

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

11141 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

1 \* **Sec. 15.** AS 13.26.332(L), 13.26.335(1), 13.26.344(I); AS 13.50.010, 13.50.014,  
2 13.50.016, 13.50.020, 13.50.030, 13.50.040, 13.50.050, 13.50.060, 13.50.065, 13.50.068,  
3 13.50.070, 13.50.080, 13.50.090; AS 18.12.010, 18.12.020, 18.12.030, 18.12.035, 18.12.037,  
4 18.12.040, 18.12.050, 18.12.060, 18.12.070, 18.12.080, 18.12.090, 18.12.100; AS 47.30.950,  
5 47.30.952, 47.30.954, 47.30.956, 47.30.958, 47.30.960, 47.30.962, 47.30.964, 47.30.966,  
6 47.30.968, 47.30.970, 47.30.972, and 47.30.980 are repealed.

7 \* **Sec. 16.** The uncodified law of the State of Alaska is amended by adding a new section to  
8 read:

9 CONTINUING EFFECT OF EXISTING DOCUMENTS. (a) An anatomical gift  
10 made under AS 13.50 or AS 18.12, repealed by sec. 15 of this Act, before the effective date of  
11 secs. 1 - 15 of this Act continues in effect under AS 13.50 or AS 18.12, as those chapters exist  
12 before the effective date of secs. 1 - 15 of this Act, until the donation is revoked.

13 (b) A power of attorney that is made under AS 13.26.332(L), 13.26.335(1), or  
14 13.26.344(I), repealed by sec. 15 of this Act, before the effective date of secs. 1 - 15 of this  
15 Act and that contains authority for health care services under AS 13.26.332(L),  
16 AS 13.26.335(1), or 13.26.344(I), repealed by sec. 15 of this Act, continues in effect under  
17 AS 13.26.332(L), 13.26.335(1), and 13.26.344(I), as those provisions exist before the  
18 effective date of secs. 1 - 15 of this Act, until the power of attorney is revoked.

19 (c) A declaration made under AS 18.12, repealed by sec. 15 of this Act, before the  
20 effective date of secs. 1 - 15 of this Act continues in effect under AS 18.12, as that chapter  
21 exists before the effective date of secs. 1 - 15 of this Act, until the declaration is revoked.

22 (d) A declaration made under AS 47.30.950 - 47.30.980, repealed by sec. 15 of this  
23 Act, before the effective date of secs. 1 - 15 of this Act continues in effect under  
24 AS 47.30.950 - 47.30.980, as those sections exist before the effective date of secs. 1 - 15 of  
25 this Act, until the declaration is revoked.

26 \* **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to  
27 read:

28 EFFECT ON EXISTING INSURANCE POLICIES AND ANNUITIES.  
29 AS 13.52.120(c), added by sec. 3 of this Act, does not apply to a policy of insurance or an  
30 annuity that was entered into before the effective date of secs. 1 - 15 of this Act.

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

1 read:

2 TRANSITION: REGULATIONS. The Department of Health and Social Services  
3 may proceed to adopt regulations necessary to implement the changes made by secs. 1 - 15 of  
4 this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not  
5 before January 1, 2005.

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

8 CONTINUING EFFECT OF CURRENT REGULATIONS. (a) The regulations  
9 found at 7 AAC 16, as modified by (b) of this section, continue in effect on and after  
10 January 1, 2005, until the Department of Health and Social Services adopts the regulations  
11 authorized under sec. 18 of this Act.

12 (b) The regulations attorney in the Department of Law shall

13 (1) in 7 AAC 16.010(a), replace the reference to "AS 18.12.035(b)" with  
14 "AS 13.52.065(b)";

15 (2) in 7 AAC 16.010(d)(4), replace the reference to "AS 18.12.090" with  
16 "AS 13.52.150";

17 (3) in 7 AAC 16.010(f) and (g), replace the reference to "AS 18.12" with  
18 "AS 13.52";

19 (4) in 7 AAC 16.090(1), replace the reference to "AS 18.12.100" with  
20 "AS 13.52.390";

21 (5) in 7 AAC 16.090(3), replace "'do-not-resuscitate order" in AS 18.12.100"  
22 with "'do not resuscitate order" in AS 13.52.390."

23 \* Sec. 20. Section 18 of this Act takes effect immediately under AS 01.10.070(c).

24 \* Sec. 21. Except as provided in sec. 20 of this Act, this Act takes effect January 1, 2005.

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# ALASKA STATE LEGISLATURE

*Chair*  
FISHERIES

*Vice-Chair*  
EDUCATION

*Member*  
HEALTH, EDUCATION AND SOCIAL SERVICES

*Member*  
STATE AFFAIRS



**REPRESENTATIVE PAUL SEATON**  
House District 35

*Session:*  
State Capitol Building  
Juneau, Alaska 99801  
Phone 907-465-2689  
Fax 907-465-3472  
1-800-665-2689  
Rep.Paul.Seaton@legis.state.ak.us

*Interim:*  
345 W. Sterling Highway  
Suite 102B  
Homer, Alaska 99603  
Phone 907-235-2921  
Fax 907-235-4008

## MEMORANDUM

*Fred*  
**TO:** Senator ~~Fred~~ Dyson, Chair  
Senate HESS Committee

*PS*  
**FM:** Representative ~~Paul~~ Seaton

**DATE:** March 13, 2003

**RE:** Committee Hearing for HB 51

At your earliest convenience could you please schedule House Bill 51 for a committee hearing. Attached you will find a copy of the bill and a sponsor statement. If you have any questions please feel free to call me anytime or speak with my lead staff, Chris Knight at ext. 6867

# Alaska State Legislature

State Capitol, Room 428  
Juneau, AK 99802  
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345 W. Sterling Highway  
Suite 102B  
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## REPRESENTATIVE Paul Seaton

District 35

### Sponsor Statement

#### CS HB 51 (HES)

**"An act requiring pharmacists to include generic drug information on containers in which brand-name prescriptions drug orders are dispensed."**

As medical technology advances, many citizens, especially our seniors, are taking many different prescription medications to live a longer, healthier life. Seniors receive prescriptions from many different sources, AARP, internet pharmacies, mail order companies, insurance companies and local pharmacies. Increased sources of prescription drugs, may lead people to accidentally take multiple medications of the same drug, which could be sold brand or generic names. Double dosing may cause severe over-medication leading to serious side effects or even be life-threatening. House Bill 51 was introduced to safeguard Alaskans from overdosing on the same medication, but labeled under different names.

HB 51 requires state pharmacists to include the generic drug name on containers in which a brand-name prescription drug is dispensed. Under this bill, if a person receives a prescription for drug X, then the generic equivalent would be required to be listed on the label as well. This additional requirement would allow consumers to identify duplicate medications.

One recent case involves a woman with Parkinson's disease. The woman placed an order with her insurance company for a particular drug, which they shipped in the generic form arriving about ten days later. In the meantime, the woman went to her local pharmacy and refilled her brand name prescription. Weeks later, her family became increasingly worried when the woman began hallucinating. The family and her doctor were concerned after learning that the woman was double-dosing on the same drug. If the woman would have had the additional labeling requirement required by HB 51, the woman and her family would have been able to quickly identify her accidental double-dosing.

While no statistics directly measure the extent of the double-dosing problem in Alaska, elderly administrators have implied that it is a serious problem. Providing one extra piece of information when prescriptions are filled could immeasurably help in saving lives. HB 51 simply requires additional generic labeling on all brand-name prescriptions filled in the state, to inform and safeguard all Alaskans from over-dosing on the same medication.

The CS version of the bill made a technical change. The change allows all pharmacies to utilize their current computer system in listing the generic name. The old version of the bill required that the generic name be listed in parenthesis below the name-brand drug. This requirement did not conform to each particular pharmacy, which may have different operating computer software.

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
Bill Version: CSHB 51(HES)  
(H) Publish Date: 2/14/03

Revision Date/Time (Note if correction):  
Title An Act requiring pharmacists to include generic drug information on containers....  
Sponsor Representative Seaton  
Requester House Health Education & Social Services

Dept. Affected: DCED  
BRU Occupational Licensing (117)  
Component Occupational Licensing  
Component No. 2360

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156-Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0

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 legislation requires pharmacists to include generic drug information on containers in which brand-name prescription drug orders are dispensed.

No new funds are required by the division to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager  
Division: Occupational Licensing  
Approved by: Edgar Blatchford, Commissioner  
Agency: Department of Community & Economic Development

Phone (907) 465-2144  
Date/Time 2/12/03 5:18 PM  
Date 2/12/2003



Alaska Chapter

Mission  
Statement

*Provide  
professional  
development,  
advocate  
responsible  
legislative action,  
and maintain the  
highest ethical  
business  
standards for the  
benefit of the  
consumer.*

President  
*Gina Bosnakis*

Vice-President  
*Barbara Wong*

Immediate  
Past President  
*Tom Turner*

Secretary  
*Lon Wilson*

Treasurer  
*Diana Stewart*

April 3, 2003

To: Sponsors of HB 51

The Alaska Association of Health Underwriters would like to express its support for HB 51 "An Act requiring pharmacists to include generic drug information on containers in which brand-name prescription drug orders are dispensed." If passed, we see this bill as something that will provide consumers in Alaska with much needed education about the use of generic drugs.

At the present time, the cost of prescription drugs is escalating faster than most, if not all other, sectors of the healthcare industry. According to Premera Blue Cross (sighted from their own claim data), the average cost for a brand name drug is \$101 compared to the average cost for a generic drug, which is \$22. Additionally, the Congressional Budget Office reports that generic drug use can save consumers \$8 to \$10 billion dollars a year in retail pharmacy costs.

From a safety standpoint, consumer can be assured that the FDA requires generics to have the same quality, strength, purity and stability as brand-name drugs.

Brand-name drug companies pay a lot to research, develop, advertise and market their product. When a brand-name drug comes off patent - about 10 years after marketing - other manufacturers can make and market drugs with the same ingredients; they do not have to repeat expensive research or marketing the brand-name company has done, so the savings are passed on to the consumer.

Please let me know if there is anything that my organization or I can do for you regarding this bill.

Sincerely,

Jennifer Bundy-Cobb, CEBS  
Legislative Chair 2002/2003

Cc AAHU Board  
Representative Norm Rokeberg  
Members of the House HESS Committee

THE  
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Honorable Fred Dyson, Chair  
Senate Health, Education, and Social Services Committee  
Alaska Capitol, Room 121  
Juneau, AK 99801-1182

April 7, 2003

Dear Chair Dyson:

RE: HB 51 (Seaton) – Support

On behalf of the members of AARP In Alaska, we urge you and your colleagues on the Senate Health, Education, and Social Services Committee to support HB 51, authored by Representative Paul Seaton and co-sponsored by twenty-four of his House colleagues.

AARP believes that anything a state can do to ease the confusion of a consumer taking medication is well worth-while. We understand that Representative Seaton has developed this bill due to a real problem faced by one of his older constituents. We can assure you that many older consumers will benefit from having the generic equivalent name added to a brand name prescription. Helpful and "user-friendly" information will be beneficial for both older patients and younger family members who may be assisting them with their medications.

Representative Seaton's bill will be a welcome addition to quality health care in Alaska.

AARP recommends an "AYE" vote on HB 51.

Should you have any questions about our position, please feel free to contact Marie Darlin (586-3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907-762-3314), AARP Legislative Representative; or me (907-245-5259).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marguerite Stetson".

Marguerite Stetson  
Executive Council Member for Advocacy

CC: Vice-Chair Green  
Senator Wilken  
Senator Davis  
Senator Guess

Representative Seaton  
Marie Darlin  
Pat Luby



# SENATE COMMITTEE REPORT

DATE: 5/7/03

FURTHER: Judiciary

DATE TURNED  
IN TO OFFICE: 4.20.04

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 25(JUD)

## HB 25 HEALTH CARE SERVICES DIRECTIVES

"An Act relating to health care decisions, including do not resuscitate orders, anatomical gifts, and mental health treatment decisions, and to powers of attorney relating to health care, including anatomical gifts and mental health treatment decisions; and providing for an effective date."

and recommends:

- be replaced with S CS for CSHB 25 (HES)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
HSS	1/20		✓	

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>Linda Green</i>			✓	
<i>Betty Davis</i>			✓	
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

HB

92

# Alaska State Legislature

**Chair**

Military and Veterans Affairs Committee

**Vice-Chair**

Labor and Commerce Committee

**Member**

Resources Committee  
State Affairs Committee  
Joint Armed Services Committee

**Finance Subcommittees**

House Environmental Conservation  
House Military & Veterans' Affairs  
House Court System



*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
District 31 Anchorage

**Session:**

Alaska State Capitol  
Juneau, AK 99801-1182

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**Interim:**

716 W. 4<sup>th</sup> Ave., #330  
Anchorage, AK 99501-2133

Phone: (907) 269-0205

Fax: (907) 269-0207

Representative\_Bob\_Lynn@legis.state.ak.us

April 30, 2003

To: Senator Fred Dyson, Chairman  
Health, Education and Social Services Committee

Fr: Representative Bob Lynn 

Re: Scheduling of HB 92  
"An Act relating to reports by members of the clergy who have reasonable cause to suspect that a child has suffered harm as a result of child abuse."

---

Please schedule HB 92 to be heard in Committee at your earliest convenience. Attached are the supporting documents for this bill. Thank you.

# Alaska State Legislature



*Chair*  
Military and Veterans Affairs Committee

*Vice-Chair*  
Labor and Commerce Committee

*Member*  
Resources Committee  
State Affairs Committee  
Joint Armed Services Committee

*Finance Subcommittees*  
House Environmental Conservation  
House Military & Veterans' Affairs  
House Court System

*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
District 31 Anchorage

Session:  
Alaska State Capitol  
Juneau, AK 99801-1182

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Fax: (907) 269-0207  
Representative\_Bob\_Lynn@legis.state.ak.us

## SPONSOR STATEMENT

### HB 92

It is essential that children be protected from the abuse of sexual predators. Several classes of persons, such as nurses and teachers, are currently mandated to report actual or suspected child abuse to the appropriate authorities.

HB 92 adds clergy to the list of mandated reporters of child abuse. The bill does recognize and address the unique character of "penitential communication".

In summary, HB 92 adds to the protection of child safety, and enhances the beneficial work and reputation of the faith community.

# Alaska State Legislature

## Chair

Military and Veterans Affairs Committee

## Vice-Chair

Labor and Commerce Committee

## Member

Resources Committee  
State Affairs Committee  
Joint Armed Services Committee

## Finance Subcommittees

House Environmental Conservation  
House Military & Veterans' Affairs  
House Court System



*A Communication From*  
**REPRESENTATIVE BOB LYNN**  
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Representative\_Bob\_Lynn@legis.state.ak.us

## Sectional Analysis for HB 92

- Section 1.** Simply adds *clergy members* as a 9<sup>th</sup> category to the existing 8 categories of people currently required to report child abuse or neglect.
- Section 2.** Exempts knowledge obtained through a confession/penitential communication from the law.
- Section 3.** Defines Clergy member in statute

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 92  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Law  
Title "An Act relating to reports by members of the BRU Criminal Division  
clergy . . .suspect that a child has suffered harm . . ." Component All  
Sponsor Representative Lynn  
Requester House State Affairs Component No. \_\_\_\_\_

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
Check 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 members of the clergy to the list of mandatory reporters of child abuse and neglect, unless the knowledge of or reasonable cause to suspect child abuse and neglect was acquired during a penitential communication. The law would be retroactive, even if the victim had reached the age of majority. Failure to report is a class B misdemeanor.  
  
The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson Phone (907) 465-5370  
Division: Attorney General's Office Date/Time 2/24/03 5:13 PM  
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/24/2003  
Agency: Department of Law

# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 92  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services  
 BRU Family and Youth Services  
 Component Front Line Social Workers

Revision Date/Time (Note if correction):  
 Title REPORTS OF HARM BY CLERGY

Sponsor LYNN  
 Requester HOUSE (STA)

Component No. 2305

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE (Thousands of Dollars)**

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) 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)

HB 92 requires that members of the clergy be identified as mandated reporters of suspected child sexual abuse or neglect under certain circumstances. Section 1 amends AS 47.17.020(a) which governs identified mandatory reporters of suspected child abuse or neglect. The amendment adds clergy members to the list of mandated reporters. The Department is in agreement with requiring members of the clergy to be mandated reporters and supports this amendment.

Section 2 amends AS 47.17 by adding a new Section 47.17.021, which allows "penitential communication" to not be subject to the mandatory reporting requirement. The section goes on to define penitential communication as a communication with a clergy member intended to be confidential as part of the clergy member's official duties.

Prepared by: Tom Cherian, Acting Division Director Phone 465-3191  
 Division Family & Youth Services Date/Time 02/20/2003  
 Approved by: Joel S. Gilbertson, Commissioner Date 02/27/2003  
 Agency Department of Health and Social Services

FISCAL NOTE  
FN #

STATE OF ALASKA  
2003 LEGISLATIVE SESSION

BILL NO. HB 92

ANALYSIS CONTINUATION

The Department supports Section 2 as written.

Section 3 amends AS 47.17.290 by adding a definition of "clergy member." The Department agrees with this definition.

Section 4 amends the uncodified law to address clergy reports of past sexual abuse. The amendment states that on or before January 1, 2004, a member of the clergy or a custodian of records for the clergy may report to the Department or law enforcement, suspected or known child sexual abuse that may have occurred in the past that they did not report. This applies even if the alleged victim has reached the age of majority. Law enforcement would have the jurisdiction to investigate these reports of past sexual abuse. There would be no penalty for failure to report the suspected abuse in the past. The Department supports this amendment.

Should this bill become law the department does not anticipate any fiscal impact.

THE  
FOLLOWING  
DOCUMENT(S)  
ARE  
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## The answer to recurring questions: Priests are not above the law

The listening sessions that I have been having in various parishes have turned out to be graced moments for me. They have given me an even greater appreciation of the deep faith of our people and of their care for the church.

The anger surrounding the issue of child sexual abuse in the church is understandable and steels my resolve to make sure we as leadership do everything possible to protect children and youth now. The willingness of Catholics to gather and speak with me on this painful issue gives me hope that together we can face our past, forgive, heal, and become a holier church.

There will be much more information about the listening sessions when I have completed this process later this month. For now, I would like to address some recurring questions that have come up in the listening sessions. Several people have asked, "Why are priests above the law?" and, "Why are not priests who engage in criminal acts reported to the civil authorities?"

I want restate the fact that the Charter for the Protection



*State law that reflects our own archdiocesan reporting policies will serve to strengthen our common commitment to the safety of children.*

— Archbishop Roger Schwietz

of Children and Youth adopted last year by the U.S. bishops and approved by the Holy See, as well as our own archdiocesan policy, require that allegations of abuse of children or other criminal actions be reported to the appropriate government authority. I am not only committed to that procedure, but, along with all the other bishops of the country, am now required to report annually to an independent review board on how I handle any cases that might come forward.

The Alaska Legislature may soon reinforce this policy by amending state law to require clergy to be mandatory reporters of child sexual abuse.

On a recent trip to Juneau,

I, along with Bishops Michael Warfel of Juneau and Donald Kettler of Fairbanks, spoke in support of this proposal for mandatory reporting by clergy. State law that reflects our own archdiocesan reporting policies will serve to strengthen our common commitment to the safety of children.

The only exception to mandatory reporting by clergy is that which protects the confidentiality of communications that take place during the sacrament of reconciliation. The church's constant discipline regarding the absolute secrecy of confession rests on the church's respect for the sacrament and the penitent.

Within Catholic law, there exists no exception to this sacramental seal. Pope John

Paul II said in 1994, "The priest who receives a sacramental confession is forbidden, without exception, from revealing the identity of the penitent and his sins." A priest who violates this secrecy is automatically excommunicated, and only the pope may pardon the offense.

We must remember that while the priest is the minister of the sacrament, the penitent is actually entering into a communication with the Lord — it is, after all, Christ who forgives our sins. What can be more sacred and private than our communication with the Lord?

While the Alaska bill provides an exception for the sacrament, several states are attempting to enact legislation

that would force a priest to violate the seal of confession in cases of abuse of a child.

In essence, this would force a priest to choose between church law and civil law — an unacceptable position for any member of the clergy. So strongly does the church protect the sacramental seal that Cardinals William Keeler of Baltimore and Theodore McCarrick of Washington, D.C., recently promised to go to jail rather than obey a law requiring them to share the contents of confession.

I stand with them in refusing to betray my solemn commitment in this matter. Such a law would be useless, anyway, since many confessions are anonymous (behind the screen).

It is my hope that in Alaska the legislature respects the seal of confession and maintains the exception for "penitential communication" in its mandatory reporting bill.

Once again, thank you to all who have attended the listening sessions so far and have contributed to the process of making the church safe for children and youth.



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## OUR VIEW

# Abuse law

### *Clergy should be included*

Rep. Bob Lynn has introduced a bill that would require priests, ministers, rabbis and other religious leaders to report instances of abuse or neglect of minors to police.

Rep. Lynn's measure is in response to allegations of sexual abuse by the Rev. Francis Murphy, a former Anchorage priest, made by Service High School principal Pat Podvin. The Rev. Murphy never was charged with a crime, and Mr. Podvin was not a minor when the abuse allegedly occurred, but allegations of other abuse by the Rev. Murphy and the widespread reports of abuse of minors by priests prompted Rep. Lynn, a Catholic, to act.

Failure to report abuse or neglect would be a misdemeanor.

Perhaps the most important aspect of the measure is its message that religious leaders are not above the law or beyond the law. If anything, their positions of authority and trust require they be held to a higher standard, certainly on a par with doctors and teachers. The Rev. Greg Lindsay of Juneau pointed out that children "should be protected before anyone else." He's right.

Rep. Lynn said people expect their legislators to act responsibly. His bill would make it a legal requirement that men and women of the cloth act responsibly in cases of abuse. It's a step in the right direction.

# Bush reveals a

For America's enemies, and for some semi-allies, a just-published U.S. document should be mandatory reading. President Bush's fiscal 2004 budget has little foreign policy content but, properly understood, has immense foreign policy implications. If Baghdad, Paris, Berlin, Brussels and Seoul understand this administration's comprehensive boldness, they will understand not only that regime change is coming to Iraq, but also that the end of NATO as we have known it, and the removal of U.S. troops from the Korean peninsula, are not unthinkable.

The budget evokes 1862. In that *annus mirabilis*, with the national government's writ severely restricted and the entire American project in doubt, Lincoln and Congress nevertheless enacted the Homestead Act, which sped the settlement of the Great Plains, the Morrill Act that begot the land grant college system, and the law that ignited construction of the transcontinental railroad.

Today, with the nation in a war on terrorism and on the brink of a related war against Iraq, the president's budget calls for: A dash for economic growth through another round of tax cuts, a tax-cutting President Reagan did not attempt; prescription drug entitlement linked reform of Medicare; reform of the way Americans save. And in a budget-related document, the administration floats the idea of scrapping individual and corporate income taxes in favor of a consumption tax.

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In the far NATO's four was to keep Germans ar own enervat policies (unc and rising). its boot on it. Russians are ness. And Ar dering why t

Last week tary Donald ing "stronge rope has ind- so said: "NA an Article 5 c key, should it Those preven ing even min to do so, risk of NATO.

# Bill would expand law on abuse

■ **MINORS:** Religious leaders would have to report incidents

The Associated Press

JUNEAU — A bill filed by a lawmaker would hold priests, ministers, rabbis and other religious leaders accountable for failing to report incidents of abuse or neglect of a minor.

Rep. Bob Lynn, R-Anchorage, wants to extend a law that applies to school teachers and staff, doctors, child care providers and police officers to religious institutions.

Failure to report instances of abuse, sexual or otherwise, is a misdemeanor under Alaska law.

Lynn said the measure would apply to religious leaders but not their congregations. It would exempt any information acquired through a confession or penitential communication.

Lynn, a Catholic who attends St. Benedict's Church in Anchorage, said media reports of clerical sexual abuse prompted his bill.

"Whenever anything gets in the headlines



Alaska Legislature

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## REPORT: Would be a misdemeanor

Continued from B-1

or on the evening news, people become aware of it and expect responsible legislators to address the issue, and that's what I'm trying to do as a responsible legislator," Lynn said.

An Anchorage high school principal recently alleged a former priest at St. Patrick's Catholic Church abused him when he was 18. Pat Podvin said the Rev. Francis Murphy, who later transferred from Anchorage to the Boston area, sexually abused him at a Girdwood residence more than 20 years ago. Murphy was named last week as one of several Catholic priests accused of sexual abuse who were allowed to move to other states and continue their work.

Retired Catholic Archbishop Francis Hurley last week apologized for not helping Podvin after he reported the abuse. Hurley also admitted

that there have been other allegations of abuse within the past few years, but no one was charged with a crime.

Bob Flint, executive director for the Alaska Catholic Conference, said he believes the conference will support the measure. The conference includes Anchorage, Fairbanks and Juneau. Flint pointed out that the measure would not have applied in the Podvin case because the victim was not a minor.

The Rev. Greg Lindsay of Northern Light United Church in Juneau said he supports the measure.

"I think that because children get the short end of the stick a lot of the time, they should be protected before anyone else," said Lindsay, who heads a Presbyterian-Methodist congregation.

# Measure would hold Alaska clergy responsible for abuse

By TIMOTHY INKLEBARGER  
JUNEAU EMPIRE © 2003

Friests, ministers, rabbis and other religious leaders would be held accountable for failing to report incidents of abuse or neglect of a minor under a bill filed Monday by an Anchorage lawmaker.

Mandatory reporting laws already exist for school teachers and staff, doctors, child-care providers and police officers. But Republican Rep. Bob Lynn said the law should extend to clergy to protect children as well as religious institutions.



REP. BOB LYNN

Failure to report instances of abuse, sexual or otherwise, constitutes a misdemeanor under Alaska law. Lynn said the measure, which is expected

to be read on the House floor Wednesday, would apply to religious leaders but not members of their congregations.

It would, however, exempt any information acquired through a confession or "penitential communication."

Lynn did not cite specific examples but noted media reports of clerical sexual abuse prompted his bill.

"Whenever anything gets in the headlines or on the evening news, people become aware of it, and expect responsible legislators to address the issue and that's what I'm trying to do as a responsible legislator," said Lynn, a Catholic who attends St. Benedict's Church in Anchorage.

An Anchorage high school principal recently alleged a former priest at St. Patrick's Catholic Church abused him when he was 18. Pat Podvin said the Rev. Francis Murphy, who later transferred from Anchorage to the Boston area, sexually abused him at a Girdwood residence more than 20 years ago. Murphy was named last week as one of several Catholic priests accused of sexual abuse who were allowed to move to other states and continue their work.

# Clergy: Law would only apply to the state's religious leaders

Retired Catholic Archbishop Francis Hurley last week apologized for not helping Podvin after he reported the abuse. Hurley also admitted that there have been other allegations of abuse within the "last few years" but no one was charged with a crime.

Bob Flint, executive director for the Alaska Catholic Conference, said the law would not have applied in Murphy's alleged abuse of Podvin, because the victim was 18, but added that he believes the conference will support the measure.

The Alaska Catholic Conference includes the diocese of Anchorage, Fairbanks and Juneau.

Flint, an attorney who argues business law in Anchorage, said Lynn consulted with him before introducing the bill. Flint said Lynn was looking for language that provided exceptions for the Catholic confession and extended to similar confessions to other religious leaders.

The Rev. Greg Lindsay of Northern Light United Church in Juneau said he supports the measure and noted he thought it already existed.

"I think that because children get the short end of the stick a lot of the time, they should be protected before anyone else," said Lindsay, who heads a Presbyterian-Methodist congregation.

Lindsay noted that moving religious leaders around from church to church is just as common for Methodists as it is for Catholics.

"(This law) might have the affect of ministerial colleagues holding one another accountable," he said.

Lynn said his bill would protect the church from allowing child abuse to go unpunished.

"I think many in the clergy will welcome this. If you are concerned about the health of the church, you have got to be concerned about this," he said.

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February 27, 2003

Representative Bob Lynn  
Alaska State Capitol  
Juneau, AK 99801-1182

Dear Representative Lynn:

I am writing this letter in support of HB 92, a bill adding clergy to the list of mandated reporters of suspected or actual child abuse or neglect. Mandated reporting serves to help protect the safety of children and gives children the message that adults want them to be safe and will make efforts to ensure their safety.

As a member of the Alaska Network on Domestic Violence and Sexual Assault, the Executive Director of the Network, Lauree Hugonin, is available to provide testimony on this bill as needed.

Thank you for your work on behalf of Alaska's children, as we work together to end violence in the lives of those impacted by domestic violence and sexual assault.

Sincerely,

Saralyn Tabachnick  
Executive Director





February 26, 2003

Representative Bob Lynn  
Alaska State Legislature  
Alaska State Capitol  
Juneau, AK 99801-1182

Re: HB 92

Dear Bob,

This morning the Alaska Catholic Conference formally endorsed your bill on clergy reporting of suspected sexual abuse of minors, HB 92.

The bishops commend you on your efforts to enhance the protection of children while preserving the sanctity of penitential rites.

Very truly yours,

A handwritten signature in black ink, appearing to read "Robert B. Flint". The signature is fluid and cursive, with a large initial "R" and "F".

Robert B. Flint  
Executive Director

# Russian Orthodox Diocese of Sitka and Alaska

Orthodox Church in America  
The Most Blessed HERMAN, Metropolitan and Primate  
The Right Reverend NIKOLAI, Bishop of Sitka, Anchorage and Alaska  
PO Box 210569 Anchorage, AK 99521-0569 Telephone: 907-279-0025 Fax: 907-279-9748  
[www.AlaskanChurch.org](http://www.AlaskanChurch.org) E-Mail: BishopNikolai@oci.net

February 22, 2003

Representative Bob Lynn  
Alaska State Legislature  
Via Fax - 907-269-0207

To whom it may concern:

I am writing in support of proposed House Bill 92 which would add clergy to the list of mandated reporters of actual or suspected child abuse. I believe this bill will not only protect the public safety of our children, but will also maintain the integrity of religious groups throughout Alaska.

Sincerely,

*+ Bishop Nikolai*

NIKOLAI

Bishop of Sitka, Anchorage and Alaska

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Vincent J. Doran  
No. 411 Pioneers' Home  
923 West Eleventh Avenue  
Anchorage, AK 99501-4390  
1 907 272 5262

February 26, 2003

Representative Bob Lynn  
Alaska State Capitol  
Juneau, AK 99801-1182

Dear Representative Lynn:

Thank you for sponsoring House Bill 92. The measure, if passed into law, will certainly strengthen the statute on child protection.

Members of the clergy must do their part by reporting instances of sexual abuse of children when they learn of them.

Cordially,

Vincent



## Episcopal Diocese of Alaska

1205 Denali Way  
Fairbanks, AK 99701-4137

(907) 452 - 3040  
(907) 456 - 6552 (Fax)

March 3, 2003

Rep. Robert Lynn  
Alaska State Legislature  
Alaska State Capitol  
Juneau, Alaska 99801-1182

Dear Rep. Lynn:

Thank you for your letter of February 19, regarding HB 92 which adds clergy to the list of mandated reporters of actual or suspected child abuse. Enclosed you will find a copy of the diocesan Safe Church Program manual. On pages 4 and 5 you will note that we already instruct clergy and lay leaders to notify authorities in such cases.

I am pleased to support your proposed legislation. When it is scheduled for committee, I would be willing to provide testimony on behalf of the bill.

Sincerely,

*+ Mark L. MacDonald*

The Rt. Rev. Mark L. MacDonald  
7<sup>th</sup> Bishop of Alaska

MLM/clf

Enclosure (1)

**Representative Bob Lynn  
District 31 Anchorage  
Fax: (907) 269-0207**

**Bob,**

**Thanks for sending me the fax concerning your bill IIB 92. I do support your bill that the clergy should be required to report actual or suspected child abuse. I also agree with your reasoning for the bill. The public safety of our children and preserving the reputation of the clergy is essential. I am, as a Christian, mandated by the Lord in the scriptures to do just what you are asking me to do. Ephesians 5:11 says, "And do not participate in the unfruitful deeds of darkness, but instead even expose them." If it is your desire for me to be of any additional service in this matter, then please do not hesitate to call.**

**Grateful for your service to our state,**

**Pastor John F. Hunn**



Pastor Hunn from  
Anchorage Grace Church



NRLA

# NORTHWEST RELIGIOUS LIBERTY ASSOCIATION

February 20, 2003

Representative Bob Lynn  
Alaska State Capitol  
Juneau, AK 99801-1182

Dear Representative Lynn:

The Northwest Religious Liberty Association is the government relations division of the Seventh-day Adventist Church.

As the vice-president for the NRLA, I would like to give my/our support of HB 92. The bill is certainly in line with our church policy. As a pastor I must help to protect our children in any way possible, and I believe that this bill could work toward that end. I would be interested when this bill is scheduled for committee.

Sincerely,

Gary S. Waterhouse, vice-president  
Northwest Religious Liberty Association;  
pastor, Juneau 7-th day Adventist Church

Mailing: P.O. Box 16670  
Portland, OR 97292-0670

Location: 10225 E. Burnside St.  
Portland, OR 97216

Telephone: (503) 255-7300  
Fax: (503) 253-2455  
[www.libertyexpress.org](http://www.libertyexpress.org)

February 19, 2003

Bob Lynn  
Representative Lynn  
State Capitol, Room 415  
Juneau, AK 99801-1182  
United States of America

Dear Representative Lynn,

We have read HB 92 and find that it is in keeping with our goal for Legislation that Actively works for the protection of our children. We feel that it can only benefit our children to make those that protect their spirits to also protect their bodies. It is our feeling that we all should work to protect our children.

Clergy have often been welcomed into homes and families in ways that no one else has. This position allows them to be aware of the internal family working in a child's life. Just as teacher and childcare providers are expected to report suspected child abuse, so should clergy. Their access to a family is often the same if not greater. We feel that there is sufficient language in the bill to protect the sanctity of confession made within the bounds of religious practice. At the same time not allowing a loophole. We also appreciate the effective date for reporting compliance regarding past sexual abuse. As well as expanding reporters in that instance to include those who keep records for the clergy.

The more adults who put the safety of the children in their lives first, the better off our children will be. Child Abuse is not a family problem it is a community problem. It is time that we as a community confront it. It is only right that our moral compass step up to the front lines in that confrontation. Thank you for your work to advance the right of safety for our children.

Sincerely,

Theresa Williams  
President  
P. O. P.

P. O. P.  
R270 CARNELI S1  
JUNEAU AK 99801

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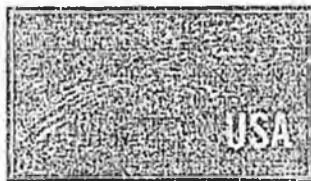
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**COMFORT:** James Egan and Anita Guibault, alleged clergy-abuse victims, hug at a protest. STEW MILNE/AP

## More states moving to tighten sex-abuse laws for clergy

Bills call for clergy to report alleged abuse or extend time period for victims to file suits.

By **Seth Stern** | Staff writer of *The Christian Science Monitor*

The sexual-abuse scandal spreading through the Roman Catholic Church this spring is prompting moves in legislatures nationwide to tighten laws designed to ensure that cases of abuse are reported to authorities and prosecuted.

Lawmakers in at least seven states have introduced bills this year to extend the period when civil and criminal charges can be filed against abusers, or to require clergy to report allegations they hear about.

The moves come as the Catholic Church faces a continuing tide of lawsuits – some 300 since January – and new allegations sexual abuse of boys and young men by priests.

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**In Afghanistan, 'friendly fire'**

An incident last week shows how close US forces and their allies in Afghanistan come to fighting one another.

At a meeting in Dallas this week, Catholic bishops are expected to revise their internal policies regarding abuse allegations. But for now, the lawsuits and media coverage have put pressure on legislatures to act.

Revised laws could provide new protection for sex-abuse victims while creating new liabilities for churches and clergy.

Currently, all 50 states have mandatory-reporting laws regarding sexual abuse of children. But many do not apply to the clergy. Others, in a middle ground, provide that clergy need not report information that comes to light in situations such as the Catholic sacrament of confession.

This year, the tenor of the laws has begun to shift.

In Massachusetts, the epicenter of the scandal, acting Gov. Jane Swift signed a bill last month adding clergy to the list of mandatory reporters, which already included teachers, doctors, and child-care workers. Legislators in Illinois, Missouri, and Colorado have all recently approved bills requiring clergy to report abuse. State governors are expected to sign the measures.

Other states are extending their statutes of limitation that govern whether years-old cases can be brought up in court. Connecticut has extended its statute of limitations. Similar legislation is making its way through California's legislature, but has failed in Minnesota.

As state lawmakers consider such moves, they are being lobbied by a range of groups. These include Catholics and other religious denominations, including The First Church of Christ, Scientist, which publishes this newspaper, and child advocates. But lawmakers say the strongest lobbying often comes, not surprisingly, from embattled Catholic churches in each state.

Connecticut State Rep. Michael Lawlor (D), who sponsored one such bill, says the Catholic Church was the main opponent to expanding the statute of limitations.

The lobbying efforts, large or small, come within a new political climate.

In Wisconsin, state Sen. Alberta Darling says she plans to present mandatory-reporting legislation for priests next year, and expects much easier going than when she backed a similar measure in 1995.

The legislative climate can put the Catholic Church and other denominations in a difficult position as they acknowledge public pressure for new standards and at the same time stand up for time-

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honored traditions such as the confidentiality of confessions.

"We would support any legislation that would protect children," says Marie Hilliard, executive director of the Connecticut Catholic Conference. "Whether this will do that remains to be seen." She says the church did not actively lobby against any provisions of the legislation, but enlisted a law firm it regularly hires to monitor legislation.


In Missouri and Illinois, Catholic bishops proved willing to accept legislation making clergy mandatory reporters, as long as the laws protected confessions. Both states passed bills carving out such exceptions, advocated by an array of denominations, to protect clergy who learn about abuse while serving as spiritual advisers. The provision was criticized by victims' advocates. "This exception could gut the rule," says Lyn Schollett of the Illinois Coalition Against Sexual Abuse.

In Colorado, a coalition of Protestant churches enlisted Martin Nussbaum, a lawyer specializing in church-state law, to oppose the initial draft of a proposed mandatory-reporting law. A revised version of the bill overwhelmingly passed both houses and now awaits the governor's signature.

In Minnesota, associations representing public schools and municipalities joined churches to oppose legislation extending the statute of limitations.

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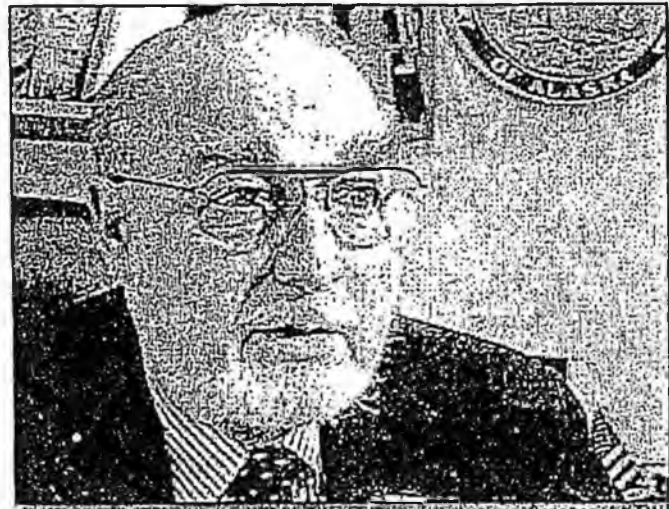
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Autumn Brenton / KTUU

Rep. Bob Lynn says his bill aims to "help the clergy help themselves," but will not violate the seal of the confessional.

## Bill would require clergy to report sexual abuse

Juneau, Alaska, Feb. 11 - Should a minister, priest or rabbi face criminal charges for not reporting the sexual abuse of children? A bill being introduced Wednesday in the Alaska Legislature could do just that.



Dan Fagan

Alaska has a mandatory reporting law for some professions, but it does not apply to ministers, priests or other clergy.

Under state law, police officers, day care providers, health care workers, drug counselors, teachers and other professionals must report any known case of child abuse or face charges.

"I think we have to help the clergy help themselves," said Rep. Bob Lynn, R-Anchorage. The former head of Anchorage

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Right to Life, Lynn wants the law to apply to clergy, too.

"I think clergy, as a whole, would respond positively to this legislation," Lynn said. "I don't know why they would not. The only ones who would not respond positively, I would think, are those who like the status quo."

Lynn filed his bill now after all the publicity in Anchorage and nationwide involving unreported sexual abuse in the Catholic Church. But Lynn, who is a Catholic, says his bill applies to all religions. "It is unfair, I think, to single out one church or another."

Bob Flint is an attorney for the Anchorage Diocese. "One of the things we certainly want to do in all this controversy is for everybody to cooperate the best we can to protect children," he said.

Rep. Lynn's bill does not require priests to report child abuse learned during confession. "It would break the seal of the confessional, and that's sacred to our church," he said.

As for the question, which is more sacred -- a child's safety or the seal of confession? "Well, I guess God's going to have to answer that," Lynn said.

Last week, former Anchorage Archbishop Francis Hurley apologized for not helping a teen-ager 20 years ago when he reported being sexually abused by a priest. Lynn said he hopes his bill would prevent that from happening again.

Among other things happening in the legislature Tuesday, Sen. Gretchen Guess, D-Anchorage, introduced a bill shrinking the time the legislature meets from 120 days down to 90 days. Guess said that would save the state almost \$1 million a year.

Also, Rep. Lesil McGuire introduced a bill that would permanently confiscate the computer from anyone convicted of possessing child pornography.

And Fairbanks Sen. Ralph Seekins passed out during a Senate Finance Committee meeting. He was taken to the hospital and is now OK. Seekins said he had flu-like symptoms and that may be why he passed out.

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**STATES**

**Clergy sex abuse: New move toward tougher state laws**

Just as policies on handling accusations of clergy sex abuse vary from Roman Catholic diocese to diocese, state laws differ widely on whether clergy and religious institutions are required to report allegations to law enforcement. Now, more states are considering tougher laws. The New York Senate, for one, unanimously passed a bill on March 26 to require clergy to report suspicions of child abuse.

Twelve states specifically require clergy to report suspected abuse, according to the National Clearinghouse on Child Abuse and Neglect Information, a federal agency. Another 16 states require "all persons" report abuse. But many states grant exemption for information clergy during confession. (See list below).

In states where clergy are required to report abuse, what have been the effects, according to state attorneys general, advocates of children and victims, and religious leaders? Are clergy exempted if reporting accusations would violate confidentiality between clergy and confessor? What state limitation for sex-abuse allegations are in effect? Is your state considering a new law, or a tougher one? Are there other laws, such as those involving mental health counseling, that apply or that grant special clergy exemptions?

**Why it matters**

Because some religious institutions have handled allegations without involving the criminal justice system, many victims' only recourse has been lawsuits. Now child advocates, prosecutors and citizens are calling for laws to be toughened.

Skip to [hot sources](#)

Skip to sources [in your region](#)

**Background**

- A March 22 Associated Press article, "Clergy Reporting Rules," about state laws for reporting clergy abuse of minors is posted here. Under the listing of "Tort Law News" click "More" to find it.
- AdvocateWeb, a nonprofit group working against exploitation by

professionals such as clergy and therapists, links to a sampling of state laws regarding sexual offenses. AdvocateWeb also tracks news stories free electronic newsletter and Media Update Archives.

- A Princeton Theological Seminary field handbook article explaining a of the law affecting clergy, including child abuse reporting and privileged communication, can be found here.
- The Poynter Institute is tracking clergy abuse news stories here.

#### Hot sources

- The National Clearinghouse on Child Abuse and Neglect Information, Washington, D.C., a federal agency under the U.S. Department of Health and Human Services, can help with research and statistics. Call (800) 3366 or (703) 385-7565 or email nccanch@calib.com.
- The U.S. Conference of Catholic Bishops supports stricter laws as long as the laws shield the privilege of confession and other clergy-parishioner conversations, (202) 541-3000.
- Attorney Jeff Anderson of St. Paul, Minn., has represented hundreds of clients who say Catholic priests sexually victimized them. Reinhardt & Anderson law firm, 651-227-9990 or info@ralawfirm.com.
- The Rev. Marie M. Fortune, founder and senior analyst at the Center for the Prevention of Sexual and Domestic Violence in Seattle, Wash., has written several books, including *Is Nothing Sacred? When Sex Invades Pastoral Relationship* (HarperSanFrancisco). Dr. Fortune, a United Methodist minister, edits *The Journal of Religion and Abuse*. 206-634-1100 or mfortune@cpsdv.org. See a March 9 column Fortune wrote for *The Daily Morning News*.
- James T. Richardson, professor of sociology and judicial studies at the University of Nevada, Reno, specializes in ways religious groups come into conflict with the law. Office 775-784-6270, department 775-784-6647 or jtr@unr.edu.

#### In your region

- The states that specifically require clergy to report suspected child abuse and neglect but grant confessional privilege are Arizona, California, Minnesota, Montana, Nevada, North Dakota, Oregon, and Pennsylvania according to the National Clearinghouse on Child Abuse and Neglect Information.
- New Hampshire mandates clergy reporting and specifically denies confessional privilege.
- Connecticut and Mississippi require clergy to report, and say nothing about child abuse and neglect reporting statutes about confessional privilege.
- The states that mandate all persons to report child abuse or neglect but do not grant confessional privilege are Delaware, Florida, Idaho, Kentucky, Maryland, Utah, and Wyoming.
- The states that mandate all persons to report and specifically deny confessional privilege are North Carolina, Rhode Island, and Texas.
- Indiana, Nebraska, New Jersey, New Mexico, Oklahoma, and Tennessee require everyone to report; child abuse and neglect reporting statutes say nothing about confessional privilege.
- Four states' statutes do not specifically mention clergy or "all persons" but they do bring up confessional privilege. Among those states, Louisiana, Missouri, and South

AS of  
April 1, 2002

Carolina grant it, and Washington State denies it.

#### **ILLINOIS**

- Illinois does not require clergy to report suspected child abuse. The Illinois Department of Children and Family Services discusses the law

#### **INDIANA**

- Indiana requires all citizens and, specifically, staff members of any public or private institution, school, facility or agency to report suspected child abuse. A copy of the code is posted here.

#### **KENTUCKY**

- Kentucky requires all citizens to report suspected child abuse, but exempts clergy-penitent communication. The Governor's Office of Child Abuse and Domestic Violence Services discusses the law and the exemptions.

#### **MICHIGAN**

- Michigan enacted legislation last year criminalizing sexual contact between mental health professionals and clients, but HB 4525 only moved forward after the deletion of language that had included clergy and school counselors.
- Michigan does not require clergy to report suspected child abuse. The *Detroit Free Press* reported March 27 that a statewide poll, conducted March 19-25 by Lansing-based EPIC/MRA, found that more than 80 percent of Michigan residents said the law should be changed to require the reports.

#### **OHIO**

- Ohio specifically requires religious "healers" to report suspected child abuse or neglect. Look up a copy of the revised code relating to child abuse and neglect, Section 2151.421.

#### **WEST VIRGINIA**

- West Virginia specifically requires clergy and religious healers to report suspected child abuse or neglect. See West Virginia Children's Service discussion of reporting requirements.

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*The Family Church*  

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**ANCHORAGE BAPTIST TEMPLE**

JASON/WES - PLEASE PUT  
THESE LTRs WITH LYNN'S  
BILL ON CLERGY REPORTING

THANKS

May 15, 2003

Senator Fred Dyson  
State Capitol, Room 121  
Juneau, AK 99801-1182

Dear Senator Dyson:

I would like to take this opportunity to express my concerns about House Bill 92. As a minister, I am concerned about children and their safety. We take every step possible to protect the children we minister to at Anchorage Baptist Temple.

My concern with this bill is the mandatory breach of confidentiality that will have to exist should HB 92 pass as law. Parishioners will no longer be able to seek pastoral help and counseling confidentially.

In the bill's present form, it is too vague in defining "child abuse" and "neglect." It does not give proper measures for determining actual neglect. Also, it does not provide adequate "confidential communication" or "confessional" privilege for a Protestant Minister to the same degree as afforded a Catholic Priest. It should be noted that once a minister at our church is aware of abuse, even if notified "confidentially," he immediately instructs the offender to stop, and further directs the individual to begin counseling and immediate assessment. Our ministers also inform the individual that if he is not willing to conform, a report to the proper authority must be made as a result of the continued abuse or neglect.

It is not my desire to conceal the sins of the church, but to provide the opportunity for individuals to repent and change their behavior.

I have also enclosed a copy of previous correspondence in reference to this bill.

For further information, please feel free to contact my assistant, Jason Rhodenhizer, or me at 907-333-6535.

Thank you for your consideration of this very important issue.

Respectfully Submitted,

A handwritten signature in cursive script that reads "Jerry Prevo". The signature is written in black ink and is positioned below the typed name.

Jerry Prevo  
Anchorage Baptist Temple



*The Family Church*  

---

**ANCHORAGE BAPTIST TEMPLE**

April 25, 2003

Representative Tom Anderson  
Alaska State Legislature  
Juneau, Alaska 99801-1182

Re: CSHB92 (JUD)

Dear Tom:

As you are aware, Anchorage Baptist Temple is the home to over 5,000 parishioners. Our Christian ministries continue to provide outreach through TV and radio to thousands of viewers throughout the state of Alaska.

Upon further review of House Bill 92, following the amendments in the State Affairs Committee and then further revisions in the Judiciary Committee, I must respectfully withdraw my support of the legislation for the following reasons:

1. The bill is too vague with regard to the measures of determining a problem exists (e.g. "reasonable cause" and "suspect"), and towards the definition of neglect and "child abuse" and "neglect").

It is conceivable, without a more narrowly written directive, a minister will be forced to report even the slightest and most minimal degree of alleged or perceived neglect or abuse. This further opens the potential floodgate of liability, while destroying the dynamic of "confidentiality" inherent in the foundation of a church, and the minister/parishioner relationship. Also, because the language is vague, it may cause ministerial and church liability premiums to increase with a newly perceived risk of non-compliance with the law.

To that end, I believe that Line 9 of Page 2 should be deleted. (Clergy should not be required to report). Obviously, the teeth are thereby stripped from this bill; however, as discussed, the current language debilitates our ministerial ability and calling as counselors and advisers to members.

2. Section 2 does not provide adequate "confidential communication" or "confessional" privilege for a Protestant Minister to the same degree as afforded a Catholic Priest.

Why is this important? Suppose a parishioner is guilty of child abuse, or more commonly - neglect of his child. Further, assume he attempts to address the problem with a minister. The question arises as to what level of "confidential communication" this amounts to in light of the parameter set by subsection (3), requiring the communication be made "in the manner and context that places the clergy member specifically and strictly under a level of confidentiality." This direction, even with the amended canon law and doctrine language, is still difficult to define.

It should also be noted that once a minister at our church is aware of abuse, even if notified "confidentially," he immediately instructs the offender to stop, and further directs the individual to begin counseling and immediate assessment. Our ministers also inform the individual that if he is not willing to conform, a report to the proper authority must be made as a result of the continued abuse or neglect.

It has come to my attention that HB 92 is a response to the growing number of discovered clergy child abuse cases. The media, as recently as yesterday in the Anchorage Daily News, have centered on the abuse problems surfacing within the Catholic Church. But for edification, the problem appears not to be that a priest fails to report a parishioner's transgressions, but rather that priests are not reporting their fellow priests upon discovery child abuse is occurring.

I would not oppose a bill that required clergy members to report other clergy members whom they have reasonable cause to suspect of abusing a child. This would be a positive step in resolving the conflagration of abuse.

However, if the State House believes clergy must be included in AS 47.17.020(a), then I urge the amendment language proposed by Representative Max Gruenberg as Amendment No. 2 in yesterday's Second Reading of the bill, be revisited and adopted so greater latitude is granted to non-Catholic clergy. A copy of that amendment is attached to this letter.

Thank you for your consideration of this important issue.

Respectfully submitted,

A handwritten signature in cursive script that reads "Jerry Prevo".

Jerry Prevo  
Anchorage Baptist Temple

**HB**

**135**

# Alaska State Legislature

Representative Peggy Wilson  
Putting Alaska's Families First

## MEMORANDUM

TO: Senator Fred Dyson  
Chair, Senate Health Education and Social Services

FROM: Representative Peggy Wilson *SW*

DATE: April 5, 2003

RE: Committee Substitute House Bill 135 (HESS)

Please schedule CSHB 135(HESS) for a hearing in the Senate Health Education and Social Services Committee

Attached are:

1. CSHB 135(HESS)
2. Sponsor Statement
3. Sectional Analysis
4. Support letters

Thank you for your consideration of CSHB 135(HESS). If you have any questions, please do not hesitate to contact me.

# Alaska State Legislature

Representative Peggy Wilson  
Putting Alaska's Families First

## SPONSOR STATEMENT CS House Bill 135 (HESS)

"An act relating to marital and family therapists."

The law that established the Board of Marital and Family Therapy has been in place for ten years. It is time to pursue the placement of updated language within the statute.

CS HB 135 will bring the Alaska Statutes for Marriage and Family Therapy to the same standard as the laws regarding other counseling services in the state and Marriage and Family Therapy statutes nationally.

### CS HB135 (HESS)~

- *Adds* the Board of Marital and Family Therapy to the list of boards that may request the Division of Occupational Licensing to contract for substance abuse treatment under licensed therapists,
- *Gives* the Board of Marital and Family Therapy authority to order a licensed marital and family therapist to submit to a reasonable physical or mental examination if the board has credible evidence sufficient to conclude that the therapist's physical or mental capacity to practice safely is at issue,
- *Allows* for individual client contact to be used as hours toward licensing,
- *Requires* the therapist to communicate to a potential victim or law enforcement officer if a threat of imminent serious physical harm to an identified victim has been made by a client,
- *Imposes* disciplinary sanctions with regard to therapist sexual misconduct.

CS HOUSE BILL 135 (HESS) not only brings parity to the mental health professions in the state, it also adds additional consumer protection for Alaskans seeking professional counsel.

# Alaska State Legislature

Representative Peggy Wilson  
Putting Alaska's Families First

## Sectional analysis CS HB 135 (Hess)

**Section 1.** Adds the board of Marital and Family Therapists (hereafter "board") to the list of boards that may request the division of occupational licensing to contract for substance abuse treatment for licensed therapists (hereafter "licensees").

**Section 2.** Authorizes the board to require physical and mental exams of licensees.

**Section 3.** Changes a licensing requirement relating to post-degree clinical contact.

**Section 4.** Adds two more categories of circumstances when a client's communications to a licensee may be revealed to others.

**Section 5.** Adds a new ground for disciplinary sanctions

**Section 6.** Allows summary suspension of a licensee who refuses to submit to a physical or mental examination.

**Section 7.** Adds two new sections of law. One requires disclosure statements to clients. The other enacts a practice limitation.

Section 7 was amended by deleting the words "for marital and family therapy services" on page 5, lines 9-10, and inserting "by a licensed marital and family therapist".



**Alaska Association for  
Marriage and Family Therapy**

2600 Denali St., Ste 450  
Anchorage, Alaska 99503  
Ph. (907) 272-7002

February 28, 2003

Representative Peggy Wilson  
State Capital Rm 409  
Juneau, AK. 99801

Re: House Bill 135

Dear Representative Wilson,

The Alaska Association for Marriage and Family Therapy appreciates your sponsorship of House Bill 135. Our organization supports this bill and was primarily responsible for initiating it. Much of the bill is housekeeping but there are parts, which are substantial changes. The addition of sexual misconduct brings MFT standards up to other mental health care professionals in the state as well as our own National Association's standards. It requires that two years must pass before a LMFT can have a sexual relationship with a former client. Sexual misconduct is one of the most problematic issues facing mental health care providers because of the nature of the relationships that are formed in the therapeutic process. Strict boundaries are absolutely necessary because of that relationship. The disclosure statement is a new provision, which is intended to inform and protect the client as a consumer of mental health services. It is a national trend in marriage and family therapy to educate the client with regards to the professional's training and specialization. In addition, it is a commonly accepted ethical procedure to make consumers aware of fees.

Again, thanks for sponsoring this bill.

Sincerely,

Susan Arth, Division President, AkAMFT

**Larry Holman M.S. LMFT  
Susitna Counseling and Associates  
2600 Denali St. Ste 450  
Anchorage, AK. 99503  
Ph. (907) 272-7002 Fax (907) 272-2851**

February 28, 2003

Representative Peggy Wilson  
State Capital Rm. 409  
Juneau, AK. 99801

Re: House Bill 135

Dear Representative Wilson,

The Regulatory Board for Licensed Marriage and Family Therapists in the State of Alaska strongly support the passage of HB 135. One of our goals for the last couple of years has been to review our laws and regulations after being licensed for about 10 years, to see if they meet current standards of practice nationally. There were several areas identified which were seen as deficient and/or not up to the standards of other mental health professions in this state and nationally. The national organization for marriage and family therapists (AAMFT) as well as the Association of Marital and Family Therapy Regulatory Board has provided us with direction and guidance in bringing our laws and regulations up to a high standard so that the Alaskan public will be protected.

House Bill 135 advances that goal in several significant ways. First and possibly foremost is the provision that addresses sexual relationships between MFTs and clients. There are no mental health professional associations of which I am aware that do not have strict sanctions and prohibitions against sexual relationships with clients and former clients. Many specify two to three years. Social Workers specify a lifetime prohibition. This provision needs to be spelled out clearly since the possible harm caused can be so egregious. Other provisions in this law are attempts to be more responsive to the public, which our Board is charged to protect. The disclosure statement section contains a description of therapist's formal education, degrees obtained and institutions attended, therapist's area of specialization, and therapist's fee schedule. We think this is an important addition to our law in that it spells out the contract between a therapist and his/her client. Many clients are not very informed about these issues and this provision clarifies them.

These are just mentioned two examples of new provisions that this law addresses. The other provisions are significant as well and we encourage you to support them vigorously as we do. The Marriage and Family Therapy Regulatory Board thanks you for your sponsorship of this bill and if there is anything we can do to support its passage please let us know.

Sincerely,

Larry Holman, LMFT, Chairperson, MFT Regulatory Board

## Sexual Exploitation - the "Two-Year Rule"

### Issue

Enact a law to create a cause of action against a psychotherapist for engaging in sexual relations with a patient either during the therapeutic relationship or within two years following termination of therapy.

### Background

Sexual relations between a psychotherapist and his/her patient is generally prohibited by law. Violations usually result in disciplinary action by the licensing board (revocation or suspension of the license) and/or the filing of a civil action for damages by the patient. In some states, criminal penalties can be imposed on a psychotherapist who engages in sexual relations with his/her patient. Some believe that sexual relations between a psychotherapist and a patient or former patient should be prohibited in perpetuity. **This bill would instead provide that sexual relations between a psychotherapist and his/her patient are prohibited during the therapist-patient relationship and for two years following a termination of the relationship and would create a specific cause of action against a psychotherapist for a violation.**

This bill is necessary for several reasons. First, some argue or believe that a psychotherapist may have sexual relations with an ex-patient since the law only prohibits such relationships between therapist and patient. In the past, some therapists have simply terminated the therapist-patient relationship, perhaps made a referral, and then engaged in sexual relations with their "ex-patient," either moments or days later. This is clearly inappropriate and constitutes an ethical violation in most professions. Additionally, because of the power imbalance often present in the therapist-patient relationship, some reasonable amount of time must be allowed to pass before an intimate relationship should be allowed to begin.

Therapists who exploit the trust and vulnerability of patients for their own sexual gratification, especially when it can have such devastating and long-term effects upon patients, are practicing predatory psychotherapy. Imposition of a "two-year rule" will prevent therapists from avoiding the very purpose of the long-standing prohibition against therapist-patient sex by simply terminating therapy and engaging in sexual contact shortly thereafter. Establishment of a two-year rule provides for a cooling-off period that will discourage such relationships from occurring. The burden on therapists is not great, since they are free to have sexual relations with everyone except minors and ex-patients (for two years).

### Opposition

This bill could be opposed by civil libertarian groups (such as the ACLU) on the basis of the limitation of a person's right to freely associate with others. They may argue that consenting adults should be allowed to engage in sexual relations with each other regardless of their prior professional relationship. They may additionally argue that the two-year rule is an arbitrary barrier to the right of free association. Other affected professions may claim that the present law is sufficient to deal with the existing problems and that the two-year rule is excessive or unnecessary.

### Sample Language

Section 43.93 of the California Civil Code is an example of a law that creates a cause of action against a psychotherapist for engaging in sexual relations with a patient within two years following termination of therapy. Licensing law provisions that prohibit sexual relations between therapist and patient should also be amended to include the "two-year rule."

Amendment  
By Green

Page 5  
Live 9-11

Delete all language after  
**Disclosure statement.**

Replace with

Before the performance of services the client will be furnished a copy of a  
professional disclosure statement that contains

# SENATE COMMITTEE REPORT

DATE: 4/4/03

FURTHER: Labor and Commerce

DATE TURNED  
IN TO OFFICE: \_\_\_\_\_

Health, Education & Social Services Committee considered CS FOR HOUSE BILL NO. 135(HES)

## HB 135 MARITAL & FAMILY THERAPISTS

"An Act relating to marital and family therapists."

and recommends:

be replaced with S CS FOR CS HB 135 (HES)

adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)

attached amendment(s)

adopt Letter of Intent by \_\_\_\_\_ Committee

further referral to \_\_\_\_\_ Committee

**Senate Bill:**

- same title
- new title

**House Bill:**

- same title
- technical title
- new: SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Zero	FN#
CED	3/3		X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:		DO PASS	DO NOT PASS	NO REC	AMEND
Davis	<i>Bettye Davis</i>	✓			
Wilken	<i>Gary Wilken</i>			✓	
Green	<i>Ludy Green</i>			✓	
Guess	<i>Michael Guess</i>			✓	
Dyson	CHAIR: <i>Paul Dyson</i>			✓	

**HB**

**260**

# ALASKA STATE LEGISLATURE

*Chair*  
**FISHERIES**

*Vice-Chair*  
**EDUCATION**

*Member*  
**HEALTH, EDUCATION AND SOCIAL SERVICES**

*Member*  
**STATE AFFAIRS**



**REPRESENTATIVE PAUL SEATON**  
House District 35

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Phone 907-235-2921  
Fax 907-235-4008

## MEMORANDUM

**TO:** Senator Fred Dyson, Chair  
Senate HESS Committee

**FM:** Representative Paul Seaton

**DATE:** January 16<sup>th</sup>, 2004

**RE:** CSHB260(Jud) Scheduling Request

Please schedule CSHB260(Jud), "The Volunteer Health Care Provider Immunity Act," at your earliest convenience for a hearing in the Senate HESS Committee. The most recent version of the bill and all supporting letters and documents are attached. Thank you for your committee's time and attention to this important legislation.



# ALASKA STATE LEGISLATURE

*Chair*  
FISHERIES

*Vice-Chair*  
EDUCATION

*Member*  
HEALTH, EDUCATION AND SOCIAL SERVICES

*Member*  
STATE AFFAIRS



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Fax 907-235-4008

## SPONSOR STATEMENT

### CS HB 260 (JUD) Version S

#### "Volunteer Health Care Provider Immunity Act"

Alaska is currently experiencing a shortage of health care providers, and with many of Alaska's physicians nearing retirement, the state can only expect to see further declines in the availability of affordable health care. CSHB 260 aims to mitigate this problem by encouraging licensed physicians and other health care providers to administer health care services free of charge. By exempting voluntary services from malpractice liability, CSHB 260 would allow health care providers to donate their services without bearing the personal cost of medical malpractice insurance. CSHB 260 will be especially helpful for retiring health care professionals that wish to donate their services but do not still carry malpractice insurance. 43 other states have enacted similar legislation.

Historically, Alaska has had a difficult time recruiting and retaining adequate numbers of physicians and other health care providers. With 186 physicians per 100,000 residents, Alaska currently ranks 49<sup>th</sup> in the country in per capita physicians. Furthermore, the average age of Alaska's physicians is over 51 years old. Many of Alaska's most experienced physicians will be retiring in the next 5 to 10 years.

As licensed physicians in Alaska retire, many of them would like to provide free medical services within their communities. Unfortunately, paying for extremely expensive medical malpractice insurance while providing free services is costly and prohibitive. CSHB 260 would allow health care providers to give free services without this added cost, increasing the volunteer activity among the state's aging health care providers.



CSHB 260 exempts from malpractice liability only those health care services that are provided for free to individuals that are willing to receive such services. Patients would have to receive advanced written notice of this exemption and give informed consent. CSHB 260 does not in any other way alter medical malpractice laws or liability. Health care providers would still be liable for actions resulting from gross negligence, reckless behavior, or intentional misconduct.

I ask for your support in this effort to broaden the availability of affordable health care in Alaska.

THE  
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DOCUMENT(S)  
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# ALASKA STATE LEGISLATURE

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EDUCATION

*Member*  
HEALTH, EDUCATION AND SOCIAL SERVICES

*Member*  
STATE AFFAIRS



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## SECTIONAL ANALYSIS

CSHB 260 (JUD) Version S

### "Volunteer Health Care Provider Immunity Act"

**Section 1:** Titles CSHB 260 as the Volunteer Health Care Provider Immunity Act of 2003.

**Section 2:** Lays out the findings of the legislature in drafting CSHB 260.

**Section 3:** Amends AS 09.65 by adding a new section that gives health care providers immunity from civil damages resulting from medical malpractice, but only if the services are provided without charge and the patient gives informed consent (09.65.290). This section also lays out further provisions that must be met for this immunity to apply and makes it clear that immunity is not granted for civil damages resulting from gross negligence and reckless or intentional misconduct. "Health care provider" and "health care services" are also defined in this section.

**Section 4:** States that this act applies only to actions occurring after the effective date of this act.

**Section 5:** Sets the effective date of this act at July 1, 2003.



# FISCAL NOTE

**STATE OF ALASKA**  
**2003 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 260(L&C)  
 (H) Publish Date: 4/30/03

Revision Date/Time (Note if correction):  
 Title Immunity for Providing Free Health Care  
 Sponsor Representative Seaton  
 Requester Labor and Commerce  
 Dept. Affected: DCED  
 BRU Occupational Licensing (117)  
 Component Occupational Licensing  
 Component No. 2360

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

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other 1156 - Receipt Supported Services						
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2003) cost: 0.0  
 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)

HB 260 provides immunity for free health care services by certain health care providers. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division Occupational Licensing Date/Time 4/28/03 1:32 PM  
 Approved by: Edgar Blatchford, Commissioner Date 4/28/2003  
 Agency Department of Community & Economic Development

Public Law 105-19  
105th Congress

An Act

June 18, 1997  
(S. 543)

To provide certain protections to volunteers, nonprofit organizations, and governmental entities in lawsuits based on the activities of volunteers.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

Volunteer  
Protection Act of  
1997.  
42 USC 14501  
note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Volunteer Protection Act of 1997".

42 USC 14501.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) the willingness of volunteers to offer their services is deterred by the potential for liability actions against them;

(2) as a result, many nonprofit public and private organizations and governmental entities, including voluntary associations, social service agencies, educational institutions, and other civic programs, have been adversely affected by the withdrawal of volunteers from boards of directors and service in other capacities;

(3) the contribution of these programs to their communities is thereby diminished, resulting in fewer and higher cost programs than would be obtainable if volunteers were participating;

(4) because Federal funds are expended on useful and cost-effective social service programs, many of which are national in scope, depend heavily on volunteer participation, and represent some of the most successful public-private partnerships, protection of volunteerism through clarification and limitation of the personal liability risks assumed by the volunteer in connection with such participation is an appropriate subject for Federal legislation;

(5) services and goods provided by volunteers and nonprofit organizations would often otherwise be provided by private entities that operate in interstate commerce;

(6) due to high liability costs and unwarranted litigation costs, volunteers and nonprofit organizations face higher costs in purchasing insurance, through interstate insurance markets, to cover their activities; and

(7) clarifying and limiting the liability risk assumed by volunteers is an appropriate subject for Federal legislation because—

(A) of the national scope of the problems created by the legitimate fears of volunteers about frivolous, arbitrary, or capricious lawsuits;

within the scope of the volunteer's responsibilities in the nonprofit organization or governmental entity;

(3) the harm was not caused by willful or criminal misconduct, gross negligence, reckless misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed by the volunteer; and

(4) the harm was not caused by the volunteer operating a motor vehicle, vessel, aircraft, or other vehicle for which the State requires the operator or the owner of the vehicle, craft, or vessel to—

(A) possess an operator's license; or

(B) maintain insurance.

(b) **CONCERNING RESPONSIBILITY OF VOLUNTEERS TO ORGANIZATIONS AND ENTITIES.**—Nothing in this section shall be construed to affect any civil action brought by any nonprofit organization or any governmental entity against any volunteer of such organization or entity.

(c) **NO EFFECT ON LIABILITY OF ORGANIZATION OR ENTITY.**—Nothing in this section shall be construed to affect the liability of any nonprofit organization or governmental entity with respect to harm caused to any person.

(d) **EXCEPTIONS TO VOLUNTEER LIABILITY PROTECTION.**—If the laws of a State limit volunteer liability subject to one or more of the following conditions, such conditions shall not be construed as inconsistent with this section:

(1) A State law that requires a nonprofit organization or governmental entity to adhere to risk management procedures, including mandatory training of volunteers.

(2) A State law that makes the organization or entity liable for the acts or omissions of its volunteers to the same extent as an employer is liable for the acts or omissions of its employees.

(3) A State law that makes a limitation of liability inapplicable if the civil action was brought by an officer of a State or local government pursuant to State or local law.

(4) A State law that makes a limitation of liability applicable only if the nonprofit organization or governmental entity provides a financially secure source of recovery for individuals who suffer harm as a result of actions taken by a volunteer on behalf of the organization or entity. A financially secure source of recovery may be an insurance policy within specified limits, comparable coverage from a risk pooling mechanism, equivalent assets, or alternative arrangements that satisfy the State that the organization or entity will be able to pay for losses up to a specified amount. Separate standards for different types of liability exposure may be specified.

(e) **LIMITATION ON PUNITIVE DAMAGES BASED ON THE ACTIONS OF VOLUNTEERS.**—

(1) **GENERAL RULE.**—Punitive damages may not be awarded ~~X~~ against a volunteer in an action brought for harm based on the action of a volunteer acting within the scope of the volunteer's responsibilities to a nonprofit organization or governmental entity unless the claimant establishes by clear and convincing evidence that the harm was proximately caused by an action of such volunteer which constitutes willful or criminal misconduct, or a conscious, flagrant indifference to the rights or safety of the individual harmed.

(3) **NONECONOMIC LOSSES.**—The term “noneconomic losses” means losses for physical and emotional pain, suffering, inconvenience, physical impairment, mental anguish, disfigurement, loss of enjoyment of life, loss of society and companionship, loss of consortium (other than loss of domestic service), hedonic damages, injury to reputation and all other nonpecuniary losses of any kind or nature.

(4) **NONPROFIT ORGANIZATION.**—The term “nonprofit organization” means—

(A) any organization which is described in section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from tax under section 501(a) of such Code and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note); or



(B) any not-for-profit organization which is organized and conducted for public benefit and operated primarily for charitable, civic, educational, religious, welfare, or health purposes and which does not practice any action which constitutes a hate crime referred to in subsection (b)(1) of the first section of the Hate Crime Statistics Act (28 U.S.C. 534 note).

(5) **STATE.**—The term “State” means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, any other territory or possession of the United States, or any political subdivision of any such State, territory, or possession.

(6) **VOLUNTEER.**—The term “volunteer” means an individual performing services for a nonprofit organization or a governmental entity who does not receive—

(A) compensation (other than reasonable reimbursement or allowance for expenses actually incurred); or

(B) any other thing of value in lieu of compensation, in excess of \$500 per year, and such term includes a volunteer serving as a director, officer, trustee, or direct service volunteer.

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## Primary Health Care

### Access to Health Care: Volunteer Health Care Providers and Civil Immunity Laws

Updated March 2000

X Laws establishing immunity from civil liability for health care providers delivering uncompensated care to indigent populations have been enacted in a majority of the states in the last decade. Viewed as a way to encourage health care providers to provide free care to underserved populations, states have removed the threat of civil suits against providers who are acting in good faith. X

Laws providing immunity only for services rendered in an accident or emergency situation are not included.

First Letter of State A C D F G H I K L M N O P R S T U V W

State	Description
Alabama	Ala. Code § 6-5-339 provides immunity from civil immunity to medical professionals who volunteer their services at free medical clinics without compensation, and provides that an act or omission of a volunteer medical professional shall be the responsibility of the free medical clinic.
Alaska	-
American Samoa	-
Arizona	Ariz. Rev. Stat. Ann. § 12-571 states that a health professional who provides medical or dental treatment within the scope of their certificate or license at a nonprofit clinic where neither the professional or the clinic receives compensation is not liable in a medical malpractice action unless the health professional was grossly negligent.
Arkansas	Ark. Stat. Ann. § 16-6-105 states that physicians and health care professionals who are licensed under the laws of the state, and who render medical services voluntarily and without compensation to any person at a any free or low-cost medical clinic shall not be liable

for any civil damages for any act or omission resulting from the medical services unless the act or omission was a result of gross negligence or willful misconduct.

**Ark. Stat. Ann. § 17-95-108** expands upon the previous law to state that the immunity applies when the patient acknowledges in writing that the physician is immune from civil liability.

**California**

**Cal. Business and Professions Code § 2395.5** states that a physician who serves on an on-call basis to a hospital emergency room and in good faith renders emergency obstetrical services to any person while on-call shall not be liable for any civil damages except in cases of gross negligence, recklessness, or willful misconduct.

**Colorado**

**Colo. Rev. Stat. § 24-10-103 (4)** extends governmental immunity from civil damages to any health care practitioner employed by a public entity and to any health care practitioner who volunteers his services at or on behalf of a public entity or as a participant in the community maternity services program.

**Connecticut**

**Delaware**

**Del. Code Ann. Tit. 10 § 8135** grants immunity from civil suits resulting from any negligent act or omission performed during or in connection with an activity of the volunteer while serving the medical clinic to any licensed physician or nurse engaged in an activity for a medical clinic without compensation.

**District of Columbia**

**D. C. Code Ann. § 2-1344** extends limited immunity to health care professionals including physicians, nurses or nurse midwives who in good faith provide health care or treatment at a free health clinic without the expectation of receiving or intending to receive compensation unless the act or omission is an intentional wrong or constitutes a willful or wanton disregard for the health and safety of others.

**Florida**

**Fla. Stat. § 768.13(4)** states that any person who is licensed to practice medicine, while acting as a staff member or with professional clinical privileges at a nonprofit medical facility shall not be held liable for any civil damages for any care provided gratuitously.

**Georgia**

**Ga. Code. § 51-1-29** states that no health care provider licensed under Chaps. 11, 26, 30, or 34 who voluntarily and without expectation or receipt of compensation provides professional service, within the scope of their license, for a hospital, public school, nonprofit organization or an agency of the state shall be liable for damages or injuries alleged to have occurred in the rendering of these services.

**Guam**

**Hawaii**

**Idaho**

**Idaho Code § 6-1605** provides immunity for civil liability for nonprofit organization officers, directors, and volunteers who serve

the nonprofit without compensation with the exception of willful, wanton misconduct.

**Illinois**

**Ill. Rev. Stat. ch. 111§ 4400-30** provides immunity from civil damages for physicians who provide medical treatment in good faith at a free medical clinic to medically indigent patients if he or she receives no compensation, excludes willful or wanton misconduct.

**Indiana**

**Ind. Code § 34-412.1-2, 34-4-12-1.5** provides that a health care provider, including a retired physician, who voluntarily provides health care at a medical clinic or health care facility is immune from civil liability arising from the care provided unless the acts constitute a criminal act, gross negligence or willful, wanton misconduct.

**Iowa**

**Iowa Code § 65-135.24** establishes a volunteer physician program and states that physicians providing care under this program will be considered employees of the state and shall be afforded the protection from civil immunity for their services.

**Kansas**

**Kan. Stat. Ann. § 75-6102** provides indemnity to charitable health care providers who have entered into an agreement with the secretary of health and environment and who provides free professional services to medically indigent patients by considering the provider a state employee.

**Kentucky**

**Ky. Rev. Stat. § 304.40-075** states that the Department of Insurance will provide medical malpractice insurance to a charitable health care provider who has registered with the Cabinet for Human Resources. A charitable health care provider is defined as any person, agency, clinic or facility engaged in providing medical care without compensation. This law also applies to health care providers who are not licensed in the state of Kentucky as long as they meet the definition of charitable health care provider.

**Louisiana**

**La. Rev. Stat. Ann. § 40:1299.152** provides state indemnification of health care providers who provide charity care in at least 10% of the provider's patient encounters. Charity care is limited to defined State programs or care provided at federally funded nonprofit clinics. Health care providers can be a person, partnership or corporation. The providers must maintain liability insurance, the law excludes protection for gross negligence or intentional misconduct.

**La. Rev. Stat. Ann. § 40:1299.161** provides a state mandated premium discount for health care providers who provide at least 10% or more charity care in their practices.

**Maine**

**Me. Rev. Stat. Ann. Tit. 24, § 2904** states that a licensed physician who voluntarily, and without compensation, provides professional services within the scope of his practice to a nonprofit organization or to an agency of the state shall not be liable for damages or injuries related to those services. The state will be liable unless the damages were caused willfully, wantonly or by gross negligence.

**Me. Rev. Stat. Ann. Tit. 14, §315** states that the Board of Medicine

shall issue a license free of charge to any physician who provides medical services to patients with no compensation and is not engaged in the private practice of medicine.

**Maryland**

**Md. Courts & Judicial Proceedings Code Ann. Sec. 5-616** repealed a requirement compelling volunteer health care providers and physicians delivering care at charitable organization to carry a specified amount of insurance to qualify for immunity from specified types of civil liability.

**Massachusetts**

**Mass. Gen. Laws Ann. Ch. 112, § 12C** states that no physician rendering immunizations or other protective programs under public programs shall be liable for civil damages.

**Michigan**

-

**Minnesota**

-

**Mississippi**

**Miss. Code Ann. § 11-46-1** indemnifies physicians who provide care under an agreement with State government. The physician is considered a State employee.

**Miss. Code Ann. § 73-25-18** establishes a special volunteer medical license for physicians who are retired from active practice and with to donate their expertise for the medical care and treatment of indigent and needy people or people in medically underserved areas. The laws provides that the license be issued without charge and that the license shall limit the practice of the physician to a specific location.

**Missouri**

**Mo. Rev. Stat. § 105.711** provides that the state legal defense fund covers payment of claims against physicians, dentists, dental hygienists, nurses and physician assistants who provide primary or preventive care for free at a city or county health department or a tax-exempt nonprofit community health center or who provide such care to students of public, private or parochial elementary or secondary schools, pursuant to a contract with a local health department.

**Montana**

-

**Nebraska**

-

**Nevada**

**Nev. Rev. Stat. Ann. § 41.505** provides civil immunity for physicians, including retired physicians, who offer free care and, or provide emergency obstetrical services.

**Nev. Rev. Stat. Ann. § 41.485** states that a volunteer of a charitable organization is immune from liability for civil damages as a result of an act or omission. Volunteer includes any person who performs services without compensation.

**New Hampshire**

**N.H. Rev. Stat. Ann. § 329:25-a** grants certain retired physicians immunity from civil liability for health education services.

**N.H. Rev. Stat. Ann. § 508:17** provides immunity from civil damages for volunteers of a nonprofit organization or government

**Texas**

**Texas Civil Practice and Remedies Code Ann. § 110.001** indemnifies physicians for defined "charity care" if the physician renders the care in at least 10% of his patient encounters during the year a claim is made.

**Texas Insurance Code Ann. § 5.15-4** states that a physician is entitled to a premium discount for medical professional liability insurance for providing services for selected charity care programs.

**U.S. Virgin Islands**

**Utah**

**Utah Code Ann. § 58-12-23.5** provides qualified immunity for health care providers who render charity care without compensation in a qualified location, excludes gross negligence and willful misconduct.

**Vermont**

**Virginia**

**Va. Stat. Ann. Tit. § 54-1.2:2** states that health care professionals rendering services free of charge at free clinics are exempt from civil liability, excludes acts of gross negligence and willful misconduct.

**Washington**

**West Virginia**

**W. Va. Code § 30-3-10a** establishes special volunteer medical licenses for physician wishing to donate their expertise for the medical care and treatment of indigent and needy patients of clinics organized in whole or in part for the delivery of health care services without charge and provides immunity from civil actions for physicians rendering such care.

**Wisconsin**

**Wis. Stat. § 146.89** provides indemnification for volunteer health care providers who submit an application associating them with a nonprofit agency to the state.

**Wyoming**

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Washington, D.C. 20001  
Tel: 202-624-5400  
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**Alaska State Hospital & Nursing Home Association**  
*We're helping people care for people!*

April 28, 2003

Representative Tom Anderson  
Capitol Building, Room 432  
Juneau AK 99801-1182

Dear Representative Anderson:


I am writing in support of HB 260 relating to immunity for free health care services provided by certain health care providers.

ASHNHA wholeheartedly supports this legislation. Any efforts to increase the limited medical resources available in Alaska are a positive for the health care community and Alaskans.

The Alaska State Hospital and Nursing Home Association (ASHNHA) is an organization of all but one of the hospitals and nursing homes in Alaska. As such we represent the views of those medical facilities. They are solidly in favor of this legislation.

If you have questions, please contact me.

Sincerely yours,

  
Laraine L. Derr, President/CEO

# COVENANT HOUSE ALASKA

The Honorable Paul Seaton  
House of Representatives  
Alaska State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Seaton:

Thank you for sponsoring HB260. This legislation would be of great benefit to Covenant House programs in two ways. First it would provide us an extra layer of protection for the services we are currently providing to youth without charge. Second, it would increase our abilities to utilize the services of health care providers from the community who are willing to volunteer. We provide free health care services to the youth we serve in all our programs. In one year we have had over 650 visits to our health clinic. A part-time Family Nurse Practitioner currently staffs our clinic.

We have had offers from nurses and physicians to provide volunteer services to our youth. Concerns about liability often keep individuals from being able to provide additional services to our youth. We recently had an offer for assistance from a military doctor, who could not provide direct services because her military malpractice does not cover her in the private sector.

### Background Information

Covenant House Alaska is a non-profit social service organization. We have been a "lifeline from the streets" for homeless and runaway youth in Anchorage since 1988.

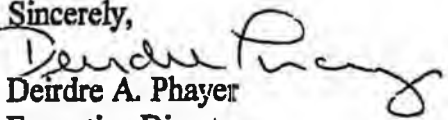
Covenant House operate multiple programs the include:

- Crisis Center: temporary residential care for youth in need of immediate sanctuary
- Youth Resource Center: offers outreach and walk-in services
- Transitional Living Programs: provides residential care for 24 youth

We provide an opportunity for young Alaskans to leave the streets, finish school, learn a skill, find a job, reunify with their families and begin their lives again. Our annual budget is 3.5 million and we employ 60 full time staff.

I appreciate your efforts and can be contacted at #907-339-4203 if you have additional questions.

Sincerely,

  
Deirdre A. Phayer  
Executive Director

THE ALASKA ASSOCIATION OF NATUROPATHIC PHYSICIANS  
11238 EAGLE RIVER ROAD, SUITE 254 • EAGLE RIVER, ALASKA • 99577-7228  
PHONE: 907-694-5522 • FAX: 907-694-5524

May 7, 2003

Representative Paul Seaton  
Capital Building  
Juneau, Alaska 99811

Dear Representative Seaton:

Thank you for sponsoring the Volunteer Health Care Provider Immunity Act (HB 260). We as naturopathic physicians strongly agree that the removal of liability requirements for retired physicians would be in the best interest of the state of Alaska. We agree that removing the hindrance of malpractice insurance for retired physicians would increase the availability of quality volunteer medical care for Alaskans in all parts of the state. Further, we appreciate Section 09.65.290 that provides immunity from civil damages for physicians providing free health care services. Our profession has a tradition of providing volunteer health care for alcohol and drug detox centers, outreach clinics, and other state funded programs.

Licensed naturopathic physicians (N.D.) have completed a minimum of four years of graduate level naturopathic medical school. They are educated in all of the same basic and clinical sciences as a M.D., but with a strong emphasis on disease prevention and health optimization. In addition to the standard medical curriculum, the naturopathic physician is trained in acupuncture, botanical medicine, clinical nutrition, counseling, homeopathic medicine, physical medicine and psychology. Entry into the profession requires rigorous national board exams so that they can be licensed as primary care, general practice physicians. N.D.s know when, and how to refer to medical doctors, or specialists, for patients who require immediate or further medical intervention.

We appreciate that naturopathic physicians have been included and support your sponsorship of HB 260.

Sincerely,

Madeleine Morrison-Young N.D.  
AKANP President

Jason Harmon N.D.  
Vice President  
Anchorage

Scott Luper N.D.  
Secretary  
Fairbanks

Gigi Schulte N.D.  
Treasurer  
Anchorage

Daniel J. Young N.D., L.Ac.  
Legislative Affairs  
Anchorage

**The Senner Family, P.O. Box 102264, Anchorage, AK 99510**  
907-243-8044 (home) ♦ [senfam@customcpu.com](mailto:senfam@customcpu.com)

May 6, 2003

Honorable Paul Seaton  
State Capitol  
Juneau, Alaska 99801-1182

Dear Representative Seaton;

On May 9th the House Judiciary Committee is scheduled to hear testimony on HB 260, "An Act relating to immunity for free health care services provided by certain health care providers...". The Alaska Nurses Association is very much in favor of this piece of legislation, but we would like to see one change be made to the bill.

The Alaska Nurses Association along with the Alaska Chapter of the American Red Cross, the Alaska Division of Public Health Nursing, and the Municipality of Anchorage Health Department has established the Alaska Nurse Alert System. This is a registry of nurses willing to volunteer in an event such as an epidemic or disaster.

We would like to see section 09.64.290 (3) of HB 260 amended to include emergency shelters and temporary health facilities set up as part of a disaster response. This would help provide added liability protection to those health care providers who volunteer in response to a public health emergency.

Thank you for your attention to this request, if you have any question please give me a call. We hope that we are able to testify on this bill by teleconference.

Sincerely,

Patricia Senner RN  
President, Alaska Nurses Association

April 30, 2003

Dear Representative Seaton, (fax: (907) 465-3472)

I was listening to the House L&C Committee hearing on HB 260 on April 28. I appreciated that you acknowledged that nurses should also be included in Section 2 of your bill. But I was very disappointed to hear that you were not aware of the levels of licensure for the nursing categories named in your bill.

Two weeks ago I sent to every Legislator an informational brochure about the various categories of Advance Practice Nurses in Alaska. Attached is some of the information, in case your staff did not give that to you. I provided this information because legislators usually do not know much about this topic.

Nurses are a most altruistic group of health care providers. While I appreciate that you are carrying this bill on behalf of ASMA, nurses far outnumber MDs and do far more volunteer work in their communities than do MDs.

The defined health care providers in HB 260 is very appropriate, if the purpose of the bill is to provide a more hospitable environment for access to health care for Alaskans of all economic levels. I would encourage you NOT to entertain a reduction of those categories. I don't know if you heard Dr. Hedrick Hanson, who commented that he could not operate a clinic without nurses. Rep. Gara commented that he sees his dental hygienist much more frequently than his dentist.

I support your statement that free health care from volunteer health care providers is certainly vastly more desirable than no health care at all. There are too many Alaskans with no health care at all and that is the need that will be addressed by HB 260.

Thank you for your service to Alaska in the legislature.

Respectfully,



Cathy Glessel, MSN, FNP-CS  
Marketing Committee Chair, Alaska Nurse Practitioner Association  
12701 Ridgewood Rd  
Anchorage, AK 99518

907 345 5470

copy to Representative Wilson (fax: (907) 465-3175)



**A N P A**

*Alaska Nurse Practitioner Association  
2207 E. Tudor Rd. #34  
Anchorage, AK 99507  
907.222.6847*

## **Advanced Nurse Practitioners In Alaska**

**Advanced practice nurses are Registered Nurses (RN) who have masters or other advanced degrees in specialty medical care.**

**There are 670 advanced practice nurses in the State of Alaska (2002 licensure figures). They are:**

- **Advanced Nurse Practitioners (ANP) - 477**
- **Certified Registered Nurse Anesthetists (CRNA) - 93**

**Advanced Nurse Practitioners (ANP) hold specialty certifications in:**

- family and adult health care
- pediatrics
- gerontology
- women's health and midwifery
- school health
- psychiatric
- oncology
- cardiology

**Advanced Nurse Practitioners:**

- provide independent primary health care services
- provide professional consulting services
- are post-secondary and graduate level educators
- are administrators for health care facilities
- conduct professional research

**ANP health care services include:**

- health histories, physical examinations and diagnosis
- ordering of lab and x-ray testing
- prescription of medications and other treatments
- management of illnesses
- promotion of prevention and proactive health counseling

**Advanced Nurse Practitioners can be found in:**

- Alaska's large cities and rural communities
- clinics ANPs own and operate
- collaborative practices with physicians or other health care providers
- hospitals, nursing homes and long term care settings

**w w w . a l a s k a n p . o r g**

**ANP continuing education:**

- License renewal every 2 years
- Continuing education required for license renewal
- National specialty certification
- Periodic peer review

**Advanced Nurse Practitioners are very active in community and state-wide issues:**

- employing a lobbyist in Juneau
- participating in political campaigns for candidates of their choice
- voting

**Advanced Nurse Practitioners contribute to the quality of life in Alaska as active members of their community and state, providing professional, caring and affordable health services for all ages.**

**For more information contact:**

**Alaska Nurse Practitioner Association  
2207 East Tudor Rd, Suite #34  
Anchorage, AK 99507  
907 222 6847**

**Cathy Glessel, MSN, FNP-CS  
cglessel@mac.com**

# Alaska State Medical Association

4107 Laurel Street • Anchorage, Alaska 99508 • (907) 562-0304 • (907) 561-2063 (fax)

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04/24/2003

Honorable Paul Seaton  
State of Alaska  
House  
State Capitol, Room 428  
Juneau, AK 99801 - 1182

Transmitted by Fax:  
907-465-3472

Re: HB 260 - Volunteer Health Care Provider Immunity Act of 2003

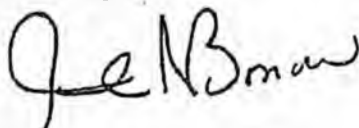
Dear Representative Seaton:

The Alaska State Medical Association (ASMA) represents Alaska's patients and the physicians who care for them.

ASMA supports the Volunteer Health Care Provider Immunity Act of 2003 (HB 260). HB 260 provides the vehicle for tapping into this experienced physician resource to provide free care.

Physicians provide significant amounts of free care during their active careers. The Volunteer Health Care Provider Immunity Act will allow that practice to be carried into the retirement years.

Sincerely,



By: Jeanne Bonar, MD  
President

For: Alaska State Medical Association



Honorable Tom Anderson, Chair  
House Labor and Commerce Committee  
Alaska Capital, Room 432  
Juneau, AK 99801-1182

April 28, 2003

RE: HB 260 (Seaton)—Support

Dear Chair Anderson:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the House Labor and Commerce Committee to support HB 260, authored by Representative Paul Seaton, and co-sponsored by Representatives Peggy Wilson, Les Gara, and you.

As you know, several states have programs that provide immunity to health care professionals who volunteer their services to help citizens in need. As Alaska attempts to provide care for the 20% of us who have no health insurance, volunteerism among health care workers is one option that is being explored to help fill the gap.

We believe HB 260 will help encourage volunteerism while still maintaining consumer access to damages if there was a case of gross negligence or reckless intentional conduct. AARP believes this is a "win-win" bill for citizens who need access to health care as well as the health professionals who are willing to volunteer their services in the highest tradition of their professions.

We look forward to your support of this bill in the House Labor and Commerce Committee and we sincerely thank you in anticipation of that support. AARP recommends an "AYE" vote on HB 260.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.588.3637), Coordinator of the AARP Capital City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,

*Marguerite Stetson*

Marguerite Stetson  
AARP Alaska  
Executive Council Member for Advocacy  
3008 Northwood Street  
Anchorage, AK 99517-1871  
907.245.5259 voice  
907.245.5279 fax  
[ffmas@aurora.uaf.edu](mailto:ffmas@aurora.uaf.edu)

cc: Vice-Chair Bob Lynn  
Representative Nancy Dahlstrom  
Representative Carl Gatto  
Representative Norman Rokeberg  
Representative Harry Crawford  
Representative David Guttenberg  
Representative Paul Seaton  
Representative Peggy Wilson  
Representative Les Gara  
Marie Darlin  
Patrick Luby

Alaska State Office Building  
1000 Northwood Street  
Anchorage, Alaska 99517  
907-245-5259  
907-245-5279  
ffmas@aurora.uaf.edu



Lung & Sleep Clinic  
of Alaska, Inc.

**William Lucht MD, FCCP.**

April 17, 2003

Honorable Tom Anderson  
House of Representatives  
Chairman Labor and Commerce  
State Capitol, Room 432  
Juneau, AK 99801-1182

Re: HB260 – The Retired Physicians Immunity Bill

Dear Representative Anderson:

I am an Anchorage based physician specializing in Pulmonary, Critical Care Medicine, and Sleep Medicine.

Like many of my colleagues, I have plans to eventually retire in Alaska, and would like to continue to benefit the community by providing occasional free healthcare services to the elderly and indigent. HB260 will alleviate one of my major concerns about providing this free healthcare.


Currently, it is not realistic for retired physicians to pay large medical malpractice insurance premiums to provide free services. HB260 would provide some needed civil liability protection.

Please note that the bill will also encourage many other types of healthcare providers to offer their services free of charge to many of the most needy in Alaska.

Alaska has always had trouble attracting and maintaining adequate numbers of physicians to care for it's geographically dispersed population. HB260 would to some extent help alleviate this problem.

I urge you to support the bill. HB260 will encourage Alaska's healthcare providers to care for those Alaskans most in need, and allow some of Alaska's most senior and experienced physicians to continue to practice even after they retire.

Sincerely,



Bill Lucht, MD

**JOHN B. DEKEYSER, M.D., P.C.**  
Obstetrics & Gynecology

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April 18, 2003

Honorable Tom Anderson  
House of Representatives  
Chairman Labor and Commerce  
State Capital, Room 432  
Juneau, AK. 99801-1182

Re: HB260 - The Retired Physicians Immunity Bill


Dear Representative Anderson:

I am an Anchorage based physician specializing in Obstetrics & Gynecology.

Like many of my colleagues, I have plans to eventually retire in Alaska, and would like to continue to benefit the community by providing occasional free healthcare services to the elderly and indigent. HB260 will alleviate one of my major concerns about providing this free healthcare.

As you are aware, we are in the midst of both a medical liability insurance crisis along with a Medicare availability shortage. HB260 is a partial answer to both of these issues. I strongly urge you to support HB260.

Sincerely,



John B. DeKeyser, M.D.

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Honorable Tom Anderson  
House of Representatives  
Chairman Labor and Commerce  
State Capitol, Room 432  
Juneau, AK 99801-1182

April 18, 2003

Re: HB260 - The Retired Physicians Immunity Bill

Dear Representative Anderson:

I am an Anchorage based physician specializing in Family Practice.

Like many of my colleagues, I have plans to eventually retire in Alaska, and would like to continue to benefit the community by providing occasional free healthcare services to the elderly and indigent. HB260 will alleviate one of my major concerns about providing this free healthcare.

Currently, it is not realistic for retired physicians to pay large medical malpractice insurance premiums to provide free services. HB260 would provide some needed civil liability protection.

Please note that the bill will also encourage many other types of healthcare providers to offer their services free of charge to many of the most needy in Alaska.

Alaska has always had trouble attracting and maintaining adequate numbers of physicians to care for its geographically dispersed population. HB260 would to some extent help alleviate this problem.

I urge you to support the bill. HB260 will encourage Alaska's healthcare providers to care for those Alaskans most in need, and allow some of Alaska's most senior and experienced physicians to continue to practice, even after they retire.

Sincerely,

Charles L. Aarons, M.D.

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## SPONSOR STATEMENT

### CS HB 260 (JUD) Version S

#### “Volunteer Health Care Provider Immunity Act”

Alaska is currently experiencing a shortage of health care providers, and with many of Alaska's physicians nearing retirement, the state can only expect to see further declines in the availability of affordable health care. CSHB 260 aims to mitigate this problem by encouraging licensed physicians and other health care providers to administer health care services free of charge. By exempting voluntary services from malpractice liability, CSHB 260 would allow health care providers to donate their services without bearing the personal cost of medical malpractice insurance. CSHB 260 will be especially helpful for retiring health care professionals that wish to donate their services but do not still carry malpractice insurance. 43 other states have enacted similar legislation.

Historically, Alaska has had a difficult time recruiting and retaining adequate numbers of physicians and other health care providers. With 186 physicians per 100,000 residents, Alaska currently ranks 49<sup>th</sup> in the country in per capita physicians. Furthermore, the average age of Alaska's physicians is over 51 years old. Many of Alaska's most experienced physicians will be retiring in the next 5 to 10 years.

As licensed physicians in Alaska retire, many of them would like to provide free medical services within their communities. Unfortunately, paying for extremely expensive medical malpractice insurance while providing free services is costly and prohibitive. CSHB 260 would allow health care providers to give free services without this added cost, increasing the volunteer activity among the state's aging health care providers.

