

ALBERT LEON BASTIEN COMPTON, 2009-2000

11868 SENATE JUDICIARY

Sec. 51. Amends CINA Court Rule 3(c), Presence of Foster Parent, to include grandparents as being entitled to be heard at any hearings.

Sec. 52. Repeals CINA Rule 3(f), General Public Excluded, and reenacts the rule to open hearings to the public and establishes a process for the court to close a hearing.

Sec. 53. Direct court rule amendment for permanency plan efforts in Section 12.

Sec. 54. Direct rule change for voluntary relinquishment in CINA statutes.

Sec. 55. Rule change for use of a child's name and picture for implementing a permanency plan after termination of parental rights.

Sec. 56. Rule change for voluntary relinquishment with other parental privileges.

Sec. 57. Rule change for withdrawal of consent or relinquishment of a non-Indian child.

Sec. 58. Rule change for retaining other parental rights in voluntary relinquishment in adoption and CINA statutes.

Sec. 59. Various indirect rule change provisions.

Sec. 60. Indirect rule changes for disclosure of confidential information.

Sec. 61. Applicability.

Sec. 62. Transition language to implement changes through regulation.

Sec. 63. Revisor's instructions.

Sec. 64. Conditional Effect.

Sec. 65-66. Effective dates.

Court Rules Changes Due to Legislation

ALASKA STATE HOUSE OF REPRESENTATIVES

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REPRESENTATIVE JOHN COGHILL

FOR IMMEDIATE RELEASE: May 4, 2005

CONTACT: Representative John Coghill (907) 465-3719

House Passes Legislation to Protect Alaska's Families

(JUNEAU) – The Alaska House of Representatives has passed legislation to protect Alaska's families. House Bill 53, an omnibus bill compiling pieces of legislation related to family rights, passed the House unanimously.

Sponsored by Representative John Coghill (R-North Pole), HB 53 is co-sponsored by two other Fairbanks legislators, Representatives Mike Kelly (R-Fairbanks) and Jay Ramras (R-Fairbanks), as well as, two Anchorage legislators, Representatives Lesil McGuire (R-Anchorage) and Norman Rokeberg (R-Anchorage). The bill also includes voluntary relinquishment provisions and opening court proceedings proposed by Governor Murkowski.

Representative McGuire praised this legislation as it passed the House floor. "This bill leaves one of the strongest legacies of this legislature by putting the families, their rights and responsibilities first and striking the appropriate balance between protecting Alaska's children, respecting the rule of law and affording families the opportunity for continued relationships wherever possible," she said.

HB 53 would make the child-in-need-of-aid process transparent by making confidential information currently unavailable accessible to certain people and making court proceedings open to the public. The legislation would also strengthen the rights of grandparents in Alaska, especially if they have been instrumental in the raising of a child or children. This bill would give grandparents, relatives or family friends consideration for placement of a child if parental rights are terminated.

"Preserving and protecting Alaska's families has always been one of my priorities. I believe that this bill does just that," said Representative Coghill.

HB 53 now moves to the Senate where Senator Fred Dyson (R-Eagle River) will carry the bill. "The House has done excellent work on this bill. I think it was genius to combine 3-4 bills on the subject of protecting children."

HB 53 is scheduled for the Senate Health, Education and Social Services Committee later this week.

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State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
NEWS RELEASE



Joel Gilbertson
Commissioner
907-465-3030
FAX: 907-465-3068
www.hss.state.ak.us

FOR IMMEDIATE RELEASE: April 1, 2005
Contact: Sherry Hill (907) 465-1618

Media advisory:
DHSS, Law and Representatives Coghill and Rokeberg to discuss omnibus child protection legislation with media

DHSS Commissioner Gilbertson, Rep. Coghill, Rep. Rokeberg to discuss HB53 and answer questions

(Juneau, Alaska) – Department of Health and Social Services Commissioner Joel Gilbertson, Representative John Coghill, Representative Rokeberg, and representatives from the Office of Children's Services and the Department of Law will discuss omnibus child protection legislation developed collaboratively. The Committee Substitute for House Bill 53, now called the Family Rights Act, passed out of the House Health, Education and Social Services committee March 31, 2005 and will be referred to the House Judiciary committee next. The omnibus legislation combines the original HB 53 sponsored by Representative Coghill; HB 17, sponsored by Representative Rokeberg, and HB113 and HB114, both sponsored by Governor Murkowski.

HB53 is a child protection omnibus bill. The legislation improves transparency in the child protection system by allowing DHSS and the Office of Children's Services to share more information with the public about department actions surrounding certain child abuse and neglect cases. The legislation will make court proceedings open to the public, and allows the department to provide confidential information to schools and certain public officials.

The legislation gives parents the right to a jury trial in proceedings to terminate their parental rights. The legislation also strengthens the rights of adult family members for placement preference for children removed from parental care, and adoption preference for those who have already been instrumental in raising the child.

WHO: Alaska Health and Social Services Commissioner Joel Gilbertson, House Majority Leader John Coghill, Representative Rokeberg

WHAT: Omnibus child protection legislation: HB53

WHEN: Tuesday, April 5, 2005, from noon to 1 p.m.

WHERE: Governor's Conference Room, Third floor, Alaska State Capitol in Juneau
Videoconference from the Anchorage Governor's Conference Room, Atwood Building, 17th floor

Reporters outside of Juneau can participate by calling the teleconference line at 1-907-315-6338,
XXXX#

-- 30 --

State of Alaska
Department of Health & Social Services

Frank H. Murkowski
Governor
P.O. Box 110001
Juneau, Alaska 99811-0001
FACT SHEET



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Commissioner
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Family Rights Act
House Bill 53 Confidentiality Issues

April 5, 2005

The Committee Substitute for House Bill 53, now called the Family Rights Act, passed out of the House Health, Education and Social Services committee March 31, 2005 and will be heard in the House Judiciary committee next.

The omnibus legislation combines the original HB 53 sponsored by Representative John Coghill; HB 17, sponsored by Representative Norman Rokeberg; and HB 113 and HB 114, both sponsored by Governor Frank H. Murkowski.

HB 53 is an omnibus child protection bill. HB113 focuses on confidentiality in child protection cases, and these sections are important to the Department of Health and Social Services and Governor Murkowski.

The legislation improves transparency in the child protection system by allowing DHSS and the Office of Children's Services to respond to inquiries about department actions surrounding certain child abuse and neglect cases.

This legislation would change two key areas in the confidentiality statutes: Child-In-Need-Of-Aid, or CINA, court hearings would be open to the public except in certain circumstances. Presently, they are closed to the public.

- The Department would be able to publicly respond to inquiries surrounding child abuse and neglect cases, disclosing agency actions in CINA proceedings under three circumstances, if:
 - a parent has discussed their OCS case with the media,
 - an alleged perpetrator has been criminally charged with a crime relating to the abuse or neglect of a child under their care, or
 - a report of harm has resulted in the fatality or near fatality of a child.

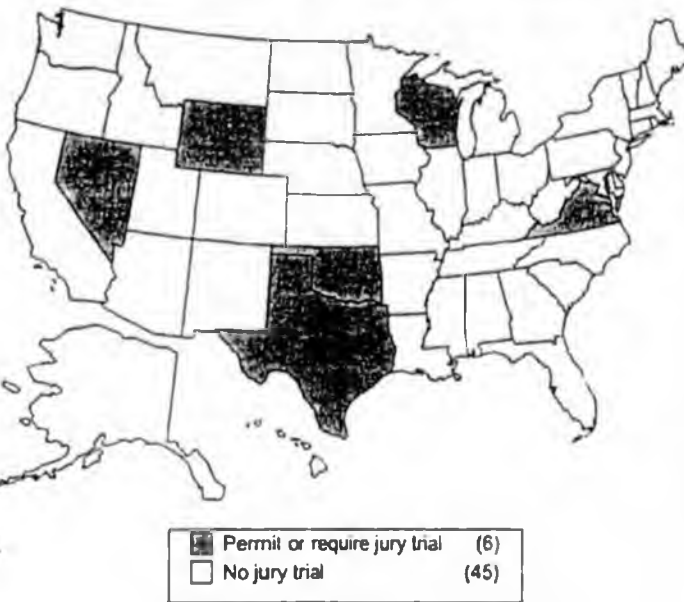
The proposed legislation would protect the child's privacy while providing for some disclosure of OCS actions regarding the case.

Contact: Sherry Hill (907) 465-1618
Jeff Kasper, (907) 465-8194

Jury Trial in Termination of Parental Rights Cases

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Jury Trial in Termination of Parental Rights Cases



As of the end of 2003, the following 6 states (Nevada, Oklahoma, Texas, Virginia, Wisconsin, and Wyoming) have statutes or case law that permit or require a jury trial in termination of parental rights cases. In Virginia, the jury is called an "advisory jury."

The other 45 jurisdictions have case law or statutes or local court rules or common practice that specifically prohibits a jury trial in termination of parental rights cases.

In 2002, legislation was introduced in Utah to give a parent the right to a jury trial in termination of parental rights cases, but this legislation failed to pass.

Currently the state of Arizona is considering having jury trials in termination of parental rights cases.

Oklahoma is the only state that claims a constitutional right to a jury trial in termination of parental rights cases. In 1987, the Oklahoma Supreme Court held that "parental rights are too precious to be terminated without the full panoply of protections afforded by the Oklahoma Constitution."

While the state high court said that it knew that "the best interest and welfare of the child is the primary consideration," it also knew that "this goal is best achieved by full compliance with the law. Insofar as the constitutional right to jury trial exists, it cannot be abrogated arbitrarily by a court."

There are three basic arguments found in case law against such a constitutional right. Two of these arguments make due process claims for a

jury trial in termination of parental rights cases. The third argument is the argument from history.

State courts that have addressed the issue hold that the constitutional right to a jury trial is not implicit in the concept of due process. Rather, the due process requirement in termination of parental rights proceedings is fundamental fairness. These courts have found that implicit in the *McKeiver* holding is the finding that a jury trial is not a fundamental concept of due process.

The second due process argument that the state courts have looked at is that a parent in a termination of parental rights case is entitled to a jury trial because parents have a fundamental constitutional right to raise their children and that right must be safeguarded by allowing a right to a jury trial.

In cases that make this due process argument, the court must balance three sometimes-competing interests. The first right is the fundamental right of the child to have the court and/or the parent acting in the child's best interests. This right of the child often competes with the parent's interests. The second right is the fundamental right of a parent to retain a parental relationship with a child and vice-versa, which is a right that merits strong protection. Finally, the state has a compelling interest as *parens patriae*

in protecting the child's rights.

In a termination of parental rights case, the court must walk a fine line and achieve the proper balance between the best interests of children, while giving full weight to the importance of the parent-child relationship.

State courts that have decided this constitutional issue have found that a jury trial removes a termination of parental rights case from its status as a protective proceeding, while adding little if any efficacy to the fact-finding process.

The final argument that state courts have addressed is the argument from history. The courts' position on this argument is that the constitutional guarantee of a jury trial does not apply to a termination of parental rights case because such proceedings were unknown at common law.

This Snapshot was supported by grant #2002-JN-FX-0001(S-1) from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and do not necessarily represent any official position, policy, or view of the U.S. Department of Justice.

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 Pittsburgh, PA: National Center for Juvenile Justice.

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Jury Trial in Abuse, Neglect, Dependency Cases

Linda A. Szymanski, Esq., Director of Legal Research, NCJJ

Jury Trial in Abuse, Neglect, Dependency Cases



As of the end of 2003, the following 11 states (Colorado, Maine, Massachusetts, Michigan, Montana, Oklahoma, South Dakota, Texas, Virginia, Wisconsin, and Wyoming) have statutes or case law that permit or require a jury trial in abuse, neglect, dependency cases. In Virginia, the jury is called an "advisory jury."

The other 40 jurisdictions have case law or statutes or local court rules or common practice that specifically prohibits a jury trial in abuse, neglect, dependency cases.

However, state legislatures in these remaining 40 jurisdictions continue to discuss and debate the issue of jury trials in abuse, neglect, dependency cases.

For example, on December 18, 2003, the Governor of Arizona approved legislation granting the right to a jury trial, if requested, by the parent, guardian or custodian whose parental rights were to be terminated. Although the Bill had language granting jury trials in abuse or neglect cases, if requested, this language was not included in the Bill that finally passed.

On April 23, 2003, the Hawaii House of Representatives adopted a Concurrent Resolution requesting the State Auditor to consult with national entities with child welfare expertise, and to conduct program audits of the Child Protective Services Division of the Hawaii Department of Human Services, the Department of

the Attorney General, the Family Courts, and the police department of each county on the issue of child abuse and neglect within the state. One of the listed focus points of the audit is a discussion of the pros and cons of the right to a jury trial for parents accused of child abuse, a right currently not available in Hawaii.

Also, in 2003, the state of Illinois introduced a Bill giving a parent the right to demand a trial by jury in any proceeding seeking a finding that a minor is neglected, abused, or dependent. This Bill failed to pass.

Of the states that do have jury trials in abuse, neglect, dependency hearings, in Colorado, any respondent, or the guardian ad litem may demand a jury trial at the adjudicatory hearing of an abuse, neglect, dependency case. In addition, the court, on its own motion may order such a jury trial. The jury consists of 6 people. In Michigan, the right to a jury trial belongs to any person with standing in the case.

In Oklahoma, a parent, the state or a child has the right to demand a jury trial, but only when the petition to determine if a child is deprived also contains a request for termination of parental rights. The demand for a jury trial must be granted unless the parties waive the right to a jury trial. However, the court, on its own motion may order a jury trial. As in Colorado, Michigan and Wisconsin, the jury consists of 6 people.

Under Wyoming law, a party against whom a petition has been filed or the District Attorney may demand a trial by jury at an adjudicatory hearing. Demand for a jury trial must be made to the court not later than 10 days after the party making the demand is advised of his right to a jury trial. Failure of a party to demand a jury trial is a waiver of this right.

State courts that have addressed the issue of a constitutional right to a jury trial in an abuse, neglect, dependency case use the argument from history to state that there is no such right. The courts' position on this argument is that the constitutional guarantee of a jury trial does not apply to an abuse, neglect, dependency case because such proceedings were unknown at common law.

This Snapshot was supported by grant #2002-JN-FX-0001(S-1) from the Office of Juvenile Justice and Delinquency Prevention, U.S. Department of Justice. Points of view or opinions contained within this document are those of the author and do not necessarily represent any official position, policy, or view of the U.S. Department of Justice. Any one may use the content of this publication for educational purposes, we only ask that you identify the material as being the property of NCJJ. If you want to use this publication for commercial purposes or alter its content, you need our permission.

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 Pittsburgh, PA: National Center for Juvenile Justice.

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By: Bonnie Williams
Introduced: 03/24/05
Adopted: 03/24/05

FAIRBANKS NORTH STAR BOROUGH

RESOLUTION NO. 2005 - 13

A RESOLUTION IN SUPPORT OF STATE ACTIONS AND ACCOUNTABILITY INVOLVING CHILDREN

WHEREAS, the Fairbanks North Star Borough Assembly has four times in the past 10 years passed a resolution urging the State of Alaska to fully implement a statute impacting children under the care of the State by appointing and using a Peer Review body in each community; and

WHEREAS, during these past 10 years the quality of care provided to children under the legal care of the State has been revealed to be seriously less than adequate; and

WHEREAS, such poor care has resulted in repeated injuries, and in some tragic instances, death of children purportedly in state care; and

WHEREAS, a thorough review by a federal task force of the State of Alaska's care of children found numerous instances of failure to adequately care for children removed from their natural families by a court order; and

WHEREAS, such tragedy must not be allowed to continue to occur,

NOW THEREFORE BE IT RESOLVED that the Fairbanks North Star Borough, once more, sadly and tiredly but determinedly, asks the Legislature of the State of Alaska to take such actions as are deemed appropriate, purposeful and useful toward the purpose of improving the State's care of children.

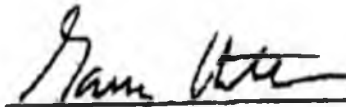
BE IT FURTHER RESOLVED, that the Assembly supports HB 53 "An Act relating to child-in-need-of-aid proceedings...", and urges its passage and implementation.

BE IT FURTHER RESOLVED, that the Assembly encourages the Legislature to reenact AS 47.14.200 Citizen's Foster Care Review Board and that the Governor appoint public members to fulfill the much needed peer review committee.

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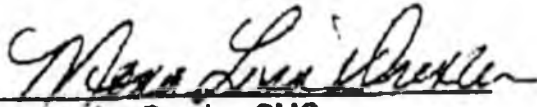
BE IT FURTHER RESOLVED, that copies of this resolution be sent to the Governor of the State of Alaska, and to members of the Interior Delegation of the Alaska State Legislature.

PASSED AND APPROVED THIS 24th DAY OF MARCH 2005.



Garry Hutchison
Presiding Officer

ATTEST:



Mona Lisa Drexler, CMC
Municipal Borough Clerk

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Ayes: Romans, Bartos, Sattley, Rex, Williams, Hopkins, Aldridge, Frank, Hutchison
Noes: None

ALASKA STATE HOUSE OF REPRESENTATIVES



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Session

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State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

March 24, 2005

Martha M. Anderson
Child and Adult Care Program Manager
Municipality of Anchorage
P.O. Box 196650
Anchorage, AK 99519-6650

Dear Ms. Anderson:

Thank you for your recent letter to Chairman Wilson of the House Health & Social Services Committee regarding CSSSHB 53(HSS), the Family Rights Act.

The language you discussed in your letter was folded into my bill from a bill the governor introduced at the beginning of session. I discussed your concerns with several people at OCS and in the Governor's office. They have assured me that the existing language does avail to you confidential information about care providers that you license.

Attached is an email I asked my staff to send to get clarification in writing that you and other licensing entities would be eligible to obtain confidential information about the facilities you license.

If you have further concerns, feel free to contact my office.

Sincerely,

A handwritten signature in cursive script that reads "John Coghill".

Representative John Coghill

Rynniva Moss

From: Gibbens, Joanne [Joanne_Gibbens@health.state.ak.us]
Sent: Wednesday, March 23, 2005 5:26 PM
To: Rynniva Moss
Subject: RE:

Hi Rynniva - the answer to your question is Yes - that provision, which was part of the Governor's confidentiality bill would cover the municipality of anchorage as an entity we would be able to disclose information to - we could not give them the actual report of harm, but we would be allowed to disclose appropriate information to them if we were concerned about the safety of any children in the facilities they licensed - Joanne

-----Original Message-----

From: Rynniva Moss [mailto:Rynniva_Moss@legis.state.ak.us]
Sent: Wednesday, March 23, 2005 4:21 PM
To: Barb Malchick OPA; Barbara Brink; Dianne Olsen; Heather Nobrega; Jan Rutherford; Joanne Gibbens; Joel Gilbertson; Josh Fink; Kathy Hope Erickson; Linda Wilson Public Defender; Michael Lessman; Peter Naoroz; Rep. Berta Gardner; Rep. Bob Lynn; Rep. John Coghill; Rep. Lesil McGuire; Rep. Max Gruenberg; Rep. Mike Kelly; Rep. Nancy Dahlstrom; Rep. Norman Rokeberg; Rep. Paul Seaton; Rep. Peggy Wilson; Rep. Pete Kott; Rep. Sharon Cissna; Rep. Tom Anderson; Rep. Vic Kohring; Representative Gara; Representative Ramras; Sherry Hill; Stacie Kraly; Sue Standliff; Tammy Sandovol; Vanessa Tondoni
Subject:

I have submitted the attached memos to Leg Legal. The bill will be heard next Thursday March 31st, at 3:00 p.m. I will prepare new sectionals and get them to all of you as soon as possible.

We received a letter from the Municipality of Anchorage with concerns that they do not have access to records of ROH's for child care facilities so they don't know when a child facility is posing a danger to children so they can police the licensing of those facilities. Section 23 of Version S provides that a state or municipal agency or employee shall disclose appropriate confidential information regarding a case to

and new subsection (11) reads:

"a caregiver of a child or an entity responsible for ensuring the safety of children as necessary to protect the safety of a child;"

Is that language inclusive of a municipality that licenses child care facilities by referring to "an entity responsible for ensuring the safety of children"?

Thank you everyone for your hard work and cooperation on this bill.

Rynniva

MAR 22 2005



Municipality of Anchorage

P.O. Box 106650 • Anchorage, Alaska 99512-0650 • 425 "L" Street • <http://www.muni.org>



Mayor Mark Begich

Department of Health and Human Services

March 18, 2005

The Honorable Peggy Wilson
 Chair, State House Health, Education and Social Services Committee
 Alaska State House of Representatives
 State Capitol, Room 108
 Juneau, AK 99811
 VIA fax: 465-3175

Dear Representative Wilson:

I write to comment on behalf of the Municipality of Anchorage on the Family Rights Act, CSSSHB (HESS) ("HB 53"). We thank you for the concern for the children of this state which HB 53 articulates. We want to bring to your attention our view that the bill should more clearly give child care licensing entities in Alaska greater access to the records of the Office of Children's Services (OCS) for purposes of licensing and investigating child care facilities. We believe all children of this state will benefit if OCS and child care licensing entities share information.

I. Introduction

The Municipality of Anchorage, Department of Health and Human Services, Child & Adult Care Program (CAC) now has full responsibility for licensing all child care facilities in Anchorage. Its duties include issuing licenses as well as restricting and removing these licenses. As you are aware, many children in Alaska now spend their most formative years in the care of licensed child care providers. Many of these young children are infants who are unable to talk. Therefore, it is the responsibility of CAC and other licensing entities in Alaska to ensure that these young children are safe and well-cared for in child care entities.

II. Background

Before the CAC issues a license, it conducts an investigation which consists of checking criminal backgrounds and fingerprinting applicants, in addition to other investigation.¹ It also asks child care providers to sign releases so that it may check the provider's child protection background.²

When CAC receives complaints about child care facilities, it must investigate those complaints and take licensing action if the complaints have merit. Unfortunately, the CAC's ability to license and investigate child care facilities in Anchorage has been compromised in recent years by the inability of its workers to gain access to OCS files of child care providers. For example,

¹ See, AMC16.55.100.

² See, AMC 16.55.100 D. 15. a. ii.

Community, Security, Prosperity

Family Rights Act, CSSSHB (HESS) ("HB 53")
Page 2

in one instance, after receiving several complaints about a child care facility, CAC initiated proceedings to revoke the facility's license. During the course of preparing the case for hearing, CAC learned that the child care provider at issue had an extensive file at OCS, with serious allegations relating to the health and safety of children which spanned a 10-year period. None of these episodes had been reported to CAC, and line workers at OCS had been afraid to tell CAC of these episodes because of the restriction on disclosure of child protection records.³ In other instances, CAC has been concerned that home-based child care providers had children of their own in the home who had serious behavioral problems and who thus posed a threat to the children in their care.

Therefore, in addition to wanting to protect children in care from adults who may pose a threat to their well being, CAC wants to be able to protect children in care from potential abuse or neglect by other children.⁴ If CAC is allowed greater access to OCS records, it could then make a better determination as to whether some applicants should be awarded a license in the first place. In addition, if CAC receives complaints about a child care facility after it has been licensed, it will have a better means of investigating those complaints.

III. Discussion of HB33

As you know, AS 47.10.093 currently states as follows:

- (a) Except as specified in 47.10.092 and (b) – (g) of this section, all information and social records pertaining to a minor who is subject to this chapter or AS 47.17 prepared by or in the possession of a federal, state, or municipal agency or employee in the discharge of the agency's or employee's official duty are privileged and may not be disclosed directly or indirectly without a court order.

Section 22 of HB 33, adds a new exception to the prohibition on disclosure, which appears to give OCS the authority to provide records to licensing agencies like CAC. It provides as follows:

Sec. 22. AS 47.10.093 (b) is amended to read:

- (b) A state or municipal agency or employee shall disclose appropriate confidential information regarding a case to
 - (11) a caregiver of a child or entity responsible for ensuring the safety of children as necessary to protect the safety of a child

Subsection (11) as drafted appears to relate to agencies like CAC, as CAC is "an entity responsible for ensuring the safety of children." However, to clarify the fact that child care licensing authorities have access to child protection records of providers, we request that you substitute "of children" for "a child" at the end of subsection 11. If this phrase "of children" is

³ Sec, AS 47.10.093.

Family Rights Act, CSSSHB (HSS) ("HB 53")
Page 3

added, the legislation will more clearly indicate the intent that agencies such as CAC have the ability to review child protection records so that it can better protect all children in a child care facility from potentially harmful child care providers and individuals who have contact with children in child care entities.

CAC will agree to keep information it receives from OCS confidential. Indeed, AS 47.10.093 (m) as drafted states that:

- (m) Except for a disclosure made under (k) of this section, a person to whom disclosure is made under this section may not disclose confidential information about the child or the child's family to a person not authorized to receive it.

Moreover, CAC is bound by the confidentiality requirements of its own regulations.⁵

IV. Conclusion

If agencies such as the CAC have greater access to OCS records of providers, they can better serve the young children of this state. CAC's goals are so closely aligned with the goals of OCS that this access should not create a conflict for either agency, as long as both agencies agree to maintain confidentiality. We therefore request that you clarify HB 33 so that child care licensing entities have greater access to State child protection records.

If you have questions or would like to speak with me about this matter further, please call me at (907) 343-4676.

Sincerely,



Martha M. Anderson
Child and Adult Care Program Manager

cc: Senator Fred Dyson
Representative Sharon Cissna
Representative John Coghill Jr., House Majority Leader
Beverly K. Wooley, Director
Mary Pinkel, Assistant Municipal Attorney

⁵ See, AMC 16.55.160.

FISCAL NOTE TOTALS

SCS CSSSHB 53(JUD)

Fiscal Note No.	Dept.	Component		Fiscal Impact	
12	DOA	Public Defender	\$	82,700.00	x
13	DOA	OPA	\$	161,300.00	x
14	Courts	Trial Courts	\$	94,900.00	x
15	OCS	Children's Services Management	\$	142,700.00	x
16	OCS	Front Line Workers	\$	106,200.00	x
17	Law	Civil Human Services	\$	586,400.00	x
		Total Fiscal Impact	\$	1,174,200.00	

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 12
 Bill Version: CSSSHF 53(FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An Act relating to child in need of RDU Legal and Advocacy Services
aid proceedings;... Component Public Defender Agency
 Sponsor Reps. Coghill, Ramras...
 Requester House Finance Component No. 1631

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	54.3	54.3	54.3	54.3	54.3	54.3
Travel	2.4	2.4	2.4	2.4	2.4	2.4
Contractual	18.0	18.0	18.0	18.0	18.0	18.0
Supplies	1.3	1.3	1.3	1.3	1.3	1.3
Equipment	6.7	0.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	82.7	76.7	76.7	76.7	76.7	76.7

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	82.7	76.7	76.7	76.7	76.7	76.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	82.7	76.7	76.7	76.7	76.7	76.7

Estimate of any current year (FY2005) cost: 0.0

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

POSITIONS

Full-time						
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSS HB53(JUD) is an omnibus bill significantly changing the child protective statutes (CINA) and in some instances the adoption and guardianship statutes. The portions of the bill having a fiscal impact on the operations of the Public Defender Agency will be discussed on the following page.

Prepared by: Linda K. Wilson, Deputy Director
 Division: Public Defender Agency
 Approved by: Michael Tibbles, Deputy Commissioner
 Agency: Department of Administration

Phone: (907)-334-4416
 Date/Time: 4/27/05 7:25 AM
 Date: 4/27/2005

FISCAL NOTE #12

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

Fiscal Note Analysis for SS HB 53: (continued)

Various Sections of this bill change statutes and court rules concerning confidentiality in child protective proceedings (CINA). CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. The Agency opens over 900 new child protective proceedings a year. It is anticipated that in a significant number of the Agency's cases the attorney will be repeatedly moving to close hearings. This additional motion practice will also require service on a member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to a half-time attorney position, factoring in support staff. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled.

Other provisions of the bill will have a fiscal impact on the Agency as well, but the extent of the impact cannot be predicted with any accuracy. In various sections of the bill it provides for family members or friends to request and obtain a review hearing of denied visitation, denied temporary placement, or a denied adoption placement request. While these identified people are not considered parties who would be entitled to the appointment of counsel, if indigent, Agency attorneys representing parents in these cases will likely be involved or need to attend these requested review hearings. In addition, the bill provides for additional review hearings in guardianship, termination, and adoption proceedings when a parent voluntarily relinquishes their parental rights but retains privileges, like visitation or contact, and seeks enforcement or modification of the retained privilege, or in some termination instances vacation of the termination order. These additional hearings will result in a fiscal impact to the Agency, but again, the extent cannot be predicted with any accuracy.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 13
 Bill Version: CSSSHB 53 (FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to Child in Need of RDU Legal and Advocacy Services
Aid proceedings, ... Component Office of Public Advocacy
 Sponsor Rep. Coghill
 Requester House Judiciary Component No. 43

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	119.3	119.3	119.3	119.3	119.3	119.3
Travel	1.0	1.0	1.0	1.0	1.0	1.0
Contractual	35.0	35.0	35.0	35.0	35.0	35.0
Supplies	1.0	0.4	0.4	0.4	0.4	0.4
Equipment	5.0	0.5	0.5	0.5	0.5	0.5
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	161.3	156.2	156.2	156.2	156.2	156.2

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	161.3	156.2	156.2	156.2	156.2	156.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	161.3	156.2	156.2	156.2	156.2	156.2

Estimate of any current year (FY2005) cost: 00

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

POSITIONS

Full-time	1	1	1	1	1	1
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This omnibus Child-in-Need-of-Aid (CINA) legislation incorporates a number of changes to the CINA statutes and court rules. Two (2) changes would impact the Office of Public Advocacy, as delineated below.

Sections 8 and 9, as well as portions of numerous other sections, change statutes and court rules governing confidentiality in child protective proceedings (CINA) and some agency documents. CINA hearings will be presumptively open to the public, unless the court orders otherwise, based upon a motion to close it under certain circumstances enumerated in the bill. Approximately 1000 CINA cases are opened annually. OPA provides guardian ad litem representation in all CINA cases for the children (continued on page 2)

Prepared by: Joshua P. Fink, Director Phone (907) 269-3500
 Division Office of Public Advocacy Date/Time 4/27/05 7:21 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 4/27/2005
 Agency Department of Administration

**STATE OF ALASKA
2005 LEGISLATIVE SESSION****BILL NO. CSSSHB 53(FIN)****ANALYSIS CONTINUATION**

(continued from page 1)

and also provides parental representation for the parents where the Public Defender Agency has a conflict. In essence, every CINA case is the equivalent of two cases to OPA if not more (in cases where there are more than two parents). This representation for both children and parents is provided by staff attorneys and GALs, as well as contractors in areas of the state where OPA has no staff or where OPA staff have a conflict. It is anticipated that in a significant portion of OPA's cases the attorney representing either the child or parent will move to close the hearing. Prior to doing this, an investigation must be conducted up front to determine if an open hearing would be detrimental to the child's best interests. In addition, any motion practice regarding hearing closure must be served on any member of the public who has requested notice. It is further anticipated that disputes over interpretation and implementation of this legislation will occur. This increase in workload necessitates an increase in operating costs amounting to one full time attorney (a half-time attorney for child advocacy and a half-time attorney for parental advocacy), factoring in a third of a support staff member. The additional operating costs to address the increased workload are based on attorney and support staff hours in Anchorage, where the bulk of these cases are handled. Finally, contractors will bill additional hours for investigation, motion practice, and motion service regarding hearing closures. Additional contract funds have also been included. The costs for these confidentiality sections would be 161.3 the first year and 156.2 thereafter.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 14
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title: Child in Need of Aid/Review Panels BRU: Alaska Court System
 Component: Trial Courts
 Sponsor: Representative Coghill
 Requester: _____ Component No.: _____

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	83.6	83.6	83.6	83.6	83.6	83.6
Travel	5.3	5.3	5.3	5.3	5.3	5.3
Contractual						
Supplies	6.0	2.8	2.8	2.8	2.8	2.8
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	94.9	91.7	91.7	91.7	91.7	91.7

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	94.9	91.7	91.7	91.7	91.7	91.7
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	94.9	91.7	91.7	91.7	91.7	91.7

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

POSITIONS

Full-time						
Part-time						
Temporary	4	4	4	4	4	4

ANALYSIS: *(Attach a separate page if necessary)*
 CSSSHB 53 (FIN) makes several changes to the statutes that govern Child in Need of Aid (CINA) proceedings. Most of those changes reflect a policy to presumptively open most CINA proceedings, and agency actions and records. Of particular interest to the court system are those sections that relate to court hearings. Under the bill, most CINA hearings will be open to the public unless a party files, and the court grants, a motion to close all or a portion of a hearing. An interested member of the public may notify the court and the parties that he or she would like to be served with any petitions to close. Additionally, if the court is considering closing a hearing out of concern that an open hearing might interfere with a criminal investigation then the court is to notify the criminal justice agency conducting the investigation and provide it with an opportunity to be heard. (Continued on page 2)

Prepared by: Doug Wooliver, Administrative Attorney Phone 907-463-4750
 Division: Alaska Court System Date/Time 4/27/05 9:22 AM
 Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 4/27/2005
 Agency: Alaska Court System

FISCAL NOTE #14

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB (FIN)

ANALYSIS CONTINUATION

Each year the court system receives roughly 1,200 new CINA cases and 200 petitions to terminate parental rights. Both the Public Defender Agency and the Office of Public Advocacy, who represent the parties in these cases, anticipate filing motions to close in a significant percentage of these cases. This fiscal note reflects additional judicial and clerical time associated with ruling on motions to close, closing and then reopening hearings where only a portion of a hearing needs to be closed, notifying law enforcement agencies in those cases where closure is needed to protect a criminal investigation and clerical work associated with data input and scheduling changes. Specifically, this note asks for four months of a part-time court clerk in Anchorage and two months of part-time clerks in both Bethel and Fairbanks and corresponding pro tem time for judges in those same locations.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 15
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO CHILD-IN-NEED-OF AID MATTERS

RDU Children's Services
 Component Children's Services Management

Sponsor COGHILL

Requester HOUSE (FIN)

Component No. 2666

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	71.9	71.9	71.9	71.9	71.9	71.9
Travel						
Contractual	70.8	10.8	10.8	10.8	10.8	10.8
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	142.7	82.7	82.7	82.7	82.7	82.7

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	142.7	82.7	82.7	82.7	82.7	82.7
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	142.7	82.7	82.7	82.7	82.7	82.7

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	1	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CSSSHB 53 is an omnibus bill that incorporates a number of changes to the Child-in-Need-of-Aid (CINA) statutes. Changes that may have fiscal impact on the Department's Office of Children's Services (OCS) budget are summarized below.

Confidentiality

Various amendments and additions in this bill are similar to those included in SB 84 that allow public access to CINA proceedings and confidential information.

con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner
 Division Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency Department of Health and Social Services

Phone 465-3191
 Date/Time 04/20/2005
 Date 04/26/2005

STATE OF ALASKA
2005 LEGISLATIVE SESSION

CSSSHB 53(FIN)

ANALYSIS CONTINUATION
Confidentiality - Analysis Con't

Should either bill become law, the Department anticipates that increase in public concern and requests for information will necessitate an additional position within the OCS to assist in the effort to respond in a timely manner. This position would be an Associate Coordinator, Range 18, under the current Program Coordinator for Community Relations at a cost of \$71.9 per fiscal year for salary and benefits with 15% service costs for a total of \$82.7 in general funds.

Sec. 46. Notification of Status of Investigations

Section 46 requires that when a person makes a report of harm and requests notification of the status of the investigation, OCS provide the status without disclosing confidential information. Because the OCS case management system (ORCA) does not now capture all addresses and does not report on the required data, system changes at a one-time cost of approximately \$60.0 would be required. These reports are not federally mandated and therefore not eligible for federal match.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 16
 Bill Version: CSSSHB 53(FIN)
 (H) Publish Date: 4/29/05
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction): Rev 4/27/05 12:15p

Title: RELATING TO CHILD-IN-NEED-OF AID MATTERS
 RDU: Children's Services
 Component: Front Line Social Workers

Sponsor: COGHILL
 Requester: HOUSE (FIN) Component No. 2305

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	33.7	33.7	33.7	33.7	33.7	33.7
Travel	28.0	28.0	28.0	28.0	28.0	28.0
Contractual	2.0	2.0	2.0	2.0	2.0	2.0
Supplies	0.6	0.6	0.6	0.6	0.6	0.6
Equipment	41.9					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	106.2	64.3	64.3	64.3	64.3	64.3

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	106.2	64.3	64.3	64.3	64.3	64.3
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	106.2	64.3	64.3	64.3	64.3	64.3

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	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

CS HB 53 is an omnibus bill that incorporates a number of changes to the Child-in-Need-of-Aid (CINA) statutes. Changes that may have fiscal impact on the Office of Children's Services (OCS) budget are summarized below:

Section 13 provides that if a parent or family member of a child in state custody is denied visitation, the department will inform the parent or family member as to the reason for the denial and their right

Con't on page 2

Prepared by: Tammy Sandoval, Acting Deputy Commissioner
 Division: Office of Children's Services
 Approved by: Joel S. Gilbertson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-3191
 Date/Time 04/26/2005
 Date 04/27/2005

FISCAL NOTE

FN # 16

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Bill No. CSSH B 53(FIN)

ANALYSIS CONTINUATION

to request a review hearing. The OCS believes there would be an increase in staff time required for hearing preparation and court time, but no data upon which to estimate the fiscal impact is available. Visitation denials are not tracked.

Section 38 provides that the department shall serve as staff to the Citizen Review Panel. The estimated cost to provide this support is:

.5 FTE staff support for CRP (Range 16)	\$33.7
Travel for 10 CRP members for 4 meetings	
Fairbanks	\$ 8.0
Anchorage x2	\$10.0
Juneau	\$10.0
Teleconferences (4)	\$ 2.0
Supplies (brochures, flyers, paper)	\$.6

Total	\$64.3

Section 49 provides that an interview of a child conducted as a result of a report of harm may be audiotaped or videotaped. When an interview concerns a report of sexual abuse by a parent or caretaker, the interview shall be videotaped unless it is not feasible to do so or unless the interview further harms the child. OCS estimates a need for video taping and viewing equipment in each of its 30 offices as follows:

	# needed	Pkg	Cost per	Ext
Camcorders w/ case, tripod, batteries & charger	30		815	24.6
Audio recorders w/ additional memory	30		269	8.1
Discs	3,500	150	75	.2
DVD players and monitors	30		300	9.0
Total				41.9

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 17
 Bill Version: CSS#HB 53(FIN)
 (H) Publish Date: 4/29/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title: "An Act relating to child-in-need-of-aid RDU: CIVIL
proceedings." Component: Human Services
 Sponsor: Representative Coghill
 Requester: House Finance Component No. _____

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	484.0	484.0	484.0	484.0	484.0	484.0
Travel	1.2	1.2	1.2	1.2	1.2	1.2
Contractual	57.0	57.0	57.0	57.0	57.0	57.0
Supplies	7.5	7.5	7.5	7.5	7.5	7.5
Equipment	36.7	36.7	36.7	36.7	36.7	36.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	586.4	586.4	586.4	586.4	586.4	586.4

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	586.4	586.4	586.4	586.4	586.4	586.4
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	586.4	586.4	586.4	586.4	586.4	586.4

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	4	4	4	4	4	4
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.10 (Children in Need of Aid). Passage of this legislation will impact the Department of Law in two ways.

1. It changes statutes that apply to confidentiality of child in need of aid matters. Longstanding policies, practices and procedures of every agency and branch of government involved in child welfare protection will be altered. As a result it is anticipated that disputes will arise over the interpretation and implementation of this legislation. The additional operating costs to resolve such disputes are estimated based on 400 additional attorney hours per year at a cost of \$49,696. Half of an attorney position is also requested in conjunction with the funding to allow the Department to add a part time attorney to handle the increased caseload

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division: Administrative Services Division Date/Time 4/27/05 12:16 PM
 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 4/27/2005
 Agency: Department of Law

FISCAL NOTE #17

STATE OF ALASKA
2005 LEGISLATIVE SESSION

BILL NO. CSSSHB 53(FIN)

ANALYSIS CONTINUATION

2. It allows a parent, family member, or guardian who is denied visitation rights the right to request a review hearing thereby increasing the number of hearings attorneys must prepare for and attend. It includes a relative preference for adoption but adds three reasons why adoption may be denied to the relative. These sections will give rise to a number of contests and good cause findings. Taken together, these sections will cause an increase in the caseload that will add another 2 days of work to each CINA attorney's schedule and 1 day of work for each paralegal. This is a conservative estimate based on the assumption that some issues will be worked out early on in the placement process. That will cost \$536,759 which will fund 2.5 additional attorneys, 1 paralegal, and 1 law office assistant.

These costs are based on the Department of Law FY 2006 timekeeping and billing rate of \$107.99 per hour for attorneys and \$81.07 per hour for paraprofessionals. This rate includes overhead costs for leased space, office supplies, and 1 support staff (included in the position count and impact above) and \$6,500 per new position for one time costs for office furnishings and computer equipment.

Sectional for SCS CSSSHB 53(HSS)

Section 1. Amends Title 13, Article 2 "Guardians of Minors" to add as a qualification for the court to appoint a guardian if an adult family member applies for guardianship, unless the court finds that appointment would not be in the best interest of the child.

Sec. 2. This section adds language to Tile 13.26 (Guardians of Minors) bridging guardianship placement with voluntary relinquishment language in adoption (Sec. 5) and CINA (Sec. 20) sections of Version C.

Sec. 3. Gives preference to an adult family member who has cared for a child for twelve consecutive months or more to adopt the child(ren) unless the court finds there is good cause not to grant the adoption.

Sec. 4. Adds a new section to CINA law that allows for voluntary relinquishment of parental rights while retaining privileges for future contact, communication, and visitation with a child. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order-"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request an hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

HB 17 Rokeberg Placement with Relatives

SB 83 Governor Voluntary Relinquishment
Indirect Rule Change
Rules 14 and 15, Rules of Probate Procedure

HB 53 Coghill Relative Preference for Adoption

SB 83 Governor Voluntary Relinquishment

Direct Rule Change:
Rule 9(a) Alaska Adoption Rules Sec. 54
Rule 13(a) Alaska Adoption Rules Sec. 56

Indirect Rule Change:
Rules 9 and 14, Alaska Adoption Rules

Finally it provides that a prospective adoptive parent may, after a termination order is entered, before the entry of an adoption or legal guardianship decree, and after notification of the biological parent if required, request that the court decline incorporation of a retained privilege in the adoption decree.

Sec. 5. Amends the allowable absence for the permanent fund dividend allowing the Commissioner of Revenue to waive the requirement for a resident to be present in the State at least 72 hours in the two prior years if that person was in the custody of the State under a CINA or juvenile justice order and was outside of the state for medical or behavioral treatment.

Sec. 6. Intent language for the Family Rights Act.

Sec. 7. This section allows the court to, on its own motion, appoint a competent person or agency to make a preliminary inquiry. Currently a party has to petition the court for an inquiry. It also clarifies that when a court appoints an inquirer or if OCS is conducting an investigation, the court may issue orders necessary to aid the person, agency, or department in their investigation.

Sec. 8. Clarifies that OCS does not have to get prior permission from the court to start a CINA investigation or file a petition for custody.

Sec. 9. Opens CINA hearings to the public and allows the court to exclude individuals from hearings if it is in the best interest of the child. The court can also limit the presence of an attendee to the time that person is giving testimony.

Sec. 10. Applies sideboards to the opening of CINA court proceedings to give guidelines to the court as to when the proceeding must be closed to the public, when evidence is made in camera, and when a person's presence must be limited.

If an open hearing could stigmatize or emotionally harm the child, inhibit a child's testimony, interfere with a criminal investigation, or disclose information protected as confidential by state or federal law, the hearing can be closed.

SB 83 Governor Protection of Child's Dividend

HB 53 Coghill Parent's Participation in the Upbringing of the Child

SB 83 Governor Improving the Process

SB 83 Governor Improving the Process

SB 84 Governor Open the Process

Direct Rule Change

Rule 3 Alaska CINA Rules of Procedure Sec. 50

SB 84 Governor Open the Process

Direct Rule Change

Rule 3(f) Alaska CINA Rules of Procedure Sec. 50

Grandparents, foster parents, or other out-of-home care providers may attend hearings otherwise closed to the public but may be limited in their participation at the hearing.

Section 10 also sets restrictions on persons attending hearings, which the court will specify to attendants at the beginning of the hearing. An amendment in House Finance would permit the court to bar a violator or the court restrictions from all future hearings regardless of who the parties are.

Finally, this section clarifies that the right of an adult family member to attend hearings under AS 10.070(a) does not affect their right to intervene in a proceeding under CINA nor the rights of an adult family member under Title 47.

Sec. 11. Legal has added some cleanup language to this section, including replacing the word "relative" with "adult family member".

Sec. 12. Provides that the court shall make one additional finding in the permanency plan, that being that the department has made reasonable efforts to finalize the permanent plan. It is needed to satisfy federal requirements for foster care reimbursement.

Sec. 13. This section instructs OCS that the legislature wants everything done possible to assure visitation by parents and families with children in custody. If OCS denies visitations they must notify the parents or family members of the reason for denying visitation and inform them of their right to request a review hearing on the denial. New language by Department of Law clarifies that a non-party adult family member would not qualify for publicly appointed legal counsel.

Sec. 14. Amends AS 47.10.80 (Judgments and Orders) to add three provisions:

(i) The court may not terminate parental rights solely on the basis the parent did not get required treatment if the treatment was not available and OCS did not provide the treatment.

(ii) Requires foster parents to provide regular

Indirect Rule Change

Rule 3 Alaska CINA Rules of Procedure Sec. 50

LAA Legal Language Cleanup

Request of Department of Law to comply with federal law.

Direct Rule Change

Rule 3(c) Alaska CINA Rule of Procedure Sec. 49

Rule 17.2(f) Alaska CINA Rules Sec. 51

HB 17 Rokeberg Family Visitation

HB 53 Coghill Family Preservation

HB 53 Coghill Family Preservation

with family and to encourage foster parents to serve as mentors for facilitating family reunification.

It opens adjudication hearings to the public unless an exception in Section 12 applies.

Sec. 15. The section amends the residual rights section of Title 47.10 to include language that defines "major medical treatment" to include "medication used to treat a diagnosed mental health disorder".

Sec. 16. Provides that before OCS can approve placement of a child for adoption, the department must attempt to locate all living adult family members. The department must provide written notice to all located family members of their right to adopt and those reasons by which the department can deny adoption. Adult family members who have had parental rights terminated or are ineligible for foster care licensing do not have to be notified.

Sec. 17. Section 20 adds a new section to CINA statutes to provide for relinquishment of parental rights. The relinquishment must be in writing and signed by the parent. A copy of the relinquishment is given to the parent and the parent has 10 days to withdraw from the relinquishment.

It provides that parents can retain some privileges for future contact, communication, and visitation. A relinquishment cannot be withdrawn and termination cannot be vacated on the grounds that a retained privilege has been withheld or relinquishing parent has been unable to act upon privileges.

A voluntary relinquishment can be withdrawn under Rule 60(b) of Alaska Rules of Civil Procedure Relief from Judgment or Order--"Mistakes-Inadvertance-Excusable Neglect-Newly Discovered Evidence-Fraud"

It also provides that after termination and before entry of adoption a person who voluntarily relinquishes parental rights may request a hearing and show good cause to enforce or modify a privilege retained in the termination order or to vacate the termination order and reinstate parental rights. Such a parent would be entitled to a public attorney.

SB 84 Governor Open the Process

HB 53 Governor Family Preservation

HB 17 Rokeberg Placement with Relatives

SB 83 Governor Voluntary Relinquishment

Direct Rule Change:

Rule 9(g) Alaska Adoption Rules Sec. 55

Rule 13(a) Alaska Adoption Rules Sec. 56

Rule 18(d)(1) Alaska CINA Rules Sec. 52

Indirect Rule Change:

Rules 9 and 14, Alaska Adoption Rules

Rule 18 Alaska CINA Rules

Sec. 18. Language clean up to statute providing for files of a child in custody being sealed when the child is 18.

Sec. 19. Allows the use of a child's name for the purposes of implementing a permanency plan and allows aggregate information to be released for statistical or other informational purposes as long as the identity of the child is not revealed.

Sec. 20. Allows adult family members to disclose to or request confidential information be provided to certain state officials such as the governor, the lieutenant governor, legislators, the ombudsman, the attorney general, and certain commissioners. TO obtain additional privileged information from Department of Health & Social Services or OPA or the public defender, a Disclosure of Information Release Form must be completed by a parent. Also attorney-client privileged would be protected.

Sec. 21. This section now provides that as long as the child is in state custody, disclosure to certain officials will stay in effect, unless a parent or legal guardian says it is not longer needed.

Additionally, in this section, the department will now be required to notify a state official or employee of the opportunity to file a grievance.

Sec. 22. Provides that unless information and records are available through the changes in law in HB 53, information and records of government agencies are confidential and cannot be disclosed without a court order.

Sec. 23. Language clean up to replace "foster parents" with "a foster parent" and "relatives" to "out-of-home care provider". Also disclosure of confidential agency records is expanded to include a caregiver, an entity responsible for ensuring the safety of children, and the citizen's review panel. The department is adding language to subsection (12) to extend the authority to establish a review panel to the governor and the legislature. The House Finance added guardians ad litem back into this category and clarified that caregivers include parents or guardians.

SB 84 Governor Improving the Process

SB 84 Governor Improving the Process
Direct Rule Change
Rule 22(c) Alaska CINA Rules of Procedure
Sec. 53
Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

SB 83 Rokeberg Family Preservation

HB 53 Coghill Improving the Process

SB 84 Governor

SB 84 Governor Improving the Process
Indirect Rule Change
Rule 22 Alaska CINA Rules of Procedure

Sec. 24. Language cleanup by legislative legal where four former subsections were repealed in 1996 and only one provision remained, which is disclosing to a person charged with making a preliminary investigation.

Sec. 25. Clarifies that information made available to party with interest is confidential information. The regulatory language is deleted because it has been added to Section 30.

Sec. 26. The section directs OCS to work with law enforcement agencies in assisting schools, both public and private, in developing procedures for disclosure of confidential information to schools in an expedited timeline as possible.

Sec. 27. The purposes for which confidential agency records can be disclosed to the public have been expanded to include public officials, but additionally, when the parents have made information public concerning the department's involvement with the family, when the perpetrator has been charged with a crime, and when a report of harm has resulted in a death or near fatality of the child. The agencies allowed to disclose confidential information have been expanded to include not only Health and Social Services, but also the Department of Administration.

The department may withhold disclosure of child's name, picture or other information that would readily identify the child if it determines it is in the best interest of the child or other children in the household. The department can also withhold information if it would interfere with a criminal investigation or proceeding or a criminal defendant's right to a fair trial.

This section acknowledges that the person receiving confidential information has a fiduciary responsibility to keep the information confidential.

Gives Department of Health & Social Services and Department of Administration authority to promulgate regulations.

LAA Legal

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Language cleanup

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

SB 84 Governor Improving the Process

Indirect Rule Change

Rule 22 Alaska CINA Rules of Procedure

Sec. 28. New language to this section establishes in statute a grievance process but leaves the ability to set policies and procedures to the regulatory process.

Sec. 29. Provides that failure to comply with a provision of this title [AS 47] does not constitute a basis for civil liability for damages and does nothing to change the Alaska Supreme Court's opinion that OCS has a duty to children in state custody.

Sec. 30. Defines "mental health professional" in CINA statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

Sec. 31. Defines "adult family members", "family members", and "near fatality" in CINA statutes. House Finance amended the definition of "adult family member" to include a sibling's parent or legal guardian.

Sec. 32. Defines "mental health professional" in Delinquent minor statutes to include a person who is licensed in another state and caring for a child placed in the state by OCS for treatment.

Sec. 33. Provides priorities for placement of a child when removed from the parent's home. Placement must be the least restrictive and in close proximity to parents to allow for reunification planning. Preferences for placement would be an adult family member, a family friend, a licensed foster home, or lastly, an institution with a program suitable for the child.

Sec. 34. Provides that when a child is placed in a home other than a home of a relative, the department must fully disclose to the relative the nature of the placement.

Sec. 35. Expands the requirement of OCS fully communicating information about placement of the child elsewhere to not only the parents, but also to adult family members.

HB 53	Coghill	Improving the Process
HB 53	Coghill	Accountability
SB 83	Governor	Improving the Process
SB 83	& LAA	Legal
SB 83	Governor	Improving the Process
HB 53	Coghill	Family Preservation
HB 17	Rokeberg	Improving the Process
HB 17	Rokeberg	Improving the Process

Sec. 36. Provides that criminal background checks are required for both temporary placements and adoptive placements including finger print background check on anyone residing at the home who is 16 or older.

Sec. 37. Established that poverty is not a Prima facie evidence (a fact presumed to be true unless disproved by evidence to the contrary) to deny placement and if a person is denied placement they are to be informed of the reason and told that they have a right to a hearing but not to legal counsel. o

Sec. 38. Creates a State Citizens Review Panel consisting of volunteers who are broadly representative of the state.

Sec. 39. Duties of the panel are to examine policies, procedures, and practices of state and local agencies in making or investigating a ROH; evaluate specific cases; and report annually to the governor all of their activities.

Sec. 40. Directs Department of Health & Social Services to cooperate with and provide records to the state panel to facilitate timely review of plans for children under the jurisdiction of the panel. The department shall serve as staff to the panel.

Sec. 41. Instructs the members of the panel, panel staff, and attendees of panel meetings not disclose to ANYONE records or other information containing personally identifying or other information made confidential under state or federal law about a child or witnesses involved in a case under review by the panel. It also clarifies that the panel would be covered by the Open Meetings Act and would have the ability to call executive sessions.

Sec. 42. Directs the panel to conduct public outreach and gather information on the department's current procedures and practices.

Department of Law amendment

Department of Law amendment

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Sec. 43. Directs the department to prepare an annual report and provide it to the governor. It also requires the department to submit a written response to the report to the governor within six months of the date the report is submitted to the governor.

Sec. 44 Imposes a civil penalty for violating the confidentiality clauses for up to \$2,500 per violation.

Sec. 45. Creates immunity for state panel members and persons provided support to the panel.

Sec. 46. Defines "adult family member", "state panel" as the Citizen Review Panel and "near fatality" in Title 47.14, Juvenile Programs and Institutions by reference to AS 47.10.990.

Sec. 47. Requires OCS to notify a person who has made a ROH with a status report within 20 days.

Sec. 48. Amends duties of school officials to direct schools to conduct interviews of children as provided for with trained interviewers and being videotaped or audiotaped.

Sec. 49. Creates standards for interviewing CINA children requiring audio or videotaping and requiring interviewers to be trained and competent to conduct the interview. It also limits interviews to one unless it is determined that an additional interview is necessary. The House Finance Committee discussed "may" versus "shall" for videotaping. They agreed to be permissive for many Reports of Harm, but if the report of harm is that involved a report of sexual abuse, the interview "shall" be videotaped, unless the interview is not feasible or will result in trauma to the child.

Since HB 53 encourages OCS to utilize child advocacy centers, the House Finance Committee added a subsection to this section that created a definition for child advocacy centers.

Sec. 50. Amends Title 47.18, "Foster Care Transition Program" to provide for a transition plan for children who have reached the age of sixteen but have not reached the age of 23. Formerly the age limit was 21.

HB 53 Coghill Improving the Process

HB 53 Coghill Due Process

HB 53 Coghill Improving the process

HB 53 Coghill Improving the process

HB 17 Rokeberg Improving the process

HB 53 Coghill Due Process

HB 53 Coghill Due Process

Department of Law

Court Rules Changes Due to Legislation

Sec. 51. Amends CINA Court Rule 3(c), Presence of Foster Parent, to include grandparents as being entitled to be heard at any hearings.

Sec. 52. Repeals CINA Rule 3(f), General Public Excluded, and reenacts the rule to open hearings to the public and establishes a process for the court to close a hearing.

Sec. 53. Direct court rule amendment for permanency plan efforts in Section 12.

Sec. 54. Direct rule change for voluntary relinquishment in CINA statutes.

Sec. 55. Rule change for use of a child's name and picture for implementing a permanency plan after termination of parental rights.

Sec. 56. Rule change for voluntary relinquishment with other parental privileges.

Sec. 57. Rule change for withdrawal of consent or relinquishment of a non-Indian child.

Sec. 58. Rule change for retaining other parental rights in voluntary relinquishment in adoption and CINA statutes.

Sec. 59. Various indirect rule change provisions.

Sec. 60. Indirect rule changes for disclosure of confidential information.

Sec. 61. Applicability.

Sec. 62. Transition language to implement changes through regulation.

Sec. 63. Revisor's instructions.

Sec. 64. Conditional Effect.

Sec. 65-66. Effective dates.

HB

54

SENATE COMMITTEE REPORT

DATE: 4/20/05

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 54(FIN)

HB 54 BAIL REVIEW

"An Act relating to bail review; relating to petitions for review by crime victims where the defendant has received a sentence below the sentencing range for the crime; relating to the qualifications of certain members of the Violent Crimes Compensation Board; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures, and Rule 21, Alaska Delinquency Rules; 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:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	New Title
SCS House Bill:	
<input type="checkbox"/>	Same Title
<input type="checkbox"/>	Technical Title Change
<input type="checkbox"/>	New Title w/ SCR # _____



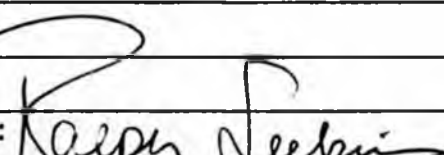
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

AFPROPRIATION - no fiscal note

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



REPRESENTATIVE RALPH SAMUELS

HOUSE DISTRICT 29

CS HB 54 (FIN)

"An Act relating to bail review; relating to petitions for review by crime victims where the defendant has received a sentence below the sentencing range for the crime; relating to the qualifications of certain members of the Violent Crimes Compensation Board; relating to the introduction of the victim and the defendant or minor to the jury; amending Rule 27, Alaska Rules of Criminal Procedures, and Rule 21, Alaska Delinquency Rules; and providing for an effective date."

Current Alaska law says that a person charged with an unclassified crime or a class A felony may make an application to the court to review the bail conditions and argue for reductions for the amount of bail every 24 hours without limitation. This poses logistical problems for all parties involved, given the short amount of time to prepare for each new bail hearing.

HB 54 establishes three requirements designed to alleviate calendaring strain on the court system and the district attorney's office while also protecting crime victims' rights and reducing same day notice of hearings. First, in order to calendar a subsequent bail hearing, the accused must submit in writing, that there exists new information for the court's consideration that was not considered at prior bail hearings. Second, the district attorney is given 48 hours notice in which to notify the victim of the hearing. Finally, hearings may not be set everyday; rather there will be a 48-hour period between calendared bail hearings. These provisions balance the rights of the accused with the rights of crime victims and accommodate for the schedules of both the district attorney's office and the court system.

HB 54 also outlines by statute that a victim may be introduced to a jury during the opening statement at a trial or during the jury selection process. This is to ensure that the courts recognize the right of the prosecution to introduce the victim at the appropriate time. The bill, if passed, would cause indirect court rule changes to Rule 27, Criminal Procedure and Rule 21, Delinquency Rules.

The bill also allows a crime victim to petition for review a defendant's sentence that falls below the sentencing range set for a specific crime.

Finally, the bill cleans up language in the Violent Crimes Compensation Board statute to allow a retired attorney or physician to serve on the board. Current statute prohibits this.

Email: Representative_Ralph_Samuels@legis.state.ak.us

Session: Alaska State Capitol, Juneau, Alaska 99801-1182 • Phone: (907) 465-2095 Fax: (907) 465-3810
Interim: 716 W. 4th Ave., Anchorage, Alaska 99501-2133 • Phone: (907) 269-0240 Fax: (907) 269-0242

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 54(JUD)
 (H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Corrections
 Title "An act relating to bail review." RDU Institutional Facilities
 Component Institution Director's Office
 Sponsor Representatives Samuels, Stoltze, Hawker
 Requester Judiciary, Finance Component No. 524

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
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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	0	0	0	0	0	0
Part-time	0	0	0	0	0	0
Temporary	0	0	0	0	0	0

ANALYSIS: (Attach a separate page if necessary)

The Department of Corrections does not anticipate a significant fiscal impact with the passage of this legislation.

Prepared by: Sharleen Griffin, Acting Director Phone 465-4641
 Division Administrative Services Date/Time 3/26/05 9:49 AM
 Approved by: Portia C.K. Parker, Deputy Commissioner Date 3/26/2005
 Agency Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 54(JUD)
(H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
Title Bail Review BRU Alaska Court System
Component Trial Courts
Sponsor Representatives Samuels and Stoltz
Requester _____ Component No. 768

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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)

The court system does not anticipate any fiscal impact from the passage of HB 54.

Prepared by: Douglas Wooliver, Administrative Attorney Phone 463-4750
Division: Alaska Court System Date/Time 3/24/05 9:08 AM
Approved by: Doug Wooliver for Stephanie Cole, Administrative Director Date 3/24/2005
Agency: Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 54(JUD)
 (H) Publish Date: 4/5/05

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to bail review." RDU CRIMINAL
 Component Criminal Justice Litigation
 Sponsor Representative Samuels and Stoltz
 Requester House Judiciary Component No. _____

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

Estimate of any current year (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 adds a new subsection under AS 12.30.020 (Code of Criminal Procedures - Bail - Release before trial.) relating to review of bail conditions. The proposal would adopt requirements regarding the notice and timing before a subsequent bail hearing could be scheduled. It also requires the person in custody to provide a written statement that information not considered in the previous review will be presented, including a description of the new information.

Passage of this legislation will have no fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhettee, Director Phone 465-3673
 Division Administrative Services Division Date/Time 3/29/05 4:16 PM
 Approved by: K. Daughhettee for Scott Nordstrand, Acting Attorney General Date 3/29/2005
 Agency Department of Law

HB

81

SENATE COMMITTEE REPORT

DATE: 4/20/05

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 81(L&C)

HB 81 CONTRACTOR LICENSE ENFORCEMENT

"An Act establishing an administrative fine and procedure for construction contractors in certain circumstances; increasing the amount of a civil penalty for persons acting in the capacity of contractors or home inspectors; modifying the elements of a crime involving contractor registration and residential contractors; modifying the exemptions from regulation under AS 08.18 for contractors; and exempting the administrative hearings for imposing an administrative fine on construction contractors from the hearings conducted by the office of administrative hearings in the Department of Administration."

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#

APPROPRIATION - no fiscal note

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

AMENDMENT

OFFERED IN THE SENATE

TO: SCS CSHB 81(L&C)

1 Page 4, line 16, following "labor":

2 Delete "and materials and all other items is less than \$5,000"

3 Insert "[AND MATERIALS AND ALL OTHER ITEMS] is less than \$7,500
4 [\$5,000]"

5

6 Page 4, line 18:

7 Delete "work"

8 Insert "labor [WORK]"

9

10 Page 4, line 19:

11 Delete "\$5,000"

12 Insert "\$7,500 [\$5,000]"

SENATE CS FOR CS FOR HOUSE BILL NO. 81(L&C)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE SENATE LABOR AND COMMERCE COMMITTEE

Offered: 4/20/05
Referred: Judiciary

Sponsor(s): REPRESENTATIVES ANDERSON, Crawford

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing an administrative fine and procedure for construction contractors
2 in certain circumstances; increasing the amount of a civil penalty for persons acting in
3 the capacity of contractors or home inspectors; modifying the elements of a crime
4 involving contractor registration and residential contractors; modifying the exemptions
5 from regulation under AS 08.18 for contractors; and exempting the administrative
6 hearings for imposing an administrative fine on construction contractors from the
7 hearings conducted by the office of administrative hearings in the Department of
8 Administration."

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

10 * Section 1. AS 08.18.117 is amended to read:

11 Sec. 08.18.117. Issuance of citations. Except as provided in AS 08.18.125,
12 either [EITHER] the Department of Commerce, Community, and Economic

1 Development or the Department of Labor and Workforce Development may issue a
 2 citation for a violation if there is probable cause to believe a person has violated this
 3 chapter with respect to contractor activities. The Department of Commerce,
 4 Community, and Economic Development may issue a citation for a violation if there is
 5 probable cause to believe a person has violated this chapter with respect to home
 6 inspection activities. Each day a violation continues after a citation for the violation
 7 has been issued constitutes a separate violation.

8 * **Sec. 2.** AS 08.18 is amended by adding a new section to read:

9 **Sec. 08.18.125. Administrative fine and procedure.** (a) Notwithstanding
 10 any other remedy available under this chapter and except as provided in (c) of this
 11 section, the department may impose an administrative fine of not more than \$1,000 for
 12 the first violation and not more than \$1,500 for a second or subsequent violation of
 13 either AS 08.18.011 or 08.18.025.

14 (b) The department shall issue a written notice of an administrative fine
 15 imposed under (a) of this section, together with a statement of the reason for the fine, a
 16 copy of the applicable procedures, and notice of an opportunity to request a hearing,
 17 including the contact information for making the request, within 30 days after the date
 18 of the notice of the fine.

19 (c) If a person who is issued a notice of an administrative fine under (b) of this
 20 section fails to request a hearing within 30 days after the date of the notice, the right to
 21 a hearing is waived and the administrative fine is not subject to judicial review. A
 22 hearing request must be in writing and must clearly state the issues to be raised at the
 23 hearing. The department shall schedule a hearing before a hearing officer not earlier
 24 than 10 days after receiving the request for a hearing.

25 (d) A decision of a hearing officer under this section is a final administrative
 26 decision subject to review by a superior court under AS 44.62 (Administrative
 27 Procedure Act).

28 (e) The department may not impose an administrative fine on a person who is
 29 acting as a contractor or home inspector in an area with a population of 1,000 or less
 30 that is not connected by road or rail to Anchorage or Fairbanks.

31 * **Sec. 3.** AS 08.18.131 is amended to read:

1 **Sec. 08.18.131. Injunction; civil penalty.** In an action instituted in the
 2 superior court by the Department of Commerce, Community, and Economic
 3 Development or the Department of Labor and Workforce Development, the court may
 4 enjoin a person from acting in the capacity of a contractor in violation of this chapter.
 5 In an action instituted in the superior court by the Department of Commerce,
 6 Community, and Economic Development, the court may enjoin a person from acting
 7 in the capacity of a home inspector in violation of this chapter. In addition to other
 8 relief, the court may impose a civil penalty of not more than \$1,000 [\$250] for each
 9 violation. Each day that an unlawful act continues constitutes a separate violation.

10 * **Sec. 4.** AS 08.18.141 is repealed and reenacted to read:

11 **Sec. 08.18.141. Violations.** (a) A contractor or a person acting in the
 12 capacity of a contractor is guilty of a class B misdemeanor if the person

13 (1) knowingly violates AS 08.18.011 or 08.18.025; and

14 (2) has been previously

15 (A) convicted of violating AS 08.18.011 or 08.18.025;

16 (B) found guilty of a violation under AS 08.18.117 if the
 17 violation involved AS 08.18.011 or 08.18.025; or

18 (C) fined under AS 08.18.125.

19 (b) A contractor or a person acting in the capacity of a contractor who violates
 20 a provision of this chapter, other than a violation under (a) of this section, is guilty of a
 21 violation punishable under AS 12.

22 (c) Criminal prosecution for a violation of this chapter does not preclude the
 23 Department of Commerce, Community, and Economic Development or the
 24 Department of Labor and Workforce Development from seeking available civil or
 25 administrative remedies.

26 * **Sec. 5.** AS 08.18.161 is amended to read:

27 **Sec. 08.18.161. Exemptions.** To the extent that this chapter governs
 28 contractors, this chapter does not apply to

29 (1) an authorized representative of the United States government, the
 30 State of Alaska, or a political subdivision or agency of the state;

31 (2) an officer of a court when acting within the scope of office;

1 (3) a public utility operating under the regulations of the public service
2 commission in construction, maintenance, or development work incidental to its own
3 business;

4 (4) a construction, repair, or operation incidental to the discovering or
5 producing of petroleum or gas, or the drilling, testing, abandoning, or other operation
6 of a petroleum or gas well or a surface or underground mine or mineral deposit when
7 performed by an owner or lessee;

8 (5) the sale or installation of finished products, materials, or articles of
9 merchandise that are not actually fabricated into and do not become a permanent,
10 fixed part of a structure;

11 (6) construction, alteration, or repair of personal property;

12 (7) a person who only furnished materials, supplies, or equipment
13 without fabricating them into, or consuming them in the performance of, the work of
14 the contractor;

15 (8) work on one project under one or more contracts, ~~the aggregate~~
16 contract price of which for labor and materials and all other items is less than \$5,000; ^{out} ~~\$7,500~~
17 this exemption does not apply when the work is only a part of a larger or major
18 operation, whether undertaken by the same or a different contractor, or when the work ^{labor}
19 is divided into contracts of amounts less than \$5,000 for the purpose of evasion of this
20 chapter or otherwise; this exemption does not apply to a person who advertises or puts ^{\$} ~~7,500~~
21 out a sign or card or other device that might indicate to the public that the person is a
22 contractor, or that the person is qualified to engage in the contracting business; a
23 contractor who performs work priced at \$2,500 or more, under this exemption, shall
24 nevertheless keep in force public liability and property damage insurance with
25 coverage in at least the amounts set out in AS 08.18.101;

26 (9) an owner who contracts for a project with a registered contractor;

27 (10) a person working on that person's own property, whether occupied
28 by the person or not, and a person working on that person's own residence, whether
29 owned by the person or not;

30 (11) an owner or tenant of commercial property who uses the owner's
31 or tenant's own employees to do maintenance, repair, and alteration work upon that

1 property;

2 (12) an owner who acts as the owner's own contractor and in doing so
3 hires workers on an hourly basis, hires subcontractors, purchases materials and, as
4 such, sees to the paying for all labor, subcontractors, and materials; in this case, the
5 owner shall be limited to construction of one home, duplex, triplex, four-plex, or one
6 commercial building every two years [A YEAR];

7 (13) a person performing construction work incidental to farming,
8 dairying, agriculture, horticulture, stock or poultry raising, mining, logging, fishing,
9 clearing, or other work upon the land in rural districts for fire prevention purposes, or
10 access road building, unless the person is a licensee.

11 * Sec. 6. AS 44.64.030(a)(6) is amended to read:

12 (6) AS 08 (occupational licensing), other than AS 08.08,
13 AS 08.18.125, and AS 08.62.046;

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

16 APPLICABILITY. (a) AS 08.18.125, 08.18.131, and 08.18.141, as added or
17 amended by secs. 2 - 4 of this Act, apply to a violation occurring on or after the effective date
18 of this Act. However, for the purposes of AS 08.18.141, a previous conviction or fine may
19 have occurred before, on, or after the effective date of this Act.

20 (b) AS 08.18.161(12), as amended by sec. 5 of this Act, applies to contract work
21 begun on or after the effective date of this Act.

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

24 REVISOR'S INSTRUCTION. The amendment to AS 44.64.030(a)(6) by sec. 6 of this
25 Act is to be reconciled with secs. 82 and 96, ch. 163, SLA 2004, so that both are given effect.

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

SPONSOR STATEMENT FOR HB 81 BY: Representative Tom Anderson

TITLE: "An Act establishing an administrative fine and procedure for construction contractors in certain circumstances; increasing the amount of a civil penalty for persons acting in the capacity of contractors or home inspectors; modifying the elements of a crime involving contractor registration and residential contractors; and exempting the administrative hearings for imposing an administrative fine on construction contractors from the hearings conducted by the office of administrative hearings in the Department of Administration."

Under current law, the State of Alaska investigates and enforces violations of construction contractor laws. Both the Department of Labor and Commerce and the Department of Community & Economic Development have authority to pursue violations of work performed by unregistered construction contractors. For the most part, they rely upon the public complaints, and follow up with investigations (depending on the availability of resources). Under current laws, these agencies enforce violation by issuing citations. After a citation is issued, the impetus falls to the Department of Law as to whether or not to prosecute the matter in Court.

With over 1,600 unregistered contractors operating under this exemption, numerous reports have been made about these unregistered businesses offering construction services in violation of the laws. Enforcement efforts have proven to be difficult and many consumers are unaware their contractor may not be qualified to provide construction services, and even worse, have little or no insurance and warranty protections.

HB 81 would amend the law to allow the Department of Labor and the Department of Commerce Community & Economic Development to issue civil penalties for violations. Instead of going through the Dept. of Law, a violator would either pay a fine (proposed at \$1,000 for the first violation and \$1,500 for subsequent violations) or appeal to an administrative hearing officer. This system would be much more effective toward penalizing first-time violations quickly and effectively. The Departments would retain the option of going through the current criminal violation process if the fines did not deter a violator.

A loophole in the contractor exemption statutes that allowed small contracting companies to operate without a license has also been closed. Previously an individual could file for an exemption and build a residential or commercial property every year. Under HB 81 the time limit between buildings is raised to 2 years. I urge your support for this legislation.

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 81(L&C)
 (H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title Contractor License Enforcement RDU Occupational Licensing (117)
 Component Occupational Licensing
 Sponsor Anderson
 Requester House Labor and Commerce 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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0
-------------------------------	------------	------------	------------	------------	------------	------------

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (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						
Par.-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

HB 81 establishes an administrative fine and procedure for construction contractors in certain circumstances. New funds are not required to implement this bill.

Prepared by: Jennifer Strickler, Administrative Manager Phone (907) 465-2144
 Division Occupational Licensing Date/Time 1/21/05 2:31 PM
 Approved by: Edgar Blatchford, Commissioner Date 1/21/2005
 Agency Commerce, Community & Economic Development

FISCAL NOTE

STATE OF ALASKA
2005 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 81(L&C)
 (H) Publish Date: 2/2/05

Revision Date/Time (Note if correction): _____ Department: Labor and Workforce Development
 Title: Contractor License Enforcement RDU: Labor Standards and Safety
 Component: Mechanical Inspection
 Sponsor: Representative Anderson
 Requester: House Labor and Commerce Component Number: 346

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						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Worker Safety Account)						
Other (Worker Safety Account)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2005) cost: None

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 to establish a civil administrative fine to allow for an alternative to the current criminal penalty for contractor licensing violations. Criminal penalties are difficult to pursue for contractor licensing violations. The standard of proof and the formality required in the investigation process are much higher in a criminal case and the District Attorney must agree to pursue the case to achieve a penalty. When weighed against other criminal violations competing for the District Attorney's time, licensing violations are generally a low priority and may not be prosecuted. The administrative civil fine is expected to provide a more efficient means of enforcement. The fiscal impacts of the administrative fine and hearing process are not expected to be significant and will be absorbed at current funding levels. The administrative fines are expected to produce unrestricted General Fund revenues. The specific amount of revenue cannot be accurately estimated.

Prepared by: Grey Mitchell, Director Phone: (907) 465-4855
 Division: Labor Standards and Safety Date/Time: 1/20/05 1:23 PM
 Approved by: Greg O'Claray, Commissioner Date: 1/20/2005
 Agency: Department of Labor and Workforce Development

Alaska State Legislature

House of Representatives



Official Business

State Capitol
Juneau, AK 99801-1182

Sectional Analysis for HB 81 BY: Representative Tom Anderson

Section 1. Amends AS 08.18.117. Adds: **Except as provided for in AS 08.18.125** either removes [Either]. This change allows the Departments to also issue administrative fines as well as citations.

Section 2. Adds a new section to AS 08.18

AS 08.18.125

- (a) Allows the Department to impose a \$1000 fine for a first offense and a \$1500 fine for all subsequent offenses against a person who violates AS 08.18.011 or 08.18.025
- (b) The Department must issue a written notice of the fine as well as the reason, a copy of the applicable procedures and notice for an opportunity to request a hearing. The hearing must be made within 10 days after the notice on the fine
- (c) If the Department receives a hearing request within 10 days of the fine being noticed a hearing must be scheduled no earlier than 10 days after the request is made
- (d) The decisions of the hearing officer is final subject to review by a superior court
- (e) A fine may not be imposed on a contractor or home inspector operating in an area with a population of less than 1000 people that is not connected to Anchorage or Fairbanks by rail or road

Section 3. Amends AS 08.18.131. Adds: **\$1,000** and removes [\$250]
This change increases the amount a superior court may fine a person from \$250 to \$1000.

Section 4. Adds language to the previous statute to include contractors who have been previously convicted of violations or who have been fined. Also makes all other violations of this chapter punishable under chapter 12

Section 5. AS 44.64.030 (a) is amended Adds: **AS 08.18.125**
Changes the contractor licensing exemption for people building personal use buildings to add a limit of two years between buildings.

Section 6. AS 44.64.030(a)(6) is amended Adds: **AS 08.18.125,**
Places the Administrative Hearings created in Section 2 of the bill under the jurisdiction of the Office of Administrative Hearings

Section 7. Adds to the uncodified law of the State of Alaska. Violations discussed in Sections 2-4 of this bill apply after the effective date of this Act. Section 4 is retroactive.

Section 8. Revisor's note. The changes made in Section 5 of this bill must be rectified with Secs. 82 and 96 ch. 163 SLA 2004 so that both are given effect

ALASKA STATE LEGISLATURE

House of Representatives

COMMITTEE ASSIGNMENTS

LABOR & COMMERCE COMMITTEE, CHAIRMAN
ADMINISTRATION REGULATION REVIEW COMMITTEE, CHAIRMAN
JUDICIARY COMMITTEE, VICE-CHAIR

website: <http://www.akRepublicans.org/Anderson.htm>



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Representative Tom Anderson

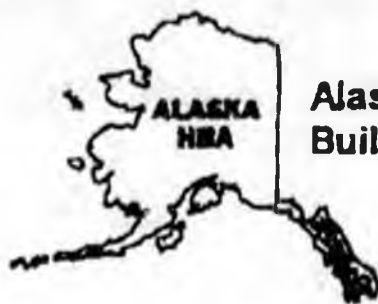
email: Representative_Tom_Anderson@legis.state.ak.us

Changes made to HB 81 in S(L&C)

Section 5 Amends AS 08.18.161 (12)

Changes the contractor license exemption from two years of occupancy with a hardship exemption to just every two years.

- This change was made to address concerns brought up in Senate L&C from various owner builders.



**Alaska State Home
Building Association**

8311 Schoon, Ste 200
Anchorage, Alaska 98518

A Resolution of the Alaska State Homebuilding Association (ASHBA) in Support of legislation to issue civil penalties against first-time violations by unregistered construction contractors

WHEREAS the Division of Occupational Licensing reports that there are over 1,600 business licenses for construction contractors who are not registered to perform construction projects over \$5,000; and

WHEREAS unregistered contractors are not required by state law to obtain general liability insurance or meet educational standards that are required for registered contractors; and

WHEREAS many builders and consumers have reported incidences where unregistered contractors are offering construction services in violation of state law; and

WHEREAS prosecution of violations by unregistered must done by the Department of Law through criminal procedures under current law; and

WHEREAS the Department of Law often gives a low priority to prosecuting these types of violations in consideration of budget restraints and the pursuit of more serious criminal violations; and

WHEREAS enforcement officers within the Department of Labor and/or the Department of Community & Economic Development could be given the authority to issue a civil penalty against first-time violations of construction contract laws;

BE IT THEREFORE RESOLVED that the ASHBA supports legislation to allow enforcement officers within the Department of Labor and/or the Department of Community & Economic Development to have the authority to issue civil penalties for first-time violations of construction contract laws by unregistered contractors, and

BE IT FURTHER RESOLVED that the ASHBA Board of Directors requests the Alaska Legislature to sponsor and pass such legislation during the 2005 Legislative Session.

Adopted, this the 29th day of October 2004.

Signed:

Rob Hamilton
President

Attest:

[Signature]
Past President

Vanessa Tondini

From: Rep. Lesil McGuire
Sent: Tuesday, February 08, 2005 2:37 PM
To: Vanessa Tondini
Subject: FW: HB81

From: Dave Kerr [mailto:Dave_Kerr@ci.juneau.ak.us]
Sent: Thursday, February 03, 2005 11:43 AM
To: Rep. Lesil McGuire
Subject: HB81

Lesil,
Please support HB81
David Kerr, CBJ Building Inspector III

2/8/2005

Jon S. Bittner

From: Rep. Tom Anderson
Sent: Monday, February 07, 2005 4:57 PM
To: Jon S. Bittner
Subject: FW: House Bill 81

From: boost empire [mailto:boost79i@yahoo.com]
Sent: Monday, February 07, 2005 3:14 PM
To: Rep. Lesil McGuire
Cc: Rep. John Coghill; Rep. Nancy Dahlstrom; Rep. Max Gruenberg; Rep. Les Gara; Rep. Tom Anderson; Rep. Pete Kott
Subject: House Bill 81

Dear Representatives-

It has come to my attention that House Bill 81 is going to have a hearing on Wednesday, February 9th, 2005. House Bill 81, enforcement actions against unlicensed contractors is of great importance to me in that it affects my business on a daily basis. There are roughly 400 unlicensed "handymen" operating in the Anchorage area who refuse to get permits, refuse to stand by their warranty claims and who refuse to be straightforward with the owner as to what insurance they do or do not carry. We are constantly being called to repair their work after the fact. It is absolutely crucial that the owner/builder definition be redefined and that handymen be required to be licensed and treated as a specialty contractor across the state. This levels the playing field. I urge you to support the passage of House Bill 81.

Thank You,

N. Claiborne Porter, Jr.
NCP Design/Build LTD

Do you Yahoo!?
Yahoo! Search presents - Jib Jab's 'Second Term'

Lines of Business:

23 - Construction - Total under this code: 7,099 as of January, 2004

		Business Activity TTL % of 23 Code						
CONSTRUCTION (Six digit code requires an occupational license)		In AK	% of Total	Outside AK	% of Total	Total	Construction	Cross chk
2331	Land Subdivision, etc. (exempt no occ license required)	113	1.59%	7	0.10%	120	1.69%	120
233200	General Contractors	948	13.35%	39	0.55%	987	13.90%	987
233300	General Contractors (excluding residential)	1074	15.13%	312	4.39%	1386	19.52%	1386
Specialty Contractors								
234100	Road Construction	89	1.25%	13	0.18%	102	1.44%	102
234900	Construction but 234900 not a true code	5	0.07%	5	0.07%	10	0.14%	10
235100	Plumbing Heating and Air	244	3.44%	12	0.17%	256	3.61%	256
235200	Painting and Wall Covering	227	3.20%	19	0.27%	246	3.47%	246
235300	Electrical Contractors	235	3.31%	24	0.34%	259	3.65%	259
235400	Masonry, Drywall, Insulation, Tile Carpentry & Floor	305	4.30%	19	0.27%	324	4.56%	324
235500	Carpentry & Floor	810	11.41%	24	0.34%	834	11.75%	834
235600	Roofing, Siding and Sheet Metal	101	1.42%	18	0.23%	117	1.65%	117
235700	Concrete Contractors	89	1.25%	9	0.13%	98	1.38%	98
235800	Water Well Drilling	53	0.75%	1	0.01%	54	0.76%	54
235900	plaster, welding, gas tank and sewer systems, etc.)	479	6.75%	120	1.69%	599	8.44%	599
235991	Underground Storage Tank Workers	3	0.04%	2	0.03%	5	0.07%	5
2360	Construction-related EXEMPT from contractor registration.	1678	23.64%	19	0.27%	1697	23.90%	1697
2300	Entry Error; nonexistent code	1	0.01%	0	0.00%	1	0.01%	1
Blanks	No Entry	3	0.04%	1	0.01%		0.06%	4
Totals:		8457	90.96%	642	9.04%	7099	100.00%	7099

Josh Applebee

From: Sally Saddler [sally_saddler@commerce.state.ak.us]
Sent: Wednesday, January 19, 2005 11:57 AM
To: Josh Applebee
Cc: Bill J Rolfzen
Subject: List of Communities
Attachments: PopListforRepAnderson 011905.xls

Hi Josh!

Bill Rolfzen has pulled together the attached list of communities you requested.

This list is our best estimate of the communities that "are" and "are not" connected by road or rail to Anchorage or Fairbanks. The list is sorted by *No* and *Yes* and *Population*. You can change your population cutoff thresholds as you play with this!. The Community list was pulled from our community database which includes Alaska Native Village Statistical Areas (ANVSAs), Census Designated Places (CDPs), Incorporated Cities, and Incorporated Boroughs.

Let me know if you need additional info!

Sally Saddler
Department of Commerce, Community & Economic Development
PO Box 110800
Juneau, AK 99811.0800
Phone: 907.465.2503
Fax: 907.465.5442
Email: sally_saddler@commerce.state.ak.us

Community	2003 Population	On Road or Rail to Anchorage or Fairbanks
Afognak	0	N
Alpine	0	N
Belkofski	0	N
Bill Moore's Slough	0	N
Chuloonawick	0	N
Council	0	N
Cube Cove	0	N
Ekuk	0	N
Flat	0	N
Hamilton	0	N
Kaguyak	0	N
Kanatak	0	N
King Island	0	N
Mary's Igloo	0	N
Napaimute	0	N
Ohogamiut	0	N
Paimiut	0	N
Pauloff Harbor	0	N
Port William	0	N
Umkumiute	0	N
Unga	0	N
Woody Island	0	N
Hobart Bay	1	N
Telida	2	N
Georgetown	3	N
Ivanof Bay	3	N
Prudhoe Bay	4	N
Prudhoe Bay	4	N
Solomon	4	N
Pope-Vannoy Landing	10	N
Thom's Place	11	N
Chisana	12	N
Excursion Inlet	12	N
Ugashik	12	N
Meyers Chuck	18	N
Alatna	21	N
Evansville	21	N
Rampart	21	N
Port Clarence	22	N
Lake Minchumina	23	N
Attu Station	24	N
Karluk	24	N
Halibut Cove	25	N
Beluga	26	N
Shemya Station	27	N
Wiseman	29	N
Kupreanof	30	N
Elfin Cove	32	N
Bettles	33	N

Community	2003 Population	Fairbanks
Birch Creek	33	N
Healy Lake	33	N
Point Baker	33	N
Red Dog Mine	35	N
Game Creek	36	N
Lutak	36	N
New Allakaket	38	N
Jakolof Bay	39	N
Platinum	40	N
Nikolski	41	N
Red Devil	41	N
Lime Village	43	N
Edna Bay	45	N
Pedro Bay	45	N
Chiniak	49	N
Stony River	49	N
Igiugig	50	N
Akhiok	51	N
Kasaan	55	N
Aleneva	56	N
Port Protection	57	N
Whitestone Logging Camp	60	N
Portage Creek	61	N
Oscarville	62	N
Takotna	63	N
Nelson Lagoon	64	N
Beaver	65	N
Hughes	65	N
Clark's Point	66	N
Whale Pass	67	N
False Pass	69	N
Pilot Point	70	N
Port Alexander	70	N
Levelock	71	N
Sleetmute	72	N
Twin Hills	75	N
Hyder	77	N
Egegik	84	N
Chalkyitsik	86	N
Stevens Village	86	N
Port Heiden	87	N
Chignik	89	N
Chignik Lagoon	92	N
Iliamna	92	N
Skwentna	94	N
Atka	95	N
Cold Bay	95	N
Larsen Bay	96	N
Chenega Bay	99	N
Allakaket	102	N
Chuathbaluk	102	N

Community	2003 Population	Fairbanks
South Naknek	102	N
Port Alsworth	105	N
Perryville	106	N
Tenakee Springs	106	N
Pitkas Point	107	N
Anvik	108	N
Naukati Bay	109	N
Koyukuk	111	N
Tatitlek	111	N
Chignik Lake	113	N
Pelican	113	N
Kobuk	125	N
Covenant Life	126	N
Nikolai	127	N
Ekwok	128	N
Diomede	129	N
Deering	131	N
Tetlin	137	N
Seldovia Village	138	N
Crooked Creek	146	N
Golovin	146	N
Shageluk	146	N
Andreafsky	149	N
Mud Bay	149	N
Saint George	149	N
Adak	150	N
Wales	158	N
Coffman Cove	163	N
Port Graham	165	N
Arctic Village	166	N
Grayling	166	N
Newhalen	167	N
Ruby	169	N
Ouzinkie	170	N
Hollis	178	N
Kokhanok	182	N
Tyonek	193	N
Venetie	199	N
Koliganek	200	N
Nunam Iqua	204	N
Nunam Iqua	204	N
Mekoryuk	205	N
Holy Cross	209	N
Old Harbor	211	N
Nanwalek	214	N
White Mountain	214	N
Nondalton	217	N
Mosquito Lake	219	N
Shaktolik	223	N
Nightmute	228	N
Kaltag	229	N

Community	2003 Population	Fairbanks
Upper Kalskag	231	N
Aleknagik	235	N
Teller	242	N
Goodnews Bay	245	N
Atkasuk	247	N
Port Lions	251	N
Shungnak	264	N
Point Lay	265	N
Lower Kalskag	267	N
Atmautluak	279	N
Eek	290	N
Tanana	290	N
Ambler	291	N
Huslia	291	N
Kaktovik	295	N
Seldovia	300	N
Tununak	304	N
Russian Mission	310	N
Brevig Mission	314	N
Anaktuvuk Pass	319	N
Newtok	329	N
Akiak	337	N
Koyuk	340	N
Elim	341	N
Nulato	342	N
Kwigillingok	343	N
Marshall	368	N
Hydaburg	370	N
Napakiak	380	N
Tuntutuliak	381	N
King Salmon	385	N
Kivalina	388	N
Kongiganak	401	N
Manokotak	405	N
Kiana	406	N
Buckland	410	N
Saint Michael	413	N
McGrath	415	N
Nuiqsut	416	N
Napaskiak	419	N
Saxman	425	N
Chefornak	434	N
Gustavus	438	N
Tuluksak	464	N
Noatak	469	N
Scammon Bay	470	N
Thorne Bay	480	N
New Stuyahok	493	N
Nunapitchuk	498	N
Angoon	505	N
Kasigluk	529	N

Community	2003 Population	Fairbanks
Saint Paul	539	N
Aniak	551	N
Wainwright	553	N
Fox River	563	N
Pilot Station	564	N
Stebbins	570	N
Toksook Bay	572	N
Fort Yukon	574	N
Quinhagak	579	N
Saint Mary's	585	N
Shishmaref	594	N
Kotlik	609	N
Naknek	614	N
Akiachak	633	N
Gambell	647	N
Kipnuk	649	N
Noorvik	649	N
Alakanuk	666	N
Womens Bay	667	N
Kake	682	N
Yakutat	691	N
Savoonga	704	N
Point Hope	725	N
Kwethluk	730	N
King Cove	737	N
Unalakleet	741	N
Mountain Village	750	N
Emmonak	763	N
Galena	763	N
Akutan	787	N
Selawik	821	N
Togiak	824	N
Hoonah	851	N
Klawock	851	N
Chevak	884	N
Sand Point	947	N
Bristol Bay Borough	1105	N
Hooper Bay	1115	N
Craig	1174	N
Lazy Mountain	1188	N
Metlakatla	1398	N
Lake & Peninsula Borough	1628	N
Wrangell	2113	N
Kodiak Station	2192	N
Haines Borough	2327	N
Fishhook	2342	N
Cordova	2372	N
Dillingham	2373	N
Aleutians East Borough	2700	N
Butte	2931	N
Petersburg	3060	N

Community	2003 Population	Fairbanks
Kotzebue	3076	N
Nome	3448	N
Unalaska	4383	N
Unalaska	4388	N
Barrow	4417	N
Meadow Lakes	5443	N
Douglas	5483	N
Bethel	5899	N
Kodiak	6138	N
Northwest Arctic Borough	7301	N
Ketchikan	8002	N
Sitka	8891	N
Ketchikan Gateway Borough	13548	N
Kodiak Island Borough	13811	N
Juneau	31283	N
Uganik		N
Miller Landing	0	Y
Fort Greely	6	Y
Alcan Border	13	Y
Petersville	14	Y
Coldfoot	15	Y
Sunrise	15	Y
Livengood	20	Y
Chicken	21	Y
Tolsona	28	Y
Ferry	32	Y
Dot Lake	33	Y
Chase	34	Y
Four Mile Road	36	Y
Dot Lake Village	37	Y
Susitna	38	Y
Paxson	44	Y
McCarthy	53	Y
Eagle Village	59	Y
Nelchina	66	Y
Mendeltna	67	Y
Manley Hot Springs	73	Y
Crown Point	78	Y
Northway	82	Y
Chistochina	85	Y
Primrose	87	Y
Lowell Point	89	Y
Northway Village	95	Y
Circle	96	Y
Gulkana	98	Y
Northway Junction	98	Y
Tonsina	106	Y
Dry Creek	109	Y
Lake Louise	109	Y
Central	113	Y
Central	113	Y

Community	2003 Population	Fairbanks
Klukwan	114	Y
Slana	118	Y
Eagle	126	Y
Chilina	132	Y
McKinley Park	133	Y
Mentasta Lake	143	Y
Eyak	144	Y
Tanacross	144	Y
Silver Springs	148	Y
Hope	161	Y
Willow Creek	174	Y
Clam Gulch	176	Y
Copperville	176	Y
Whittier	176	Y
Tazlina	192	Y
Point MacKenzie	194	Y
Harding-Birch Lakes	210	Y
Gakona	214	Y
Moose Pass	221	Y
Cantwell	226	Y
Minto	234	Y
Chickaloon	242	Y
Glacier View	256	Y
Nikolaevsk	313	Y
Fox	316	Y
Cooper Landing	358	Y
Kenny Lake	369	Y
Copper Center	400	Y
Trapper Creek	426	Y
Eklutna	427	Y
Kachemak	473	Y
Happy Valley	503	Y
Nenana	519	Y
Kasilof	571	Y
Glennallen	574	Y
Moose Creek	574	Y
Anderson	592	Y
Two Rivers	592	Y
Knik River	654	Y
Pleasant Valley	677	Y
Big Delta	699	Y
Funny River	705	Y
Buffalo Scapstone	756	Y
Ninilchik	777	Y
Skagway	845	Y
Talkeetna	847	Y
Salcha	865	Y
Salamatof	902	Y
Delta Junction	984	Y
Healy	1022	Y
Diamond Ridge	1086	Y

Community	2003 Population	Fairbanks
Farm Loop	1124	Y
Sutton-Alpine	1174	Y
Cohoe	1201	Y
Houston	1339	Y
Tok	1435	Y
North Pole	1646	Y
Deltana	1691	Y
Haines	1715	Y
Fritz Creek	1740	Y
Ester	1774	Y
Bear Creek	1823	Y
Anchor Point	1826	Y
Willow	1838	Y
Girdwood	1850	Y
Denali Borough	1914	Y
Ridgeway	2011	Y
Seward	2733	Y
Big Lake	2839	Y
Gateway	3292	Y
Soldotna	4059	Y
Valdez	4060	Y
Nikiski	4357	Y
Eielson AFB	4437	Y
<hr/>		
Sterling	4888	Y
Homer	4893	Y
Palmer	5474	Y
Tanaina	5843	Y
Kalifornsky	6230	Y
Wasilla	6715	Y
Lakes	6980	Y
Kenai	7125	Y
North Slope Borough	7253	Y
Knik-Fairview	8488	Y
College	11929	Y
Fairbanks	29486	Y
Eagle River-Chugiak	30000	Y
Kenai Peninsula Borough	51220	Y
Matanuska-Susitna Borough	67473	Y
Fairbanks North Star Borough	82214	Y
Anchorage	274003	Y

Note: List includes Alaska Native Village Statistical Areas (ANVSAs), Censu

LEGAL SERVICES

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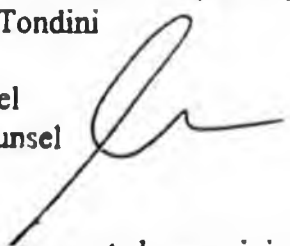
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MEMORANDUM

February 10, 2005

SUBJECT: Contractors (CSHB 81(L&C) (Work Order No.24-LS0144\I))

TO: Representative Lesil McGuire, Chair, House Judiciary Committee
Attn: Vanessa Tondini

FROM: Jean M. Mischel
Legislative Counsel 

The House Judiciary Committee has requested an opinion regarding equal protection issues raised by CSHB 81(L&C), pertaining to construction contractors and home inspectors. The bill contains two provisions that raise the possibility of an equal protection challenge, but the likelihood of prevailing is probably low if the state can demonstrate a legitimate interest that is fairly and substantially related to the differential treatment.

The first provision of the bill that raises equal protection issues is at sec. 2, page 2, lines 28-30, that exempts contractors and home inspectors working in areas with populations of less than 1,000 and that are not connected to Anchorage or Fairbanks by rail or road from the imposition of an administrative fine for second and subsequent violations of the applicable licensing laws.

The second provision of the bill that raises equal protection issues (as well as other constitutional questions) is the authorization in bill section 2 generally of the imposition of an administrative fine for contractors and home inspectors in non-rural areas in addition to the current availability of citations and civil penalties for the same violation.

Alaska's equal protection clause is found in Article I, Section 1 of the Constitution of the State of Alaska: "all persons are equal and entitled to equal rights, opportunities, and protection under the law." Amendment XIV, Section 1 of the Constitution of the United States provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws."

The equal protection clause does not mean that the state has to treat everyone equally. It only requires that similarly situated people be treated equally. *Rutter v. State*, 963 P.2d 1007, 1013 (Alaska 1998), *Shepherd v. State, Dep't of Fish & Game*, 897 P.2d 33, 43, 44 (Alaska 1995). The threshold question in any equal protection analysis is whether similarly situated individuals are being treated differently. *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391, 396 (Alaska 1997).

Representative Lesil McGuire

February 10, 2005

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Assuming that a court found that the contractors working in rural and non-rural areas were similarly situated, it would apply the full sliding scale equal protection analysis. See *Matanuska-Susitna Borough School District v. State*, 931 P.2d 391, 396 (Alaska 1997). The contractors and home owners' interests impaired by CSHB 81(L&C) would likely be found to be economic interests. Under Alaska law, economic interests are entitled only to "minimum scrutiny." See *Underwood v. State*, 881 P.2d 322, 325 (Alaska 1994). At the minimum level of scrutiny, the state only needs to show that the challenged enactment "was designed to achieve a legitimate governmental objective, and that the means bear a 'fair and substantial' relationship to the accomplishment of that objective." *Id.* (citations omitted).

Since contractors and home inspectors working in rural areas may be construed by a court not to be similarly situated with non-rural contractors and home inspectors, the equal protection principles may be found to be inapplicable in both instances of differential treatment.

If a court does find them to be similarly situated, however, the court will look for a legitimate governmental objective that is fairly and substantially related to that objective. With regard to the imposition of administrative fines, two possible legitimate objectives are efficiency and cost. The procedures allowed for the imposition of an administrative fine would require enforcement personnel and hearings to be conducted in remote areas at great expense. The risks and fines associated with enforcement in those areas may be too small to justify that level of inefficiency and expense. This may be particularly persuasive in the context of the availability of two other penalty options in rural areas: citations and civil remedies.

With regard to the authorization of three different types of penalties for non-rural contractors and home inspectors, the legitimacy of the government objective will depend upon the standards used for selecting the penalty. As long as all non-rural contractors and home inspectors are treated the same (since they are clearly similarly situated) for each type of violation found to exist, the validity of the distinction for rural contractors and home inspectors will again turn on the court's perception of the legitimacy of the differential treatment for them.

If I may be of further assistance, please advise.

JMM:med
05-094.med

Brian Hove

From: Todd Larkin [todd@wdlenterprises.com]
Sent: Friday, April 22, 2005 11:30 PM
To: Brian Hove
Cc: Sen. Ralph Seekins
Subject: HB81 testimony/packet additions
Attachments: Concept for amendment to hb81.doc; FACT SHEET.doc; HB 81 amendment for exemption 8 RTF

Hi Brian,

A few requests:

- Please teleconference the Senate Judiciary meeting on HB81 to Fairbanks to allow public testimony.
- Please notify me by email or phone as soon as you know which day the bill will be scheduled: todd@wdlenterprises.com or 907-378-8633.
- Please add the attached documents and amendments to the packets of all the committee members.
- Please inform me as to whether Senator Seekins would be willing to offer either amendment (L.1) or the conceptual amendment written below.
- Please let me know how I can be of help in adding or clarifying information; or collaborating on other changes.

Thanks for your help. I have been out of town and the financial burden of closely following and participating in this legislation has left me no option but to return to long hours of paying work. I have been unable to follow the progress as closely as before and need some time to prepare between working hours.

here is a conceptual amendment that can be offered in place of the existing "administrative hearing" language on page 2, sec. 2, paragraphs b/c/d.

1. Page 2, paragraphs b) and c) are very troubling. These fines are just like traffic tickets (but way bigger). They should be challengeable in court before a magistrate just like traffic tickets. We do not need to create new government positions and proper legal recourse should not be delayed by the administrative process, regardless. If the department has proof of wrongdoing then they can present it to the lower court and the inspector who issued the ticket should have to appear. This satisfies the stated intent of not having to rely on the department of law or the AG's office. The references to "administrative hearings" should be deleted and replaced with district court language. No "administrative hearings"!

Thanks again,
Todd Larkin

Concept for amendment to Statute 8.18.161 "exemptions" referenced in HB81 before existing statutes are supplemented by new enforcement provisions proposed in HB81.

Basis and background:

Currently, AS 8.18.161 (8) allows for an "8101" license holder to be exempted from existing and proposed enforcement provisions in AS 8.18 if... the license holder does not exceed charges of \$5000 dollars per project; however, the license holder loses this exemption if he works on a *higher value* project owned or operated by a *different* contractor even when his work totals less than the \$5000 dollar limit.

In the practical application, this construction of the law simply precludes an "8101" license holder from ever doing any work of any amount on a new construction project without being subject to the proposed \$1500 dollar per day fines; even when the project is run or owned by a fully licensed bonded and insured contractor; and when the work is performed at the invitation of that contractor.

Goal:

Amend AS 8.18 to ensure that an "8101" License holder can perform no more than \$5000 dollars worth of work on any project without regard to overall project size. Clarify the statute language to specify that the \$5000 dollar limit on work shall be measured against the overall project whether the work was performed for a licensed subcontractor or the acting general contractor.

Previous attempt:

A previously suggested amendment was given to accomplish one part of this goal. That amendment would have deleted the words "whether" and "or a different" from line 18 on page 4 of HB81.

Request:

The committee and other members were concerned that the proposed amendment language was incomplete and not properly drafted so it may have unforeseen consequences. Please draft an amendment that accomplishes the stated goals above, possibly in "exemption (8)" of AS 8.18.161 or elsewhere.

Thank you.

FACT SHEET FOR HB 81

- Clarification: The term "handyman license" does not exist in statute; a nickname given to the 8101 license category. The 8101 license is for "unclassified services" and is more truly described as an independent laborer's license. It was originally referred to as an "unclassified specialty contractor" and allowed a laborer to contract his/her personal labor out to various customers from home owners, to general contractors, to landlords, and so on. The nickname, however, has been taken literally and now the legislature is trying to create the "handyman" while putting independent labor out of business.
- Clarification: Most of the problems with HB81 relate to the proposed enforcement of what is already prohibited in law. Most consumers and license holder were never aware that their daily practices were in violation of law because the law lacked enforcement. Since HB81 seeks to enforce very poorly written law with unreasonable methods, the underlying law must now be addressed.

Now onto the bill basics:

- Sponsored by Representative Tom Anderson of Anchorage along with Representative Harry Crawford (Democrat). *Despite winning the house by 36 to 2 votes, it has picked up no other sponsors.*
- HB 81 was brought at the urging of HBA Department of Labor and possibly other interests.
- Implicitly discriminates against one of two groups: The bill is either suggesting that "Bush Alaska" consumers are not worth "protecting"; Or, that the urban populations are too ignorant to decide who to contract with for projects. It's unclear which group receives the greater insult, but each are affected.

- HB 81 seeks to enforce current (poorly written) law by switching the burden of proof to the accused and levying a \$1000-\$1500 dollar daily fine on workers in the \$20per hr - \$45per hr pay range.
- Gives new ticketing/prosecution powers to the department of Labor and the department of economic development.
- Delays citizen access to the state courts
- Further regulates home inspections and subjects the inspectors to fines in specific circumstances. *Compliance leads to higher administrative and construction costs.*
- Doubles the existing length of time between owner built projects to 2 years. (fines apply).
- In short, HB 81 would make it illegal for an Alaskan to build and sell his/her home in a timeframe he sees fit in accordance to his livelihood and impose "state wisdom".
- Regulates every state citizen except registered contractors.
- Prohibits owner builders from building a house in all but, two circumstances i.e. you must exhaust several years of your time or retirement to build inexpensively or spend vastly more money to hire registered contractors if time is a problem. (fines apply)
- If the citizen wants to build a rental home early they must seek permission from Department of labor. (fines apply)
- If you or a fully licensed and insured contractor engaged in any project worth over \$5000 dollars, an "8101" license holder is prohibited from doing even \$1 dollar worth of work for you. (this is

in the existing law that HB81 seeks to enforce. It is the "poorly written" section I (previously mentioned). (fines apply)

- potentially raises building costs approximately 40% for the consumer that had intended to invest there savings or retirement in several real estate projects for rental income over a short period, without a general contractor.
- revises and increases criminal penalty for building to a class B Misdemeanor (see attached statutes).

A few unstated results:

- One unstated result of this bill is reduced available labor by prohibiting (8101) workers from assisting in major repair or construction.
- Another unstated result of HB81 is raising costs to consumers (substantially) i.e. if I (an 8101 licensee) were to fully comply, my rates (currently \$30 per hr) would probably move up to \$45 per hour or if an owner builder were forced to hire a General contractor, a \$100,000 dollar project would quickly move to \$140,000 dollars (round numbers)
- Another unstated result of HB81 is to remove the existing financial incentive for building a house without a general contractor. These savings sometimes mean the difference between building and owning a home or continuing to rent.
- Another unstated result of HB81 is to raise housing costs statewide by limiting (in most cases) building activity to the most expensive method available. That method is fully licensed insured and bonded general contractors. They are not the most expensive because of greed but, because of the costs of workers compensation, general liability, performance bonding and employee overhead. Your \$160,000 dollar home project would have around \$60,000 dollars in requirements and modest profit over the costs of labor and materials.

Some falsehoods:

- **HB81 will protect consumers.** This is totally unfounded. The consumer who does not have the money to hire the fully licensed trade or general contractor will either complete projects on their own with no expertise at all or they will begin to hire totally unlicensed "under the table" labor that may have even greater disadvantages than the 8101 license holder.
- **HB81 will ensure that construction will not be performed by "unlicensed" or "improperly licensed" workers.** This is flawed logic. Very few workers on a construction site are licensed but, they perform most of the work. What happens is that the general and subcontractors have the necessary licenses and insurance to allow their UNLICENSED employees to do the work. Now I ask you: what is the difference whether a general contractor has his unlicensed employee do the work or a self employed laborer? None, the general is liable for the work in both cases.
- **If homes and large projects are handled exclusively by general contractors, poor construction and consumer complaints will stop...** Does anyone really believe that statement?
- **Competition from unlicensed contractors is hurting fully licensed contractors.** This is false for two reasons. First, most contractors will admit that they have more work than can be finished and; second, the cost burdens of regulation and insurance are the real damaging factors, not competition.
- **Workman's compensation coverage is unavailable to some workers.** This statement may or may not be true but, is totally unrelated to HB81 and irrelevant.
- **This bill absolutely does not change any of the laws affecting "handymen."** True but, deceiving because there are no handyman laws on the books at all.
- **The current route for enforcement will clog up the court systems.** I cannot recall even one case that has made it to court so it must be false to suggest that current practices will clog the courts.