

ALASKA LEGISLATURE COMMITTEE FILES, 2003 2004

10887 HOUSE JUDICIARY

`(ii) the defendant intended to cause the death of, or bodily injury to, the unborn child.

`(C) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall instead of being punished under subparagraph (A), be punished as provided under sections 1111, 1112, and 1113 of this title for intentionally killing or attempting to kill a human being.

`(D) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

`(b) The provisions referred to in subsection (a) are the following:

`(1) Sections 36, 37, 43, 111, 112, 113, 114, 115, 229, 242, 245, 247, 248, 351, 831, 844(d), (f), (h)(1), and (i), 924(j), 930, 1111, 1112, 1113, 1114, 1116, 1118, 1119, 1120, 1121, 1153(a), 1201(a), 1203, 1365(a), 1501, 1503, 1505, 1512, 1513, 1751, 1864, 1951, 1952 (a)(1)(B), (a)(2)(B), and (a)(3)(B), 1958, 1959, 1992, 2113, 2114, 2116, 2118, 2119, 2191, 2231, 2241(a), 2245, 2261, 2261A, 2280, 2281, 2332, 2332a, 2332b, 2340A, and 2441 of this title.

`(2) Section 408(e) of the Controlled Substances Act of 1970 (21 U.S.C. 848(e)).

`(3) Section 202 of the Atomic Energy Act of 1954 (42 U.S.C. 2283).

`(c) Nothing in this section shall be construed to permit the prosecution--

`(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

`(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

`(3) of any woman with respect to her unborn child.

`(d) As used in this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.'

(b) CLERICAL AMENDMENT- The table of chapters for part I of title 18, United States Code, is amended by inserting after the item relating to chapter 90 the following new item:

1841'.

### SEC. 3. MILITARY JUSTICE SYSTEM.

(a) PROTECTION OF UNBORN CHILDREN- Subchapter X of chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), is amended by inserting after section 919 (article 119) the following new section:

#### `Sec. 919a. Art. 119a. Death or injury of an unborn child

`(a)(1) Any person subject to this chapter who engages in conduct that violates any of the provisions of law listed in subsection (b) and thereby causes the death of, or bodily injury (as defined in section 1365 of title 18) to, a child, who is in utero at the time the conduct takes place, is guilty of a separate offense under this section and

shall, upon conviction, be punished by such punishment, other than death, as a court-martial may direct, which shall be consistent with the punishments prescribed by the President for that conduct had that injury or death occurred to the unborn child's mother.

`(2) An offense under this section does not require proof that--

`(i) the person engaging in the conduct had knowledge or should have had knowledge that the victim of the underlying offense was pregnant; or

`(ii) the accused intended to cause the death of, or bodily injury to, the unborn child.

`(3) If the person engaging in the conduct thereby intentionally kills or attempts to kill the unborn child, that person shall, instead of being punished under paragraph (1), be punished as provided under sections 880, 918, and 919(a) of this title (articles 80, 118, and 119(a)) for intentionally killing or attempting to kill a human being.

`(4) Notwithstanding any other provision of law, the death penalty shall not be imposed for an offense under this section.

`(b) The provisions referred to in subsection (a) are sections 918, 919(a), 919(b)(2), 920(a), 922, 924, 926, and 928 of this title (articles 118, 119(a), 119(b)(2), 120(a), 122, 124, 126, and 128).

`(c) Nothing in this section shall be construed to permit the prosecution--

`(1) of any person for conduct relating to an abortion for which the consent of the pregnant woman, or a person authorized by law to act on her behalf, has been obtained or for which such consent is implied by law;

`(2) of any person for any medical treatment of the pregnant woman or her unborn child; or

`(3) of any woman with respect to her unborn child.

`(d) In this section, the term 'unborn child' means a child in utero, and the term 'child in utero' or 'child, who is in utero' means a member of the species homo sapiens, at any stage of development, who is carried in the womb.'

(b) CLERICAL AMENDMENT- The table of sections at the beginning of such subchapter is amended by inserting after the item relating to section 919 the following new item.

`919a. 119a. Death or injury of an unborn child.'

Speaker of the House of Representatives.

Vice President of the United States and

President of the Senate.

END

23-LS1789A  
Mischel  
2/18/04

**HOUSE CONCURRENT RESOLUTION NO.**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

Introduced:  
Referred:

**A RESOLUTION**

1 **Suspending Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State**  
2 **Legislature, concerning Senate Bill No. 30, relating to information and services available**  
3 **to pregnant women.**

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

5 That under Rule 54, Uniform Rules of the Alaska State Legislature, the provisions of  
6 Rules 24(c), 35, 41(b), and 42(e), Uniform Rules of the Alaska State Legislature, regarding  
7 changes to the title of a bill, are suspended in consideration of Senate Bill No. 30, relating to  
8 information and services available to pregnant women.



GREGG D. RENKES  
ATTORNEY GENERAL OF ALASKA

March 18, 2004

The Honorable Lesil McGuire  
Chair, House Judiciary Committee  
Alaska State Legislature  
State Capitol - Room 118  
Juneau, AK 99801-1182

Re: Legal Analysis of CS HB 292(HES), version 23-LS0193/N

Dear Representative McGuire:

At your request, we have reviewed CS HB 30(JUD) version 23-LS0193/J (version J), which has made significant changes to this legislation in response to our letter dated February 11, 2004. As stated previously, in order to survive any constitutional challenge, the state would have to establish that it had a compelling state interest in passing an informed consent bill. As noted, there have been a number of changes made to the bill, which will provide the State a better chance of defending any constitutional challenge. However, despite the clear improvements in the bill, there continue to be legal and technical problems. We provide the following for your consideration and discussion.

First, we would recommend that the language requiring that the information in the pamphlet be "unbiased information that is reviewed and approved for medical accuracy and appropriateness by recognized obstetrics and gynecological specialists" be returned to the bill. We believe this will mitigate the argument that the information being imparted is politically motivated, rather than medically accurate.

Assuming the above changes are made throughout section 2, the changes regarding information on gestational development and other information in section 2, paragraph 6 will be more legally defensible. However, this obviously does not eliminate the possibility of a challenge on privacy and equal protection grounds this material is included to shock rather than inform.

*↓ we realize these challenges will still exist*

*done in the "J" version  
sect. 1  
(A) (5)  
sect. 2  
(6) (7) (8) (9)*

The Honorable Lesil McGuire  
Chair, House Judiciary Committee

March 18, 2004  
Page 2

Second, we have additional concerns about definitions in section 2. Concerns in this regard were also expressed during public testimony. It is important, as in the other parts of this section, that the definitions be medically accurate. The more accurate the definitions, the better the State will be able to defend any challenges.

did we "fix" the def'n's?

Third, with respect to section 2, there should be consideration given to a disclaimer on the website so that people who sign on will know that there is graphic and/or sensitive material on the site. There should also be consideration given to which providers will be included in the pamphlet. It is conceivable that some providers may want to be listed, others may not. At a minimum, the bill should have a requirement that the pamphlet will only list those providers who consent to be included in the pamphlet. There are a number of issues that could be raised if we listed providers without their consent, including a provider who could lose business as a result of inclusion or who could be subjected to harm or the threat of harm due to inclusion in the pamphlet. These are issues had not been thought of previously, but should be considered at this time.

PA 2.5-6  
add in new CS  
done  
(P.2, L.30)

Fourth, Section 4 of version N, concerning the liability has been improved, by addressing the problem that existed in the previous version, where there was the requirement to establish injury for failure to provide informed consent in order to establish liability. Version N still has a few technical problems despite the attempt to solve the lack of immunity in the body of the bill and despite being mentioned in the findings section. Specifically, version N still mentions immunity in the findings, but does not use that legal term in Section 4. Essentially, section 4 has provided affirmative defenses rather than immunity. Legally immunity is a stronger concept than affirmative defenses. Regardless of how the committee wants to proceed, this inconsistency should be fixed.

deleted from Sect. 1 (5)  
(P.2, L.10)  
"fix" if possible. we can discuss now.

Fifth, the committee substitute has tightened the language related to the 24-hour waiting period, however there is still concern that this provision as written may raise constitutional issues. For those women who would have to travel from rural communities, the imposition of a 24-hour delay may be seen to impose an undue burden because of the additional expense involved. It could be argued that this 24-hour delay does not meet the requirement of being the least restrictive means to accomplish the purpose of assuring a woman is informed and has consented to an abortion. Although version N allows for the distribution of the information in this section or on the Internet to be done by mail, telephone, or by facsimile, we can not guarantee that the constitutional concerns are abated completely by these changes. The ability to dispense with this information via alternative methods helps defend these constitutional arguments, but there is no way to ensure that these changes will be considered enough. It should also be noted

delete in new CS  
Sect. 5(C)  
D.6 L.18

that the fact that other states have a 24-hour waiting period is not necessarily dispositive to whether such a provision will pass judicial scrutiny in Alaska. The Alaska Supreme Court's past views regarding the express privacy right and the equal protection clause in our Constitution should be taken into account when considering precedent from other jurisdictions.

Finally, under this legislation abortion will still be the only medical procedure that has its own informed consent requirements specifically set forth in statute. Additionally, since women are the only persons who receive abortions, an equal protection issue will be raised because there is no corresponding requirement for any procedure that a male receives. These equal protection challenges, and conceivably others will be raised, and overcoming these arguments will require a clear expression of the state's compelling interests. The privacy arguments will range from the lack of a compelling state interest to legislate in this area to the legislation presenting additional, unwarranted burdens on a woman's reproductive rights. Crafting legislation that is sensitive to these concerns is important to the successful defense of the statute. We have little doubt that if this legislation becomes law, legal challenges will be brought and that the State will face the arduous and expensive task of defending the law in court.

- we realize that these E.P. issues will still exist, no way to amend

Aside from the legal issues, there are a number of technical provisions in the bill that need to be addressed:

add?

- ① There should be a medically accurate definition of abortion to clearly outline to what types of procedures this bill applies.
- ② The inclusion of daycare in section 2, paragraph 3, is misleading. The provision notes eligibility for medical benefits, which does not include daycare. Accordingly, the reference should be broadened if there is a desire to keep the reference to daycare in the bill.
- ③ The inclusions of the exception regarding rape and incest are legally necessary, but need to be corrected to correspond with the law in Alaska. Rape and incest are not legally defined in statute; we need to identify the correct criminal offense.
- ④ Under section 2, paragraph 10, there is a requirement that information be provided on drug use during pregnancy; however, there is nothing in this section which defines whether we are talking about illegal or legal drugs. This should be clarified further.

P.A. L.10 ref. AS 18.16.10

delete? or broaden?

P.3 L.2-4

done ✓

sect 5 (d) P.6, L.26 →

P.4, L.3

illegal? ?

The Honorable Lesil McGuire  
Chair, House Judiciary Committee

March 18, 2004  
Page 4

*I don't think  
this is still  
in, but if so,  
delete.*

5. Under section 2, paragraph 11, we are not sure what the purpose of the "stamped" requirement. If there is a signed and dated certificate showing informed consent, is there really a need for the certificate to be stamped as well. In addition, it is not clear what is meant by "stamped."

*subsection  
removed*

*add*

6. There should also be a section granting the department regulatory authority to create the pamphlet.

*P. 4, L. 7-8*

As noted above, the N version of SB 30 is a better, more defensible bill. We continue to be available to assist the committee in any way that we can to work on this important legislation.

Sincerely,



Gregg D. Renkes  
Attorney General

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuelson  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Jean Mischel, Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** March 19, 2004  
**Re:** CS Request

---

Please create another work draft House Judiciary Committee Substitute for work order # 23-LS0193V, SB 30, incorporating all of the specific suggestions described in the attached legal opinion from the Attorney General dated March 18, 2004. That opinion was based on the previous "N" version of the bill, so some of the suggested changes were already addressed in the "J" version. Also, please refer to the notes that I have handwritten on the legal opinion.

Please go ahead, to the best of your ability, to begin reviewing the legal memo and making the conforming changes in a new CS. If you have any questions or wish to discuss anything with me, please call me at 4990. (I have a Jud. Cmte. mtg. this afternoon until at least 5 p.m., but we can talk over the weekend or on Monday). Thank you so much!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

**Subject:** House CS for CS for SB30(JUD) work draft version 23-LS0193J

**Date:** Wed, 17 Mar 2004 21:45:59 -0900

**From:** "Chip Wagoner" <citw@alaska.net>


**To:** <Vanessa\_Tondini@legis.state.ak.us>


Vanessa, attached are two amendments that the Alaska Catholic Conference would like to get added to the above-referenced bill. The bill talks about a women's right to know the medical risks associated with their reproductive options and talks about places a women can go for contraceptive options but the web site includes nothing about contraceptives and it should. This amendment is very important to us.

The second amendment is offered because the term "appropriateness" is too vague and subjective.

Can we count on Rep. McGuire to introduce these and get them passed? We would really appreciate it. Thank-you.

Chip Wagoner 321-1959

 <a href="#">Amendment to House CS for CS for SB30 #2.doc</a>	<b>Name:</b> Amendment to House CS for CS for SB30 #2.doc <b>Type:</b> WINWORD File (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message
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 <a href="#">Amendment to House CS for CS for SB30 #1.doc</a>	<b>Name:</b> Amendment to House CS for CS for SB30 #1.doc <b>Type:</b> WINWORD File (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message
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Amendment to House CS for CS for SB30(JUD) Work Draft version 23-LS0193U

Page 3 Lines 15, 20, and 27 and Page 4 Line 2

Delete [AND APPROPRIATENESS]

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
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## House Judiciary Committee

### Memorandum

**To:** Jean Mischel, Leg. Legal  
**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee  
**Date:** March 15, 2004  
**Re:** CS Request

---

Please create a work draft House Judiciary Committee Substitute for work order # 23-LS0193N, SB 30, incorporating the changes described below and also those written on the text of the attached bill draft. The bill will be heard in committee later this week

Please insert the following text in Section 1, (4) and (5) after "Internet that":  
"is reviewed and approved for medical accuracy and appropriateness by recognized obstetrics and gynecological specialists designated by the State Medical Board and that" ... sufficiently describes...

Please insert the following text in Section 2, (6) (Page 3, Line 10 after "nonjudgmental information), (7) (Page 3, Line 13 after "unbiased information"), and (8) (Page 3, Line 18 after "information"), and (9) (Page 3, Line 22 after "information"):  
"that is reviewed and approved for medical accuracy and appropriateness by recognized obstetrics and gynecological specialists designated by the State Medical Board and" ...

If you have any questions, please call me at 4990. Thank you!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

23-LS0193N  
Mischel  
2/18/04

**HOUSE CS FOR CS FOR SENATE BILL NO. 30(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS DYSON, Green, Taylor, Ogan, Cowdery, Seekins, Wagoner**

**REPRESENTATIVE Lynn**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to information and services available to pregnant women and other**  
2 **persons; ensuring informed consent before an abortion may be performed; and**  
3 **providing exceptions to informed consent in certain cases."**

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

5 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 **LEGISLATIVE FINDINGS.** The legislature finds that

8 (1) duties of the state include regulating medical practice and fostering the  
9 development of standards of professional conduct in a critical area of medical practice;

10 (2) the state is interested in protecting the life and health of pregnant women;

11 (3) women have a right to know the medical risks associated with their  
12 reproductive options;

13 (4) the creation of an unbiased, scientific information site on the Internet that  
14 sufficiently describes reproductive options and their potential consequences will protect,

1 inform, and promote a woman's free and private choices between permanent and life-affecting  
2 alternatives;

3 (5) the creation of an unbiased, scientific information site on the Internet that  
4 sufficiently describes reproductive options and their potential consequences will reduce costly  
5 and undue litigation, will promote judicial economy and resources, and will provide  
6 physicians with a clear understanding of what constitutes informed consent for abortion by  
7 providing immunity to physicians who use the information from the Internet site;

8 (6) considerable testimony has been received indicating that women have, on  
9 occasion, received abortions in the state without considering sufficient information.

10 \* Sec. 2. AS 18.05 is amended by adding a new section to read:

11 **Sec. 18.05.032. Information relating to pregnancy and pregnancy**  
12 **alternatives.** (a) The department shall maintain on the Internet, in printable form,  
13 standard information that

14 (1) contains geographically indexed material designed to inform a  
15 person of public and private agencies and services that are available to assist a  
16 ~~pregnant~~ woman with the woman's reproductive choices; the department shall include  
17 information about at least the following types of agencies and services:

18 (A) agencies, services, clinics, and facilities designed to assist a  
19 woman through pregnancy, including adoption agencies and counseling  
20 services;

21 (B) agencies, services, clinics, and facilities that provide  
22 abortion options and counseling and post-abortion counseling and services; and

23 (C) agencies, services, clinics, and facilities designed to assist  
24 with or provide contraceptive options and counseling to ~~help prevent future~~  
25 ~~unwanted pregnancies;~~ *for appropriate family planning*

26 (2) includes a comprehensive regional directory of the agencies and  
27 clinics identified by the department under (1) of this subsection, a description of the  
28 services they offer, and the manner in which the agencies and clinics may be  
29 contacted, including telephone numbers; *who wish to be (identified)*

30 (3) provides information concerning the eligibility for medical  
31 assistance benefits for prenatal care, childbirth, neonatal care, abortion services,

*see pages 4, 5*

1 women's health care, child care, and contraception;

2 (4) states that informed and voluntary consent is required under  
3 AS 18.16.060 for an abortion;

4 (5) provides information concerning the process by which a mother of  
5 a child may establish a child support order to assist in the support of a child;

6 (6) describes the fetal development of a typical unborn child at two-  
7 week gestational increments from fertilization to full-term, including links to  
8 photographs of a typical unborn child at four-week gestational increments, and  
9 relevant information about the possibility of an unborn child's survival at the various  
10 gestational ages; the information must be objective, nonjudgmental information  
11 designed to convey only accurate scientific information about unborn children at  
12 various gestational ages;

13 (7) contains objective, unbiased information that describes the methods  
14 of abortion procedures and treatments commonly employed and the medical risks and  
15 possible complications commonly associated with each procedure and treatment, as  
16 well as the possible physical and psychological effects that have been associated with  
17 having an abortion;

18 (8) contains objective, unbiased information describing the possible  
19 medical risks and complications commonly associated with pregnancy and childbirth,  
20 as well as the possible physical and psychological effects that have been associated  
21 with carrying a child to term;

22 (9) contains objective, unbiased information concerning the harmful  
23 effects on an unborn child when a woman consumes alcohol or drugs during  
24 pregnancy.

25 (b) In this section,

26 (1) "fertilization" means the fusion of a human spermatozoon with a  
27 human ovum;

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

30 (3) "unborn child" means the offspring of a human being in utero at  
31 various stages of biological development.

1 \* Sec. 3. AS 18.16.010(a) is amended to read:

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

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

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

8 (3) before an abortion is knowingly performed or induced on an  
9 unmarried, unemancipated woman under 17 years of age, consent has been given as  
10 required under AS 18.16.020 or a court has authorized the minor to consent to the  
11 abortion under AS 18.16.030 and the minor consents; for purposes of enforcing this  
12 paragraph, there is a rebuttable presumption that a woman who is unmarried and under  
13 17 years of age is unemancipated; [AND]

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

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

18 \* Sec. 4. AS 18.16.010 is amended by adding new subsections to read:

19 (h) A physician or other health care provider is liable for failure to obtain the  
20 informed consent of a person as required under AS 18.16.060 if the claimant  
21 establishes by a preponderance of the evidence that the provider has failed to inform  
22 the person of the common risks and reasonable alternatives to the proposed abortion  
23 procedure and that, but for that failure, the person would not have consented to the  
24 abortion procedure.

25 (i) It is a defense to any action for the alleged failure to obtain the informed  
26 consent of a person under (h) of this section that

27 (1) the risk not disclosed is too commonly known or is too remote to  
28 require disclosure; or

29 (2) the person who is the subject of the alleged failure to obtain the  
30 informed consent stated to the physician or other health care provider that the person  
31 would or would not undergo the abortion procedure regardless of the risk involved or

*Correspond  
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(language in  
FINDINGS,  
also on  
p. 5*

1 that the person did not want to be informed of the matters to which the person would  
2 be entitled to be informed.

3 (j) In an action under this subsection, there is a rebuttable presumption that an  
4 abortion was performed with the pregnant woman's informed consent if the person  
5 who performed the abortion submits into evidence a copy of the woman's written  
6 certification required under AS 18.16.060(b).

7 \* Sec. 5. AS 18.16 is amended by adding a new section to read:

8 **Sec. 18.16.060. Informed consent requirements.** (a) Except as provided in  
9 (d) of this section, a person may not knowingly perform or induce an abortion without  
10 the voluntary and informed consent of

- 11 (1) a woman on whom an abortion is to be performed or induced;
- 12 (2) the parent, guardian, or custodian of a pregnant, unemancipated
- 13 minor if required under AS 18.16.020; or
- 14 (3) a pregnant, unemancipated minor if authorized by a court under
- 15 AS 18.60.030.

16 (b) Consent to an abortion is informed and voluntary when the woman or  
17 another person whose consent is required certifies in writing that the physician who is  
18 to perform the abortion, a member of the physician's staff who is a licensed health care  
19 provider, or the referring physician has verbally informed the woman or another  
20 person whose consent is required of the name of the physician who will perform the  
21 procedure and the gestational estimation of the pregnancy at the time the abortion is to  
22 be performed and has provided either

23 (1) the Internet information required to be maintained under  
24 AS 18.05.032; the physician or a member of the physician's staff who is a licensed  
25 health care provider shall provide a copy of the Internet information if a person  
26 requests a written copy; if a member of the physician's staff provides the information  
27 required under this paragraph, the member of the physician's staff shall offer the  
28 opportunity to consult with the physician; or

29 (2) information about the nature of, risks of, and alternatives to an  
30 abortion provided in a manner that the physician or health care provider, after  
31 considering all of the attendant facts and circumstances, reasonably determine is

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Language in  
FINDINGS*

appropriate for that woman or person whose consent is required.

(c) The information required in (b) of this section shall be provided at least 24 hours before the procedure in a private setting to protect privacy, maintain the confidentiality of the decision, ensure that the information focuses on the individual circumstances, and ensure an adequate opportunity to ask questions. Provision of the information telephonically or by electronic mail, regular mail, or facsimile transmittal at least 24 hours before the person's appointment satisfies the requirements of this subsection as long as the person whose consent is required under (a) of this section has an opportunity to ask questions of the physician after receiving the information.

(d) Notwithstanding (a) of this section, informed consent that meets the requirements of (a) - (c) of this section is not required in the case of a medical emergency or if the pregnancy is the result of rape or incest. In this subsection, "medical emergency" means a condition that, on the basis of a physician's good faith clinical judgment, so complicates the medical condition of a pregnant woman that

(1) the immediate termination of the woman's pregnancy is necessary to avert the woman's death; or

(2) a delay in providing an abortion will create ~~serious risk of~~ substantial and irreversible impairment of a major bodily function of the woman.

\* Sec. 6. AS 18.50.245(e) is amended to read:

(e) The state registrar shall adopt regulations to implement this section. The regulations that establish the information that will be required in a report of an induced termination of pregnancy

(1) must require information substantially similar to the information required under the United States Standard Report of Induced Termination of Pregnancy, as published by the National Center for Health Statistics, Centers for Disease Control and Prevention, United States Department of Health and Human Services, in April 1998, as part of DHHS Publication No. (PHS) 98-1117;

(2) must require, if known, whether the unidentified patient requested and received a written copy of the information required to be maintained on the Internet under AS 18.05.032; and

(3) may not include provisions that would violate a woman's

*change to read as the appropriate legal form: sexual assau  
etc. include applic. statutes for those crime*

~~significant risk~~ ?

1           privacy by requiring the woman's name or any identifying information in the  
2           report.

3           \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

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

23-LS0193J  
Mischel  
3/15/04

**HOUSE CS FOR CS FOR SENATE BILL NO. 30(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-THIRD LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered:**  
**Referred:**

**Sponsor(s): SENATORS DYSON, Green, Taylor, Ogan, Cowdery, Seekins, Wagoner**  
**REPRESENTATIVE Lynn**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to information and services available to pregnant women and other**  
2 **persons; ensuring informed consent before an abortion may be performed; and**  
3 **providing exceptions to informed consent in certain cases."**

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

5 **\* Section 1.** The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 **LEGISLATIVE FINDINGS.** The legislature finds that

- 8 (1) duties of the state include regulating medical practice and fostering the  
9 development of standards of professional conduct in a critical area of medical practice;  
10 (2) the state is interested in protecting the life and health of pregnant women;  
11 (3) women have a right to know the medical risks associated with their  
12 reproductive options;  
13 (4) the creation of an unbiased, scientific information site on the Internet that  
14 is reviewed and approved for medical accuracy and appropriateness by recognized obstetrical

1 and gynecological specialists designated by the State Medical Board and that sufficiently  
2 describes reproductive options and their potential consequences will protect, inform, and  
3 promote a woman's free and private choices between permanent and life-affecting  
4 alternatives;

5 (5) the creation of an unbiased, scientific information site on the Internet that  
6 is reviewed and approved for medical accuracy and appropriateness by recognized obstetrical  
7 and gynecological specialists designated by the State Medical Board and that sufficiently  
8 describes reproductive options and their potential consequences will reduce costly and undue  
9 litigation, will promote judicial economy and resources, and will provide physicians with a  
10 clear understanding of what constitutes informed consent for abortion by providing immunity  
11 to physicians who use the information from the Internet site;

12 (6) considerable testimony has been received indicating that women have, on  
13 occasion, received abortions in the state without considering sufficient information.

14 \* **Sec. 2.** AS 18.05 is amended by adding a new section to read:

15 **Sec. 18.05.032. Information relating to pregnancy and pregnancy**  
16 **alternatives.** (a) The department shall maintain on the Internet, in printable form,  
17 standard information that

18 (1) contains geographically indexed material designed to inform a  
19 person of public and private agencies and services that are available to assist a woman  
20 with the woman's reproductive choices; the department shall include information  
21 about at least the following types of agencies and services:

22 (A) agencies, services, clinics, and facilities designed to assist a  
23 woman through pregnancy, including adoption agencies and counseling  
24 services;

25 (B) agencies, services, clinics, and facilities that provide  
26 abortion options and counseling and post-abortion counseling and services; and

27 (C) agencies, services, clinics, and facilities designed to assist  
28 with or provide contraceptive options and counseling for appropriate family  
29 planning;

30 (2) includes a comprehensive regional directory of the agencies and  
31 clinics that request to be identified by the department under (1) of this subsection, a

1 description of the services they offer, and the manner in which the agencies and clinics  
2 may be contacted, including telephone numbers;

3 (3) provides information concerning the eligibility for medical  
4 assistance benefits for prenatal care, childbirth, neonatal care, abortion services,  
5 women's health care, child care, and contraception;

6 (4) states that informed and voluntary consent is required under  
7 AS 18.16.060 for an abortion;

8 (5) provides information concerning the process by which a mother of  
9 a child may establish a child support order to assist in the support of a child;

10 (6) describes the fetal development of a typical unborn child at two-  
11 week gestational increments from fertilization to full-term, including links to  
12 photographs of a typical unborn child at four-week gestational increments, and  
13 relevant information about the possibility of an unborn child's survival at the various  
14 gestational ages; the information must be objective, nonjudgmental information that is  
15 reviewed and approved for medical accuracy and appropriateness by recognized  
16 obstetrical and gynecological specialists designated by the State Medical Board and  
17 designed to convey only accurate scientific information about unborn children at  
18 various gestational ages;

19 (7) contains objective, unbiased information that is reviewed and  
20 approved for medical accuracy and appropriateness by recognized obstetrical and  
21 gynecological specialists designated by the State Medical Board and that describes the  
22 methods of abortion procedures and treatments commonly employed and the medical  
23 risks and possible complications commonly associated with each procedure and  
24 treatment, as well as the possible physical and psychological effects that have been  
25 associated with having an abortion;

26 (8) contains objective, unbiased information that is reviewed and  
27 approved for medical accuracy and appropriateness by recognized obstetrical and  
28 gynecological specialists designated by the State Medical Board and describing the  
29 possible medical risks and complications commonly associated with pregnancy and  
30 childbirth, as well as the possible physical and psychological effects that have been  
31 associated with carrying a child to term;

1 (9) contains objective, unbiased information that is reviewed and  
2 approved for medical accuracy and appropriateness by recognized obstetrical and  
3 gynecological specialists designated by the State Medical Board and concerning the  
4 harmful effects on an unborn child when a woman consumes alcohol or drugs during  
5 pregnancy.

6 (b) In this section,

7 (1) "fertilization" means the fusion of a human spermatozoon with a  
8 human ovum;

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

11 (3) "unborn child" means the offspring of a human being in utero at  
12 various stages of biological development.

13 \* Sec. 3. AS 18.16.010(a) is amended to read:

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

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

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

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

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

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

30 \* Sec. 4. AS 18.16.010 is amended by adding new subsections to read:

31 (h) A physician or other health care provider is liable for failure to obtain the

1 informed consent of a person as required under AS 18.16.060 if the claimant  
2 establishes by a preponderance of the evidence that the provider has failed to inform  
3 the person of the common risks and reasonable alternatives to the proposed abortion  
4 procedure and that, but for that failure, the person would not have consented to the  
5 abortion procedure.

6 (i) It is a defense to any action for the alleged failure to obtain the informed  
7 consent of a person under (h) of this section that

8 (1) the risk not disclosed is too commonly known or is too remote to  
9 require disclosure; or

10 (2) the person who is the subject of the alleged failure to obtain the  
11 informed consent stated to the physician or other health care provider that the person  
12 would or would not undergo the abortion procedure regardless of the risk involved or  
13 that the person did not want to be informed of the matters to which the person would  
14 be entitled to be informed.

15 (j) In an action under this subsection, there is a rebuttable presumption that an  
16 abortion was performed with the pregnant woman's informed consent if the person  
17 who performed the abortion submits into evidence a copy of the woman's written  
18 certification required under AS 18.16.060(b).

19 \* **Sec. 5.** AS 18.16 is amended by adding a new section to read:

20 **Sec. 18.16.060. Informed consent requirements.** (a) Except as provided in  
21 (d) of this section, a person may not knowingly perform or induce an abortion without  
22 the voluntary and informed consent of

23 (1) a woman on whom an abortion is to be performed or induced;

24 (2) the parent, guardian, or custodian of a pregnant, unemancipated  
25 minor if required under AS 18.16.020; or

26 (3) a pregnant, unemancipated minor if authorized by a court under  
27 AS 18.60.030.

28 (b) Consent to an abortion is informed and voluntary when the woman or  
29 another person whose consent is required certifies in writing that the physician who is  
30 to perform the abortion, a member of the physician's staff who is a licensed health care  
31 provider, or the referring physician has verbally informed the woman or another

1 person whose consent is required of the name of the physician who will perform the  
2 procedure and the gestational estimation of the pregnancy at the time the abortion is to  
3 be performed and has provided either

4 (1) the Internet information required to be maintained under  
5 AS 18.05.032; the physician or a member of the physician's staff who is a licensed  
6 health care provider shall provide a copy of the Internet information if a person  
7 requests a written copy; if a member of the physician's staff provides the information  
8 required under this paragraph, the member of the physician's staff shall offer the  
9 opportunity to consult with the physician; or

10 (2) information about the nature of, risks of, and alternatives to an  
11 abortion provided in a manner that the physician or health care provider, after  
12 considering all of the attendant facts and circumstances, reasonably determine is  
13 appropriate for that woman or person whose consent is required.

14 (c) The information required in (b) of this section shall be provided at least 24  
15 hours before the procedure in a private setting to protect privacy, maintain the  
16 confidentiality of the decision, ensure that the information focuses on the individual  
17 circumstances, and ensure an adequate opportunity to ask questions. Provision of the  
18 information telephonically or by electronic mail, regular mail, or facsimile transmittal  
19 at least 24 hours before the person's appointment satisfies the requirements of this  
20 subsection as long as the person whose consent is required under (a) of this section has  
21 an opportunity to ask questions of the physician after receiving the information.

22 (d) Notwithstanding (a) of this section, informed consent that meets the  
23 requirements of (a) - (c) of this section is not required in the case of a medical  
24 emergency or if the pregnancy is the result of sexual assault under AS 11.41.410 -  
25 11.41.427, sexual abuse of a minor under AS 11.41.434 - 11.41.440, incest under  
26 AS 11.41.450, or an offense under a law of another jurisdiction with elements similar  
27 to one of these offences. In this subsection, "medical emergency" means a condition  
28 that, on the basis of a physician's good faith clinical judgment, so complicates the  
29 medical condition of a pregnant woman that

30 (1) the immediate termination of the woman's pregnancy is necessary  
31 to avert the woman's death; or

1 (2) a delay in providing an abortion will create serious risk of  
2 substantial and irreversible impairment of a major bodily function of the woman.

3 \* Sec. 6. AS 18.50.245(e) is amended to read:

4 (e) The state registrar shall adopt regulations to implement this section. The  
5 regulations that establish the information that will be required in a report of an induced  
6 termination of pregnancy

7 (1) must require information substantially similar to the information  
8 required under the United States Standard Report of Induced Termination of  
9 Pregnancy, as published by the National Center for Health Statistics, Centers for  
10 Disease Control and Prevention, United States Department of Health and Human  
11 Services, in April 1998, as part of DHHS Publication No. (PHS) 98-1117;

12 (2) must require, if known, whether the unidentified patient  
13 requested and received a written copy of the information required to be  
14 maintained on the Internet under AS 18.05.032; and

15 (3) may not include provisions that would violate a woman's  
16 privacy by requiring the woman's name or any identifying information in the  
17 report.

18 \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
19 read:

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

# ALASKA STATE LEGISLATURE

Rep. Lesil McGuire, Chair  
Rep. Tom Anderson, Vice-Chair  
Rep. Jim Holm  
Rep. Dan Ogg  
Rep. Ralph Samuels  
Rep. Les Gara  
Rep. Max Gruenberg



State Capitol, Room 120  
Juneau, AK 99801-1182  
(907) 465-4990  
Fax (907) 465-6592

## House Judiciary Committee

### Memorandum

**To:** Jean Mischel, Leg. Legal

**From:** Vanessa Tondini, Committee Aide  
House Judiciary Committee

**Date:** February 17, 2004

**Re:** CS Request

---

Please create a work draft House Judiciary Committee Substitute for work order # 23-LS0193AE, SB 30, incorporating the amendments described below. The bill will be heard in committee on Wednesday, 2/18 at 1:00 p.m. I have also written the changes into the attached copy of HCS CSSB 30 ( ), Version "E," for clarification.

- 1) Page 3, Lines 22-27: Delete (9).
- 2) Page 3, Line 31 – Page 4, Lines 1-3: Delete (11)
- 3) Delete Section 4 of the bill entirely and replace it with the attached language regarding liability, as amended, making conforming changes as necessary.

If you have any questions, please call me at 4990. Thank you so much!

The information attached to this memo is **CONFIDENTIAL** an/or privileged. It is intended to be reviewed initially by only the individual named above. If the reader of this Memorandum is not the intended recipient or a representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of the information contained herein is prohibited. If you have received this in error, please immediately notify the sender by telephone and return this to the sender at the above address.

23-LS0193E  
Mischel  
2/17/04

HOUSE CS FOR CS FOR SENATE BILL NO. 30( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS DYSON, Green, Taylor, Ogan, Cowdery, Seelins, Wagoner  
REPRESENTATIVE Lynn

A BILL  
FOR AN ACT ENTITLED

1 "An Act relating to information and services available to pregnant women and other  
2 persons; ensuring informed consent before an abortion may be performed; and  
3 providing exceptions to informed consent in certain cases."

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

5 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 LEGISLATIVE FINDINGS. The legislature finds that

8 (1) duties of the state include regulating medical practice and fostering the  
9 development of standards of professional conduct in a critical area of medical practice;

10 (2) the state is interested in protecting the life and health of pregnant women;

11 (3) women have a right to know the medical risks associated with their  
12 reproductive options;

13 (4) the creation of an unbiased, scientific information site on the Internet that  
14 sufficiently describes reproductive options and their potential consequences will protect,

1 inform, and promote a woman's free and private choices between permanent and life-affecting  
2 alternatives;

3 (5) the creation of an unbiased, scientific information site on the Internet that  
4 sufficiently describes reproductive options and their potential consequences will reduce costly  
5 and undue litigation, will promote judicial economy and resources, and will provide  
6 physicians with a clear understanding of what constitutes informed consent for abortion by  
7 providing immunity to physicians who use the information from the Internet site;

8 (6) considerable testimony has been received indicating that women have, on  
9 occasion, received abortions in the state without considering sufficient information.

10 \* **Sec. 2.** AS 18.05 is amended by adding a new section to read:

11 **Sec. 18.05.032. Information relating to pregnancy and pregnancy**  
12 **alternatives.** (a) The department shall maintain on the Internet, in printable form,  
13 standard information that

14 (1) contains geographically indexed material designed to inform a  
15 person of public and private agencies and services that are available to assist a  
16 pregnant woman with the woman's reproductive choices; the department shall include  
17 information about at least the following types of agencies and services:

18 (A) agencies, services, clinics, and facilities designed to assist a  
19 woman through pregnancy, including adoption agencies and counseling  
20 services;

21 (B) agencies, services, clinics, and facilities that provide  
22 abortion options and counseling and post-abortion counseling and services; and

23 (C) agencies, services, clinics, and facilities designed to assist  
24 with or provide contraceptive options and counseling to help prevent future  
25 unwanted pregnancies;

26 (2) includes a comprehensive regional directory of the agencies and  
27 clinics identified by the department under (1) of this subsection, a description of the  
28 services they offer, and the manner in which the agencies and clinics may be  
29 contacted, including telephone numbers;

30 (3) provides information concerning the eligibility for medical  
31 assistance benefits for prenatal care, childbirth, neonatal care, abortion services,

1 women's health care, child care, and contraception;

2 (4) states that informed and voluntary consent is required under  
3 AS 18.16.060 for an abortion;

4 (5) provides information concerning the process by which a mother of  
5 a child may establish a child support order to assist in the support of a child;

6 (6) describes the fetal development of a typical unborn child at two-  
7 week gestational increments from fertilization to full-term, including links to  
8 photographs of a typical unborn child at four-week gestational increments, and  
9 relevant information about the possibility of an unborn child's survival at the various  
10 gestational ages; the information must be objective, nonjudgmental information  
11 designed to convey only accurate scientific information about unborn children at  
12 various gestational ages;

13 (7) contains objective, unbiased information that describes the methods  
14 of abortion procedures and treatments commonly employed and the medical risks and  
15 possible complications commonly associated with each procedure and treatment, as  
16 well as the possible physical and psychological effects that have been associated with  
17 having an abortion;

18 (8) contains objective, unbiased information describing the possible  
19 medical risks and complications commonly associated with pregnancy and childbirth,  
20 as well as the possible physical and psychological effects that have been associated  
21 with carrying a child to term;

22 ~~(9) contains objective, unbiased, and comprehensive information on  
23 different types of available contraceptive choices, including timing of menstrual  
24 cycles, and the medical risk and possible complications commonly associated with  
25 each method as well as the possible physical and psychological effects that have been  
26 associated with using contraceptives and the physiological mechanism by which  
27 contraceptives operate;~~

28 (10) contains objective, unbiased information concerning the harmful  
29 effects on an unborn child when a woman consumes alcohol or drugs during  
30 pregnancy;

31 ~~(11) contains a dated, time-stamped signature form that can be printed~~

1 out as evidence that the person identified on the form, with appropriate security  
2 safeguards as to identity, has reviewed the information described in (1) - (10) of this  
3 subsection.

4 (b) In this section,

5 (1) "fertilization" means the fusion of a human spermatozoon with a  
6 human ovum;

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

9 (3) "unborn child" means the offspring of a human being in utero at  
10 various stages of biological development.

11 \* Sec. 3. AS 18.16.010(a) is amended to read:

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

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

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

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

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

26 (5) the applicable requirements of AS 18.16.060 have been

27 satisfied.

28 \* Sec. 4. AS 18.16.010 is amended by adding a new subsection to read:

29 (h) A person is civilly liable for failure to obtain the informed consent of a  
30 patient for whom the person performs an abortion if the claimant establishes by a  
31 preponderance of the evidence that the person has failed to inform the patient of the

*Delete this section & replace w/ the attached language.*

1 common risks and reasonable alternatives to the proposed abortion procedure, and  
2 that, but for that failure, the claimant would not have consented to the abortion  
3 procedure. In an action under this subsection, there is a rebuttable presumption that an  
4 abortion was performed with the pregnant woman's informed consent if the person  
5 who performed the abortion submits into evidence a copy of the woman's certification  
6 form described in AS 18.05.032(a)(11).

7 \* **Sec. 5.** AS 18.16 is amended by adding a new section to read:

8 **Sec. 18.16.060. Informed consent requirements.** (a) Except as provided in  
9 (d) of this section, a person may not knowingly perform or induce an abortion without  
10 the voluntary and informed consent of

11 (1) a woman on whom an abortion is to be performed or induced;

12 (2) the parent, guardian, or custodian of a pregnant, unemancipated  
13 minor if required under AS 18.16.020; or

14 (3) a pregnant, unemancipated minor if authorized by a court under  
15 AS 18.60.030.

16 (b) Consent to an abortion is informed and voluntary when the woman or  
17 another person whose consent is required certifies in writing that the physician who is  
18 to perform the abortion, a member of the physician's staff who is a licensed health care  
19 provider, or the referring physician has verbally informed the woman or another  
20 person whose consent is required of the name of the physician who will perform the  
21 procedure and the gestational estimation of the pregnancy at the time the abortion is to  
22 be performed and has provided either

23 (1) the Internet information required to be maintained under  
24 AS 18.05.032; the physician or a member of the physician's staff who is a licensed  
25 health care provider shall provide a copy of the Internet information if a person  
26 requests a written copy; if a member of the physician's staff provides the information  
27 required under this paragraph, the member of the physician's staff shall offer the  
28 opportunity to consult with the physician; or

29 (2) information about the nature of, risks of, and alternatives to an  
30 abortion provided in a manner that the physician or health care provider, after  
31 considering all of the attendant facts and circumstances, reasonably determine is

1 appropriate for that woman or person whose consent is required.

2 (c) The information required in (b) of this section shall be provided at least 24  
3 hours before the procedure in a private setting to protect privacy, maintain the  
4 confidentiality of the decision, ensure that the information focuses on the individual  
5 circumstances, and ensure an adequate opportunity to ask questions. Provision of the  
6 information telephonically or by electronic mail, regular mail, or facsimile transmittal  
7 at least 24 hours before the person's appointment satisfies the requirements of this  
8 subsection as long as the person whose consent is required under (a) of this section has  
9 an opportunity to ask questions of the physician after receiving the information.

10 (d) Notwithstanding (a) of this section, informed consent that meets the  
11 requirements of (a) - (c) of this section is not required in the case of a medical  
12 emergency or if the pregnancy is the result of rape or incest. In this subsection,  
13 "medical emergency" means a condition that, on the basis of a physician's good faith  
14 clinical judgment, so complicates the medical condition of a pregnant woman that

15 (1) the immediate termination of the woman's pregnancy is necessary  
16 to avert the woman's death; or

17 (2) a delay in providing an abortion will create serious risk of  
18 substantial and irreversible impairment of a major bodily function of the woman.

19 \* Sec. 6. AS 18.50.245(e) is amended to read:

20 (e) The state registrar shall adopt regulations to implement this section. The  
21 regulations that establish the information that will be required in a report of an induced  
22 termination of pregnancy

23 (1) must require information substantially similar to the information  
24 required under the United States Standard Report of Induced Termination of  
25 Pregnancy, as published by the National Center for Health Statistics, Centers for  
26 Disease Control and Prevention, United States Department of Health and Human  
27 Services, in April 1998, as part of DHHS Publication No. (PHS) 98-1117;

28 (2) must require, if known, whether the unidentified patient  
29 requested and received a written copy of the information required to be  
30 maintained on the Internet under AS 18.05.032; and

31 (3) may not include provisions that would violate a woman's

1           privacy by requiring the woman's name or any identifying information in the  
2           report.

3           \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
4 read:

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



## SENATOR FRED DYSON

### MEMORANDUM

January 16, 2004

To: Representative Lesil McGuire, Chair  
House Judiciary Committee

From: Senator Fred Dyson

RE: Request for Hearing SB 30

---

I request that the House Judiciary Committee consider SB 30. This bill is an *Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency.* Please refer to the attached bill packet for background information. In addition, I would be glad to answer any questions that may arise, as would my staff, Jason Hooley (ext. 3762). Thank you for your consideration.



## SENATOR FRED DYSON

### SB 30 SPONSOR STATEMENT

*"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."*

Since the early 1970's, Alaskan physicians who perform or induce abortions are required, in regulation, to inform patients "of the medical implications and the possible emotional and physical sequelae of the procedure" (12 A.A.C. 40.070). SB 30 raises these regulations into statute, and standardizes the information presented to the patients by means of a website maintained by the Department of Health and Social Services. This website will list accurate, objective information that explains resources available to a pregnant woman that may assist her in making and implementing her own reproductive decisions. This bill will enable women to make healthy, educated choices regarding their own individual and private circumstances.

Considerable testimony has been received that indicates that Alaskan women, on occasion, do not receive adequate information as they consider the alternative of abortion. These events are extremely damaging and must be prevented. Providing women with information that is "unbiased, objective, scientific" is necessary to their informed choice. This bill creates a website that is mandated to provide such information. Medical personnel who perform abortions are already required in regulation to explain possible consequences. This bill provides physicians with an optional tool that also provides legal coverage for fulfilling the informed consent requirements—which are already required. This tool will protect both women and doctors. The women will only view the website's information if they request it; for doctors who currently satisfy the informed consent requirements, their standards and protocols of communication with the patient will not be affected. Because our state-run rural health clinics each have internet access, remote women may still receive this information, if desired, without being hampered by additional travel.



## SENATOR FRED DYSON

### SB 30 SECTIONAL ANALYSIS (Version S)

*"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."*

Section 1 FINDINGS language describes the interests and intentions of the Legislature's intervention in this issue. Interests include regulating medical practice, protecting the life and health and choices of pregnant women, and clarifying a physician's requirements to obtain informed consent, which will in turn, conserve legal and judicial resources.

Section 2 directs the Department of Health and Social Services to develop a website designed to assist a pregnant woman with her reproductive choices. This website will provide resources for women to use in order to make and implement these decisions. The material will include information specific to geographic region, adoption services, counseling, abortion, clinics, medical assistance benefits, requirements for doctors who performs abortions, the father's liability, fetal development, and medical risks/rewards for each procedure option.

Section 3 adds that abortion may not be performed unless informed consent is obtained, as outlined in Section 4. This elevates 12 A.A.C. 40.070 to statute.

Section 4 adds civil liability for a person who performs or induces an abortion without meeting the informed consent provisions. A doctor who prints the website's information and distributes it to the pregnant woman is not liable under this section.

Section 5 states the terms of qualification for consent to an abortion to be informed and voluntary. Medical emergency, as defined in this section, bypasses the informed consent requirements. The pregnant woman or her parent/guardian/etc. will certify the requirements in writing as met. Voluntary informed means: at least 24 hours before the procedure, in an individual and private and confidential setting, the physician will provide information on the women's individual circumstances including the physician's name, gestational estimation of the pregnancy, and the nature and risks of the procedure and its alternatives, and the availability of the website's information.

Section 6 adds to the current abortion reporting law. In preparing the report, the state registrar must require whether or not the pregnant woman received the website's information.

Section 6 provides severability of this legislation.

23-LS0193\C  
Mischel  
1/15/04

HOUSE CS FOR CS FOR SENATE BILL NO. 30( )  
IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY

Offered:  
Referred:

Sponsor(s): SENATORS DYSON, Green, Taylor, Ogan, Cowdery, Seekins, Wagoner

REPRESENTATIVE Lynn

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to information and services available to pregnant women and other  
2 persons; and ensuring informed consent before an abortion may be performed, except in  
3 cases of medical emergency."

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

5 \* Section 1. The uncodified law of the State of Alaska is amended by adding a new section  
6 to read:

7 LEGISLATIVE FINDINGS. The legislature finds that

- 8 (1) duties of the state include regulating medical practice and fostering the  
9 development of standards of professional conduct in a critical area of medical practice;  
10 (2) the state is interested in protecting the life and health of pregnant women;  
11 (3) women have a right to know the medical risks associated with their  
12 reproductive options;  
13 (4) the creation of an unbiased, scientific information site on the Internet that  
14 is reviewed and approved for medical accuracy and appropriateness by the State Medical

1 Board and that sufficiently describes reproductive options and their potential consequences  
2 will protect, inform, and promote a woman's free and private choices between permanent and  
3 life affecting alternatives;

4 (5) the creation of an unbiased, scientific information site on the Internet that  
5 is reviewed and approved for medical accuracy and appropriateness by the State Medical  
6 Board and that sufficiently describes reproductive options and their potential consequences  
7 will reduce costly and undue litigation, will promote judicial economy and resources, and will  
8 provide physicians with a clear understanding of what constitutes informed consent for  
9 abortion by providing immunity to physicians who use the information from the Internet site;

10 (6) considerable testimony has been received indicating that women have  
11 obtained abortions in the state without considering sufficient information.

12 \* Sec. 2. AS 18.05 is amended by adding a new section to read:

13 **Sec. 18.05.032. Information relating to pregnancy and pregnancy**  
14 **alternatives.** (a) The department shall maintain on the Internet, in printable form,  
15 standard information that

16 (1) contains geographically indexed material designed to inform a  
17 person of public and private agencies and services that are available to assist a  
18 pregnant woman with the woman's reproductive choices; the department should  
19 include information about at least the following types of agencies and services:

20 (A) agencies, services, clinics, and facilities designed to assist a  
21 woman through pregnancy, including adoption agencies and counseling  
22 services;

23 (B) agencies, services, clinics, and facilities that provide  
24 abortion options and counseling and post-abortion counseling and services; and

25 (C) agencies, services, clinics, and facilities designed to assist  
26 with or provide contraceptive options and counseling to help prevent future  
27 unwanted pregnancies;

28 (2) includes a comprehensive regional directory of the agencies and  
29 clinics identified by the department under (1) of this subsection, a description of the  
30 services they offer, and the manner in which the agencies and clinics may be  
31 contacted, including telephone numbers;

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(3) provides information concerning the circumstantial criteria for the availability of medical assistance benefits for prenatal care, childbirth, and neonatal care, the circumstantial criteria for the availability of medical assistance benefits for abortion services, and the circumstantial criteria for the availability of medical assistance benefits for contraception;

(4) states that informed and voluntary consent is required under AS 18.16.060 for an abortion;

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

(6) describes the fetal development of a typical unborn child at two-week gestational increments from fertilization to full-term, including photographs depicting the anatomical characteristics of a typical unborn child at two-week gestational increments, and relevant information about the possibility of an unborn child's survival at the various gestational ages; the fetal dimensions in the photographs must be accurately represented and shall be realistic and appropriate for the gestational age of an unborn child; the information must be objective, nonjudgmental information that is reviewed and approved for medical accuracy and appropriateness by the State Medical Board and designed to convey only accurate scientific information about unborn children at various gestational ages;

(7) contains objective, unbiased information that is reviewed and approved for medical accuracy and appropriateness by the State Medical Board and that describes the methods of abortion procedures and treatments commonly employed and the medical risks and possible complications commonly associated with each procedure and treatment, as well as the possible psychological effects that have been associated with having an abortion;

(8) contains objective, unbiased information that is reviewed and approved for medical accuracy and appropriateness by the State Medical Board and describing the possible medical risks and complications commonly associated with pregnancy and childbirth, as well as the possible psychological effects that have been

1 associated with carrying an unborn child to term;

2 (9) contains objective, unbiased, and comprehensive information that  
3 is reviewed and approved for medical accuracy and appropriateness by the State  
4 Medical Board and on different types of available contraceptive choices, including  
5 timing of menstrual cycles, and the medical risk and possible complications  
6 commonly associated with each method as well as the possible psychological effects  
7 that have been associated with using contraceptives;

8 (10) contains objective, unbiased information concerning the harmful  
9 effects on an unborn child when a woman consumes alcohol or drugs during  
10 pregnancy;

11 (11) contains a dated, time-stamped signature form that can be printed  
12 out as evidence that the person identified on the form, with appropriate security  
13 safeguards as to identity, has reviewed the information described in (1) - (10) of this  
14 subsection.

15 (b) The information required under (a) of this section must be written in easily  
16 comprehensible language and must be displayed in a typeface that is large enough to  
17 be clearly legible.

18 (c) In this section,

19 (1) "fertilization" means the fusion of a human spermatozoon with a  
20 human ovum;

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

23 (3) "informed consent" is consent that would be considered voluntary  
24 and informed under AS 18.16.060(b);

25 (4) "unborn child" means the offspring of a human being in utero at  
26 various stages of biological development.

27 \* Sec. 3. AS 18.16.010(a) is amended to read:

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

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

31 (2) the abortion is performed in a hospital or other facility approved for

1 the purpose by the Department of Health and Social Services or a hospital operated by  
2 the federal government or an agency of the federal government;

3 (3) before an abortion is knowingly performed or induced on an  
4 unmarried, unemancipated woman under 17 years of age, consent has been given as  
5 required under AS 18.16.020 or a court has authorized the minor to consent to the  
6 abortion under AS 18.16.030 and the minor consents; for purposes of enforcing this  
7 paragraph, there is a rebuttable presumption that a woman who is unmarried and under  
8 17 years of age is unemancipated; [AND]

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

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

13 \* Sec. 4. AS 18.16.010 is amended by adding a new subsection to read:

14 (h) A person who performs or induces an abortion in violation of (a)(5) of this  
15 section is civilly liable to the pregnant woman and the pregnant woman's estate, and  
16 only to the pregnant woman and the pregnant woman's estate, for compensatory and  
17 punitive damages caused by the violation except that, for purposes of an action for  
18 damages under this subsection, a person is considered to have complied with  
19 AS 18.16.060(b)(1)(C) and (D) if the person demonstrates by a preponderance of the  
20 evidence that the woman received or reviewed a copy of the material maintained on  
21 the Internet under AS 18.05.032 at least 24 hours before the abortion was performed  
22 or induced. In a civil action under this subsection, there is a rebuttable presumption  
23 that an abortion was performed without the pregnant woman's informed consent if the  
24 physician who performed the abortion does not submit into evidence the copy of the  
25 woman's written certification required to be retained in the physician's files under  
26 AS 18.16.060(b)(3).

27 \* Sec. 5. AS 18.16 is amended by adding a new section to read:

28 **Sec. 18.16.060. Informed consent requirements.** (a) Except in the case of a  
29 medical emergency, a person may not knowingly perform or induce an abortion  
30 without the voluntary and informed consent of

31 (1) a woman on whom an abortion is to be performed or induced;

1 (2) the parent, guardian, or custodian of a pregnant, unemancipated  
2 minor if required under AS 18.16.020;

3 (3) a pregnant, unemancipated minor if authorized by a court under  
4 AS 18.60.030; or

5 (4) the parent or guardian of a pregnant woman legally determined to  
6 be mentally incompetent.

7 (b) Consent to an abortion is voluntary and informed when all of the following  
8 are true:

9 (1) at least 24 hours before the abortion procedure, the physician who  
10 is to perform the abortion, a member of the physician's staff who is a licensed health  
11 care provider, or the referring physician has verbally informed the woman or another  
12 person whose consent is required of the

13 (A) name of the physician who will perform the procedure;

14 (B) gestational estimation of the pregnancy at the time the  
15 abortion is to be performed;

16 (C) nature and risks of undergoing or not undergoing the  
17 proposed procedure that a reasonable patient would consider material to  
18 making a voluntary and informed decision of whether to undergo the  
19 procedure; and

20 (D) availability of the information required to be maintained on  
21 the Internet under AS 18.05.032; if the person requests a written copy of the  
22 Internet information, the physician shall provide it; the requirement of this  
23 subparagraph may also be satisfied by a member of the physician's staff who is  
24 a licensed health care provider performing the required activities if the licensed  
25 person offers the person an opportunity to consult a physician; the  
26 requirements of this subparagraph may also be satisfied if the physician or a  
27 member of the physician's staff receives from the person an appropriately  
28 dated and signed form of the type described in AS 18.05.032(a)(10) and retains  
29 the form in the patient's file;

30 (2) before the abortion, the woman or another person whose consent is  
31 required certifies in writing that the information required to be given under (1) of this

1 subsection has been provided; and

2 (3) the physician who is to perform the abortion or a representative of  
3 the physician receives a copy of the written certificate required under (2) of this  
4 subsection and retains a copy in the physician's file.

5 (c) The information required in (b)(1)(A) - (C) of this section shall be  
6 provided individually and in a private setting to protect privacy, maintain the  
7 confidentiality of the decision, ensure that the information focuses on the individual  
8 circumstances, and ensure an adequate opportunity to ask questions. Provision of the  
9 information telephonically or by electronic mail or regular mail at least 24 hours  
10 before the person's appointment satisfies the requirements of this subsection as long as  
11 the person whose consent is required under (a) of this section has an opportunity to ask  
12 questions after receiving the information.

13 (d) In this section, "medical emergency" means a condition that, on the basis  
14 of a physician's good faith clinical judgment, so complicates the medical condition of  
15 a pregnant woman that

16 (1) the immediate termination of the woman's pregnancy is necessary  
17 to avert the woman's death; or

18 (2) a delay in providing an abortion will create serious risk of  
19 substantial and irreversible impairment of a major bodily function of the woman.

20 \* Sec. 6. AS 18.50.245(e) is amended to read:

21 (e) The state registrar shall adopt regulations to implement this section. The  
22 regulations that establish the information that will be required in a report of an induced  
23 termination of pregnancy

24 (1) must require information substantially similar to the information  
25 required under the United States Standard Report of Induced Termination of  
26 Pregnancy, as published by the National Center for Health Statistics, Centers for  
27 Disease Control and Prevention, United States Department of Health and Human  
28 Services, in April 1998, as part of DHHS Publication No. (PHS) 98-1117;

29 (2) must require, if known, whether the unidentified patient  
30 requested and received a written copy of the information required to be  
31 maintained on the Internet under AS 18.05.032; and

1                   (3) may not include provisions that would violate a woman's  
2                   privacy by requiring the woman's name or any identifying information in the  
3                   report.

4                   \* Sec. 7. The uncodified law of the State of Alaska is amended by adding a new section to  
5 read:

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

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB030HCSCS(HES)-DHSS-HCS-02-07  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_

Title INFORMED CONSENT FOR ABORTION

Dept. Affected: Health & Social Services

RDU Health Care Services

Component Women's and Adolescents Services

Sponsor DYSON

Requester HOUSE (JUD)

Component No. 2660

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	20.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>20.0</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 (0)</b>						
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**FUND SOURCE (Thousands of Dollars)**

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF	20.0					
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>20.0</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 (FY2004) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

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

This bill requires that information be prepared and made available via the Internet, to every woman seeking an abortion, on the medical risks of abortion, pregnancy, and where services can be sought, by geographical region. The DHSS already produces, procures and disseminates a range of materials regarding how to have a healthy baby and ways to keep the baby safe and healthy after birth. In addition, the Department maintains a 24-hour referral line for services. Ensuring the intent of this bill is addressed will require resources for the production of the additional informational materials on abortion. (continued on next page)

Prepared by: Dwayne Peoples  
Division: Health Care Services  
Approved by: Joel S. Gilbertson, Commissioner  
Agency: Department of Health and Social Services

Phone 465-5830  
Date/Time 01/29/2004  
Date 02/02/2004

FISCAL NOTE  
FN #

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB030HCSCS(HES)-DHSS-HCS-02-02-04

ANALYSIS CONTINUATION

CONTRACTUAL: \$20.0 for a professional services contract in Year 1 for the production and posting of the web-based materials required under this bill.

# FISCAL NOTE

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: SB030HCSCS(HES)-DHSS-DPH-02-02

( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_

Dept. Affected: Health & Social Services

Title INFORMED CONSENT FOR ABORTION

RDU Public Health

Component Bureau of Vital Statistics

Sponsor DYSON

Requester HOUSE (JUD)

Component No. 961

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

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

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual	30.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>30.0</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 (0)</b>						
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	30.0					
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>30.0</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 (FY2004) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would add a requirement to the report of Induced Termination of Pregnancy (ITOP) program that the Bureau of Vital Statistics (BVS) collect and record data on whether or not each reported patient requested and received a written copy of information on reproductive options required to be maintained on the Internet.

CONTRACTUAL: \$30.0 in GF for contractual service costs would be required in Year 1 (one-time costs) to provide for 1) a contract to revise the BVS ITOP computer program (\$20,000);

(continued on next page)

Prepared by: Doug Bruce, Director

Phone 465-3090

Division: Public Health

Date/Time 01/29/2004

Approved by: Joel S. Gilbertson, Commissioner

Date 02/02/2004

Agency: Department of Health and Social Services

FISCAL NOTE

FN #

STATE OF ALASKA  
2004 LEGISLATIVE SESSION

BILL NO. SB030HCSCS(HES)-DHSS-DPH-02-02-04

ANALYSIS CONTINUATION

2) to produce, print and distribute revised ITOP reporting forms to providers throughout Alaska (\$2,000); and 3) to contract for the drafting of regulations to implement AS 18.50.245(e) (\$8,000).

**Subject: SB 30**

**Date:** Fri, 26 Mar 2004 12:42:11 -0900

**From:** representative\_les\_gara <representative\_les\_gara@legis.state.ak.us>

**To:** Vanessa Tondini <Vanessa\_Tondini@legis.state.ak.us>,  
Representative Lesil McGuire <Representative\_Lesil\_McGuire@legis.state.ak.us>,  
Cindy Smith <Cindy\_Smith@legis.state.ak.us>

Vanessa - here are the legal points from teh new CS I mentioned. Can you run them by the Asst. AG? If not, I can.

The 30 day waiting period: I think it violates the Roe v. Wade & Privacy protections given to the right to an abortion. Flatly, it interferes with the right to an abortion and pushes some women past the 1st trimester before they can obtain one.

Also, it, in my guesstimation, violates the right to = protection. No 30 period applies to male health procedures, of female non-abortion-related procedures.

Thanks. Les

--

Representative Les Gara

tel. 465-2647 toll free (888) 465-2647

Rep. Gara's Legislative website: <http://gara.akdemocrats.org>

Alaska State Legislature's website: <http://legis.state.ak.us>

# Eagle Forum Alaska Alaska Eagle Forum Education Foundation



**Mrs. Debbie Joslin, President**

P.O. Box 377  
Delta Jct, AK 99737  
907-895-4565 (Ph/FAX)  
joslin@wildak.net

February 19, 2004

House Judiciary Committee Members  
Senator Fred Dyson  
Representative Nancy Dahlstrom  
Representative John Coghill

Dear Ladies and Gentlemen:

I am writing to you in regard to comments made yesterday during the House Judiciary Committee hearing for SB30 (HB292). I appreciate the time you have taken on this bill and I am sure you are all trying your best to pass legislation that not only meets constitutional muster but also protects women in our state. I feel I must bring to your attention some inconsistencies that I have noticed during the hearing process on this particular piece of legislation.

First of all, the comment was made yesterday that SB30 is greatly different than the real estate bill you had just looked at as it concerned an industry and SB30 was just citizens who disagreed on a matter. We are currently aborting a million to a million and a half unborn babies (fetuses) a year in America. A cheap, first trimester, no frills, no complications abortion procedure costs about \$300. Do the math! Abortion is an industry! Dr. Colleen Murphy testified that she had just done three abortions and a follow up yesterday alone. How many of the real estate agents who testified had sold three houses yesterday?

There seemed to be a great deal of concern that the real estate profession be operated with integrity and in a way that treats the consumer with respect. Yet not one disgruntled home buyer/seller came to testify that they were dissatisfied. I testified in favor of SB30 because I am a disgruntled consumer. No one told me, and in fact, maybe no one knew in 1976 that there were both immediate and long term risks associated with abortion. Every woman needs to know that even if carrying the baby to term, in the opinion of the doctor, poses health risks that the abortion carries its own risks. To decide that a woman does not need to know that because she is in a high-risk pregnancy is naïve at best and at worst negligent. Further watering down of the 24 hour waiting period puts women at risk of suffering after effects from the abortion procedure. As a legislature, it is your duty to make sure that the medical profession, specifically the abortion industry, fully informs women of their options. This bill MUST dictate that women be told which abortion

*~Leaders in the pro-family movement for 33 years~*

procedure will be implemented and what the particular risks associated with that procedure are.

Dr. Murphy has indicated on different occasion that she already goes through an informed consent process more than 24 hours in advance of the abortion. At other times she has stated that this bill would necessitate her spending more time with the patient and passing the cost on in terms of higher abortion costs. Whichever it is, this bill must have a 24 hour waiting period so that we do not operate abortion mills in our state where women are herded in, given a hasty five minute counseling session and then subjected to a procedure they are not fully informed about.

It was also implied during the hearing that women who are undergoing a stressful pregnancy due to a fetus with multiple fetal anomalies should not be show photographs of normal fetal development. It was even said that women who are rape or incest victims should not be shown these photographs or given information concerning their options. The implication here is that women are frail of mind and unable to handle stressful situations. I resent that and I would hope that every woman legislator would as well. Women are well able to handle objective, scientific information. It is said that hell hath no fury like a woman scorned. Imagine the fury of a woman who contracts breast cancer or who becomes infertile as a result of an abortion that she was not fully informed about. You have an obligation to make sure that women in Alaska never suffer as a result of your cowardice in telling them the facts.

Respectfully,



Debbie Joslin,

Eagle Forum Alaska

**Subject:** sb30

**Date:** Mon, 23 Feb 2004 09:15:02 -0900

**From:** "Jason M. Hooley" <jason.hooley@legis.state.ak.us>

**Organization:** Alaska State Legislature

**To:** Vanessa Tondini <Vanessa\_Tondini@legis.state.ak.us>

Thanks Vanessa--

As you talk with the Committee and the chair, here is a summary of the information I was trying to relay from DHSS...

The Division of Public Health stated in a letter last year that *"all information posted can be referenced back to multiple authoritative sources, such as the Centers for Disease Control, Office of Women's Health, peer reviewed published research, etc. For complex documents related to medical care guidance, the Department has a committee of experts in the field co-author and review the document prior to distribution."*

thanks--

jason

Jason M. Hooley <jason.hooley@legis.state.ak.us> Office of Senator Fred Dyson Alaska State Legislature
--

**REAL MEN RESPECT  
A WOMAN'S RIGHT TO KNOW AND  
THINKING WOMEN WANT TO  
KNOW!  
PLEASE PASS SB30 ASAP!**

Name, address and signature

JUDITH CARMONY PO. Box 895536 WASILLA, AK 99687 Judith H. Carmony

Linda Hatch PO. Box 17423 Wasilla AK 99687 Linda Hatch

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Shirley Prescott 200 S. Willow St. Wasilla AK 99684 Shirley Prescott

Sharon Sisson PO. Box 173522 Wasilla AK Sharon Sisson

**SB30 is a bill that would require doctors to fully inform women of their options and of the risks involved in an abortion and require a 24 hour waiting period before an abortion can be performed. The bill has passed the state Senate and is in the House Judiciary Committee. Please return this petition to Eagle Forum Alaska, Debbie Joslin, PO Box 377, Delta Junction, AK 99737 11/04**

**REAL MEN RESPECT  
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THINKING WOMEN WANT TO  
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Name, address and signature

EILEEN WARD 1611 Holly Madison E.R. Eureka AK

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Susan Hoefling Box 5050 Heland Rd ER. AK 99577

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Name, address and signature

Tina J. Cooney 19937 Eagle River Rd Eagle River, Alaska

Jeana Nascek St. Andrew Catholic Church

Robert M. Thompson 9713 CHISK CIR. - ER

Sally Otto 12018 Buttermilk way ER AK 99577

Joel Hermanson 19937 Eagle River Rd. ER, Ak 99577

Brad Toth Br. J. Otto 12018 Buttermilk Way Eagle River, AK 99577

Christine Ward 10611 Dolly Madison, ER, AK Christine Ward

Michael Ward 1151/2 Johnson Rd. Slaven AK Michael Ward

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PLEASE PASS SB30 ASAP!**

Name, address and signature

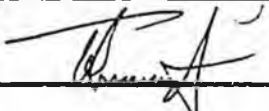
William E. Hansen 1150 Shim Williams Hwy Juneau

Julianna Patz

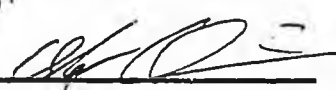
Julia Patz 11251 Great Hill Rd Juneau

Frederick Seltz 3101 Glenwood Dr Juneau

Amanda Frank 2201 Hill Dr Delta Junction, AK 99823

Tobin Cook 10965 Glacier Hwy 

Colleen Webb PO Box 276 Craig, AK 99921

Adam Davis P.O. Box 444 Haines AK 99823 

Patricia Bergerson HC 62 Box 5220 Delta Jct, AK 99737

Ray Anderson HC 60 Box 4859 D.J., AK 99737

Mary Ellis PO Box 271 Delta Jct AK 99737

Debra M'Alpine PO Box 1492 Delta Jct, AK 99737

Gloria Misyuk PO Box 710 Delta Jct AK 99737

SB30 is a bill that would require doctors to fully inform women of their options and of the risks involved in an abortion and require a 24 hour waiting period before an abortion can be performed. The bill has passed the state Senate and is in the House Judiciary Committee. Please return this petition to Eagle Forum Alaska, Debbie Joslin, PO Box 377, Delta Junction, AK 99737 11/04

**REAL MEN RESPECT  
A WOMAN'S RIGHT TO KNOW AND  
THINKING WOMEN WANT TO  
KNOW!  
PLEASE PASS SB30 ASAP!**

Name, address and signature

ROSANNE CURRAN Pox 42 Cordova AK 99574 ROSANNE CURRAN

Dean Curran Pox 41 Cordova, AK, 99574 Dean Curran

Robin Hansen Box 365 Cordova AK 99574 Robin Hansen

James Curran Box 42 Cordova AK 99574 James Curran

Chris Sanderson Box 62 Cordova AK 99574 Chris Sanderson

Mike Anderson P.O. Box 27111 Cordova AK Mike Anderson

Wanda Hansen P.O. Box 2155 Cordova AK Wanda Hansen

Paula Pershall P.O. Box 376 Delta Junction AK Paula Pershall

Genari Sorenson P.O. Box 1013 Delta Junction AK Genari Sorenson

Molly Reffjan Box 1098 Cordova AK 99574 Molly Reffjan

Angie Anderson Box 471 Cordova AK 99574 Angie Anderson

Debra Collins P.O. Box 1734 Cordova AK 99574 Debra Collins

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Name, address and signature  
Russell W. Gerson 2401 Tracy, Juneau AK  
Jerom L. [unclear] 3104. Hollywood Dr. Juneau 99801  
Toni M'Luoker Juneau AK  
Debra Ellis Juneau AK  
Thomas F. Weed 4428 Take Blvd Juneau AK 99801  
Lorraine Weed " " " Juneau  
Eureath Horning " " " "  
Andrew Vanskibe 4460 Columbia Blvd. Juneau AK 99801  
Debra Walker 8112 Pinewood Juneau 99801 Debra Walker  
Cynthia Harci i.c. Box 35506 Juneau AK 99803  
BLAIR HARCI  
Paul Hatch Box 34086 Juneau AK 99803

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Name, address and signature

Jim Braker 4231 Ptarmigan  
Francis Rodriguez P.O. Box 34846 Juneau AK 99803  
Debbie Banasak P.O. Box 21532, Juneau, 99802  
Mimi Meisak P.O. Box 32497 Juneau, 99803  
Katherine E. Fife 4515 Trafalgar Juneau AK 99801  
Sarah Mitchell 4326 Taku Blvd. Juneau AK 99801  
Mary Carson 8401 Deery Blvd Juneau AK 99801  
Sharon Hatch P.O. Box 34086 Juneau AK 99803  
Ronnie Marshall 9495 Meridian Way 99801  
Sandy King P.O. Box 32323 Juneau AK 99803

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*Journalist* Name, address and signature  
Donna Collins 1921 Bartlett Ave Juneau AK  
Janita Mill 9957 Stephen Richard #12 Juneau  
Paul ~~St~~ Robert Stitz 8293 Garnet St Juneau, AK 99801 VAC 99801  
Iva Small + David Small 3471 Meander Way Juneau 99801  
Kellie + Ronnie Kohua Box 34372 Juneau, AK 99803  
Floyd + Ronnie Rollings 8606 Marilyn, Juneau, AK 99803  
Larry and Roberta Sundberg 3150 Nowell Ave, Juneau, Ak. 99801  
JAMES W. Canary Box 32361 Juneau AK 99803  
Nancy J Miller 3345 Tongass Juneau AK 99801  
Kenie King 3803 ... AK 99801  
TERRY MURPHY 2402 ... AK 99801  
Susan Murray 3000 ... Juneau, AK

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Name, address and signature

Debra J. Davis 1660 Catalina Dr.  
Wasilla AK 99654

Debra J. Davis 1660 Catalina Dr.  
Wasilla, AK 99654 Debra J. Davis

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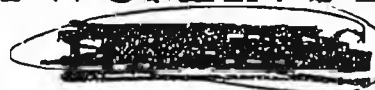
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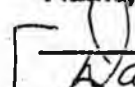
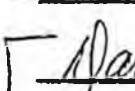

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 **MEN RESPECT**  
**A WOMAN'S RIGHT TO KNOW AND**  
 **WOMEN WANT TO**  
**KNOW!**  
**PLEASE PASS SB30 ASAP!**

Name, address and signature

	PHY. Address	
 Dana M. Godfrey	3340 E. Godfrey	Mailing address. HC 31 BX 5115 WASILLA, AK 99654
 Darlene Godfrey	3340 E. Godfrey Dr. Wasilla	= physical address
 Darlene Godfrey	HC 31 Bx 5115 Wasilla AK 99654	(mailing)

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Name, address and signature

Maria Sauer 86 Steelhead, Fairbanks, AK 99709 *Maria Sauer*  
Tom Barnhart 129 Minnie St #7, Fairbanks, AK 99701 *Tom Barnhart*  
Lizancy Moore 108 W. Idleness St, Fairbanks, AK 99710  
Nancy Biervenue, PO Box 58221, Fairbanks, AK 99711 *Nancy Biervenue*  
Ryann W. Moss P.O. Box 56574, North Pole, AK 99705

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Name, address and signature

Rachel Baurd, HC 34, Box 2732, Wasilla <sup>99654</sup> Rachel Baurd

Bernice A. Morte, HC 30 Box 12854, Wasilla AK

Shalin Livingston, 3582 N. New Lake Rd. Wasilla, Alaska <sup>99654</sup>

Nikolija Werner, P.O. 371941, Wasilla 99687

Donna Marlene Ratzliff, P.O. Box 872293, Wasilla, Alaska, <sup>99654</sup> Ratzliff

Aina Jordan, Box 52114, Big Lake, AK, 99652

Daromi Hauvo, Box 871943, Wasilla, AK 99687

Loretta K. Shumway, HC 34 Box 2751, Wasilla, AK, 99654

Maureen S. Alden, HC 34 Box 2154, Wasilla, AK, 99654

Ann D. Hill, P.O. Box 871943, Wasilla, AK 99654

Tamara Lehman, P.O. Box 278552, Medford, AK, 99629

Linda P. Madsen, P.O. Box 868, Willow, AK, 99658

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Deborah F. Hurl, P.O. 362 Houston, AK 99664

Bernice Morte, HC 30 Box 12854, Wasilla AK 99654

William E. Morte, P.O. Box 572094, Wasilla, AK, 99651

Aina Jordan, P.O. Box 52114, Big Lake, AK 99652

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Name, address and signature

Debra Joslin Debra D. Joslin Box 377, Delta Jet

Kari Thomas Kari Thomas Box 165 Delta Jet.

FRAN HALLGREN Sharon Hallgren Box 1203 Delta Jet.

Kailler Thomas Kailler Thomas Box 165 Delta Jet.

Lexie Thomas Lexie Thomas Box 165 Delta Jet.

Nancy Wilson Nancy Wilson Box 157 Delta Jet AK

Wendy Wilson Wendy Wilson Box 157 Delta Jet AK

Jesse Erickson Box 1203 Delta Jet AK 99737

Sheryl Smith Box 1017 Delta Jet AK 99737

Janet Smith HC 6712-1777 Delta Jet AK 99737

Bruce Grossmann PO Box 1284 Delta Jet AK 99737

Russell Rowland P.O. Box 1017 Delta Jet AK 99737

Pete Fellner P.O. HC 66 Box 4205 99737

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Name, address and signature

Cheryl L. McKenna Box 283 D1 Chugiak, Alaska

Charles E Abbott Box 4225 Chugiak E Abbott

Pauli Miller Box 1544 Delta

Debra Miller 7001 1/2 1st Avenue Delta

Terri Hollock Box 203 Delta AK 99737

BRENDA BURKE Box 101 Delta AK 99730 Brenda Burke

Donna Burrows Box 201 Delta AK 99737

Heather Turah Delta AK 99737 Heather Turah

Patrick Peltier Delta 413 Delta Junction AK 99737

Ann J. Nelson Box 307 Delta Junction, AK 99737

Wright Turner P.O. Box 155 Delta AK 99737

Tommy Wilson 1412 Barbara Road 9961

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Name, address and signature

Emily Joslin PO Box 377 Delta Jct AK Emily Joslin

Rebecca Bowdre PO Box 1048 Delta Jct, AK Rebecca Bowdre

Sussanna Bowdre PO Box 1048 Delta Jct, AK Sussanna Bowdre

Jason Bowdre PO Box ~~1048~~ 1048 Delta Jct, AK Jason Bowdre

Luke Bowdre PO Box ~~1048~~ 1048 Delta Jct, AK Luke Bowdre

Victoria Joslin PO Box 377 Delta Jct. AK Victoria<sup>Love</sup>

Tiana Shaver PO Box 926 Delta Jct. AK Tiana Shaver

Sheri Shaver PO Box 926 Delta Jct. AK S. Shaver

Rochelle Shaver PO Box 926 Delta Jct. AK

Gwendolyn A Jennings PO Box 383 Delta Jct AK

Elizabeth Jennings P.O. Box 383 Delta Jct. AK. 99737

Deborah Bowdre P.O. Box 1048 Delta Jct. AK 99737

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Name, address and signature

ARLiss MARSHALL, 2960 JASPER DR. WASILLA, AK 99654 *ArLiss Marshall*

Rita Wright, PO Box 521038, Big Lake, AK 99652 *Rita Wright*

Debra Romines PO Box 575910, Wasilla, AK 99687 *Debra Romines*

Janice McCredie, 5905 Bigich Dr, Wasilla AK 99654 *Janice McCredie*

Doyleanne Wade 1000 Tierra Grande Wasilla, AK 99654 *Doyleanne Wade*

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My name is Sara Chambers, I live at 4382 Taku Boulevard in Juneau, and I am here to speak in opposition to Senate Bill 30 and House Bill 292.

I am a voter, the mother of a 16-week-old son, and—as a woman of childbearing age—have given a great deal of thought to the pro-choice/pro-life debate.

During consideration of each side, one constant has remained: the belief that if a woman is informed of the medical consequences of her decision to terminate her pregnancy, she will make the decision against abortion.

This belief, though, is predicated by the concept of **free**, meaning **unforced**, access to **unbiased** information developed and governed by professional medical science. The bills you are considering **do not meet** those two criteria; they are dangerous because they put the Alaska State Legislature in ultimate control over the medical information provided to the public. The medical staff selected to serve on the governing board put forth by this legislation will **ultimately be beholden to the legislature**, and perhaps more disturbingly, the party that holds the majority at any given time—most of whom, as far as I am aware, are not medical doctors.

I find these bills to further be disturbing because they would **coerce one small segment of the population** into listening to this potentially biased advice. When I became pregnant a year ago, as an Alaskan, I had the ability to choose to receive medical care—or not. I could choose the level of medical care provided during my child's birth—at home, at a birthing center, or at a hospital. The State never contacted me to discuss my options, my prenatal care, or the health of the fetus. I, like all Americans, was free to learn all I wanted about my medical condition: to consult a doctor, a free clinic, or one of perhaps thousands of medical and lay Web sites and books. Or to do none of these things. These bills propose to discriminate between classes of pregnant women, which is an offensive, if not unconstitutional, practice.

Furthermore, I am not sure why the State would wish to spend funds to create a "medical" Web site when many, many already exist. This is a redundant and wasteful use of our much-needed public dollars—particularly in such a time of fiscal crisis in our state. Surely there are more efficient ways to help Alaskan families than by the creation of yet another Web site offering government-controlled pseudo-medical advice.

The most alarming aspect of these bills, however, is the statement being made by any legislator supporting this legislation that he or she believes it is acceptable for the government to force its citizens to receive biased government "advice" on any medical procedure. This is **not** the role of government, and I find it frightening that our legislators would want to place what should be a private discussion between a doctor and patient under public duress. This is a slippery slope, and I would urge you to think about this message and its consequences before you vote.

Senate Bill 30 and House Bill 292 are dangerous proposals because they would **force** Alaskans to listen to biased information that is not ultimately rooted in science but party politics, they ensure a waste of precious public dollars at a time of fiscal crisis, and they place you—our legislators—between a patient and a doctor or other freely-chosen medical professional.

Please vote against these bills. Thank you.

Celia Rozen  
3711 Amber Bay Loop  
Anchorage, Alaska 99515

House Judiciary Committee  
Representative Lesil McGuire, Chair

To Committee members:

I would like to state my opposition to HB 292. This bill purposely discriminates against women. Abortion is just one of many medical procedures a human being may be faced with in terms of a lifetime of medical care. Many other procedures are potentially life-changing or serious. However, the government has not chosen to intervene in the decision-making process of citizens facing these choices. The choice to terminate a pregnancy has been uniquely singled out as one requiring government intervention in the decision-making process. This is because abortion is a politically charged issue and this bill is nothing less than a tactic to delay or discourage women from choosing abortion as a solution to an unwanted or harmful pregnancy. *In statute form of a*

For instance, this bill in section (a)(7) mandates that "objective, unbiased information" be made available about the "possible psychological effects that have been associated with having an abortion." However, many studies published in peer-reviewed professional psychology journals analyze multiple year data in detail on this topic. Many of these studies indicate the incidence of psychological damage from an abortion decision is very low. In one case (Major, et al, 2000), as low as 1% in terms of post-traumatic stress disorder<sup>(1)</sup>. The notion that this information would be "unbiased" is entirely contradictory, as it results from policy that is not "unbiased". This proposed statutory provision presupposes that the incidence of psychological damage is sufficiently high to warrant the necessity of a government-mandated program. Where is the scientific evidence for such a policy decision? If clear peer-reviewed scientific evidence does not exist, what is the justification for the mandate, unless the government's real intent is to forestall a women's decision to choose an abortion.

This bill has the potential to carry forward the work of those groups whose mission is to limit women's reproductive choices, and to stall important decisions with its one-day waiting period. It is insulting to women who in most cases, are capable of performing their own research and come to this decision prepared. Doctors already spend a great deal of time with patients discussing pregnancy options, and to counsel women who choose abortion. This is not a duty of the state. This bill is full of bias against women having reproductive freedom. The choice of the term "unborn child" in the bill is a biased expression of the term "fetus." This is not mere semantics, it is a well-recognized attempt to undermine the legal protections for abortion afforded by Roe v. Wade.

For the record, I'd like to state that I am also opposed to the parental consent provision of HB 292, as in cases of non-consent, the use of illegal or self-induced abortion could be the only recourse, again compromising reproductive freedom afforded by Roe v. Wade.

<sup>(1)</sup> Citation: Major, B., Cozzarelli, C., Cooper, M. C., Zubek, J., Richards, C., Wilhite, M., & Gramzow, R. H. (2000). Psychological responses of women after first-trimester abortion. Archives of General Psychiatry, 57, 777-784.

**Subject: Oppose HB 292 Biased Consent!**

**Date:** 10 Feb 2004 21:24:25 -0000

**From:** mashburn@gci.net

**To:** Representative\_Lesil\_McGuire@legis.state.ak.us

Representative Lesil McGuire  
Alaska State Legislature  
State Capitol, MS 3100  
Juneau, AK 99801

Dear Representative McGuire,

I strongly urge you to oppose House Bill 292. This legislation discriminates by creating excessive undue burden for the women of Alaska who seek an abortion.

HB 292 includes burdens such as requiring a patient to review State prepared information that uses biased language such as "unborn child", as well as a mandated 24-hour waiting period prior to the procedure. This mandate clearly discriminates against women seeking abortion. Women who decide to carry their pregnancy to term are NOT required to wait 24 hours prior to receiving prenatal care.

In addition, a woman seeking an abortion must be able to prove either that she is a resident or has been physically present in Alaska for the last 30 days. If she does not meet this criteria she will be forced to wait which could possibly put her health at risk. Again, a woman seeking prenatal care need not prove residency prior to receiving prenatal care.

HB 292 not only discriminates but also is unnecessary. Physicians and clinics are already required and DO provide patients the necessary information to ensure that they are able to make an informed decision regarding ANY surgical procedure, including abortion. For the past two legislative sessions when the companion bill to HB 292, SB30, was heard in the Senate, doctors testified on record that physicians already spend a great deal of time counseling their patients and advising them of their options before performing an abortion or any other surgical procedure! HB 292 unjustly singles out the abortion procedure.

The intent of HB 292 is clear. Once again, this bill represents another attempt to interfere with the Doctor-Patient relationship and discriminates solely based on a woman's reproductive choice.

I strongly urge you to vote against HB 292.

Sincerely,

Suzette Mashburn  
12800 Alpine Drive  
Anchorage, Alaska 99516-3124

**Subject:** [Fwd: Judiciary Testimony]  
**Date:** Thu, 12 Feb 2004 11:21:51 -0900  
**From:** Lesil Mcguire <Representative\_Lesil\_Mcguire@Legis.state.ak.us>  
**Organization:** Alaska State Legislature  
**To:** Vanessa Tondini <Vanessa\_Tondini@legis.state.ak.us>

----- Original Message -----  
Subject: Judiciary Testimony  
Date: Wed, 11 Feb 2004 21:19:59 -0500  
From: Thedaak1@cs.com  
To: representative\_lesil\_mcguire@legis.state.ak.us

Dear Rep. McGuire,

Thank you for the hearing on HB292. The bottom of this message is a copy of my testimony.

Would you please fax me a copy of the AG opinion to 907-258-1559. No need for a cover sheet. Thanks!

Theda S. Pittman  
PO Box 241513, Anchorage, AK 99524  
Ph 907-229-6225, Fx 907-258-1559, Email thedaak1@cs.com

House Judiciary, February 11, 2004, 1 PM.  
Testimony on HB 292.

My name is Theda Pittman, my address is Box 241513, Anchorage.

I would like to address the public policy implications of HB292. Those who testify in favor and those who testify against such laws have strong feelings; laws regulating abortion must strike a balance between two poles " when is a fetus entitled to legal protection and when is a pregnant woman entitled to make her own decision about terminating a pregnancy?

Finding the appropriate balance for state regulation is complex matter " you must take into account health issues as well as privacy issues and legal issues.

In the last 5-6 years in Alaska we have seen what happens when lawmakers import model legislation from elsewhere -- Legislation that is designed to challenge the federal standard set out by Roe v. Wade. Time, energy and money are spent in court by the state as well as those who've challenged those laws. (Those who championed such restrictions may have spent some funds filing amicus briefs or monitoring the case but essentially they are free to sit back and watch plaintiffs and the state pay the bills.)

The State does have a legitimate interest in pregnancy and the outcome of pregnancy, but the best place to look for guidance regarding abortion is in Roe v. Wade. This federal decision is condemned by those who might like to see all abortion outlawed " in some cases those same people would condemn any birth control as destructive of life.

But Roe is very clear " its use would allow the state to properly assert its position with respect to the balance between the developing life of the fetus and the existing person, the pregnant woman.

Under the terms of Roe, a State may outlaw abortion: after fetal viability, and with exceptions for rape, incest, the health and the life of the pregnant woman.

Such a restriction would adequately cover the myths of women aborting full term pregnancies moments before birth. After viability, a pregnant woman may not want to have a child, but with the exception of those situations described in Roe, will be looking at the question of adoption rather than abortion.

Using Roe as your public policy standard for legislation will not satisfy those who want the State to insist that women be forced to carrying every pregnancy regardless of gestation period, the circumstances of the impregnation or the condition of the fetus.

It will however, allow the State to assert its interest in developing life without trampling over women. With a proposal such as the one before you, you are put in the position of demanding to be present in the examining room. I can't think of anything more like Big Brother " and Alaskans cherish their autonomy.

Please put a stop to this proposal about informed consent.

**Subject:** Re: HB292 - follow-up information  
**Date:** Thu, 12 Feb 2004 10:56:40 -0900  
**From:** Gwen Hall <gwendolyn\_hall@gov.state.ak.us>  
**Organization:** Alaska Lt. Governor's Office  
**To:** Vanessa Tondini <vanessa\_tondini@legis.state.ak.us>

I did Vanessa - thank you for getting that to me so quickly.

Please do mail me a copy of the bill packet. My address is:  
550 W. 7th Ave, Suite 1700  
Anchorage, AK 99501

Thank you for the heads up on the meeting next week. Looks like it will be an interesting discussion.

Gwen

Vanessa Tondini wrote:

Hi Gwen,

Hopefully you received the CS that Ryan in our office faxed to you yesterday. The bill packets are too large to fax, so can I mail or pouch all the materials to you? FYI, both HB 292 and SB 30 will be heard again next Wed., 2/18.

Please send me your address and let me know what materials you would like a copy of.

Thanks. Vanessa

Gwen Hall wrote:

Vanessa -

Could you please send me any back-up that was given for this bill including the information Representative Gruenberg requested?

Thank you very much! I really appreciate your help!

Gwen

--  
Gwen Hall  
Special Assistant - Faith-Based & Community Initiatives  
Office of Lieutenant Governor Loren Leman  
State of Alaska  
(907) 269-7460

--  
Gwen Hall  
Special Assistant - Faith-Based & Community Initiatives

## Alaska Civil Liberties Union

*An Affiliate of the American Civil Liberties Union*

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

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

To: Rep. Lesil McGuire, Chair, and Members of the House Judiciary Committee  
From: Jennifer Rudinger, Executive Director  
Date: February 11, 2004  
Re: Comments on House Bill 292 – Requirements for Informed Consent for Abortion

Dear Rep. McGuire and Members of the House Judiciary Committee:

Unfortunately, I am unable to call in for today's hearing on HB 292, but I would appreciate the opportunity to alert you and the Committee to some of our concerns about this bill, and I ask that these comments be distributed to the Committee and included in the bill packets.

HB 292 raises a number of constitutional concerns and questions, and we wish to go on record opposing the bill. HB 292 singles out one specific medical procedure – abortion – and imposes extra burdens on women seeking to exercise their fundamental constitutional right to terminate their pregnancy. For example, for no other medical procedure is a 24-hour waiting period required. Women who do not have access to the Internet and who cannot use a phone line in privacy without being overheard would likely have to undergo an extra visit to the doctor's office – once to receive the state-mandated counseling, and then a second time, 24 hours or more later, to be able to give informed consent for the procedure.

Furthermore, a waiting period insults women by implying that they have not thought through this medical decision and that they need to go home and reconsider before their informed consent will be deemed valid. Women seeking to carry their pregnancy to term are not forced to receive counseling that encourages them to consider other options. Thus, the only logical conclusion is that this bill is intended to discourage women from exercising their right to choose because only these women are being directed by the state to go "think it over again" before they will be allowed to give informed consent. For the past two sessions that this bill has been introduced, doctors have repeatedly and consistently testified on the record that physicians already spend a great deal of time counseling their patients and advising them of their options before performing abortion or any other surgical procedure. HB 292 is unnecessary.

There are incorrect definitions in the bill that include:

-- "unborn child" means the offspring of a human being in utero at various stages of biological development.

-- "gestational age" means the age of the unborn child as calculated from the first day of the last menstrual period of a pregnant woman. [Note the use of the biased, non-medical term "unborn child," which appears throughout the bill.]

-- "relevant information about the possibility of an unborn child's survival at various gestational ages" is something that people in the medical field do not agree on. The gestational age of "viability" is hotly debated and shifts with developing technology (and the availability of that technology).

Finally, in reviewing this bill, we noticed that it purports to amend AS 18.16.010(a), and we wish to alert the House Judiciary Committee to a provision in that existing law that this Committee should delete in order to protect women's constitutional rights. The 30-day residency/physical presence requirement in 18.16.010(a)(4) raises serious constitutional concerns, and we strongly urge this Committee to remove that requirement from existing statutes.

Thank you very much for your consideration of this matter. Please feel free to contact me at (907) 258-0044 if I may be of further assistance.

Sincerely,



Jennifer Rudinger  
Executive Director

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**MEMORANDUM**

**DATE:** February 11, 2004  
**TO:** House Judiciary Committee  
**FROM:** carolyn V. Brown  
**SUBJECT:** Hearing – House Bill 292

Having read through HB 292 and considered its contents for legislation that might address the issues of women's reproductive health, pregnancy, abortion, and contraception, I have attached questions and comments for your consideration as you deliberate these concerns for women.

Please let me know if I can answer questions or provide additional information or evidence-based support for your discussions. There is ample evidence-based medicine information to support our discussion with you all.

Thank you for these considerations.

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House Bill 292

Questions and Considerations

- The bill speaks of pregnant women, abortion, contraception, full term pregnancy, and informed consent. What is the bill actually addressing? Please clarify for the public in Alaska.
- The bill appears to be discriminatory in that the informed consent mandated for women who elect abortions is not also mandated for all pregnant women. It has been my professional experience as an obstetrician-gynecologist of some 40 years in practice that there are women who anticipate carrying a pregnancy to term and elect a different

plan when they understand the risks/benefits of that decision. There are women who anticipate an abortion but elect a different plan when they understand the risks/benefits. Please be clear on equality for all pregnant women or change the language of the legislation. Women deserve this.

- The state indicates an interest in protecting the life and health of pregnant women. Does health include both physical and mental health in Alaska? Please clarify.
- In as much as the information about obstetrics is extremely dynamic (not static), a one-time web site will not suffice or be accurate. How will the intervals of update be established? Who will pay for this? Who will the ongoing experts be to provide protection of the public's health?
- Any language that proposes information must include the risks/benefits and potential consequences of full term pregnancy. How will this be assured? We know that full term pregnancy carries a far greater risk to death and morbidity to women than does an abortion. If you need more information on this, please let me know.
- Please clarify for Alaskans just what is "judicial economy and resources".
- Please clarify for Alaskans just what has been the "costly and undue litigation". Where has the money gone? Data is invaluable in decision – making.
- If information is to be provided, virtually ever practice, site, agency, service, clinic, individual, and facility would be required to be listed on the web site. Who will keep up with this "dynamic" (and it will be dynamic) so that Alaskan women have the information intended in the legislation?
- If all agencies, services, clinics, and facilities that provide contraceptive options (and how did that get here?), that would - of course include all pharmacies and outlets where condoms and spermicides are provided. Is the web site prepared to deal with this in a responsible way for appropriate patient care? Who will do this work? Who will pay for this?
- It would seem appropriate and prudent to use correct terminology when dealing with health and medical issues. Philosophical and personal

definitions have no place in legislation. There are enormous differences among definitions for embryo, blastocyst, propositus, fetus, and child. Use of correct terminology in the development of parlance is appropriate for Alaska legislation.

- Would suggest that the language of the "sperm donor" for the pregnancy be changed to "the male involved with the pregnancy" or "sperm donor". Please call it what it is. We do "anonymize" the woman involved with "pregnant women (female)", don't we?
- How long will it take to view this information on the internet? There is a limit to just how much the average person can take in addresses, names, pictures, disclaimers, printed forms, and a detailed presentation of risks/benefits in the midst of a pregnancy that may be wanted or unwanted. Please – come, let us be fair...
- At what reading level will this information be? Who will provide the oversight? At what cost to the state of Alaska?
- Would this law mandate that all physicians' offices where pregnancy termination is done must be registered? What are the criteria? What are the medical and surgical mandates? Who will oversee this?
- What is the reason for the 30 day waiting period? It is clear that there are more risks as pregnancy continues – both for abortion and for pregnancy to term. What is the reason for this mandate? This makes no practical sense to physicians who provide care for women.
- Who will pay for this paper work, forms to be printed, record keeping, transmission and update of the web site?
- All pregnant women need informed consent – whether they elect abortion or carry a pregnancy to term. To do otherwise is to discriminate. Women must have informed, accurate, scientific and appropriate information.

**Subject: SB 30 / HB 292**

**Date:** Wed, 18 Feb 2004 09:37:47 -0900

**From:** Vicki Halcro <[vicki.halcro@ppfa.org](mailto:vicki.halcro@ppfa.org)>

**To:** [Vanessa\\_Tondini@legis.state.ak.us](mailto:Vanessa_Tondini@legis.state.ak.us)

Hello!

Frequently anti-choice advocates mention the unsubstantiated link between abortion and breast cancer. I have included the latest fact sheet from Planned Parenthood Federation of America regarding this issue for your review. I hope it is of assistance to you and Representative McGuire. Would it be possible to distribute it to the other committee members of Judiciary?

As I side note, yesterday there was an article in the Anchorage Daily News linking women's usage of antibiotics with breast cancer. I really cannot speak to this claim but found it interesting.


Please let me know if I can be of any assistance to you!

Thanks,  
Vicki Halcro  
Director of Public Affairs and Marketing  
Planned Parenthood of Alaska  
907.770.9715

Join the March for Women's Lives!

Be a part of history. The time is right for a public demonstration of historic size in support of reproductive freedom. March with over a million others in Washington DC, Sunday, April 25, 2004. [www.marchforchoice.org](http://www.marchforchoice.org)

Meet other Alaskans who are attending the March by signing up for Meet Up at <http://marchforchoice.meetup.com>

 <a href="#">brcancer2-04.doc</a>	<p><b>Name:</b> brcancer2-04.doc <b>Type:</b> WINWORD File (application/msword) <b>Encoding:</b> base64 <b>Download Status:</b> Not downloaded with message</p>
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## Anti-choice Claims About Abortion and Breast Cancer

Undaunted by the absence of compelling evidence associating induced abortion with a woman's risk of developing breast cancer, anti-choice extremists insist on making the connection anyway. Once more they are using misinformation as a weapon in their campaign against safe, legal abortion. In the guise of an ostensible concern for women's health, these ideologues point to inconclusive, and at times flawed, studies for alleged evidence of a possible association, while ignoring or dismissing overwhelming evidence that induced abortion does not place women at greater risk of breast cancer. Anti-choice zealots have drawn highly questionable conclusions to develop "public education" campaigns such as the advertisements sponsored by Christ's Bride Ministries that appeared on public transportation vehicles in Philadelphia warning that "women who choose abortion suffer more and deadlier breast cancer" (Slobodzian, 1999). These misinformation campaigns have used many forms of media and advertising to mislead women about abortion, including television, billboards, bumper stickers, and print ads (Simon, 2002). Anti-abortion foes are also lobbying for legislation that would require telling women who are considering abortion that having one would place them at an increased risk for breast cancer (Querido, 1999).

Anti-choice claims linking abortion and breast cancer fly in the face of scientific evidence. The National Cancer Institute (NCI), the American Cancer Society (ACS), and the The American College of Obstetricians and Gynecologists (ACOG) have all refuted the reliability of such an association (ACS, 2003; ACOG, 2003; NCI, 2003).

In February 2003, NCI convened the Early Reproductive Events and Breast Cancer Workshop to "provide an integrated scientific assessment of the association between reproductive events and the risk

of breast cancer." After reviewing the body of scientific literature, NCI concluded that "Induced abortion is not associated with an increase in breast cancer risk" (NCI, 2003).

In August 2003, after conducting its own review of the scientific literature, ACOG issued a committee opinion concluding that "early studies of the relationship between prior induced abortion and breast cancer risk have been inconsistent and are difficult to interpret because of methodologic considerations. More rigorous recent studies argue against a causal relationship between induced abortion and a subsequent increase in breast cancer risk" (ACOG, 2003).

### Reproductive Factors and Breast Cancer

While researchers do not know what causes breast cancer, reproductive factors have been associated with risk for the disease since the 17th century, when breast cancer was noted to be more prevalent among nuns. It is known that having a full-term pregnancy early in a woman's childbearing years is protective against breast cancer, and some studies have also indicated that breastfeeding, especially in women who are young when they give birth, may reduce a woman's risk of developing the disease. A woman's age at menarche and menopause also influence her risk for breast cancer, with earlier onset of regular menstrual cycles and later age at menopause associated with higher risk (Kelsey & Gammon, 1991). However, the best available evidence — from large population-based cohort studies — shows no net effect that induced abortion places women at increased risk for developing breast cancer (ACOG, 2003; ACS, 2003; Bartholomew & Grimes, 1998; NCI, 2003).

### Hypothesis: Hormones Lead to Breast Cell Differentiation

The theory linking pregnancy termination and breast cancer is based on the hormonal disruption that occurs when a woman's pregnancy is interrupted. Pregnancy initiates a surge of sex hormones (estrogen, progesterone, and prolactin), which leads to differentiation of the cells in the breast glands in preparation for lactation. The changing concentrations of hormones during the second and third trimesters of pregnancy lead to increased differentiation. In a first pregnancy, the results of these hormonal changes permanently alter the structure of the breast. Adherents of this theory claim that interruption of the first trimester of a first pregnancy causes a cessation of cell differentiation that may result in a subsequent increase in the risk of cancerous growth in these tissues (Brumsted & Riddick, 1990; Westhoff, 1997). Attempts to prove this theory, however, have failed.

### Many Factors Contribute to Inconclusive Study Results

At least 80 research studies worldwide have collected data about breast cancer and reproductive factors such as childbirth, menstrual cycles, birth control pills, and abortion. Approximately 30 studies have examined the risk of developing breast cancer for women who have had abortions. Researchers at the National Cancer Institute, the American Cancer Society, the Royal College of Obstetricians and Gynecologists, the World Health Organization, and major universities say that the most reliable studies show no increased risk, and they consider the entire body of research inconclusive (ACS, 1999; NCI, 2002; Rosenfield, 1994; RCOG, 2001; WHO, 2000).

A number of factors may render a study unreliable:

- Miscarriages and induced abortion affect a woman's body differently but many studies have not distinguished between them.
- Many women do not report miscarriages because they are unaware they have had them.
- Abortions are often unreported because of the privacy of the decision to terminate a pregnancy.

- Some studies have not examined the possibly different effects of abortion after or before a full-term pregnancy.
- Other studies have not been careful to examine the impact of age at the time of abortion and age at the time of first childbirth.
- Many studies have been too small to be statistically significant. (Wingo *et al.*, 1997; NCI, 2002).

### Two of the Strongest Studies Published to Date Show no Overall Relationship Between Induced Abortion and Breast Cancer

One of the most highly regarded studies on abortion and breast cancer was published in the *New England Journal of Medicine* in 1997. This study of 1.5 million women found no overall connection between the two (Melbye *et al.*, 1997). This study benefited from its size — 1.5 million women — and by linking data from the National Registry of Induced Abortions and the Danish Cancer Registry, thereby avoiding one of the pitfalls observed in some case-control studies — that women with breast cancer were more likely to recall having had an induced abortion than women without breast cancer, particularly because abortion had been illegal (Brody, 1997; Westhoff, 1997). An accompanying editorial on the results of the study led the writer to conclude that, "in short, a woman need not worry about the risk of breast cancer when facing the difficult decision of whether to terminate a pregnancy" (Hartge, 1997).

Another large cohort study was done in Sweden. It followed, for as long as 20 years beginning in 1966, 49,000 women who had received abortions before the age of 30. Not only did the study show no indication of an overall risk of breast cancer after an induced abortion in the first trimester, but it also suggested that there could well be a slightly reduced risk. Among women who had given birth prior to induced abortion, the relative risk for breast cancer was 0.58; for those who had never given birth, the relative risk was 1.09; for the total sample, the relative risk was 0.77 (Lindfors Harris *et al.*, 1989).

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\* The risk of disease in one group, here in women who experienced an induced abortion, divided by the risk of disease in a control group. If the relative risk is 1, both groups have the same likelihood of developing the disease. A number higher than 1 indicates an increased risk and a number lower than 1 indicates a decreased risk.

### Studies Published During the Past 20 Years Offer Mixed Results

Before Melbye's seminal study appeared in 1997 in the *New England Journal of Medicine*, the body of published research showed inconsistent and inconclusive evidence — some found abortion to have a protective effect, others found a slightly elevated risk. Many of these studies were hindered by the small sample size, others failed to distinguish between induced and spontaneous abortion, and others did not take confounding factors into account (NCI, 1999).

- A 2001 population-based case-control study of women in China sought to determine whether there was an association between induced abortion and breast cancer. Abortion is common and well-accepted in China, so women involved in this study would not be prone to underreporting their abortion histories — a problem which has rendered other studies unreliable. Because of the small number of women in the study who had never had a live birth, only women who had at least one live birth were included in the analysis. The study compared 1,459 women with breast cancer with 1,556 controls. No relation was found between ever having an induced abortion and breast cancer. Additionally, women who had three or more induced abortions were not at greater risk of breast cancer than other women (Sanderson, *et al.*, 2001).
- Another case-control study of women who had at least one child was conducted in Washington State to examine the relationship between induced abortion and breast cancer. A cohort of women who gave birth between 1984 and 1994 were identified. From this cohort, 463 women who developed breast cancer were each matched with five control women. Induced abortion was not found to increase the risk of developing breast cancer — the relative risk for breast cancer was 0.9 among women who had ever had an induced abortion (Tang, *et al.*, 2000).
- A 1999 population-based case-control study examined data from the Carolina Breast Cancer Study to determine what, if any, connections exist between induced abortion and other reproductive events in adolescence and the development of breast cancer later in life. The authors reported that neither induced nor spontaneous abortion during adolescence was connected to an increased risk of breast cancer. They did, however, observe that breastfeeding conferred some protection against breast cancer (Marcus *et al.*, 1999).
- In 1996, Joel Brind and colleagues published a meta-analysis of 28 published reports describing 23 studies on induced abortion and breast cancer. Based on these studies, the authors calculated that induced abortion places women at a slightly increased risk for developing breast cancer (Brind *et al.*, 1996). This analysis has been criticized for attempting to calculate the odds for developing breast cancer from widely varying studies (Blettner *et al.*, 1997), some of which have been criticized for methodological flaws and for failing to calculate their results from the raw data of the original studies (Melbye *et al.*, 1997).
- A 1994 study, published in the *Journal of the National Cancer Institute*, was a case-control study of 845 women in Washington State who were diagnosed with breast cancer from 1983 through 1990, and of 961 controls. The study found that among women who had been pregnant at least once, the risk of breast cancer in those who had experienced an induced abortion was 50 percent higher than among other women. Highest risks were observed when the abortion was done at ages younger than 18. No increased risk was associated with a spontaneous abortion. However, the study was relatively small, lacked objective measures for establishing pregnancy duration, and was susceptible to reporting bias, since a breast cancer diagnosis may influence a woman's recall or disclosure of her reproductive history. The authors reported that the study's limitations "argue against a firm conclusion at this time" and called for further research (Daling *et al.*, 1994). An editorial that accompanied the report said that "it is difficult to see how [the study results] will be informative to the public" (Rosenberg, 1994).
- A 1989 study matched 1,451 women in New York State whose breast cancer was reported from 1976-1980 with controls of equivalent age and residence (Howe *et al.*, 1989). The study examined state health records for the prior incidence of abortion or