


ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672


11264 SENATE LABOR & COMMERCE

Brand
only


Both Brand &
Generic

Family PHARMACY  907-694-7007
11432 Business Blvd.
Eagle River, AK 99577
CAUTION: Federal law prohibits transfer of this drug to any person other than patient for whom prescribed.
RX#229068 DR.DR 2/12/03
JOHN, DOE
TAKE ONE CAPSULE ONCE DAILY


PREVACID 30MG DR CAP 30
NO REFILLS PC RX EXP: 2/12/04

Family PHARMACY  907-694-7007
11432 Business Blvd.
Eagle River, AK 99577
CAUTION: Federal law prohibits transfer of this drug to any person other than patient for whom prescribed.
RX#229072 DR.DR 2/12/03
JOE, JOHN
TAKE ONE CAPSULE ONCE DAILY

CELEBREX 200MG CAPSULE 60
NO REFILLS PC RX EXP: 2/12/04

Family PHARMACY  907-694-7007
11432 Business Blvd.
Eagle River, AK 99577
CAUTION: Federal law prohibits transfer of this drug to any person other than patient for whom prescribed.
RX#229067 DR.DR 2/12/03
JOHN, DOE
TAKE ONE CAPSULE ONCE DAILY

FLUOXETINE 20MG CAP 100
W/F: PROZAC 20MG CAP
NO REFILLS PC RX EXP: 2/12/04

Family PHARMACY  907-694-7007
11432 Business Blvd.
Eagle River, AK 99577
CAUTION: Federal law prohibits transfer of this drug to any person other than patient for whom prescribed.
RX#229071 DR.DR 2/12/03
DOE, JOHN
INHALE AS DIRECTED

ALBUTEROL INH 17
W/F: PROVENTIL 90MCG AER
NO REFILLS PC RX EXP: 2/12/04



15
Earthquakes
past and future



26
Juneau
on ice

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SENIOR VOICE

The Monthly Publication for Alaskans 50+

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Bill targets drug labels

Confusion over brand, generic versions can be dangerous

By DAVID WASHBURN
Senior Voice

Current drug bottle labeling practices can cause confusion over which drug is being taken, sometimes leading to accidental overdoses in seniors and others who use medications on a regular basis, according to a state legislator who wants to correct the problem. Earlier this session, Rep. Paul Seaton introduced House Bill 17, which mandates that prescription labels include both the brand and generic names for the medicine.

Seaton, a Republican who represents the 11th district, said he introduced HB 17 after hearing about constituents who suffered overdoses because they inadvertently took the same drug twice. The medicines were dispensed in separate bottles and bore different names — the version marketed under a brand name; and the generic version.

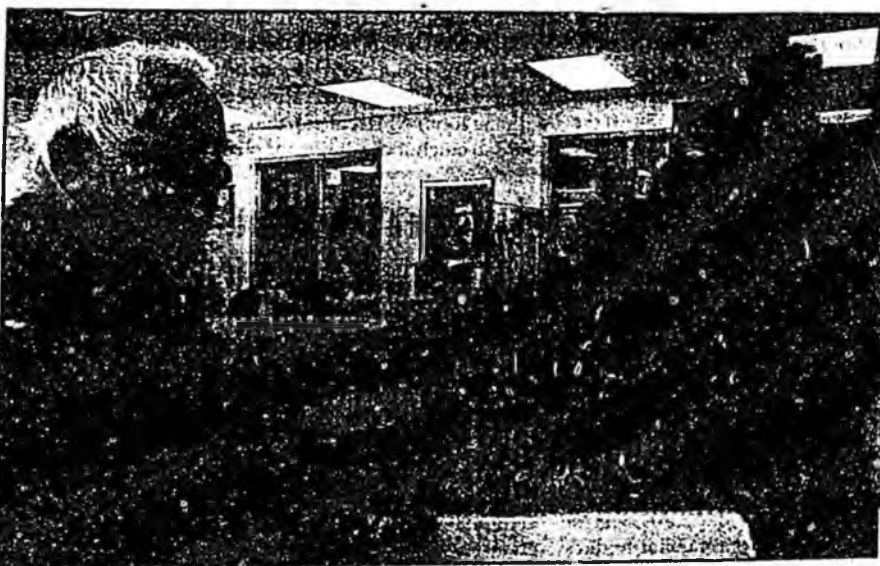
"When I was talking to people, I found parents that had double-dosed their kids, not intentionally, obviously, but out of accident because you couldn't tell they were taking the same medicine with these bottles," Seaton said.

In one incident, a Kenai Peninsula woman placed an order with her insurance company for a drug for her Parkinson's disease, which they shipped in a generic form. The medicine arrived about 10 days later, but in the meantime the woman went to her local pharmacy and re-filled her brand name prescription. Weeks later, her family became increasingly worried when the woman began hallucinating. Eventually, the family and doctor figured out the woman was taking both the brand name and mail-order generic versions of the same drug.

"If we were only taking one or two medicines with chronic illnesses, this wouldn't be a problem," Seaton said in a Feb. 13 hearing on the bill in the House Health, Education and Social Services (HESS) committee. "But what's happened now is that medicines have become much more

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Whenever you're ready . . .



Amy Hartley/Senior Voice
Wayne Pinquoch and Harold Sonneband await the next move during a recent cribbage game at the Floyd Smith Senior Center in Wasilla. The two have played cards together at the center for years, staff said.

Aging in place

Wasilla grows closer to its dream of offering a full spectrum of care

By AMY HARTLEY
Senior Voice

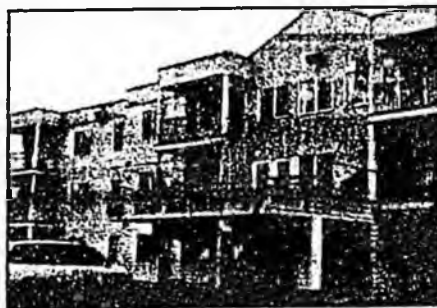
When you're young, living on the go may be exciting. With the carefree lifestyle there are always different places to explore and new faces to get to know. But as you grow older, the need to get settled starts to sink in. Raising families, buying homes, turning neighbors into

good friends—all of these aspects propel many to plant roots deep into their community. So what happens when you've reached the point in your life when your kids have moved away, your house is just too much to keep up with and you've retired? Many seniors decide to downsize. But does downsizing mean selling off everything and packing up for a senior home in Florida? The staff at a senior campus in the Mat-Su Valley would say "No." The mission for the team at Wasilla Area Seniors, Inc. is to keep seniors in their home communities for as long as possible. They've adopted a popular concept called "aging in place," and hope to help Valley seniors stay close to what's familiar—friends, family and dependable services.

Wasilla Area Seniors, Inc. (WASI) is the non-profit organization that operates the Floyd Smith Senior Center and its multitude of services. The center is currently surrounded by five housing developments that are all independent senior apartments. But noting the need for progressive housing, WASI staff launched a plan to increase options for their tenants. They want seniors who are now living independently on the campus to transition smoothly into assisted living and beyond without moving away. Tim Anderson, executive director of WASI, says campus seniors need to stay close to the community they've become a part of, instead of relocating.

"Moving from independent to assisted living on the same campus doesn't quite shake them up

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Amy Hartley/Senior Voice
Raventree Court is one of the newer developments on the WASI campus. It houses 26 units of independent living.

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Legislation . . .

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prolific to treat specific parts of diseases, so people end up taking six, seven, eight or more medications with their conditions."

HB 51 directs that "a pharmacist, when dispensing a brand-name prescription drug order, shall include the generic drug name that is an equivalent drug product for the drug dispensed ... The generic drug name shall be placed directly on the container's label near the brand name."

Pharmacists already list the brand name equivalent when a generic is dispensed, but not always the other way around, Seaton said.

"The only thing the bill does is require that any bottle that has the brand also have the generic name on that bottle."

Seaton noted the Food and Drug Administration recom-



mends both brand and generic names be included on all medication labels, and cited medical research stating that 15 percent of all reported medication errors are due to confusion over the drug name. Seaton said he has received letters of support for HB 51 from the chief pharmacist at the Pioneers' Home Pharmacy, AARP, Aetna insurance company, senior centers, and others.

The bill was referred to the House Labor and Commerce committee.

Mark Begich Mayor



D. Begich at a public meeting

Dear Voter,
I was born and raised in Anchorage. My parents, Peggy and the late Nick Begich, ventured to the territory of Alaska in 1957 as educators, seeking opportunity and adventure for their young family.
From my parents, I learned the values of hard work, commitment to community, and strength of family. These are the values I have applied to a successful small business career and long record of public service.
I am ready to use those skills and my leadership to serve our city as Mayor. I'd appreciate your vote on April 1st. Please call me with any questions or concerns at 279-2793.

- making and keeping Anchorage schools strong
- reducing traffic congestion, fighting crime and putting people first
- restoring our spirit of community and the city's connection to neighborhoods.

Legislative Research Services

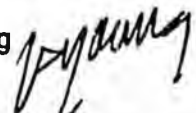
Alaska State Legislature
Legislative Affairs Agency
Division of Legal and Research Services

State Capitol
Juneau, AK 99801
Phone: 907-465-3991
Fax: 907-465-3908

January 17, 2003

Memorandum

TO: Representative-elect Paul Seaton

FROM: Patricia Young
Manager 

RE: Reducing Prescription Drug Errors

You asked for background information that we could quickly gather on problems encountered by the elderly in using prescription drugs. You were particularly interested in information on efforts to deal with such problems.

As you'll see from the attached materials, the Institute for Safe Medicine Practices (ISM.P) is a good source of information on all aspects of your question.¹ The organization publishes "Safe Medicine," a newsletter that among other things, always prints generic names of medications in *red*. In contrast, they capitalize specific brand names and print them in *green*. They follow specific brand names with the generic name in parentheses. We've provided several documents from the institute website, including testimony before the U.S. Ways and Means Committee that includes some specific recommendations in regard to reducing prescription errors, misuse, and adverse events.

We've also included information from the National Institute on Aging (NIA) and the Food and Drug Administration (FDA). The National Association of Boards of Pharmacy (www.nabp.net) and the Administration on Aging (www.aoa.gov/elderpage.html) are good resources as well.

During our quick search we encountered a number of references to "Brown Bag" medicine check programs through which pharmacists, nurses, or doctors assess seniors' collections of medications for compatibility, expiration dates, etc. We include a description of one such program. We also include information on a National Association of Boards of Pharmacy study commissioned by the FDA to assess the extent and usefulness of the private sector prescription information that patients receive along with their medications.²

Lastly, we include a printout of "Recommended Best Practices—Medication Errors," published by the Tennessee Department of Health, and adopted by Tennessee Improving Patient Safety (TIPS). Under "15 Ways to Lower your Dose of Medication Errors," we found the following statement and guidelines:


A study from the University of Chicago Medical Center places the incidence of medication errors between 1.7 and 59.1 percent. According to the Joint Commission on Accreditation of Healthcare Organizations, 15 percent of reported medication errors are due to confusion


¹ The Institute for Safe Medication Practices website address is www.ismp.org.

² The results of that study, published in 2001, can be found at <http://www.fda.gov/cder/reports/prescriptionInfo/default.htm>.

between drug names. Thousands more are due to confusing or misunderstood abbreviations.³

According to the Food and Drug Administration and the authors of the University of Chicago study, the following guidelines can greatly reduce the number of medication errors:

1. Clearly write all orders with a ballpoint pen so that copies are legible.
2. Avoid the use of abbreviations and unnecessary symbols on drug orders.
3. Include the indication for the medication in each order, i.e. "for blood pressure."
4. Never guess about a medication order, but contact the physician if there are any questions about drug, dose, route, indication or instructions.
5. Avoid the use of verbal or telephone orders. When absolutely necessary, make sure the recipient repeats the order back to the physician.
6. Keep only necessary and authorized medications available to nursing staff and return other medications to pharmacy.
7. Always read the drug packaging label three times during the preparation of a dose.
8. Incorporate the "five rights" of drug administration into daily practice – right patient, right drug, right dose, right route, right time.
9. Try to avoid the use of a patient's own medication in a facility setting.
10. Never use trailing zeros when prescribing medications.
11. Always use a zero to precede a decimal point when prescribing less than one dose.
12. Physically separate dangerous medications and label them as such.
13. Keep the prescription and the label together and incorporate multiple checkpoints in the dispensing process.
14. Make the patient counseling session a final checkpoint in the drug dispensing process.
15. Provide brand and generic name on all medication labels. 

 I hope this information is helpful. If you find that you have a specific question or need additional materials on the subject, please let us know.

³ The Tennessee Department of Health document is available at www2.state.tn.us/health/Downloads/g4022022.pdf.

U.S. Food and Drug Administration

Department of Health and Human Services
 Food and Drug Administration
 5600 Fishers Lane (HFI-40)
 Rockville, MD 20857
 February 2000
 (FDA) 00-3237



Medicines and Older Adults

The Food and Drug Administration, or FDA, is a United States government agency that makes sure medicines are safe and accurately labeled.

Be More Careful With Medicines

While everyone needs to be careful about taking medicines, older adults need to be even more careful. This is because:

- Older people often take more medicines than younger people
- Older people may react differently to medicine. T

This brochure will tell you what older adults need to know about the medicines they take.

Problems

Two of the biggest problems older people have with medicines are:

- Reactions from mixing two or more drugs in the body, called "drug interactions." A drug interaction can cause bad effects (usually called side effects), such as a rash, stomach upset or sleepiness.
- Getting too much of one medicine, called "drug overdose." This, too, can cause side effects.

Older people are more likely to have side effects from drug interactions or drug overdoses because:

- They are more likely to take a number of different drugs.
- Their bodies use food and drugs slowly. This means that it may take longer for a drug to start working. Drugs also may stay in their bodies longer. This can cause too much of the medicine to be in the body.

Common side effects of drugs are:

- upset stomach, such as diarrhea or constipation
- blurred vision
- dizziness
- mood changes
- skin rash

"Start low and go slow" is good advice for older people when taking medicines. This means

starting at the lowest dosage, and if this isn't effective, increasing the dosage slowly.

How to Prevent Drug Side Effects

- Take a drug only if you really need it. Ask your doctor if there is another way to treat a problem before taking prescription or over-the-counter drugs.
- Tell your doctor about all the drugs, vitamins, herbs and other pills you take. Make sure to include both prescription drugs (ones you get from the pharmacist with a doctor's prescription) and over-the-counter drugs (ones you can buy yourself without a prescription). If you have several doctors, make sure they all know what the others are prescribing.
- Ask one doctor, such as an internist or family medicine doctor, to track all your medicines. Put all your medicines in a bag. Take them to your next doctor's appointment. This is the best way to let your doctor know what medicines, vitamins and other pills you are taking.
- If you need drugs to treat more than one condition, ask your doctor if there is one drug that can treat both. For example, some blood pressure medicines also treat migraine headaches.
- If you have side effects, write them down. Write down when they happened. Also write down any new problems you have, even if you think they are not related to the drug. Tell your doctor about these side effects. Ask the doctor if there is another drug that may be better for you to take.
- Learn about the drugs you are taking. Ask the pharmacist and doctor questions. Read the information that comes with the medicine. Or, ask a family member or friend to read it for you.
- Follow directions. Read the label. Understand when you should take the medicine and how much you should take.
- Always take your medicine when you should.

Easy Ways to Take Medicine

You may have problems that make it hard for you to take medicine. Many older adults can't see well, can't use their hands well, or forget things easily. Here are some ways to make it easy for you to take medicine:

- Ask the pharmacist to put your medicines in big bottles that are easy to open.
- Ask for bottles with labels printed in large letters or use a magnifying glass, and read the label under bright light.
- Find ways to remind you to take your medicine. One way is to take medicines at the same time every day. For example, at meals or before you go to bed. Use charts and calendars. Or put all the drugs you need to take for one day—or one week—in a small container, like a pillbox. You can buy pillboxes at drug stores. If you forget easily, you also might want to ask a family member or a nurse or other health worker to remind you when and how much medicine you need to take.
- Ask your doctor to set easy dosing times for you.

Questions to Ask Your Doctor or Pharmacist

- What is the name of the drug? Is this the brand name or a copy of the brand-name drug? Copies of brand-name drugs are called "generic drugs." They usually cost less than brand-name drugs, but they work the same.
- If the prescription is written for a brand name, is it OK for the pharmacist to give me the generic version of this drug?

- What does the drug do?
- When should I take the drug? How often?
- Does it matter if I take it with food?
- Are there any foods I should stop eating while I'm on this drug?
- Is it safe to drink alcohol, such as beer or wine, while I'm on this drug?
- How long will I need to take this drug?
- What should I do if I forget to take the medicine?
- What are common side effects?
- How will I know if this drug is working?
- Where should I keep this drug?

How to Save Money on Medicines

- When trying a drug for the first time, ask your doctor for free samples. Or ask the pharmacist for just a few pills before getting the whole prescription filled. That way, you can see if you have problems with the medicine before paying for a whole bottle.
- For drugs you take all the time, buy larger amounts at a time so that the price for each pill is cheaper. But before you do this make sure you will be able to use all the medicine within at least a year. Holding on to medicines for a long time may cause the drug to lose its ability to work.
- Call around to see which store has the lowest price.
- If you are an older person ask about a senior citizen's discount.
- Ask your doctor if it's OK to take a generic drug instead of the brand-name drug. If it is OK, tell the pharmacist you want the generic version of the medicine.
- For drugs bought over the counter, buy the store-brand or discount brand. The pharmacist can help you choose.
- Call or write to the local chapter of the American Association for Retired Persons (AARP) or a local chapter of a health organization, such as the American Diabetes Association or the American Heart Association. You may be able to buy drugs through them at lower prices.

Do You Have Other Questions About Medicines?

FDA may have an office near you. Look for the number in the blue pages of the phone book.

Or, call FDA's toll-free number, 1-888-INFO-FDA (1-888-463-6332). Or, on the World Wide Web at www.fda.gov.

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FDA Website Management Staff
Web page created by tg 2001-JAN-22.

Suicides, drug overdoses overtake crashes in deaths ; Lee Filas Daily Herald Staff Writer; ; Chicago Daily Herald (Paddock) ; 11-06-2002 ;

Suicides, drug overdoses overtake crashes in deaths

Byline: Lee Filas Daily Herald Staff Writer

Edition: Lake

Section: NEWS

For the first time since 1997, auto accidents were not the leading cause of unnatural deaths in Lake County, according to a report by the coroner's office.

That dubious distinction in 2001 went to suicides and drug overdoses. Suicides took over the top slot with 44 cases, while drug overdoses - prescription and illegal - ranked second with 41 deaths, the annual report stated.

Deaths investigated in 2001 showed 39 people died as a result of auto accidents, down 26 percent from the 53 recorded in 2000.

Jim Wipper, deputy Lake County coroner, said the decrease in vehicular deaths is something the coroner's office would like to see more of in the future.

"It's definitely the trend we are happiest seeing," Wipper said. "We look at that as one of the most positive trends we've uncovered, and it's something that we have worked hard to decrease."

That improvement was offset by a rise in drug overdoses - up 8 percent from 2000 - and a dramatic increase in homicides over previous years, Wipper said.

The 19 homicides in 2001 more than doubled the 8 recorded in 2000. The number is still less than the 25 murders recorded in 1997, but more than the 15 recorded in 1998.

"That's definitely a concern for us," Wipper said. "It's always a concern when we see a jump in any category, but to see that large of an increase is definitely something we need to look at."

Lake County Board Chairman Suzi Schmidt said the rise in homicides is alarming, but not a complete surprise given the county's growing population.

"Simply stated, the more people we have, the more crime we are going to get," Schmidt said. "Any kind of rise in crime is definitely a concern, be it white collar, homicide or robbery."

Wipper said deaths are labeled as either natural or unnatural by the coroner's office. There were a total of 2,941 deaths recorded in the county in 2001, of which 2,756 involved natural causes.

The remaining 185 are listed in the report as violent - overdoses, homicides, suicides and vehicular deaths - or accidental - drowning, fire and other accidents.

This is the fifth consecutive annual increase in drug overdose deaths in the county.

Wipper said a more readily available supply of cocaine and heroin has contributed to the increase.

"But the No. 1 cause of overdose deaths remains prescription overdoses, like painkillers and such," he said.

"It's hard to say if those are accidental or whether people abused the prescription drug. But it remains the leading cause of overdose deaths in the county, and I think it's because (prescription drugs) are easier to get."

Wipper said none of the drug-related deaths involved club drugs, such as ecstasy. Eight deaths involved cocaine and opiates, six were due to cocaine alone and four resulted from heroin use.

"Those drugs have really become more prevalent in Lake County over the years," Wipper said. "It's definitely another concern of ours."

Illustrations/Photos:

Caption: GRAPHIC: Lake County fatalities

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FAMILY PHARMACY
11432 BUSINESS BLVD
EAGLE RIVER, AK 99577
907-694-7007

***** PATIENT INFORMATION LEAFLET *****

DATE: February 12, 2003
PATIENT: JOHN DOE

RX # 229072
DR. DR

DR. PHONE# 907-000-0000

DRUG NAME: CELEBREX 200MG CAPSULE 200MG C SEARLE LAB AWP 02/02/2003
GENERIC NAME: CELECOXIB (ce-le-KOX-ib)

COMMON USES: This medicine is a nonsteroidal anti-inflammatory drug (NSAID) known as a COX-2 inhibitor used to relieve the symptoms of osteoarthritis and rheumatoid arthritis in adults. It is also used to treat acute pain or menstrual pain and discomfort. It may also be used to treat other conditions as determined by your doctor. This drug works by blocking the enzyme in your body that makes prostaglandins. Decreasing prostaglandins helps to reduce pain and swelling.

HOW TO USE THIS MEDICINE: Follow the directions for using this medicine provided by your doctor. This medicine may come with a patient information leaflet. Ask your doctor, nurse, or pharmacist any questions you may have about this medicine. Take this medicine with food. STORE THIS MEDICINE at room temperature between 59 and 86 degrees F (15 and 30 degrees C) in a tightly-closed container, away from heat and light. IF YOU MISS A DOSE OF THIS MEDICINE, take it as soon as possible. If it is almost time for your next dose, skip the missed dose and go back to your regular dosing schedule. Do NOT take 2 doses at once.

CAUTIONS: DO NOT TAKE THIS MEDICINE IF YOU HAVE HAD A SEVERE ALLERGIC REACTION to aspirin or any medicine containing aspirin or to a nonsteroidal anti-inflammatory drug (such as Feldene, Motrin, Naprosyn, Clinoril). DO NOT TAKE THIS MEDICINE IF YOU HAVE HAD A SEVERE ALLERGIC REACTION to a sulfonamide antibiotic (Septra DS, Bactrim DS, Gantrisin). A severe reaction includes a severe rash, hives, breathing difficulties, or dizziness. If you have a question about whether you are allergic to this medicine, contact your doctor or pharmacist. IF YOU EXPERIENCE difficulty breathing; tightness of chest; swelling of eyelids, face, or lips; or if you develop a rash or hives, tell your doctor immediately. Do not take any more doses of this medicine unless your doctor tells you to do so. DO NOT EXCEED THE RECOMMENDED DOSE or take this medicine for longer than prescribed without checking with your doctor. KEEP ALL DOCTOR AND LABORATORY APPOINTMENTS while you are using this medicine. THIS MEDICINE MAY CAUSE stomach bleeding. If you drink alcohol on a daily basis, do not take this medicine without first discussing it with your doctor. Alcohol use combined with this medicine may increase your risk for stomach bleeding. BEFORE YOU BEGIN TAKING ANY NEW MEDICINE, either prescription or over-the-counter, check with your doctor or pharmacist. This includes any medicines that contain aspirin, ibuprofen, naproxen, or ketoprofen. Aspirin as prescribed by your doctor for reasons such as heart attack or stroke prevention (i.e., non-arthritis doses) should be continued. CAUTION IS ADVISED when this medicine is used in the elderly, as they may be more sensitive to the side effects of this medicine. FOR WOMEN: IF YOU PLAN ON BECOMING PREGNANT, discuss with your doctor the benefits and risks of using this medicine during pregnancy. IT IS UNKNOWN IF THIS MEDICINE IS EXCRETED in breast milk. DO NOT BREAST-FEED while taking this medicine.

POSSIBLE SIDE EFFECTS: SIDE EFFECTS that may occur while taking this medicine

ACCOMPANY EACH PRESCRIPTION

EAGLE RIVER, MA 03311
907-694-7007

***** PATIENT INFORMATION LEAFLET *****

DATE: February 12, 2003
PATIENT: DOE JOHN

RX # 229068
DR. DR

DR. PHONE# 907-000-0000

DRUG NAME: PREVACID 30MG DR CAP 30MG DR C TAP AWP 01/17/2002
GENERIC NAME: LANSOPRAZOLE (lan-SOE-pra-zole)

COMMON USES: This medicine is a proton pump inhibitor used to treat ulcers, gastroesophageal reflux (GERD), erosive esophagitis, or Zollinger-Ellison syndrome. It may also be used to treat other conditions as determined by your doctor.

HOW TO USE THIS MEDICINE: Follow the directions for using this medicine provided by your doctor. TAKE THIS MEDICINE in the morning unless your doctor directs otherwise. TAKE THIS MEDICINE before eating. SWALLOW WHOLE. Do not break, crush, or chew before swallowing. IF YOU HAVE TROUBLE SWALLOWING THE CAPSULE, check with your pharmacist to see if capsule may be opened. STORE THIS MEDICINE at room temperature between 59 and 86 degrees F (15 to 30 degrees C) away from light and moisture. IF YOU MISS A DOSE OF THIS MEDICINE, take it as soon as possible. If it is almost time for your next dose, skip the missed dose and go back to your regular dosing schedule. Do not take 2 doses at once.

CAUTIONS: BEFORE YOU BEGIN TAKING ANY NEW MEDICINE, either prescription or over-the-counter, check with your doctor or pharmacist. IF YOU PLAN ON BECOMING PREGNANT, discuss with your doctor the benefits and risks of using this medicine during pregnancy. IT IS UNKNOWN IF THIS DRUG IS EXCRETED in breast milk. DO NOT BREAST-FEED while taking this medicine.

POSSIBLE SIDE EFFECTS: SIDE EFFECTS, that may go away during treatment include headache, diarrhea, gas, or constipation. If they continue or are bothersome, check with your doctor. CONTACT YOUR DOCTOR IMMEDIATELY if you experience stomach/abdominal pain, rash, back pain, unusual tiredness, dizziness, vomiting, chest pain, dark urine, yellowing eyes or skin, persistent fever or sore throat, easy bruising or bleeding. IF YOU EXPERIENCE difficulty breathing; tightness of chest; swelling of eyelids, face, or lips; or if you develop a rash or hives, tell your doctor immediately. Do not take any more doses of this medicine unless your doctor tells you to do so. If you notice other effects not listed above, contact your doctor, nurse, or pharmacist.

FROM : Family Pharmacy

FAX NO. : 6947851

Feb. 12 2003 03:59PM P2

FAMILY PHARMACY
11432 BUSINESS BLVD
EAGLE RIVER, AK 99577
907-694-7007

***** PATIENT INFORMATION LEAFLET *****

DATE: February 12, 2003
PATIENT: DOE JOHN

RX # 229067
DR. DR

DR. PHONE# 907-000-0000

DRUG NAME: FLUOXETINE 20MG CAP 20MG C PAR AWP 03/22/2002
GENERIC NAME: FLUOXETINE (floo-OX-uh-teen)

COMMON USES: This medicine is a selective serotonin reuptake inhibitor (SSRI) used to treat depression, obsessive-compulsive disorder (OCD), or bulimia. This medicine may also be used to treat PMS (premenstrual syndrome). It may also be used to treat other conditions as determined by your doctor.

HOW TO USE THIS MEDICINE: Follow the directions for using this medicine provided by your doctor. TAKE THIS MEDICINE WITH FOOD if it upsets your stomach. STORE THIS MEDICINE at room temperature, away from heat and light. CONTINUE TO TAKE THIS MEDICINE even if you feel better. Do not miss any doses. IF YOU MISS A DOSE OF THIS MEDICINE, skip the missed dose and go back to your regular dosing schedule. Do not take 2 doses at once.

CAUTIONS: UP TO 4 WEEKS MAY PASS before this medicine reaches its full effect. Do not stop taking this medicine without checking with your doctor. DO NOT DRIVE, OPERATE MACHINERY, OR DO ANYTHING ELSE THAT COULD BE DANGEROUS until you know how you react to this medicine. Using this medicine alone, with other medicines, or with alcohol may lessen your ability to drive or to perform other potentially dangerous tasks. THIS MEDICINE WILL ADD TO THE EFFECTS of alcohol and other depressants. Ask your pharmacist if you have questions about which medicines are depressants. BEFORE YOU BEGIN TAKING ANY NEW MEDICINE, either prescription or over-the-counter, check with your doctor or pharmacist. This includes any medicines that contain dextromethorphan. FOR WOMEN: IF YOU PLAN ON BECOMING PREGNANT, discuss with your doctor the benefits and risks of using this medicine during pregnancy. THIS MEDICINE IS EXCRETED IN BREAST MILK. The manufacturer of this medicine states that taking this medicine while breast-feeding is not recommended. CONSULT WITH YOUR DOCTOR ABOUT BREAST-FEEDING.

POSSIBLE SIDE EFFECTS: SIDE EFFECTS, that may go away during treatment, include nervousness, trouble sleeping, headache, drowsiness, fatigue, nausea, vomiting, diarrhea, loss of appetite, dry mouth, sweating, dizziness, lightheadedness, muscle spasms, or changes in sexual function. If they continue or are bothersome, check with your doctor. If you notice other effects not listed above, contact your doctor, nurse, or pharmacist.

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FAMILY PHARMACY
11432 BUSINESS BLVD
EAGLE RIVER, AK 99577
907-694-7007

***** PATIENT INFORMATION LEAFLET *****

DATE: February 12, 2003
PATIENT: JOHN DOE

RX # 229071
DR. DR

DR. PHONE# 907-000-0000

DRUG NAME: ALBUTEROL INH MG I ANDRX PHAR AWP 09/23/2002
GENERIC NAME: ALBUTEROL (al-BYOO-ter-ole)

COMMON USES: This medicine is a bronchodilator used to treat or prevent the symptoms of asthma, emphysema, and other breathing conditions. This medicine is also used to prevent the symptoms of exercise-induced asthma. It may also be used to treat other conditions as determined by your doctor.

HOW TO USE THIS MEDICINE: Follow the directions for using this medicine provided by your doctor. THIS MEDICINE MAY COME with an instruction leaflet. Ask your doctor, nurse, or pharmacist any questions that you may have about this medicine. BEFORE USING THIS MEDICINE, be sure that the canister is properly inserted into the inhaler unit and SHAKE WELL. Exhale slowly and deeply. UNLESS YOUR DOCTOR HAS TOLD YOU OTHERWISE, position the mouthpiece between your lips and try to rest your tongue flat. Your doctor may have told you to hold the inhaler 1 or 2 inches (2 or 3 centimeters) away from your open mouth or may have instructed you to use a special spacing device. AS YOU START TO TAKE A SLOW, DEEP BREATH, PRESS THE CANISTER AND MOUTHPIECE TOGETHER at exactly the same time to administer a dose of this medicine. Continue inhaling slowly and deeply and hold your breath for as long as comfortable, then exhale slowly through pursed lips or through your nose. If more than 1 inhalation is to be used, wait a few minutes and repeat the above process. KEEP THE SPRAY AWAY from your eyes. KEEP TRACK OF THE NUMBER of sprays you use and subtract this number from the number of doses in the container. This will help you know when the container is becoming empty. STORE THIS MEDICINE at room temperature, away from extreme temperatures and direct sunlight. Do not puncture, break, or burn container, even if it appears empty. IF YOU MISS A DOSE OF THIS MEDICINE and you are using it regularly, use it as soon as possible. If it is almost time for your next dose, skip the missed dose and go back to your regular dosing schedule.

CAUTIONS: KEEP ALL DOCTOR AND LABORATORY APPOINTMENTS while you are using this medicine. BEFORE YOU HAVE ANY MEDICAL OR DENTAL TREATMENTS, EMERGENCY CARE, OR SURGERY, tell the doctor or dentist that you are using this medicine. AVOID LARGE AMOUNTS OF caffeine-containing foods and beverages, such as coffee, tea, cocoa, cola drinks, and chocolate. Before switching brands of this medicine, consult your doctor or pharmacist. BEFORE YOU BEGIN TAKING ANY NEW MEDICINE, either prescription or over-the-counter, check with your doctor or pharmacist. FOR WOMEN: IF YOU PLAN ON BECOMING PREGNANT, discuss with your doctor the benefits and risks of using this medicine during pregnancy. IT IS UNKNOWN IF THIS MEDICINE IS EXCRETED in breast milk. DO NOT BREAST-FEED while taking this medicine.

POSSIBLE SIDE EFFECTS: SIDE EFFECTS, that may go away during treatment, include fast heartbeat, nervousness, tremors, headache, difficulty sleeping, or nausea. If they continue or are bothersome, check with your doctor. CHECK WITH YOUR DOCTOR AS SOON AS POSSIBLE if you experience rash, hives, itching, wheezing, or increased difficulty breathing. If you notice other effects not listed above, contact your doctor, nurse, or pharmacist.

HB

58

Frank H. Murkowski, Governor

Alaska Department of Community
and Economic Development

Division of Banking, Securities, and Corporations

Physical address for shipments and deliveries such as UPS and DHL:

150 3rd Street, Suite 217, Juneau, Alaska 99801

Correspondence with this office:

P.O. Box 110807, Juneau, Alaska 99811-0807

Telephone: (907) 465-2521 • Fax: (907) 465-2549 • Text Telephone: (907) 465-5437

Email: dbsc@dced.state.ak.us • Website: www.dced.state.ak.us/bsc/

13 March 2003

The Honorable Con Bunde
Alaska State Senate
State Capitol, Room 506
Juneau, Alaska 99801.1182

Dear Senator Bunde:

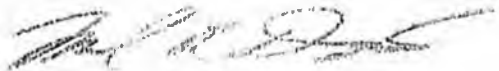
At the 11 March 2003 Senate Labor & Commerce Committee hearing of HB58 Reinstatement of Native Corporations, you asked several questions about the costs associated with businesses filing for their certificates of incorporation. I hope the following information satisfactorily responds to your questions.

What does it cost the State of Alaska to issue a Certificate of Incorporation for a for profit business entity? A rough estimate of the cost to review and file one set of Articles of Incorporation and issue the Certificate of Incorporation is approximately \$61.00 per filing. The charge to a domestic for profit business entity to incorporate under AS 10.06 is \$250.00. This amount includes a \$150 filing fee to incorporate and \$100 for the biennial tax that is paid in advance. The filing fee and biennial taxes collected by the Corporations Section is revenue and is not based on the cost to issue the certificate.

You observed that in occupational licensing the cost of license renewal must equal the cost of issuing the license. Does this apply to corporations? AS 08.01.065(c) states the department shall establish fee levels so that the total amount of fees collected for an occupation approximately equals the actual regulatory costs for the occupation. This provision is not part of statutes relating to corporations.

While the department has not formally taken a position on HB58 we do encourage the committee to move the bill, and welcome the opportunity to work with you to address any further questions you may have about corporation's fees.

Sincerely,



Mark Davis
Director

HOUSE BILL NO. 58
By Representative Foster

Sponsor's Statement

This legislation has been introduced at the request of one of the Village Native Corporations within our region. The corporation was involuntarily dissolved by the commissioner under AS 10.06.633 and failed to apply for reinstatement during the grace period established in statute.

This legislation provides a one-time window during which Native village corporations who have been dissolved can apply for reinstatement.

The legislation is needed because these corporations were established under the Alaska land claims settlement and legally own village corporation assets. A new corporation could be created but it would not have the same legal standing as the original corporation nor legally own those assets.

The final provision of the bill allows a Village Native Corporation's board of directors to legally change the corporation name, if another corporation has taken the previously used name.

The Department Commerce and Economic Development has identified three corporations to which this legislation will apply. They are the Savoonga Native Corporation, the Paimiut Native Corporation, and the Tununrimit Rinit Native Corporation.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: HB 58
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: DCED
Title Reinstatement of Native Corporations BRU Banking, Securities & Corporations (115)
Component Banking, Securities & Corporations
Sponsor Representative Foster/Hawker
Requester House Community & Regional Affairs Component No. 1233

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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 provides the opportunity for native village corporations involuntarily dissolved under AS 10.06.633 to be reinstated on or before December 31, 2003. The legislation may generate a small amount of revenue from fees and penalties received to reinstate a corporation. The division does not anticipate any negative fiscal impact.

Prepared by: Mark Davis, Division Director Phone 907-269-8452
Division Banking, Securities and Corporations Date/Time 1/28/03 9:42 AM
Approved by: Edgar Blatchford, Commissioner Date 1/28/2003
Agency Department of Community & Economic Development

SAVOONGA NATIVE CORPORATION

P.O. Box 160

Savoonga, Alaska 99769

(907) 984-6613

January 2, 2003

Representative Richard Foster State Capital, Room 14 Juneau, AK 99801-1182	716 West 4 th Ave., Suite 380 Anchorage, AK 99501-
--	--

Re: Request for legislation for involuntarily dissolved ANCSA Corporations

Dear Representative Foster:

I am writing as President of Savoonga Native Corporation to request that you sponsor legislation, reinstating involuntarily dissolved ANCSA corporations and extending recognition to corporations that replaced involuntarily dissolved native corporations. In 1994, you sponsored HB71 that did exactly that and became 10.06.960 (j) & (k). What we are seeking is an updated version of AS 10.06.960 (j) & (k). Savoonga Native Corporation was involuntarily dissolved in March 2000 and its reinstatement period has expired. We recently reincorporated under the same name and seek to confirm our new status. As co-sponsor of HB71 I know that you understand the situation. Savoonga Native Corporation would be appreciative if you would sponsor a new version that would confirm our status.

As was true in 1994, and again in 1996, when you sponsored HB392, there are likely to be other native corporations in a similar situation that would also benefit from the legislation. Enclosed for your convenience are the language and legislative history of HB71 (Chapter 120 SLA 94 and HB 392, Chapter 24, SLA '96) Please let me know if you are willing to sponsor such legislation or if I could provide you with any information or be of any assistance. I look forward to hearing from you.

Very truly yours,



Carl Pelowook
President of Savoonga Native Corporation

HB

64

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

SENATE COMMITTEE REPORT

DATE: 3/13/03

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: _____

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 64(JUD)

HB 64 PURCHASE OF STRUCTURED SETTLEMENTS

An Act relating to court approval of the purchase of structured settlements."

and recommends:

- be replaced with _____ CS _____ (_____)
- 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#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>Betty Davis</i>			X	
<i>[Signature]</i>	X			
<i>Ralph Seebins</i>	✓			
CHAIR: <i>A. Buda</i>	✓			

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, AK 99762
907-443-5036
Fax 907-443-2162



During Session
State Capitol Rm. 410
Juneau, AK 99801-1182
907-465-3789
Fax 907-465-3242

Majority Whip

House Bill 64

“An Act relating to court approval of the purchase of structured settlements.”

Sponsor's Statement

House Bill 64 was introduced to address a concern brought forward by some of the states trial lawyers.

Apparently firms have been contacting the recipients of structured settlements and offering to buy those settlements for a small portion of their value. When a person living in a village is contacted, they may not fully understand the implications of the purchase and realize what they are giving up in terms of long-term benefit versus a quick cash payoff.

This act would allow the reassignment of a structured settlement only after it had been approved by the courts and outlines the considerations that must be made before such a transfer is approved.

The specific provisions of the bill are outlined in the analyses provided by Legislative Legal Services.

Alaska House of Representatives

Richard Foster
P.O. Box 1630
Nome, AK 99762
907-443-5036
Fax 907-443-2162



During Session
State Capitol Rm. 410
Juneau, AK 99801-1182
907-465-3789
Fax 907-465-3242

Majority Whip

To: Representative Norman Rokeberg
Chair House Rules
From: Rep. Richard Foster
Date: March 11, 2003
Re: CSHB 64

There are no major changes in the current bill. From the original text the to CSHB64 (STA) there was a clarification of jurisdiction on page 3 line 20 (at the request of the AK state courts). From CSHB64 (STA) to CSHB64 (JUD) there was a time extension affecting page 3 line 24, an addition applying to the orders of any court on page 1 line 14, and a clarification with regards to delivery/receipt on page 2 lines 1 and 2.

LEGAL SERVICES

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

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

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

MEMORANDUM

January 28, 2003

SUBJECT: Sectional Summary of HB 64

TO: Representative Richard Foster

FROM: Gerald P. Luckhaupt *JERRY*
Legislative Counsel

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

Section 1 of the bill creates AS 09.68.200 which provides that structured settlements may not be transferred without court approval of the transfer. The court may not approve a transfer unless

- the structured settlement arose from an action filed in Alaska or which could have been filed in Alaska or the payee of the structured settlement is domiciled in Alaska;
- the transfer complies with state and federal law;
- the transferee has provided a disclosure statement to the payee as required by proposed AS 09.68.200(a)(3);
- the transfer is in the best interests of the payee and the payee's dependents;
- the payee has received independent professional advice regarding the transfer;
- notice has been provided to the payer (the annuity issuer and obligor);
- choice of law forum that complies with proposed AS 09.68.200(a)(7) is included in the transfer agreement;
- transferee must indemnify the annuity issuer and obligor for all liability and costs.

Creates AS 09.68.210 which provides the procedure for approval of a transfer of a structured settlement.

Creates AS 09.68.220 which provides that the provisions of AS 09.68.200 - 09.68.230 may not be waived nor may a penalty be charged the payee if the proposed transfer does not meet the requirements of AS 09.68.200 - 09.68.230.

Creates AS 09.68.230 which provides definitions.

GPL:med
03-067.med

Sectional Analysis

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 64
 () Publish Date: _____

Revision Date/Time (Note if correction): _____
 Title Structured Settlements
 Sponsor Representative Foster
 Requester House Judiciary

Dept. Affected: _____
 BRU Alaska Court System
 Component Trial Courts
 Component No. 768

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

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

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)

The Alaska Court System does not anticipate any fiscal impact by the passage of HB 64.

Prepared by: Doug Wooliver, Administrative Attorney
 Division: Alaska Court System
 Approved by: Stephanie Cole, Administrative Director
 Agency: Alaska Court System

Phone: _____
 Date/Time: 3/4/03 3:56 PM
 Date: 3/4/03

49 USC 40101
note.

~~“(3) AIRLINE-RELATED DEPOSIT.—For purposes of this subsection, the term ‘airline-related deposit’ means any deposit of taxes imposed by subchapter G of chapter 33 of such Code (relating to transportation by air).”~~

~~“(b) EFFECTIVE DATE.—An amendment made by this section shall take effect as if included in section 301 of the Air Transportation Safety and System Stabilization Act (Public Law 107-42).”~~

~~SEC. 115. TREATMENT OF CERTAIN STRUCTURED SETTLEMENT PAYMENTS.~~

~~“(1) IN GENERAL.—Subtitle E is amended by adding at the end the following new chapter:~~

~~“CHAPTER 55—STRUCTURED SETTLEMENT FACTORING TRANSACTIONS~~

~~“Sec. 5891. Structured settlement factoring transactions.~~

~~“SEC. 5891. STRUCTURED SETTLEMENT FACTORING TRANSACTIONS.~~

~~“(a) IMPOSITION OF TAX.—There is hereby imposed on any person who acquires directly or indirectly structured settlement payment rights in a structured settlement factoring transaction a tax equal to 40 percent of the factoring discount as determined under subsection (c)(4) with respect to such factoring transaction.~~

~~“(b) EXCEPTION FOR CERTAIN APPROVED TRANSACTIONS.—~~

~~“(1) IN GENERAL.—The tax under subsection (a) shall not apply in the case of a structured settlement factoring transaction in which the transfer of structured settlement payment rights is approved in advance in a qualified order.~~

~~“(2) QUALIFIED ORDER.—For purposes of this section, the term ‘qualified order’ means a final order, judgment, or decree which—~~

~~“(A) finds that the transfer described in paragraph (1)—~~

~~“(i) does not contravene any Federal or State statute or the order of any court or responsible administrative authority, and~~

~~“(ii) is in the best interest of the payee, taking into account the welfare and support of the payee’s dependents, and~~

~~“(B) is issued—~~

~~“(i) under the authority of an applicable State statute by an applicable State court, or~~

~~“(ii) by the responsible administrative authority (if any) which has exclusive jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.~~

~~“(3) APPLICABLE STATE STATUTE.—For purposes of this section, the term ‘applicable State statute’ means a statute providing for the entry of an order, judgment, or decree described in paragraph (2)(A) which is enacted by—~~

~~“(A) the State in which the payee of the structured settlement is domiciled, or~~

~~“(B) if there is no statute described in subparagraph (A), the State in which either the party to the structured settlement (including an assignee under a qualified assignment under section 130) or the person issuing the funding~~

asset for the structured settlement is domiciled or has its principal place of business.

"(4) APPLICABLE STATE COURT.—For purposes of this section—

"(A) IN GENERAL.—The term 'applicable State court' means, with respect to any applicable State statute, a court of the State which enacted such statute.

"(B) SPECIAL RULE.—In the case of an applicable State statute described in paragraph (3)(B), such term also includes a court of the State in which the payee of the structured settlement is domiciled.

"(5) QUALIFIED ORDER DISPOSITIVE.—A qualified order shall be treated as dispositive for purposes of the exception under this subsection.

"(c) DEFINITIONS.—For purposes of this section—

"(1) STRUCTURED SETTLEMENT.—The term 'structured settlement' means an arrangement—

"(A) which is established by—

"(i) suit or agreement for the periodic payment of damages excludable from the gross income of the recipient under section 104(a)(2), or

"(ii) agreement for the periodic payment of compensation under any workers' compensation law excludable from the gross income of the recipient under section 104(a)(1), and

"(B) under which the periodic payments are—

"(i) of the character described in subparagraphs (A) and (B) of section 130(c)(2), and

"(ii) payable by a person who is a party to the suit or agreement or to the workers' compensation claim or by a person who has assumed the liability for such periodic payments under a qualified assignment in accordance with section 130.

"(2) STRUCTURED SETTLEMENT PAYMENT RIGHTS.—The term 'structured settlement payment rights' means rights to receive payments under a structured settlement.

"(3) STRUCTURED SETTLEMENT FACTORING TRANSACTION.—

"(A) IN GENERAL.—The term 'structured settlement factoring transaction' means a transfer of structured settlement payment rights (including portions of structured settlement payments) made for consideration by means of sale, assignment, pledge, or other form of encumbrance or alienation for consideration.

"(B) EXCEPTION.—Such term shall not include—

"(i) the creation or perfection of a security interest in structured settlement payment rights under a blanket security agreement entered into with an insured depository institution in the absence of any action to redirect the structured settlement payments to such institution (or agent or successor thereof) or otherwise to enforce such blanket security interest as against the structured settlement payment rights, or

"(ii) a subsequent transfer of structured settlement payment rights acquired in a structured settlement factoring transaction.

"(4) FACTORING DISCOUNT.—The term 'factoring discount' means an amount equal to the excess of—

“(A) the aggregate undiscounted amount of structured settlement payments being acquired in the structured settlement factoring transaction, over

“(B) the total amount actually paid by the acquirer to the person from whom such structured settlement payments are acquired.

“(5) RESPONSIBLE ADMINISTRATIVE AUTHORITY.—The term ‘responsible administrative authority’ means the administrative authority which had jurisdiction over the underlying action or proceeding which was resolved by means of the structured settlement.

“(6) STATE.—The term ‘State’ includes the Commonwealth of Puerto Rico and any possession of the United States.

“(d) COORDINATION WITH OTHER PROVISIONS.—

“(1) IN GENERAL.—If the applicable requirements of sections 72, 104(a)(1), 104(a)(2), 130, and 461(h) were satisfied at the time the structured settlement involving structured settlement payment rights was entered into, the subsequent occurrence of a structured settlement factoring transaction shall not affect the application of the provisions of such sections to the parties to the structured settlement (including an assignee under a qualified assignment under section 130) in any taxable year.

“(2) NO WITHHOLDING OF TAX.—The provisions of section 3405 regarding withholding of tax shall not apply to the person making the payments in the event of a structured settlement factoring transaction.”

(b) CLERICAL AMENDMENT.—The table of chapters for subtitle E is amended by adding at the end the following new item:

“Chapter 55. Structured settlement factoring transactions.”

(c) EFFECTIVE DATES.—

Applicability.

(1) IN GENERAL.—The amendments made by this section (other than the provisions of section 5891(d) of the Internal Revenue Code of 1986, as added by this section) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into on or after the 30th day following the date of the enactment of this Act.

Applicability.

(2) CLARIFICATION OF EXISTING LAW.—Section 5891(d) of such Code (as so added) shall apply to structured settlement factoring transactions (as defined in section 5891(c) of such Code (as so added)) entered into before, on, or after such 30th day.

(3) TRANSITION RULE.—In the case of a structured settlement factoring transaction entered into during the period beginning on the 30th day following the date of the enactment of this Act and ending on July 1, 2002, no tax shall be imposed under section 5891(a) of such Code if—

(A) the structured settlement payee is domiciled in a State (or possession of the United States) which has not enacted a statute providing that the structured settlement factoring transaction is ineffective unless the transaction has been approved by an order, judgment, or decree of a court (or where applicable, a responsible administrative authority) which finds that such transaction—

(i) does not contravene any Federal or State statute or the order of any court (or responsible administrative authority); and

(ii) is in the best interest of the structured settlement payee or is appropriate in light of a hardship faced by the payee; and

(B) the person acquiring the structured settlement payment rights discloses to the structured settlement payee in advance of the structured settlement factoring transaction the amounts and due dates of the payments to be transferred, the aggregate amount to be transferred, the consideration to be received by the structured settlement payee for the transferred payments, the discounted present value of the transferred payments (including the present value as determined in the manner described in section 7520 of such Code), and the expenses required under the terms of the structured settlement factoring transaction to be paid by the structured settlement payee or deducted from the proceeds of such transaction.

SEC. 116. PERSONAL EXEMPTION DEDUCTION FOR CERTAIN DISABILITY TRUSTS.

(a) **IN GENERAL.**—Subsection (b) of section 642 (relating to deduction for personal exemption) is amended to read as follows: 26 USC 642.

“(b) **DEDUCTION FOR PERSONAL EXEMPTION.**—

“(1) **ESTATES.**—An estate shall be allowed a deduction of \$600.

“(2) **TRUSTS.**—

“(A) **IN GENERAL.**—Except as otherwise provided in this paragraph, a trust shall be allowed a deduction of \$100.

“(B) **TRUSTS DISTRIBUTING INCOME CURRENTLY.**—A trust which, under its governing instrument, is required to distribute all of its income currently shall be allowed a deduction of \$300.

“(C) **DISABILITY TRUSTS.**—

“(i) **IN GENERAL.**—A qualified disability trust shall be allowed a deduction equal to the exemption amount under section 151(d), determined—

“(I) by treating such trust as an individual described in section 151(d)(3)(C)(iii), and

“(II) by applying section 67(e) (without the reference to section 642(b)) for purposes of determining the adjusted gross income of the trust.

“(ii) **QUALIFIED DISABILITY TRUST.**—For purposes of clause (i), the term ‘qualified disability trust’ means any trust if—

“(I) such trust is a disability trust described in subsection (c)(2)(B)(iv) of section 1917 of the Social Security Act (42 U.S.C. 1396p), and

“(II) all of the beneficiaries of the trust as of the close of the taxable year are determined by the Commissioner of Social Security to have been disabled (within the meaning of section 1614(a)(3) of the Social Security Act, 42 U.S.C. 1382c(a)(3)) for some portion of such year.

A trust shall not fail to meet the requirements of subclause (II) merely because the corpus of the trust may revert to a person who is not so disabled after the trust ceases to have any beneficiary who is so disabled.

“(3) DEDUCTIONS IN LIEU OF PERSONAL EXEMPTION.—The deductions allowed by this subsection shall be in lieu of the deductions allowed under section 151 (relating to deduction for personal exemption).”

Applicability.
26 USC 642 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after September 11, 2001.

TITLE II—DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS

SEC. 201. DISCLOSURE OF TAX INFORMATION IN TERRORISM AND NATIONAL SECURITY INVESTIGATIONS.

26 USC 6103.

(a) DISCLOSURE WITHOUT A REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Paragraph (3) of section 6103(i) (relating to disclosure of return information to apprise appropriate officials of criminal activities or emergency circumstances) is amended by adding at the end the following new subparagraph:

“(C) TERRORIST ACTIVITIES, ETC.—

“(i) IN GENERAL.—Except as provided in paragraph (6), the Secretary may disclose in writing return information (other than taxpayer return information) that may be related to a terrorist incident, threat, or activity to the extent necessary to apprise the head of the appropriate Federal law enforcement agency responsible for investigating or responding to such terrorist incident, threat, or activity. The head of the agency may disclose such return information to officers and employees of such agency to the extent necessary to investigate or respond to such terrorist incident, threat, or activity.

“(ii) DISCLOSURE TO THE DEPARTMENT OF JUSTICE.—Returns and taxpayer return information may also be disclosed to the Attorney General under clause (i) to the extent necessary for, and solely for use in preparing, an application under paragraph (7)(D).

“(H) TAXPAYER IDENTITY.—For purposes of this subparagraph, a taxpayer's identity shall not be treated as taxpayer return information.

“(iv) TERMINATION.—No disclosure may be made under this subparagraph after December 31, 2003.”

(b) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—Subsection (i) of section 6103 (relating to disclosure to Federal officers or employees for administration of Federal laws not relating to tax administration) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

“(7) DISCLOSURE UPON REQUEST OF INFORMATION RELATING TO TERRORIST ACTIVITIES, ETC.—

HB

82

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sponsor Statement

CS HB 82 (L&C)

“An Act making certain activities related to commercial electronic mail unlawful as unfair methods of competition or unfair or deceptive acts or practices under the Act enumerating unfair trade practices and consumer protection.”

Under CS HB 82(L&C), individuals are prohibited from sending unsolicited commercial electronic mail that contains explicit sexual material, without the subject line of the communication containing “ADV: ADLT” as the first eight characters.

It is not uncommon to receive unsolicited e-mail messages that contain strong sexual content and hyperlinks to pornographic Web sites. With a commonly used e-mail software (e-mail client software that can display HTML documents), it takes just a single mouse click to be viewing a pornographic Web site. The frustration and annoyance of unsolicited commercial e-mail becomes apparent when the advertisements reach those who have no interest in such material, and when such material reaches children. Age is not a discriminatory factor in who receives electronic advertisements for sexually explicit material.

Publishers, distributors, and adult entertainment business owners are legally forbidden from selling, renting, or displaying explicit sexual material to children in a bookstore or video store. However, the same material is made available on-line through Web sites and unsolicited advertisements sent through e-mail. By requiring those who wish to send unsolicited e-mail with age appropriate material to include in the subject line of the advertisements “ADV:ADLT”, Internet users and parents are provided sufficient information as to the content of an e-mail.

CS HB 82(L&C) is a consumer protection measure. Currently 26 states have laws pertaining to unsolicited commercial e-mail. Nine of the states have the same labeling requirement as proposed in CS HB 82(L&C). CS HB 82(L&C) is not a direct ban on unsolicited commercial electronic mail. This bill will enable Internet users and parents to know exactly what is being sent electronically to them and to their children.

Last Updated: March 4, 2003

Email: Kevin.Meyer@legis.state.nj.gov (907) 465-4945
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SPONSOR STATEMENT

Fax: (907) 269-0197

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

Sectional Analysis

CS HB 82(L&C)

“An Act making certain activity related to commercial electronic mail unlawful and an unfair method of competition or an unfair or deceptive act or practice under the Act enumerating unfair trade practices and consumer protections.”

Section 1: Adds AS 45.50.479 to unlawful acts and practices listed under Unfair Trade Practices and Consumer Protection.

Section 2: Prohibits a person from sending unsolicited commercial electronic to another person from a computer located in this state or to an electronic mail address that the sender knows is held by a resident of this state if the electronic mail contains explicit sexual material, unless the subject line of the electronic mail contains “ADV:ADLT” as the first eight characters; and defines “commercial electronic mail” and unsolicited commercial electronic mail” as it pertains to this section.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 82(L&C)
 (H) Publish Date: 2/14/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title "An Act making certain activities related to BRU Civil Division
commercial electronic mail unlawful as unfair methods of . . ." Component Fair Business Practices
 Sponsor Representative Meyer
 Requester House Labor and Commerce Committee Component No. 2206

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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)

HB 82 places certain limitations on commercial electronic mail (e-mail) sent to Alaskans. Commercial e-mail would not be allowed if the sender does not have an existing personal or business relationship with the recipient, if the recipient has not granted permission or asked for the e-mail, if the e-mail contains misleading information on the origin or routing of the e-mail, or if the subject line contains misleading information. Finally, the bill prohibits unsolicited commercial e-mail which contains sexually explicit material that other laws require be made available only to persons 18 years or older without the subject line beginning with the characters "ADV:ADLT".

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 2/11/03 9:12 AM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/11/2003
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 82 (L&C)
(H) Publish Date: 2/26/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title: "An Act making certain activity related to
commercial electronic mail unlawful and an unfair method of ..." BRU: Civil Division
Sponsor: Representative Meyer Component: Fair Business Practices
Requester: House Judiciary Committee Component No.: 2206

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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)

CSHB 82 (L&C) prohibits unsolicited commercial e-mail sent from a computer in Alaska or to an e-mail address that the sender knows is held by an Alaskan resident which contains sexually explicit material without the subject line beginning with the characters "ADV:ADLT".

The Department of Law does not anticipate a fiscal impact from passage of this legislation.

Prepared by: Joan M. Kasson
Division: Attorney General's Office
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General
Agency: Department of Law

Phone: (907) 465-5370
Date/Time: 2/20/03 3:36 PM
Date: 2/20/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 82(L&C)
 (H) Publish Date: 2/26/03

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
 Title An act making certain activity related BRU AST Detachment
commercial electronic mail unlawful and Component AST Detachment
 Sponsor Representative Meyer
 Requester House Judiciary Component No. 2325

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES ()						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

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)

No fiscal impact.

Prepared by: Lieutenant Matthew Leveque
 Division: Alaska State Troopers
 Approved by: William Tandeske, Commissioner
 Agency: Department of Public Safety

Phone 907 269-0390
 Date/Time 2/19/03 10:58 AM
 Date 2/19/2003

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Honorable Con Bunde, Chair
Senate Labor and Commerce Committee
Alaska Capital, Room 506
Juneau, AK 99801-1182

March 9, 2003

RE: HB 82 (Meyer) - Support

Dear Chair Bunde:

On behalf of the AARP members in Alaska, we encourage you and your colleagues on the Senate Labor and Commerce Committee to support HB 82, authored by Representative Kevin Meyer and co-sponsored by nine of his House colleagues.

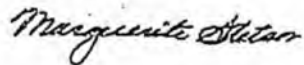
With each year, we find more and more AARP members "on-line" using the Internet for communicating with each other, with children and grandchildren, for business and for enjoyment. With each year, we have also had more complaints about obscene and sexually explicit materials being sent to home computers by unknown entities. We are aware that it is impossible to completely police the Internet and prevent unwanted and unrequested pornography from our homes. HB 82 is, however, a good start to helping computer users become aware of e-mail that they may not wish to open. By including the advisory that the e-mail contains adult content, individuals can simply delete the message without an unwanted "surprise". Nine other states already require this advisory and we understand others are considering it this year. It is time for Alaska to provide this benefit for our citizens.

AARP urges an "AYE" vote on HB 82.

Should you have any questions about our position, please feel free to contact Marie Darlin (907.586.3637), Coordinator of the AARP Capitol City Task Force; Patrick Luby (907.762.3314), AARP Legislative Representative; or me (907.245.5259).

Thank you for your consideration.

Sincerely,



Marguerite Stetson
AARP Alaska
Executive Council Member for Advocacy
3009 Northwood Street
Anchorage, AK 99517-1871
907.245.5259 voice
907.245.5279 fax
ffmas@aurora.uaf.edu

cc: Vice-Chair Ralph Seekins
Senator Gary Stevens
Senator Bettye Davis
Senator Hollis French
Representative Kevin Meyer
Marie Darlin
Patrick Luby

Sec. 45.50.471. Unlawful acts and practices

(a) Unfair methods of competition and unfair or deceptive acts or practices in the conduct of trade or commerce are declared to be unlawful.

(b) The terms "unfair methods of competition" and "unfair or deceptive acts or practices" include, but are not limited to, the following acts:

- (1) fraudulently conveying or transferring goods or services by representing them to be those of another;
- (2) falsely representing or designating the geographic origin of goods or services;
- (3) causing a likelihood of confusion or misunderstanding as to the source, sponsorship, or approval, or another person's affiliation, connection, or association with or certification of goods or services;
- (4) representing that goods or services have sponsorship, approval, characteristics, ingredients, uses, benefits, or quantities that they do not have or that a person has a sponsorship, approval, status, affiliation, or connection that the person does not have;
- (5) representing that goods are original or new if they are deteriorated, altered, reconditioned, reclaimed, used, secondhand, or seconds;
- (6) representing that goods or services are of a particular standard, quality, or grade, or that goods are of a particular style or model, if they are of another;
- (7) disparaging the goods, services, or business of another by false or misleading representation of fact;
- (8) advertising goods or services with intent not to sell them as advertised;
- (9) advertising goods or services with intent not to supply reasonable expectable public demand, unless the advertisement prominently discloses a limitation of quantity;
- (10) making false or misleading statements of fact concerning the reasons for, existence of, or amounts of price reductions;
- (11) engaging in any other conduct creating a likelihood of confusion or of misunderstanding and which misleads, deceives or damages a buyer or a competitor in connection with the sale or advertisement of goods or services;
- (12) using or employing deception, fraud, false pretense, false promise, misrepresentation, or knowingly concealing, suppressing, or omitting a material fact with intent that others rely upon the concealment, suppression or omission in connection with the sale or advertisement of goods or services whether or not a person has in fact been misled, deceived or damaged;

- (13) failing to deliver to the customer at the time of an installment sale of goods or services, a written order, contract, or receipt setting out the name and address of the seller and the name and address of the organization that the seller represents, and all of the terms and conditions of the sale, including a description of the goods or services, which shall be stated in readable, clear, and unambiguous language;
- (14) representing that an agreement confers or involves rights, remedies or obligations which it does not confer or involve, or which are prohibited by law;
- (15) knowingly making false or misleading statements concerning the need for parts, replacement, or repair service;
- (16) misrepresenting the authority of a salesman, representative or agent to negotiate the final terms of a consumer transaction;
- (17) basing a charge for repair in whole or in part on a guaranty or warranty rather than on the actual value of the actual repairs made or work to be performed on the item without stating separately the charges for the work and the charge for the guaranty or warranty, if any;
- (18) disconnecting, turning back or resetting the odometer of a vehicle to reduce the number of miles indicated;
- (19) using a chain referral sales plan by inducing or attempting to induce a consumer to enter into a contract by offering a rebate, discount, commission, or other consideration, contingent upon the happening of a future event, on the condition that the consumer either sells, or gives information or assistance for the purpose of leading to a sale by the seller of the same or related goods;
- (20) selling or offering to sell a right of participation in a chain distributor scheme;
- (21) selling, falsely representing or advertising meat, fish or poultry which has been frozen as fresh food;
- (22) failing to comply with AS 45.02.350 ;
- (23) failing to comply with AS 45.45.130 - 45.45.240;
- (24) counseling, consulting or arranging for future services relating to the disposition of a body upon death whereby certain personal property, not including cemetery lots and markers, will be furnished or the professional services of a funeral director or embalmer will be furnished, unless the person receiving money or property deposits the money or property, and money or property is received, within five days of its receipt, in a trust in a financial institution whose deposits are insured by an instrumentality of the federal government designating the institution as the trustee as a separate trust in the name only of the person on whose behalf the arrangements are made with a provision that the money or property may only be applied to the purchase of designated merchandise or

services and should the money or property deposited and any accrued interest not be used for the purposes intended on the death of the person on whose behalf the arrangements are made, all money or property in the trust shall become part of that person's estate; upon demand by the person on whose behalf the arrangements are made, all money or property in the trust including accrued interest, shall be paid to that person; this paragraph does not prohibit the charging of a separate fee for consultation, counseling or arrangement services if the fee is disclosed to the person making the arrangement; any arrangement under this paragraph which would constitute a contract of insurance under AS 21 is subject to the provisions of AS 21;

(25) failing to comply with the terms of AS 45.50.800 - 45.50.850 (Alaska Gasoline Products Leasing Act);

(26) failing to comply with AS 45.30 relating to mobile home warranties and mobile home parks;

(27) failing to comply with AS 14.48.060 (b)(13);

(28) dealing in hearing aids and failing to comply with AS 08.55;

(29) violating AS 45.45.910 (a), (b), or (c);

(30) failing to comply with AS 45.50.473 ;

(31) violating the provisions of AS 45.45.400 ;

(32) knowingly selling a reproduction of a piece of art or handicraft that was made by a resident of the state unless the reproduction is clearly labeled as a reproduction; in this paragraph, "reproduction" means a copy of an original if the copy is

(A) substantially the same as the original; and

(B) not made by the person who made the original;

(33) violating AS 08.66 (motor vehicle dealers);

(34) violating AS 08.66.200 - 08.66.350 (motor vehicle buyers' agents);

(35) violating AS 45.63 (telephonic solicitations);

(36) violating AS 45.68 (charitable solicitations);

(37) violating AS 45.50.474 (on board promotions);

(38) referring a person to a dentist or a dental practice that has paid or will pay a fee for the referral unless the person making the referral discloses at the time the referral is made that the dentist or dental practice has paid or will pay a fee based on the referral;

(39) advertising that a person can receive a referral to a dentist or a dental practice without disclosing in the advertising that the dentist or dental practice to which the person is referred has paid or will pay a fee based on the referral if, in fact, the dentist or dental practice to which the person is referred has paid or will pay a fee based on the referral;

(40) violating AS 45.50.477 (a) - (c);

(41) failing to comply with AS 45.50.475 ;

(42) violating AS 45.35 (lease-purchase agreements);

(43) violating AS 45.25.400 - 45.25.590 (motor vehicle dealer practices);

(44) violating AS 45.66 (sale of business opportunities).

Sec. 11.41.455. Unlawful exploitation of a minor

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

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

✓

**Online Victimization:
A Report on the Nation's Youth**

BY THE **CRIMES AGAINST CHILDREN RESEARCH CENTER**

**DAVID FINKELHOR
KIMBERLY J. MITCHELL
JANIS WOLAK**

JUNE 2000

**FUNDED BY THE U.S. CONGRESS THROUGH A GRANT TO THE
NATIONAL CENTER FOR MISSING & EXPLOITED CHILDREN**

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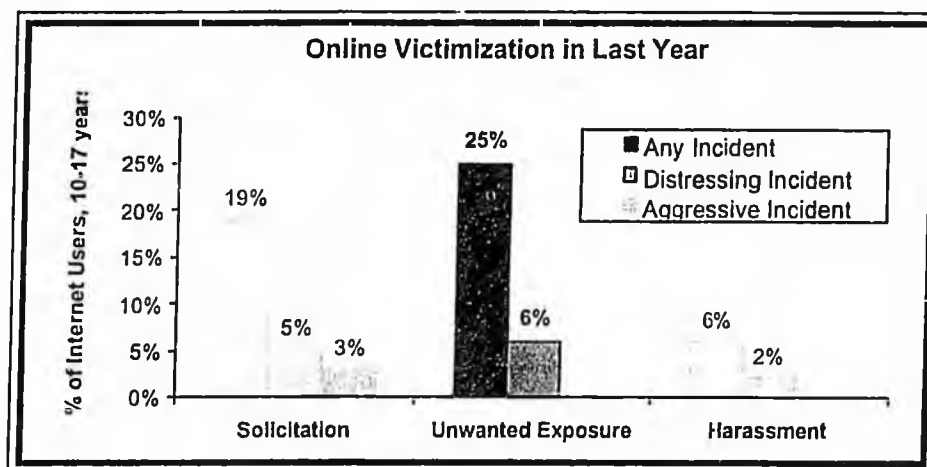
2. Unwanted Exposure to Sexual Material

While it is easy to access pornography on the Internet, what makes the Internet appear particularly risky to many parents is the impression that young people can encounter pornography there inadvertently. It is common to hear stories about children researching school reports or looking up movie stars and finding themselves subjected to offensive depictions or descriptions.

In this part of the survey, we were interested in **unwanted** exposures to sexual material, those that occurred when the youth were not looking for or expecting sexual material. We were interested in material that came up while doing searches online and surfing the world wide web, as well as material that might have appeared when a youth was opening E-mail or clicking on message links. In this section on sexual material, we focus on unwanted exposure to **pictorial images of naked people or people having sex**.

A quarter (25%) of the youth had at least one unwanted exposure to sexual pictures in the last year. (See Figure 2-1 with incidence rates for unwanted exposure to sexual material emphasized.) Seventy-one per cent of these exposures occurred while the youth was searching or surfing the Internet, and 28% happened while opening E-mail or clicking on links in E-mail or Instant Messages.

Figure 2-1



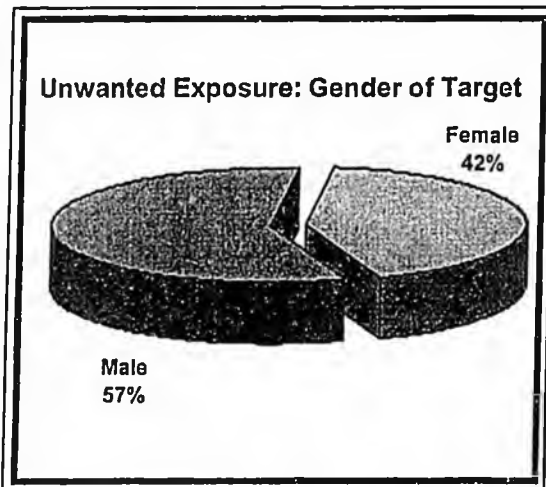
Exposure to sexual material, even when unwanted, is not necessarily upsetting to people. So we have designated a category of **distressing exposures** in which the youth said they found the exposure very or extremely upsetting. Six per cent of regular Internet users said they had a distressing exposure to unwanted sexual pictures on the Internet in the last year.

Which youth had the unwanted exposures?

- Boys outnumbered girls slightly (57% to 42%). (See Figure 2-2.)
- More than 60% of the unwanted exposures occurred to youth 15 years of age or older. (See Figure 2-3.)
- 7% of the unwanted exposures were to 11 and 12 year old youth.
- None of the 10 year olds reported unwanted exposures.

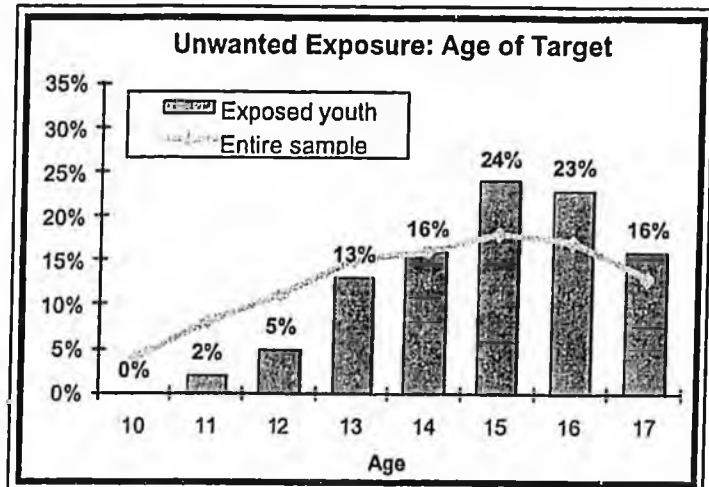
The somewhat greater exposure of boys to unwanted sexual material may reflect the reality that boys tend to allow their curiosity to draw them closer to such encounters. But the relatively small difference should not be over-emphasized. Approximately a quarter of both boys and girls had such exposures. Boys were slightly more likely than girls to say the exposure was distressing.

Figure 2-2



Note: Adds to less than 100% due to rounding and/or missing data.

Figure 2-3



Note: Adds to less than 100% due to rounding and/or missing data.

What was the content and source of the unwanted exposure?

- 94% of the images were of naked persons
- 38% showed people having sex
- 8% involved violence, in addition to nudity and/or sex
- Most of the unwanted exposures (67%) happened at home, but 15% happened at school, and 3% happened in libraries

Unfortunately, we do not know how many of the exposures involved child pornography. Important as this question is, we had decided that our youth respondents could not be reliable informants about the ages of individuals appearing in the pictures they viewed.

For the youth who encountered the material while surfing, it came up as a result of

- Searches (47%)
- Misspelled addresses (17%)
- Links in web sites (17%)

For youth who encountered the material through E-mail

- 63% of unwanted exposures came to an address used solely by the youth
- In 93% of instances, the sender was unknown to the youth

In 17% of all incidents of unwanted exposure, the youth said they did know the site was X-rated before entering. (These were all encounters described as unwanted or unexpected.) This group of episodes was not distinguishable in any fashion from the other 83% of episodes, including the likelihood of

being distressing. Almost half of these incidents (48%) were disclosed to parents. It is not clear to what extent it was some curiosity or just navigational naivete that resulted in the opening of the sites despite prior knowledge of the illicit content.

Pornography sites are also sometimes programmed to make them difficult to exit. In fact, in some sites the exit buttons take a viewer into other sexually explicit sites. In 26% of the incidents where sexual material was encountered while surfing, youth reported they were brought to another sex site when they tried to exit the site they were in. This happened in one third of distressing incidents encountered while surfing.

Testimony From Youth

- An 11-year-old boy and a friend were searching for game sites. They typed in "fun.com," and a pornography site came up.
- A 15-year-old boy looking for information about his family's car typed "escort" into a search engine, and a site about an escort service came up.
- Another 15-year-old boy came across a bestiality site while he was writing a paper about wolves for school. He saw a picture of a woman having sex with a wolf.
- A 16-year-old girl came upon a pornography site when she mistyped "teen.com." She typed "teen" instead.
- A 13-year-old boy who loved wrestling got an E-mail message with a subject line that said it was about wrestling. When he opened the message, it contained pornography.
- A 12-year-old girl received an E-mail message with a subject line that said "Free Beanie Babies." When she opened it, she saw a picture of naked people.

How did the youth respond to the exposure?

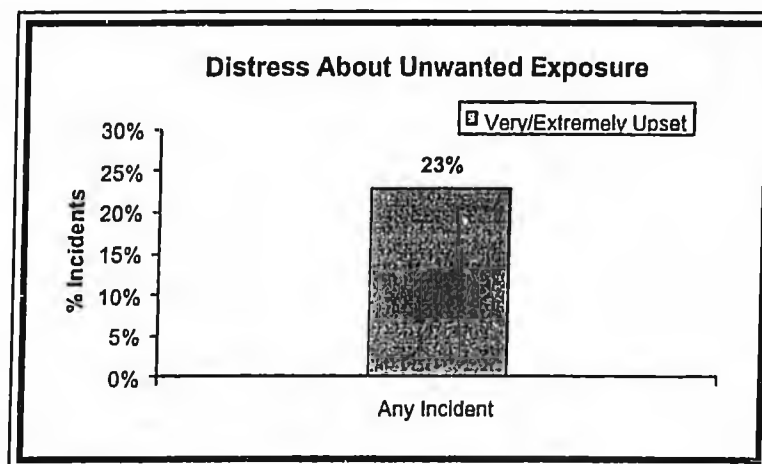
- Parents were told in 39% of the episodes.
- Youth disclosed to no one in 44% of incidents.
- In a few cases authorities were notified, most frequently a teacher or school official (3% of incidents), and Internet service providers (3%). None of these incidents were reported to a law-enforcement agency.
- Only 2% of youth who encountered sexual material while surfing said they returned later to the site of the exposure. None of the youth with distressing exposures who encountered the material while surfing returned to the site.

The fact that so many youth did not mention their exposure to anyone, even a friend, even to laugh or talk about it as an adventure, is noteworthy. It probably reflects some degree of guilt or embarrassment on the part of many youth. It might be healthier and helpful to youth if they were talking about it more.

How did the exposure affect the youth?

- 23% of youth who reported exposure incidents were very or extremely upset by the exposure. This amounts to 6% of the youth we interviewed. (See Figure 2-4.)
- 20% of youth were very or extremely embarrassed.
- 20% reported at least one symptom of stress.

Figure 2-4



Summary

Unwanted exposure to sexual material does appear to be widespread, occurring to a quarter of all youth who used the Internet regularly in the last year. While it is not a new thing for young people to be exposed to sexual material, the degree of sudden and unexpected exposure in an unwanted fashion may be an experience made much more common by the widespread use of the Internet. Such exposure occurs primarily to the group age 15 and older, but some youth as young as 11 had experiences to report. Even in the older group, the exposure does not merely evoke laughs or mild discomfort. About a quarter of the exposed youth, or 6% of all regular Internet users said they were very or extremely upset by an exposure. As with sexual solicitations, most exposure incidents, even the distressing ones, do not get reported to adults or authorities, although a proportion of these are disclosed to friends and siblings.

The experiences conform readily to anecdotal accounts from both youth and adult users. Unwanted exposures mostly occur when doing Internet searches, misspelling addresses, or clicking on links. More than a third of the imagery was of sexual acts, rather than simply naked people, and 8% involved some violence in addition to nudity and/or sex.

From a social-scientific view, the issues about youth exposure to unwanted sexual material are difficult to evaluate, in part, because there is almost no prior research on the matter. No one knows the effects of such exposure. The research on exposure to advertising and media violence makes it clear that media exposure can have effects. Media can affect attitudes, engender fears, and model behaviors (both pro and antisocial).

Previous research on exposure to pornography is not relevant to the many issues of concern here. That research has been done with adults and is based on an assumption of voluntary exposure. The present survey shows that in the case of unwanted exposure there are strong negative, subjective feelings for

certain youth and certain youth who manifest symptoms of stress. We do not know how long these feelings or symptoms last or what ramifications they have, but they should mobilize our concern. Questions that should be of particular interest and need attention for future investigation are

- Do any of youth so exposed have full-fledged, clinical-level traumatic reactions or other highly disturbed reactions?
- Is there any influence, traumatic or otherwise, on developing attitudes and feelings about sex?
- Do youth who have experienced unwanted exposure relate to future Internet sexual material in different ways — either more avoidant or more attracted?
- Do Internet exposures to sexual material figure negatively in family dynamics, creating conflicts or barriers in any way?

Nonetheless, for many people, the issues about youth exposure are even more basic than its effects. Whatever the effects, they would argue that people in general and young people in particular have a right to be free from unwanted intrusion of sexual material in a public forum such as the Internet. On this point, some of the constitutional debate about the Internet has concerned what kind of forum the Internet is. Is it a forum like a bookstore, where if it is signposted, people can readily stay away from the sexually explicit material if they so choose, or more like a television channel, where people are much more captive of the material that is projected at them? Clearly, the Internet has aspects of both. But the present research does suggest that, in its current form, it is not simple for those who want to avoid sexual material on the Internet to do so.

Table 2-1. Unwanted Exposure to Sexual Material (N=1,501)

Individual Characteristics	All Incidents (N=376) 25% of Youth	Distressing Incidents (N=91) 6% of Youth
Age of Youth		
• 10		
• 11	2%	1%
• 12	5%	5%
• 13	13%	21%
• 14	16%	18%
• 15	24%	22%
• 16	23%	15%
• 17	16%	18%
Gender of Youth		
• Male	57%	55%
• Female	42%	45%
Episode Characteristics		
	All (N=393)	Distressing (N=92)
Location of Computer		
• Home	67%	61%
• School	15%	16%
• Someone Else's Home	13%	16%
• Library	3%	3%
• Some Other Place	2%	3%
Type of Material Youth Saw¹		
• Pictures of Naked Person(s)	94%	92%
• Pictures of People Having Sex	38%	42%
• Pictures That Also Included Violence	8%	9%
How Youth Was Exposed		
• Surfing the Web	71%	72%
• Opening E-mail or Clicking on an E-mail Link	28%	30%
• Youth Could Tell Site Was X-rated Before Entering	17%	12%
Surfing Exposure		
	All (N=281)	Distressing (N=66)
How Web Site Came Up		
• Link Came Up as Result of Search	47%	36%
• Misspelled Web Address	17%	18%
• Clicked on Link When In Other Site	17%	24%
• Other	15%	18%
• Don't Know	3%	3%
• Youth Has Gone Back to Web Site	2%	
• Youth Was Taken Into Another X-rated Site When Exiting the First One	26%	33%

E-mail Exposure	All (N=112)	Distressing (N=26)
• Youth Received E-mail at a Personal Address	63%	58%
• E-mail Sender Unknown	93%	96%
Episode Characteristics (Surfing & E-mail)	All (N=393)	Distressing (N=92)
Incident Known or Disclosed to¹		
• Parent	39%	43%
• Friend and/or Sibling	30%	33%
• Another Adult	2%	2%
• Teacher or School Personnel	3%	9%
• ISP/CyberTipline	3%	4%
• Police or Other Authority	—	—
• Someone Else	1%	—
• No One	44%	39
Distress: Very/Extremely		
• Upset	23%	100% ²
Youth With No/Low Levels of Upset	76%	—
Youth Was Very/Extremely Embarrassed	20%	48%
Stress Symptoms (more than a little/all the time)^{1,3}		
• At Least One of Following	20%	43%
• Stayed Away From Internet	17%	34%
• Thought About It and Couldn't Stop	6%	16%
• Felt Jumpy or Irritable	2%	7%
• Lost Interest in Things	1%	7%
Presence of 5 or More Depression Symptoms^{4,5}	11%	15%

¹Multiple responses possible

²Degree of upset was used to define this category of youth.

³These items were adapted from a psychiatric inventory of stress responses and represent avoidance behaviors, intrusive thoughts, and physical symptoms.

⁴In the entire sample, 8% of youth (N=117) reported 5 or more symptoms of depression.

⁵The values for this category are based on individual characteristics rather than episode characteristics.

Note: Categories that do not add to 100% are due to rounding and/or missing data.

4. Risks and Remedies

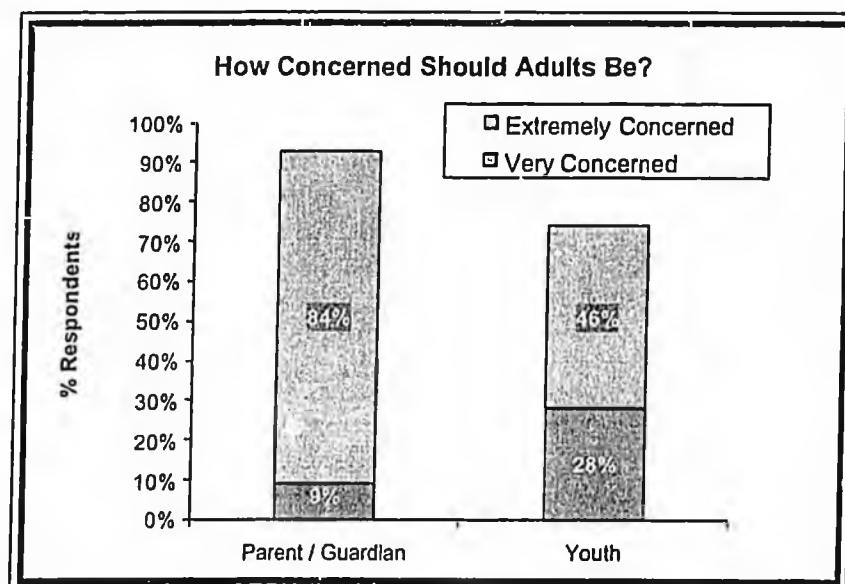
Our lack of knowledge about the dimensions and dynamics of the problems this new technology has created for young people is, of course, a barrier to devising effective solutions. But, even in the absence of knowledge, there has been no dearth of suggestions about things to do. Parents have been urged to supervise their children and talk with them about Internet perils. Youth have been urged to avoid certain risky situations. Organizations have been established to monitor and investigate suspicious episodes. Have any of these remedies been taken to heart?

The survey asked a variety of questions to find out more about the prospects for prevention. We tried to determine to what degree parents are monitoring and advising their children about Internet activities. We asked about the prevalence of Internet activities that may put youth at risk. And we asked about parent and youth knowledge about what remedies or information sources are available for them when they run into problems.

How concerned should adults be about the problem?

Parents and youth both believed that adults should be concerned about the problem of young people being exposed to sexual material on the Internet. As might be expected, parents thought adults should be more concerned than youth thought adults should be, with 84% of parents saying adults should be extremely concerned, compared to only 46% of the youth. (See Figure 4-1.) Some inflation of concern might be expected in a survey with this topic, but other surveys confirm that this is an issue of substantial immediacy for parents and youth.

Figure 4-1



Are parents supervising their children?

Many parents or guardians said they had supervised their child's Internet use in the past year. Most claimed to have talked to youth about such matters as giving out addresses, chatting with strangers, or going to X-rated web sites. Four out of five had rules about specific things the young person was not

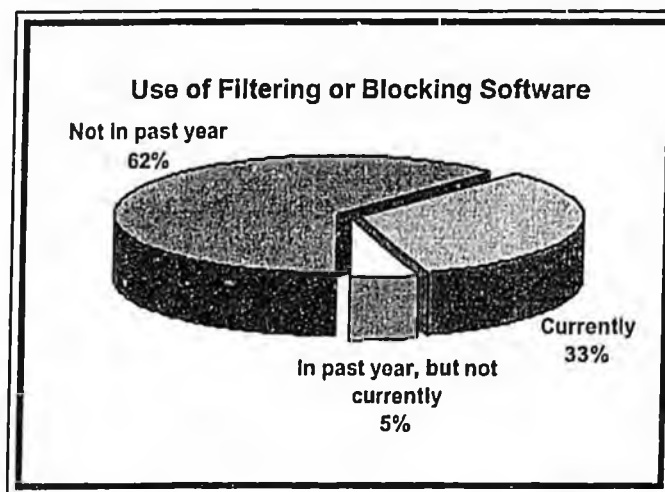
supposed to do online. Approximately four out of five also asked youth about what they did on the Internet. Since many parents might feel guilty about appearing not to have done these things, it is possible that responses to survey interviewers inflate the percentage of parents who have actually supervised their children to this extent. We also did not ask about the details or circumstances of these discussions.

Virtually all parents who had Internet access in their homes said they had looked at the computer screen on occasion to see what their child was doing. At a higher level of supervision that characterized around two-fifths of the households, parents or guardians with home Internet access reported that they checked their child's files or diskettes, required the youth to get permission before going on the Internet, or limited the amount of time the youth could spend online. In approximately three-fifths of households with home Internet access, parents or guardians checked the computer history function to find out where on the Internet the youth had been visiting.

Have families utilized blocking and filtering technology?

Thirty-three percent of households were currently using filtering or blocking software at the time of the interview. (See Figure 4-2.) The most common option used by far is the access control offered by America Online to its subscribers, used by 12% of the households with home Internet access, or 35% of households using filtering or blocking software. Interestingly, another 5% of the households in our sample had used some kind of filtering or blocking software during the past year, but were no longer doing so, suggesting some possible dissatisfaction with its use.

Figure 4-2



Are many youth doing *risky things* on the Internet?

We also asked questions to get a sense of how much risky behavior youth were engaging in, in spite of parental-control efforts. The percentages overall were not very large, but some of these behaviors are sensitive enough that youth may have been less than fully candid.

Only 8% admitted to going voluntarily to X-rated Internet sites. Less than 1% said they had used a credit card without permission. Only 5% had posted a picture of themselves for general viewing. Eleven percent had posted some personal information in a public Internet space, mostly their last name. Twenty-

seven percent of E-mail users had posted their E-mail address in a public place on the Internet, but this may be an underestimate since almost any posting to a bulletin board or signing on to a chat room gives a child's E-mail address this kind of exposure. Of youth who said they talked online with people they did not know in person, 12% had sent a picture to someone they met online, and 7% had willingly talked about sex online with someone they had never met in person.

Among the most common of the potentially risky behaviors was making rude or nasty comments to someone online — practiced in the past year by 14% of youth. A similar number played a joke on or annoyed someone online, mostly friends they already knew. One percent admitted to having harassed someone online.

As a measure of those who may be testing the limits most dramatically or persistently, we asked whether the youth had gotten in trouble for something they did online in the past year. Five percent had been in trouble at home, and 3% of youth who used the Internet at school had been in trouble there for online activities.

Do families and youth know about sources of help?

We noted earlier that relatively few of the Internet episodes reported by youth (solicitation, unwanted exposures to sexual material, or harassment) were reported to official sources. One possibility is that youth and their families are not familiar with places that are interested in or receptive to such reports. Almost a third of parents or guardians said they had heard of places where troublesome Internet episodes could be reported, but only approximately 10% of them could cite a specific name or authority. (See Figure 4-3.) Only 24% of youth stated they had heard of places to report, and only 17% could actually name a place. (See Figure 4-4.) Reporting the episode to an Internet service provider was the option most often thought of. For most of these households, the Internet service provider was America Online.

Figure 4-3

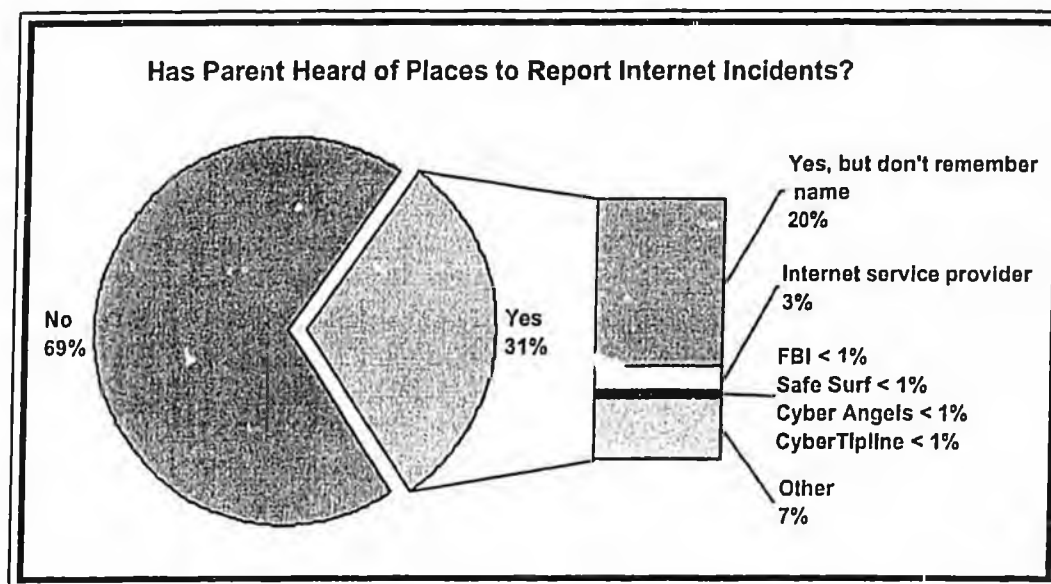
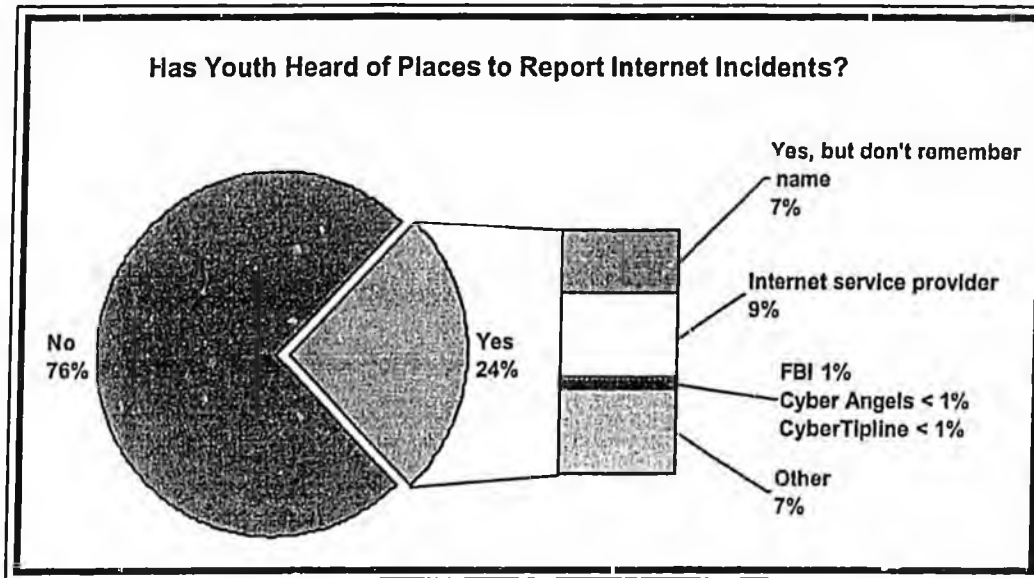


Figure 4-4



Have they heard of the CyberTipline?

Very few of the youth, parents, or guardians could think of the CyberTipline when asked a general question about possible places to report cases. When interviewers said the name "CyberTipline" and asked respondents if they knew about it, larger numbers said they had heard of it, almost 10% of the parents or guardians and 2% of the youth.

Summary

For those concerned about youth Internet safety, there is good and bad news in the survey responses about general Internet practices. While the majority of parents and guardians of Internet users say they supervise their children's online activity, there is a small segment of the population (7%) that does not. Discussions are going on in most households between adults and youth about Internet perils, but it is hard to know how detailed or effective they are. The vast majority of youth, for their part, appear to be playing it safe, and not engaging in risky online behavior. This is generally good news.

The survey, however, reveals notable problems as well. First, there does appear to be a tremendous lack of knowledge about what help sources are available to deal with offensive or disturbing Internet episodes. This may reflect the fact that parents or guardians do not feel they need to know about such sources until something bad happens. But the low level of reporting of incidents suggests that even when bad things happen, people do not make the effort to locate possible help sources. Thus, if the findings point to some area where progress needs to be made, it is in the area of alerting people about possible help sources for problematic Internet encounters.

Secondly, there is a segment of the youth population who are taking risks on the Internet such as engaging in sexual conversations, seeking out X-rated sites, posting pictures of themselves online, or harassing other Internet users. The rates are not high compared to other more conventional risky behavior like using drugs, drinking alcohol, or stealing, but they reflect a new dimension of deviance that needs to be incorporated into a larger understanding of the perils of childhood and addressed in a variety of ways.

Finally, the survey raises questions about the use of filtering and blocking software. Despite the high level of family concern about exposure to sexual material, only a minority of families had adopted the use of any software to address their concern, and some who had adopted it had discontinued its use. This may not reflect a problem. Many parents may be correct in their judgment that discussions with their children and some level of parental monitoring are adequate to manage the problem. But the lack of adoption may also reflect parental doubts about the effectiveness of the available software or a sense that its adoption would create family conflicts that they are reluctant to confront. The findings suggest we need to learn more about actual family concerns about and experiences with filtering and blocking software as a solution to their concerns about Internet safety.

Table 4-1. Parental Supervision of Internet Activities¹

Supervision (in past year)	Parent/Guardian % Yes
Talked With Youth About (N=1,501)²	
• Being Careful About Chatting With Strangers on Internet	85%
• Giving Address/Telephone Number to People Meet on Internet	83%
• Going to X-rated Web Sites or Other X-rated Places	83%
• Talking Online About Very Personal Things (e.g., sex)	77%
• Trying to Meet People Youth Gets to Know on Internet	73%
• Responding to Nasty/Mean Messages	72%
• None of the Above	7%
Look at Screen to See What Youth Is Doing	97%
Rules About Things Youth Is Not Supposed to Do on Internet (N=1,501)	80%
Ask Youth About What He or She Does on Internet (N=1,501)	78%
Check History Function for Sites Youth Has Visited	63%
Check Files and Diskettes	48%
Youth Must Ask Permission to Go on Internet	44%
Rule About Number of Hours Youth Can Spend on Internet	39%

¹ N=1,033 unless otherwise stated. These questions were only asked of households with home Internet access.

² Multiple responses possible.

Table 4-2. Risky Online Behavior (N=1,501)

Risky Online Behavior in the Past Year	All Youth % Yes
Youth Went to X-rated Sites on Purpose	8%
Talked About Sex Online With Someone Youth Never Met in Person (N=839)¹	7%
• Youth Knew He or She Was Talking to an Adult	2%
• Adult Knew He or She Was Talking With a Minor	2%
Used Credit Card Online Without Permission	<1%
Posted Picture of Self for Anyone to See	5%
Sent Picture of Self to Someone Met Online (N=839)¹	12%
Posted Some Personal Information for All to See	11%
• Posted Last Name	9%
• Posted Telephone Number	1%
• Posted Name of School	3%
• Posted Home Address	2%
Posted E-mail Address for Anyone to See (N=1,143)²	27%
Made Rude/Nasty Comments to Someone Online	14%
Played Joke or Annoyed Someone Online	14%
• Played Joke/Annoyed Someone Youth Knew	13%
• Played Joke/Annoyed Stranger	2%
Harassed/Embarrassed Someone Youth Was Mad at Online	1%
• Harassed/Embarrassed Stranger	<1%
• Harassed/Embarrassed Someone Youth Knew	1%
Youth Was In Trouble at Home for Something He or She Did Online	5%
Youth Was In Trouble at School for Something He or She Did Online (N=1,100)³	3%

¹ Only asked of youth who reported talking online with people they didn't know in person.

² Only asked of youth who reported having an E-mail address.

³ Only asked of youth who reported using the Internet at school.

5. Major Findings and Conclusions

By providing more texture and details to our picture of the cyber-hazards facing youth, the national *Youth Internet Safety Survey* has much to contribute to current public-policy discussions about what to do to improve the safety of young people. What follows are some key conclusions based on the important findings from the survey.

1. A large fraction of youth are encountering offensive experiences on the Internet.

The percentage of youth encountering offensive experiences — 19% sexually solicited, 25% exposed to unwanted sexual material, 6% harassed — are figures for one year only. The number of youth encountering such experiences from when they start using the Internet until they are 17, a time which might include five or more years of Internet activity, would certainly be higher.

The level of offensive behavior reported in this survey might be placed in this perspective. Any workplace or commercial establishment where a fifth of all employees or clients were sexually solicited annually would be in serious trouble. What if a quarter of all young visitors to the local supermarket were exposed to unwanted pornography? Would this be tolerated? We consider these levels of offensiveness unacceptable in most contexts. But on the Internet will we simply accept it as the price for this new technology and because it is anonymous? Sadly, the Internet is not always the nice, safe, educational and recreational environment that we might have hoped for our young people.

2. The offenses and offenders are even more diverse than we previously thought.

The problem highlighted in this survey is not just adult males trolling for sex. Much of the offending behavior comes from other youth. There is also a substantial amount from females. The non-sexual offenses are numerous and quite serious too. We need to keep this diversity in mind. Sexual victimization on the Internet should not be the only thing that grabs public attention.

3. Most sexual solicitations fail, but their quantity is potentially alarming.

Based on the results of this study, it appears that several million young people ages 10 through 17 get propositioned on the Internet every year. (See Table 7-2.) If even some small percentage of these encounters results in offline sexual assault or illegal sexual contact — a percentage smaller than we could detect in this survey — it would amount to several thousand incidents. The good news is most young people seem to know what to do to deflect these sexual “come ons.” But there are youth who may be especially vulnerable through lack of knowledge, neediness, disability, or poor judgment. The wholesale solicitation for sex on the Internet is worrisome for that reason.

4. The primary vulnerable population is teenagers.

For solicitations, as well as unwanted exposures to sexual material and harassment, most of the targets were teens, especially teens 14 and older. Thus, it is misleading to say that child molesters are moving from the playground to the living room, trading in their trench coats for digicams, as some have characterized it. Children and teenagers are different victim populations. Pre-teen children use the Internet less, in more

limited ways (Richardson, 1999; Roberts, 1999), and are less independent. It does not appear that much predatory behavior over the Internet involves conventional pedophiles targeting 8-year-old children with their modems, at least not yet. The target population for this Internet victimization is teens, and that makes prevention and intervention a different sort of challenge. Teens do not necessarily listen to what parents and other "authorities" tell them.

5. Sexual material is very intrusive on the Internet.

Large percentages of youth Internet users are exposed to sexual material when they are not looking for it, through largely innocent misspellings and opening E-mail, visiting web sites, and viewing other documents. The sex on the Internet is not segregated and signposted like in a bookstore, and it is not easy to avoid. Some heavy-duty imagery is incredibly easy to stumble upon. Apparently many people do not know this yet. They are inclined to think, "Well, I never see it, so it must be something you only get if you go looking." But youth do not have to be all that active in exploring the Internet to run across sexual material inadvertently.

6. Most youth brush off these offenses, but some are quite distressed.

Most youth are not bothered much by what they encounter on the Internet, but there is an important subgroup of youth who are quite distressed—by the exposure as well as the solicitations and harassment. We cannot assume these are just transient effects. When youth report stress symptoms like intrusive thoughts and physical discomfort, that is a warning sign. Some of this could be the psychological equivalent of a concussion, not a slight bump on the head. It may be hard to predict exactly who will get hurt. It may depend partly on things like age, prior experience—both with the Internet and sexual matters—family attitudes, the degree of surprise, and kind of exposure. Anticipating and trying to respond to negative impacts is something that needs more consideration.

7. Many youth do not tell anyone.

Nearly half of the solicitations were not disclosed to anyone. Some of this non-disclosure is certainly due to embarrassment and guilt. The higher disclosure rates for the non-sexual offenses point to that. Parents are not being informed about a lot of these episodes. They would want to know. And some youth are not even telling their friends. Thus they are not getting a chance to reflect about what happened, process it, and get ideas about how to deal with it and how to put it in perspective. It is somewhat ironic. The Internet is providing places to talk about difficult things, but at the same time, it may be increasing the number of difficult things to talk about.

8. Youth and parents do not report these experiences and do not know where to report them.

Most parents and youth did not know where to report or get help for Internet offenses, and the low rate of reporting for actual offenses confirms this lack of awareness. Even the most serious episodes were rarely reported. The Internet is a new "country" and people do not yet know who the cops or the authorities are. In fact, that seems to be part of the attraction of this territory for many, that there are not obvious cops or authorities. But people need to know how to get help, and people with antisocial tendencies need to know that there are consequences. The choice is not between anarchy and big brother, just as in most societies the choice is not between anarchy and dictatorship.

9. Internet friendships between teens and adults are not uncommon and seem to be mostly benign.

It would make prevention easier if Internet friendships between youth and adults were uniformly sinister, and we could simply say, "Don't do it." But one of the positive things about the Internet is that it allows people of diverse social statuses to congregate around common interests. We want young people to develop their skills and talents. We want them to find mentors. The existence of coaches who molest does not deter parents from signing their kids up for Little League. It will be a similarly complicated challenge to protect kids from dangerous Internet relationships without squelching the positive ones. We need to learn more about the signs and symptoms of potentially exploitative adult-youth relationships, not just on the Internet, but in face-to-face relationships too.

10. We still know little about the incidence of *traveler* cases (where adults or youth travel to physically meet and have sex with someone they first came to know on the Internet), or any completed *Internet seduction* and *Internet sexual exploitation* cases including trafficking in *child pornography*.

We know these very serious victimizations occur. Law-enforcement officials are tracking down an ever-increasing number. A recent unsystematic survey of the FBI, the National Center for Missing & Exploited Children, newspapers, and other law-enforcement sources identified almost 800 cases, confirmed or under investigation, involving adults traveling to or luring youth they first "met" on the Internet for criminal sexual activities (Ruben Rodriguez, National Center for Missing & Exploited Children, personal communication, April 3, 2000).

We did not find any in this survey of 1,501 youth, but that only means these victimizations probably occur below a certain threshold rate. We were unlikely to discover any types of incidents that occurred to fewer than 14,000 youth a year. That is still a large threshold. But it is fair to speculate that these kinds of events are probably not as common as incidents like date rape, conventional stranger sexual assault, or intrafamily sexual abuse — crimes that do tend to show up in surveys of 1,500 youth. So we will have to study these serious Internet cases in some other way, either through a very large survey, like the National Crime Victimization Survey, or through some survey of reported cases.

In the meantime, the findings of this survey should not be interpreted to mean that major law-enforcement initiatives focused on serious Internet crimes against children are misguided. In the last few years, specialized units from the FBI and local law-enforcement agencies have increased their activities on the Internet, often "decoying" themselves as youth to try to catch potential offenders. Given the volume of sexual solicitations and approaches young people are experiencing, the presence and publicity about these decoys is certainly a good thing. It should give potential offenders some pause before they begin their solicitations.

Law-enforcement officials are also active in investigating trafficking in child pornography. Because we judged that our youth interviewees would not be reliable informants about the ages of people appearing in sexual pictures, we have no findings relevant to the problem of child pornography on the Internet. This is nonetheless a problem that has been exacerbated by the Internet, and it is worthy of additional study.

11. Nothing in this survey should dampen enthusiasm about the potential of the Internet.

Youth, families, and educators are currently riding a bandwagon of excitement about the potential of the Internet to bring new kinds of educational, recreational, interpersonal, and even therapeutic possibilities to young people. This survey should not be construed as a signal to slow the wagon down. This survey concerns what is only a small segment of Internet activity and has little to say about its broader potential.

But because the Internet is likely to become so important in our lives, it is crucial to begin to confront its potential problematic aspects as early as possible. When the automobile was first introduced, those who said it was going to kill too many people and pollute the air were dismissed as opposed to progress. The solutions that would have allowed us to have all the benefits of safer and less polluting autos might have come more quickly and at a lower social cost if these concerns had been accepted wholeheartedly from the beginning as worthy chaperones to our courtship of the car. In a similar vein, we can unleash the excitement about the Internet and the creativity it will spawn, while still making a concerted effort to monitor and rein in its potential negative effects. The sooner we start that process the better.

Limitations of the Survey

Every scientific survey has limitations and defects. Readers should keep some of these important things in mind when considering the findings and conclusions of this survey.

- We cannot be certain how candid our respondents were. Although we used widely accepted social-science procedures, our interviews involved telephone conversations with young people on a sensitive subject, factors that could contribute to less than complete candor.
- The young people we did not talk to may be different from the youth we talked to. There were parents who refused to participate or refused to allow us to talk to their children, and there were youth who refused to participate and those we could never reach. Our results might have been different if we had been able to talk to all these people.
- Our numbers are only estimates, and samples can be unusual. Population sampling is intended to produce groups representative of the whole population, but sometimes samples can be randomly skewed. For most of our major findings, statistical techniques suggest that estimates are within 2.5% or less of the true population percentage in 95 out of 100 samples like this one, but there is a small chance that our estimates are farther off than 2.5%.

6. Recommendations

1. **Those concerned about preventing sexual exploitation on the Internet need to talk specifically in their materials about the diversity of hazards including threats from youthful and female offenders.**

A stereotype of the adult Internet "predator" or "pedophile" has come to dominate much of the discussion of Internet victimization. While such figures exist and may be among the most dangerous of Internet threats, this survey has revealed a more diverse array of individuals who are making offensive and potentially exploitative online overtures. We should not ignore them. We have to remember that in a previous generation, campaigns to prevent child molestation characterized the threat as "playground predators" so that for years the problem of youth, acquaintance, and intra-family perpetrators went unrecognized. Today, those doing prevention work concerning the Internet need to be careful not to make, consciously or inadvertently, a characterization of the threat that fails to encompass all its forms. One of the reasons for the mistaken characterization of child molesters in an earlier era was that people extrapolated the problem entirely from what came to the attention of law-enforcement officials. A similar process could be underway in the case of Internet victimization, but it is probably early enough to reverse the trend. Thus we need to publicize the full variety of Internet offensive behavior.

2. **Prevention planners and law-enforcement officials need to address the problem of non-sexual, as well as sexual victimization on the Internet.**

An additional problem with the "Internet predator" stereotype just mentioned is that it does not give enough focus to non-sexual forms of Internet victimization. The current survey shows that non-sexual threats and harassment constitute another common peril for youth that can be as, or more, distressing than sexual overtures. Experience in crime prevention has shown that concerns about sexual threats often eclipse other equivalently serious crime. Concerted efforts should be made to ensure that non-sexual threats and harassment are included on educational, legislative, and law-enforcement agendas for Internet safety.

3. **More of the Internet-using public needs to know about the existence of help sources for Internet offenses, and the reporting of offensive Internet behavior needs to be made even easier, more immediate, and more important to youth Internet users.**

Multiple strategies are needed to increase reporting. The Internet-using public needs to be made aware of reporting options in as many ways as possible, through the Internet as well as through other media. The public also needs to be briefed on the reasons why they should make such reports including the importance of keeping the Internet a safe and enjoyable place for everyone to use. The Smokey the Bear and McGruff the Crime Dog campaigns come to mind as approaches to emulate. People often balk at being tattle-tales, but vigilance by individuals and community involvement have been traditional keys to community safety.

In reaching out to the public and Internet users on this issue of reporting, our survey suggests that Internet service providers are in a key position to help. They are the most recognized avenue for reporting. So it may make sense for them to become even more visible and pro-active on this front. What else can be done? Can chat rooms be urged to consider how to make the monitoring and reporting of offensive behavior easier and more acceptable? The Internet needs its own neighborhood crime-watch posters and more.

4. Different prevention and intervention strategies need to be developed for youth of different ages.

Most of the encounters reported to our survey occurred to teenagers, specifically older teens. The messages that will make sense and be taken seriously by this group and their parents are quite different from those that make sense for younger youth. This is a different problem from conventional child molestation, where we were trying to target and protect 7 to 13 year olds. Older teens have more independence, more experience, and a different relationship with adults and their families. For example, telling parents to regularly check the Internet and E-mail activity of older teens may be tantamount to saying parents should read their mail, and such privacy invasions will seem unrealistic in many families.

Too much of the discussion about Internet safety to date has been between policy makers and parents, without consultation from young people themselves. Policies crafted from such an adults-only discussion may be rejected, especially by older youth, because the policies may be seen as an effort to control rather than protect. Good protection strategies, especially for the teen group, cannot be heavy on the control dimension and need to be tied to youth aspirations, values, and culture. That requires the input of youth. If young people are becoming millionaires with their Internet ingenuity, it is likely that some of that creativity could hit the jackpot in the field of Internet safety as well. It is time to involve a cadre of young people in the development of Internet victimization prevention and intervention in order to craft messages to which youth will be receptive.

5. Youth need to be mobilized in a campaign to help "clean up" the standards of Internet behavior and take responsibility for youth-oriented parts of the Internet.

Like face-to-face sexual offenses, which run the gamut from harassment to rape, Internet sexual offenses cover a spectrum of behaviors. The less serious end of the spectrum should not be ignored, since it can be the fertile soil in which more serious offenses grow. The experience of those trying to prevent real-world sexual harassment has been that campaigns, particularly campaigns involving whole schools, can be successful, if they raise awareness about the problem and its effects, and help youth themselves enforce proper conduct among their peers. Such youth-oriented campaigns might have some success with at least some forms of Internet victimization as well, and they may be worth a try.

6. We need to train mental health, school, and family counselors about these new Internet hazards and how these hazards contribute to personal distress and other psychological and interpersonal problems.

This survey reveals that substantial numbers of young people do experience distress because of Internet encounters. And they are not getting help. Mental health and other counselors need to learn to be alert and ask questions to get young people to talk about such encounters. They need to know how young people use the Internet, so they can understand their problems. They need to be trained to treat the kinds of distress and conflicts that are connected with negative Internet experiences. We need educational packages for schools and all kinds of youth workers for their own professional development and to use with youth. Unfortunately, at the training conferences being offered today, most of the Internet education seems directed at law-enforcement officials. We need to develop workshops for educators, psychologists, and social workers as well.

HB

83

SENATE COMMITTEE REPORT

DATE: 4/17/03

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: _____

Labor and Commerce Committee considered CS FOR HOUSE BILL NO. 83(JUD)

HB 83 REVISED UNIFORM ARBITRATION ACT

"An Act adopting a version of the Revised Uniform Arbitration Act; relating to the state's existing Uniform Arbitration Act; amending Rules 3, 18, 19, 20, and 21, Alaska Rules of Civil Procedure, Rule 601, Alaska Rules of Evidence, and Rule 402, Alaska Rules of Appellate Procedure; and providing for an effective date."

and recommends:

be replaced with _____ CS _____ (_____)

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#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Ralph Deeb</i>			✓	
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>			✓	

Alaska State Legislature

House of Representatives

Minority Leader

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Alaska State Capitol
Juneau, Alaska 99801-1182
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Representative Ethan Berkowitz

District 13

SPONSOR STATEMENT

House Bill 83

"An Act adopting a version of the Revised Uniform Arbitration Act; relating to the state's existing Uniform Arbitration Act; amending Rules 3, 18, 19, 20,21, Alaska Rules of Civil Procedure, Rule 601, Alaska Rules of Evidence, and Rule 402, Alaska Rules of Appellate Procedure; and providing for an effective date."

This legislation updates Alaska's current arbitration statutes through adoption of the Revised Uniform Arbitration Act (RUAA). These revisions address many questions that the original uniform act did not and encourages the use of arbitration as a viable alternative to litigation.

The objective of the RUAA is to advance arbitration as a desirable alternative to litigation, but not to make arbitration another form of litigation. To this end, the RUAA endeavors to make the arbitration process more efficient, expeditious, and economical in a manner that is fair to the parties, and that promotes finality of the decision of the dispute submitted to arbitration.

Arbitration is the original "alternative dispute resolution" mechanism made legitimate under American law. The RUAA recognizes that more issues are being submitted to arbitration and that the issues are more complex, often involving higher monetary amounts. The RUAA covers a number of important issues that were not addressed in the original act and reflects aspects of arbitration practice as it has developed over the years.

A revision of the uniform arbitration act is necessary at this time in light of the ever-increasing use of arbitration and the developments of the law in this area. This important advance in the law of arbitration should be enacted as soon as feasible.

LEGAL SERVICES

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MEMORANDUM

March 10, 2003

SUBJECT: Sectional summary of HB 83 relating to the Revised Uniform Arbitration Act (Work Order No. 23-LS0047\H)

TO: Representative Ethan Berkowitz
Attn: Lisa

FROM: *TLB*
Theresa L. Bannister
Legislative Counsel

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

Section 1. Amends the existing Uniform Arbitration Act to indicate to which agreements and contracts it applies.

Section 2. Adds an article containing the Revised Uniform Arbitration Act (RUAA).

Sec. 09.43.300 states that the RUAA governs arbitration agreements made on or after January 1, 2004. States that the RUAA governs arbitration agreements made before January 1, 2004 if all parties agree. States that, with one exception, the RUAA does not apply to certain labor-management contracts unless incorporated into the contract or its application is provided for by contract. States that the RUAA does not apply to certain collective bargaining agreements.

Sec. 09.43.310 provides for waiver or varying the effect of the RUAA. Lists certain agreements and waivers a party to an arbitration agreement may not make before the controversy arises. Prohibits the waiver or variation of the effect of certain RUAA provisions.

Sec. 09.43.320 directs that an application for judicial relief under the RUAA, except as provided in sec. 09.43.550, will be handled as provided by the state's court rules.

Sec. 09.43.330 provides that arbitration agreements contained in a record are valid, enforceable, and irrevocable, except on a ground that exists at law or in equity for the revocation of a contract. Directs the court to decide certain issues relating to arbitration agreements. Directs an arbitrator to decide certain issues relating to arbitration

Representative Ethan Berkowitz

March 10, 2003

Page 2

agreements. Allows an arbitration proceeding to continue while a court resolves certain challenges.

Sec. 09.43.340 directs how a court is to proceed on application of a person alleging another person's refusal to arbitrate. Directs how a court is to proceed with an application of a person alleging that an arbitration has been initiated or threatened but there isn't an agreement to arbitrate. Prohibits a court from ordering arbitration if there isn't an enforceable agreement. Prohibits a court from refusing to order arbitration because of the merits of the claim or because grounds for the claim have not been established. Directs which court to use under certain circumstance. When a party applies to a court to order arbitration, directs the court to stay a judicial proceeding that involves a claim alleged to be subject to the arbitration. Directs that if a court orders arbitration, the court shall stay a judicial proceeding that involves a claim subject to the arbitration.

Sec. 09.43.350 allows a court to order a provisional remedy to protect an arbitration proceeding before an arbitrator is appointed and can act. Allows an arbitrator to order a provisional remedy to protect the arbitration proceeding and to promote a fair and expeditious resolution. Sets limits on when a party to an arbitration proceeding may apply for a court-ordered provisional remedy. Provides that a party's application for a provisional remedy does not waive a right of arbitration.

Sec. 09.43.360 establishes how a person initiates an arbitration proceeding. Provides that a person waives a lack or insufficiency of the notice required to initiate an arbitration unless the person objects not later than the beginning of the arbitration hearing.

Sec. 09.43.370 allows a court to consolidate separate arbitration proceedings under certain listed conditions. Allows the court to consolidate some claims and allow other claims to be resolved separately. Prohibits a court from consolidating claims if the arbitration agreement prohibits consolidation.

Sec. 09.43.380 describes what method is to be used to appoint an arbitrator and under what circumstance a court is to appoint the arbitrator. Gives a court-appointed arbitrator the same powers as an arbitrator designated in the arbitration agreement or appointed by the parties. Prohibits an individual with a certain interest in the outcome or a certain relationship with a party from serving as an arbitrator if the agreement requires neutrality.

Sec. 09.43.390 requires that before accepting appointment a person disclose facts that might affect the person's impartiality as an arbitrator. Makes disclosure a continuing obligation of an arbitrator. Provides that a timely objection to the arbitrator after disclosure of these facts may be grounds for vacating an award. Allows a court to vacate an award for failure to disclose as required by (a) - (b). Establishes a rebuttable presumption that a person appointed as a neutral arbitrator acts with partiality if the person does not disclose a known, direct, and material interest in the outcome or a known, existing, and substantial relationship with a party. Requires substantial

compliance with certain agreed procedures for challenges to arbitrators in order to vacate an award on that ground under sec. 09.43.500(a)(2).

Sec. 09.43.400 requires that the powers of an arbitrator be exercised by a majority of all of the arbitrators. Requires all of the arbitrators to conduct the hearing.

Sec. 09.43.410 provides an arbitrator and an arbitration organization the same immunity from civil liability as a judge. States that this immunity supplements any other immunity provided by law. States that an arbitrator does not lose this immunity by failing to make required disclosures. States that an arbitrator or representative of an arbitration organization is generally not competent to testify or required to produce arbitration records relating to an arbitration proceeding in a judicial, administrative, or similar proceeding to the same extent as a judge. Makes certain exceptions to this rule. Awards attorney fees and costs in a civil action to an arbitrator, arbitration organization, or representative of an arbitration organization when the court determines that the arbitrator, arbitration organization, or representative is protected by this immunity.

Sec. 09.43.420 allows an arbitrator to conduct the arbitration in the manner the arbitrator considers appropriate for a fair and expeditious disposition. Allows the arbitrator to hold conferences and deal with evidence, and to handle summary dispositions of the claims and issues under certain conditions. Establishes certain procedures for the arbitration. Gives the parties certain rights at the hearing. Provides for replacing an arbitrator when an arbitrator ceases acting or is unable to act.

Sec. 09.43.430 allows a party to an arbitration proceeding to be represented by an attorney.

Sec. 09.43.440 makes various provisions for subpoenas, witnesses, the production of records and other evidence, depositions, discovery, fees, and protective orders.

Sec. 09.43.450 makes certain provisions for incorporating preaward rulings into an award and for judicial enforcement of the award.

Sec. 09.43.460 requires an arbitrator to make a record of the arbitrator's award and requires the arbitrator or arbitration organization to give notice of the award to each party. Establishes when an award must be made and provides for extension of the time. Requires a party to give notice before receiving the award of an objection that an award was not timely in order to avoid waiving objection to the non-timeliness of the award.

Sec. 09.43.470 authorizes an arbitrator to modify or correct an award as provided in the section. Establishes certain procedural requirements regarding motions for modification or correction and objections to the motion. If certain applications are pending, allows a court to submit the claim to the arbitrator to consider modification or correction for certain reasons. States that a modified or corrected award is subject to action under certain other sections.

Sec. 09.43.480 authorizes an arbitrator to award punitive damages or other exemplary relief under certain conditions. Authorizes an arbitrator to award reasonable attorney fees and arbitration expenses under certain circumstances. Authorizes an arbitrator to order other remedies the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. States that an arbitrator's expenses and fees, together with other expenses, are to be paid as provided in the award. Requires the arbitrator who awards punitive damages or other exemplary relief to state in the award the facts and law on which these damages are based and state the amount of these damages separately.

Sec. 09.43.490 allows a party to apply for a court order confirming an award and directs the court to confirm the award unless the award is modified, corrected, or vacated under certain provisions.

Sec. 09.43.500 directs a court to vacate an award under certain described conditions. Establishes when an application to the court must be filed. Allows a court to order a rehearing if it vacates an award on certain grounds and establishes certain requirements for the rehearing. Directs a court that denies an application to vacate an award to confirm the award unless an application to modify or correct the award is pending.

Sec. 09.43.510 directs a court to modify or correct an award under certain conditions. Allows an application to modify or correct an award to be combined with an application to vacate the award.

Sec. 09.43.520 directs the court to enter judgment in conformity with its order on the arbitration award.

Sec. 09.43.530 allows a court to enforce an agreement to arbitrate if the court has jurisdiction over the controversy and the parties. States that an arbitration agreement providing for arbitration in this state confers exclusive jurisdiction on the court to enter judgment on an award under these provisions.

Sec. 09.43.540 establishes where in the state an application to the court is to be made.

Sec. 09.43.550 lists which orders and judgments can be appealed. Provides for the appeal to be taken as if from an order or judgment in a civil action.

Sec. 09.43.560 requires that the need to promote uniformity be considered when applying and construing these provisions.

Sec. 09.43.570 requires that those RUAA provisions that relate to the legal effect, validity, and enforceability of electronic records or signatures, and of contracts performed with the use of the records or signatures, conform to the federal Electronic Signatures in Global and national Commerce Act.

Representative Ethan Berkowitz
March 10, 2003
Page 5

Sec. 09.43.580 explains what notice means in the RUAA.

Sec. 09.43.590 defines certain terms for the RUAA.

Sec. 09.43.595 provides for the new provisions to be called the Revised Uniform Arbitration Act.

Section 3. Conforming amendments.

Section 4. Conforming amendments.

Section 5. Conforming amendments.

Section 6. Conforming amendments.

Section 7. Conforming amendments.

Section 8. Describes the indirect court rule amendments made by the new provisions.

Section 9. Prohibits a person from waiving the effective date of a provision of this Act.

Section 10. Prevents this Act from affecting an action or proceeding begun or a right accrued before its effective date.

Section 11. States that the provisions that change court rules do not take effect unless sec. 8 receives the increased majority vote.

Section 12. Makes the Act effective January 1, 2004.

If I may be of further assistance, please advise.

TLB:lmb
03-070.lmb

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 83
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
 Title: "An Act adopting a version of the Revised BRU: Civil Division
Uniform Arbitration Act; . . ." Component: Governmental Affairs
 Sponsor: Representative Berkowitz Transportation
 Requester: House Judiciary Committee Component No. 2207; 2214

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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 adopts a version of the Revised Uniform Arbitration Act (RUAA), as recommended by the National Conference of Commissioners on Uniform State Laws. The provisions of this bill govern agreements to arbitrate that are made on or after January 1, 2004. The original Uniform Arbitration Act (UAA), which was adopted in Alaska in 1968, will remain in effect with respect to arbitration agreements entered into before January 1, 2004, unless the parties agree to apply the RUAA. The RUAA addresses a number of issues that are not addressed in the UAA, including: the process for initiating arbitration; authority to consolidate arbitrations; requiring arbitrators to make certain disclosures; providing immunity for arbitrators; allowing depositions and discovery in arbitration proceedings; judicial enforcement of preaward rulings by arbitrators; and defining remedies available in arbitration, including punitive damages, attorney's fees, and other relief.
 Passage of this legislation would have no fiscal impact on the Department of Law.

Prepared by: Joan M. Kasson Phone (907) 465-5370
 Division: Attorney General's Office Date/Time 2/28/03 4:57 PM
 Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 2/28/2003
 Agency: Department of Law

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB83 DOC 2 28
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Department of Corrections
 Title Revised Uniform Arbitration Act BRU Administration & Operations
 Component _____
 Sponsor Representative Berkowitz
 Requester _____ 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	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
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CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
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FUND SOURCE (Thousands of Dollars)

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

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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

This bill has no fiscal impact to the Department of Corrections.

Prepared by: Jerry D. Burnett, Director
 Division: Administrative Services
 Approved by: Portia C.K. Parker, Assistant Commissioner
 Agency: Department of Corrections

Phone 465-3339
 Date/Time 2/28/03 3:31 PM
 Date 2/28/2003

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB 83
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Revised Uniform Arbitration Act BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative Bekowitz
 Requester House Judiciary Component No. 768

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

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)

The court system does not anticipate any fiscal impact from the passage of HB 83

Prepared by: Douglas Wooliver, Administrative Attorney
 Division: Alaska Court System
 Approved by: Stephanie Cole, Administrative Director
 Agency: Alaska Court System

Phone 463-4750
 Date/Time 3/7/03 11:49 AM
 Date 3/7/2003

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February 28, 2003

Hon. Lesil McGuire
Chair - Judiciary Committee
Alaska House of Representatives
State Capitol, Room 118
Juneau, Alaska 99801-1182

RE: HB 83 - Revised Uniform Arbitration Act

Dear Representative McGuire:

I write to respectfully offer the House Judiciary Committee my support for HB 83, which embodies in essence the Revised Uniform Arbitration Act of the National Conference of Commissioners on Uniform State Laws (NCCUSL). I am one of the Alaska commissioners of the NCCUSL. The other Alaska commissioners are Alaska Supreme Court Justice Alexander O. Bryner; Asst. Alaska Attorney General Deborah Behr; attorney L.S. Kurtz, Jr. of Anchorage; attorney Arthur H. Peterson of Juneau; and attorney Tamara B. Cook, Director of the Alaska Legislative Affairs Agency.

I would like to provide the House Judiciary Committee with the following information concerning the background of the Revised Uniform Arbitration Act and the principal purposes it is intended to serve.

Background - The Uniform Arbitration Act (adopted in Alaska - 1968)

The NCCUSL promulgated the original Uniform Arbitration Act in 1955. It subsequently was adopted as law in 49 jurisdictions, including Alaska, and together with the Federal Arbitration Act has provided the fundamental substance of the law governing agreements to arbitrate in the United States.

The 1955 Uniform Arbitration Act accomplished two fundamental things. First, it reversed the common law rule that denied enforcement of a contract provision requiring arbitration of disputes before there an actual dispute arose. Historically at common law the parties were able to agree to arbitrate only after an actual dispute arose. The common law prohibited agreements to arbitrate made in anticipation of possible disputes. Second, the 1955 Uniform Arbitration Act provided some basic procedures for the conduct of an arbitration. The Uniform Act has not mandated the arbitration of any dispute. Its function has been to let persons determine whether or not they want to use arbitration by agreement.

BILL BACKUP

Arbitration is the original alternative dispute resolution (ADR) mechanism made legitimate under American law. It is an alternative to a judicial proceeding to resolve a dispute. Arbitration has traditionally been a means of resolving disputes when issues are specialized and technical. These kinds of disputes require specialist resolution and there is no desire for damage awards like those awarded by a court of law. A typical example is an arbitration that allocates costs of defects in a building project between architects, contractors and property owners. Arbitrators are chosen by the parties with construction expertise to determine responsibility for defects. The arbitration is conducted quickly. It is free of the constraints of court-room procedure, and may be tailored to adducing evidence for the specific kind of dispute. The parties all have a strong desire to avoid litigation and are normally satisfied with the results of arbitration. Construction disputes have been regularly resolved by arbitration for a long period of time.

However, provisions calling for arbitration occur in all kinds of contracts as the burgeoning caseload has slowed the civil justice process in the courts and as the costs of lawsuits have risen dramatically. As the arbitration process has been more utilized for resolving disputes that have traditionally been resolved by litigation, it has become clear that the limited procedural provisions of the Uniform Arbitration Act are no longer adequate. For that reason, the NCCUSL has now promulgated a next generation state arbitration act, the Revised Uniform Arbitration Act of 2000 (RUAA).

The Revised Uniform Arbitration Act of 2000 (RUAA)

The RUAA continues to authorize agreements to arbitrate disputes before they arise. However, the procedural side of arbitration is greatly augmented to meet modern needs. It deals with procedural issues not addressed in the 1955 Act. The effect should be more efficient and fair arbitrations as an alternative to litigation than is the case under the 1955 Act. The 1955 Act was a great advance in American law. The objective of the 2000 Act is to make the contribution of the 1955 Act even greater.

The 2000 Uniform Act has been drafted, also, against the significant and preemptive presence of the Federal Arbitration Act. The federal act applies to arbitration provisions in private contracts. The Federal Arbitration Act encourages arbitration as an alternative to litigation. Therefore, any state law that limits the availability of arbitration risks failure as a matter of federal preemption. Although there is not complete agreement about the relationship between federal and state law on certain specific issues, the 2000 Uniform Act is drafted to avoid preemption by federal law.

It is not possible to cover all the provisions in this important revision in this letter. However, the primary purposes underlying the revisions that the RUAA seeks to implement

may be fairly summarized as 1) providing more certainty in arbitration proceedings, 2) dealing with potential problems of federal preemption, and 3) addressing important issues that have arose under the original UAA as reflected in the case law throughout the country. The RUAA not only revises certain provisions of the original act, but also includes a number of new provisions.

The RUAA expressly provides that it is a default act. Most of its provisions may be varied or waived by contract. There are certain provisions that may not be waived or varied. These include the basic rule that an agreement to submit a dispute to arbitration is valid; the rules that govern disclosure of facts by a neutral arbitrator; the rules guaranteeing enforcement or appeal of the act, an arbitration agreement or an arbitration decision in a court; or, the standards for vacating an award. Declaring the RUAA a default act is important because it gives the parties an option to choose between federal or state law to govern their arbitration. Without this, the federal arbitration act is applicable by default. IN addition, restrictions on waiving or varying certain statutory requirements are important to protect parties to these agreements.

The RUAA specifically allows a court to order provisional remedies during the course of an arbitration before an arbitrator is selected. The 1955 Uniform Act has no such provision. Thus the RUAA improves upon the original act by preventing a party from delaying the selection of an arbitrator in order to delay proceedings and dissipate the effect of an arbitration award. The RUAA also gives an arbitrator, when selected, the express power to order provisional remedies, a power not expressly given in the 1955 Uniform Act. An arbitrator has the same powers as a court has in a judicial proceeding.

The RUAA allows consolidation of separate arbitration proceedings, a matter that was never contemplated in the 1955 Uniform Act. The existence of multiple parties, multiple agreements and complex litigation has made the issue of consolidation of arbitration actions very important. Courts have varied over consolidation. The RUAA expressly allows and governs consolidation.

The 1955 Uniform Act allows an award to be vacated because of an arbitrator's partiality - lack of neutrality. It does not specifically require disclosure of any interest that may give rise to a question of neutrality. The RUAA specifically addresses disclosure of known facts that give rise to questions of neutrality. Such facts include a financial or personal interest in the outcome of the arbitration proceeding or an existing or past relationship with a party. The lack of disclosure itself may be a ground for vacating an award, and there is a presumption of partiality when non-disclosure occurs. Upon disclosure, a party has the opportunity to object to the appointment of an arbitrator intended to be neutral. If there is no objection, that may affect the ability to raise partiality as a ground for vacating an award.

These provisions provide substantial express protection to parties to an arbitration proceeding that simply are not a part of the 1955 Uniform Act.

A crucial issue in arbitrations is the express immunity of arbitrators from civil liability. It is not an issue addressed in the 1955 Uniform Act, but is important to impartial and fair proceedings. An arbitrator who expects or fears a lawsuit simply because of a decision, cannot be counted upon to act fairly or competently. The RUAA provides arbitrators with immunity from civil liability "to the same extent as a judge of a court of this State acting in a judicial capacity."

An arbitrator under the RUAA may conduct the arbitration in such manner as the arbitrator considers appropriate to the fair and expeditious disposition of the proceeding. This express authority does not appear in the 1955 Uniform Act. The 1955 Uniform Act provides for subpoena of witnesses, and for depositions. Under the RUAA, an arbitrator also has the express power to make summary dispositions of claims or issues under appropriate procedures, to hold pre-arbitration proceeding meetings or to use any other discovery process (any process that adduces relevant evidence for the proceeding) applicable to resolution of the dispute. These provisions put arbitrators on the same level as judges in a judicial proceeding with respect to discovery of evidence.

The RUAA expressly permits an arbitrator to give punitive damages or other exemplary relief, "if such an award is authorized by law in a civil action involving the same claim." Attorney's fees may be awarded under the same standard. The 1955 Uniform Act does not expressly address either issue, but the case law has established the power to award punitive damages in most jurisdictions. The Federal Arbitration Act decisions also provide for punitive damages and some states have amended the 1955 Uniform Act to include attorney's fees. These new provisions put arbitrators on the same footing as judges in a court of law, and reflect the expansion of arbitration into disputes traditionally resolved in courts of law.

These are some highlights of the revision to the RUAA. The number of disputes in arbitration grows yearly. The RUAA responds to this growth with better and more complete arbitration procedures. It aligns state law with federal law, which decreases the potential for litigation on preemption grounds. This important advance in the law of arbitration should be enacted in all states as soon as feasible.