



**HB**

**322**



# ALASKA STATE LEGISLATURE



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Representative Gabrielle LeDoux

## **SPONSOR STATEMENT**

**HB 322**

**“An Act relating to infants who are safely surrendered by a parent shortly after birth.”**

This a bill that will allow parents to safely surrender an infant shortly after birth without fear of being criminally prosecuted. The parent may, without expressing an intent to return for the infant, leave the infant in the physical custody of a person who the parent reasonably believes is a peace officer, a physician or hospital employee in a hospital or hospital emergency room, or a volunteer with or employee of a fire station or emergency medical service who is performing activities within the scope of the volunteer's or employee's fire services of emergency medical services duties.

There are similar laws in other states and this is a way of encouraging people to not abandon infants in a way that could lead to injury or death. A record regarding the surrender of an infant is confidential and not subject to public inspection.

24-LS1110F  
Mischel  
4/19/06

**CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 322( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES LEDOUX AND GRUENBERG, Kerttula, McGuire, Dahlstrom**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to infants who are safely surrendered by a parent shortly after birth."**

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

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

5 **SHORT TITLE.** This Act may be known as the Safe Surrender of Infants Act.

6 **\* Sec. 2.** AS 11.81 is amended by adding a new section to read:

7 **Article 4A. Prohibition on Prosecution.**

8 **Sec. 11.81.500. No prosecution for safe surrender of infant.** A parent may  
9 not be criminally prosecuted for surrendering a child of the parent in the manner  
10 described in AS 47.10.013(c) if the child is an infant who is less than three days of  
11 age.

12 **\* Sec. 3.** AS 47.10.013 is amended by adding new subsections to read:

13 (c) A parent may not be criminally prosecuted for surrendering an infant in the  
14 manner described in this subsection although surrendering the infant in the manner  
15 described in this subsection constitutes abandonment for purposes of this chapter. An

1 infant's parent is considered to have abandoned the infant safely, and, notwithstanding  
2 AS 25.20.030 and AS 47.10.120, the parent's legal duty to support the infant is  
3 extinguished after 28 days if

4 (1) the parent, without expressing an intent to return for the infant,  
5 leaves the infant in the physical custody of a person who the parent reasonably  
6 believes is a peace officer, a physician or hospital employee in a hospital or hospital  
7 emergency room, or a volunteer with or employee of a fire station or emergency  
8 medical service who is performing activities within the scope of the volunteer's or  
9 employee's fire services or emergency medical services duties; and

10 (2) there is no evidence at the time of abandonment that the infant has  
11 been physically injured.

12 (d) A person to whom an infant is abandoned safely within the meaning of (c)  
13 of this section shall

14 (1) act appropriately to care for the infant;

15 (2) inform the parent that the parent may, but is not required to, answer  
16 any questions regarding the name or identity of the infant or the parents of the infant  
17 unless the parent chooses to contact the department under (3) of this subsection;

18 (3) ask the parent if the parent wishes to relinquish the parent's  
19 parental rights and release the infant for adoption; if the answer is affirmative, the  
20 person shall contact the department so that the parent can discuss that option with the  
21 department.

22 (e) A hospital, hospital emergency room, fire station, emergency medical  
23 service, or employees or volunteers of these entities, are not liable for civil damages  
24 for failure to discharge the duties listed in (d) of this section.

25 (f) A record regarding the surrender of an infant under (c) of this section is  
26 confidential and not subject to public inspection or copying under AS 40.25.100 -  
27 40.25.220.

28 \* Sec. 4. AS 47.10.086(a) is amended to read:

29 (a) Except as provided in (b), (c), and (g) [(b) AND (c)] of this section, the  
30 department shall make timely, reasonable efforts to provide family support services to  
31 the child and to the parents or guardian of the child that are designed to prevent out-of-

1 home placement of the child or to enable the safe return of the child to the family  
2 home, when appropriate, if the child is in an out-of-home placement. The department's  
3 duty to make reasonable efforts under this subsection includes the duty to

4 (1) identify family support services that will assist the parent or  
5 guardian in remedying the conduct or conditions in the home that made the child a  
6 child in need of aid;

7 (2) actively offer the parent or guardian, and refer the parent or  
8 guardian to, the services identified under (1) of this subsection; the department shall  
9 refer the parent or guardian to community-based family support services whenever  
10 community-based services are available and desired by the parent or guardian; and

11 (3) document the department's actions that are taken under (1) and (2)  
12 of this subsection.

13 \* **Sec. 5.** AS 47.10.086 is amended by adding a new subsection to read:

14 (g) The department is not required to make reasonable efforts of the type  
15 described in (a) of this section if the department took emergency custody of an infant  
16 under AS 47.10.142 after the infant was abandoned safely within the meaning of  
17 AS 47.10.013(c).

18 \* **Sec. 6.** AS 47.10.990 is amended by adding a new paragraph to read:

19 (32) "infant" means a child who is less than three days of age.

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## Representative Gabrielle LeDoux

### MEMO

**TO:** REPRESENTATIVE GABRIELLE LEDOUX  
**FROM:** CHRISTINE R. MARASIGAN  
**SUBJECT:** CSHB 322  
**DATE:** 4/24/2006

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The committee substitute has some changes that are a result of consulting with several different agencies, including the Office of Children's Services. These changes are as follows:

Page 1, Sec. 2, line 10

"less than 12 months of age" was replaced with, "an infant who is less than three days of age."

Page 2, Sec. 3, line 2

"extinguished, if" was replaced with, "extinguished after 28 days if"

Page 2, Sec. 3(d) (3), lines 16-17

"under (3)" was replaced with "under (4)"  
(3) was deleted.

#### Rationale:

The most significant change in CSHB 322 is 72 hours and 28 days. In the original bill, agencies commented that 12 months was too long and that there was a potential for abuse and neglect. To make sure that the infant had the chance to get into an adoption program, "28 days" was inserted so that the infant would still have a chance to bond to another maternal figure. (3) was deleted because it was unnecessary and would encumber medical or firefighting volunteers. In (4) the parent would be directed towards counseling and appraised of laws related to relinquishing parental rights.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB322-DHSS-OCS-04-24-06

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

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

Title INFANTS SAFELY SURRENDERED BY A PARENT SHORTLY AFTER BIRTH

Dept. Affected: Health & Social Services

RDU Children's Services

Component Family Preservation

Sponsor LEDOUX

Requester HOUSE (HES)

Component No. 1628

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

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

| OPERATING EXPENDITURES | FY 2007      | FY 2008      | FY 2009      | FY 2010      | FY 2011      | FY 2012      |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services      |              |              |              |              |              |              |
| Travel                 |              |              |              |              |              |              |
| Contractual            | 100.0        | 100.0        | 100.0        | 100.0        | 100.0        | 100.0        |
| Supplies               |              |              |              |              |              |              |
| Equipment              |              |              |              |              |              |              |
| Land & Structures      |              |              |              |              |              |              |
| Grants & Claims        |              |              |              |              |              |              |
| Miscellaneous          |              |              |              |              |              |              |
| <b>TOTAL OPERATING</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> |

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

|                               |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|
| <b>CHANGE IN REVENUES (0)</b> |  |  |  |  |  |  |
|-------------------------------|--|--|--|--|--|--|

**FUND SOURCE** (Thousands of Dollars)

|                                       |              |              |              |              |              |              |
|---------------------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts                 |              |              |              |              |              |              |
| 1003 GF Match                         |              |              |              |              |              |              |
| 1004 GF                               | 100.0        | 100.0        | 100.0        | 100.0        | 100.0        | 100.0        |
| 1037 GF/Mental Health                 |              |              |              |              |              |              |
| Other(Specify Type-do not abbreviate) |              |              |              |              |              |              |
| Other(Specify Type-do not abbreviate) |              |              |              |              |              |              |
| <b>TOTAL</b>                          | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> | <b>100.0</b> |

Estimate of any current year (FY2006) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

This bill provides for the safe surrender of infants whereby the parent may not be criminally prosecuted for surrendering an infant in the manner described.

Drawing on other states' experience with similar laws, the OCS believes that adequate public education is key to success. If the desired effect of this bill is to stop abandonment of babies, the public needs to be made aware of their options. This fiscal note would cover estimated costs for a campaign that provides for media advertising, brochures, posters, etc., to be distributed in hospitals, clinics, doctors' offices, public assistance offices, and other public areas. Estimated costs are based on similar campaigns and promotions managed within OCS.

Prepared by: Tammy Sandoval, Deputy Commissioner

Phone 465-3191

Division Office of Children's Services

Date/Time 04/21/2006

Approved by: Karleen Jackson, Commissioner

Date 04/24/2006

Agency Department of Health and Social Services

# 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 27, 2006

## Memorandum

TO: Representative Gabrielle LeDoux  
FROM: Becky Taylor  
Legislative Analyst  
RE: Safe Haven Laws in Other States  
LRS Report 06.118

You asked for an overview of safe haven laws. Specifically, you were interested in which states have such laws, when these laws were enacted, where and up until what age infants can be dropped off in different states, and how these laws address the issue of parental rights.

Safe Haven laws are intended to reduce infant abandonment and abuse by providing mothers in crisis with designated locations where they can leave an infant and know that the child will be safe and cared for. Hospitals, police and fire stations, and emergency medical service agencies are often used as safe haven locations. Age limits of 72 hours or 30 days are most common, although North Dakota's safe havens will accept children up to a year old. A few states require a check of the putative father registry, and include provisions to contact the putative father, but most do not require notification of fathers who may not be aware of the child's birth.

At least forty-six states have enacted safe haven laws. According to the Child Welfare League of America, forty-one of these states passed safe haven legislation between 1999 and August 2002. Currently, Alaska, Hawaii, Nebraska, and Vermont appear to be the only states that do not have safe haven laws. Massachusetts was the most recent state to enact this type of legislation with the 2004 Safe Haven Act of Massachusetts. A number of organizations have compiled information about these laws. We have attached the following publications that address your specific questions in more detail:

- ◆ "Infant Safe Haven Laws," *State Statute Series 2004*, National Adoption Information Clearinghouse, U.S. Department of Health and Human Services, current through November 2004.
- ◆ "Update: Safe Havens for Abandoned Infants," National Conference of State Legislatures, October 21, 2003.
- ◆ Williams-Mbengue, Nina, "Safe Havens for Abandoned Infants," *NCSL State Legislative Report*, Volume 26, Number 8, National Conference of State Legislatures, September 2001.
- ◆ "Baby Abandonment Project," Child Welfare League of America, August 2002. As you will see, this document provides brief summaries of the various laws current as of 2002, including information, in many cases, specific to your questions. The on-line version of this compilation of state laws includes links to the text of each state's bill, and is available at <http://www.cwla.org/programs/prev/flocrittsafehaven.htm>.

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I hope you find this information to be useful. Please do not hesitate to contact us if you have questions or need additional information.



National Clearinghouse on Child Abuse and Neglect Information  
National Adoption Information Clearinghouse

**NAIC**

Gateways to Information: Protecting Children and Strengthening Families

## State Statutes Series 2004 Infant Safe Haven Laws

### Who May Leave a Baby at a Safe Haven

### Safe Haven Providers

State legislatures have felt the need to address infant abandonment and infanticide in response to a reported increase in the abandonment of infants.

Beginning in Texas in 1999, "Baby Moses laws" or infant safe haven legislation has been enacted as an incentive for mothers in crisis to safely relinquish their babies to a safe haven where the baby will be protected and provided with medical care until a permanent home can be found. Safe haven laws generally allow the parent, or an agent of the parent, to remain anonymous and to be shielded from prosecution for abandonment or neglect in exchange for safely surrendering the baby to a safe haven.

To date, approximately<sup>1</sup> 46<sup>2</sup> States have enacted safe haven legislation to provide a vehicle for the safe relinquishment of unwanted newborns.

In most States with safe haven laws, a parent may surrender the baby to a safe haven. In four States (Georgia, Maryland, Minnesota, and Tennessee),<sup>3</sup> only the mother may relinquish the infant, while Idaho specifies that only a custodial parent may surrender the infant. Other States allow either parent of the baby, an agent of the parent (someone who has the parent's approval),<sup>4</sup> or another person having custody of the child<sup>5</sup> to take the baby to a safe haven. Five States<sup>6</sup> do not specify the person who may relinquish an infant.

Safe haven providers include hospitals, emergency medical services, police stations, and fire stations. Generally, anyone on staff at these institutions can receive an infant, and the provider is authorized to provide any care and treatment the infant may require.

<sup>1</sup> The word *approximately* is used to stress the fact that the States frequently amend their laws, so this information is current only through November 2004.

<sup>2</sup> Alaska, Hawaii, Nebraska, Vermont, the District of Columbia, and the territories of American Samoa, Guam, the Northern Mariana Islands, Puerto Rico, and the Virgin Islands have not yet addressed the issue of abandoned newborns in legislation.

<sup>3</sup> Maryland and Minnesota do allow the mother to approve another person to deliver the infant on her behalf.

<sup>4</sup> In 10 States: Arizona, Arkansas, Connecticut, Iowa, Missouri, North Dakota, Rhode Island, South Carolina, Utah, and Wyoming

<sup>5</sup> In California and Kansas

<sup>6</sup> Delaware, Maine, New Jersey, New Mexico, and New York

National Adoption Information Clearinghouse  
330 C St., SW  
Washington, DC 20447  
(888) 251-0075 or (703) 352-3488  
naic@caliber.com  
<http://naic.acf.hhs.gov>

U.S. Department of Health and Human Services  
Administration for Children and Families  
Administration on Children, Youth and Families  
Children's Bureau



**Immunity  
From  
Liability**

In many States, the provider is required to ask the parent for family and medical history information. In some States, the provider is required to attempt to give the parent or parents information about the legal effects of leaving the infant and information about referral services. In all cases, the relinquishing parent may not be compelled either to provide personal information or to accept the information offered.

The focus of these laws is protecting newborns, and in approximately 16 States,<sup>7</sup> infants who are 72 hours old or younger may be relinquished to a designated safe haven. Many other States accept infants up to 1 month old,<sup>8</sup> while North Dakota's safe havens will accept a child as old as 1 year.<sup>9</sup>

**Protections  
for the  
Parents**

Safe haven providers are given protection from liability for anything that might happen to the infant while in their care unless there is evidence of major negligence on the part of the safe haven.

Anonymity for the parent or agent of the parent may be expressly guaranteed in statute,<sup>10</sup> or the statute may state that the safe haven cannot compel the parent or agent of the parent to provide identifying information.<sup>11</sup> Some States provide an assurance of confidentiality for any information that is provided.<sup>12</sup>

In addition to the guarantee of anonymity, many States limit prosecution<sup>13</sup> or provide that safe relinquishment of the infant is an affirmative defense<sup>14</sup> in any prosecution<sup>15</sup> of the parent or his/her agent for any crime against the child, such as abandonment, neglect, or child endangerment.

The privileges of anonymity and immunity will be forfeited in most States if there is evidence of abuse or neglect of the child.

<sup>7</sup> Alabama, Arizona, California, Colorado, Florida, Illinois, Kentucky, Maryland, Michigan, Minnesota, Mississippi, Ohio, Tennessee, Utah, Washington, and Wisconsin

<sup>8</sup> In 14 States: Arkansas, Connecticut, Idaho, Louisiana, Maine, Missouri, Montana, Nevada, New Jersey, Oregon, Pennsylvania, Rhode Island, South Carolina, and West Virginia

<sup>9</sup> Other States specify varying age limits in their statutes: 5 days (New York); 7 days (Georgia, Massachusetts, New Hampshire, North Carolina, and Oklahoma); 14 days (Delaware, Iowa, Virginia, and Wyoming); 45 days (Indiana and Kansas); 60 days (South Dakota and Texas); and 90 days (New Mexico).

<sup>10</sup> In approximately 13 States: Arizona, Delaware, Florida, Illinois, Kentucky, Ohio, Oklahoma, Texas, Utah, Washington, West Virginia, Wisconsin, and Wyoming

<sup>11</sup> In 26 States: Arizona, California, Connecticut, Delaware, Idaho, Indiana, Iowa, Louisiana, Maine, Massachusetts, Michigan, Minnesota, Montana, Nevada, New Hampshire, New Jersey, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, South Dakota, Tennessee, West Virginia, and Wyoming.

<sup>12</sup> In 12 States: Connecticut, Delaware, Idaho, Iowa, Kentucky, Maine, Michigan, Montana, New Mexico, Rhode Island, South Carolina, and Tennessee

<sup>13</sup> In approximately 7 States (Arizona, Connecticut, Illinois, Louisiana, Nevada, Pennsylvania, and South Dakota), the statutes state that a safe relinquishment is not considered a violation of the law. In 21 States, the relinquishing parent is provided immunity from prosecution: California, Florida, Georgia, Idaho, Iowa, Kansas, Kentucky, Maryland, Minnesota, Missouri (if the child is 5 days old or younger), Montana, New Mexico, North Carolina, North Dakota, Ohio, Oklahoma, Rhode Island, South Carolina, Tennessee, Wisconsin, and Washington.

<sup>14</sup> In a State with an affirmative defense provision, a parent or agent of the parent can be charged and prosecuted, but the act of leaving the baby safely at a safe haven can be a defense to an accusation of abandonment, abuse, neglect, or child endangerment.

<sup>15</sup> In 17 States: Alabama, Arkansas, Colorado, Delaware, Indiana, Maine, Michigan, Mississippi, Missouri (if the child is 6 days old or older, but less than 30 days old), New Jersey, New York, Oregon, Texas, Utah, Virginia, West Virginia, and Wyoming

## Consequences of Relinquishment

In most States with safe haven laws, custody of the infant who has been relinquished will be transferred to the department that handles child protective or child welfare cases.

The department has responsibility for placing the child, usually in a pre-adoptive home, and for petitioning the court for termination of the birth parent's parental rights. Several States have procedures in place for a parent to reclaim the infant,<sup>16</sup> usually within a specified time period and before any petition to terminate parental rights has been granted. A few States<sup>17</sup> also have provisions for a nonrelinquishing father to petition for custody of the child.

This publication is a product of the State Statutes Series prepared by the National Adoption Information Clearinghouse (NAIC). While every attempt has been made to be as complete as possible, additional information on these topics may be in other sections of a State's code as well as agency regulations, case law, and informal practices and procedures.

Electronic copies of this publication may be downloaded from the Clearinghouse website at <http://naic.acf.hhs.gov/general/legal/statutes/safehaven.cfm>.

- To find statute information for a particular State, go to <http://naic.acf.hhs.gov/general/legal/statutes/search> and select the specific State and topic.
- To find information on all of the States and territories, view the complete PDF at <http://naic.acf.hhs.gov/general/legal/statutes/safehavenall.pdf> or call the Clearinghouse at (888) 251-0075 or (703) 352-3488 to order a copy.

<sup>16</sup> Approximately 16 States have provisions for the relinquishing parent to petition to reclaim the child: California, Connecticut, Delaware, Florida, Idaho, Illinois, Iowa, Kentucky, Louisiana, Michigan, Missouri, Montana, New Mexico, Rhode Island, Tennessee, and Wyoming.

<sup>17</sup> In approximately 4 States: Louisiana, South Dakota, Tennessee, and Utah.



## **Child Welfare Project**

### **UPDATE: SAFE HAVENS FOR ABANDONED INFANTS October 21, 2003**

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Forty-five states now have some type of safe haven legislation. (The following states do not have safe haven legislation: AK, HI (Vetoed 7/2/03), MA, NE and VT.) Most of the laws designate hospitals, emergency medical services, fire stations and police stations as safe locations. One exception is New York, which stipulates that the baby may be left with a suitable person or may be left in a suitable location so long as an appropriate person is promptly notified. Immunity is granted generally to employees who are required to accept and care for relinquished infants. About half of the states will not prosecute parents who relinquish unharmed infants. The remainder allows an affirmative defense to prosecution. State laws vary on the age of infants who may be relinquished. The ages range from 72 hours old or younger up to 5 days old or younger. The most common ages found in the statutes are 72 hours and 30 days.

#### **How Effective are the Laws?**

#### **Areas of Concerns for Policymakers**

#### **Need for Examination of Statewide Services for Women at Risk**

#### **Lack of a Comprehensive Strategy for the Prevention of Infant Abandonment**

#### **Anonymity and Termination of Parental Rights**

#### **Relationship to Existing Child Welfare Statutes**

#### **Father's Rights**

#### **Adoption**

#### **Parental Irresponsibility**

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#### **How Effective are the Laws?**

The laws continue to have a limited effect. A number of states have begun to report on infants abandoned after the passage of the safe haven legislation. As of September 2001, approximately 33 babies had been legally relinquished including five each in Texas, Michigan and Alabama, six in New Jersey, four in California, two in Connecticut, Minnesota and Ohio and one each in Kansas and South Carolina. The numbers are approximate because officials in several states reported that they are not officially tracking the numbers of infants or that they had unofficial media counts of infants. Officials in New York, West Virginia and Florida reported that they were not sure that any infants had been relinquished because their laws do not require reporting or tracking that information. As of September 2002, state agency officials in California report that they have had 20 infants abandoned through the law since their legislation went into effect. New Jersey reported 10 safe haven infants, a 63% reduction in infant abandonment, since the passage of their law in 2000 (compared to 8 abandonments prior to the passage of the law). Illinois reported 2 safe haven abandonments since their law was enacted in 2001.

Unlawful abandonment continues to be a problem. As of September 2001, Texas reported at least 12 infants had been abandoned illegally since the passage of its law, but the abandonments occurred before the start of a public awareness campaign. None have been abandoned outside safe havens since this publicity. Louisiana reported that five infants had been abandoned illegally since passage of its law. Three babies died, and the parents were prosecuted. At least five babies were illegally abandoned in California; two more of them were found dead. In Connecticut, one baby was discarded near a highway. Three babies had been abandoned illegally in Colorado. In one case, the mother attempted to regain custody. Michigan reported nine attempts including one in which a judge ruled that the case was not a safe haven surrender because the parents had not been given enough information on their legal rights. As of September 2002, California reported 21 illegal abandonments and 17 infants abandoned found deceased. Illinois reported four infants illegally abandoned and found deceased. Illinois averaged 25 illegal abandonments over the previous four-year period.

### **Areas of Concerns for Policymakers**

Child welfare experts, state agency officials and state lawmakers continue to examine a number of critical issues related to infant safe haven legislation:

#### **Need for Examination of Statewide Services for Women at Risk**

Many child welfare experts state that, although safe haven legislation may be a good idea, it needs to be part of a larger effort to enhance services for women who are at risk of abandoning their infants. Experts from the fields of child welfare, mental health, youth services, the medical establishment and teen pregnancy will want to work with young parents to examine the existing system of services. Such an examination might provide some answers about why this population of parents is unable -or unwilling- to use these services.

#### **Lack of a Comprehensive Strategy for the Prevention of Infant Abandonment**

Critics are concerned that states are not viewing safe haven programs as an integral part of child abuse prevention. Has infant abandonment been considered in the state's child abuse prevention efforts? Does the strategy target young women at risk of abandonment? These are just a few questions policymakers may want to ask as they work with public health, child protection, child abuse prevention, mental health, families and others to develop a comprehensive strategy to prevent infant abandonment.

#### **Anonymity and Termination of Parental Rights**

Child welfare experts are apprehensive that the anonymity provided to parents in the safe haven laws conflicts with biological parents' due process rights in termination of parental rights proceedings. As previously mentioned, states have attempted to address this critical issue by providing some type of notice or search for the biological parents of the abandoned infant in an effort to include them in judicial proceedings related to the adoption of the infant. States will want to carefully examine their termination of parental rights statutes to avoid conflicts with safe haven laws.

#### **Relationship to Existing Child Welfare Statutes**

Likewise, states may want to examine all their existing statutes related to adoption, paternity, custody and all judicial proceedings associated with child abandonment. It also is important that states clarify their definitions of infant abandonment. For example, several states with new laws exempt safe haven abandonment from the statutory definition of abandonment, child abuse or child neglect. Other states add safe haven abandonment to their existing definition of abandonment.

#### **Putative Father's Rights**

A few states require a check of the putative father registry and include provisions to contact the putative father, but most do not contain provisions to address notification of fathers who may not be aware of the child's birth. Critics contend that denying notification unfairly presumes that these fathers do not want to care for their children. Utah's legislation addresses this concern by requiring a search of the confidential registry for unmarried biological parents and requiring that notice be sent to each potential father identified in the registry. The termination of parental rights hearing must be scheduled as soon as possible if no one has identified himself as the father (or if the mother has not identified herself) within two weeks after notice is complete. If a non-relinquishing parent is not identified, the surrender of the newborn shall be considered grounds for termination of parental rights of both parents.

#### **Adoption**

Adoption advocates are particularly concerned about the lack of medical and family history. They note that a lack of information about their backgrounds is often troublesome for adopted children and worry about the stability of the child and his or her adopted family later in life. They fear that the lack could be a setback to the trend in adoption policy to provide the adoptee with information about the birth family. Adoption and other child welfare experts also point out that the legislation may not be necessary because most states will not prosecute women who give birth and relinquish their newborns in the hospital. Additionally, every state allows women to voluntarily relinquish their infants for adoption.

#### **Parental Irresponsibility**

Many policymakers are concerned that these laws may only encourage parental irresponsibility. Since so little is known about the women who abandon their babies, there is no proof that the legislation will discourage mothers from leaving their infants in unsafe places. For women who might otherwise seek help from family, friends and social service agencies, the enactment of safe haven laws might encourage them to anonymously abandon their newborns rather than take advantage of their traditional network of support.



# NCSL STATE LEGISLATIVE REPORT

ANALYSIS OF STATE ACTIONS ON IMPORTANT ISSUES

SEPTEMBER 2001

VOLUME 26, NUMBER 3

## Safe Havens for Abandoned Infants

By Nina Williams-Mbengue, *Policy Specialist*

After 13 infants were abandoned in the Houston, Texas, area within a 10-month period in 1999, state lawmakers acted to encourage desperate parents to leave their children in a safe location rather than simply abandoning them. Since the Texas law was adopted, 34 more states have enacted so-called "safe haven" laws. All the statutes generally promise that women who relinquish unharmed infants in designated safe places will not be prosecuted or provide that abandonment in compliance with the law constitutes an affirmative defense to prosecution.

So far, the effects of the new laws appear to be limited. Although some newborns have been left at hospitals or police and fire stations, others continue to be found in unsafe places. Serious concerns remain regarding the general lack of research on abandoned babies and their mothers, the implications of these laws on states' adoption and child welfare practices, the rights of the infant's father and the relatively small number of infants involved. Some child welfare experts have expressed concern that the laws do not include an examination of existing statewide child abuse prevention strategies and services for women at risk.

This report examines what is known about infant abandonment, provides an overview of key aspects of the legislation, describes state experience with the new laws and discusses some policy implications for lawmakers.

### The Scope of the Problem

What do we know about the incidence of infant abandonment? Unfortunately, national and state data on the number of abandoned infants are practically nonexistent. Most states do not keep track of these infants and, so far, the federal government does not require states to do so. A recent media survey

#### Discarded Infants and Boarder Babies

The infants referred to are those abandoned in public places—other than hospitals—such as parks, roadsides and dumpsters. They also are known as "discarded infants" and should be distinguished from "boarder babies," who are abandoned in hospitals due to pre- or perinatal drug or HIV exposure as described in the Abandoned Infants Assistance Act (P.L. 104-23). In the law, Congress defined abandoned infants as "...infants and young children who are medically cleared for discharge from acute care hospital settings but who remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives."

conducted by the U.S. Department of Health and Human Services (HHS) reported 65 babies abandoned in public places in 1991. This number increased to 105 in 1998, with 33 of the babies found dead. HHS officials state these numbers could simply reflect heightened media interest in the issue and do not necessarily indicate an actual increase in baby abandonment.

Abandonment of infants in public places appears to be part of a much larger problem. Due to parental drug addiction, 31,000 infants were abandoned in hospitals in 1998. The number of children who suffer abuse and neglect from parents or caretakers each year is even greater. According to HHS, 836,000 children were confirmed as abused in 1999. Of those children, 1,100 died.

### **What Do We Know about Mothers Who Abandon Their Infants?**

Little is known about women who discard their newborns. Most of the women are never found. Anecdotal evidence indicates that most of the women are very young; their race and income vary. Most are very much in denial of their pregnancies and appear to be unaware of or afraid to use the resources available to help them before and during their pregnancies. Questions also exist about the fathers' role, the mothers' family situation and how often the pregnancy is the result of rape or sexual abuse.

*Most women who discard their newborns are very much in denial of their pregnancies and appear to be unaware of or afraid to use the resources available to help them before and during their pregnancies.*

Some experts suggest that women who are likely to abandon their infants also are the most likely to commit infanticide. In 1996, researcher Michelle Oberman studied women who commit infanticide. Her conclusions may shed light on women who abandon their babies. Oberman noted that the most fundamental shared characteristic of these women is their "seemingly self-imposed silence and isolation during pregnancy." Often, not even the woman's family and close friends are aware of her pregnancy. Oberman also asserted that women who commit infanticide are in "massive denial." The combination of denial and isolation means that these women do not seek prenatal care and do not make any plans for the birth or care of the baby.

The women Oberman studied represent every race, ethnicity and socioeconomic background. Most are young, single and live with parents, guardians or other relatives. If forced to live on their own, they would be poor and, presumably, financially unable to care

for an infant. The women may have suffered rape or abuse and the pregnancy is most likely their first. Surprisingly, women who commit infanticide are unlikely to have a history of substance abuse.

In response to the limited information on infant abandonment, federal House Resolution 465, introduced and passed in April 2000, recommended that local, state and federal statistics be kept on the number of infants abandoned in public places. Federal House Resolution 422, also introduced in 2000, sought to establish a Baby Abandonment Task Force to collect information and maintain a database (through the Bureau of Justice Statistics) on incidents of child abandonment, including information on demographics, circumstances, outcomes and trends. The legislation was reintroduced in January 2001 as H.R. 7, the "Baby Abandonment Prevention Act of 2001." Additionally, the "Safe Havens Support Act of 2001," H.R. 2018, proposes using TANF funds to support infant safe haven programs and requires HHS to conduct a study to determine the number of infants relinquished, abandoned or found dead and the characteristics and demographics of parents who have abandoned an infant.

*Thirty-five states (including 19 that passed laws in the 2001 session) now have some type of safe haven legislation.*

### **Review of State Laws**

Most states have child abandonment laws that allow authorities to prosecute parents or caretakers who willingly and permanently abandon their children. The goal of the new safe haven laws is to allow a parent to safely leave a baby without fear of prosecution for child abandonment and without resorting to the dangerous practice of leaving an infant in a trash bin, in a wooded area or beside a highway.

Thirty-five states (including 19 that passed laws in the 2001 session) now have some type of safe haven legislation. Most of the laws designate hospitals, emergency medical services, fire stations and police stations as safe locations. One exception is New York, which stipulates that the baby may be left with a suitable person or may be left in a suitable location so long as an appropriate person is promptly notified. Immunity is granted generally to employees who are required to accept and care for relinquished infants. About half of the states will not prosecute parents who relinquish unharmed infants. The remainder allow an affirmative defense to prosecution. State laws vary on the age of infants who may be relinquished. The ages range from 72 hours old or younger up to 5 days old or younger. The most common ages found in the statutes are 72 hours and 30 days.

Some of the issues addressed in statute include anonymity, parental rights public awareness and court procedure. (See sidebar for additional provisions.)

#### *Anonymity*

A number of states with safe haven legislation do not specifically mention anonymity. Twenty-four states do allow for anonymity, in which the person leaving the child is not required to disclose any information or may remain anonymous. The laws state that the receiving entity may request relevant medical history information about the infant and the infant's parents, but the parents are not required to provide that or any other information. Most of the laws also require that the receivers offer the parent written or verbal information about the safe haven law, what will happen to the baby, adoption alternatives and how to contact social services. They also may offer medical history forms that the parent may voluntarily and anonymously mail in later.

*Anonymity provisions, while meant to encourage parents to safely drop off their newborns, create difficulties for the child welfare and legal systems.*

The goal of the anonymity provisions is to encourage women to safely surrender their infants without fear of identifying themselves. South Carolina requires the person accepting the infant to offer information about the legal repercussions of relinquishment. The person receiving the infant also must attempt to obtain information about the infant, but the parent is not required to share anything. In addition, the parent must receive a self-addressed, stamped envelope to mail to the Department of Human Services with information about the child. Minnesota receivers must not inquire about identity, but may ask about medical history and may tell the parent how to contact social services. California, Connecticut, New Mexico and North Dakota issue the parent a numbered identification bracelet. If the parent changes his or her mind, possession of the bracelet in Connecticut, New Mexico and North Dakota creates a presumption that the parent has standing to participate in a custody hearing. In California, a parent can reclaim custody within 14 days of surrendering the child if he or she has a matching bracelet. Tennessee requires the facility receiving the infant to seek identifying and medical history information whenever possible and to inform the parent that such information will facilitate the infant's adoption. The parent is not required to provide the information.

#### *Termination of Parental Rights*

The anonymity provisions, while meant to encourage parents to safely drop off their newborns, create difficulties for the child welfare and legal systems. In order to free abandoned infants for adoption, states must hold termination of parental rights proceedings in court

to remove a parent's legal rights and obligations to his or her child. To abide by constitutional requirements for due process for parents, the state must attempt to locate and notify the parents of the termination proceeding and give them an opportunity to respond and appear in court.

Twenty-one states (see sidebar) address the termination of parental rights proceeding notification requirement in several different ways. Generally, they either state that the act of voluntarily surrendering the infant to a safe haven terminates parental rights or they provide for some type of notice to parents or require the department to conduct a reasonable search to locate the biological parents. South Carolina requires the Department of Social Services to publish notice of an abandoned newborn and to send a news release to broadcast and print media in the area with information about the infant, including the permanency hearing date and location. Iowa's law outlines the termination of parental rights process and the timelines for filing petitions. The legislation also requires notice to be provided to any known parent and to possible putative fathers registered with the state registrar of vital statistics. Florida's law creates a presumption that the parent leaving the newborn consents to the termination of his or her parental rights; however, the parent may claim the child up until the court enters a judgment terminating parental rights. The law also requires the department or a child-placing agency that has custody of the infant to initiate a diligent search to notify and obtain consent from the parent whose identity and location are unknown, other than the surrendering parent. Several states give parents a specified amount of time in which to claim maternity or paternity of the infant. If they do not petition for custody within that time period, they waive right to notice of, or participation in, any judicial proceeding for the adoption of the infant.

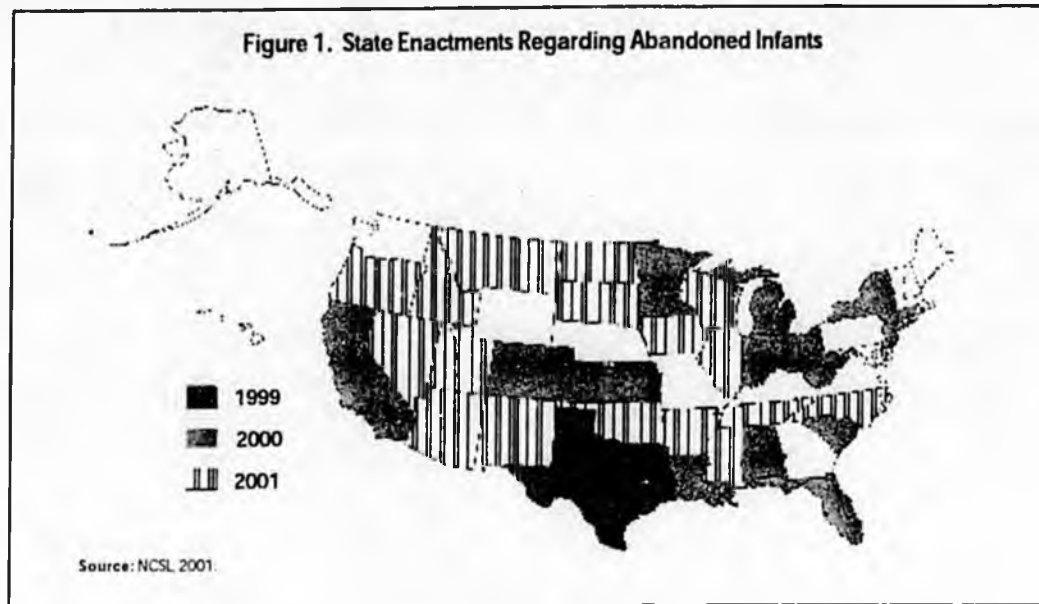
*South Carolina requires the Department of Social Services to publish notice of an abandoned newborn.*

#### *Public Awareness*

Thirteen states require media and public awareness campaigns to alert parents who are at risk of abandoning their infants to the new legal alternative. New Jersey's legislation requires the establishment of a public information program to promote safe placement alternatives for newborns, including a 24-hour, toll-free hotline. The law also appropriated \$500,000 for the program.

In addition to the 19 states that enacted legislation so far in 2001 (see figure 1), 11 considered bills. As was the case in 2000, the proposals seek to grant immunity to parents who

surrender unharmed infants in designated locations. Most of the provisions are similar to those already discussed.



### State Experience: How Effective Are the New Laws?

So far, the laws appear to have had a limited effect. Several states have begun to report on infants abandoned after the passage of the safe haven legislation. Approximately 33 babies have been legally relinquished including five each in Texas, Michigan and Alabama, six in

#### Major Provisions of Safe Haven Legislation

*Parent will not be prosecuted:* Ariz., Calif., Conn., Fla., Idaho, Iowa, Ill., Kan., Minn., Mont., Nev., N.M., N.D., Ohio, Okla., R.I., S.C., S.D. Tenn. and Wis.

*Affirmative defense:* Ala., Ark., Colo., Del., Ind., La., Mich., Miss., N.J., N.Y., N.C., Ore., Texas, Utah and W. Va.

*Termination of parental rights:* Calif., Conn., Del., Fla., Idaho, Ill., Iowa, La., Mont., Nev., N.J., N.C., Ohio, Ore., R.I., S.C., S.D., Tenn., Utah, W. Va., and Wis.

*Missing child registry search:* Ark., Fla., La., N.J., Okla. and S.C.

*Public awareness:* Conn., Fla., Iowa, Ill., Mont., N.J., N.Y., N.C., Okla., Ore., S.C. and Tenn.

*Funds available for infant:* N.M. and Wis.

*Genetic testing to determine maternity/paternity:* Del., Fla., Idaho, Ill. And Ohio

*Putative father registry search:* Ill., Tenn., and Utah

*Additional study of infant abandonment:* Colo., Idaho, Ill., La. and N.J.

New Jersey, four in California, two in Connecticut, Minnesota and Ohio and one each in Kansas and South Carolina. The numbers are approximate because officials in several states reported that they are not officially tracking the numbers of infants or that they had unofficial media counts of infants. Officials in New York, West Virginia and Florida reported that they were not sure that any infants had been relinquished because their laws do not require reporting or tracking that information.

Unfortunately, safe haven legislation has not prevented all cases of unlawful abandonment. Texas reported at

least 12 infants have been abandoned illegally since the passage of its law, but the abandonments occurred before the start of a public awareness campaign. None have been abandoned outside safe havens since this publicity. Louisiana reported that five infants have been abandoned illegally since passage of its law. Three babies died, and the parents are being prosecuted. At least five babies were illegally abandoned in California; two more of them were found dead. In Connecticut, one baby was discarded near a highway. Three babies have been abandoned illegally in Colorado. In one case, the mother is attempting to regain custody. Michigan reported nine attempts including one in which a judge ruled that the case was not a safe haven surrender because the parents had not been given enough information on their legal rights.

Updated links to abandoned infant enactments and bills can be found at NCSL's Child Welfare Web Site at <http://www.ncsl.org/programs/cw/cw.htm>.

Several states also reported on their public awareness campaigns, which they believe will be key to the effective implementation of the new laws. Texas did not include provisions for public awareness and continued to find abandoned babies until a private foundation donated money for a campaign. New Jersey used its \$500,000 appropriation to produce public service announcements, posters, pocket cards and brochures and has advertised the program in local and college newspapers, on billboards and on buses. Michigan included a \$200,000 appropriation to establish a toll-free information line and distribute press releases, a brochure and a poster targeting youth. Connecticut developed a brochure for distribution in high schools, middle schools, homeless shelters and drug treatment centers. The effects of these campaigns remain to be seen.

States reported on their efforts to provide training for personnel responsible for receiving and caring for infants as an essential component. The New Jersey Hospital Association provides ongoing training for hospital staff, and the state's attorney general works with prosecutors to ensure that parents who legally relinquish infants are not prosecuted. Michigan developed protocols and training material to be sent to entities that are designated to receive the infants. California sent material to hospitals and conducted a training for hospital supervisors on procedures for accepting infants. Connecticut will work with the state hospital association to train hospital workers and will develop training material for law enforcement officers.

Finally, many officials see voluntary data collection about the mothers as a critical element in developing better policy to address the needs of women who abandon their babies. The

*Many officials see voluntary data collection about the mothers as a critical element in developing better policy to address the needs of women who abandon their babies.*

*Many child welfare experts state that safe haven legislation needs to be part of a larger effort to enhance services for women who are at risk of abandoning their infants.*

information could include the mother's medical history, race, length and condition of the pregnancy, any history of sexual or substance abuse, family situation, economic background, presence of domestic violence and information about the father. There is also a need to collect as much information as possible about the infant, including medical history, date of birth, preferred name for the child, sex, location of the birth and any problems encountered at birth.

### **Areas of Concern for Policymakers**

Proponents of safe haven legislation believe that these laws will significantly reduce the risk that a newborn will be abandoned in a manner that may result in death. They also feel that the laws will protect parents who believe they have no option other than abandonment, but who want to deliver their newborn to a safe shelter. Others hope that the laws may offer young women an immediate alternative to abandoning their infants, while giving policymakers and the public time to examine the issue and create system-wide reform to include teen pregnancy prevention programs, prenatal counseling, health services, adoption promotion and other support programs.

Critics of safe haven laws continue to voice concern in a number of areas that could have major implications for state lawmakers.

#### *Need for Examination of Statewide Services for Women at Risk*

Many child welfare experts state that, although safe haven legislation may be a good idea, it needs to be part of a larger effort to enhance services for women who are at risk of abandoning their infants. Experts from the fields of child welfare, mental health, youth services, the medical establishment and teen pregnancy will want to work with young parents to examine the existing system of services. Such an examination might provide some answers about why this population of parents is unable -or unwilling- to use these services.

#### *Lack of a Comprehensive Strategy for the Prevention of Infant Abandonment*

Critics are concerned that states are not viewing safe haven programs as an integral part of child abuse prevention. Has infant abandonment been considered in the state's child abuse prevention efforts? Does the strategy target young women at risk of abandonment? These are just a few questions policymakers may want to ask as they work with public

health, child protection, child abuse prevention, mental health, families and others to develop a comprehensive strategy to prevent infant abandonment.

#### *Anonymity and Termination of Parental Rights*

Child welfare experts are apprehensive that the anonymity provided to parents in the safe haven laws conflicts with biological parents' due process rights in termination of parental rights proceedings. As previously mentioned, states have attempted to address this critical issue by providing some type of notice or search for the biological parents of the abandoned infant in an effort to include them in judicial proceedings related to the adoption of the infant. States will want to carefully examine their termination of parental rights statutes to avoid conflicts with safe haven laws.

#### *Relationship to Existing Child Welfare Statutes*

Likewise, states may want to examine all their existing statutes related to adoption, paternity, custody and all judicial proceedings associated with child abandonment. It also is important that states clarify their definitions of infant abandonment. For example, several states with new laws exempt safe haven abandonment from the statutory definition of abandonment, child abuse or child neglect. Other states add safe haven abandonment to their existing definition of abandonment.

#### *Father's Rights*

A few states require a check of the putative father registry and include provisions to contact the putative father, but most do not contain provisions to address notification of fathers who may not be aware of the child's birth. Critics contend that denying notification unfairly presumes that these fathers do not want to care for their children. Utah's legislation addresses this concern by requiring a search of the confidential registry for unmarried biological parents and requiring that notice be sent to each potential father identified in the registry. The termination of parental rights hearing must be scheduled as soon as possible if no one has identified himself as the father (or if the mother has not identified herself) within two weeks after notice is complete. If a non-relinquishing parent is not identified, the surrender of the newborn shall be considered grounds for termination of parental rights of both parents.

*Child welfare experts are apprehensive that the anonymity provided to parents in the safe haven laws conflicts with biological parents' due process rights in termination of parental rights proceedings.*

*Adoption advocates are particularly concerned about the lack of medical and family history.*

#### *Adoption*

Adoption advocates are particularly concerned about the lack of medical and family history. They note that a lack of information about their backgrounds is often troublesome for adopted children and worry about the stability of the child and his or her adopted family later in life. They fear that the lack could be a setback to the trend in adoption policy to provide the adoptee with information about the birth family. Adoption and other child welfare experts also point out that the legislation may not be necessary because most states will not prosecute women who give birth and relinquish their newborns in the hospital. Additionally, every state allows women to voluntarily relinquish their infants for adoption.

#### *Parental Irresponsibility*

Many policymakers are concerned that these laws may only encourage parental irresponsibility. Since so little is known about the women who abandon their babies, there is no proof that the legislation will discourage mothers from leaving their infants in unsafe places. For women who might otherwise seek help from family, friends and social service agencies, the enactment of safe haven laws might encourage them to anonymously abandon their newborns rather than take advantage of their traditional network of support.

#### **Conclusion**

State safe haven laws are in various stages of implementation. The effectiveness of these new laws has yet to be measured. It is important that states begin to collect data about abandoned infants and their mothers. Such data could be researched to develop a profile of mothers who engage in this behavior to better target prevention and intervention efforts. Policymakers who are considering such legislation will want to carefully examine their states' existing statutory framework in the areas of juvenile court procedure, termination of parental rights and adoption practice to determine the future ramifications of abandoned infant laws.

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## Baby Abandonment Project

The list below identifies the 41 states that have passed "safe haven" laws between 1999 and August 2002.



### Alabama

House Bill 115 (Signed by Governor May 11, 2000)

Online Text of Bill: Not available -- CWLA Summary

#### Key Points:

- *Age:* 72 hours
- *Safe Havens:* Emergency medical services providers, hospitals
- *Liability:* Affirmative defense to prosecution

### Arizona

House Bill 2001 (Signed by Governor April 23, 2001)

Online Text of Bill -- CWLA Summary

#### Key Points:

- *Age:* 72 hours
- *Safe Havens:* Firefighter, Emergency medical services technician, Hospital, Outpatient treatment center, Child welfare agency, Licensed adoption agency, Church or House of worship
- *Liability:* Immune from prosecution for abuse

**Arkansas**

House Bill 1070/ Act 236 (Signed by Governor Feb 13, 2001)

Online Text of Bill (Requires PDF) -- CWLA Summary

**Key Points:**

- *Age:* 30 days
- *Safe Havens:* Emergency department of licensed hospital, Law enforcement agency
- *Liability:* Affirmative defense to prosecution for endangering the welfare of a minor

**California**

Senate Bill 1368 (Signed by Governor September 28, 2000)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Hospital emergency room, Other location designated by board of supervisors
- *Liability:* Immune from prosecution

**Colorado**

Senate Bill 00-171 (Signed by Governor June 3, 2000)

Online Text of Bill (Requires PDF) -- CWLA Summary

**Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Hospital, Fire station
- *Liability:* Affirmative defense to prosecution

**Connecticut**

Public Act 00-207 (Signed by Governor October 1, 2000)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age:* 30 days
- *Safe Havens:* Hospital emergency room
- *Liability:* Immune from prosecution

**Delaware**

House Bill 120 (Signed by Governor July 9, 2001)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* 14 days
- *Safe Havens:* Emergency department of a hospital
- *Liability:* Defense to Prosecution

**Florida**

House Bill 1901 and Amendment HB475  
(Signed by Governor June 2, 2000 and May 23, 2001)

**Online Text of Bill (Requires PDF) -- CWLA Summary****Key Points:**

- *Age:* 3 days
- *Safe Havens:* Hospitals, Fire stations, Emergency medical services stations
- *Liability:* Immune from prosecution for neglect

**Georgia**

House Bill 360  
(Signed May 2002)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* Less than one week
- *Safe Havens:* Employee, volunteer or staff member of a medical facility
- *Liability:* Immune from prosecution for the crimes of cruelty of a child or abandonment of a dependent child.

**Idaho**

Senate Bill 1037 (Signed by Governor April 9, 2001)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* 30 days
- *Safe Havens:* Hospitals, Physicians' offices and clinics, Medical personnel responding to 911 call, Nurses and physician assistants
- *Liability:* Immune from prosecution for abandonment

**Illinois**

House Bill 0632, Senate Bill 216, Public Act 92-0408 (Signed by Governor August 20, 2001)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Hospital, fire station, emergency medical facility
- *Liability:* Relinquishment does not violate the criminal code or constitute a basis for a finding of abuse, neglect or abandonment

**Indiana**

Senate Bill 330 and Amendment House Bill 1829  
(Signed by Governor March 17, 2000 and May 17, 2001)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* 45 days
- *Safe Havens:* Emergency medical services provider
- *Liability:* Affirmative defense to prosecution

**Iowa**

Senate File 355 (Signed by Governor April 24, 2001)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* 14 days
- *Safe Havens:* Hospital emergency rooms, Health care facilities
- *Liability:* Immune from prosecution for abandonment or neglect

**Kansas**

House Bill 2838 (Signed by Governor 2000)

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age:* 45 days
- *Safe Havens:* Fire station, City or county health department, Medical care facility
- *Liability:* Immune from prosecution for abandonment

**Kentucky**

KRS Chapter 311

**Online Text of Bill -- CWLA Summary****Key Points:**

- *Age*: 72 hours
- *Safe Havens*: Emergency medical services provider, Police Station, Fire Station
- *Liability*: Relinquishing parent not considered to have abandoned or endangered the child

**Louisiana**

House Bill 223 (Signed by Governor April 17, 2000)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

**Key Points:**

- *Age*: 30 days
- *Safe Havens*: Hospitals, Public health units, Fire stations, Police stations, Pregnancy crisis facility
- *Liability*: Affirmative defense to prosecution for abandonment, molestation, or cruelty

**Maine**

LD 1670 (Signed March 22, 2002)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age*: 31 days
- *Safe Havens*: Emergency Room of a Hospital, Hospital Staff Member, Firefighter, Police Officer, Medical Services Provider
- *Liability*: - Affirmative defense to the crime of abandonment

**Maryland**

Senate Bill 82 (Adopted March 22, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age*: Less than 3 days old
- *Safe Havens*: Hospital personnel
- *Liability*: - Relinquishment not seen as a criminal act if child is unharmed

**Michigan**

Senate Bill 1053 (Signed by Governor June 26, 2000)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age*: 72 hours

- *Safe Havens*: Fire departments, Hospitals, Police stations
- *Liability*: Affirmative defense to prosecution for injury or abandonment

**Minnesota**

Senate File 2615 (Signed by Governor April 2000)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age*: 72 hours
- *Safe Havens*: Hospitals
- *Liability*: Immune from prosecution

**Mississippi**

House Bill 169 (Signed by Governor March 23, 2001)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age*: 72 hours
- *Safe Havens*: Hospitals, Adoption agencies
- *Liability*: Affirmative defense to prosecution

**Missouri**

House Bill 1443 (Approved by Governor July 2, 2002; Effective August 28, 2002)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age*: Less than 30 days old
- *Safe Havens*: On duty hospital staff, firefighters, emergency medical technician, and law enforcement
- *Liability*: : Immune from prosecution on child abandonment and endangering welfare of child who is less than 5 days old; affirmative defense for child abandonment and endangerment of welfare to child who is between 6-30 days old

**Montana**

Senate Bill 0132 (Signed by Governor April 19, 2001)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age*: 30 days
- *Safe Havens*: Fire departments, Hospitals, Law enforcement agencies

- *Liability*: Immune from prosecution for abandonment

**Nevada**

Senate Bill 191 (Signed by Governor May 31, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age*: 30 days
- *Safe Havens*: Hospital, obstetric center or independent center for emergency medical care, fire-fighting agency, law enforcement agency
- *Liability*: Not in violation of the law simply by virtue of delivering a child to a safe haven

**New Jersey**

Chapter 58 (Signed by Governor July 7, 2000)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

**Key Points:**

- *Age*: 30 days
- *Safe Havens*: State, county or municipal police stations, Hospital emergency rooms
- *Liability*: Affirmative defense to prosecution for abandonment

**New Mexico**

Senate Bill 94 (Signed by Governor March 14, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age*: 90 days
- *Safe Havens*: Hospitals, Health care clinics
- *Liability*: Immune from prosecution for abandonment or abuse

**New York**

SO06688 (Signed by Governor June 18, 2000)

[Online Text of Bill](#): Not available -- [CWLA Summary](#)

**Key Points:**

- *Age*: 5 days
- *Safe Havens*: Appropriate person or suitable location
- *Liability*: Affirmative defense to prosecution for abandonment or desertion

**North Carolina**

House Bill 275 / Session Law 2001-291 (Signed by Governor July 19, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 7 days
- *Safe Havens:* Health care provider, law enforcement officer, social services worker, certified emergency medical service worker, any adult
- *Liability:* Immune from prosecution

#### North Dakota

SB 2129 (Signed by Governor March 28, 2001)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

Key Points:

- *Age:* 1 year
- *Safe Havens:* Hospitals
- *Liability:* Immune from prosecution

#### Ohio

House Bill 660 (Signed by Governor January 5, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 72 hours
- *Safe Havens:* Emergency medical service workers, Peace officers, Hospitals
- *Liability:* Immune from prosecution

#### Oklahoma

House Bill 1122 (Signed by Governor April 30, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

Key Points:

- *Age:* 7 days
- *Safe Havens:* Medical services providers, Police stations, Fire stations, Child protective services agencies, Hospitals, Medical facilities
- *Liability:* Immune from prosecution for abandonment or neglect

#### Oregon

Senate Bill 199 (Signed by Governor June, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age:* 30 days
- *Safe Havens:* Hospitals, Birthing Centers, Physicians' offices, Sheriffs' offices, Police stations
- *Liability:* Affirmative defense to prosecution for abandonment

**Rhode Island**

Senate Bill 94 (Signed by Governor July 9, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age:* 30 days
- *Safe Havens:* Hospital, medical emergency facility, fire station, police station
- *Liability:* Immune from prosecution for abandonment

**South Carolina**

House Bill 4743 (Signed by Governor June 6, 2000)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age:* 30 days
- *Safe Havens:* Hospitals, Hospital outpatient facilities
- *Liability:* Immune from criminal prosecution

**South Dakota**

Senate Bill 92 (Signed by Governor March 3, 2001)

[Online Text of Bill](#) -- [CWLA Summary](#)

**Key Points:**

- *Age:* 60 days
- *Safe Havens:* Health care facilities or clinics, Law enforcement officers, Emergency medical technicians, Firefighters
- *Liability:* Immune from prosecution

**Tennessee**

Senate Bill 774 / Public Act 388 (Signed by Governor July 19, 2001)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

**Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Hospitals, Birthing centers, Community health clinics, Out-patient "walk-in" clinics
- *Liability:* Immune from criminal prosecution

**Texas**

House Bill 3423, Senate Bill 783 (Signed by Governor June 6, 1999; amended March 21, 2001)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age:* 60 days
- *Safe Havens:* Emergency medical services provider, Licensed child-placing agency, Licensed residential child-care provider
- *Liability:* Affirmative defense to prosecution

**Utah**

House Bill 12 Substitute (Signed by Governor March 15, 2001)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Hospitals with emergency rooms
- *Liability:* Immune from prosecution for neglect or abandonment

**Washington**

SB 5236 (April 3, 2002)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Emergency department of a licensed hospital during hours of operation, or Fire station during hours of operation and while fire personnel are present
- *Liability:* Relinquishing parent is not subject to criminal liability under parts of law in question.

**West Virginia**

House Bill 4300 (Signed by Governor March 11, 2000)

Online Text of Bill -- CWLA Summary

**Key Points:**

- *Age:* 30 days
- *Safe Havens:* Hospitals, Health care facilities
- *Liability:* Affirmative defense to certain prosecutions

**Wisconsin**

Assembly Bill 54 (Signed by Governor April 6, 2001)

[Online Text of Bill](#) (Requires PDF) -- [CWLA Summary](#)

**Key Points:**

- *Age:* 72 hours
- *Safe Havens:* Law enforcement officers, Emergency medical technicians, Hospitals, 911 responders
- *Liability:* Immune from civil or criminal prosecution

**No Data**

Alaska, Hawaii, Massachusetts, Nebraska, New Hampshire, Pennsylvania, Vermont, Virginia, Wyoming

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 **Print Now**

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URL: <http://www.cwla.org/programs/prev/flocrittsafehaven.htm>

**HB**

**346**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 9, 2006

FURTHER REFERRALS: Judiciary

Date of Committee Action: April 9, 2006

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 346

HOUSE BILL NO. 346

CHILD ABUSE INVESTIGATIONS

"An Act relating to child abuse investigations and training."

Recommends it be replaced with  HCS or  CS for HB 346 (HES)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of Abbrev for Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

| <u>NEW FISCAL NOTES</u>           |      |        |        |      |
|-----------------------------------|------|--------|--------|------|
| *Assigned by Chief Clerk's Office |      |        |        |      |
| List by Dept(s):                  | *FN# | Fiscal | Indet. | Zero |
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| <u>PREVIOUS FISCAL NOTES</u> |     |        |        |      |
|------------------------------|-----|--------|--------|------|
| List by Dept(s):             | FN# | Fiscal | Indet. | Zero |
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| <u>Signing with recommendations</u> | Printed Last Name     | DP | DNP | NR | AM |
|-------------------------------------|-----------------------|----|-----|----|----|
| <i>Vic Holmgren</i>                 | <i>Vic Holmgren</i>   | x  |     |    |    |
| <i>Berta Gardner</i>                | <i>Berta Gardner</i>  | x  |     |    |    |
| <i>Paul R. Leaton</i>               | <i>Paul R. Leaton</i> |    |     | x  |    |
| <i>Rogay Wilson</i>                 | <i>Rogay Wilson</i>   | x  |     |    |    |
| Chair:                              |                       |    |     |    |    |
| Chair:                              |                       |    |     |    |    |

# LEGAL SERVICES

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

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

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

## MEMORANDUM

April 5, 2006

**SUBJECT:** CSHB 346(HES) (Work Order No. 24-LS1335F)

**TO:** Representative Peggy Wilson  
Attn: Linda Miller

**FROM:** Jean M. Mischel  
Legislative Counsel

Attached is the CS you requested incorporating two amendments. Amendment #1, changing "may not" to "shall not" in sec. 47.17.033(1) is inconsistent with the drafting manual requirements (see page 62 of the *Manual of Legislative Drafting*) and has no substantive effect. The phrase, "may not" is a prohibition and is not, as the drafter of the amendment appears to believe, permissive. I suggest that this change be deleted in subsequent versions of the bill.

If I may be of further assistance, please advise.

JMM:med  
06-279.med

Enclosure

**AMENDMENT #1**

OFFERED IN THE HOUSE HEALTH,  
EDUCATION AND SOCIAL  
SERVICES COMMITTEE

BY Rep. Gatto  
DATE 4/04/06

TO: Work Draft CS for HB 346 ( ) Version G

1 Page 2, line 2,

Delete "may" and insert "shall"

AMENDMENT #2

OFFERED IN THE HOUSE  
TO: HB 346

BY REPRESENTATIVE CISSNA

1 Page 1, line 1, following "Act":

2 Insert "relating to intensive family preservation and reunification services;"

3

4 Page 1, following line 2:

5 Insert new bill sections to read:

6 **\*\* Section 1.** AS 47.10.080(*l*) is amended to read:

7 (*l*) Within 12 months after the date a child enters foster care as calculated  
8 under AS 47.10.088(f), the court shall hold a permanency hearing. The hearing and  
9 permanent plan developed in the hearing are governed by the following provisions:

10 (1) the persons entitled to be heard under AS 47.10.070 or under (f) of  
11 this section are also entitled to be heard at the hearing held under this subsection:

12 (2) when establishing the permanent plan for the child, the court shall  
13 make appropriate written findings, including findings related to whether

14 (A) and when the child should be returned to the parent or  
15 guardian;

16 (B) the child should be placed for adoption or legal  
17 guardianship and whether a petition for termination of parental rights should be  
18 filed by the department; and

19 (C) the child should be placed in another planned, permanent  
20 living arrangement and what steps are necessary to achieve the new  
21 arrangement;

22 (3) if the court is unable to make a finding required under (2) of this  
23 subsection, the court shall hold another hearing within a reasonable period of time;

1 (4) in addition to the findings required by (2) of this subsection, the  
2 court shall also make appropriate written findings related to

3 (A) whether the department has made the reasonable efforts  
4 required under AS 47.10.086 to offer appropriate family support services,  
5 available intensive family preservation services, or intensive family  
6 reunification services to remedy the parent's or guardian's conduct or  
7 conditions in the home that made the child a child in need of aid under this  
8 chapter;

9 (B) whether the parent or guardian has made substantial  
10 progress to remedy the parent's or guardian's conduct or conditions in the home  
11 that made the child a child in need of aid under this chapter;

12 (C) if the permanent plan is for the child to remain in out-of-  
13 home care [OUT-OF-HOME-CARE], whether the child's out-of-home  
14 placement continues to be appropriate and in the best interests of the child; and

15 (D) whether the department has made reasonable efforts to  
16 finalize the permanent plan for the child;

17 (5) the court shall hold a hearing to review the permanent plan at least  
18 annually until successful implementation of the plan; if the plan approved by the court  
19 changes after the hearing, the department shall promptly apply to the court for another  
20 permanency hearing, and the court shall conduct the hearing within 30 days after  
21 application by the department.

22 \* Sec. 2. AS 47.10.086(a) is amended to read:

23 (a) Except as provided in (b) and (c) of this section, the department shall make  
24 timely, reasonable efforts to provide family support services to the child and to the  
25 parents or guardian of the child that are designed to prevent out-of-home placement of  
26 the child or to enable the safe return of the child to the family home, when appropriate,  
27 if the child is in an out-of-home placement. Within appropriations available for the  
28 purpose, the department shall also make reasonable efforts to refer a child for  
29 intensive family preservation services, or intensive family reunification services,  
30 or both, when those services are available and, if the child is in the home, the  
31 child's safety in the home can be maintained during the time the services are

1        **provided.** The department's duty to make reasonable efforts under this subsection **to**  
2        **provide family support services** includes the duty to

3                    (1) identify family support services that will assist the parent or  
4        guardian in remedying the conduct or conditions in the home that made the child a  
5        child in need of aid;

6                    (2) actively offer the parent or guardian, and refer the parent or  
7        guardian to, the **family support** services identified under (1) of this subsection; the  
8        department shall refer the parent or guardian to community-based family support  
9        services whenever community-based services are available and desired by the parent  
10       or guardian; and

11                   (3) document the department's actions that are taken under [(1) AND  
12       (2) OF] this subsection, **including whether intensive family preservation services**  
13       **or intensive family reunification services, or both, were appropriate, offered,**  
14       **used, or available.**"

15  
16       Page 1, line 3:

17       Delete "Section 1"

18       Insert "Sec. 3"

# Alaska State Legislature

**Session Address:**

Alaska State Capitol  
Juneau, AK 99801  
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1-800-505-2678  
Fax: (907) 465-4822

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Phone: (907) 376-2679  
Fax: (907) 376-4745

Representative.Mark.Neuman@legis.state.ak.us

## *Representative Mark A. Neuman*

*District 15*

### Sponsor Statement

#### House Bill 346

On June 25, 2003, the "Child Abuse Prevention Treatment Act " (CAPTA) was signed into law in our nation's capital. This act requires states to implement two provisions for protecting families during the child investigative process. Provisions of this act require states to ensure they have:

(xvii) provisions and procedures to require that a representative of the child protective services agency shall, at the initial time of contact with the individual subject to a child abuse and neglect investigation, advise the individual of the complaints or allegations made against the individual, in a manner that is consistent with laws protecting the rights of the informant;

(xviii) provisions addressing the training of representatives of the child protective services system regarding the legal duties of the representatives, which may consist of various methods of informing such representatives of such duties, in order to protect the legal rights and safety of children and families from the initial time of contact during investigation through treatment;

This bill ensures that as a state we are in compliance with CAPTA. It is important that the training of child protective services personnel ensures that they are knowledgeable in best practices for promoting collaboration with families and that they are fully aware of the extent and limits of their legal authority and the legal rights of parents while carrying out such investigations.

24-LS1335G  
Mischel  
3/27/06

**CS FOR HOUSE BILL NO. 346( )**

**IN THE LEGISLATURE OF THE STATE OF ALASKA  
TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES NEUMAN AND LYNN, Chenault**

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to child abuse investigations and training."**

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

3 **\* Section 1.** AS 47.17.033 is amended by adding new subsections to read:

4 (j) The training required under (c) of this section must address the  
5 constitutional and statutory rights of children and families that apply throughout the  
6 investigation and department intervention. The training must inform department  
7 representatives of the applicable legal duties to protect the rights and safety of a child  
8 and the child's family.

9 (k) During a joint investigation by the department and a law enforcement  
10 agency, the department shall coordinate an investigation of child abuse or neglect with  
11 the law enforcement agency to ensure that the possibility of a criminal charge is not  
12 compromised.

13 (l) Unless a law enforcement official prohibits or restricts notification under  
14 (k) of this section, at the time of initial contact with a person alleged to have  
15 committed child abuse or neglect, the department shall notify the person of the

1  
2

specific complaint or allegation made against the person, except that the identity of the complainant may not be revealed.

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB346-DHSS-OCS-03-24-06

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

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

Title RELATING TO CHILD ABUSE  
INVESTIGATIONS AND TRAINING

Dept. Affected: Health & Social Services

RDU Children's Services

Component Children's Services Training

Sponsor NEUMAN

Requester HOUSE (HES)

Component No. 2667

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

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

| OPERATING EXPENDITURES | FY 2007    | FY 2008    | FY 2009    | FY 2010    | FY 2011    | FY 2012    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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| <b>CHANGE IN REVENUES (0)</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

The Office of Children's Services (OCS) has determined that the mandatory front line worker training program already addresses constitutional and statutory rights of children and families throughout any investigation or intervention as required by this bill.

Prepared by: Tammv Sandoval, Deputy Commissioner  
 Division Office of Children's Services  
 Approved by: Karleen Jackson, Commissioner  
 Agency Department of Health and Social Services

Phone 465-3191  
 Date/Time 01/26/2006  
 Date 03/24/2006

**HB**

**356**



Library

Health, Education, and Social Services Committee  
Alaska State Legislature  
House of Representatives  
Representative Peggy Wilson - Chair

## House HESS Committee

### AGENDA

---

Thursday, March 23<sup>d</sup>

3:00 – 5:00 p.m.

Capitol 106

- + = HB 356 Minors: Medical Consent, Incl Bone Marrow
- +\* HJR 33 Supporting In-State Med. Care For Vets
- + = HB 430 Palmer Senior Citizen Center
- + = SB 255 Optometry: Extend Bd/Lic. Endorsement
- +\* HB 436 Social Worker Caseloads & Workloads
- + Bills previously heard/scheduled

HOUSE  
HEALTH  
EDUCATION  
& SOCIAL  
SERVICES  
COMMITTEE  
PACKET

March 23, 2006

1

HB 356  
Minors: Medical Consent,  
Incl Bone Marrow

2

HJR 33  
Supporting In-State Med.  
Care For Vets

3

HB 430  
Palmer Senior Citizen  
Center

4

SB 255  
Optometry: Extend Bd/Lic.  
Endorsement

5

HB 436  
Social Worker Caseloads &  
Workloads

6

Bills Previously  
Scheduled /Heard

# Alaska State Legislature

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Wasilla, AK 99654  
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Fax: (907) 373-4745

## Representative Carl Gatto

### Sponsor Statement for HB 356

*"An Act allowing minors to donate bone marrow."*

House Bill 356 allows a minor with doctoral and parental consent to donate bone marrow.

Bone marrow contains stem cells, which can be transplanted into a person to restore stem cells that were destroyed by high doses of chemotherapy and/or radiation. The National Cancer Institute reports that bone marrow transplants are most commonly used for treating persons with leukemia or lymphoma, and may also be used to treat childhood brain tumors and neuroblastoma.

Eligibility to receive a bone marrow donation is based on the tissue compatibility with that of the donor. Tissue type is inherited, thus patients are most likely to match someone of their same race and ethnicity. According to the Alaska Blood Bank of the available 3.5 million volunteers on the National Registry only 1.3% could be possible matches to a Native American. With the large Native population in Alaska it is essential that there be an increase in the availability of possible matches for bone marrow transplants.

The National Bone Marrow Donor Program (NMDP) does not allow for minors to participate in testing determining capability for bone marrow donation. The reasoning cited by the NMDP has been that minors are not capable to consent to the medical procedures. The reasoning for this limitation is unclear. This procedure would only be done for a minor with the proper consent of the parent, guardian, and physician.

Current medical procedures have created the possibility for less painful transplant procedures. Donating marrow typically does not create significant problems for the donor because only a small amount of marrow is needed. The body replaces the lost marrow in only a few weeks.

Allowing for donations of bone marrow by minors could significantly improve the odds of survival for many Alaskans. This legislation is imperative if Alaskans are to win the fight against leukemia or lymphoma

# FISCAL NOTE

**STATE OF ALASKA**  
**2006 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB356-DHSS-FMS-02-27-06  
 ( ) Publish Date: \_\_\_\_\_  
 Dept. Affected: Health & Social Services

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

Title PARENTAL CONSENT FOR MEDICAL AND DENTAL SERVICES

RDU Departmental Support Services

Component Commissioner's Office

Sponsor GATTO

Requester HOUSE (HES)

Component No. 317

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

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

| OPERATING EXPENDITURES | FY 2007    | FY 2008    | FY 2009    | FY 2010    | FY 2011    | FY 2012    |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services      |            |            |            |            |            |            |
| Travel                 |            |            |            |            |            |            |
| Contractual            |            |            |            |            |            |            |
| Supplies               |            |            |            |            |            |            |
| Equipment              |            |            |            |            |            |            |
| Land & Structures      |            |            |            |            |            |            |
| Grants & Claims        |            |            |            |            |            |            |
| Miscellaneous          |            |            |            |            |            |            |
| <b>TOTAL OPERATING</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> | <b>0.0</b> |

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| <b>CAPITAL EXPENDITURES</b> |  |  |  |  |  |  |
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| <b>CHANGE IN REVENUES (0)</b> |  |  |  |  |  |  |
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**FUND SOURCE** (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

**POSITIONS**

|           |  |  |  |  |  |  |
|-----------|--|--|--|--|--|--|
| Full-time |  |  |  |  |  |  |
| Part-time |  |  |  |  |  |  |
| Temporary |  |  |  |  |  |  |

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

House Bill 356 has no fiscal impact on the Department of Health and Social Services.

Prepared by: Sherry Hill, Special Assistant

Phone 465-1618

Division Office of the Commissioner

Date/Time 02/27/2006

Approved by: Karleen Jackson, Commissioner

Date 02/27/2006

Agency Department of Health and Social Services

## NATIONAL MARROW DONOR PROGRAM®

### Steps of Marrow and PBSC Donation

Information on this topic is available in [Spanish](#)



**1. Join the Registry.** Anyone age 18 - 60 who meets the health guidelines can join. Volunteers should be committed to helping any patient. To join, you complete a short health questionnaire and sign a form stating that you understand what it means to be listed on the Registry. Then, a small blood sample is taken to find your tissue type. This information is added to the Registry.

**2. Stay committed and available.** Doctors search the Registry to find a donor whose tissue type matches their patient's. If you are chosen, your donor center will contact you. If you agree, more testing will be scheduled.



**3. Attend an information session.** You will meet with staff from your donor center to learn about the donation process, risks and side effects. You are free to bring a friend or family member. You will also be told which source of blood-forming cells is being requested - either collected from the marrow or from the circulating blood (known as a PBSC donation). You will then decide whether or not to donate.

**4. Receive a physical exam.** If you agree to donate, you will be given a physical exam to discover if donating would pose any special risks to you or the patient.



**5. Marrow donation** Marrow donation is a surgical procedure. While you receive anesthesia, doctors use special, hollow needles to withdraw liquid marrow from the back of your pelvic bones. Many donors receive a transfusion of their own previously donated blood.



**5. PBSC Donation** PBSC donation takes place at an apheresis center. To increase the number of blood-forming cells in the bloodstream, donors receive daily injections of a drug called filgrastim for five days before the collection. Your blood is then removed through a sterile needle in one arm and passed through a machine that separates out the blood-forming cells. The remaining blood is returned to the donor.

**6. Side effects and recovery.** You can expect to feel some soreness in your lower back for a few days or longer. Most donors are back to their normal routine in a few days. Your marrow is completely replaced within four to six weeks.

**7. Follow-up.** Your NMDP donor center coordinator will follow up with you until you are able to resume normal activity. You will also receive annual calls for long-term follow-up.

**6. Side effects and recovery.** You may experience headache, or bone or muscle aches for several days before collection. This is a side effect of the filgrastim injections that you received to increase the number of blood-forming cells in the bloodstream. These effects disappear shortly after the collection.

**7. Follow-up.** Your NMDP donor center coordinator will follow up with you until you are able to resume normal activity. You will also receive annual calls for long-term follow-up.

After you donate marrow or peripheral (circulating) blood cells, your NMDP Donor Center coordinator will call you to follow up on your experience. Your coordinator will continue to call you regularly until you are able to resume normal activity, and annually for long-term follow up.

***Last Updated: October 2005***

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## Md. Students Celebrate Marrow Donor Bill

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By Ylan Q. Mui  
Washington Post Staff Writer  
Thursday, April 7, 2005; Page B03

For three long years -- a lifetime for most teenagers -- the girls of Sister to Sister at Oakland Mills High School in Columbia have toiled on a bill that would lower the age of consent for bone marrow donations. Club members helped draft the original legislation, lobbied politicians and testified before the General Assembly.

At first, their bill was deferred. Last year, it died in committee. But yesterday the House gave the bill final approval, following a green light by the Senate last week.

"Perseverance pays off," said senior Monica Holloway, 17, who worked on the bill from the start. "It would've been really discouraging after all this if they just said, 'No thanks.'"

The bill would allow minors to give bone marrow to non-relatives with permission from their physician and if there is no substantial medical risk to the donor. Gov. Robert L. Ehrlich Jr. (R) still must sign the legislation, but Del. Elizabeth Bobo (D-Howard), who sponsored the bill and represents the girls' district, said she is confident that they have cleared all the hurdles.

"The enthusiasm and commitment of the girls is one thing that keeps me going," she said. "I think they have a really good public policy idea here."

The project began three years ago when Oakland Mills English teacher and club sponsor Joslyn Wolfe read a newspaper article about a 16-year-old in Washington state who wanted to donate bone marrow to a stranger with leukemia who shared his complex ethnic heritage: African American, Hispanic and Korean. The chance of finding a bone marrow match for people of mixed race is slim.

But the teenager soon discovered that state law prohibited those younger than 18 from giving bone marrow to someone who was not a relative. That's when he decided to launch a crusade for the country's first law to lower the age for bone marrow donors.

Washington state adopted the measure in 2000, and Missouri has passed a similar bill. Wolfe decided that pursuing the effort in Maryland would be an ideal project for Sister to Sister, which supports achievement among black teenage girls, and the girls immediately warmed to the task. Little did they expect how long -- and sometimes thorny -- the road would be.

"We were told that," Holloway said. "But I don't think it really hit home."

That is, until the girls were forced to sit through endless debates and hearings on the issue. Their project morphed from a simple service effort to an in-depth lesson in the wheeling and dealing of the General Assembly.

In its first incarnation, the bill sought to lower age of consent for bone marrow donations to 16. The girls presented the idea to Howard County's delegation in the summer of 2003. It was too late to introduce the bill that year, but Bobo assured the students that they had the delegation's support.

Yet when the bill was presented during last year's session, it died in committee. Lawmakers and some health advocates worried that 16-year-olds are too young to make such a decision. The National Marrow Donor Program, which limits donors to those 18 to 60 years old, opposed the bill, citing the medical risks associated with donation.

The girls were determined to see their bill through to the end. When it was reintroduced this session, the House Health and Government Operations Committee took out specific references to minors and instead required that all donors, regardless of age, have a doctor's approval. Parental consent for minors is implied, Bobo said.

The end result was not exactly what the girls had envisioned. But it passed the House and the Senate unanimously.

"I think it makes sense," said senior Jade Vaughn, 18, whose father is D.C. Michael L. Vaughn (D-Prince George's). "If that's what it would've taken for it to pass, that's fine with us."

The girls said their three-year journey has taught them a lot, from writing and research skills to how to give testimony. But if there's one lesson that they've mastered, it is how to be diplomatic.

"People's lives are saved either way," Holloway said. "So it doesn't matter that much."

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**Musher Susan Butcher Undergoes Treatment For  
Leukemia**  
*Bone Marrow Donor Being Sought*

December 08, 2005  
Thursday

Seattle, Wash. - Susan Butcher, four-time champion of the Iditarod Trail Sled Dog Race and once the most dominant athlete in her sport, has been diagnosed with acute myelogenous leukemia (AML), a malignant disease of the blood and bone marrow, and is undergoing chemotherapy treatment at Fred Hutchison Cancer Research Center at the University of Washington, Seattle.

Butcher's husband, David Monson, said she was diagnosed late last week and began treatment December 6. Butcher's protocol calls for several months chemotherapy. Then once the leukemia is in remission, she probably will undergo a bone marrow transplant if a suitable donor can be found.

The Leukemia and Lymphoma Society and the National Cancer Institute report that about 12,000 people are diagnosed with AML every year. About 50 cases have been reported in Alaska.

"We'll be in Seattle for at least six months," he said, "and my job is to take care of Susan. Susan's job is to not worry and focus on her healing. But we've been overwhelmed that people want to help any way they can."

The biggest need right now, he said, is to find a donor whose bone marrow is compatible with Butcher's. The hospital is recruiting donors from her immediate family including Monson and the couple's two daughters, but statistically it's unlikely any of them will provide a match, he said.

The Blood Bank of Alaska is organizing a statewide donor drive on December 30th to test anyone who would like to donate. The process is a simple blood test and samples are sent to the Puget Sound Blood Center.

The matching process takes up to two months, and those tested through the Blood Bank of Alaska are entered into the national database for a possible match with anyone in need of a bone marrow transplant.

GCI, Butcher's long-time sponsor, said it would donate funds to the Blood Bank of Alaska to help defray testing costs and provide for a greater pool of possible donors for Susan and all who are afflicted with AML. Up to 500 people can be tested for free. After that, the cost is \$65 per person.

If someone wants to be tested to donate specifically to Butcher, bone marrow compatibility testing is available through a private laboratory called TEPNEL LIFECODES. Upon request, the company will send a kit. The donor takes the kit to a private physician for blood typing, and the blood sample is sent back to the company. Test results are usually known within a week, but donors do not become part of the national registry. The cost for the private test is \$115 for the kit plus the cost of the physician's visit and/or lab fees.

The National Marrow Donor Program says of the 5.5 million potential donors on the national registry, the chance of a match is one in 20,000 to one in 50,000. Currently, the NMDP facilitates an average of 200 transplants per month and more than 15,000 have donated marrow for patients who are not



a family member. The program says once a perfect match is found, the rejection rate is less than 5 percent.

"I think people understand there's a very small chance their bone marrow will be a match," Monson said, "but someone is going to save Susan's life through a bone marrow donation. If they go on the register, they have the possibility to save someone else's life. This process is so important, and this call for help is for everybody who needs a bone marrow donor."

Monson said updates on her progress will be posted on <http://www.susanbutcher.com> which is currently under construction. The site also will provide a place where people can find out how they can contribute to the family's needs. Wells Fargo has set up the Susan Butcher Donation Account and donations can be made at any Wells Fargo branch in the country.

"Susan will fight this as hard as any person can," Monson said. "She loves her family and she loves her life. That will be what keeps her motivated through the hard times."

#### Information:

Information about bone marrow donations can be found at <http://www.bonemarrowtest.com> or <http://www.bloodbankofalaska.org> or <http://www.bonemarrow.org>.

To contact TEPNEL LIFECODES, contact 1.800.915.3695.

To contact the Blood Bank of Alaska, call 907.376.1195.

Information on the disease and treatment options can be found at <http://www.leukemia-lymphoma.org> and <http://www.cancer.gov>.

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## What's next for Alaskans tested as possible donors for Susan Butcher.

By ANN POTEMPA  
Anchorage Daily News

(Published: January 17, 2006)

Last month, a record 1,147 people throughout Alaska had their blood drawn in hopes of adding their name to the national bone marrow registry.

Many did it to help Iditarod Trail Sled Dog Race champion Susan Butcher, who's fighting leukemia and needs a marrow transplant. But registering as a possible donor meant they might be matched to many other people needing transplants across the nation.

Since forming in 1987, the National Marrow Donor Program has coordinated more than 20,000 transplants of bone marrow or blood cells, most of which went to people with leukemia or other types of blood cancer.

What does joining the donor registry mean? And if you do match someone in need of a transplant, how do you donate your bone marrow?

Staff at the Blood Bank of Alaska and Puget Sound Blood Center explained the donation process, which can start almost as soon as you are logged into the registry or many years later.

That's what happened to Sheri Hobson-Hill from Big Lake. She registered with the National Marrow Donor Program in 1988 during a Lions Club drive. In 2003 — 15 years later — she got a letter saying she likely matched a man she didn't know who needed new marrow. She was still interested in donating so completed counseling about the procedure, received a lesson on what to expect and eventually flew to Seattle for surgery that removed bone marrow from the back of her pelvic bones.

Hobson-Hill said she felt she had something to give someone else — even though she didn't know that person.

"I feel most fortunate that I was able to give that gift, and I would absolutely do it again," she said.

### THE DONOR REGISTRY

Today, more than 5.5 million people are registered with the National Marrow Donor Program, the world's largest registry of volunteer donors, said Andrea Marsden, supervisor for the Puget Sound Blood Center's marrow donor program.

The Puget Sound program recruits donors from Washington and Alaska. So far, about 62,000 of the two states' residents have signed up, about 9,000 of them Alaskans.

Only people age 18 to 60 can join the National Marrow Donor Program, Marsden said. Donors 55 or

younger are preferred. If two possible donors are available, transplant centers will pick the younger donor. The donation procedure becomes riskier with age, and the recovery period may be longer.

Unless they say they want to be removed from the registry sooner, donors stay on until they turn 61, Marsden said.

To sign up as a donor, people must fill out paperwork that shows they meet the age requirements and don't have health conditions that would prevent them from donating. They also have to give a blood sample that's tested and typed.

"The testing is so simple," said Keri Scaggs, a California woman who repeatedly visits Alaska to sing and take photographs.

In the late 1990s, she entered the national marrow registry when her sister had recurring cancer and was looking for a match. Scaggs and her sister were not compatible, but Scaggs stayed on the list in hope of helping others.

"After watching my sister die, how could I hold on to something that could help someone else?" she asked.

## FINDING THE MARKERS

In 2004, Scaggs heard that she might be a match for another woman in need. She went in for more blood tests but later learned the woman had sought other treatment options and the donation wasn't needed.

These blood tests are collected to match the donor and the recipient. Everyone has a blood type such as A, B or O but that's not what laboratories focus on when matching marrow. Instead, they look for the type of human leukocyte antigen, also called HLA markers. These are small proteins found on white blood cells, Marsden said. For a donor and recipient to be paired, the donor's HLA markers need to match the recipient's to a certain degree.

HLA markers are genetically passed from parents to children, so people in need of bone marrow donations are more likely to find matches among family members — especially siblings — than nonrelatives.

"About 30 percent of people find a match within their family," Marsden said.

But that means the majority don't, and they're forced to find a match through the national registry of unrelated donors. Butcher has not found a match in her family so has turned to the national registry, said her husband, David Monson.

It's easier for people of some races than others to find matches. A person needing a bone marrow donation is more likely to match a donor of the same race than a donor of a different race, Marsden said.

For example, about three-fourths of the people registered with the National Marrow Donor Program are white. That makes it easier for Caucasian people to find matches, because there are more potential white donors than donors of other races. Only 8 percent of the registered donors are black. Only about 1 percent are Native American and Alaska Native, said Mysti Skelton, the Blood Bank of Alaska's bone marrow coordinator.

If a match is made, the donor and recipient will not learn many details about each other to protect

confidentiality, Marsden said. If both parties agree, they can meet one year after the donation.

## THROUGH THE HIP

During her late 40s, Hobson-Hill heard she matched someone. Before donating her marrow, she had another round of blood tests to confirm the match and was paired with a coordinator who made sure all her questions were answered. She learned what the donation procedure entailed and what side effects she could expect.

"I had no questions about what was going to happen," she said.

Hobson-Hill said she was repeatedly asked if she still wanted to go through with the donation.

"At any time, you can stop the process," she said. "It's up to you."

In May 2003, Hobson-Hill flew to Seattle to donate bone marrow. All of her costs, including travel, hotel, food and medical fees, were covered. Marsden said those costs are typically covered by the National Marrow Donor Program, the Puget Sound Blood Center and the recipient's health insurance.

The purpose of the process is to pull blood stem cells from the donor and give them to the recipient. Blood stem cells normally live in the bone marrow, and they can create other types of blood cells, including red blood cells, white blood cells and platelets, Marsden said.

The recipient prepares for the donation by receiving chemotherapy, radiation or both to destroy the diseased marrow. Then the cells collected from the healthy donor are given to the recipient through the bloodstream. The cells travel to the marrow and multiply, according to the National Marrow Donor Program.

When Hobson-Hill flew to Seattle to donate her marrow, she checked into the hospital in the morning. She was given general anesthesia, and the doctor inserted a large, hollow needle into the pelvic bones in Hobson-Hill's back and removed marrow.

The amount removed depends on how much is needed by the recipient, Marsden said. The marrow is packaged and then flown or driven to the recipient in need. The donor's body replaces all marrow removed in four to six weeks, according to the National Marrow Donor Program.

The entire procedure typically lasts an hour or two, and the donor is sent home or to a hotel that afternoon. Most donors will have pain and discomfort for a few days to a week, but they are walking right after the procedure, Marsden said. They're also given pain medication should they need it. More serious complications are rare, although Marsden said one donor went through massage therapy to alleviate nerve pain in her leg after the procedure.

Hobson-Hill said she felt pain and stiffness and was slow-moving, but all of that waned during the week after her donation.

## STRAIGHT FROM BLOOD

A different procedure, called peripheral blood stem cell collection, can be used during bone marrow transplants. Marsden explained the process:

The donor is given a drug for five days to encourage the bone marrow to send the stem cells into

the bloodstream. After receiving the drug, the donor is connected to a machine, with a needle inserted in each arm. The first needle pulls blood out and circulates it through the machine, which removes the stem cells. The rest of the blood is returned to the donor through the other needle.

This procedure can take four to 12 hours, Marsden said, and the donor must sit the whole time while the machine removes the blood stem cells. There's no anesthetic, the only pain being from the initial poke of the needles. Side effects may include head, bone or muscle aches during the days leading up the procedure when the donor is receiving the drug, according to the national donor program.

Doctors, not donors, decide which procedure will be used to remove the stem cells. Regardless of the procedure, Alaska donors will have to visit a Seattle hospital, Marsden said.

## HOW TO REGISTER

Skelton of the Blood Bank of Alaska said her organization plans to have another bone marrow donor drive Feb. 11 in front of the Egan Center in Anchorage. Times have not been set yet, but people who are interested can call Skelton at 376-1195.

People who don't want to wait for a donor drive can call the Puget Sound Blood Center to receive the necessary paperwork for donation. If they qualify, the center can mail tubes so blood can be drawn at Alaska clinics and sent back to Seattle, Marsden said.

This may come with a cost, however. Depending on whether there's funding to cover a donor drive, a person wanting to register may have to pay up to \$65 for the laboratory costs to complete the test, Marsden said. All white people who want to sign up during the Feb. 11 drive in Anchorage will have to pay \$65, Skelton said.

Minorities, however, do not have to pay because the government is trying to recruit more of them to the registry, Marsden said.

Those wanting more information should call the Puget Sound Blood Center at 1-800-366-2831.

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Daily News reporter Ann Potempa can be reached at 257-4581 or [apotempa@adn.com](mailto:apotempa@adn.com).

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J1

(S10439)

ENROLLED BILL

-- Health and Government Operations/Finance --

Introduced by Delegates Bobo, Moe, Pendergrass, Quinton, F. Turner, ~~and~~  
~~Vaughn~~, ~~Vaughn~~, Benson, Boteler, Boutin, Brantwell, Costa, Donohue,  
Elliott, Frank, Goldwater, Hammen, Hubbard, Hurzon, Kach, Kullen,  
Mandl, McDonough, Morhaim, Murray, Nathan-Pulliam, Oaks,  
Rudolph, V. Turner, and Weldon

Read and Examined by Proofreaders:

\_\_\_\_\_  
Proofreader.

\_\_\_\_\_  
Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this  
\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock, \_\_\_\_M.

\_\_\_\_\_  
Speaker.

CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 Hospitals - Bone Marrow Donation

3 FOR the purpose of requiring a certain hospital to allow an individual to donate bone  
4 marrow to any individual under certain circumstances; and generally relating to  
5 hospitals and the donation of bone marrow.

6 BY repealing and reenacting, with amendments,  
7 Article - Health - General  
8 Section 19-310  
9 Annotated Code of Maryland  
10 (2000 Replacement Volume and 2004 Supplement)

2

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1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
2 MARYLAND, That the Laws of Maryland read as follows:

3

## Article - Health - General

4 19-310.

5 (a) (1) In this [section] SUBSECTION, "designated requestor" means a  
6 hospital employee who has completed a course offered by an organ, tissue, or eye  
7 recovery agency on how to approach potential donor families and request organ or  
8 tissue donation.

9 [(b)] (2) [(1)] (I) On or before the occurrence of each death in a hospital, the  
10 hospital shall contact an appropriate organ, tissue, or eye recovery agency in order to  
11 determine the patient's suitability for organ, tissue, or eye donation.

12 [(2)] (II) The contact and its disposition shall be noted in the patient's  
13 medical record.

14 [(c)] (3) [(1)] (I) The appropriate organ, tissue, or eye recovery agency, in  
15 consultation with the patient's attending physician or the physician's designee, shall  
16 determine the patient's suitability for organ, tissue, or eye donation.

17 [(2)] (II) If the organ, tissue, or eye recovery agency, in consultation with  
18 the patient's attending physician or the physician's designee, determines that  
19 donation is not appropriate based on established medical criteria, this determination  
20 shall be noted by hospital personnel in the patient's medical record and no further  
21 action is necessary.

22 [(3)] (I) If the organ, tissue, or eye recovery agency, in consultation with  
23 the patient's attending physician or the physician's designee, determines that the  
24 patient is a suitable candidate for organ, tissue, or eye donation, a representative of  
25 the appropriate organ, tissue, or eye recovery agency or a designated requestor shall  
26 initiate a request under [subsection (d) of this section] PARAGRAPH (4) OF THIS  
27 SUBSECTION, if applicable.

28 [(d)] (4) [(1)] (I) Except as provided in [subsection (j) of this section]  
29 PARAGRAPH (10) OF THIS SUBSECTION, when an individual dies in a hospital in  
30 accordance with § 5-202 of this article, a representative of the appropriate organ,  
31 tissue, or eye recovery agency or a designated requestor shall request, with  
32 sensitivity, in the order of stated priority, that the individual's representative consent  
33 to the donation of all or any of the decedent's organs or tissues as an anatomical  
34 donation if suitable.

35 [(2)] (II) For the purposes of [paragraph (1) of this subsection]  
36 SUBPARAGRAPH (1) OF THIS PARAGRAPH, the representative of the deceased  
37 individual is 1 of the following individuals listed in the following order of priority:

38 [(i)] 1. A spouse, but, if not alive or not competent, then;

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- 1                    [(ii)] 2.     A son or daughter who is at least 18 years old, but, if not  
2 alive, competent, or immediately available, then;
- 3                    [(iii)] 3.     A parent, but, if not alive, competent, or immediately  
4 available, then;
- 5                    [(iv)] 4.     A brother or sister who is at least 18 years old, but, if not  
6 alive or not competent, then;
- 7                    [(v)] 5.     A guardian;
- 8                    [(vi)] 6.     A friend or other relative of the decedent, if the individual:  
9                                [1.] A.     Is a competent individual; and  
10                                [2.] B.     Presents an affidavit to the attending physician  
11 stating:
- 12                                [A.] I.     That the individual is a relative or close friend of the  
13 decedent; and
- 14                                [B.] II.    Specific facts and circumstances demonstrating that  
15 the individual maintained regular contact with the decedent sufficient to be familiar  
16 with the decedent's activities, health, and personal beliefs; or
- 17                    [(vii)] 7.     Any other person authorized or required to dispose of the  
18 body.
- 19                    [(3)] [(III)] [(i)] 1.     This [subsection] PARAGRAPH does not apply if the  
20 decedent has given contrary directions.
- 21                    [(ii)] 2.     The failure of the decedent to make a gift is not a contrary  
22 direction for purposes of this [subsection] PARAGRAPH.
- 23                    [(4)] [(IV)]     Contrary directions given by the decedent under this  
24 [subsection] PARAGRAPH shall be recorded in the decedent's medical record.
- 25                    [(5)] [(V)]     The representative of the appropriate organ, tissue, or eye  
26 recovery agency or the designated requestor and the representative of the deceased  
27 patient are entitled to protection from civil and criminal liability as provided in §  
28 4-508(b) of the Estates and Trusts Article.
- 29                    [(c)] (5)     In all discussions concerning donations of organs and tissues, the  
30 representative of the appropriate organ, tissue, or eye recovery agency or the  
31 designated requestor shall show reasonable discretion and sensitivity:
- 32                    [(1)] (I)     To the circumstances of the family of the decedent;
- 33                    [(2)] (II)    To the religious beliefs of the decedent; and

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1 [(3)] (III) To the nonsuitability for organ or tissue donation of the  
2 decedent.

3 [(f)] (6) [(1)] (i) When a representative of the appropriate organ, tissue, or  
4 eye recovery agency or a designated requestor makes a request under [subsection  
5 (d)(1) of this section] PARAGRAPH (4)(I) OF THIS SUBSECTION, the representative or  
6 designated requestor shall document the request and its disposition by having the  
7 appropriate individual described in [subsection (d)(2) of this section] PARAGRAPH  
8 (4)(II) OF THIS SUBSECTION sign a consent form or give a witnessed telegraphic,  
9 witnessed telephonic, or recorded consent to the donation.

10 [(2)] (II) Hospital personnel shall note the request and its disposition in  
11 the decedent's medical record or death certificate.

12 [(g)] (7) A hospital may not bill the estate of the decedent, a surviving spouse  
13 of the decedent, an heir of the decedent, or an insurer of the decedent for the costs  
14 associated with the removal of all or any of the decedent's organs or tissues for the  
15 purpose of organ or tissue donation.

16 [(h)] (8) After consultation with the Maryland Hospital Association, Inc., the  
17 Medical and Chirurgical Faculty of the State of Maryland, the Transplant Resource  
18 Center of Maryland, Inc., the Washington Regional Transplant Consortium, the  
19 Medical Eye Bank of Maryland, the Lions of District 22-C Eye Bank and Research  
20 Foundation, Incorporated, the Health Facilities Association of Maryland, and Tissue  
21 Banks International, the Secretary shall publish guidelines designed to implement  
22 this [section] SUBSECTION, including guidelines:

23 [(1)] (I) Requiring that, at or near the time of each individual death in a  
24 hospital, the hospital contact by telephone an appropriate organ, tissue, or eye  
25 recovery agency to determine the suitability of the individual for organ, tissue, and  
26 eye donation;

27 [(2)] (II) Requiring that each hospital designate a person to make the  
28 contact; and

29 [(3)] (III) Identifying the information that the person designated by the  
30 hospital shall have available before making the contact.

31 [(i)] (9) The provisions of this [section] SUBSECTION shall in no way  
32 interfere with the duties of the office of the Chief Medical Examiner. In sudden deaths  
33 under the jurisdiction of the office of the Chief Medical Examiner as provided in §  
34 5-309 of this article, notification will be made to the office of the Chief Medical  
35 Examiner prior to organ removal.

36 [(j)] (10) The consent of the decedent's representative is not necessary and the  
37 provisions of [subsection (d) of this section] PARAGRAPH (4) OF THIS SUBSECTION do  
38 not apply if:

39 [(1)] (I) The decedent's driver's license or identification card contains a  
40 notation that the decedent is an organ donor; or

5

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1           (2)    (II)    The decedent has consented to the gift of all or any part of the  
2 decedent's body in accordance with the provisions of:

3                    (i)    1.       § 5-604.1 of this article; or

4                    (ii)   2.       Title 4, Subtitle 5 of the Estates and Trusts Article.

5       [(k)]   (11)   A person who acts in good faith to recover organs or tissues in  
6 accordance with a notation on the decedent's driver's license or identification card  
7 that the decedent is an organ donor, a gift made in accordance with § 5-604.1 of this  
8 article or Title 4, Subtitle 5 of the Estates and Trusts Article, or a gift made in  
9 accordance with the anatomical gift laws of another state or country is immune from  
10 criminal prosecution and liability for damages in any cause of action related to the  
11 recovery and donation of the decedent's organs or tissues.

12       [(l)]   (12)   The Department shall conduct annual death record reviews at each  
13 hospital to determine the hospital's compliance with the provisions of this [section]  
14 SUBSECTION. The Department may delegate its duty to conduct annual death record  
15 reviews to the appropriate organ, tissue, or eye recovery agency serving the region in  
16 which a particular hospital is located.

17       (B)    (1)    SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION AND  
18 NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A HOSPITAL OFFERING BONE  
19 MARROW TRANSPLANT SERVICES SHALL ALLOW AN INDIVIDUAL TO DONATE BONE  
20 MARROW TO ANY INDIVIDUAL.

21           (2)    AN INDIVIDUAL MAY DONATE BONE MARROW TO ANOTHER  
22 INDIVIDUAL IF A LICENSED PHYSICIAN DETERMINES, BASED ON THE PHYSICIAN'S  
23 MEDICAL JUDGMENT, THAT THE DONATION OF THE BONE MARROW IS IN THE BEST  
24 INTERESTS OF THE ~~DONOR AND DONEE~~ DONEE AND THERE IS NO SUBSTANTIAL  
25 RISK OF MEDICAL INJURY TO THE DONOR.

26       SECTION 2. AND BE IT FURTHER ENACTED. That this Act shall take effect  
27 October 1, 2005.

# FINAL BILL REPORT

## SB 6172

C 116 L 00

Synopsis as Enacted

**Brief Description:** Allowing minors to donate bone marrow.

**Sponsors:** Senators Fraser, Deccio, Thibaudeau, Prentice, T. Sheldon, Kohl-Welles, Fairley, McAuliffe and Oke.

**Senate Committee on Health & Long-Term Care**  
**House Committee on Health Care**

**Background:** The National Marrow Donor Program does not permit testing people under the age of 18 to determine compatibility for bone marrow donation. The reason cited has been that minors are not competent to provide informed consent to the medical procedures. The age and maturity of the minor have not been sufficient exceptions to the policy, despite the fact that teenage minors can consent to certain kinds of medical care.

Attention was focused on this policy by the media when North Thurston High School sophomore Alden Tucker was refused testing to see if he was a bone marrow match for his friend Michael Penon. Through private efforts, testing was finally performed, but he was not a match. Michael Penon ultimately died of complications of leukemia.

Alden Tucker has not been listed on the national registry despite a recognized need for increased minority representation on the registry. The National Marrow Donor Program indicates that most minorities who search the Registry, with its current donor pool, are less likely to find a marrow match than Caucasians. Some estimate nearly a 40 percent difference.

**Summary:** A person's status as a minor cannot disqualify him or her from bone marrow donation.

**Votes on Final Passage:**

|        |      |
|--------|------|
| Senate | 48 0 |
| House  | 91 7 |

**Effective:** June 8, 2000

CERTIFICATION OF ENROLLMENT

**SENATE BILL 6172**

Chapter 116, Laws of 2000

56th Legislature  
2000 Regular Session

BONE MARROW DONATION--MINORS

EFFECTIVE DATE: 6/8/00

Passed by the Senate February 9, 2000  
YEAS 48 NAYS 0

BRAD OWEN

**President of the Senate**

Passed by the House March 3, 2000  
YEAS 91 NAYS 7

CLYDE BALLARD

**Speaker of the  
House of Representatives**

FRANK CHOPP

**Speaker of the  
House of Representatives**

Approved March 24, 2000

GARY LOCKE

**Governor of the State of Washington**

CERTIFICATE

I, Tony M. Cook, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SENATE BILL 6172** as passed by the Senate and the House of Representatives on the dates hereon set forth.

TONY M. COOK

**Secretary**

FILED

March 24, 2000 - 3:18 p.m.

**Secretary of State  
State of Washington**

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SENATE BILL 6172

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Passed Legislature - 2000 Regular Session

State of Washington                      56th Legislature                      2000 Regular Session

By Senators Fraser, Deccio, Thibaudeau, Prentice, T. Sheldon,  
Kohl-Welles, Fairley, McAuliffe and Oke

Read first time 01/10/2000.      Referred to Committee on Health &  
Long-Term Care.

1            AN ACT Relating to bone marrow donation; and adding a new section  
2 to chapter 70.54 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4            NEW SECTION.    **Sec. 1.** A new section is added to chapter 70.54 RCW  
5 to read as follows:

6            A person's status as a minor may not disqualify him or her from  
7 bone marrow donation.

Passed the Senate February 9, 2000.

Passed the House March 3, 2000.

Approved by the Governor March 24, 2000.

Filed in Office of Secretary of State March 24, 2000.

**HB**

**357**

# HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: January 11, 2006

FURTHER REFERRALS: Finance

Date of Committee Action: 1/31/06

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 357

HOUSE BILL NO. 357

STATUTORY REFERENCES TO DISABILITIES

"An Act updating the terminology in statutes for persons with disabilities; and providing for an effective date."

Recommends it be replaced with  HCS or  CS for HB 357 (HES)  
 For Senate Bills with new title:  Technical Title  New Title: HCR \_\_\_\_\_  Same Title  New Title

- attach amendments
- add new referral to \_\_\_\_\_ Committee
- Letter of Intent \_\_\_\_\_ Committee

List of  
Abbrev  
for  
Depts.:

- ADM
- CED
- COR
- CRT
- EED
- DEC
- DFG
- GOV
- HSS
- LEG
- LAW
- LWF
- MVA
- DNR
- DPS
- REV
- DOT
- UA

| <u>NEW FISCAL NOTES</u>           |      |        |        |      |
|-----------------------------------|------|--------|--------|------|
| *Assigned by Chief Clerk's Office |      |        |        |      |
| List by Dept(s):                  | *FN# | Fiscal | Indet. | Zero |
| HSS                               |      |        |        | x    |
| LWF                               |      |        |        | x    |
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| <u>PREVIOUS FISCAL NOTES</u> |     |        |        |      |
|------------------------------|-----|--------|--------|------|
| List by Dept(s):             | FN# | Fiscal | Indet. | Zero |
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| <u>Signing with recommendations</u> | Printed Last Name | DP | DNP | NR | AM |
|-------------------------------------|-------------------|----|-----|----|----|
|                                     | CASSINA           | ✓  |     |    |    |
|                                     | Gardner           | ✓  |     |    |    |
|                                     | Lohring           |    |     | x  |    |
|                                     | SEATON            | ✓  |     |    |    |
|                                     |                   |    |     |    |    |
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|                                     |                   |    |     |    |    |
| Chair:                              | WILSON            | ✓  |     |    |    |
| Chair:                              |                   |    |     |    |    |

# Alaska State Legislature

Representative Peggy Wilson

House District 2

Putting Alaska's Families First

## SPONSOR STATEMENT

### HB 357 "Updating the terminology in statutes for persons with disabilities"

After the Americans with Disabilities Act of 1990, most states modified their statutes to reflect a positive reference- changing the word "handicapped" to "person with a disability". This bill changes all Alaska State Statutes to rid them of this archaic reference that has negative and demoralizing connotations in reference to a person's ability and potential. Using "a person with a disability" reflects language that is in Federal legislation- the Federal Workforce Investment Act, the American's with Disabilities Act, the Civil Rights Act of 1991; The Individuals with Disabilities Education Act (IDEA) and the Rehabilitation Act of 1973 as amended in 1992 and 1998.

These changes are being proposed in consultation with the Department of Labor, other state agencies, and along with the Governor's Council on Disabilities and Special Education. There is support for this bill from numerous other organizations such as the South-East Alaska Independent Living Center, which represent people with disabilities. This bill is not designed to modify any existing requirements or exemptions, nor will it be changing any existing requirements or exemptions with the new terminology. This bill is designed to serve the constituents of everyone across the state that are affected by this existing negative and demeaning terminology.

I ask for your support of HB 357 to update and modernize the language that is in our Alaska Statutes.

## Amendment for CS HB 357

Ver. G 1/31/06

Make the following changes:

Page 18, line 12: “(a) The revisor of statutes is instructed to change the [heading] catchphrase of AS 47.80.100 from ...”

Page 18, line 14: “(b) Throughout the Alaska [Administration] Administrative Code, the regulations attorney....”

This is a technical amendment that Leg. Legal called us about after they already finished the changes in the most recent CS of HB 357, Ver. G. Both terms are in the Conforming Instructions and are not actual changes to any Alaska Statutes. They had meant to change these terms before it left their hands but they forgot. They requested that it be changed in an amendment during the next committee meeting.

24-LS1407\G  
Bannister  
1/30/06

**CS FOR HOUSE BILL NO. 357(HES)**

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

**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

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

**Offered:  
Referred:**

**Sponsor(s): REPRESENTATIVES WILSON, Hawker**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act updating the terminology in statutes for persons with disabilities; and  
2 providing for an effective date."

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

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

6 LEGISLATIVE INTENT. The legislature intends to modernize the terminology in  
7 statutes in recognition of the ability of individuals with disabilities to contribute to society and  
8 to the state. The legislature does not intend to alter in any manner the substantive provisions  
9 of the statutes in which the terminology is changed under this Act, including provisions  
10 relating to the Alaska Mental Health Trust, provisions defining who is a trust beneficiary  
11 arising under the Alaska Mental Health Enabling Act of 1956, or provisions relating to the  
12 mental health trust settlement in Weiss v. State, 4FA-82-2208 Civil, under ch. 66, SLA 1991;  
13 chs. 5 and 6, FSSLA 1994; and chs. 1 and 2, SSSLA 1994.

14 \* Sec. 2. AS 14.30.630(b) is amended to read:

1 (b) The agency shall

2 (1) provide special education services including

3 (A) itinerant outreach services to students who are deaf, deaf-  
4 blind, mentally retarded, hearing impaired, blind and visually impaired,  
5 orthopedically disabled, [HANDICAPPED, OTHER] health-impaired in  
6 other ways, and [,] severely emotionally disturbed, and to [MULTI-  
7 HANDICAPPED] students with multiple disabilities;

8 (B) special education instructional support and training of local  
9 school district special education personnel; and

10 (C) other services appropriate to special education needs;

11 (2) provide for an annual audit of the agency;

12 (3) provide the department with a two-year plan of operation including  
13 a description of the services to be offered by the agency, the method by which the  
14 services will be evaluated, information on the number of students and school district  
15 personnel to be served, a schedule of funds available to the agency from all sources,  
16 and other information that may be required by the department by regulation;

17 (4) present an annual budget to the department.

18 \* **Sec. 3.** AS 18.15.210 is amended to read:

19 **Sec. 18.15.210. Testing for certain other heritable diseases.** The department  
20 shall administer and provide services for testing for other heritable diseases that lead  
21 to mental retardation and physical disabilities [HANDICAPS] as screening programs  
22 accepted by current medical practice and as developed.

23 \* **Sec. 4.** AS 18.55.130(b) is amended to read:

24 (b) Except in the case of leased housing as provided in 42 U.S.C. 1437f, the  
25 corporation shall fix the income limits for occupancy of its low-cost housing projects  
26 and rents that are approved by the United States Department of Housing and Urban  
27 Development after taking into consideration

28 (1) the family size, composition, age, physical disabilities  
29 [HANDICAPS], and other factors that might affect the rent-paying ability of the  
30 family; and

31 (2) the economic factors that affect the financial stability and solvency

1 of the project.

2 \* **Sec. 5.** AS 23.15.080 is amended to read:

3 **Sec. 23.15.080. Eligibility for vocational rehabilitation service.** (a)

4 Vocational rehabilitation service shall be provided directly or through a public or  
5 private instrumentality to an [A HANDICAPPED] individual with a disability who

6 (1) is a resident of the state at the time of application for the service  
7 and whose vocational rehabilitation the agency determines after full investigation can  
8 be satisfactorily achieved; or

9 (2) is eligible for the service under an agreement with another state or  
10 with the federal government.

11 (b) In determining the types and extent of vocational rehabilitation services to  
12 be provided to an [A HANDICAPPED] individual with a disability, the agency shall  
13 take into consideration any similar benefits that may be available to the individual  
14 under other programs. However, the agency may not take other benefits into  
15 consideration when doing so would significantly delay the provision of needed  
16 services to the [HANDICAPPED] individual with a disability. The agency need not  
17 take other benefits into consideration when they are for

18 (1) diagnostic and related services, including transportation and  
19 subsistence in connection with those services;

20 (2) counseling, guidance, and referral;

21 (3) training, including personal and vocational adjustment training, and  
22 necessary training materials;

23 (4) services to members of families of [HANDICAPPED] individuals  
24 with disabilities;

25 (5) job placement; and

26 (6) services necessary to assist [HANDICAPPED] individuals with  
27 disabilities to maintain suitable employment.

28 \* **Sec. 6.** AS 23.15.090 is amended to read:

29 **Sec. 23.15.090. Priority as to eligibility.** If vocational rehabilitation service  
30 cannot be provided for all eligible [HANDICAPPED] individuals with disabilities  
31 who apply, the agency shall provide by regulation for determining the order to be