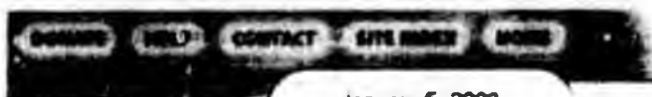


11819 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

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### State Advocacy Update: Addressing the obesity epidemic

Obesity is one of the greatest public health challenges of our time. This is reflected in the enormous amount of coverage given to the issue in the media, and by policymakers and public health officials.

Obesity rates among American adults increased 60 percent between 1991 and 2000 — and rates doubled in children over the last 20 years. If these trends continue, obesity will overtake smoking as the nation's leading cause of preventable death, according to former U.S. Surgeon General David Satcher. This is clearly an epidemic needing legislative solutions at all levels.

The Centers for Disease Control and Prevention estimates that if all physically inactive Americans became active, we'd save \$77 billion in annual medical costs. State legislators across the country have begun to take the lead in addressing the obesity epidemic, and the American Heart Association has been involved every step of the way. Below are some examples of successful measures passed this year.

In Texas, the affiliate successfully lobbied the State Board of Education to pass a rule requiring 135 minutes per week of organized physical activity in grades K-6. This follows a bill the affiliate helped pass through the legislature last session, which gave the board the authority to take this action.

Colorado legislators declared the first week of May 2002 and each first week of May thereafter to be *Shape Up Across Colorado Week* to educate Coloradoans about the health benefits of regular physical activity and to encourage all people in the state to make exercise a part of their lives.

Funding was increased in Maryland for bike paths and sidewalks in certain "Smart Growth" areas, which will increase the opportunity for residents to be physically active.

Mississippi will improve the health of state students through the creation of a physical activity coordinator to be housed at the Department of Education. The legislation also recommends 30 minutes of quality physical education daily for grades K-6 and two hours a week for grades 7-9.

The American Heart Association applauds these legislators for bringing proactive efforts to their states. These are simple solutions with results that will last a lifetime.

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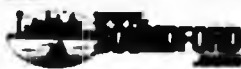
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Nation & World: Tuesday, September 23, 2003

## Daily PE classes? Fat chance, kids

By Vicki Kemper  
*Los Angeles Times*

WASHINGTON — Missing from the schedule of many students this year is one class that used to be a given:

physical education. From North Carolina to Hawaii, gym classes have been squeezed out of the school day — a trend that parallels a national increase in childhood obesity.

In 1991, four in 10 high-school students took daily PE classes; 10 years later, the proportion was reduced to barely a third. In 1980, just 5 percent of school-age children were severely overweight; 20 years later, the number had jumped to 15 percent.

Few would argue that the one trend is completely responsible for the other, but a lack of physical activity — in school or out — is a significant contributor to obesity.

For an increasing number of schools faced with shrinking budgets and growing demands for improved academic performance on standardized tests — mandated by the federal No Child Left Behind Act — physical education is a luxury they can no longer afford.

Other factors contribute to the obesity epidemic, including school lunches loaded with fat and vending-machine junk food on and off campus. But officials increasingly point to the loss of physical-education classes as a culprit.

Among the agencies that have begun to focus on the problem is the federal Centers for Disease Control and Prevention. Howell Wechsler, a health scientist in the CDC's Division of Adolescent and School Health, says society should take advantage of children's time in school to teach them "skills and attitudes needed to embrace a physically active lifestyle."

The need for in-school exercise was underscored in the results of a recent national survey by the CDC that found that almost two-thirds — 61.5 percent — of 9- to 13-year-olds participate in no organized physical activities outside of school. More than a fifth — 22.6 percent — engage in

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no physical activity in their free time.

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"Schools are not going to be able, on their own, to reverse this obesity epidemic," Wechsler acknowledged. "But they're an important part of the puzzle."

The CDC, the American Heart Association and the National Association for Sports and Physical Education are among the many organizations that recommend daily PE from kindergarten through 12th grade. Physical activity offers clear short- and long-term health benefits; in addition, most health scientists believe that children who exercise regularly perform better academically.

Illinois is the only state to mandate daily PE from kindergarten through 12th grade. And even there, physical education classes are not a sure thing. A recent survey estimated that fewer than 10 percent of the state's elementary schools comply with the law.

Some states require daily PE in elementary school, but requirements in virtually all states decline as children age. Until recently, students in most states had to take a year or two of PE in high school to graduate.

Minnesota recently eliminated physical education as a graduation requirement, and a new Florida law allows high-school students to graduate in three years by skipping PE and some electives.

And roughly one-third of all high schools give students another out: If they participate in band, cheerleading, school sports teams or similar activities, they are exempt from physical education.

In Hawaii, where one in every four children is obese and there are no minimum PE requirements for elementary and middle schools, the state Board of Education is considering reducing the graduation requirement from one year of high school PE to one semester.

"The curriculum is light on PE," said department spokesman Greg Knudsen, "but we do have year-round accessibility to outdoor sports."

Even California's relatively tough requirements — elementary schools must offer an average of 20 minutes of PE per day; middle and high schools must offer an average of 40 minutes per day; and high-school students must take PE for two years to graduate — have produced disappointing results.

Only 24 percent of the state's fifth-, seventh- and ninth-graders met minimal physical fitness standards last year.

Dianne Wilson-Graham, who directs physical education in California, noted that the state does not enforce its requirements. "There are a lot of demands on teachers," she said.

In North Carolina, James F. Causby, superintendent of Johnston County schools, acknowledges that additional PE classes would promote fitness, new skills and, very likely, better learning.

Yet when the state Legislature considered a bill this year that would have mandated a minimum weekly PE requirement, Causby — along with the

state school boards association and the North Carolina Association of Educators — opposed it.

Daily PE in elementary schools would require the hiring of more specially trained teachers, leaving the schools with fewer classroom teachers and larger classes, Causby said.

Offering daily PE in a middle school in his district, he said, would require adding five PE teachers at a cost of roughly \$200,000 a year — or cutting electives such as band, drama and choir.

Ultimately, Causby found himself asking: Is promoting physical activity the school system's responsibility? He decided that childhood obesity is a societal — not educational — issue.

It is an argument many strapped school systems are falling back on as they cut physical-education classes.

But some states and schools are bucking the trend.

Federal officials and PE experts cite an innovative skills-based program in Michigan, and South Carolina's recent decision to grade schools on PE as well as academics. The Texas school board, which phased out elementary school PE in 1995 to allow more time for academics, voted last year to restore the requirement. A number of schools have added heart monitors, climbing walls and hiking trails to their PE programs.

Some schools have worked to integrate physical education with academic subjects. If PE students are learning about their target heart rate, for example, classroom teachers can use math to teach them how to calculate it, science to explain how the heart functions and health education to convey the role diet plays in heart health.

The CDC has sponsored an advertising campaign encouraging adolescents to be active, and the Department of Health and Human Services will soon award about \$15 million in grants to schools and community organizations for programs promoting physical activity.

Among proponents of physical education is Sen. Ted Stevens, R-Alaska, a lifetime physical-fitness buff who three years ago sponsored legislation creating the Carol M. White Physical Education for Progress program. Administered by the Department of Education, the program has or will soon award \$115 million in grants to help schools buy PE equipment, hire and train instructors and renovate gyms and other facilities.

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# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB 128 (EDU)  
( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Legislature  
Title: "An Act establishing the Alaska Schools  
Physical Activity Task Force." BRU: Legislative Council  
Sponsor: "Representative McGuire, Gara, Wilson..." Component: Council and Subcommittees  
Requestor: Representative McGuire Component No.: 783

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2004) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB128 (EDU) creates an eleven member Alaska Schools Physical Activity Task Force in the Legislative Branch. The Task Force is comprised of one member from the Dept. of Education and Early Development, four members who are school officials or school board members, two physicians, two members from the Alaska Senate, and two members from the Alaska House of Representatives. The Commissioner of Education shall appoint a Chair from the members who are not Legislators. Staff of the members who are Legislators will serve as staff to the Task Force. The Task Force shall prepare a written report that includes recommendations for effectively and economically maximizing physical activity in the schools of the state. This report will be submitted to the Legislature and the Governor before January 10, 2006.

Prepared by: Karla Schofield, Deputy Director Phone 465-6626  
Division: Administrative Services Date/Time 3/17/05 1:02 PM  
Approved by: Pamela Varni, Executive Director Date 3/17/2005  
Agency: Legislative Affairs Agency

Staff for the Task Force will be existing staff of Legislators appointed to the Task Force. No additional funds will be needed for staff.

Total Personal Services 0.0

The sponsor of this legislation has stated that the Task Force will conduct all their business by teleconference. Task members identified in Sec. 2 (1)-(5), of this legislation are not eligible for compensation, per diem, or travel expenses. No funds will be needed for travel.

Total Travel 0.0

The Legislature will absorb the teleconference costs within existing budgets.

Total Contractual 0.0

The Legislative Printshop will absorb the printing costs for the report.

Total Supplies 0.0

The Task Force will not need to purchase equipment.

Total Equipment 0.0

**HB**

**156**

# STATE OF ALASKA

*Interim:*

119 North Cushman St., Rm. 205  
Fairbanks, Alaska 99701  
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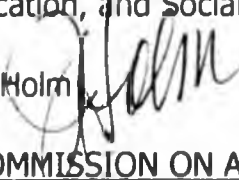
*Session:*

State Capitol Building  
Juneau, Alaska 99801  
(907) 465-3466  
Fax: (907) 465-2937

## REPRESENTATIVE JIM HOLM DISTRICT 9

DATE: April 18, 2005

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

FROM: Representative Jim Holm 

RE: HB 156. ALASKA COMMISSION ON AGING

Please schedule HB 156 for hearing in the Senate HES Committee as soon as possible. Back-up materials are attached.

Thank you for your help with this bill.

**Representative Jim Holm**  
**Alaska State Legislature**  
District 9

**Session**

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937



**Interim**

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**CS HB 156**  
**Sponsor Statement**

04/13/05

"An Act relating to the membership of the Alaska Commission on Aging"

The mission of the Alaska Commission on Aging (ACoA) is to ensure dignity and independence for Alaska's seniors and to assist them, through programs and services funded by the Commission, in leading useful and meaningful lives.

Two years ago, Executive Order No. 108 transferred the ACoA from the Department of Administration to Health and Social Services.

This year the Commissioner of the Department of Administration has indicated he is not able to participate as a member of the ACoA and supports removing DOA's seat. At its February 2005 quarterly meeting, the ACoA passed a motion requesting that the seat vacated by DOA be filled by a senior services provider, regardless of age, insuring that service providers are represented on the Commission and that age specifications already in existing statute do not limit choices for the service provider's seat. HB 156 makes that change.

In addition, HB 156 removes the duty of the ACoA to "evaluate grant applicants and make grant awards" from existing statute. The Commission currently does not exercise that duty and this change makes it clear that having a senior services provider on the Commission, who could possibly be a grant recipient, presents no conflict of interest.

# Representative Jim Holm

## Alaska State Legislature

District 9

### Session

Capitol Building, Room 110  
Juneau, AK 99801  
Phone: (907) 465-3466  
Fax: (907) 465-2937



### Interim

119 N. Cushman St.  
Fairbanks, AK 99701  
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## HB 156

### Sectional Analysis

04/13/05

"An Act relating to the membership of the Alaska Commission on Aging"

- Section 1 Removes [the Commissioner of Administration] from the Alaska Commission on Aging.
- Replaces that seat with **a Senior Services Provider, regardless of age** to insure service providers are represented on the Commission and that age specifications already in existing statute do not limit choices for the service provider's seat.
- Section 2 Makes conforming changes.
- Section 3 Removes [evaluate grant applicants and make grant awards] from the Commission's statutory duties.
- Section 4 Makes the bill effective immediately upon passage.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: CSHB 156(HES)  
 ( H ) Publish Date: 3/18/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: MEMBERSHIP OF THE ALASKA COMMISSION ON AGING RDU: Boards and Commissions  
 Component: Commission on Aging

Sponsor: HOLM

Requester: HOUSE (HES) Component No.: 2674

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
<b>CAPITAL EXPENDITURES</b>						
<b>CHANGE IN REVENUES (0)</b>						

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
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 (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This proposed legislation removes the Commissioner of Administration from the Commission and instead adds a regular member from the public to the Commission (from 7 to 8). This change has no fiscal impact on DHSS

Prepared by: Janet Clarke, Assistant Commissioner  
 Division: Finance and Management Services  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-1630  
 Date/Time 02/11/2005  
 Date 02/23/2005

# STATE OF ALASKA

## DEPARTMENT OF HEALTH AND SOCIAL SERVICES

### *Alaska Commission on Aging*

**FRANK H. MURKOWSKI**  
**GOVERNOR**

P.O. BOX 110693

JUNEAU, ALASKA 99811-0693

PHONE: (907) 465-3250

FAX: (907) 465-1398

March 22, 2005

The Honorable Jim Holm  
House of Representatives  
State Capitol Room 513  
Juneau, AK 99801-1182

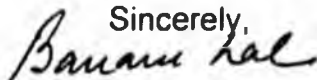
Re: HB 156, Commission on Aging

Dear Representative Holm:

On behalf of the members and staff of the Alaska Commission on Aging, I would like to express our sincere appreciation to you for sponsoring HB 156, which provides for changing the designation of a Department of Administration seat on the Commission to a senior service provider seat. We believe this change in designation will improve the Commission's ability to carry out its responsibilities to plan and advocate for the needs of older Alaskans.

We would also like to thank you for the efforts of your staff person, Barbara Cotting, who has been a tremendous help in the crafting of HB 156. We would like to commend her for all of her efforts in supporting our organization in this endeavor. Barbara was able to anticipate issues that might arise before the bill reached the House HES Committee hearing and met with our members during our last quarterly meeting in Juneau to address these issues. Thanks to your willingness to introduce HB 156 and Barbara's help, we are looking forward to a smooth and timely passage of this legislation.

Sincerely,



Banarsi Lal, Chairman  
Alaska Commission on Aging

**State of Alaska****Office of Boards and Commissions**

---

**AGING COMMISSION**

**BOARD:** Alaska Commission on Aging

**BOARD IDENTIFICATION NUMBER:** 071

**DEPARTMENT:** Department of Health and Social Services

**AUTHORITY:** AS 47.45.200

**STATUS:** Active

**SUNSET DATE:** 6/30/2008

**REQUIREMENTS:** No Legislative Confirmation or Financial Disclosure required

**PROHIBITIONS:** Cannot serve more than two consecutive terms or 8 consecutive years, whichever is longer.

**TERM:** 4 years

**DESCRIPTION:** 11 Members - Seven persons appointed by the Governor based on their knowledge and demonstrated interest in the concerns of older Alaskans; plus the chair of the Pioneers Homes Advisory Board; the commissioner of the Dept. of Administration or designee; the commissioner of the Dept. of Community and Economic Development or designee; and the commissioner of the Dept. of Health and Social Services or designee. Names of persons qualified for and interested in serving will be requested from senior citizens' organizations. Appointments shall be made to assure representation of low-income and minorities and rural/urban areas and statewide geographical representation. At least 6 persons appointed by the Governor shall be 60 years of age or older, 2 of whom shall be 65 years of age or older. Each must be a resident of the State of Alaska. Non-voting members include the Commissioners or their designees of the Dept. of Community and Economic Development, and the Dept. of Health and Social Services. Commission elects chair.

**FUNCTION:** Formulates a comprehensive statewide plan that identifies the concerns and needs of older Alaskans and prepares and submits to the Governor and Legislature an annual analysis and evaluation of the services that are provided to older Alaskans. Makes recommendations to the Governor and Legislature regarding legislation, regulations, and appropriations for programs or services that benefit older Alaskans. Encourages the development of programs and services which benefit older Alaskans, helping them to lead dignified, independent, and useful lives. Evaluates grant applications and makes grant awards under federal and state programs. Provides to the Alaska Mental Health Trust Authority recommendations concerning the integrated comprehensive mental health program for older Alaskans who suffer major mental illness as a result of senility (AS 47.30.056(b)(4)).

**CHAIR:** Commission selects.

**SPECIAL FACTS:** Serve at the pleasure of the Governor. Quorum - majority of voting members.  
**Meetings:** four quarterly meetings per year

**COMPENSATION:** Standard Travel and Per Diem.

**MEETINGS:** At call of chair or majority of members; at least 4 times each year.

**FOR FURTHER INFORMATION CONTACT:**

Ms. Linda Gohl

Director

Alaska Commission on Aging

DHSS, P.O. Box 110693

Juneau, AK 99811-0693

Phone: (907) 465-3250, FAX: (907) 465-1398

Aging Commission Roster

Go to the Aging Commission Home page

## SENATE COMMITTEE REPORT

DATE: 4/15/05

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 4.25.05

Health, Education & Social Services Committee considered CS FOR HOUSE BILL NO. 156(RLS) am

### HB 156 COMMISSION ON AGING

"An Act relating to the membership and duties of and quorum requirements for the Alaska Commission on Aging; and providing for an effective date."

and recommends:

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

**CS Senate Bill:**  
 Same Title  
 New Title

**SCS House Bill:**  
 Same Title  
 Technical Title Change  
 New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/23			X	1

APPROPRIATION - no fiscal note

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

**HB**

**185**

# STATE OF ALASKA

**REPRESENTATIVE  
MIKE CHENAULT**

Official Business

Interim:  
145 Main St. Loop, Second Floor  
Kenai, Alaska 99611  
(907) 283-7223  
Fax: (907) 283-3075

Session:  
Capitol Building, Room 432  
Juneau, Alaska 99801-1182  
(907) 465-3779  
Toll Free: (800) 469-3779  
Fax: (907) 465-2833

## HOUSE OF REPRESENTATIVES

04/11/05

To: Senator Dyson, Chair  
Senator Wilken, Vice Chair  
Senator Green, Member  
Senator Elton, Member  
Senator Olson, Member

From: Representative Mike Chenault 

Subject: Request for Senate Health, Education, & Social  
Services hearing

This office respectfully requests a hearing of the Senate Health, Education, & Social Services Committee on HB 185 "An Act relating to immunization of postsecondary students for meningitis; and providing for an effective date" at your earliest convenience.

If you have further questions on the scheduling of this committee hearing, please contact Sue Wright in Room 505 (907) 465-3779.

Thank you for your time and cooperation.

# STATE OF ALASKA

**REPRESENTATIVE  
MIKE CHENAULT**

Official Business

Interim:  
145 Main St. Loop, Second Floor  
Kenai, Alaska 99611  
(907) 283-7223  
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Capitol Building, Room 432  
Juneau, Alaska 99801-1182  
(907) 465-3779  
Toll Free: (800) 469-3779  
Fax: (907) 465-2833

**HOUSE OF REPRESENTATIVES**

## **Sponsor Statement**

### **HB 185 "An act relating to immunization of postsecondary students for meningitis"**

The purpose of this bill is to remove postsecondary educational institutions from the applicability of the provisions of AS 14.48. This also requires postsecondary educational institutions to provide information, and receive a statement from the student having read the information on meningococcal disease prior to attending or living in student housing for said institution. The Center for Disease Control strongly recommends immunizations for all students. This recommendation has been taken seriously to the point that many educational facilities will not admit students without immunizations.

# LEGAL SERVICES

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STATE OF ALASKA

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

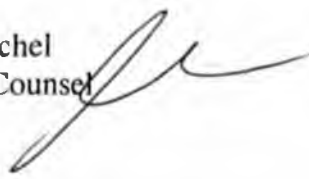
## MEMORANDUM

February 17, 2005

**SUBJECT:** Immunization of Postsecondary Students  
(Work Order No. 24-LS0642VA)

**TO:** Representative Mike Chenault  
Attn: Sue Wright

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



You have requested a sectional summary of the above-described bill draft.

As a preliminary matter, note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, please advise.

**Section 1.** Current law allows the Postsecondary Education Commission to exempt postsecondary education institutions from the applicability of some or all of the provisions of AS 14.48. The amendment made by this bill section excludes the immunization requirement added by section 2 of the bill from that exemption.

**Section 2.** Requires postsecondary educational institutions to provide written information related to meningococcal disease to each student who intends to reside in campus housing. Requires all students who attend a postsecondary institution to sign a statement that the student has either received the required information from the institution or an immunization against meningococcal disease. Clarifies cost burden and civil liability issues pertaining to the notice and immunization.

**Section 3.** Adds an applicability provision related to civil cases.

**Section 4.** Adds an immediate effective date.

JMM:jad  
05-102.jad

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB185-EED-ACPE-3-14-05  
 ( ) Publish Date: \_\_\_\_\_

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Education  
 Title An Act relating to immunization of postsecondary RDU ACPE  
students for meningitis; and providing for an effective date. Component Program Administration & Operations  
 Sponsor Rep. Mike Chenault  
 Requester (H)HES Component No. 2738

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill proposes that any Alaska postsecondary institution that provides residential housing for students will be required to: 1) deliver written advisories regarding meningococcal disease; and 2) collect and maintain student certification that such written notice has been provided, or, alternatively, certification that the student has been immunized for the disease.

The Commission would implement by providing due notice to Alaska institutions and including this requirement within its institutional authorization compliance review program.

Prepared by: Diane Barrans, Executive Director Phone 465-6757  
 Division: Executive Office, ACPE Date/Time 3/14/05 11:17 AM  
 Approved by: Diane Barrans, Executive Director *Diane Barrans* Date 3/14/2005  
 Agency: Alaska Commission on Postsecondary Education

# SENATE COMMITTEE REPORT

DATE: 4/8/05

FURTHER:

DATE TURNED  
IN TO OFFICE: 4.20.05

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 185(FIN)

## HB 185 POSTSECONDARY STUDENT IMMUNIZATION

"An Act relating to immunization of postsecondary students for meningitis; and providing for an effective date."

and recommends:

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

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/  
SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
EED	3/14			X	1

- APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>K. L. [Signature]</i>	✓			
<i>[Signature]</i>			✓	
CHAIR: <i>[Signature]</i>	✓			

**HB**

**214**

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 405-6592

Interim  
716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0150  
Fax (907) 269-0249

**REPRESENTATIVE LESIL MCGUIRE**  
**HOUSE DISTRICT 28**


Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee

Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## MEMORANDUM

To: Senator Fred Dyson, Chair  
Senate Health, Education & Social Services Committee

From: Representative Lesil McGuire 

Date: April 22, 2005

Re: Request for Hearing, SCS CSHB 214(STA): Anatomical Gifts & Registry

---

I respectfully request that SCS CSHB 214(STA), "An Act relating to anatomical gifts and the anatomical gift donor registry program," be scheduled for a hearing at your earliest convenience. I have attached the following for your information:

1. Sponsor Statement
2. SCS CSHB 214(STA)
3. Sectional Analysis
4. Fiscal Notes
5. Applicable Statutes and Federal Regulations
6. Relevant Articles

If you have any questions please feel free to contact me personally, or my staff, Vanessa Tondini, at 4990. Thank you very much.

# ALASKA STATE LEGISLATURE

## Session

State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-8592

## Intern

716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249

## Chair

Judiciary Committee

## Member

House Leadership

Rules Committee

Health, Education

& Social Services

Committee

Oil & Gas Committee

Military & Veterans'

Affairs Committee

## REPRESENTATIVE LESLIE MCGUIRE HOUSE DISTRICT 28

### Sponsor Statement SCS CSHB 214(STA)

#### "An Act relating to anatomical gifts and the anatomical gift donor registry program."

Last year the Alaska Legislature passed the Anatomical Gifts Registry Bill, which created an official organ donor registry program at the Department of Motor Vehicles. Through this program an organ donor's wishes are kept on record in a central database and are transferred to Life Alaska Donor Services, the state's organ & tissue donor program. This information allows Life Alaska to quickly match the donor's gift to a potential recipient, saving time and lives.

SCS CSHB 214(STA) makes several simple but important changes to existing law to further the intent of the original enabling legislation and to continue to move the donor registry forward in the State of Alaska. This bill works to make the Alaska Donor Registry program inclusive rather than exclusive, offers expanded definitions that act to clarify the agencies that are responsible for donation within the state as well as for the people who are trained to do the actual recovery procedures, allows increased notification for greater donation potential, and clears up inconsistencies between federal rulings and state laws.

When the Anatomical Gifts Registry Bill was submitted for consideration and subsequently passed into law in the 2004 legislative session, it was done so with the clear intent that the donor registry be operated from within the State of Alaska and not controlled by an out-of-state agency. However, as the law now reads, an out-of-state organ procurement organization has sole control of the registry, excluding the in-state procurement organization. This bill would change AS 13.50 to be inclusive rather than exclusive allowing access to both in-state and out-of-state procurement organizations. The current definition of "procurement organization" within AS 13.50.190 and the definition of "organ procurement organization" within AS 13.52.390 are defined as the "organization designated by the United States Department of Health and Human Services..." This definition is restricted to the regional organ procurement organization only. While it is important to have the regional organ procurement organization represented in the state, it is equally important that the in-state procurement organization not be excluded from donation and donation decisions that benefit all Alaskans. This bill will change the definitions within both sections to be more inclusive of all procurement organizations and allow them to function equally for the good of donation throughout Alaska.

Also, the current definition of "technician" within AS 13.52.390 is too restrictive and not in line with the laws of any other state. Recognized technicians throughout the state who recover tissues have never been licensed or certified by the State Medical Board. In fact, the State Medical Board does not have a process to license or certify technicians to procure tissues. The FDA, which regulates the tissue procurement agencies, defines a technician under 21 CFR 1271.170 for recovery personnel only by "requir[ing] establishments to employ sufficient personnel with the necessary education, experience, and training to ensure competent performance of their assigned functions." This bill will change the definition of technician to more closely reflect the good tissue practices set out by the federal government.

In addition, AS 13.52.200(e) currently only addresses notification to the hospital. This bill would expand notification by allowing for law enforcement officers, fire fighters, paramedics, or other emergency rescuer personnel to contact a procurement organization directly, or through their designee such as a dispatch center. This would allow timely notification on non-hospital deaths to increase the potential of donation within the state.

Finally, there are two paragraphs within AS 13.52 that will be repealed in SCS CSHB 214(STA); the first being AS 13.52.200(b). This is in direct contradiction to 42 CFR 482.45, which requires the hospital to notify a procurement organization that will determine suitability of donation on *all* deaths or *imminent* deaths. The second is AS 13.52.200(c). This is burdensome to the hospital and is duplicating efforts that are already being done.

# 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

March 24, 2005

**SUBJECT:** Sectional Summary of HB 214 relating to anatomical gifts and the anatomical gift donor registry program (Work Order No. 24-LS0410\F)

**TO:** Representative Lesil McGuire  
Attn: Vanessa

**FROM:**  Theresa Bannister  
Legislative Counsel

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

**Section 1.** Defines "procurement organization" for the donor registry program.

**Section 2.** Adds definitions of "donor," "gift," and "part" for the donor registry program.

**Section 3.** Deletes a reference to AS 13.52.200 to reflect the repeal of AS 13.52.200(c) by sec. 11 of the bill.

**Section 4.** Makes conforming amendments to reflect the change in terminology to "procurement organization."

**Section 5.** Makes conforming amendments to reflect the change in terminology to "procurement organization."

**Section 6.** If an individual or body is taken to a hospital, and if a document of gift or evidence of refusal to make a gift is located under AS 13.52.200(d)(1), this subsection requires the hospital and a procurement organization to be notified of the contents of the document of gift or the evidence of refusal. If the individual or body is not taken to a hospital, requires certain persons (those identified in AS 13.52.200(d)(1)) to notify a procurement organization and send the document or evidence to the procurement organization.

**Section 7.** Makes a conforming amendment to reflect the change in terminology to "procurement organization."

Representative Lesil McGuire  
March 24, 2005  
Page 2

**Section 8.** Makes a conforming change to reflect the repeal of AS 13.52.200(b) and (c) by sec. 11 of the bill.

**Section 9.** Defines "procurement organization" for AS 13.52.200.

**Section 10.** Amends the definition of "technician" for AS 13.52 to mean an individual who has the education, training, and experience necessary to competently remove or process a part.

**Section 11.** Repeals a provision stating that a hospital administrator (or a designee) is not required to contact an organ procurement organization if an anatomical gift is not suitable for donation. Repeals a provision requiring that an entry be made in a patient's record relating to the discussion by a representative of an organ procurement organization with the family, agent, or surrogate of the patient. Repeals the definition of "organ procurement organization."

If I may be of further assistance, please advise.

TLB:med  
05-211.med

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 214  
 (H) Publish Date: 4/1/05

Revision Date/Time (Note if correction):  
 Title: Anatomical Gifts

Dept. Affected: Commerce  
 RDU: Occupational Licensing (117)  
 Component: Occupational Licensing

Sponsor: McGuire, Kerttula, Gruenberg  
 Requester: State Affairs Component No. 2360

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

HB 214 amends AS 13.50 relating to anatomical gifts and the gift donor registry program. New funds are not required to implement the provisions of this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144  
 Division: Occupational Licensing Date/Time 3/29/05 6:31 PM  
 Approved by: Edgar Blatchford, Commissioner Date 3/29/2005  
 Agency: Commerce, Community, and Economic Development

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 2  
 Bill Version: HB 214  
 (H) Publish Date: 4/1/05

Revision Date/Time (Note if correction): \_\_\_\_\_ Dept. Affected: Public Safety  
 Title: "An Act relating to anatomical gifts and the anatomical gift donor registry program." RDU: Alaska State Troopers  
 Sponsor: Representative McGuire Component: AST Detachments  
 Requester: House State Affairs Component No.: 2325

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

Estimate of any current year (FY2005) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill impacts the Department of Public Safety by amending AS 13.52.200. The amendment requires law enforcement officers dealing with a body or individual from a death or impending death that is taken to a hospital, to additionally notify a procurement organization with documentation of an anatomical gift (organ donation) or evidence of refusal to make a gift. Also, if the individual or body is not taken to a hospital, law enforcement officers shall now notify a procurement organization and send the document or other evidence to the procurement organization.

Passage of this bill will have no fiscal impact on the Department of Public Safety.

Prepared by: Lieutenant Todd Sharp Phone 907-465-3223  
 Division: Alaska State Troopers Date/Time 3/30/05 4:35 PM  
 Approved by: Commissioner William Tandeske Date 3/30/2005  
 Agency: Department of Public Safety

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 4  
 Bill Version: CSHB 214(HES)  
 ( H ) Publish Date: 4/7/05  
 Dept. Affected: Health & Social Services  
 RDU: Public Health  
 Component: Community Health/EMS Services

Revision Date/Time (Note if correction):  
 Title: ANATOMICAL GIFTS

Sponsor: MCGUIRE  
 Requester: HOUSE (HES)

Component No. 2078

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

Note: Amounts do not include inflation unless otherwise noted below

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
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 (FY2005) cost: \_\_\_\_\_  
 Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would add a requirement for EMS responders to notify an organ procurement agency for deaths which occur outside of a hospital, and of the victim's intent to donate - or not donate - organs.

The state will notify EMS providers, instructors, first responders, and ground and air medical services of the new reporting requirement. The cost of preparing and mailing these notifications was initially identified as \$6.5, but it has been determined these costs can be avoided by coordinating notification of this new requirement with other EMS provider communication efforts.

Thus, the fiscal impact is zero.

Prepared by: Richard Mandsager, M.D.  
 Division: Public Health  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-3090  
 Date/Time 04/05/2005  
 Date 04/06/2005

Sec. 13.50.190. Definitions.

In AS 13.50.100- 13.50.190,

(1) "department" means the Department of Administration;

(2) "donation" means a monetary donation made under AS 13.50.150\_;

(3) "fund" means the anatomical gift awareness fund established under AS 13.50.160\_;

(4) "motor vehicle or identification document" means

(A) a motor vehicle registration, a driver's license, or an instruction permit, or a renewal of the registration, license, or permit; or

(B) an identification card issued under AS 18.65.310\_;

(5) "procurement organization" means an organization that has been designated by the United States Department of Health and Human Services to coordinate activities for the procurement of body parts for any portion of this state;

(6) "reasonable costs" includes the cost of

(A) computer programming and installing software and software upgrades;

(B) employee training that is specific to a registry or the donation program established under AS 13.50.150\_;

(C) producing literature that is specific to a registry or the donation program established under AS 13.50.150\_; and

(D) making hardware upgrades or handling other issues for a registry or the donation program established under AS 13.50.150\_;

(7) "registry" means a donor registry established under AS 13.50.110\_;

(8) "registry information" means information obtained under AS 13.50.100;

(9) "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

**Sec. 13.52.200. Routine inquiry and required request; search and notification.**

(a) If, at or near the time of death of a patient, there is no medical record that the patient has made or refused to make an anatomical gift, the hospital administrator or a designee of the hospital shall contact an organ procurement organization so that the organ procurement organization may discuss the potential to make a gift with the family, agent, or surrogate of the patient. The organ procurement organization shall discuss the potential gift with reasonable discretion and sensitivity to the circumstances of the family.

(b) Notwithstanding (a) of this section, a hospital administrator or other designee of the hospital is not required to contact an organ procurement organization if the gift is not suitable, based on accepted medical standards, for a purpose specified in AS 13.52.210.

(c) An entry shall be made in the medical record of the patient, stating the name and affiliation of the individual from the organ procurement organization who discusses the potential gift with the family, agent, or surrogate under (a) of this section, and the relationship to the patient of the family member, agent, or surrogate with whom the potential gift was discussed.

(d) The following persons shall make a reasonable search for a document of gift or other information identifying the bearer as a donor or as an individual who has refused to make an anatomical gift:

(1) a law enforcement officer, fire fighter, paramedic, or other emergency rescuer finding an individual who the searcher believes is dead or near death; and

(2) a hospital or an organ procurement organization, upon the admission of an individual at or near the time of death, if there is not immediately available any other source of that information.

(e) If a document of gift or evidence of refusal to make an anatomical gift is located by the search required by (d)(1) of this section, and the individual or body to whom it relates is taken to a hospital, the hospital must be notified of the contents, and the document or other evidence must be sent to the hospital.

(f) If, at or near the time of death of a patient, a hospital knows that an anatomical gift has been made under AS 13.52.170 or 13.52.180(a), or that a patient or an individual identified as in transit to the hospital is a donor, the hospital shall notify an organ procurement organization. The hospital shall cooperate in the implementation of the anatomical gift or release and removal of a part.

(g) Notwithstanding AS 13.52.090, a person who fails to discharge the duties imposed by this section is not subject to criminal or civil liability but is subject to appropriate administrative sanctions.

(h) The commissioner of health and social services shall adopt regulations to implement (a) - (c) of this section.

**Sec. 13.52.390. Definitions.**

In this chapter, unless the context otherwise requires,

(1) "advance health care directive" means an individual instruction or a durable power of attorney for health care;

(2) "agent" means an individual designated in a durable power of attorney for health care to make a health care decision for the individual granting the power;

(3) "anatomical gift" means an individual instruction that makes a donation of all or a part of an individual's body to take effect upon or after death;

(4) "artificial nutrition and hydration" means medically appropriate nutrition and hydration delivered

(A) through an intravenous needle placed directly in a vein; or

(B) by a tube that is inserted into a functioning gastrointestinal tract;

(5) "available" means, when referring to a person, that the

(A) person's existence is known;

(B) person can be contacted;

(C) person does not lack capacity;

(D) person does not refuse to accept the position, and

(E) person is willing to make a health care decision;

(6) "best interest" means that the benefits to the individual resulting from a treatment outweigh the burdens to the individual resulting from that treatment after assessing

(A) the effect of the treatment on the physical, emotional, and cognitive functions of the patient;

(B) the degree of physical pain or discomfort caused to the individual by the treatment or the withholding or withdrawal of the treatment;

(C) the degree to which the individual's medical condition, the treatment, or the withholding or withdrawal of treatment results in a severe and continuing impairment;

(D) the effect of the treatment on the life expectancy of the patient;

(E) the prognosis of the patient for recovery, with and without the treatment;

(F) the risks, side effects, and benefits of the treatment or the withholding of treatment; and

(G) the religious beliefs and basic values of the individual receiving treatment, to the extent that these may assist the decision-maker to determine benefits and burdens;

(7) "capacity," except in (9) of this section, means an individual's ability to receive and evaluate information effectively or communicate decisions to the extent necessary to make mental health treatment decisions;

(8) "cardiopulmonary resuscitation" means an attempt to restore spontaneous circulation;

(9) "competent" means that an individual has the capacity

(A) to assimilate relevant facts and to appreciate and understand the individual's situation with regard to those facts; and

(B) to participate in treatment decisions by means of a rational thought process;

(10) "decedent" means a deceased individual or infant, but does not include a dead or stillborn fetus;

(11) "department" means the Department of Health and Social Services;

(12) "document of gift" means a card, a statement attached to or imprinted on a driver's license, a will, an advance health care directive under AS 13.52.300, or another writing used to make an anatomical gift;

(13) "donor" means an individual who makes an anatomical gift;

(14) "do not resuscitate identification" means an identification card, form, necklace, or bracelet that carries the standardized design or symbol developed by the department under AS 13.52.065 to signify, when carried or worn, that the carrier or wearer is an individual for whom a physician has issued a do not resuscitate order;

(15) "do not resuscitate order" means a directive from a licensed physician that emergency cardiopulmonary resuscitation should not be administered to a qualified patient;

(16) "durable power of attorney for health care" means a power of attorney that remains in effect when the principal lacks capacity; in this paragraph, "power of attorney" means the designation of an agent to make health care decisions for the individual granting the power;

(17) "generally accepted health care standards" includes the protocol for do not resuscitate orders that is adopted under AS 13.52.065;

(18) "guardian" means a judicially appointed person having authority to make a health care decision for an individual;

(19) "health care" means any care, treatment, service, or procedure to maintain, diagnose, or otherwise affect an individual's physical or mental condition;

(20) "health care decision" means a decision made by an individual or the individual's agent, guardian, or surrogate regarding the individual's health care, including

(A) selection and discharge of health care providers and institutions;

(B) approval or disapproval of proposed diagnostic tests, surgical procedures, and programs of medication;

(C) direction to provide, withhold, or withdraw artificial nutrition and hydration if providing, withholding, or withdrawing artificial nutrition, artificial hydration, or artificial nutrition and hydration is in accord with generally accepted health care standards applicable to health care providers or institutions;

(D) the administration or withdrawal of psychotropic medications, the use of electroconvulsive treatment, and the admission to a mental health facility; and

(E) making an anatomical gift at death;

(21) "health care facility" means a nursing home, a rehabilitation center, a long-term care facility, and any other health care institution that administers health care and that provides overnight stays in the ordinary course of the facility's business;

(22) "health care institution" means an institution, facility, or agency licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business;

(23) "health care provider" means an individual licensed, certified, or otherwise authorized or permitted by law to provide health care in the ordinary course of business or practice of a profession;

(24) "hospital" means a facility

(A) licensed, accredited, or approved as a hospital under the laws of this state; or

(B) operated as a hospital by the United States government, this state, or a subdivision of this state;

(25) "individual instruction" means an individual's direction concerning a health care decision for the individual;

(26) "life-sustaining procedures" means any medical treatment, procedure, or intervention that, in the judgment of the primary physician, when applied to a patient with a qualifying condition, would not be effective to remove the qualifying condition, would serve only to prolong the dying process, or, when administered to a patient with a condition of permanent unconsciousness, may keep the patient alive but is not expected to restore consciousness; in this paragraph, "medical treatment, procedure, or intervention" includes assisted ventilation, renal dialysis, surgical procedures, blood transfusions, and the administration of drugs, including antibiotics, or artificial nutrition and hydration;

(27) "mental health facility" has the meaning given to "designated treatment facility" in AS 47.30.915;

(28) "mental health treatment" means electroconvulsive treatment, treatment with psychotropic medication, or admission to and retention in a health care institution for mental health treatment;

(29) "organ procurement organization" means an organization that has been designated by the United States Department of Health and Human Services to coordinate activities for the procurement of

body parts for any portion of this state;

(30) "part" means an organ, tissue, an eye, a bone, an artery, blood, fluid, or another portion of a human body, except fetal tissue;

(31) "permanent unconsciousness" means a condition

(A) that, to a high degree of medical certainty, will last permanently without improvement;

(B) in which, to a high degree of medical certainty, thought, sensation, purposeful action, social interaction, and awareness of self and the environment are absent; and

(C) for which, to a high degree of medical certainty, initiating or continuing life-sustaining procedures, in light of the patient's medical outcome, provides only minimal medical benefit;

(32) "person" means an individual, corporation, business trust, estate, trust, partnership, joint venture, association, government, governmental subdivision, governmental agency, or another legal or commercial entity;

(33) "physician" or "surgeon" means an individual licensed or otherwise authorized to practice medicine and surgery or osteopathy and surgery under the laws of any state;

(34) "primary physician" means a physician designated by an individual, or by the individual's agent, guardian, or surrogate, to have primary responsibility for the individual's health care or, in the absence of a designation or if the designated physician is not reasonably available, a physician who undertakes the responsibility;

(35) "qualified patient" means a patient with a qualifying condition who is eligible for do not resuscitate identification;

(36) "qualifying condition" means a terminal condition or permanent unconsciousness in a patient;

(37) "reasonably available" means available using a level of diligence appropriate to the seriousness and urgency of an individual's health care needs;

(38) "state" means a state, territory, or possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico;

(39) "supervising health care provider" means the primary physician or the physician's designee, or the health care provider or the provider's designee who has undertaken primary responsibility for an individual's health care;

(40) "surrogate" means an individual, other than a patient's agent or guardian, authorized under this chapter to make a health care decision for the patient;

(41) "technician" means an individual who is licensed or certified by the State Medical Board to remove or process a part;

(42) "terminal condition" means an incurable or irreversible illness or injury

(A) that without administration of life-sustaining procedures will result in death in a short period of time;

(B) for which there is no reasonable prospect of cure or recovery;

(C) that imposes severe pain or otherwise imposes an inhumane burden on the patient; and

(D) for which, in light of the patient's medical condition, initiating or continuing life-sustaining procedures will provide only minimal medical benefit.

1 of 1 DOCUMENT

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\*\*\* THIS SECTION IS CURRENT THROUGH THE MARCH 17, 2005 ISSUE OF \*\*\*  
\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 21 -- FOOD AND DRUGS  
CHAPTER I -- FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH AND HUMAN SERVICES  
SUBCHAPTER L -- REGULATIONS UNDER CERTAIN OTHER ACTS ADMINISTERED BY THE FOOD AND DRUG ADMINISTRATION  
PART 1271 -- HUMAN CELLS, TISSUES, AND CELLULAR AND TISSUE-BASED PRODUCTS  
SUBPART D -- CURRENT GOOD TISSUE PRACTICE [EFFECTIVE MAY 25, 2005.]

21 CFR 1271.170

§ 1271.170 Personnel. [Effective May 25, 2005.]

[PUBLISHER'S NOTE: This section was added at 69 FR 68612, 68683, Nov. 24, 2004, effective May 25, 2005.]

(a) General. You must have personnel sufficient to ensure compliance with the requirements of this part.

(b) Competent performance of functions. You must have personnel with the necessary education, experience, and training to ensure competent performance of their assigned functions. Personnel must perform only those activities for which they are qualified and authorized.

(c) Training. You must train all personnel, and retrain as necessary, to perform their assigned responsibilities adequately.

**HISTORY:** [69 FR 68612, 68683, Nov. 24, 2004]

**AUTHORITY:** AUTHORITY NOTE APPLICABLE TO ENTIRE PART :  
42 U.S.C. 216, 243, 264, 271.

**NOTES:** [EFFECTIVE DATE NOTE: 69 FR 68612, 68683, Nov. 24, 2004, added Subpart D, effective May 25, 2005.]  
NOTES APPLICABLE TO ENTIRE TITLE:

Cross References: Food Safety and Inspection Services, Department of Agriculture: See Meat and Poultry Inspection, 9 CFR CHAPTER III.

Federal Trade Commission: See Commercial Practices, 16 CFR chapter I.

U.S. Customs Service, Department of the Treasury: See Customs Duties, 19 CFR chapter I.

Internal Revenue Service, Department of the Treasury: See Internal Revenue, 26 CFR chapter I.

Bureau of Alcohol, Tobacco, and Firearms, Department of the Treasury: See Alcohol, Tobacco Production and Firearms, 27 CFR chapter I.

**NOTES APPLICABLE TO ENTIRE CHAPTER:**

[EDITORIAL NOTE: For nomenclature changes to chapter I see 59 FR 14366, Mar. 28, 1994.]

[PUBLISHER'S NOTE: For the uniform compliance date for food labeling regulations under Chapter I, see 61 FR 67710, Dec. 24, 1996; 61 FR 68145, Dec. 27, 1996; 62 FR 49881, Sept. 23, 1997.]

**NOTES APPLICABLE TO ENTIRE PART :**

[PUBLISHER'S NOTE: The authority citation for Part 1271 was revised at 69 FR 29786, 29829, May 25, 2004, effective May 25, 2005. For the convenience of the user, the authority citation effective May 25, 2005, has been set out below:

42 U.S.C. 216, 243, 263a, 264, 271.]

111 words

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\*\*\* THIS SECTION IS CURRENT THROUGH THE MARCH 17, 2005 ISSUE OF \*\*\*  
\*\*\* THE FEDERAL REGISTER \*\*\*

TITLE 42 -- PUBLIC HEALTH  
CHAPTER IV -- CENTERS FOR MEDICARE & MEDICAID SERVICES, DEPARTMENT OF HEALTH AND  
HUMAN SERVICES  
SUBCHAPTER G -- STANDARDS AND CERTIFICATION  
PART 482 -- CONDITIONS OF PARTICIPATION FOR HOSPITALS  
SUBPART C -- BASIC HOSPITAL FUNCTION

42 CFR 482.45

§ 482.45 Condition of participation: Organ, tissue, and eye procurement

(a) Standard: Organ procurement responsibilities. The hospital must have and implement written protocols that:

(1) Incorporate an agreement with an OPO designated under part 486 of this chapter, under which it must notify, in a timely manner, the OPO or a third party designated by the OPO of individuals whose death is imminent or who have died in the hospital. The OPO determines medical suitability for organ donation and, in the absence of alternative arrangements by the hospital, the OPO determines medical suitability for tissue and eye donation, using the definition of potential tissue and eye donor and the notification protocol developed in consultation with the tissue and eye banks identified by the hospital for this purpose;

(2) Incorporate an agreement with at least one tissue bank and at least one eye bank to cooperate in the retrieval, processing, preservation, storage and distribution of tissues and eyes, as may be appropriate to assure that all usable tissues and eyes are obtained from potential donors, insofar as such an agreement does not interfere with organ procurement;

(3) Ensure, in collaboration with the designated OPO, that the family of each potential donor is informed of its options to donate organs, tissues, or eyes or to decline to donate. The individual designated by the hospital to initiate the request to the family must be an organ procurement representative or a designated requestor. A designated requestor is an individual who has completed a course offered or approved by the OPO and designed in conjunction with the tissue and eye bank community in the methodology for approaching potential donor families and requesting organ or tissue donation;

(4) Encourage discretion and sensitivity with respect to the circumstances, views, and beliefs of the families of potential donors;

(5) Ensure that the hospital works cooperatively with the designated OPO, tissue bank and eye bank in educating staff on donation issues, reviewing death records to improve identification of potential donors, and maintaining potential donors while necessary testing and placement of potential donated organs, tissues, and eyes take place.

(b) Standard: Organ transplantation responsibilities. (1) A hospital in which organ transplants are performed must be a member of the Organ Procurement and Transplantation Network (OPTN) established and operated in accordance with section 372 of the Public Health Service (PHS) Act (42 U.S.C. 274) and abide by its rules. The term "rules of the OPTN" means those rules provided for in regulations issued by the Secretary in accordance with section 372 of the PHS Act which are enforceable under 42 CFR 121.10. No hospital is considered to be out of compliance with section 1138(a)(1)(B) of the Act, or with the requirements of this paragraph, unless the Secretary has given the OPTN formal

notice that he or she approves the decision to exclude the hospital from the OPTN and has notified the hospital in writing.

(2) For purposes of these standards, the term "organ" means a human kidney, liver, heart, lung, or pancreas.

(3) If a hospital performs any type of transplants, it must provide organ-transplant-related data, as requested by the OPTN, the Scientific Registry, and the OPOs. The hospital must also provide such data directly to the Department when requested by the Secretary.

**HISTORY:** [63 FR 33856, 33874, June 22, 1998]

**AUTHORITY:** AUTHORITY NOTE APPLICABLE TO ENTIRE PART:  
Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

**NOTES:** [EFFECTIVE DATE NOTE: 63 FR 33856, 33874, June 22, 1998, added this section, effective Aug. 21, 1998.]

**NOTES APPLICABLE TO ENTIRE CHAPTER:**

[PUBLISHER'S NOTE: Nomenclature changes affecting Chapter IV appear at 45 FR 53806, Aug. 13, 1980; 50 FR 12741, Mar. 29, 1985; 50 FR 33034, Aug. 16, 1985; 51 FR 41338, Nov. 14, 1986; 53 FR 6634, Mar. 2, 1988; 53 FR 47201, Nov. 22, 1988; 56 FR 8852, Mar. 1, 1991; 66 FR 39450, 39452, July 31, 2001; 67 FR 36539, 36540, May 24, 2002.]

**NOTES APPLICABLE TO ENTIRE PART:**

[PUBLISHER'S NOTE: For Federal Register citations concerning Part 482 clarifications, see: 67 FR 61805, Oct. 2, 2002.]

574 words



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2 Your Health | 2 on Your Side | Assignment Alaska | The Bottom Line | Market View | Spirit of Youth | What's Cookin'?

## Life Alaska moves donor registry forward

Sunday, March 13, 2005 - by Joy Mapaye

**Anchorage, Alaska** - Last year, Life Alaska made a plea to state lawmakers to create a computerized central registry for organ donors.

In June 2004, the registry became a reality with the signing of House Bill 337. The registry would include a new computerized driver's license which allows the Department of Motor Vehicles to enter a donor's information into a central computer system.

By June 2004, roughly 60,000 donors were in the Life Alaska registry. When the first DMV numbers were uploaded this number jumped to 80,000.



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Today, there are about 170,000 donors listed according to the DMV. The registry grows by 200 to 300 names every day.

Life Alaska says it remembers all those who have helped others in a celebration service held each year. Denise Och is one of those at the event. Och lost her son, Nathanael, in an accident about two years ago. The family made the decision to donate his organs and tissues.

"We knew his character. We knew the kind of person that he was, and so the decision that we made as a family was based on what we thought he would want and we've never regretted it," said Och (right).



"For years we've had donor cards and other means but the electronic registry allows one by the Internet to check a name instantly. Is this person on the registry? And so we're able to in every case know in Alaska if a person is on the registry," said Bruce Zalneraitis of Life Alaska donor services.



Life Alaska says the direct impact here is the cut down in waiting time, which can mean the difference between life and death. Prior to the change, about 10 to 15 names of people who passed away would appear in the registry every year. Now, five to 10 names appear each week.

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Life Alaska says about 25 other states have some form of electronic registry but the group says this number is changing as new laws go into effect.

 [PRINT ARTICLE](#)  [EMAIL ARTICLE](#)

**Related articles:**

- **State bill tries to record organ donors (March 14, 2004)**  
Representatives of Alaska's Organ Procurement Program thanked 100 donor families who gathered together Sunday. With the help of the families, the lives of the 80 Alaskans who were at the meeting have been saved.
- **New bill could save thousands of Alaskan lives (June 15, 2004)**  
Gov. Frank Murkowski is scheduled to sign House Bill 337 into law Wednesday. The bill would create an official organ donor registry at the Department of Motor Vehicles, and it is just one way organ donation in Alaska is getting easier.



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2 Your Health | 2 on Your Side | Assignment Alaska | The Bottom Line | Market View | Spirit of Youth | What's Cookin'?



## New bill could save thousands of Alaskan lives

June 15, 2004 - by Joy Mapaye

Search

just one way organ donation in Alaska is getting easier.

**Anchorage, Alaska** - Gov. Frank Murkowski is scheduled to sign House Bill 337 into law Wednesday. The bill would create an official organ donor registry at the Department of Motor Vehicles, and it is

At Alaska's Department of Motor Vehicles, an organ donor's wish will now be on record. Currently the department doesn't keep records of those who sign up to become organ and tissue donors, but House Bill 337 will change that, allowing the DMV to transfer an organ donor's wishes to Life Alaska.

"We're very excited that Governor Murkowski is due to sign that into legislation," said Brenda Stewart of Life Alaska donor services.

Stewart says the new registry would allow Life Alaska to quickly match the donor's gift to a potential recipient, saving time and lives.

According to the Joint Commission on Accreditation of Healthcare Organizations, more than 85,000 Americans are on the waiting list for life-saving transplants, and more than 6,000 people who are awaiting a transplant die each year.

The group says it has now begun a major initiative to break down barriers that limit donations, including cultural ones. At Life Alaska, however, that process is well underway with a special partnership at the Alaska Native Medical Center.

"The relationship with Life Alaska has been one that has developed or evolved over years," said Phyllis Goodwin, the director of critical care services at the Alaska Native Medical Center.

Goodwin said that in 1991, when she first arrived at the Alaska Native Medical Center, they didn't do organ donations. But over the years it began working on education campaigns with Life Alaska to help the community and help boost Alaska Native donors.

"We've seen our donation numbers increase over time," Goodwin said.

Goodwin says educational campaigns as well as a growing public awareness on organ and tissue donation are helping. Life Alaska agrees and says one person can make a big difference.

Life Alaska says aside from its educational outreach, it works to help families through the grieving process, and during this time the focus is on those who need help.

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"It's less about a background or a culture of a person and more about reaching out to people in need," Stewart said. "And if that's done in a caring and sensitive way, then it empowers people to make that decision that's right for them."

It's a decision Life Alaska says education, awareness and the new registry at the DMV are all helping people make.

Becoming part of the registry is optional. The new law will go into effect 90 days after the governor signs the bill.

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**Related articles:**



EMAIL ARTICLE



PRINT ARTICLE



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## SENATE COMMITTEE REPORT

DATE: 4/22/05

FURTHER:

DATE TURNED  
IN TO OFFICE: 5.4.05

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 214(HES)

### HB 214 ANATOMICAL GIFTS & REGISTRY

"An Act relating to anatomical gifts and the anatomical gift donor registry program."

and recommends:

- be replaced with S CS for CS for HB 214 (STA)
- adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- attached amendment(s)
- adopt Letter of Intent by \_\_\_\_\_ Committee
- further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- Same Title
- New Title

**SCS House Bill:**

- Same Title
- Technical Title Change
- New Title w/ SCR # \_\_\_\_\_

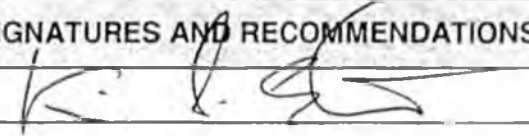
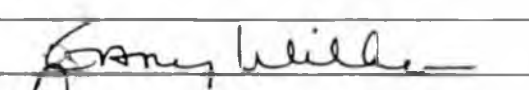
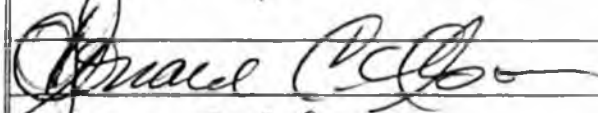
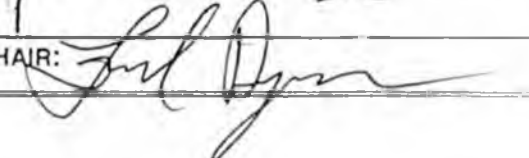
**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
CCED	3/29			x	1
DPS	3/30			x	2
HSS	4/05			x	4

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
			✓	
CHAIR: 	✓			

**HB**

**225**

# ALASKA STATE LEGISLATURE

## Session

State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
Phone (907) 465-2995  
Fax (907) 465-6592

## Interim

716 West Fourth Avenue, Suite 430  
Anchorage, Alaska 99501  
Phone (907) 269-0250  
Fax (907) 269-0249

**REPRESENTATIVE LESIL MCGUIRE**  
**HOUSE DISTRICT 28**

Chair  
Judiciary Committee

Member  
House Leadership  
Rules Committee  
Health, Education  
& Social Services  
Committee

Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

## MEMORANDUM

To: Senator Dyson  
Chair, Senate HESS Committee

From: Representative Lesil McGuire 

Date: April 14, 2005

Re: Request for hearing - HB 225, "*An Act relating to medical examiners and medical death examinations.*"

---

I respectfully request that HB 225, "*An Act relating to medical examiners and medical death examinations*" be scheduled for a hearing at your earliest convenience. Attached you will find the bill packet containing the most current version of the bill, sectional analysis, sponsor statement, fiscal note and background information.

If you have any questions or concerns please feel free to contact me personally, or my staff, Shalon Szymanski at (907) 465-6841. Thank you for your time and consideration.

# ALASKA STATE LEGISLATURE

## Session

State Capitol Building, Room 118  
Juneau, Alaska 99801-1182  
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Fax (907) 465-6592

## Interim

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## Chair

Judiciary Committee

## Member

House Leadership

Rules Committee

Health, Education

& Social Services

Committee

Oil & Gas Committee

Military & Veterans'

Affairs Committee

## REPRESENTATIVE LESLIE MCGUIRE HOUSE DISTRICT 28

### SPONSOR STATEMENT HB 225

*"An Act relating to medical examiners and medical death examinations."*

Last year alone, there were nearly 1,100 cases filed with the State of Alaska's medical examiner's office. All of these cases require responsibilities ranging from autopsies, administrative duties and legal responsibilities, such as testifying in court. With this sizeable caseload for our state, how many medical examiners do we have to handle it? The answer is, one.

Our one state medical examiner has been stretched so thin with this caseload that he has been forced to decide which cases will actually receive autopsies. Currently autopsies are required only when the death was suspicious or if there was a crime involved. When forced to pick and choose, something could be overlooked in these remaining cases that did not receive the attention they should have. We also have to consider what would happen if our one medical examiner became ill or for any reason could not fulfill his duties.

The position of the state medical examiner is a critical function in the state and a tremendous responsibility. It is a responsibility not only to the families and friends to the victim, but also to the community as a whole. The fact that there is such a large caseload for only one medical examiner has become a growing concern for policy makers, law enforcement officials and the community.

Under current state law, the commissioner of health and social services is required to appoint only a medical examiner. HB 225 would require the commissioner of health and social services to appoint both a chief medical examiner and a deputy medical examiner to share the extensive workload.

# ALASKA STATE LEGISLATURE

Session  
State Capitol Building, Room 118  
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Health, Education  
& Social Services  
Committee  
Oil & Gas Committee  
Military & Veterans'  
Affairs Committee

REPRESENTATIVE LESLIE MCGUIRE  
HOUSE DISTRICT 28

## SECTIONAL ANALYSIS HB 225

Section 1 – Amends AS 12.65.015(a) by changing MAY to shall. This will require the commissioner of health and social services to not only appoint a state medical examiner but also a deputy medical examiner.

Section 2 – Amends AS 12.65.015(b) by adding the deputy medical examiner to the first line of the section. This also requires that both medical examiners must be physicians who have education and experience in forensic pathology.

Section 3 – Amends AS 12.65.015(c) by adding deputy medical examiner and requires that both examiners perform the duties assigned.

Section 4 – Amends AS 12.65.020(a) by adding the requirement that either the state medical examiner or the deputy medical examiner, to perform death investigations when a death is reported to the state medical examiner's office. This section also adds deputy medical examiner to further responsibilities of the medical examiner's office.

Section 5 – Amends AS 12.65.020(b) by adding deputy medical examiner. By adding deputy medical examiner, it would require the state medical examiner and the deputy medical examiner to share the responsibility of preparing post examination reports and submitting those reports to the D.A.

Section 6 – Amends AS 12.65.020(c) again by adding deputy medical examiner to require that the state medical examiner and deputy medical examiner share the responsibility in court petitions and produce death certificates.

Section 7 – Amends 12.65.020(d) by adding deputy medical examiner to require that the state medical examiner and the deputy medical examiner share the responsibility in having a death certificate amended if in the opinion of the state medical examiner or the deputy medical examiner, the death certificate is inaccurate or incomplete.

Section 8 – Amends AS 12.65.020(e) by adding the state medical examiner or deputy medical examiner to lines 28 & 29 to allow both medical examiners to have the option of calling upon public employees to assist in medical examination duties.

Section 9 – Amends AS 12.65.020(f) by adding **the deputy medical examiner** to the list of those who are immune from civil liability based on determining the cause and manner of a person's death.

# FISCAL NOTE

**STATE OF ALASKA**  
**2005 LEGISLATIVE SESSION**

Fiscal Note Number: 1  
 Bill Version: HB 225  
 ( H ) Publish Date: 4/1/05  
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):  
 Title RELATING TO MEDICAL EXAMINERS AND DEATH EXAMINATIONS

RDU Public Health  
 Component State Medical Examiner

Sponsor MCGUIRE  
 Requester HOUSE (HES)

Component No. 293

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

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

OPERATING EXPENDITURES	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

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

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

**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
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 (FY2005) cost: \_\_\_\_\_

Mark this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

**POSITIONS**

Full-time						
Part-time						
Temporary						

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

This bill would amend current law to give the Deputy Medical Examiner the same authorities and duties as the State Medical Examiner. It also would add a mandate that the Commissioner "shall" appoint a Deputy Medical Examiner (current law allows that the Commissioner "may" appoint a Deputy M.E.), and clarifies that the Commissioner may appoint Assistant Medical Examiners.

The Governor's proposed FY06 operating budget for the State Medical Examiner's Office will support this proposed bill, as the budget includes funding for both the State Medical Examiner and the Deputy Medical Examiner positions. There currently are no Assistant Medical Examiners established and funded in the budget, but since this bill does not require the Commissioner to appoint Assistant Medical Examiners, no additional funding is required for this legislation.

Prepared by: Richard Mandsager, M.D.  
 Division: Public Health  
 Approved by: Joel S. Gilbertson, Commissioner  
 Agency: Department of Health and Social Services

Phone 465-3090  
 Date/Time 03/29/2005  
 Date 03/30/2005

## So many cases, just 1 skilled pair of hands

Thursday, March 3, 2005 - by Warren Williamson



Phil Walczak/KTUU-TV

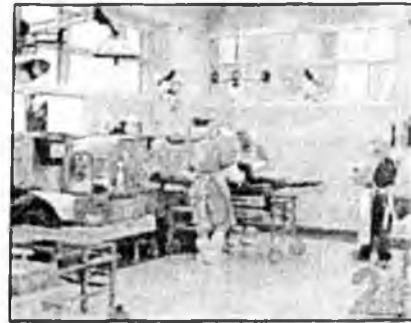
**Anchorage, Alaska** - It's considered one of the most modern medical examiner's offices in the country. Last year alone, nearly 1,100 cases were filed. At the helm of that office is Dr. Franc Fallico, who was appointed chief medical examiner in June 2004.

Fallico's day begins early -- he's at the office by 6:30 a.m. And his days are demanding. In addition to performing autopsies, Fallico must find time for administrative duties and legal

responsibilities, such as testifying in court.

"It's not too unusual for medical examiners to be very busy all across the country," Fallico says. "And their services are stretched because there are very few medical examiners that are fully qualified, and also funding is very difficult to come by now."

Stretched? Some say that's an understatement. Fallico is the only medical examiner in the state. To put that in perspective, it means Fallico is responsible for nearly 587,000 square miles of land -- that's one-fifth the size of the Lower 48.



Phil Walczak/KTUU-TV

"I'm hopeful that I'll have help soon," he says.

Fallico says he's not overworked and that he loves his job. But the question is who would perform the work if Fallico falls ill or if he was called out of town on a lengthy homicide investigation. Or if he goes on vacation.



Phil Walczak/KTUU-TV

"It's a good question, but no one's indispensable," he says. "For example, a person who trained me now works in Juneau. And this person, a fully qualified forensic pathologist, I'm sure in a pinch could be enticed to come up and do some work."

Fallico's time and duties are stretched so thin that he says he's forced to decide what cases receive autopsies. Fallico says not every death necessitates an autopsy,

except homicides and cases of mysterious deaths.

But Anchorage police say something could be missed if all cases aren't examined thoroughly.

"Sometimes it's criminal. Sometimes it's accidental. There's a lot of different ways that that could happen," says Lt. Kris Miller, the homicide unit commander for the Anchorage Police Department. "Obviously, we're going to be concerned with the criminal, but we need the assistance of the medical examiner's office frequently in determining whether it was truly criminal."



Phil Walczak/KTUU-TV

But Fallico says if he performed autopsies on every case, he wouldn't be able to keep up with the workload.

"There would be multiple bodies in this institution and we could not get the bodies out the door fast enough to the proper relatives and so forth," he says. "That could be a problem."



Channel 2 News

The relationship between police and the medical examiner's office demands it be a close one. Lt. Miller says taking the necessary precautions to determine any cause of death is important, but she also understands the financial burden both institutions are experiencing.

"It's difficult to get all of the work done that we would like to necessarily like to have done when there's such a shortage of personnel to do it," Miller says.

Therein lies the problem -- money, or lack of it, to properly staff the medical examiner's office. Fallico says there has not been a serious problem with bodies stacking up -- yet.

"His comment that it hasn't come to that yet is the best that we have to go with, that up until this point we've been able to deal with the situations as they arise," Miller says.

The state has approved funding for an assistant medical examiner and Fallico says he's looking at a couple of qualified candidates. But until one is hired, Fallico is on his own. He is a single medical examiner with no shortage of cases that need an examination.



Phil Walczak/KTUU-TV

## SENATE COMMITTEE REPORT

DATE: 4/14/05

FURTHER: Finance

DATE TURNED  
IN TO OFFICE: 4.27.05

Health, Education and Social Services Committee considered

HOUSE BILL NO. 225

### HB 225 MEDICAL EXAMINERS & AUTOPSIES

"An Act relating to medical examiners and medical death examinations."

and recommends:

- [x] be replaced with S CS HB 225 (HES)
- [ ] adopt previous \_\_\_\_\_ CS \_\_\_\_\_ (\_\_\_\_\_)
- [ ] attached amendment(s)
- [ ] adopt Letter of Intent by \_\_\_\_\_ Committee
- [ ] further referral to \_\_\_\_\_ Committee

**CS Senate Bill:**

- [x] Same Title  
[ ] New Title

**SCS House Bill:**

- [ ] Same Title  
[ ] Technical Title Change  
[ ] New Title w/ SCR # \_\_\_\_\_

**NEW FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#

**PREVIOUS FISCAL NOTE(S):**

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	3/29			x	1

[ ] APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>			✓	
<i>Gary Wilken</i>			✓	
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

**HB**

**258**

**Possible witnesses to testify/answer questions CSHB258 (JUD)  
for Senate Health, Education & Social Services Committee  
(list as of April 20, 2006)**

**From Fairbanks:**

Brenda Stanfill, Executive Director of the Interior Alaska Center for Non-Violent Living, 452-2293 (work) or 456-4662 (home)  
Email: [brendakay@rocketmail.com](mailto:brendakay@rocketmail.com)

**From Anchorage:**

John Cyr, Business Manager of the Public Safety Employees Association  
337-1979 (office), Email: [jcyr@psea.net](mailto:jcyr@psea.net)

**At the hearing:**

Robert A. Bassett, Jr., Certified HIV/AIDS counselor and family therapist  
957-1897 (cell), 789-0336 (home)  
Email: [naasshak@aol.com](mailto:naasshak@aol.com)

Barbara Mason, Executive Director of the Alaska Council on Domestic Violence and Sexual Assault, 465-5504 (work), 957-2037 (cell)  
Email: [Barbara\\_mason@dps.state.ak.us](mailto:Barbara_mason@dps.state.ak.us)

Peggy Brown, Executive Director of the Alaska Network on Domestic Violence and Sexual Assault, 586-3650 (work)  
Email: [pbrown.andvsa@alaska.com](mailto:pbrown.andvsa@alaska.com)

Susan Parkes, Deputy Attorney General  
Alaska Department of Law criminal division, 269-6379 or 465-2133  
Email: [susan\\_parkes@law.state.ak.us](mailto:susan_parkes@law.state.ak.us)

Portia Parker, Deputy Commissioner  
Alaska Department of Corrections, 269-7397 or 465-4338  
Email: [portia\\_parker@correct.state.ak.us](mailto:portia_parker@correct.state.ak.us)

# Alaska State Legislature

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**Member**  
Labor and Commerce Committee  
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Economic Development, Trade & Tourism  
Committee  
Education Committee  
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**Finance Subcommittees**  
Labor & Workforce Development  
Community & Economic Development  
Military & Veterans' Affairs



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

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Phone: (907) 269-0205  
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April 20, 2006

To: Sen. Fred Dyson, Chairman  
Senate Health, Education & Social Services Committee

Fr: Representative Bob Lynn 

Re: CSHB 258(JUD)

"An Act relating to aggravating factors at sentencing for sexual assault and sexual abuse."

---

Please schedule CSHB 258(JUD) to be heard in the Senate Health, Education & Social Services Committee at your earliest convenience.

Attached is a copy of all versions of the legislation, the sponsor statement and sectional analysis for the latest versions of the bill, a brief explanation of changes from the original version, and backup documentation.

Thank you.

# Alaska State Legislature

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Military & Veterans' Affairs Committee

## Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism  
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Joint Armed Services Committee

## Finance Subcommittees

Labor & Workforce Development

Community & Economic Development

Military & Veterans' Affairs



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## **Sectional Analysis for CSHB 258(JUD): Sexual Assault by Person with HIV/AIDS**

Released: April 12, 2006

Michael Sica, staff for Rep. Bob Lynn

- Section 1.** Adds a new paragraph to AS 12.55.155 (c) making it an aggravating factor for felonies specified in AS 11.41.410-11.41.455 committed by a defendant previously diagnosed as having or having tested positive for HIV or AIDS, and the offense either involves penetration, or exposes the victim to a risk or a fear of transmission of the virus or the disease.
- Section 2.** Adds a new section to the uncodified law of the State of Alaska establishing that this Act applies on or after the effective date of this Act.

# Alaska State Legislature

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Military & Veterans' Affairs Committee

## Member

Labor and Commerce Committee

State Affairs Committee

Economic Development, Trade & Tourism  
Committee

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Joint Armed Services Committee

## Finance Subcommittees

Labor & Workforce Development

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Military & Veterans' Affairs



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## **A brief explanation of the changes from the original HB 343 to the current version CSHB 258 (JUD):**

On March 24, 2006, the House Health, Education and Social Services amended HB 258 to change the aggravator number from (31) to **(33)** on page 1, line 4.

On April 10, 2006, the House Judiciary Committee amended Section 1 from:

(33) the offense was a felony specified in AS 11.41.410 – 11.41.455 and the defendant had been previously diagnosed as having or having tested positive for HIV or AIDS; in this paragraph, "HIV" and "AIDS" have meanings given in AS 18.15.310.

to:

(33) the offense was a felony specified in AS 11.41.410 – 11.41.455, the defendant had been previously diagnosed as having or having tested positive for HIV or AIDS, **and either A) involved penetration, or B) exposed the victim to a risk or a fear that the offense could result in the transmission of HIV or AIDS;** in this paragraph, "HIV" and "AIDS" have meanings given in AS 18.15.310.

Also on April 10, 2006, the House Judiciary Committee amended the title for CSHB 258(JUD) from "An Act relating to aggravating factors at sentencing." to "An Act relating to aggravating factors at sentencing **for sexual assault and sexual abuse.**"

**HB258 Legislative Research Services  
Report and Other Background Material**

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## HIV-Specific Criminal Transmission Laws

Every state and territory has generic criminal statutes that could apply to conduct that exposed others to HIV. This section presents the results of research to document the existence of more HIV specific statutes. Twenty-seven states and selected possessions have some type of law that specifically criminalizes the exposure or transmission of HIV in their jurisdictions.

### HIV-Specific Exposure/Transmission Laws, US and Selected Possessions, 2000



### HIV-Specific Exposure or Transmission Laws

24 states have adopted statutes that criminalize exposure or transmission of HIV generally or specifically by at least some form of specific behavior such as spitting, donating blood, or sexual intercourse.

- [Arkansas \(AR\)](#)
- [California \(CA\)](#)
- [Florida \(FL\)](#)
- [Georgia \(GA\)](#)
- [Idaho \(ID\)](#)
- [Illinois \(IL\)](#)
- [Indiana \(IN\)](#)
- [Iowa \(IA\)](#)
- [Kentucky \(KY\)](#)
- [Louisiana \(LA\)](#)
- [Maryland \(MD\)](#)
- [Michigan \(MI\)](#)
- [Missouri \(MO\)](#)
- [Nevada \(NV\)](#)
- [New Jersey \(NJ\)](#)
- [North Dakota \(ND\)](#)
- [Ohio \(OH\)](#)

- [Oklahoma \(OK\)](#)
- [Pennsylvania \(PA\)](#)
- [South Carolina \(SC\)](#)
- [South Dakota \(SD\)](#)
- [Tennessee \(TN\)](#)
- [Virginia \(VA\)](#)
- [Washington \(WA\)](#)

## Other HIV-Specific Crimes or Sentence Enhancements

15 states have passed statutes that deal specifically with acts that are already crimes, including prostitution, rape or assaulting a peace officer, but are punished separately or more severely when the perpetrator knows he or she has HIV.

- [California \(CA\)](#)
- [Colorado \(CO\)](#)
- [Florida \(FL\)](#)
- [Georgia \(GA\)](#)
- [Indiana \(IN\)](#)
- [Kentucky \(KY\)](#)
- [Louisiana \(LA\)](#)
- [Nevada \(NV\)](#)
- [Ohio \(OH\)](#)
- [Oklahoma \(OK\)](#)
- [Pennsylvania \(PA\)](#)
- [South Carolina \(SC\)](#)
- [Tennessee \(TN\)](#)
- [Utah \(UT\)](#)
- [Wisconsin \(WI\)](#)

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## Alaska (AK)



### HIV-Specific Criminal Laws

Alaska has no HIV-specific laws that criminalize HIV exposure or relate to other HIV-specific crimes and/or sentence enhancements.

### STD/Communicable Disease Criminal Laws

Alaska has no public health laws that criminalize exposure to communicable or sexually transmitted diseases.

### Sodomy Statutes

Since the beginning of the AIDS epidemic, Alaska has had no laws that criminalize sodomy. In general, sodomy laws criminalize oral or anal sex, between consenting adults even in the privacy of their homes. As recently as the early 1960s, all 50 states had some sort of criminal law that outlawed consensual sodomy.

### Web Sites of Interest

- [Alaska Court System](#)
- [Alaska Legislature](#)
- [Alaska Section of Epidemiology](#)
- [Alaska Statutes](#)
- [Department of Health and Social Services](#)
- [Division of Public Health](#)
- [State of Alaska](#)

**Suggested Citation:**

HIV Criminal Law and Policy Project (2002) "HIV Criminal Law and Public Health Profile for Alaska." Retrieved February 09, 2006, from <http://www.hivcriminallaw.org/state/profile.cfm?id=2>

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## HIV/AIDS Legislation

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### Overview

In recent years, most states have enacted laws concerning the testing of criminal offenders and their victims for infection and transmission of the *human immunodeficiency virus* (HIV). HIV causes *acquired immune deficiency syndrome*, (AIDS). Such laws were passed in response to the recognized possibility of the transmission of

HIV/AIDS during sexual assault or abuse, as well as other crimes where an exchange of bodily fluids takes place. They were also the result of a new understanding of the added trauma a sexual assault victim endures when faced with the possibility of having contracted a terminal disease. In a study conducted by the National Center for Victims of Crime and the National Crime Victims Research and Treatment Center, 40 percent (40%) of sexual assault victims indicated that the fear of contracting HIV/AIDS was a major concern. <sup>(1)</sup>

In general, crime victim-related HIV laws require the testing of alleged and convicted sex offenders for HIV/AIDS, and the disclosure of the results of the offenders' tests to the victims. By 1997, 45 states and the District of Columbia had adopted laws requiring HIV/AIDS testing of sexual offenders, if certain conditions are met, in cases involving sexual penetration or other exposure to an offender's bodily fluids. Some of those apply to pre-conviction testing, others to post-conviction testing, and some states have laws that apply both pre-conviction and post-conviction.

Thirty-six states have laws that apply to convicted adult offenders or adjudicated juvenile offenders in sexual assault cases:

- Alabama;
- Arkansas;
- Arizona;
- California;
- Connecticut;
- District of Columbia;
- Florida;
- Georgia;
- Illinois;
- Indiana;
- Iowa;
- Kansas;
- Kentucky;
- Louisiana;
- Maine;
- Maryland;
- Michigan;
- Minnesota;
- Mississippi;
- Missouri;
- Montana;
- Nebraska;
- New Hampshire;
- New Jersey;
- New Mexico;
- New York;
- Oregon;
- Pennsylvania;
- Rhode Island (mandatory for persons sentenced to prison);

- South Carolina;
- Utah;
- Virginia;
- Washington;
- West Virginia;
- Wisconsin; and
- Wyoming.

Eighteen of the states require testing of those arrested or indicted for an offense:

- Alaska;
- Arizona;
- Colorado;
- Delaware;
- Florida;
- Idaho;
- Kansas;
- Louisiana;
- Michigan;
- Nevada;
- New Jersey;
- North Carolina;
- North Dakota;
- Ohio;
- Oklahoma;
- Tennessee;
- Virginia; and
- Wisconsin.

Some states require testing both upon arrest and upon conviction, or make testing at one point discretionary and the other mandatory. South Dakota and Texas do not require testing at any stage, but give courts discretion to order testing at the pre-conviction stage.

In most states, the victim must request that the offender be tested. In some states the victim petitions the court directly; in others, the prosecutor files a petition at the request of the victim. Most of the laws mandating the testing of offenders before conviction require a finding of probable cause that the defendant committed the offense, and that the circumstances of the offense resulted in significant exposure of the victim to the semen or other bodily fluids of the offender, placing the victim at risk of transmission of HIV/AIDS.

Even where a state does not have a law specifically relating to the testing of sex offenders, it may have a law that permits any person to seek a court order for disclosure of another person's *confidential* HIV/AIDS information. The individual seeking the information must be able to demonstrate a compelling need for access to the information.

In nearly every state that allows disclosure of the test results to the victim, where the victim is a minor the information is disclosed to the parents or guardian. Often, in cases where the victim is incompetent, the law specifies that the results shall be disclosed to the victim's guardian. The law may permit the victim to disclose the matter to his or her spouse or sexual partner, or to his or her physician or counselor. Alaska states that the information shall be confidential, but may be used by the victim in any subsequent civil action. <sup>(2)</sup> Mississippi requires that the victim and the victim's spouse be notified of the test results. <sup>(3)</sup>

Laws may provide for counseling of the victim, but these vary. For instance, in California and Iowa, victims are to be counseled regarding the transmission of HIV/AIDS and the nature and reliability of the test prior to requesting a hearing on testing or prior to requesting the test results. Such a requirement lessens the possibility that a victim will have unrealistic expectations about the nature of the test results. States may require that test results only be disclosed to a victim by a trained health professional or counselor. In other states, a victim is to be notified of the results of the test by a criminal justice official, and then may be referred to counseling on request. Counseling generally also includes referral to health care and support services, as appropriate.

Many of the laws specify the agency that is required to pay for HIV/AIDS testing and counseling, which may include HIV/AIDS testing of the victim. This is often the public health department, but may be the state victim compensation board, or another governmental branch. In several states, the defendant, upon conviction, may be required to reimburse the state for the costs of testing and counseling.

A 1990 Federal law provides that a state will lose a portion of its grant funds if it does not have a law that requires testing of convicted adult or juvenile sex offenders at the request of the victim, as well as counseling and testing of victims. <sup>(4)</sup>

At the Federal level, a victim may petition the court for an order requiring pre-conviction HIV testing of a defendant. The law includes provisions for follow-up testing and for confidentiality of the test results <sup>(5)</sup>.

It should be emphasized that victims who believe there may have been a transfer of bodily fluids to them by the perpetrator of the crime -- whether by sexual assault or another crime -- should not wait for the offender to be tested, and should not rely solely upon any test of the offender. Instead, victims should be tested themselves at the earliest possible time, and periodically thereafter.

For more information on the laws in your state, please contact the rape crisis center in your area, your local law enforcement or prosecutor's office, your state legislator or Attorney General. You may also want to contact the Centers for Disease Control's **National HIV/AIDS Hotline** and/or the CDC **National AIDS Clearinghouse** for more information, assistance, and referrals. Additional information can also be found in the **INFOLINK** bulletins entitled, *Sexual Assault and HIV/AIDS and Victim Services*.

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Simotas, Lisa. (1991). "In Search of a Balance: AIDS, Rape, and the Special Needs Doctrine." *New York University Law Review*, 66: 1881- 1928.

**For additional information, please contact:**

**Centers for Disease Control  
National HIV/AIDS Hotline  
American Social Health Association**  
P.O. Box 13827  
Research Triangle Park, NC 27709

(800) 342 - AIDS  
(800) 344 - SIDA (Spanish)  
(800) 243 - 7889 (TDD)

Provides information 24 hours a day, 7 days a week, about HIV/AIDS and will send free, written information. Makes referrals to any organization/agency that provides information, including legal services, counseling and therapies.

**National AIDS Clearinghouse  
Centers for Disease Control**  
P.O. Box 6003  
Rockville, MD 20849  
(800) 458 - 5231  
(800) 243 - 7012 (TDD)

Distributes a variety of educational materials to the public. Provides expert referrals.

**National Native American  
AIDS Prevention Center**  
2100 Lakeshore, Suite A  
Oakland, CA 94606

(800) 283 - AIDS  
(Hours: 8:30am - 1pm; 2pm - 5pm, PST)

**National Association of People with AIDS (NAPWA)**  
1413 K Street, NW  
Washington, DC 20005

(202) 898 - 0414  
(202) 789 - 2222 (FAX AIDS information facts on demand)

**NAPWA** is a nonprofit organization that provides information services, educational resources, national advocacy, and technical assistance for community-based organizations.

### End Notes

1. National Center for Victims of Crime and National Crime Victim Research and Treatment Center. (1992). *Rape in America: A Report to the Nation*. Arlington, VA.
2. Alaska Code § 18.15.310.
3. Mississippi Code § 99-19-203.
4. 42 U.S.C. § 3756(f).
5. 42 U.S.C. § 14011.

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Washington, D C. 20036  
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Lambda Legal HIV Project 9/9/2002

**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Alabama	Ala. Code § 22-11A-21	Class C Misdemeanor	Any person afflicted with an STD who knowingly transmits, assumes the risk of transmitting, or does any act which will probably or likely transmit such disease to another person is guilty of a class C misdemeanor.
Alaska	N/A		
Arizona	N/A		
Arkansas	Ark. Code Ann. § 5-14-123	Class A Felony	It is a class A felony for a person who knows that he or she has tested positive for HIV to expose another to HIV (1) through the transfer of blood or blood products or (2) by engaging in sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, <i>however slight</i> , of any part of a person's body or of any object into the genital or anal openings of another person's body, without first having informed the other person of the presence of HIV. The emission of semen is not a required element of the crime.
	Ark. Code Ann. § 20-15-903	Class A Misdemeanor	A person who is HIV positive must, prior to receiving any health care services of a physician or dentist, advise such physician or dentist that the person has HIV. Failure to do so is a class A misdemeanor.
California	Health and Safety Code § 120291	Felony	Any person who exposes another to HIV by engaging in unprotected sexual activity (anal or vaginal intercourse without a condom) when the infected person knows at the time of the unprotected sex that he or she is infected with HIV, has not disclosed his or her HIV-positive status, and acts with the specific intent to infect the other person with HIV, is guilty of a felony. A person's knowledge of his or her HIV-positive status, without additional evidence, is not sufficient to prove specific intent.
	Health and Safety Code § 1621.5	Felony	It is a felony for any person who knows that he or she has HIV or AIDS to donate blood, body organs or other tissue, semen, or breast milk to any medical center, breast milk bank or semen bank. Exempted: autologous donations.
	Penal Code § 12022.85	Sentence enhancement	Any person who commits a sexual offense with the knowledge that he or she is infected with HIV at the time of commission shall receive a three-year enhancement for each violation in addition to the sentence provided for the sexual offense itself. Sexual offenses included under this provision are rape, unlawful intercourse with a person under 18 years of age, and rape of a spouse. Sodomy and oral copulation are also included, but under California law these are punishable as sexual offenses only in narrow circumstances, such as when they are accompanied by intoxication, violence, the threat of violence, or when they involve a minor.

## State Criminal Statutes on HIV Transmission

State	Statute	Type of Crima	Summary
Colorado	Colo. Rev. Stat. § 18-3-415.5	Sentence Enhancement	If it is proven beyond a reasonable doubt that a person had notice of his or her HIV infection prior to the date that he or she committed a sexual offense, the judge shall sentence said person to a mandatory term of incarceration of at least three times the upper limit of the presumptive range for the level of offense committed, up to the remainder of the person's life. <i>See also</i> Colo Rev. Stat. § 16-13-804.
	Colo. Rev. Stat. § 18-7-205.7	Class 6 Felony	Any person with knowledge of being infected with HIV who patronizes a prostitute is guilty of a class 6 felony. Patronizing a prostitute means engaging in an act of sexual intercourse or of deviate sexual conduct with a prostitute. This law does not apply to spouses. <i>See</i> Colo. Rev. Stat. § 18-7-205.
	Colo. Rev. Stat. § 18-7-201.7	Class 5 Felony	Any person who, in exchange for money or any other thing of value, performs or offers or agrees to perform any act of sexual intercourse, oral sex, masturbation or anal intercourse and does so having tested positive for HIV, is guilty of a class 5 felony.
Connecticut	N/A		
Delaware	Del. Code Ann. tit. 16 § 2801	Class E Felony	For the purposes of (1) artificial insemination or (2) cornea, bone, organ or tissue transplantation, transfusion or injection, no person may knowingly, recklessly or intentionally use the semen, corneas, bones, organs or other human tissue of a donor who has tested positive for exposure to HIV or any other identified causative agent of AIDS.
District of Columbia	N/A		
Florida	Fla. Stat. Ann. § 384.24	N/A	It is unlawful for any person who has HIV (or other STDs listed in the statute) , knowing of such infection and having been informed that he or she may communicate the disease to others through sexual intercourse, to have sexual intercourse with any other person, unless such other person has been informed of the presence of HIV (or the STD) and has consented to the sexual intercourse.
	Fla. Stat. Ann. § 381.0041	Third Degree Felony	Any person who has HIV, who knows he or she is infected and who has been informed that he or she may communicate the disease by donating blood, organs or human tissues who donates blood, organs or human tissue is guilty of a felony of the third degree.
	Fla. Stat. Ann. § 381.0041	First Degree Misdemeanor	Any person (i.e. health care worker) who fails to test the blood, plasma, organs, skin or other human tissue which is to be transfused or transplanted is guilty of a misdemeanor in the first degree.

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Florida (contd.)	Fla. Stat. Ann. § 796.08	Third Degree Felony	A person who commits prostitution, offers to commit prostitution or, by engaging in sexual activity likely to transmit HIV, procures another for prostitution, and who tested positive for HIV before the crime and knew or had been informed of the test result and of the possibility of transmission to others through sexual activity commits criminal transmission of HIV.
	Fla. Stat. Ann. § 775.0877	Third Degree Felony	A person who pleads guilty or nolo contendere to or is convicted of one of the crimes listed in subsection (1) of this statute, who subsequently tests positive for HIV and is informed of that test result, and who then commits one of the crimes listed in subsection (1) <i>again</i> is guilty of criminal transmission of HIV, a felony of the third degree. This is punishable by any penalty provided by law for the subsection (1) offense committed; the court may also require an offender to serve a term of criminal quarantine community control. The offenses listed in subsection (1) include assault, battery, incest, child abuse, abuse of the elderly, sexual performance by minors, prostitution, and donation of contaminated blood.
Georgia	Ga. Code Ann. § 16-5-60	Felony	Any person who knows that he or she is HIV infected is guilty of a felony if he or she, without disclosing his or her HIV status, (1) has sexual intercourse, including oral sex, with another person (2) knowingly shares a hypodermic needle or syringe with another person, (3) offers or consents to perform an act of sexual intercourse for money, (4) solicits another to perform or submit to an act of sodomy for money, or (5) donates blood or body tissue.
	Ga. Code Ann. § 44-5-151	Misdemeanor	Health care providers and others who work with donated human blood, body parts and tissues that may carry HIV are required to test the donor or the donated bodily materials for HIV, and, if the test is positive, to dispose of the materials or make them available for medical research, but not make them available for use in the body of another human being. Violation of this requirement is a misdemeanor.
Hawaii	N/A		
Idaho	Idaho Code § 39-608	Felony	Any person who exposes another in any manner with the intent to infect or, knowing that he or she has HIV or AIDS, transfers or attempts to transfer any of his or her body fluid, tissue or organs to another person is guilty of a felony and shall be punished by imprisonment in the state prison for a period not to exceed 15 years, by a fine not in excess of \$5000, or both. It is an affirmative defense that the sexual activity took place between consenting adults after full disclosure by the accused of the risk of HIV transmission. It is also an affirmative defense that the transfer of body fluid, tissue or organs occurred after advice from a licensed physician that the accused was noninfectious.

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Illinois	720 Ill. Comp. Stat § 5/12-16.2	Class 2 Felony	A person commits criminal transmission of HIV when he or she, knowing that he or she is infected with HIV (1) engages in contact with another person involving the exposure of the body of one person to a bodily fluid of another in a manner that could result in HIV transmission (2) transfers, donates or provides his or her blood, tissue, semen, organs or other potentially infectious body fluids for administration to another person, or (3) in any way transfers to another any nonsterile IV or intramuscular drug paraphernalia. The actual transmission of HIV is not a required element of this crime. It is an affirmative defense that the person exposed knew that the infected person was infected with HIV, knew that the action could result in infection, and consented with that knowledge.
	20 Ill. Comp. Stat § 2310 / § 2310-325	Class A Misdemeanor	In performing the technique of human artificial insemination, no person shall intentionally, knowingly, recklessly, or negligently use the semen of a donor who has not been tested for HIV or who has tested positive for HIV or any other identified causative agent of AIDS.
	20 Ill. Comp. Stat. § 2310 / 2310-330	Class 4 Felony	No person may intentionally, knowingly, recklessly, or negligently use the semen, corneas, bones, organs or other human tissue of a donor unless these bodily materials have been tested for HIV. No person may intentionally, knowingly, recklessly, or negligently use any of these bodily materials if the donor has tested positive for HIV or other identified causative agents of AIDS. Violation of these prohibitions is a class 4 felony. There is an exception to the testing requirement when an attending physician deems that the life of a recipient of the human material would be jeopardized by delays caused by the HIV testing. ?Human tissue? does not include whole blood or its component parts.
Indiana	Ind. Code § 35-42-1-7	Class C Felony, Class A Felony	A person who recklessly, knowingly, or intentionally donates, sells or transfers blood, a blood component, or semen for artificial insemination that contains HIV commits ?transferring contaminated body fluids.? a class C felony. However, the offense is a class A felony if it results in the transmission of HIV to any person other than the defendant. These provisions do not apply to a person who, for reasons of privacy, donates blood to a blood center after the person has notified the blood center that the blood must be disposed of. Nor do the provisions apply to those that transfer HIV positive body fluids for research purposes.

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Indiana (contd.)	Ind. Code § 35-42-6	Class D Felony, Class C Felony, Class A Felony	A person who knowingly or intentionally in a rude, insolent, or angry manner places (or coerces another to place) blood or another body fluid or waste on a law enforcement or corrections officer identified as such and at that moment on duty commits battery by body waste, a class D Felony. The offense is a class C felony if the person knew or recklessly failed to know that the blood, fluid or body waste was infected with HIV. The offense is a class A felony if the person knew or recklessly failed to know that the blood, fluid or body waste was infected with HIV and the offense results in the transmission of HIV.
	Ind. Code § 35-42-2-6	Class A Misdemeanor, Class D Felony, Class B Felony	A person who knowingly or intentionally in a rude, an insolent, or an angry manner places human blood, semen, urine or fecal waste on another person commits battery by body waste, a class A misdemeanor. The offense is a class D felony if the person knew recklessly failed to know that the blood, fluid or waste was infected with HIV. It is a class B felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV and the offense results in the transmission of HIV.
	Ind. Code § 35-45-16-2	Class B Misdemeanor, Class D Felony, Class B Felony	A person who recklessly, knowingly, or intentionally places human blood, semen, urine or fecal waste in a location with the intent that another person will involuntarily touch it commits malicious mischief, a class B misdemeanor. The offense is a class D felony if the person knew or recklessly failed to know that the blood, urine, mor waste was infected with HIV. It is a class B felony if the person knew or recklessly failed to know that the waste was infected with HIV and the offense results in the transmission of HIV to the other person.
	Ind. Code § 35-45-16-2	Class A Misdemeanor, Class D Felony, Class B Felony	A person who recklessly, knowingly, or intentionally places human blood, fluid, or fecal waste in a location with the intent that another person will ingest it commits malicious mischief with food, a class A misdemeanor. The offense is a class D felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV. The offense is a class B felony if the person knew or recklessly failed to know that the blood, fluid or waste was infected with HIV and the offense results in the transmission of HIV to the other person.
	Ind. Code Ann § 16-41-12-13	Class A Misdemeanor	A blood center shall perform a screening test on a donor's blood and obtain the results before the blood is distributed for use. An employee who is responsible for conducting the screening test who knowingly or intentionally fails to do so commits a class A misdemeanor.

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Iowa	Iowa Code § 709C.1	Class B Felony	A person commits criminal transmission of HIV if the person, knowing of his or her HIV positive status, engages in intimate contact with another person, provides blood or bodily fluids for administration to another person, or in any way transfers to another person any nonsterile intravenous or intramuscular drug paraphernalia previously used by the person infected with HIV. ?Intimate contact? means the intentional exposure of the body of one person to a bodily fluid of another person in a manner that could result in the transmission of HIV. Actual transmission of HIV is not a necessary element of this crime. It is an affirmative defense that the person exposed to HIV knew of the other person?s HIV positive status, knew that the action of exposure could result in transmission of HIV, and consented to the action of exposure with that knowledge.
Kansas	Kans. Stat. Ann. § 65-6005	Class C Misdemeanor	Any person violating, refusing or neglecting to obey any provision of the rules and regulations adopted by the Secretary of Health for the prevention and control of AIDS shall be guilty of a class C misdemeanor.
Kentucky	Ky. Rev. Stat. Ann § 311.990	Class D Felony	Any person infected with HIV, knowing that he is infected and having been informed that he may communicate the infection by donating human organs, skin or tissues, who donates organs, skin or other human tissue is guilty of a class D felony.
	Ky. Rev. Stat. Ann. § 311.990	Class A Misdemeanor	Any person who fails to test organs, skin or other human tissue which is to be transplanted is guilty of a class A misdemeanor.
	Ky. Rev. Stat. Ann § 529.090	Class D Felony	Any person who commits, offers, agrees to commit or procures another to commit prostitution by engaging in sexual activity in a manner likely to transmit HIV and who, prior to the commission of the crime, had tested positive for HIV and knew or had been informed that he had tested positive and that he could possibly communicate the disease to another through sexual activity is guilty of a class D felony.
Louisiana	La. Rev. Stat. Ann. § 14:43.5	Not specified	No person shall intentionally expose another to any AIDS virus through sexual contact or through any other means or contact without the knowing and lawful consent of the victim. Those who commit this crime shall be fined not more than \$5000, imprisoned with or without hard labor for not more than 10 years, or both. If the victim is a police officer, the fine will be not more than \$6000 and the imprisonment not more than 11 years.
	La. Rev. Stat. Ann. § 40:1062.1	Not specified	A health facility, agency, or physician which violates the provisions on testing donated semen for HIV shall be fined not more than \$2000 and shall be liable for damages in a civil action.

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**State Criminal Statutes on HIV Transmission**

State	Statute	Type of Crime	Summary
Maine	N/A		
Maryland	Md. Code Ann., Health General § 18-601.1	Misdemeanor	A person with HIV who knowingly transfers or attempts to transfer the virus to another individual is guilty of a misdemeanor, punishable by a fine not exceeding \$2,500 or imprisonment not exceeding 3 years, or both.
Massachusetts	N/A		
Michigan	Mich. Comp. Laws Ann. § 14 15 (5210)	Felony	A person who knows that he or she has or has been diagnosed as having AIDS or who knows that he or she is HIV positive, and who engages in sexual penetration with another person without informing that person of his HIV positive status or AIDS condition, is guilty of a felony. ?Sexual penetration? means sexual intercourse, cunnilingus, fellatio, anal intercourse, or any other intrusion, however slight, of any part of a person?s body or of any object into the genital or anal openings of another person?s body. It is irrelevant for purposes of this offense whether semen has been emitted.
Minnesota	N/A		
Mississippi	Miss. Code Ann. § 41-23-29	Misdemeanor	The state board of health has to the power to isolate, quarantine or otherwise confine a person afflicted with an infectious STD. The board may create rules and regulations relevant to this power. Violation of those rules and regulations will be deemed a misdemeanor and is punishable by fine or imprisonment or both.
	Miss. Code Ann. § 41-23-29	Misdemeanor	Any person suspected of being afflicted with an infectious STD may be subject to physical examination and inspection by any representative of the state board of health. Failure or refusal to allow such inspection or examination is a misdemeanor.
Missouri	Mo. Rev. Stat. § 191.677 (2002)	Class B Felony, Class A Felony	It is unlawful for a person knowingly infected with HIV to be (or attempt to be) a donor of blood, blood products, organs, sperm or tissue, except as deemed necessary for medical research. It is also unlawful for a person knowingly infected with HIV to act in a reckless manner by exposing another person to HIV without the knowledge and consent of that person, in any of the following three manners: (1) through contact with blood, semen or vaginal secretions during oral, anal or vaginal sex, (2) by sharing needles, or (3) by biting another person or purposely doing anything else which causes the HIV infected person?s semen, vaginal secretions, or blood to come into contact with the mucous membranes or nonintact skin of another person. The use of a condom is not a defense. A violation of these provisions is a class B felony, unless the victim contracts HIV from the contact, in which case it is a class A felony.