeking abortions are not being given all the information they need to make a reasoned decision.

Mandatory anti-choice lectures don't give women unbiased meaningful medical information, but rather they are told a laundry list of possible complications from the abortion procedure which are rare. In fact, this law would require that false medical information be given to a woman because it instructs a doctor to tell a woman that the risks from getting an abortion include breast cancer. I am not aware of any such studies that prove this that are accepted in the medical community.

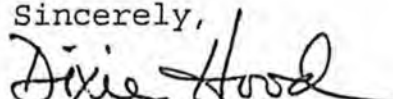
Legislators should not be in the business of telling medical professionals what is important and not important to advise a patient about a medical procedure, and abortions are being singled out for the biased counseling requirement not because the sponsors are concerned about women's health, but because they want to try to coerce women into carrying their pregnancy to term by whatever means possible.

I also oppose the 24 hour waiting period that is required by this bill. Medical professionals who perform abortions in this state are few and many women must travel great distances to obtain an abortion. By imposing a waiting period, women are put to much greater expense and inconvenience. Apart from making an abortion more expensive and logistically difficult, a waiting period also puts a woman's health at risk. If a woman has to reschedule work, make arrangements for child care, or perhaps juggle school responsibilities, compounded by a provider's scheduling issues, a 24 hour waiting period can

result in a delay of 10 days to two weeks or longer. Such a delay can push a first-trimester abortion into a second-trimester abortion, making what would have been a routine procedure into a more complicated and dangerous one.

I urge committee members to vote against this bill. It hurts women. Please leave these decisions to a woman and her doctor.

Sincerely,

A handwritten signature in cursive script that reads "Dixie Hood". The signature is written in dark ink and is positioned below the typed name.

Dixie Hood  
Juneau, Alaska

# FISCAL NOTE

Bill Version: CSSSHB 329 (HES)  
 (H) Publish Date: 3/30/00

**STATE OF ALASKA  
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected: Health and Social Services  
 Title Relating to Unborn Children and BRU Health Services  
Abortion Component Maternal child and Family Health  
 Sponsor Coghill  
 Requester HOUSE (HES) Component No. 290

**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	28.2	30.0	31.1	32.7	34.3	36.0
Travel	10.0	4.0	4.0	4.0	4.0	4.0
Contractual	25.2	13.0	14.0	14.5	15.0	15.5
Supplies	2.0	1.0	0.8	0.9	0.9	1.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>65.4</b>	<b>48.0</b>	<b>49.9</b>	<b>52.1</b>	<b>54.2</b>	<b>56.5</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	65.4	48.0	49.9	52.1	54.2	56.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>65.4</b>	<b>48.0</b>	<b>49.9</b>	<b>52.1</b>	<b>54.2</b>	<b>56.5</b>

Estimate of any current year (FY2000) cost: 0.0

**POSITIONS**

Full-time	0.5	0.5	0.5	0.5	0.5	0.5
Part-time						
Temporary						

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

See attached detail-The two .25 positions equal .50 FTE as indicated above.

Prepared by Peter M Nakamura MD *Ko J. DMN* Phone 269-3400  
 Division Public Health Date/Time 3/21/00 10:19 A.M  
 Approved by Commissioner: Kate Perdue, Commissioner Date 3/21/00  
 Agency: Department of Health and Social Services

**COMMITTEE COPY** PLEASE PROVIDE ALL DISTRIBUTION COPIES TO GOVERNOR'S LEGISLATIVE OFFICE  
 For further distribution information, call the Governor's Legislative Office

Personnel:

.25 FTE Advanced Nurse Practitioner to 1) develop the initial packet, 2) conduct on-going literature review and provide updates when new information becomes available. \$18,385

.25 FTE Admin. Clerk II to 1) provide clerical support for mailings, copying, and ordering materials, 2) answer the 24 hour phone line during business hours. \$ 9,850

Travel:

Travel to areas in Alaska to do training on the new requirements. \$10,000

Contractual:

Contract for printing costs of material - initial \$10,000  
- on-going \$ 2,000

Contract for 24 hour phone line staff (not during work hours) \$10,000

800 Line \$ 200

Postage - initial \$ 5,000  
- on-going \$ 1,000

Supplies:

Subscriptions/books for ANP \$ 500

Envelopes \$ 700

Letterhead \$ 800

# Alaska State Legislature

*Interim:*  
119 N. Cushman, Suite 211  
Fairbanks, AK 99701  
(907) 456-5081 - Phone  
(907) 456-8245 - Fax



*Session:*  
State Capitol, Room 416  
Juneau, AK 99801  
(907) 465-3719 - Phone  
(907) 465-3258 - Fax

Representative John Coghill

## SSHB 329 - Informed Consent

### Sponsor Statement

I have introduced SSHB 329 for the purpose of protecting the health of women. SSHB 329 requires Alaska physicians to provide women seeking elective abortions information regarding the potential physical and psychological risks of the procedure, as well as alternatives to abortion.

The U.S. Supreme Court noted in *H.L. v. Matheson* (1981) that "the medical, emotional, and psychological consequences of abortion are serious and can be lasting." Speaking to the issue of a woman's informed consent, the U.S. Supreme Court also observed in *Planned Parenthood v. Danforth* (1976) that a decision to have an abortion "is an important, and often a stressful one, and it is desirable and imperative that it be made with full knowledge of its nature and consequences."

Recognizing the need for women to exercise an informed choice about an elective medical procedure, Alaska regulations since the early 1970s have required physicians to advise patients seeking abortion of the "medical implications and the possible emotional and physical sequelae of the procedure." (12 AAC 40.070). However, Alaska's informed consent provision lags behind other states because it exists only in regulation and not in statute. It also lacks specificity and is not uniform in its application. More than twenty-five other states have laws requiring informed consent before abortions are performed, and detailing specific information that physicians must provide. States with the most comprehensive informed consent statutes include Indiana, Kansas, Kentucky, Michigan, Mississippi, Nebraska, North Dakota, Ohio, Pennsylvania, South Dakota, Utah, and Wisconsin.

SSHB 329 elevates the informed consent requirement from regulation to statute, and it requires the Department of Health and Social Services to develop a standard information brochure that physicians will make available to women considering abortion. The brochure will include information on public and private agencies that provide services to assist pregnant women, including adoption services. The brochure will include objective information and photographs depicting the anatomical and physiological characteristics of a typical unborn child at two-week gestational increments. In addition, the brochure will describe the specific potential health risks of abortion, including infection, hemorrhage, breast cancer, danger to subsequent pregnancies, and infertility.

March 31, 2000

Dear Representative Pete Kott and the members of the Judiciary Committee,

**Subject: House Bill 329**

I am a Family Nurse Practitioner and I attended the hearing for HB 329 before the House Hess committee. I noticed that there was controversy regarding the definition of conception. I researched the definition and found that conception and fertilization are often used interchangeably. I looked up conception in a Biology text used by UAA, when I found the word conception the index said, "see also fertilization". The description of conception read, "the fertilization of the egg by a spermatozoon". Please do not let this controversy distract you from the true issue at hand. Women seeking abortion need all the facts and information made available to them. Please see my written testimony to be faxed prior to the House Judiciary committee hearing.

Sincerely yours,



Aleatha Martin

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### **Testimony for Bill 329 – Informed Consent**

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

#### Professional History:

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

#### Abortion Experience:

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

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

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

Support for House Bill 329:

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

IN REVIEW OF SECTION 1

- (1) I believe that geographically-indexed material designed to inform a woman of agencies and services that can help her could give her the hope she needs to believe that there are other options. It is important that there be local phone numbers listed, a woman who has an unplanned pregnancy may be unable to think rationally. It would have been helpful for me to be told that a woman who experiences an unplanned pregnancy can be a successful parent.
  - (2) Information on medical assistance benefits, as stated in the bill, would be helpful.
- (4,6,7) I believe that the name of the physician performing the procedure should be disclosed and that informed consent should include a detailed description of the abortion procedure. When I worked in the hospital I observed physicians describing procedures that patients were about to experience. It was then neatly written out for the patient to sign and a nurse was present when the form was signed. It was all done professionally with ample time for patients to ask questions. Providing a patient with the risks and side effects of a surgical procedure is common practice in the medical industry and should be applied to abortions. The entire procedure should be described as stated in the bill in section 1:7.
- The physical and emotional pain is real and these risk factors need to be disclosed. The risk factor of danger to subsequent pregnancies needs to be disclosed!

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

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

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

Thank you.



**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 329(HES)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**Offered: 3/30/00**

**Referred: Judiciary, Finance**

**Sponsor(s): REPRESENTATIVES COGHILL, Kohring, Dyson, Ogan, Sanders, Green, Harris**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to services and information available to pregnant women and**  
2 **other persons; and requiring informed consent and a 24-hour waiting period**  
3 **before an abortion may be performed unless there is a medical emergency."**

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

5 **\* Section 1. AS 18.05 is amended by adding a new section to read:**

6 **Sec. 18.05.032. Information relating to unborn children and abortion. (a)**

7 **The department shall obtain or prepare written information that**

8 **(1) contains geographically-indexed material designed to inform a**  
9 **person of public and private agencies and services, including adoption agencies, that**  
10 **are available to assist a woman through a pregnancy, at childbirth, and while the child**  
11 **is dependent; the material must include a comprehensive list of the agencies, a**  
12 **description of the services they offer, and the manner in which the agencies may be**  
13 **contacted, including telephone numbers; in addition to this written material, the**  
14 **department, through a toll-free 24-hour-a-day telephone number, shall orally provide**

1 a list and description of agencies that are in the locality of the caller;

2 (2) provides information on the availability of medical assistance  
3 benefits for prenatal care, childbirth, and neonatal care;

4 (3) states that a person may not lawfully coerce a woman to undergo  
5 an abortion;

6 (4) states that a physician who performs or induces an abortion on a  
7 woman without obtaining the woman's informed consent may be liable to the woman  
8 for damages in a civil action;

9 (5) states that the father of a child is liable to assist in the support of  
10 the child even in instances where the father has offered to pay for an abortion, and that  
11 the law permits adoptive parents to pay costs of prenatal care, childbirth, and neonatal  
12 care;

13 (6) is designed to inform the woman of the anatomical and  
14 physiological characteristics of a typical unborn child at two-week gestational  
15 increments from fertilization to full term, including photographs representing the  
16 development of unborn children at two-week gestational increments and relevant  
17 information about the possibility of an unborn child's survival at the various  
18 gestational ages; the photographs must contain the dimensions of the fetus and shall  
19 be realistic and appropriate for the woman's stage of pregnancy; the information must  
20 be objective, nonjudgmental, and designed to convey only accurate scientific  
21 information about unborn children at various gestational ages;

22 (7) contains objective information that describes the methods of  
23 abortion procedures and treatments commonly employed, the medical risks commonly  
24 associated with each procedure and treatment, the possible detrimental psychological  
25 effects of abortion, and the medical risks commonly associated with carrying an  
26 unborn child to term; the information about the medical risks commonly associated  
27 with abortion procedures and treatments must include

28 (A) when medically accurate, the risks of infection, hemorrhage,  
29 breast cancer, danger to subsequent pregnancies, and infertility; and

30 (B) where appropriate, the possible adverse psychological  
31 effects of an abortion.

*(should add continued pregnancy as a medically recognized complication)*  
*none proven*

1 (b) The information required under (a) of this section must be written in easily  
2 comprehensible language and must be printed in a typeface that is large enough to be  
3 clearly legible.

4 (c) The department shall make the information required under (a) of this  
5 section available free of charge on request and in an appropriate volume to the  
6 requestor.

7 (d) In this section,

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*Medically  
necessary*

8 (1) "fertilization" means the fusion of a human spermatozoan with a  
human ovum; *(need to add implantation)*

11 (2) "gestational age" means the age of the unborn child as calculated  
from the first day of the last menstrual period of the pregnant woman;

13 (3) "pregnant" or "pregnancy" means a female reproductive condition  
of having a developing fetus in the body from the time of fertilization;

15 (4) "unborn child" means the offspring of human beings from  
fertilization until birth.

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

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

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

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

23 (3) before an abortion is knowingly performed or induced on an  
24 unmarried, unemancipated woman under 17 years of age, consent has been given as  
25 required under AS 18.16.020 or a court has authorized the minor to consent to the  
26 abortion under AS 18.16.030 and the minor consents; for purposes of enforcing this  
27 paragraph, there is a rebuttable presumption that a woman who is unmarried and under  
28 17 years of age is unemancipated; [AND]

29 (4) the woman is domiciled or physically present in the state for 30  
30 days before the abortion; and

31 (5) the applicable requirements of AS 18.16.060 have been satisfied.

1 \* **Sec. 3.** AS 18.16.010 is amended by adding a new subsection to read:

2 (h) A person who performs or induces an abortion in violation of (a)(5) of this  
3 section is civilly liable to the pregnant woman for compensatory and punitive damages.  
4 In a civil action under this subsection, there is a rebuttable presumption that an  
5 abortion was performed without the pregnant woman's informed consent if the  
6 physician who performed the abortion does not submit into evidence the copy of the  
7 woman's written certification required to be retained in the physician's files under  
8 AS 18.16.060(b)(4)(B).

9 \* **Sec. 4.** AS 18.16 is amended by adding a new section to read:

10 **Sec. 18.16.060. Informed consent requirements.** (a) Except in case of a  
11 medical emergency, a person may not knowingly perform or induce an abortion  
12 without the voluntary and informed consent of the woman on whom the abortion is to  
13 be performed or induced.

14 (b) Consent to an abortion is voluntary and informed only if all of the  
15 following are true:

16 (1) at least 24 hours before the abortion, the physician who is to  
17 perform the abortion or the referring physician has orally informed the woman of

18 (A) the particular medical risks associated with the abortion  
19 procedure to be employed; the medical risks include,

20 (i) when medically accurate, the risks of infection,  
21 hemorrhage, breast cancer, danger to subsequent pregnancies, and  
22 infertility; and

23 (ii) where appropriate, the possible adverse  
24 psychological effects of an abortion;

25 (B) alternatives to the abortion that a reasonable patient would  
26 consider material to the decision of whether or not to undergo the abortion;

27 (C) the probable gestational age of the unborn child at the time  
28 the abortion is to be performed;

29 (D) the medical risks associated with carrying the unborn child  
30 to term;

31 (E) the name of the physician who will perform the abortion

1 procedure;

2 (F) the possible availability of medical assistance benefits for  
3 prenatal care, childbirth, and neonatal care; and

4 (G) the father's liability to assist in the support of the woman's  
5 child, even in instances where the father has offered to pay for the abortion;  
6 however, the information required under this subparagraph may be omitted by  
7 the physician when the physician considers its omission appropriate under the  
8 circumstances of the pregnancy.

9 (2) at least 24 hours before the abortion, the physician who is to  
10 perform the abortion, the referring physician, or a person to whom the responsibility  
11 has been delegated by either physician has informed the woman that

12 (A) the Department of Health and Social Services provides  
13 written information that describes unborn children at various gestational ages  
14 and lists the agencies that offer alternatives to abortion; and

15 (B) the woman has a right to review the written information  
16 described in (A) of this paragraph and that a copy will be given to the woman  
17 at no cost;

18 (3) a copy of the information described in (2)(A) of this subsection has  
19 been given to the woman; and

20 (4) before the abortion,

21 (A) the woman certifies in writing that the information required  
22 to be given under (1) - (3) of this subsection has been received; and

23 (B) the physician who is to perform the abortion or a  
24 representative of the physician receives a copy of the written certificate  
25 prescribed by (A) of this paragraph and retains a copy in the physician's file.

26 (c) In this section,

27 (1) "fertilization" means the fusion of a human spermatozoan with a  
28 human ovum;

29 (2) "gestational age" means the age of the unborn child as calculated  
30 from the first day of the last menstrual period of the pregnant woman;

31 (3) "medical emergency" means a condition that, on the basis of the

1 physician's good faith clinical judgment, so complicates the medical condition of a  
2 pregnant woman that the immediate termination of the woman's pregnancy is necessary  
3 to avert the woman's death or that a delay in providing an abortion will create serious  
4 risk of substantial and irreversible impairment of a major bodily function of the  
5 woman;

6 (4) "pregnant" or "pregnancy" means a female reproductive condition  
7 of having a developing fetus in the body from the time of fertilization;

8 (5) "unborn child" means the offspring of human beings from  
9 fertilization until birth.

10 \* Sec. 5. The uncodified law of the State of Alaska is amended by adding a new section  
11 to read:

12 SEVERABILITY. Under AS 01.10.030, the provisions of this Act are severable.

**HB**

**337**

## HB 337

- technical amendments being offered by DOL
- 3 main areas
  - 1<sup>st</sup> hearing on merits of claim
  - 2<sup>nd</sup> area - to include active voice consistent w/ stats
  - 3<sup>rd</sup> area → narrows to AS 23.20 are only things DOL could pursue

LM - where is notice defined  
2<sup>nd</sup> stage, lets be sure same standards are complied with

◦ If they are paying 10¢ a month even

◦ no - certified mail b/c of cost. Cts have ruled due process is met by sending letter to PFD address b/c so current. Sometimes call each case varies.

wants notification req.  
tightened up in  
exchange for allowing  
tightened up / speeded  
up process.

5 6 mos

7/26

7 24

• Bill was narrowed  
down in State Affairs,  
Amend simply amends  
to reflect exclusion of  
other state agencies.

2000 a yr overpays  
1/2 fraud  
1/2 of that 500 leave  
to quickly  
45% of fraud  
90% of non-fraud.

---

IF we make amend  
Re: certified mail  
there will need to be  
a new ~~of~~ fiscal  
note b/c of costs.

# FISCAL NOTE

Bill Version: CSHB 337 (STA)  
 (H) Publish Date: 2/23/00

**STATE OF ALASKA  
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Revenue  
 Title Claims Against Permanent Fund Dividends BRU Revenue Operations  
 Component Permanent Fund Dividend  
 Sponsor Rules  
 Requester House State Affairs Component Serial No. 981

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE (Thousands of Dollars)**

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

Estimate of current year (FY2000) cost: 0.0

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill allows state agencies to file claims against Permanent Fund Dividends of individuals with unpaid debts owed to state agencies. Section 2 of this bill allows the Permanent Fund Dividend Division to collect an administrative fee to cover costs associated with processing these claims. This existing fee of \$2 per claim (as set out in regulation) is based on state agencies using electronic media to transmit any and all claims to the dividend division. The division may have to increase the fee to a particular agency if that agency is unable to transmit its claims electronically and instead creates additional paperwork and manual processing for the dividend division.

Prepared by Nanci A. Jones, Director  
 Division Permanent Fund Dividend  
 Approved by Wilson L. Condon  
 Commissioner Department of Revenue  
 Agency

Phone 465-2323  
 Date/Time February 8, 20000  
 Date February 8, 20000

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# FISCAL NOTE

No: 1

Bill Ver: HB 337

(H) Publish Date: 2/4/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction): \_\_\_\_\_  
 Title: An Act relating to . . . Admin collection  
 of Perm. Fund Div. . . . for amounts owed to State  
 Sponsor: Rules Committee  
 Requestor: Governor

Department Affected: Labor  
 BRU: Employment Security  
 Component: Unemployment Insurance  
 COMPONENT SERIAL NO. 2276

**EXPENDITURES/REVENUES: (Thousands of Dollars)**

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

OPERATING	FY 2001	FY 2002	FY 2003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

CAPITAL						
---------	--	--	--	--	--	--

CHANGE IN REVENUE	377.1	569.8	385.4	385.4	385.4	385.4
FUND SOURCE #	1004	1004	1004	1004	1004	1004

**FUNDING: (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipt						
1006 GF/MHTIA						
Other (Specify Type)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS:**

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of current year (FY00) impact: \$ 0.0

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

(See Attached)

Prepared by: Rebecca Gamez, Director Phone: 455-2711  
 Division: Employment Security Division Date/Time: 1/12/00 11:36 AM

Approved by Commissioner: Ed Flanagan, Commissioner  
 Agency: Department of Labor and Workforce Development Date: 1/12/2000

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**COMMITTEE COPY**

**ATTACHMENT**

HB 337

**Fiscal Note for Governor's Bill "Administrative Collection of Permanent Fund Dividends...for amounts owed to state."**

The Alaska Department of Labor and Workforce Development, Employment Security Division, Benefit Payment Control Unit, is responsible for recovery of overpaid unemployment insurance (UI) benefits and fraud penalties. The current outstanding debt owed to the state for overpayments is a little over 9 million dollars; comprised of \$4,900,000 paid erroneously due to a fraudulent act committed by the claimant; \$1,500,000 paid due to error, most often the claimant's; and \$3,000,000 in statutory penalty applied for receipt of benefits through fraudulent acts.

In order to obtain federal administrative funding from the U.S. Department of Labor, our division must continue to improve the percentage of overpayments we recover. Currently, the only way to attach a Permanent Fund Dividend is by voluntary assignment, a judgment through small claims action, or through a criminal prosecution judgment. The latter two actions are lengthy and time consuming and are used in less than 5% of the cases. Authority to attach Permanent Fund Dividends through administrative action would simplify the process and increase the Department's recovery of improperly received payments and penalties.

Attachment of Permanent Fund Dividends would only be used after proper notice of liability has been given and appeal rights have expired or been exhausted. It would only be used on past due accounts.

No fiscal impact to the operational costs of the Unemployment Insurance program is anticipated. The costs related to the legislation will be replaced by efficiencies and related savings realized by a reduction in the number of judgments required through small claims action, or through a criminal prosecution.

Alaska statute 23.20.390 (a) requires that the over paid UI payment when recovered is to be returned to the UI trust fund. Since unemployment insurance benefits are primarily paid through taxes from Alaska's employers, the recovery of these overpaid benefits has a positive impact on employer tax rates. Alaska statute 23.20.390 (f) requires that any penalty recovered will be deposited into the state general fund.

After all other administrative remedies are exercised, the department anticipates levies on permanent fund dividend funds will result in recovery of overpaid UI payments and penalties as follows:

<b><u>First Calendar Year of Implementation effective January 1, 2001</u></b>	
Fraud overpays	\$1,148,200
Non-fraud overpays	\$362,600
<b>Total Returned to UI Trust Fund</b>	<b>\$1,510,800</b>
<b>Penalties Recovered for GF deposit</b>	<b>\$754,200 (a)</b>
<b><u>Second &amp; Subsequents Calendar Years</u></b>	
Fraud overpays	\$638,300
Non-fraud overpays	\$128,900
<b>Total Returned to UI Trust Fund</b>	<b>\$767,200</b>
<b>Penalties Recovered for GF deposit</b>	<b>\$385,400 (a)</b>

In the first calendar year of implementation of the permanent fund levy, the UI overpay and penalty calculations represent the backlog which is greater than what would typically be expected on an ongoing annual basis. The second and subsequent year calculations is what we expect annually after the backlog is recovered.

**FOOTNOTE:**

(a) the state fiscal year distribution (see fiscal note form) of penalties recovered for deposit to the state general fund due to the 1/1/2001 effective date is as follows:

- \*FY2001 = \$377,100 (50% of 1<sup>st</sup> calendar year penalties)
- \*FY2002 = \$377,100 (50% of 1<sup>st</sup> calendar year penalties)
- \*FY2002 = \$192,700 (50% of 2<sup>nd</sup> calendar year penalties)
- \*FY2003 & subsequent fiscal years = \$385,400

TOSY KNOWLES  
GOVERNOR  
*governor a gov state ak us*

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

PO Box 11000  
Juneau, Alaska 99801  
907-465-7500  
Fax 907-465-7500  
www.ak.gov

February 2, 2000

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

Dear Speaker Porter:

Some state agencies are currently allowed to seek from individuals overdue payments of money due the state through a simple administrative collection of permanent fund dividends. But most state agencies still need to use a time consuming and costly court action to attach an individual's permanent fund dividend. It makes sense for all our state agencies to have access to this "fast track" method of collecting from a person who receives a permanent fund dividend while in arrears with payments lawfully due to the state. This bill I transmit today accomplishes this change in law.

Examples of agencies now able to attach permanent fund dividends with a simple administrative action include the Department of Health and Social Services, for reimbursement of certain court-ordered treatment, and the Alaska Commission on Postsecondary Education for student loans in default.

But the Department of Labor and Workforce Development, for example, must file a small claims court action or seek criminal prosecution to recover overpaid unemployment insurance benefits and fraud penalties. Partly as a result of this cumbersome method, the department estimates the state is owed \$4.5 million in outstanding benefits received by fraudulent means, \$3.6 million in statutory penalties, and \$1.6 million for overpaid benefits. Not only will this bill increase recovery rates, but because these owed benefits are paid by employer taxes, it will reduce employer tax rates within the state.

A state agency would not be required to use these new procedures for collection. Any agency that elects to use the new procedures would be required to notify the individual of the claim with a fair opportunity for a hearing at which the individual could contest the

The Honorable Brian Porter

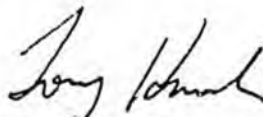
February 2, 2000

Page 2

agency's claim to the permanent fund dividend. If a hearing is not requested or the claim is resolved in favor of the state agency, the agency may collect the money from the individual's permanent fund dividend without filing a court action.

Passage of this measure gives state agencies an additional tool to recover money that is lawfully owed to the state under existing state laws.

Sincerely,

A handwritten signature in black ink, appearing to read "Tony Knowles". The signature is written in a cursive style with a large initial "T".

Tony Knowles  
Governor

**HB**

**338**

# LEGAL SERVICES

*crucials*

## 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

March 23, 2000

**SUBJECT:** CSHB 338(JUD) Draft, Dated 3/22/00 (Work Order No. 21-GH2025\D)

**TO:** Representative Pete Kott, Chair  
House Judiciary Committee  
Attn: Lesil McGuire

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

CS =  
① unclary changes  
② amend #1  
pg. 4 change  
mental state  
to reckless  
③ amend #2  
pg 5 remove "intentional"

Enclosed is the bill draft you requested. I have several comments.

*ok*

1. **Section 1 and 2.** While I understand the Department of Law's intent in expanding the description of the offensive material listed in AS 11.41.455 I am not sure that language goes far enough. You may want to consider using language similar to that employed in AS 11.61.125 and 11.61.127 dealing with child pornography. Consistency between these statutes may be wise. For example see the language employed in bill secs. 1 and 2 of CSSB 259(JUD) (21st Legislature).

*ok*

2. **Section 7.** The governor's bill eliminates "intent to defraud" as an element of the offense of criminal impersonation in the second degree substituting "intent to obtain a benefit to which the person is not entitled." You may want to reconsider eliminating "intent to defraud" as I don't believe the new term reaches all of the conduct proscribed under the old term. The existing language has been successfully used to prosecute persons for obtaining "things" that might not be classified as a "benefit." For example, in *Roath v. State*, 874 P.2d 312 (Alaska App. 1994), the defendant "persuaded women to pose for nude photographs by falsely representing that he was a photographer for Playboy magazine." I am not convinced that this conduct would be still be proscribed under the new language.

*ok*

3. **Section 8.** The governor's bill adds "electronic recording" to the definition of "business record" in AS 11.46.630(b)(1). You might consider changing this to "recording" as I believe "electronic recording" might be too restrictive and a court could construe the language to exclude other types of recordings not electronic in nature. See, e.g., sec. 8 of CSSB 259(JUD).

④ or  
electronic  
data

*no*

4. **Section 16.** (H) I am somewhat concerned about the overlap between "access device" and "identification document." For example, a social security number is an access device while a social security card is an identification document. I believe there are other potential

Representative Pete Kott  
March 23, 2000  
Page 2

areas of overlap that could cause some confusion as access device includes cards and credit cards. You might want to consider combining these two terms into one term, such as "identification device" that would include any article that is used to establish identity or to obtain property or services.

48  
(b) I am also concerned with the use of the word "key" in the definition of "access device." I understand the Department of Law did not intend to use the word "key" in its common meaning of a key to your car or a house but actually intended "key" to have the more nebulous meaning of a password or the like. Considering that we are dealing with the criminal law I suggest the use of a different word to convey that concept. See sec. 16 of CSSB 359(JUD).

no  
5. **Section 12.** With regard to the definition of "proprietary information" you may want to consider defining it in terms of or relating it to the concept/definition of trade secret in AS 45.50.940.

GPL:jdr:glc  
00-122.jdr

Enclosure

**CS FOR HOUSE BILL NO. 338(JUD)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTY-FIRST LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act relating to crimes involving computers, access devices, other technology,  
2 and identification documents; relating to the crime of criminal impersonation; and  
3 providing for an effective date."

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

5 \* Section 1. AS 11.41.455(a) is amended to read:

6 (a) A person commits the crime of unlawful exploitation of a minor if, in the  
7 state and with the intent of producing a live performance, film, audio recording,  
8 photograph, negative, slide, book, newspaper, magazine, or other printed or  
9 electronically recorded material that visually depicts the conduct listed in (1) - (7) of  
10 this subsection, the person knowingly induces or employs a child under 18 years of age  
11 to engage in, or photographs, films, records, or televises a child under 18 years of age  
12 engaged in, the following actual or simulated conduct:

- 13 (1) sexual penetration;
- 14 (2) the lewd touching of another person's genitals, anus, or breast;

- 1 (3) the lewd touching by another person of the child's genitals, anus,  
2 or breast;
- 3 (4) masturbation;
- 4 (5) bestiality;
- 5 (6) the lewd exhibition of the child's genitals; or
- 6 (7) sexual masochism or sadism.

7 \* Sec. 2. AS 11.41.455(b) is amended to read:

8 (b) A parent, legal guardian, or person having custody or control of a child  
9 under 18 years of age commits the crime of unlawful exploitation of a minor if, in the  
10 state, the person permits the child to engage in conduct described in (a) of this section  
11 knowing that the conduct is intended to be used in producing a live performance, film,  
12 audio recording, photograph, negative, slide, book, newspaper, magazine, or other  
13 printed or electronically recorded material that visually depicts the conduct.

14 \* Sec. 3. AS 11.46.140(a) is amended to read:

15 (a) A person commits the crime of theft in the third degree if the person  
16 commits theft as defined in AS 11.46.100 and

17 (1) the value of the property or services is \$50 or more but less than  
18 \$500;

19 (2) the property is an access device [A CREDIT CARD]; or

20 (3) the value of the property is less than \$50 and, within the past five  
21 years, the person has been convicted and sentenced on two or more separate occasions  
22 in this or another jurisdiction of theft or concealment of merchandise, or an offense  
23 under another law or ordinance with similar elements.

24 \* Sec. 4. AS 11.46.285 is amended to read:

25 **Sec. 11.46.285. Fraudulent use of an access device [A CREDIT CARD].**

26 (a) A person commits the crime of fraudulent use of an access device [A CREDIT  
27 CARD] if, with intent to defraud, the person uses an access device [A CREDIT  
28 CARD] to obtain property or services with knowledge that

29 (1) the access device [CARD] is stolen or forged;

30 (2) the access device [CARD] is expired or has been revoked or  
31 cancelled; or

1 (3) for any other reason, that person's use of the access device [CARD]  
2 is unauthorized by either the issuer or the person to whom the access device [CREDIT  
3 CARD] is issued.

4 (b) Fraudulent use of an access device [A CREDIT CARD] is

5 (1) a class B felony if the value of the property or services obtained  
6 is \$25,000 or more;

7 (2) a class C felony if the value of the property or services obtained is  
8 \$500 or more but less than \$25,000;

9 (3) [(2)] a class A misdemeanor if the value of the property or services  
10 obtained is \$50 or more but less than \$500;

11 (4) [(3)] a class B misdemeanor if the value of the property or services  
12 obtained is less than \$50.

13 \* Sec. 5. AS 11.46.290 is amended to read:

14 Sec. 11.46.290. Obtaining an access device or identification document [A  
15 CREDIT CARD] by fraudulent means. (a) A person commits the crime of  
16 obtaining an access device or identification document [A CREDIT CARD] by  
17 fraudulent means if

18 (1) the person buys an access device or identification document [A  
19 CREDIT CARD] from a person other than the issuer or, as other than the issuer, the  
20 person sells an access device or identification document [A CREDIT CARD];

21 (2) with intent to defraud, the person obtains an access device or  
22 identification document [CONTROL OF A CREDIT CARD AS A SECURITY FOR  
23 DEBT]; or

24 (3) with intent to defraud, the person makes a false statement in an  
25 application for an access device or identification document [A CREDIT CARD].

26 (b) [OBTAINING A CREDIT CARD BY FRAUDULENT MEANS UNDER  
27 (a)(1) OR (2) OF THIS SECTION IS A CLASS C FELONY.] Obtaining an access  
28 device or identification document [A CREDIT CARD] by fraudulent means [UNDER  
29 (a)(3) OF THIS SECTION] is a class A misdemeanor.

30 \* Sec. 6. AS 11.46 is amended by adding a new section to read:

31 Sec. 11.46.565. Criminal impersonation in the first degree. (a) A person

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commits the crime of criminal impersonation in the first degree if the person

(1) possesses an access device or identification document of another person;

(2) without authorization of the other person, uses the access device or identification document of the other person to obtain a false identification document, open an account at a financial institution, obtain an access device, or obtain property;

and  
*amend # 1*  
*change*  
(3) with criminal negligence, damages the financial reputation of the other person.

(b) Criminal impersonation in the first degree is a class B felony.

*marked*  
*stat to*  
*revised*  
\*Sec. 7. AS 11.46.570 is amended to read:

**Sec. 11.46.570. Criminal impersonation in the second degree.** (a) A person

commits the crime of criminal impersonation in the second degree if the person

(1) assumes a false identity and does an act in the assumed character with intent to obtain a benefit to which the person is not entitled [DEFRAUD]; or

(2) pretends to be a representative of some person or organization and does an act in the pretended capacity with intent to obtain a benefit to which the person is not entitled [DEFRAUD].

(b) Criminal impersonation in the second degree is a class A misdemeanor.

\* Sec. 8. AS 11.46.630(b)(1) is amended to read:

(1) "business record" means a writing, electronic recording, or article kept or maintained by an enterprise for the purpose of evidencing or reflecting its condition or activity;

\* Sec. 9. AS 11.46.710(c) is amended to read:

(c) Except as provided in (d) of this section, deceptive [DECEPTIVE] business practices is a class A misdemeanor.

\* Sec. 10. AS 11.46.710 is amended by adding a new subsection to read:

(d) Deceptive business practices is a class C felony if the person uses the Internet or a computer network to commit the offense. In this subsection, "Internet" means the combination of computer systems or networks that make up the international network for interactive communications services, including remote logins, file transfer,

1 electronic mail, and newsgroups.

2 \* Sec. 11. AS 11.46.740(a) is amended to read:

3 (a) A person commits the offense of criminal use of a computer if, having no  
4 right to do so or any reasonable ground to believe the person has such a right, the  
5 person knowingly accesses, [OR] causes to be accessed, or exceeds the person's  
6 authorized access to a computer, computer system, computer program, computer  
7 network, or any part of a computer system or network, and, as a result of or in the  
8 course of that access,

9 (1) obtains information concerning a person; [OR]

10 (2) introduces false or misleading information into a computer,  
11 computer system, computer program, or computer network with the intent to damage  
12 or enhance the data record or the financial reputation of a person;

13 (3) introduces false or misleading information into a computer,  
14 computer system, computer program, or computer network and, with criminal  
15 negligence, damages or enhances the data record or the financial reputation of a  
16 person;

17 (4) obtains proprietary information of another person;

18 (5) obtains information that is only available to the public for a fee;

19 (6) introduces instructions, a computer program, or other  
20 information that tampers with, disrupts, disables, or destroys a computer,  
21 computer system, computer program, computer network, or any part of a  
22 computer system or network; or

23 (7) encrypts or decrypts data.

24 \* Sec. 12. AS 11.46.740 is amended by adding a new subsection to read:

25 (c) In this section, "proprietary information" means scientific, technical, or  
26 commercial information, including a design, process, procedure, customer list, supplier  
27 list, or customer records that the holder of the information has not made available to  
28 the public.

29 \* Sec. 13. AS 11.46.990 is amended by adding a new paragraph to read:

30 (14) "financial reputation" means a person's

31 (A) ability to obtain a loan from a financial institution, open an

amend #2  
remove misleading  
line #10  
line #3

1 account with a financial institution, obtain property or services on credit, or  
2 obtain an access device; or

3 (B) creditworthiness in a credit report.

4 \* Sec. 14. AS 11.61.125(d) is amended to read:

5 (d) In this section, "distribution" includes delivering, selling, renting, leasing,  
6 lending, giving, circulating, exhibiting, presenting, providing, [AND] exchanging, and  
7 placing on a computer network or computer system, whether or not for monetary  
8 or other consideration.

9 \* Sec. 15. AS 11.81.900(b)(48) is amended to read:

10 (48) "property" means an article, substance, or thing of value, including  
11 money, tangible and intangible personal property including data or information stored  
12 in a computer program, system, or network, real property, an access device [A  
13 CREDIT CARD], a domestic pet or livestock regardless of value, choses-in-action, and  
14 evidence of debt or of contract; a commodity of a public utility such as gas, electricity,  
15 steam, or water constitutes property, but the supplying of such a commodity to  
16 premises from an outside source by means of wires, pipes, conduits, or other  
17 equipment is considered a rendition of a service rather than a sale or delivery of  
18 property;

19 \* Sec. 16. AS 11.81.900(b) is amended by adding new paragraphs to read:

20 (61) "access device" means a card, credit card, plate, code, account  
21 number, key, or identification number, including a social security number, electronic  
22 serial number, or password, that is capable of being used, alone or in conjunction with  
23 another access device or identification document, to obtain property or services, or that  
24 can be used to initiate a transfer of property;

25 (62) "identification document" means a paper, instrument, or other  
26 article used to establish the identity of a person; "identification document" includes a  
27 social security card, driver's license, non-driver's identification, birth certificate,  
28 passport, employee identification, or hunting or fishing license.

29 \* Sec. 17. The uncoded law of the State of Alaska is amended by adding a new section  
30 to read:

31 **APPLICABILITY.** This Act applies to offenses committed or completed on or after

1 the effective date of this Act.

2 \* **Sec. 18.** This Act takes effect immediately under AS 01.10.070(c).

# STATE OF ALASKA

## DEPARTMENT OF LAW

CRIMINAL DIVISION  
February 4, 2000

The Honorable Pete Kott  
Chair, House Judiciary Committee  
Alaska State Legislature  
State Capitol  
Juneau, Alaska 99801

Re: HB 338 (Crimes perpetrated by computer and identity theft)

Dear Representative Kott:

House Bill 338, introduced February 4, 2000, has been referred to the House Judiciary Committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

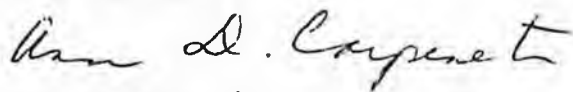
Technological advances in these times provide wonderful opportunities for communication with friends and business associates both in the office next door and the office on the other side of the world. These same technological developments, however, also allow victimization on a huge scale, particularly of unsophisticated children and seniors. While we take advantage of the benefits of progress, it is important to protect the public from persons who use computers to commit crimes. HB 338 makes important changes in the law to address computer crime.

The bill also addresses identity theft. With only a little information about another person, a criminal can obtain identification documents about that person that enable him or her to obtain property from merchants, credit cards, and bank loans. The merchants and banks then look to the innocent victim for payment. The resulting damage to a person's financial reputation can take years to unravel. The provisions in this bill will enable law enforcement to prosecute identity theft and help the victims move on with their lives.

Thank you for your consideration of this request. If you have any questions about the bill or require additional information, please call me at any time.

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Anne D. Carpeneti  
Assistant Attorney General

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

- CRIMINAL DIVISION CENTRAL OFFICE  
P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3428  
FAX: (907) 465-4043
- OFFICE OF SPECIAL PROSECUTIONS AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501-2064  
PHONE: (907) 269-6250  
FAX: (907) 269-6270

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

P.O. Box 11000  
Juneau, Alaska 99801-0000  
907-465-3500  
Fax 907-465-3512  
www.ak.gov

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 2, 2000

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

Dear Speaker Porter:

The advances in technology in the last decade have given us dazzling and practical tools for working together and communicating with the entire world. With these advances, however, come opportunities for criminals to victimize individuals and the public in devious and harmful ways. This bill I am transmitting today will help law enforcement prosecute those who cause harm and commit crimes through the use of computers and other high technology.

This bill recognizes that theft of personal information, known as "identity theft," can damage people in financial loss and reputation, which is difficult to repair. Moreover, it is often difficult for the owner of the identity to get help from law enforcement because that person is not considered the victim; the bank, credit card company, or retailer who advanced the property or services is considered the victim.

Deceptive business practices, such as fraud and false advertising, can more easily be perpetrated through electronic communication methods with a limitless number of potential victims. Additionally, offenses such as the production of child pornography are much more harmful to victims when the material is widely dispersed in an electronic format.

To address all of the above issues, the bill specifically makes the following changes in our criminal laws:

- Eliminates any potential confusion that placing child pornography in an electronic format and then onto a computer network or computer system is a serious crime.
- Replaces "credit card" with "access device" in our theft statutes so they clearly include identification numbers and telephone information in addition to credit card numbers.

The Honorable Brian Porter  
February 2, 2000  
Page 2

- Allows a person to be prosecuted for obtaining an "access device" with intent to use it fraudulently, and for using the device to defraud.
- Establishes a class B felony to use identity information of another person without authorization and for damaging the financial reputation of that person. A class B felony is punishable by imprisonment for up to 10 years and by a fine of up to \$50,000.
- Raises the stakes for engaging in deceptive business practices with the use of a computer by making it a class C felony, punishable by up to five years incarceration and a \$50,000 fine.
- Broadens the definition of criminal use of a computer, a class C felony, to include obtaining proprietary information, information that is only available to the public for a fee, introducing information that damages the computer, and encrypting information.
- Makes it a class A misdemeanor to eavesdrop on another person's electronic or voice mail or other communication in electronic storage. A class A misdemeanor is punishable by up to one year in jail and a fine of up to \$5,000.

This bill is timely and necessary to keep law enforcement in pace with modern technology.

Sincerely,



Tony Knowles  
Governor

**SECTIONAL ANALYSIS - HB 338**  
**Identity Theft and Cybercrime**

The complexity of enforcing state laws to protect people from crimes committed through the use of computers and other modern technology presents a significant challenge to law enforcement and criminal prosecution. The investigation of offenses committed in the obscurity of "cyberspace" presents difficult issues to law enforcement. The purpose of HB 338 is to allow for more effective prosecution of the cases that law enforcement investigates and refers for prosecution. The harm to victims can be as severe as more traditional crime.

Sections 1 and 2: These clarify that persons who produce pornographic depictions of children in an electronic format commit the offense of unlawful exploitation of a minor. Current law provides that this behavior is a class B felony, punishable by a maximum of 10 years incarceration and a \$50,000 fine. The amendments also clarify that a parent or guardian of a child commits the offense if the parent or guardian allows the child to engage in conduct that produces the pornographic material in an electronic format. The effect on child victims of having these images available to anonymous masses is very harmful.

Section 3: This amends the crime of theft in the third degree (a class A misdemeanor with a maximum period of incarceration of one year and a \$5,000 fine) by replacing theft of a credit card with theft of an access device. Access device is defined much more broadly than credit card, and includes not only a credit card, but the account number of a credit card or debit card, a telephone account number, a personal identification number, password, or other identifying number. Other states and the federal government have adopted similar changes, so that a person can be prosecuted not only for theft of a credit card, but also, for example, theft of telephone account number.

Section 4: Amends the crime that prohibits fraudulent use of a credit card to fraudulent use of an access device. This would prohibit a person from using an access device with intent to defraud to obtain property or services, knowing that the device is either stolen, forged, expired, canceled, or the use is otherwise unauthorized. This section also brings the penalty for this form of theft into conformity with other theft penalties; that is, a class B felony if the value of the property or services obtained is \$25,000 or more; a class C felony if the value is \$500 or more but less than \$25,000; a class A misdemeanor if the value is \$50 or more but less than \$500; and a class B misdemeanor if the value of the property or services obtained is less than \$50.

Section 5: Amends the offense of obtaining a credit card by fraudulent means to prohibit obtaining an access device or identification document by fraudulent means. This offense prohibits buying an access device or identification document from a person who is not the issuer of the item, or as other than an issuer, selling the item; it also prohibits obtaining an access device with intent to defraud; or, with intent to defraud, making a false statement in an application for an access device or identification

document. The penalties are amended so that the conduct is a class A misdemeanor, in conformity with the penalty for obtaining an access device by theft.

Section 6: Adopts the new offense of criminal impersonation in the first degree. The offense prohibits:

- possessing an access device or identification document of another person
- without authorization, using it to obtain a false identification document, open an account at a bank or similar institution, obtain an access device, or obtain property, and,
- with criminal negligence, damage the financial reputation of the other person.

The purpose of this offense is to protect the public from those who take another person's identity, and in the name of that person, open accounts, obtain loans, buy goods, or obtain access devices or identification documents in the other person's name.

The harm to the person whose identity is taken can be enormous, and can take years to unravel. In the meantime, the victim gets dunning letters from alleged creditors, is unable to obtain credit for their own legitimate purposes, and often cannot find a sympathetic ear in law enforcement; the reason is because under current law, the furniture store, credit card company, or other bank or merchant is considered the victim. This provision makes it a class B felony to do these fraudulent acts and damage the financial reputation of another person.

Section 7: The current statute prohibiting criminal impersonation becomes second degree criminal impersonation. It is amended to prohibit assuming a false identity and acting in the false identity with intent to obtain a benefit to which the actor is not entitled; it also prohibits pretending to be a representative an organization or person, and acting in that capacity with intent to obtain a benefit to which the actor is not entitled. This offense is a class A misdemeanor.

Section 8: This amends the definition of "business record" for the offense of falsifying business records to include an electronic recording, in addition a writing or other article that is kept to record activity for a business or other commercial or professional entity. Falsifying business records is a class C felony, and prohibits a person, with intent to defraud, from making a false entry in a business record, deleting or altering a correct entry in a business record, or failing to make an entry that is a person's duty to make.

Sections 9 and 10: Amend the offense of deceptive business practices to provide that if the crime is committed by a person who uses a computer, computer program, system or network, the offense is a class C felony. The statute prohibits deceptive business practices including conduct by a person who, while engaged in a business or profession, makes false statements in an advertising or communication to the public,

uses false weights, or commits similar acts. The penalty is a class A misdemeanor under current law. The potential for reaching victims by false representations over a computer is very large, and for that reason the penalty is increased if committed in this way.

Section 11: Amends the offense of criminal use of a computer, a class C felony, to prohibit the following behavior:

- Introduce misleading information into a computer or computer program with intent to damage the record or financial reputation of a person;
- Introduce false or misleading information into a computer and, with criminal negligence, and damage or enhance the financial reputation of a person;
- Obtain proprietary information about another person;
- Introduce information that disrupts, destroys, or disables a computer or system; or
- Encrypt or decrypt data.

Section 12: Defines "proprietary information" to include scientific, technical, or commercial information, procedures, lists, or other data that the owner has not made public.

Sections 13 - 16: These provide definitions for the new terms used in the bill. For example, "identification document" is defined to include a social security card, driver's license, non-driver's identification, birth certificate, passport, employee identification, and hunting or fishing license.

Sections 17 and 18: Amend the Communications, Eavesdropping, and Wiretapping chapter of Title 42 to add the prohibitions of accessing the wire or electronic communication that is being stored electronically without authorization to do so, use the information obtained to benefit or injure anyone, or divulge the information. The penalty for violation, as with other violations of the chapter, is a class A misdemeanor.

Sections 20 and 21: Provide applicability and effective date provisions.

**FISCAL NOTE**

Bill Version: HB 338  
 (H) Publish Date: 2/4/00

**STATE OF ALASKA**

**2000 LEGISLATIVE SESSION**

Revision Date: \_\_\_\_\_  
 Title: "An Act relating to crimes involving computers..."

Department Affected: Administration  
 BRU: Legal and Advocacy Services  
 Component: Public Defender Agency

Sponsor: Rules Committee  
 Requestor: Governor

COMPONENT SERIAL NO. 1631

**EXPENDITURES/REVENUES:** (Thousands of Dollars)

OPERATING EXPENDITURES	FY 2001	FY 2002	FY 2 003	FY 2004	FY 2005	FY 2006
PERSONAL SERVICES	46.5	46.5	46.5	46.5	46.5	46.5
TRAVEL	3.5	3.5	3.5	3.5	3.5	3.5
CONTRACTUAL	26.3	26.3	26.3	26.3	26.3	26.3
SUPPLIES	1.9	1.9	1.9	1.9	1.9	1.9
EQUIPMENT	6.5					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>84.7</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	84.7	78.2	78.2	78.2	78.2	78.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
<b>TOTAL</b>	<b>84.7</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>	<b>78.2</b>

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

**POSITIONS:**

FULL-TIME	1	1	1	1	1	1
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill amends current law and adds new statutes to enable prosecution of a wide variety of "Cybercrimes."

Prosecution and defense of Cybercrimes will require sophisticated technical expertise. The Public Defender Agency does not currently have staff who have the technical knowledge necessary to defend criminal cases that could be brought under this new legislation.

The Public Defender Agency will need to hire an Analyst Programmer I in order to consult with and train the attorneys appointed to defend these cases. The Analyst Programmer will be based in Anchorage. In addition to providing technical assistance on individual cases in Anchorage, the Analyst Programmer would also be responsible for training attorneys and investigators in all Public Defender Agency offices on technical issues in these cases. One-time equipment costs for computer equipment is also included in the first year.

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

Phone: (907) 264-4414  
 Date: \_\_\_\_\_

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

Phone: \_\_\_\_\_  
 Date: 12/15/99

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# FISCAL NOTE

Bill Version: HB 338

(H) Publish Date: 2/4/00

## STATE OF ALASKA 2000 LEGISLATIVE SESSION

Revision Date/Time (Note if correction)	Dept. Affected	Law
Title	BRU	Criminal Division
"An Act relating to crimes involving computers, access devices, other technology, identification documents ..."	Component	1st Judicial Dist; 4th Judicial Dist; Criminal Appeals/Special Litigation
Sponsor	Rules Committee	
Requester	Governor	Component No. 2198;2201;2203

### 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	3.3	3.3	3.3	3.3	3.3	3.3
Contractual	6.7	6.7	6.7	6.7	6.7	6.7
Supplies						
Equipment	5.0	5.0	5.0	5.0	5.0	5.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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### FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	15.0	15.0	15.0	15.0	15.0	15.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>	<b>15.0</b>

Estimate of any current year (FY2000) cost: \_\_\_\_\_

#### POSITIONS

Full-time						
Part-time						
Temporary						

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

This bill amends and expands the substantive criminal law to address the use of computers and other technology in the widespread perpetration of crimes. Child pornography, theft of personal information with the intent to defraud, theft of personal information resulting in damage to a person's financial reputation, deceptive business practices, "hacking" to get unauthorized information or introduce false information, introducing damaging viruses, eavesdropping on other peoples' voice or e-mail are all offenses where technology has offered new ways for criminals to victimize individuals. The amendments in this bill will update existing law to help law enforcement prosecute those who cause harm to others through the use of computers and other technology.

Prepared by: <u>Joan M. Kasson</u> <i>Joan M. Kasson</i>	Phone <u>465-5370</u>
Division <u>Attorney General's Office</u>	Date/Time <u>12/15/99, 8:37 AM</u>
Approved by <u>Commissioner</u> <i>Ked for</i> <u>Bruce M. Botelho, Attorney General</u>	Date <u>12/15/99</u>
Agency <u>Department of Law</u>	

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FISCAL NOTE

STATE OF ALASKA  
2000 LEGISLATIVE SESSION

BILL NO. HB 338

ANALYSIS CONTINUATION

Much of the bill expands on existing crimes already being prosecuted, and is not anticipated to cause increased workload. The new crimes defined in the bill are expected to result in approximately ten new prosecutions in the first year, with the number increasing in future years. These new white-collar cases will be handled by existing staff. Although no new personnel are believed to be necessary, other resources will be needed.

Investigation and prosecution of cybercrimes require that the prosecutor keep up with the constantly changing world of information technology. Those who use computers to commit crimes are very knowledgeable about technology, and usually have state-of-the-art equipment. Prosecutors must have the same or better knowledge and equipment as those who use the equipment for illegal purposes.

The Department of Law intends to have three of its prosecutors specialize in this technology driven area of law: one in Anchorage OSPA, and one each in the Juneau and Fairbanks district attorney's offices. These assistant district attorneys will need on-going training to stay ahead of the inventive ways people come up with to use technology to cause harm to others and to keep up with how law enforcement is responding in other jurisdictions. The department estimates \$10.0 per year will be spent on training, divided equally between the three components. \$5.0 per year is included to maintain state-of-the-art computer equipment, software, peripherals, and associated communications devices in Anchorage OSPA as a resource for the entire Criminal Division to use in preparing and presenting its cases.

**FISCAL NOTE**

Bill Version: HB 338

(H) Publish Date: 2/4/00

**STATE OF ALASKA  
2000 LEGISLATIVE SESSION**

Revision Date \_\_\_\_\_ Dept. Affected Public Safety  
 Title An Act relating to crimes involving computers, BRU Alaska State Troopers  
access devices, other technology, and identification documents ... Component Criminal Investigations Bureau  
 Sponsor Rules Committee  
 Requester Governor Component No. 830

**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	73.1	73.1	73.1	73.1	73.1	73.1
Travel	3.0	3.0	3.0	3.0	3.0	3.0
Contractual	22.4	22.4	22.4	22.4	22.4	22.4
Supplies	4.6	4.6	4.6	4.6	4.6	4.6
Equipment	42.5	3.0	3.0	3.0	3.0	3.0
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>145.6</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF	145.6	106.1	106.1	106.1	106.1	106.1
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
<b>TOTAL</b>	<b>145.6</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>	<b>106.1</b>

Estimate of any current year (FY2000) cost: 0.0**POSITIONS**

Full-time	1	1	1	1	1	1
Part-time						
Temporary						

**ANALYSIS: (see attachment for more details)**

This bill will greatly enhance the ability of law enforcement to deal with computer related criminal activity, including: child pornography in electronic format or on the internet; using credit cards or electronic access devices fraudulently; identity theft; and committing deceptive business practices with the aid of a computer. This bill will also increase the penalties for engaging in such practices if the person commits the offense by computer.

This fiscal note would add 1 full time position (Trooper Investigator) and associated support costs in the Criminal Investigations Bureau. This position will be located in Anchorage. One time equipment request, in FY2001, is necessary to provide this position with sophisticated computer equipment adequate to meet new and expanded responsibilities provided for in this legislation.

Prepared by: Royce Weller, Special Assistant Phone 465-4322  
 Division Office of the Commissioner Date/Time 12/23/1999 12:00:00  
 Approved by Commissioner Ronald L. Otte Date 12/23/99  
 Agency Department of Public Safety

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**Fiscal Note: "An Act relating to crimes involving computers..."  
(FY2001 - start up costs)**

<b>PERSONAL SERVICES</b>		
76A, salary schedule 1A, 144 hrs OT		73,100
<b>TRAVEL and PER DIEM</b>		3,000
<b>CONTRACTUAL</b>		
Telephone, postage	1,080	
Film processing	600	
PSEA Physical exam, avg	400	
Fuel	1,272	
HWCF vehicle - Class 115 oper & replacement	11,256	
Training	7,800	
 Total Contractual		 22,408
<b>SUPPLIES and MATERIALS</b>		
Initial issue uniform	3,435	
Film, office supplies	600	
Consumables (1st aid, chains, flares, batteries, etc.)	600	
 Total Supplies/Materials		 4,635
<b>EQUIPMENT</b>		
Forensic computer, software, printers, storage devices	15,000	
Trooper interceptor vehicle (fully equipped)	27,500	42,500
 <b>Total first-year cost of a new State Trooper:</b>		 <b>145,643</b>

**HB**

**341**

# FISCAL NOTE

**STATE OF ALASKA**  
**2000 LEGISLATIVE SESSION**

**BILL NO. HB 341**

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						
<b>TOTAL OPERATING</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CAPITAL EXPENDITURES</b>	0.0	0.0	0.0	0.0	0.0	0.0
<b>CHANGE IN REVENUES (fund code)</b>	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)						
<b>TOTAL</b>	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 *[Signature]* Phone: 907-745-7200  
 Division: Division of Agriculture Date: 10-Apr-00  
 Approved by Commissioner: John Shively *[Signature]* Date: 10-Apr-00  
 Agency: Natural Resources

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ALASKA STATE LEGISLATURE  
REPRESENTATIVE JOHN HARRIS  
STATE CAPITOL 110, JUNEAU, ALASKA 99801-1182 (907) 465-4859

## Sponsor Statement

### HB 341

The State of Alaska has invested millions of dollars in the development of its natural resources, both renewable and nonrenewable. Fishing, timber and agriculture are our basic renewable resources, and the Legislature has endeavored to enhance these for future generations. HB 341 seeks to protect and enhance Alaska's agricultural sector.

With the export of potatoes and carrots from Alaska, and the increasing local demand for fresh vegetables, hay, barley, milk, pork and beef, we can see agriculture "taking root and growing" in many diverse locations across the state. Yet, as the state's population grows and the urban areas expand, we see a corresponding need to protect our interest in agriculture.

Many farmers have already had some experience with an encroachment on their right to farm. As urbanization swallows up farming areas, oftentimes the newcomers don't like the smells of agriculture – or the chemicals – or the sounds – or the animals.

HB 341 would add some protection to existing agriculture operations and put new property buyers on notice if the property they are acquiring is within one mile of a farm or agriculture operation. This also protects the new property owners through full disclosure that should keep them from getting into a situation that will become unpleasant to them later on.

People who move to the country need to know what they are getting into. And it appears that other areas of the nation – where urban sprawl is creating a bigger problem than we have experienced yet in Alaska – are taking action to protect existing agricultural operations and avoid unnecessary lawsuits.

The "Code of the West" is a small pamphlet adopted by many counties around the Western U.S. and distributed to prospective property buyers. It basically says that if you want to move to the peaceful countryside, you must be willing to accept that cows poop,

hay balers make noise late into the night, farmers use chemicals, tractors drive slower than you do, and so forth. And that all these activities were going on before you got there, and will continue to go on after you arrive.

Alaska has the opportunity to place protections in statute now – for both the farmers and the new property buyers – so that future agricultural operations will be able to supply the foodstuffs Alaskans will need.



ALASKA STATE LEGISLATURE  
REPRESENTATIVE JOHN HARRIS  
STATE CAPITOL 110, JUNEAU, ALASKA 99801-1182 (907) 465-4859

Sectional Analysis  
HB 341

Sec.1 amends current AS 09.45.235 [Actions Relating to Real Property] to protect agricultural facilities and agricultural operations from becoming "private nuisances" due to changing land uses in the area surrounding the existing agricultural operation. This section also clarifies the time at which an agricultural operation began and thus gained protection by the section. Finally, the section ties the protection to the fact that the operator has a valid farm conservation plan on file with the local soil and water conservation district.

Sec. 2 adds "illegal" conduct of agricultural operations to the list of acts that are exempt from the protection afforded in AS 09.45.235(a).

Sec. 3 amends the definition section of AS 09.45.235 to separate "agricultural facility" from "agricultural operation," and provide further definitions of activities that fall under each of those headings.

Sec. 4 amends AS 34.70 [Disclosures in Residential Real Property Transfers] to require that a disclosure statement accompany the transfer of real property within one mile of an agricultural facility or operation.

Sec. 5 amends AS 40.17 [Recording in Public Records] to clarify that documents recorded under the provisions of section 4 must comply with the requirements of that section.

Sec. 6 applies the disclosure requirements of sec. 4 and 5 to real estate contracts on property within one mile of an agricultural facility or operation.

Sec. 7 gives instruction to the revisor of statutes.

**HB**

**350**

D-

If the comm. wanted to make the power more narrow, it could amend this or qualify it such that a case will only be successively prosecuted if there is a compelling state interest. This would provide the power while allaying some of the fears that it might be abused.

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# STATE OF ALASKA

## DEPARTMENT OF LAW

CRIMINAL DIVISION

February 15, 2000

TONY KNOWLES, GOVERNOR

PLEASE REPLY TO:

CRIMINAL DIVISION CENTRAL  
OFFICE  
P.O. BOX 110300  
JUNEAU, ALASKA 99811-0300  
PHONE: (907) 465-3428  
FAX: (907) 465-4043

OFFICE OF SPECIAL PROSECUTIONS  
AND APPEALS  
310 K STREET, SUITE 308  
ANCHORAGE, ALASKA 99501-2064  
PHONE: (907) 269-6250  
FAX: (907) 269-6270

The Hon. Pete Kott, Chair  
House Judiciary Committee  
Alaska State Legislature  
State Capitol, Room 118  
Juneau, Alaska

Re: HB 350 (Statutory bar to state prosecution)

Dear Chairman Kott:

House Bill 350, introduced February 7, 2000, has been referred to the House Judiciary Committee. I am writing to request that the bill be scheduled for a hearing at your earliest convenience.

The bill repeals the statutory prohibition on the prosecution of a criminal offender for a crime that has been already prosecuted by another jurisdiction. This statutory prohibition has been in effect since statehood. It is not based on constitutional law, because the protection against being put twice in jeopardy for the same offense does not prohibit two separate jurisdictions from prosecuting the same conduct under different bodies of law.

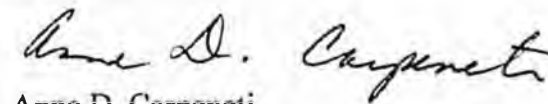
The recent federal prosecution of a cruise ship company for polluting Alaska waters has led to a reconsideration of the statutory policy. Alaska suffered distinct harm from that pollution, which should have been addressed in a separate prosecution. This bill will allow such a prosecution.

Thank you for your consideration of this request. If you would like additional information, please do not hesitate to contact me.

Sincerely,

BRUCE M. BOTELHO  
ATTORNEY GENERAL

By:



Anne D. Carpeneti  
Assistant Attorney General

# FISCAL NOTE

Bill Version: HB 350  
 (H) Publish Date: 2/7/00

**STATE OF ALASKA  
 2000 LEGISLATIVE SESSION**

Revision Date/Time (Note if correction) \_\_\_\_\_ Dept. Affected Law  
 Title "An Act repealing the statutory bars to the State BRU Criminal Division  
of Alaska's prosecution of a criminal act that resulted .... Component 1st-4th Judicial Districts; Criminal  
 Sponsor Rules Committee Appeals/Special Litigation  
 Requester Governor Component No. 2198-99;2201/03/61/79

**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						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>						
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**FUND SOURCE (Thousands of Dollars)**

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

Estimate of any current year (FY2000) cost: \_\_\_\_\_

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill repeals the statutory prohibitions on the State of Alaska for prosecuting and punishing a criminal act that has been prosecuted by the federal government or another jurisdiction. This statute recently prevented the State of Alaska from prosecuting a cruise ship company that was illegally dumping water containing oil and hazardous waste in Alaska waters, because the federal government had already prosecuted the company for the same acts under federal law. This conduct should have been addressed in a separate state prosecution, so that injury to the state could be compensated by fines or restitution. This bill would allow the State of Alaska to prosecute an offender if a similar situation should arise again.

Passage of this legislation is expected to result in only a handful of new cases per year. Although they may be highly visible cases, their numbers are not anticipated to be sufficient to cause a fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson *Joan M. Kasson* Phone 465-5370  
 Division Attorney General's Office Date/Time 12/1/99, 11:02 AM  
 Approved by Bruce M. Botelho, Attorney General Date 12/1/99  
 Agency Department of Law

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FISCAL NOTE

Bill Version: HB 350  
(H) Publish Date: 2/7/00

STATE OF ALASKA

2000 LEGISLATIVE SESSION

Revision Date: \_\_\_\_\_  
Title: "An Act repealing the statutory bars to the State of Alaska's prosecution of a criminal act..."  
Sponsor: Rules Committee  
Requestor: Governor

Department Affected: Administration  
BRU: Legal and Advocacy Services  
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

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

FUND SOURCE: (Thousands of Dollars)

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

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

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

**ANALYSIS:** (Attach a separate page if necessary.) This bill would remove Alaska's longstanding statutory bars against successive prosecution by different sovereigns. Although successive prosecution by different sovereigns (for example, by the federal government and then the state) does not violate federal double jeopardy, several states, including Alaska have traditionally prohibited it. The United States Department of Justice has a strict policy against successive state and federal prosecutions. Presumably, if this bill passed, the Department of Law would develop similar standards.

Nevertheless, this bill could result in additional criminal cases being brought and the Public Defender Agency being appointed to additional cases. The Public Defender Agency is particularly concerned about repealing the Bar against successive prosecutions in drug cases. AS 11.71.310. The federal authorities in Alaska prosecute many drug offenses under federal law. If even a small percentage of these cases were prosecuted in state court as well, there could be a considerable effect on the Public Defender Agency's operations.

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

Phone: (907) 264-4414  
Date: 12/3/99

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

Phone: 465-2200  
Date: 12/3/99

HB 350

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

P.O. Box 11000  
Juneau, Alaska 99801-1000  
(907) 465-3500  
Fax (907) 465-3552  
www.governor.ak.us

STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

February 4, 2000

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

Dear Speaker Porter:

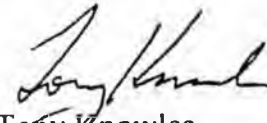
I am transmitting a bill that would allow the State of Alaska to prosecute and punish an offender for a crime that has been prosecuted by the federal government or by another state or territory.

Since early statehood, the State of Alaska has had statutory prohibitions on the state prosecuting and punishing a person, including a corporation, for an act that another jurisdiction has already prosecuted. This policy is not based on constitutional law; the state and federal constitutional prohibitions against being placed twice in jeopardy for the same act do not prohibit separate jurisdictions from separately prosecuting, and punishing, the same act under different bodies of law.

Recent events have suggested a reconsideration of this policy. The federal prosecution of a cruise ship company for illegally discharging water polluted with oil and hazardous waste into our pristine Alaska waters demonstrates that the harm suffered by our state should have been addressed in a separate state prosecution. This bill will allow the State of Alaska to prosecute an offender if a similar situation should arise again.

I urge your prompt and favorable consideration of this bill.

Sincerely,

  
Tony Knowles  
Governor