

ALABAMA LEGISLATIVE JOURNAL, 2009-2010 / 2

11888 SENATE JUDICIARY

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 6
 Bill Version: CSHB 441(FIN,
 (H) Publish Date: 3/17/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):
 Title: RELATING TO DUI; COURT ORDERED
TREATMENT

RDU: Behavioral Health
 Component: Behavioral Health Grants

Sponsor: ROKEBERG
 Requester: HOUSE (JUD)

Component No: 2669

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2006) cost: _____

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The intent of this legislation is to address the concerns /barriers experienced in implementing HB 172 enacted in 2001, as Chapter 64 SLA 01 Therapeutic Courts for Offenders. This legislation addresses the Therapeutic Court process and the Rules of Criminal Procedure.

In the current version of this bill, the division has determined that passage of this legislation will result in zero fiscal impact. However, if the intent of this legislation is to make the therapeutic court a sentencing option available to all potentially qualifying defendants statewide (whether there is an established therapeutic court or not -there are currently six established courts) then, the cost will be substantial, and indeterminate at this time.

Prepared by: Cristy Willer, Director
 Division: Behavioral Health
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 269-3410
 Date/Time: 02/23/2006
 Date: 03/17/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 7
Bill Version: CSHB 441(FIN)
(H) Publish Date: 3/17/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Public Safety
Title: "An Act relating to operating or driving a motor vehicle, aircraft, or watercraft..." RDU: Alaska State Troopers
Sponsor: Representative Rokeber Component: AST Detachments
Requester: House Judiciary Committee Component No.: 2325

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
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 (FY2006) 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)

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

Prepared by: Lieutenant James Helgoe Phone 907-269-4532
Division: Alaska State Troopers Date/Time 2/24/06 11:55 AM
Approved by: Commissioner William Tandeske Date 2/24/2006
Agency: Department of Public Safety

A brief history of therapeutic courts in Alaska
from Rep. Norman Rokeberg

2001

- The House Judiciary Committee became familiar with therapeutic courts, specifically Judge Wanamaker's Anchorage Wellness Court, which he started in 1999. The Anchorage Wellness Court only handled misdemeanant DUI cases prosecuted by the Municipality of Anchorage.
- Speaker Porter introduced a therapeutic court bill, HB 172, which created a three-year, pilot felony DUI court in Anchorage & Bethel.
- Juneau Wellness Court begins.

2002:

- HB 4, sponsored by Rep. Rokeberg, was passed. HB 4 included therapeutic court provisions for misdemeanant DUI offenders.

2003 -2004:

- Therapeutic court funding expanded.
- Worked with the Administration to increase their involvement in the courts.
- Pilot felony DUI courts were extended until June 30, 2006 (HB 451).

2005:

- HB 4 (2002) provided \$100,000 for a Drunk Driver Pilot Program within the Department of Corrections. As this program was never implemented, this money was permanently given to the Department of Law and Department of Administration for a part-time district attorney and public defender to work on state misdemeanor DUI therapeutic cases.
- HB 132 was passed. The legislation expands the statutory therapeutic court provisions (from HB 4) to felony DUI defendants and allows the court to wave up to 75% of the fines.
- Unfortunately, HB 132 created a disparity between those felony DUI participants in the statutory therapeutic court vs. those felony participants in the pilot DUI courts regarding the disposition of their sentence and fines upon successful completion of the therapeutic court...thus creating an apparent equal protection problem.
- Multiple therapeutic courts begin around the state from Ketchikan to Fairbanks.

2006:

- As we have both statutory therapeutic courts and a pilot program in uncodified law conflicting with each other, we have introduced HB 441 to create one uniform statutory structure for therapeutic courts around the state. The court system has been very helpful in trying to find the best solution for the operation of these courts around the state. This structure will work for both misdemeanor and felony DUI defendants.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

*Advisory Board on Alcoholism and Drug Abuse
Alaska Mental Health Board*

Frank H. Murkowski, GOVERNOR

*P O. BOX 110608
JUNEAU, AK 99811-0608
PHONE: (907) 465-8920
FAX: 465-4410*

March 7, 2006

Representative Norman Rokeberg
Alaska House of Representatives

Dear Representative Rokeberg:

The Governor's Advisory Board on Alcoholism and Drug Abuse (ABADA) strongly supports the concept of diversion into alcohol treatment for non-violent DUI offenders. The development and institutionalization of therapeutic courts is pivotal to this effort, and ABADA thanks you for introducing HB 441.

Treatment in lieu of incarceration for drug offenders has gained national attention and public support. In a 2002 survey sponsored by the Open Society Institute, "Changing Attitudes Towards the Criminal Justice System," 63% of Americans consider drug abuse a problem that should be addressed primarily through counseling and treatment rather than the criminal justice system.

Many states have passed legislation or voter initiatives that provide access to quality treatment in lieu of incarceration:

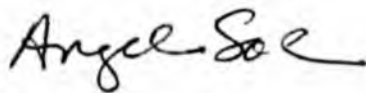
- In 1996, Arizonans voted in favor of Proposition 200, the Drug Medicalization, Prevention and Control Act, which sends first and second time non-violent drug offenders to treatment rather than incarceration. According to a report conducted by the Supreme Court of Arizona, Proposition 200 saved Arizona taxpayers \$6.7 million in 1999. In addition, 62% of probationers successfully completed the drug treatment ordered by the court.
- In November 2000, 61% of California voters passed Proposition 36, the Substance Abuse and Crime Prevention Act of 2000 (SACPA), an initiative aimed at rehabilitating rather than incarcerating non-violent drug possession offenders. Under SACPA, certain persons convicted of non-violent drug possession offenses are given an opportunity to receive community-based drug treatment in lieu of incarceration. In 2000, the independent Legislative Analyst's Office (LAO) predicted that by treating rather than incarcerating low level drug offenders, SACPA would save California taxpayers approximately \$1.5 billion over the next five years and prevent the need for a new prison slated for construction, avoiding an expenditure of approximately \$500 million. LAO estimated that SACPA would annually divert as many as 36,000 probationers and parolees from incarceration into community-based treatment.

- Maryland's new treatment law immediately diverts several thousand prisoners into drug treatment, saving the state's taxpayers millions of dollars a year in the process. It also provides \$3 million in additional funding for treatment and gives judges new discretion in sentencing.
- In November 2002, an overwhelming 78% of Washington D.C. voters passed the drug treatment initiative, Measure 62. Under Measure 62 the city will provide substance abuse treatment instead of conviction or imprisonment to non-violent defendants charged with illegal possession or use of drugs (except those drugs classified as Schedule I); provide a plan for rehabilitation to individuals accepted for substance abuse treatment; and provide for dismissal of legal proceedings for defendants upon successful completion of the treatment program.

Experience in other states and scholarly research indicates that drug treatment can decrease drug use and save money. Further, public opinion research reveals that the public supports a shift in resource allocation away from incarceration and toward treatment and prevention. Many states have been adjusting their policies to reflect this understanding.

Please let us know how ABADA can be of assistance in passing this bill through the legislature this year. And once again, thank you for your work on this crucial issue.

Sincerely,



Angela Salerno, Advocacy Coordinator
Governor's Advisory Board on Alcoholism and Substance Abuse

Alaska Judicial Council
Evaluating Alaska's Therapeutic Courts
March 6, 2006

The Alaska Judicial Council has evaluated several of Alaska's therapeutic courts, and continues to work with the courts and legislature to report their effectiveness. The Council uses rigorous methods and measures to make accurate tests of the therapeutic court programs:

- Each of the Council's evaluations uses comparison groups of defendants who did not participate in the programs to see whether graduates and participants differ from other defendants.
- Each of the evaluations looks at people currently in the programs and those who left the programs (in addition to graduates and comparison groups) to see what the programs' effects are for those defendants.
- Each of the evaluations, for defendants in the four groups, also looks at the defendants' records two years before the program started (or comparison date) and two years after, to see whether the defendants' behavior changed when measured against their own histories.
- To the extent possible, the evaluations look at several measures of recidivism, because no single measure is entirely reliable by itself. The Council looks (as appropriate) at days of incarceration, arrests, convictions, and remands to DOC custody for each group of defendants.
- The Council also reviews measures of qualitative improvement in the defendants' lives and accountability, to the extent that these are available. Measures include improvements in employment, education, family relationships, reduction in domestic violence, payment of child support and other fiscal obligations, and improvements in the lives of the defendants' children.
- The Council has evaluated the Anchorage Felony Drug Court, the Anchorage Felony DUI Court, the Bethel Therapeutic Court, and the Anchorage Mental Health Court. Copies of the evaluations are available from the Judicial Council, or on the Council's website at www.aic.state.ak.us.
- The Council is updating the evaluations of the felony therapeutic courts with a followup on the defendants' recidivism in the past year. It is also working with the UAA Justice Center and The Urban Institute on a long-term evaluation of the Anchorage Wellness Court. The evaluation will provide a thorough review of outcomes, cost and benefits, and transferability of the benefits of Wellness Court to other jurisdictions.
- The existing evaluations using the rigorous measures described above suggest that Alaska's therapeutic courts are achieving some measure of success in reducing recidivism. The Council will continue to update its information and report to the legislature on the effectiveness of therapeutic court programs.

Heather Nobrega

From: dfiscus@myway.com
It: Friday, February 24, 2006 10:21 PM
To: Rep. Norman Rokeberg
Subject: hb441

Email For: Representative Norman Rokeberg
From: dfiscus@myway.com
Name: Donald Fiscus
Street: 1830 E Parks Hwy STE-A-113, #301
City: Wasilla
Zip Code: 99654

Subject: hb441

I am proof that long term re-hab works. I have had many dui before treatment. I have had three years sobriety after and probably will continue. AA works. I support your bill.

Please Add My Email Address to your distribution list. Thank You.



Justice that Protects and Heals

ADVISORY COUNCIL

Honorary Chairman

George Sullivan
Former Mayor, Anchorage

Advisors

Carol Davila
Fairbanks Hospital

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Katie Hurley
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Community Leader,
Secretary to Constitutional
Convention

Georgianna Lincoln
Chairwoman, Doyon, Ltd.

Jack Roderick
Former Borough Mayor,
Anchorage

Brian Rogers
UAA Board of Regents,
Fairbanks

Brenda Sadler
MADD, Fairbanks

Mike Williams
Sobriety Movement Leader,
Southwest Alaska

Esther Wunnicke
Community Leader,
Former State Commissioner

April 7, 2006

Judiciary Committee
Alaska State Senate
State Capitol
Juneau, Alaska
99801

Dear Chairman *Ralph* Soekins:

On behalf of the Partners for Progress Advisory Council, I urge you to pass HB 441, the Therapeutic Court Bill. The Advisory Council is strongly supportive of the therapeutic court method of treating offenders who recycle through our judicial system because they are heavily addicted to drugs and alcohol.

Recently I had the opportunity to observe the Anchorage Wellness Court under Judges Bill Morse and Nancy Nolan. By combining the power of the court with addiction treatment and recovery support, most therapeutic court participants overcome their addictions and become responsible members of our community. Therapeutic courts are the most effective method of addressing the repeat addicted offender that I have seen yet.

The Advisory Council would like to see the therapeutic courts become a regular part of our judicial system throughout Alaska. Passage of this bill, establishing a consistent statewide sentencing system for therapeutic courts, will be a major step towards that goal.

Thank you for your support of this important and highly beneficial legislation.

Respectfully,

George M. Sullivan
George M. Sullivan

Honorary Chairman, Partners for Progress Advisory Council

HB

442

SENATE COMMITTEE REPORT

DATE: 4/29/06

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 442(JUD) am

HB 442 HEALTH CARE DECISIONS

"An Act relating to the validity of advance health care directives, individual health care instructions, and do not resuscitate orders; relating to the revocation of advance health care directives; relating to do not resuscitate orders; relating to resuscitative measures; relating to the liability and discipline of health care providers, institutions, and facilities; relating to proceedings for financial relief; relating to an individual's capacity for making health care decisions; 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 # _____

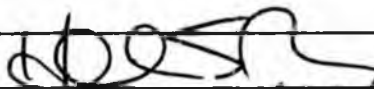
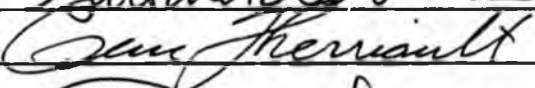
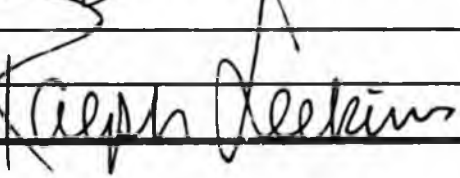
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	NO REC	AMEND
				X
Luther B. Green				X
			X	
Sam Theriault			X	
	✓			
CHAIR: Ralph DeBevoise	✓			

ALASKA STATE LEGISLATURE

REPRESENTATIVE BRUCE WEYHRAUCH



ALASKA
STATE CAPITOL
JUNEAU ALASKA
99801-1182

(907) 465-3744
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Sponsor Statement for House Bill 442

Passage of the Health Care Decisions Act ("Alaska Act") in 2004, was an important step forward in modernizing and improving Alaska's health care laws for the terminally ill, their families, and loved ones. House Bill 442 makes minor changes to the Alaska Act in order to provide clearer direction to those implementing health care decisions.

Current law imposes a duty of investigation upon doctors when carrying out the health care directives of their patients. House Bill 442 amends the current statute to conform the language in the Alaska Act to Uniform Act language, thus requiring a doctor to act in "good faith" when time is often critical for their patients. The bill also substitutes the word "physician" for "attending physician", to clarify the intent that all physicians treating a patient adhere to the patient's advanced health care directives. Finally, House Bill 442 clarifies when CPR may be used, addresses the validity of orders from other jurisdictions, and indicates under what circumstances a Do Not Resuscitate order may be revoked.

The Health Care Decisions Act has been beneficial and important for all Alaskans in letting terminally ill patients have their wishes heard. House Bill 442 helps caregivers carry out those wishes.

CS FOR HOUSE BILL NO. 442(JUD) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Amended: 4/10/06

Offered: 3/29/06

Sponsor(s): REPRESENTATIVES WEYHRAUCH, Dahlstrom

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the validity of advance health care directives, individual health care
2 instructions, and do not resuscitate orders; relating to the revocation of advance health
3 care directives; relating to do not resuscitate orders; relating to resuscitative measures;
4 relating to the liability and discipline of health care providers, institutions, and facilities;
5 relating to proceedings for judicial relief; relating to an individual's capacity for making
6 health care decisions; and providing for an effective date."

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

8 * Section 1. AS 13.52.010(k) is amended to read:

9 (k) An advance health care directive, including an advance health care
10 directive that is made in compliance with the laws of another state, is valid for
11 purposes of this chapter if [TO THE EXTENT THAT] it complies with [THE LAWS
12 OF] this chapter, regardless of where or when it was executed or communicated
13 [STATE].

1 * **Sec. 2.** AS 13.52.010 is amended by adding a new subsection to read:

2 (I) Notwithstanding the sample form provided under AS 13.52.300, an
3 individual instruction that would be valid by itself under this chapter is valid even if
4 the individual instruction is contained in a writing that also contains a durable power
5 of attorney for health care and the durable power of attorney does not meet the
6 witnessing or other requirements of this chapter.

7 * **Sec. 3.** AS 13.52.020(c) is amended to read:

8 (c) In the case of mental illness, an advance health care directive may be
9 revoked in whole or in part at any time by the principal if the principal does not lack
10 capacity and is competent. A revocation is effective when a competent principal with
11 capacity communicates the revocation to a [THE ATTENDING] physician or other
12 health care provider. The [ATTENDING] physician or other health care provider shall
13 note the revocation on the principal's medical record. In the case of mental illness, the
14 authority of a named agent and an alternative agent named in the advance health care
15 directive continues in effect as long as the advance health care directive appointing the
16 agent is in effect or until the agent has withdrawn. For the purposes of this subsection,
17 a principal is not considered competent when

18 (1) it is the opinion of the court in a guardianship proceeding under
19 AS 13.26, the opinion of two physicians, at least one of whom is a psychiatrist, or the
20 opinion of a physician and a professional mental health clinician, that the principal is
21 not competent; or

22 (2) a court in a hearing under AS 47.30.735, 47.30.750, or 47.30.770
23 determines that the principal is gravely disabled; in this paragraph, "gravely disabled"
24 has the meaning given in AS 47.30.915(7)(B).

25 * **Sec. 4.** AS 13.52.060(d) is amended to read:

26 (d) Except as provided in (e), (f), and (i) [(e) AND (f)] of this section, a health
27 care provider, health care institution, or health care facility providing care to a patient
28 shall comply with

29 (1) an individual instruction of the patient and with a reasonable
30 interpretation of that instruction made by a person then authorized to make health care
31 decisions for the patient; and

1 (2) a health care decision for the patient made by a person then
 2 authorized to make health care decisions for the patient to the same extent as if the
 3 decision had been made by the patient while having capacity.

4 * Sec. 5. AS 13.52.060 is amended by adding new subsections to read:

5 (i) Notwithstanding the exception in (e) of this section for do not resuscitate
 6 orders, a health care provider may perform cardiopulmonary resuscitation or other
 7 resuscitative measures on a patient even if there is a do not resuscitate order for the
 8 patient if the condition requiring cardiopulmonary resuscitation or other resuscitative
 9 measures is precipitated by complications arising out of medical services being
 10 provided by the health care provider to the patient.

11 (j) The provisions of (i) of this section do not apply when a health care
 12 provider performs emergency medical services to a patient in the field, unless an
 13 online physician orders the health care provider to perform cardiopulmonary
 14 resuscitation or other resuscitative measures; in this subsection,

15 (1) "health care provider" does not include a physician;

16 (2) "in the field" does not include in a health care facility, health care
 17 institution, hospital, or mental health facility;

18 (3) "online physician" means a physician who is immediately available
 19 in person or by radio or telephone, when medically appropriate, for communication of
 20 medical direction to health care providers.

21 * Sec. 6. AS 13.52.065(a) is amended to read:

22 (a) A [AN ATTENDING] physician may issue a do not resuscitate order for a
 23 patient of the physician. The physician shall document the grounds for the order in the
 24 patient's medical file.

25 * Sec. 7. AS 13.52.065(f) is amended to read:

26 (f) A do not resuscitate order may not be made ineffective unless a physician
 27 revokes the do not resuscitate order, a patient for whom the order is written and
 28 who has capacity requests that the do not resuscitate order be revoked, or the
 29 patient for whom the order is written is under 18 years of age and the parent or
 30 guardian of the patient requests that the do not resuscitate order be revoked. Any
 31 physician of a patient for whom [A REQUEST TO REVOKE] a do not resuscitate

1 order is written may revoke the do not resuscitate [ONLY BE MADE BY THE
 2 PERSON FOR WHOM THE] order [IS WRITTEN OR,] if the person for whom the
 3 order is written requests that the physician revoke the do not resuscitate order [IS
 4 UNDER 18 YEARS OF AGE, BY THE PARENT OR GUARDIAN OF THE
 5 PERSON].

6 * Sec. 8. AS 13.52.080(a) is amended to read:

7 (a) A [IF A] health care provider or health care institution that acts [MAKES
 8 REASONABLE EFFORTS, WITH A LEVEL OF DILIGENCE APPROPRIATE TO
 9 THE SERIOUSNESS AND URGENCY OF THE SITUATION, TO ENSURE THE
 10 VALIDITY OF AN ADVANCE HEALTH CARE DIRECTIVE OR A PERSON'S
 11 ASSUMPTION OF AUTHORITY TO MAKE HEALTH CARE DECISIONS FOR A
 12 PATIENT, A HEALTH CARE PROVIDER OR INSTITUTION ACTING] in good
 13 faith and in accordance with generally accepted health care standards applicable to the
 14 health care provider or institution is not subject to civil or criminal liability or to
 15 discipline for unprofessional conduct for

16 (1) providing health care information in good faith under
 17 AS 13.52.070;

18 (2) complying with a health care decision of a person based on a good
 19 faith [REASONABLE] belief that the person has authority to make a health care
 20 decision for a patient, including a decision to withhold or withdraw health care;

21 (3) declining to comply with a health care decision of a person based
 22 on a good faith [REASONABLE] belief that the person then lacked authority;

23 (4) complying with an advance health care directive and
 24 [REASONABLY] assuming in good faith that the directive was valid when made and
 25 has not been revoked or terminated;

26 (5) participating in the withholding or withdrawal of cardiopulmonary
 27 resuscitation under the direction or with the authorization of a physician or upon
 28 discovery of do not resuscitate identification upon an individual;

29 (6) causing or participating in providing cardiopulmonary resuscitation
 30 or other life-sustaining procedures

31 (A) under AS 13.52.065(e) when an individual has made an

1 anatomical gift; [OR]

2 (B) because an individual has made a do not resuscitate order
3 ineffective under AS 13.52.065(f) or another provision of this chapter; or

4 (C) because the patient is a woman of childbearing age and
5 AS 13.52.055 applies; or

6 (7) acting in good faith under the terms of this chapter or the law of
7 another state relating to anatomical gifts.

8 * Sec. 9. AS 13.52.080 is amended by adding a new subsection to read:

9 (c) A health care provider, health care institution, or health care facility is not
10 subject to civil or criminal liability, or to discipline for unprofessional conduct, if a do
11 not resuscitate order prevents the health care provider, health care institution, or health
12 care facility from attempting to resuscitate a patient who requires cardiopulmonary
13 resuscitation or other resuscitative measures because of complications arising out of
14 health care being administered to the patient by the health care provider, health care
15 institution, or health care facility. This subsection does not apply if the complications
16 suffered by the patient are caused by gross negligence or reckless or intentional
17 actions on the part of the health care provider, health care institution, or health care
18 facility.

19 * Sec. 10. AS 13.52.140 is amended to read:

20 **Sec. 13.52.140. Judicial relief.** On petition of a patient, the patient's agent,
21 guardian, or surrogate, or a health care provider or institution involved with the
22 patient's care, the superior court may enjoin or direct a health care decision or order
23 other equitable relief. A proceeding under this section is governed by AS 13.26.090 -
24 13.26.320 [AS 13.26.165 - 13.26.320].

25 * Sec. 11. AS 13.52.150 is amended to read:

26 **Sec. 13.52.150. Do not resuscitate orders and identification of other**
27 **jurisdictions.** A do not resuscitate order or a do not resuscitate identification
28 executed, issued, or authorized in another state or a territory or possession of the
29 United States is valid [IN COMPLIANCE WITH THE LAW OF THAT
30 JURISDICTION IS RECOGNIZED] for the purposes of this chapter if it complies
31 with the laws of this state. A health care provider or health care institution may

1 presume, in the absence of actual notice to the contrary, that [HOWEVER,] the
 2 do not resuscitate order or the do not resuscitate identification complies [MAY BE
 3 IMPLEMENTED ONLY TO THE EXTENT THAT THE IMPLEMENTATION
 4 DOES NOT CONFLICT] with the laws of this state, regardless of where or when it
 5 was executed, issued, or authorized, and that the patient is a qualified patient.

6 * Sec. 12. AS 13.52.390(7) is amended to read:

7 (7) "capacity," except in (9) of this section, means an individual's
 8 ability to receive and evaluate information effectively and to make and effectively
 9 [OR] communicate health care decisions [TO THE EXTENT NECESSARY TO
 10 MAKE MENTAL HEALTH TREATMENT DECISIONS];

11 * Sec. 13. The uncodified law of the State of Alaska is amended by adding a new section to
 12 read:

13 CONTINUING EFFECT OF DO NOT RESUSCITATE ORDERS. A do not
 14 resuscitate order made under AS 18.12 before January 1, 2005, continues in effect under
 15 AS 13.52 unless the do not resuscitate order is made ineffective under AS 13.52.065(f),
 16 amended by sec. 7 of this Act, or under another provision of AS 13.52.

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

19 DIRECTIONS TO REGULATIONS ATTORNEY. The regulations attorney in the
 20 Department of Law shall

21 (1) replace in 7 AAC 16.010(d)(5) the reference to "an attending physician's
 22 DNR order" with "a DNR order by a physician of the patient";

23 (2) replace in 7 AAC 16.010(d)(5)(B) the reference to "attending physician"
 24 with "physician of the patient";

25 (3) delete in 7 AAC 16.010(g) "attending."

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

28 RETROACTIVITY. Sections 1 - 13 of this Act are retroactive to January 1, 2005.

29 * Sec. 16. This Act takes effect immediately under AS 01.10.070(c).

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 442(HES)
 (H) Publish Date: 3/3/06
 Dept. Affected: Health & Social Services
 RDU Public Health
 Component Community Health/EMS Services

Revision Date/Time (Note if correction):

Title RELATING TO HEALTH CARE DIRECTIVES

Sponsor WEYHRAUCH

Requester HOUSE (HES)

Component No. 2078

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2008	FY 2010	FY 2011	FY 2012
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)						

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost:

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary.)

This bill follows up on a comprehensive advance directives measure passed by the Legislature and signed into law in 2004. HB442 amends current law in several areas, including the validity of health care directives from other states, clarifying which physicians can issue or revoke health care directives on behalf of a patient, and revising provisions regarding do not resuscitate orders.

Though EMTs and other first responders in Alaska will have to be aware of changes enacted in this bill, there is no additional fiscal impact on the Department of Health and Social Services.

Prepared by: Richard Mandsager, M.D.

Division: Public Health

Approved by: Karleen Jackson, Commissioner

Agency: Department of Health and Social Services

Phone 465-3092

Date/Time 02/17/2006

Date 02/17/2006

LEGAL SERVICES

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

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


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

MEMORANDUM

April 13, 2006

SUBJECT: CSHB 442(JUD) am - relating to health care decisions
(Work Order No. 24-LS1618\Y.A)

TO: Representative Bruce Weyhrauch
Attn: Ginny

FROM:  Theresa Bannister
Legislative Counsel

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

Section 1. Amends AS 13.52.010(k) to state that an advance health care directive is valid under AS 13.52 if it complies with AS 13.52, no matter where or when it was signed or communicated.

Section 2. Adds a new subsection to AS 13.52.010. The new subsection states that an individual instruction that is valid under AS 13.52 is still valid even if it is contained in a writing with a noncomplying durable power of attorney for health care.

Section 3. Amends AS 13.52.020(c) to substitute "physician" for "attending physician" with regard to whom an individual may communicate a revocation of an advance health care directive.

Section 4. Amends AS 13.52.060(d) to add a new exception to the subsection's requirement that a health care provider, health care institution, or health care facility comply with individual instructions and certain health care decisions made by persons other than the patient. The new exception is found at bill sec. 5.

Section 5. Adds new subsections to AS 13.52.060. New subsection (i) allows a health care provider to perform resuscitative measures, even if there is a DNR order, if the condition is caused by complications from medical services being provided by the provider. New subsection (j) establishes an exception to (i) for emergency services in the field.

Section 6. Amends AS 13.52.065(a) to remove the limitation that the physician who may issue a DNR order be the attending physician.

Representative Bruce Weyhrauch

April 13, 2006

Page 2

Section 7. Rewrites AS 13.52.065(f) to indicate under what circumstance a DNR order may be made ineffective and revoked.

Section 8. Amends AS 13.52.080(a) to impose a good faith requirement to the test for when a health care provider or a health care institution is not subject to liability or discipline for engaging in certain acts. Also, requires a good faith belief rather than reasonable belief in three of the identified acts. Adds a situation where the provider will not be liable under the main test in the subsection for causing or providing life-sustaining procedures.

Section 9. Amends AS 13.52.080 to add a provision regarding when providers are not subject to civil or criminal liability or discipline when a DNR order prevents the use of life-sustaining procedures.

Section 10. Amends the spanned reference in AS 13.52.140 to include the statutes that govern guardians.

Section 11. Amends AS 13.52.150 to change the conditions for when a DNR order or identification from another U.S. state, a territory, or a possession is considered valid and to establish a presumption of compliance.

Section 12. Amends the definition of "capacity" in AS 13.52.390(7) to include the ability to make and effectively communicate health care decisions.

Section 13. Provides that a DNR order made under former AS 18.12 continues to be effective under AS 13.52 unless it is made ineffective (for example, revoked) under AS 13.52.

Section 14. Directs the regulations attorney to make certain specified changes to the regulations relating to DNR protocol and identification.

Section 15. Makes bill sections 1 - 13 retroactive.

Section 16. Gives this Act an immediate effective date.

If I may be of further assistance, please advise.

TLB:med

06-307.med

AARP Alaska

April 30, 2006

Honorable Ralph Seekins, Chair
Senate Judiciary Committee
Alaska State Capitol, Room 125
Juneau, Alaska 99801-1182

RE: HB 442— (Weyhrauch)—Support

Dear Chair Seekins:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Judiciary Committee to support HB 442, authored by Representative Bruce Weyhrauch and co-sponsored by Representative Nancy Dahlstrom.

In 2004, Representative Weyhrauch authored HB 25 which was a comprehensive effort to allow Alaskans to use more "consumer-friendly" documents for living wills and advance directives. HB 442 builds upon those statutes for some language clarification, when CPR may be used, health directives from other states and specifies circumstances when a DNR order may be revoked.

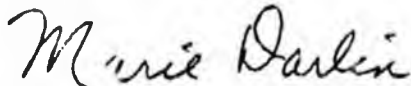
HB 442 builds logically on work that has already been done by the Legislature and will be of assistance to all Alaskans as they clarify what their health care wishes are.

AARP recommends an "AYE" vote on HB 442.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,



Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

CC: Vice-Chair Charlie Huggins
Senator Gene Therriault
Representative Bruce Weyhrauch

Senator Hollis French
Senator Gretchen Guess

HB

446

SENATE COMMITTEE REPORT

DATE: 4/12/06

FURTHER: Finance

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 446(JUD)

HB 446 PENALTY FOR UNLAWFUL TRADE PRACTICE

"An Act relating to the amount of a civil penalty for an unlawful act or practice in the conduct of trade or commerce; and eliminating mandatory continuances in these matters after issuance of an injunction."

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>			X	

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-8592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire

Chair, Judiciary Committee

SPONSOR STATEMENT HB 446

"An Act relating to the amount of a civil penalty for an unlawful act or practice in the conduct of trade or commerce."

The Federal Trade Commission recently reported that *Alaska topped the nation in fraud complaints last year: 249 per 100,000 people*. Unfortunately, Alaska's current consumer protection laws provide one of the lowest allowable civil penalties of any state. To strengthen Alaska's consumer protection law and send a message to those who prey on Alaska consumers, HB 446 seeks to increase the civil penalties authorized under Alaska's Unfair Trade Practices and Consumer Protection Act.

Under current law, when a person or company violates an injunction prohibiting unfair or deceptive business practices, it is subject to a maximum penalty of \$25,000. HB 446 will increase that maximum allowable civil penalty to \$50,000.

The current Act also provides for a \$5,000 civil penalty for each violation of the Act. HB 446 will increase this amount to a range between \$1,000 and \$25,000 per violation. The current \$5,000 penalty in the Act was established in 1970 when the Act was passed. Adjusting for inflation alone, this penalty should be \$20,200 (inflation from January 1970 to January 2005 was 405%). An increase to \$25,000 is a very modest increase.

Obtaining injunctive relief and civil penalties are the tools that enable the Attorney General to protect Alaska consumers against unfair and deceptive trade practices. These changes are vital enforcement tools that strengthen the Act. All civil penalties are assessed by a court only after a violation of the Act has been proven. All penalty payments go directly to the State of Alaska. Your support of this important legislation is appreciated.

CS FOR HOUSE BILL NO. 446(JUD)

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

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 2/27/06
Referred: Finance

Sponsor(s): REPRESENTATIVES MCGUIRE, Lynn, Gara, Dahlstrom, Gruenberg, Neuman

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the amount of a civil penalty for an unlawful act or practice in the
2 conduct of trade or commerce; and eliminating mandatory continuances in these
3 matters after issuance of an injunction."

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

5 * Section 1. AS 45.50.551(a) is amended to read:

knowingly and willfully

6 (a) A person who violates the terms of an injunction or restraining order
7 issued under AS 45.50.501 shall forfeit and pay to the state a civil penalty of not more
8 than \$50,000 for each [~~\$25,000 PER~~] violation. For the purposes of this section, the
9 superior court in a judicial district issuing an injunction retains jurisdiction, [AND
10 THE CAUSE SHALL BE CONTINUED,] and, in these cases, the attorney general
11 acting in the name of the state may petition for recovery of the penalties.

12 * Sec. 2. AS 45.50.551(b) is amended to read:

13 (b) In an action brought under AS 45.50.501, if the court finds that a person is
14 using or has used an act or practice declared unlawful by AS 45.50.471, the attorney

*knowingly
willfully*

1 general, upon petition to the court, may recover, on behalf of the state, a civil penalty
2 of not less than \$1,000 and not more than \$25,000 for each [\$5,000 PER] violation.

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

5 APPLICABILITY. This Act applies to all penalties assessed on or after the effective
6 date of this Act, regardless of when the conduct occurred.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 446(JUD)
 (H) Publish Date: 2/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Penalty for Unlawful Trade Practice RDU Alaska Court System
 Component Trial Courts
 Sponsor Representative McGuire
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The court system does not anticipate any fiscal impact from the passage of HB 446.

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

Phone 463-4750
 Date/Time 2/21/06 @ 2:30 pm
 Date 2/21/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 446(JUD)
 (H) Publish Date: 2/27/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the amount of a civil penalty RDU CIVIL
for an unlawful act or practice in the conduct of trade..." Component Commercial & Fair Business
 Sponsor Representative McGuire
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill doubles the civil penalty imposed on someone who violates the terms of an injunction or restraining order issued to prevent the person from engaging in an unlawful act or practice in the conduct of trade or commerce, from \$25,000 to \$50,000 for each violation. It changes the penalty for the unlawful act or practice that is the subject of the injunction or restraining order, from the present level of \$5,000 to not less than \$1,000 nor more than \$25,000 for each violation.

Passage of this legislation will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director
 Division: Administrative Services Division
 Approved by: Kathryn Daughhete for David Marquez, Attorney General
 Agency: Department of Law

Phone 465-3673
 Date/Time 2/22/06 2:18 PM
 Date 2/22/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 446(JUD)
 (H) Publish Date: 3/17/2006

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to the amount of a civil penalty for RDU CIVIL
an unlawful act or practice in the conduct of trade... Component Commercial & Fair Business0
 Sponsor Representative McGuire
 Requester House Judiciary Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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 (FY2006) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: House Finance Committee

Phone 465-4945/465-3779

Rep. Kevin Meyer, Co-Chair

Date 3/15/2006

Rep. Mike Chenault, Co-Chair

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

FRANK MURKOWSKI, GOVERNOR

1031 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-5903
PHONE: (907)269-5100
FAX: (907)276-8354

February 20, 2006

The Honorable Lesil McGuire
Chair
House Judiciary Committee
State Capitol, Room 118
MS 3100
Juneau, Alaska 99801

Re: HB 446, Civil Penalties in Consumer Protection Cases

Dear Representative McGuire:

Thank you for introducing HB 446. The Department of Law supports this important legislation. It would provide the department with more powerful enforcement tools by ensuring minimum penalties for violators of Alaska's Unfair Trade Practices and Consumer Protection Act (the "Act"), and increase the maximum penalty to a more meaningful amount. The current penalty of \$5,000 per violation is outdated. Several states have maximum penalties of \$100,000 or more, recognizing that in some cases, a single violation can have catastrophic consumer impacts that require severe penalties against larger corporate defendants.

The penalty provision of the Act requires the court to ultimately decide the amount of the penalty. Currently, this amount can range from \$0 to \$5,000. The court typically considers the nature of the alleged conduct, the harm involved, and other factors when considering an appropriate penalty. The amendments proposed by HB 446 will require the court to engage in this same analysis, except that the court must impose at least a \$1,000 penalty if a violation is found, and can impose up to \$25,000 per violation in appropriate cases. The proposed amendments will only affect state enforcement efforts because only the state can request penalties.

The Honorable Leslie McGuire
Chair
House Judiciary Committee

February 20, 2006
Page 2

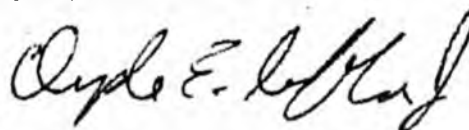
The Act is a critically important law that allows consumers and the department to investigate and prosecute consumer fraud and deception. HB 446 strengthens the Act, and provides a greater deterrent to would-be violators.

If you need additional information, please contact me at (907) 269-5200.

Sincerely,

DAVID W. MÁRQUEZ
ATTORNEY GENERAL

By:



Clyde E. Sniffen, Jr.
Assistant Attorney General

cc: Kevin Jardell, Legislative Director
Office of the Governor

Randy Ruaro, AAG
Deborah Behr, AAG
Department of Law

CES/sjm

To: Housed Judiciary and Finance Committees

Re: AkPIRG Supports HB 446 - Penalty for Unlawful Trade Practice

AkPIRG urges support for HB 446 – Penalty for Unlawful Trade Practices. This bill is a concrete step toward better protection for Alaskan consumers by modernizing the penalties against those who commit consumer crime.

Alaska leads the nation in fraud complaints, according to the Federal Trade Commission. Alaska's current laws in regard to consumer protection however, provide one of the lowest allowable civil penalties of any state. HB 446 will strengthen the Unfair Trade Practices and Consumer Protection Act, sending the message that crimes against consumers will not be lightly punished.

The current penalty dates back to the 1970s, HB 446 will increase deterrence by increasing the penalties for consumer crimes. In cases involving a person or company violating an injunction prohibiting unfair or deceptive business practices, the maximum allowable civil penalty will be increased from \$25,000 to \$50,000 - for each violation. The bill will also allow a range of \$1,000 to \$25,000 to be employed for civil penalties – again, for each violation of the Act.

The Department of Law needs the proper tools to be able to protect consumers in Alaska. HB 446 is one step toward better protection. The Alaskan Legislature is making great strides in updating consumer protection laws in regard to Identity Theft and other fraud. Increasing the penalties for such crimes will serve as a needed deterrence to better protect Alaskans.

Thank you for your support of this legislation.
Sincerely,

Steve Cleary
AkPIRG Director



April 19, 2006

Honorable Ralph Seekins, Chair
Senate Judiciary Committee
Alaska State Capitol, Room 125
Juneau, Alaska 99801-1182

RE: HB 446 (McGuire)—Support

Dear Chair Seekins:

On behalf of the members of AARP in Alaska, we encourage you and your colleagues on the Senate Judiciary Committee to support HB 446, authored by Representative Lesil McGuire and co-sponsored, on a bi-partisan basis, by five other House members and supported by the Alaska Attorney General.

This bill will increase the potential civil penalty for unlawful commercial or trade practices. As you and your colleagues know, older persons are often the targets of illegal businesses. The loss of even modest amounts of money may be devastating to a person living on a low, fixed income.

HB 446 will allow law enforcement to levy more appropriate penalties and help prohibit unfair and deceptive practices in trade and commerce. HB 446 will improve enforcement and, hopefully, help deter these acts in the future.

AARP recommends an "AYE" vote on HB 446.

Should you have any questions about our position, please feel free to contact me (586-3637) or Patrick Luby, AARP Advocacy Director (907-762-3314).

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Marie Darlin".

Marie Darlin, Coordinator
AARP Capital City Task Force
415 Willoughby Avenue, Apt. 506
Juneau, AK 99801
586-3637 (voice)
463-3580 (fax)

C Vice-Chair Charlie Huggins
Senator Gene Therriault
Representative Lesil McGuire

Senator Hollis French
Senator Gretchen Guess

HB

482

SENATE COMMITTEE REPORT

DATE: 5/5/06

FURTHER:

DATE TURNED
IN TO OFFICE: _____

Judiciary Committee considered CS FOR HOUSE BILL NO. 482(JUD)

HB 482 SCHOOL:BULLYING/HARASSMENT/INTIMIDATION

"An Act relating to harassment, intimidation, and bullying in schools."

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>Stephen Thomas</i>	X			
<i>[Signature]</i>			X	
<i>[Signature]</i>			X	
CHAIR: <i>Joseph Debin</i>			✓	

LEGAL SERVICES

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

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

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

MEMORANDUM

May 6, 2006

SUBJECT: Amendment #4, SCS CSHB 482(JUD) (Work Order No. 24-LS0053\C), REVISED

TO: Senator Ralph Seekins
Attn: Brian Hove

FROM: Jean M. Mischel
Legislative Counsel

The House Judiciary Committee CS is enclosed. I have some concern that amendment no. 4, adopted by the committee, is confusing and will lead to some difficulty in its application. Amendment no. 4 reads:

(3) "school official" means **all employees at such a school, including** all teachers, administrators, and noncertificated personnel **such as** paraprofessional and other support staff.

This amendment contains grammatical errors, suffers from an internal inconsistency and may not make sense in the context of the bill. The grammatical errors are the use of "at such", which I've redrafted to read "of", and the use of "including" and "such as" in a definition. The internal inconsistency is the reference to "all employees" while listing types of employees who appear to have some contact with students. I'm also unclear on the distinction between the terms "school employee" and "school official" as both terms are used in the bill. I have deleted the word "all" for this reason. I have also deleted "such as" to avoid confusion about what is meant by "noncertificated personnel." Let me know if this is consistent with the committee's intent.

The context of the term also raises questions about this amendment. The term being defined, "school official", is used in the bill twice in the context of the person to whom a report of harassment or bullying is submitted by school personnel and volunteers. If "all employees" were authorized recipients of such reports, the application of the amendment would result in immunity, for example, for a teacher reported bullying a janitor or some other employee who lacks authority to take action to resolve the problem.

The definition disregards the term "official," which has a common meaning of 'a person with authority.' I cannot discern whether the two lists contained in the amendment are intended to imply some role of authority over students.

Senator Ralph Seekins

May 6, 2006

Page 2

Under AS 01.10.040(b), the word "including" shall be construed as though followed by the phrase "but not limited to". On the other hand, a court will review a list to determine commonalities to apply an interpretation that makes sense. A court may construe "including" broadly, to apply no limits to the term "employee", or it may attach some significance to the limited nature of the list of persons contained in the definition. The elimination of the word "all" may cause a more narrow interpretation to be supported. I don't know what is intended here so I have not been able to clarify the term any further. Please review the definition I have inserted into the Judiciary CS carefully.

If I may be of further assistance, please advise.

JMM:med

06-372.med

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

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SPONSOR STATEMENT FOR CSHB 482 (JUD)

TITLE: "An act relating to harassment, intimidation, and bullying in schools."

HB 482 addresses a growing problem in our schools that is often overlooked by teachers and administrators. Bullying has a truly negative effect on the social environment of schools and on the emotional and mental well-being of our children, the students in these schools.

Recent studies suggest that Bullying creates a climate of fear among students, inhibits their ability to learn, and leads to other anti-social behavior, such as vandalism, shoplifting, skipping and dropping out of school, fighting, and the use of drugs and alcohol. Sixty percent (60%) of the males studies who were bullies in grades six through nine were convicted of at least one crime as an adult. Thirty five (35) to forty percent (40%) of these former bullies had three or more convictions by 24 years of age. Only 15 of the 53 school districts in Alaska have made an attempt to address the bullying issue. With the increase in students in Alaska today, there is a growing need to ensure the safety of our children's learning environment.

House Bill 482 requires school districts, city and borough offices of education, law enforcement agencies, and youth-serving agencies to develop and implement inter-agency strategies on bullying and harassment.

Currently 21 states have some sort of anti-bullying law, and another 24 states are in the process of adopting similar legislation.

You'll note in your packets endorsement letters by the National Education Association (NEA), Alaska Network on Domestic Violence & Sexual Assault, Boys and Girls Clubs, and Allan Morotti - Dept. Chair of University of Alaska Fairbanks School of Education.

Bullying is a problem everywhere, even in Alaska - and its causes and effects cannot be overlooked. This bill gives not only teachers and administration officials the tools to deal with such a growing issue, but also allows for input from parents, guardians, students and concerned members of the community in the development of a comprehensive bullying policy.

Successful programs to recognize, prevent, and effectively intervene in bullying behavior have improved safety and create a more inclusive learning environment. Some of the possible programs may include in-service training programs and other activities to improve school attendance and reduce school crime and violence. HB 482 is targeted to reduce vandalism, drug and alcohol abuse, gang membership, gang violence, hate crimes, bullying, teen relationship violence, and discrimination and all harassment, including sexual harassment, in grades K-12.

Rep. Anderson urges your support of this important legislation.

CS FOR HOUSE BILL NO. 482(JUD)
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered: 4/14/06
Referred: Finance

Sponsor(s): REPRESENTATIVES ANDERSON, Kott, McGuire, Ramras, Cissna, Gardner, Chenault, LeDoux

A BILL
FOR AN ACT ENTITLED

1 **"An Act relating to harassment, intimidation, and bullying in schools."**

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

3 *** Section 1. AS 14.33 is amended by adding new sections to read:**

4 **Article 4. Harassment, Intimidation, and Bullying.**

5 **Sec. 14.33.200. Harassment, intimidation, and bullying policy.** (a) By
6 July 1, 2007, each school district shall adopt a policy that prohibits the harassment,
7 intimidation, or bullying of any student. Each school district shall share this policy
8 with parents or guardians, students, volunteers, and school employees.

9 (b) The policy must be adopted through the standard policy making procedure
10 for each district that includes the opportunity for participation by parents or guardians,
11 school employees, volunteers, students, administrators, and community
12 representatives. The policy must emphasize positive character traits and values,
13 including the importance of civil and respectful speech and conduct, and the
14 responsibility of students to comply with the district's policy prohibiting harassment,
15 intimidation, or bullying. The policy must also include provisions for an appropriate

1 punishment schedule up to and including expulsion and reporting of criminal activity
 2 to local law enforcement authorities. School employees, volunteers, students, and
 3 administrators shall adhere to this policy.

4 (c) By January 1, 2007, the department, in consultation with representatives of
 5 parents or guardians, school personnel, and other interested parties, may provide to
 6 school districts a model harassment, intimidation, and bullying prevention policy and
 7 training materials on the components that should be included in a district policy.
 8 Training materials may be disseminated in a variety of ways, including workshops and
 9 other staff developmental activities, and through the Internet website of the
 10 department. Materials included on the Internet website must include the model policy
 11 and recommended training and instructional materials. The department may provide a
 12 link to the school district's Internet website for further information.

13 **Sec. 14.33.210. Reporting of incidents of harassment, intimidation, or**
 14 **bullying.** Beginning with the 2007 - 2008 school year, each school district shall report
 15 to the department by November 30 all incidents resulting in suspension or expulsion
 16 for harassment, intimidation, or bullying on school premises or on transportation
 17 systems used by schools in the school year preceding the report. The department shall
 18 compile the data and report it to the appropriate committees of the Alaska House of
 19 Representatives and the Senate.

20 **Sec. 14.33.220. Reporting; no reprisals.** (a) A school employee, student, or
 21 volunteer may not engage in reprisal, retaliation, or false accusation against a victim,
 22 witness, or person with reliable information about an act of harassment, intimidation,
 23 or bullying.

24 (b) A school employee, student, or volunteer who has witnessed, or has
 25 reliable information that a student has been subjected to, harassment, intimidation, or
 26 bullying, whether verbal or physical, is encouraged to report the incident to an
 27 appropriate school official. *shall*

28 (c) This section does not prohibit discipline or other adverse action taken in
 29 compliance with school district policies against a person who falsely and in bad faith
 30 accuses a person of engaging in harassment, intimidation, or bullying or who
 31 intentionally provides false information in connection with an investigation of an

#2

1 alleged incident of harassment, intimidation, or bullying.

2 Sec. 14.33.230. Immunity from suit. A school employee, student, or
3 volunteer who promptly reports an incident of harassment, intimidation, or bullying to a
4 an appropriate school official and who makes this report in good faith and in
5 compliance with the procedures in the district's policy prohibiting harassment,
6 intimidation, or bullying is immune from a cause of action for damages arising from a
7 failure to remedy the reported incident or for making the report.

8 Sec. 14.33.250. Definitions. In AS 14.33.200 - 14.33.250,

9 (1) "district" has the meaning given in AS 14.17.990;

#3

10 (2) "harassment, intimidation, or bullying" means an intentional
11 written, oral, or physical act, including an act directed at a student because of that
12 person's race, age, sex, color, creed, sexual orientation, physical or mental disability,
13 ancestry, or national origin or other distinguishing characteristics, when the act is
14 undertaken with the intent of threatening, intimidating, harassing, or frightening the
15 student, and

16 (A) physically harms the student or damages the student's
17 property;

18 (B) has the effect of substantially interfering with the student's
19 education;

20 (C) is so severe, persistent, or pervasive that it creates an
21 intimidating or threatening educational environment; or

22 (D) has the effect of substantially disrupting the orderly
23 operation of the school.

#4 school official means a etc. etc.
assistant principal, teacher

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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Sectional Analysis for CSHB 482 (JUD)

Section 1: Amends state law dealing with school safety and discipline by adding a new section Article 4 Harassment, Intimidation, and Bullying. The new Article 4 has five subsections:

Sec. 14.33.200: Harassment, intimidation, and bullying policy.

- (a) Requires school districts to adopt a policy on harassment, intimidation, and bullying by July 1, 2007 and share this policy with parents or guardians, students, volunteers, and school employees.
- (b) Outlines the policy adoption process, policy emphasis and other requirements to be included in the new policy.
- (c) Suggests the Department of Education to provide model policy to school districts by January 1, 2007. This will give school districts six months to adopt policy as required by (a).

Sec. 14.33.210: Reporting of incidences of harassment, intimidation, or bullying.

Beginning with the 2007-2008 school year, each school district shall report to the Department all incidences involving harassment, intimidation, or bullying. The Department will then take all the data and report it to the House of Representatives and the Senate.

Sec. 14.33.220: Reporting; no reprisals.

- (a) A school employee, student, or volunteer is not allowed to engage in reprisal, retaliation, or false accusation against a victim or a witness.
- (b) A school employee, student, or volunteer who has witnessed, or has harassment information is encouraged to report the incident to an appropriate school official.
- (c) Does not prohibit actions taken with the school districts policy.

Sec. 14.33.223: Immunity from suit.

Any school employee, student, or volunteer who promptly reports an incident of harassment, intimidation, or bullying to an appropriate school official is immune from a cause of action for damages arising.

Sec. 14.33.250: Definitions.

Provides definitions of "district" and "harassment, intimidation, or bullying".

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 482(EDU)
 (H) Publish Date: 3/20/06

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title "An Act relating to harassment, intimidation, RDU CIVIL
and bullying in schools." Component Labor and State Affairs
 Sponsor Representative Anderson
 Requester House Special Committee on Education, Health.. Component No. _____

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

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

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill creates Article 4 in AS 14.33 requiring each school district to adopt a policy that prohibits the harassment, intimidation, or bullying of any student. It also requires that the policy be shared with parents or guardians, students, volunteers, and school employees. The bill further requires that violations of the policy be reported to the Department of Education and Early Development, and it prohibits reprisal against and provides immunity from suit to those who report violations of the policy in good faith.

Passage of this legislation will not have a fiscal impact on the Department of Law.

Prepared by: Kathryn Daughhete, Director Phone 465-3673
 Division Administrative Services Division Date/Time 3/14/06 9:54 AM
 Approved by: Kathryn Daughhete for David Marquez, Attorney General Date 3/14/2006
 Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: CSHB 482(FIN)
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: EED
Title An Act relating to harassment, intimidation, RDU Teaching & Learning Support
and bullying. Component Student & School Achievement
Sponsor Anderson
Requester House Finance Component No. 2796

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0
Check this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The language of CSHB 482(FIN) does not require that the Department of Education & Early Development take any action. Therefore, there is a zero fiscal note for this version of the bill.

Prepared by: Barbara Thompson Phone 465-8727
Division Teaching & Learning Support Date/Time 4/13/06 1:30 PM
Approved by: Karen Rehfeld, Deputy Commissioner Date 04/13/2006
Agency Education and Early Development

Fairbanks Daily News-Miner

Don't be a bully

Wednesday, March 15, 2006 - Have things gotten so bad in Alaska schools that it's time for the state to step in with a law barring the harassment, intimidation or bullying of students? Apparently. Why else would Alaska need such a law as that under consideration later this week in the state House?

The superintendent of Fairbanks' public schools says she's noticed an increase in bullying in the past decade, and the school board in September adopted a policy against it. "Intentional and generally unprovoked attempts by one or more individuals to inflict physical harm or emotional distress upon another person or group is prohibited and may result in disciplinary action."

Seems pretty clear.

The item in the Legislature, House Bill 482, would require each school district to have a policy against such behavior, would require the state to help districts establish such policies, and would require districts to make annual reports to the Department of Education and Early Development, which would provide the results to the Legislature. Whether the bill goes anywhere is anyone's guess looking from the outside.

For the moment, though, the bill by Anchorage Republican Rep. Tom Anderson provides an opportunity to talk about bullying and the harm it can do. It's an opportunity to remind parents to talk to their children about what's right and what's wrong and how children should relate to one another.

Kids are kids, and they are mean to each other at times--often fiercely so. That's probably not going to change much, but that's no reason to accept bad behavior. Accepting it will only allow it to become more widespread. But what is bullying? How is a parent to recognize it to be able to deal with it?

Common sense will tell. Seeing some of the definitions in the school district's new policy does bring out the reaction, "Well, that's what kids do." Punching, hitting, hair pulling, biting, ostracizing, name-calling and so on. But the policy does include more serious forms of harassment and intimidation such as sexual propositioning and unwanted physical contact.

All of those, and other bullying, can disrupt a child's schooling and well-being. That's reason to strive to eliminate it.

Reducing the amount of bullying and harassment has been one of the topics in a grant-funded Safe Schools, Healthy Students program of the Fairbanks North Star Borough School District, which on April 19 is having a "Bullying Prevention" seminar for school administrators, school board members and parents.

The school district's workshop and the legislation to be discussed this week in Juneau both are opportunities to bring more public awareness to what can become a ruinous torment for a child.

Fairbanks Daily News-Miner

The cyber-bully: A new danger
By **HEATHER STEWART**

Wednesday, April 05, 2006 - When you say the word bullying, everyone has a picture in their mind of the schoolyard bully. However, bullying has reached far beyond the schoolyard fences. Children are now being bullied via the Internet, cell phones, Web pages and various other media. On any given day, any one of our children could be teased, threatened, or tormented by bullies. Nationally, according to a student survey by the University of New Hampshire, 1 in 17 children age 10 through 17 have been threatened online. When you consider 605 million people are online worldwide and that 20 percent of them are kids and teens between the ages of 12 and 17, that is an alarming number. A 2002 study in Great Britain reports 1 in 4 children are bullied online.

What is this new form of bullying? Bullying itself is intentional repeated aggressive behavior that involves an imbalance of power or strength between those involved. Cyber-bullying is repeated aggression and tormenting through e-mail, instant messaging, Internet chat rooms, and electronic gadgets like camera cell phones where bullies forward and spread hurtful images and messages. Bullies use this technology to harass victims at all hours, in wide circles, and at warp speed. The anonymity offered by this technology encourages some children to say things on the computer that they would never say face-to-face. Cyber-bullies feel removed from their actions and without tangible feedback (hurt feelings, tears) there is no remorse or empathy. This behavior peaks in middle school when adolescents are figuring out who their friends are and whether they fit in. Both boys and girls bully, and both get bullied.

Bullying is not an acceptable part of growing up.

All children involved in bullying incidents are at risk. Bullied children are more likely than their peers to be depressed, lonely, anxious, have lower self-esteem, and miss days from school. Children who bully are more likely than their peers to get into frequent fights, steal, damage property, drink alcohol, drop out of school, and carry a weapon. Children who watch but don't participate are also at risk. These "bystanders" tend to have diminished empathy, decreased trust in adults, and believe that bullying and aggression are acceptable behaviors.

That's the bad news. The good news is that we can decrease bullying if everyone--students, parents, schools and the community--gets involved. Preventing and stopping bullying takes a team effort.

The Fairbanks North Star Borough School District is taking a proactive approach to addressing bullying. Policies have been developed that define and outline consequences for intimidating behavior and bullying. School staffs are training on bullying prevention, and several schools are implementing anti-bullying programs. Schools are also on the alert to squelch cyber-bullying. School computers are monitored and, if used inappropriately, students face serious consequences.

Parents need to be part of the team. Parents: It is important to talk to your children about what they can and cannot do online. Learn everything you can about the Internet. Have your children show you "what's cool." "Surf the net" as a family. Place the computer in an area where you can monitor your children on the Internet. Talk about online safety such as protecting passwords, not talking to online strangers, and never meeting in person someone they met online. Look into safeguarding-programs or

options your online service provider might offer.

The cyber-bully believes they cannot be caught, but everyone leaves cyber-footprints. If you believe your child has been a victim of cyber-bullying, you should save the information. Keep copies of the e-mails, print the Web pages, leave the computer on, and call the authorities (Internet service provider, law enforcement officials, and your child's school).

The Safe Schools/Healthy Students project has the following materials available: "Take Action Against Bullying" (guide), "Bullying is Not a Fact of Life" (booklet), and "15+ Make Time to Listen-Take Time to Talk ... About Bullying" (conversation starter cards), to provide practical guidance so parents can intervene appropriately whether their child is the bully or is being bullied. Parents can pick up these materials from the Safe Schools/Healthy Students office at Ryan Middle School or by calling 452-4751 ext. 9396. Material is also available on line at www.northstar.k12.ak.us/safeschools/.

We have a responsibility to keep our children safe. By raising awareness about bullying and its negative impacts, educating ourselves on what we can do to break the cycle of violence and by addressing potentially harmful actions quickly before they escalate to chronic violent behavior, everyone's story can change for the better.

Heather Stewart is Safe Schools/Healthy Students director for the Fairbanks North Star Borough School District.

Web posted March 17, 2006

Legislation aims to help curb bullying *Juneau schools have already taken action*

By ERIC MORRISON
JUNEAU EMPIRE

It may be the school bullies who have to watch their backs in 2007.

House Bill 482, "An act relating to harassment, intimidation, and bullying in schools," was introduced to the House Special Committee on Education on Thursday morning. Sponsored by Rep. Tom Anderson, R-Anchorage, the bill allows schools to create anti-bullying policies to create safe and healthy learning environments in classrooms from Alaska.

"It's a very good thing for our students and I just hope they can learn in a very safe learning environment," legislative aide Crystal Novotney, who introduced the bill on behalf of Anderson, told the committee.

Some districts have acted already. Juneau School District's harassment policy covers bullying.

The bill would give schools the option of adopting a policy by July 1, 2007, to curb violence and intimidation in schools. It also would suggest that schools report any bullying activity to the Department of Education and Early Development by each January 31 beginning with the 2007-2008 school year. It also shields students, school employees and volunteers from reprisals or from lawsuits if they report such activity.

"A lot of time what happens in schools is they turn their other cheek, basically," Novotney, said. "They understand that it's happening but the big debate is, 'Well kids will be kids.'"

The bill defines harassment, intimidation or bullying as an "intentional written, oral, or physical act" that causes physical harm, interferes with education, creates a threatening environment, or disrupts school operations.

Rep. Bob Lynn, R-Anchorage, said there are laws on the books that already protect students.

"This is another layer of paperwork that needs to be done that takes away the time of teaching basic subjects and also takes away the time supervising student behavior, which includes bullying," Lynn said.

National Education Association-Alaska Executive Director Tom Harvey testified before the committee, saying the bill provides a mechanism by which a school can produce a better climate for students to learn and teachers to teach. He said the bill would help because some schools in Alaska are getting falling grades under the federal No Child Left Behind Act, unable to meet the attendance requirements.

"Students stay home because they are bullied," Harvey said. "They stay home, they miss attendance schedules and we have a failing school under No Child Left Behind. That is not appropriate."

Rep. Carl Gatto, R-Palmer, questioned whether a certain amount of bullying is actually beneficial to a student's success.

"Is there a part of growing up where you have to have conflict or you won't tolerate society?" he said.

Sara Vitaska, a policy associate for the National Conference of State Legislatures, told the committee that 21 states have enacted anti-bullying legislation and at least 24 states introduced similar legislation in the 2005-2006 session.

With Lynn dissenting, the committee voted 4-1 to move the bill to the Health, Education and Social Services Committee. Rep. Peggy Wilson, R-Wrangell, and Rep. Woodie Salmon, D-Chalkyitsik, were absent.

Bullying Statistics

BULLYING STATISTICS

- Thirty percent (30%) of U.S. students in grades six through ten are involved in moderate or frequent bullying — as bullies, as victims, or as both — according to the results of the first national survey on this subject.
- Bullying is increasingly viewed as an important contributor to youth violence, including homicide and suicide. Case studies of the shooting at Columbine High School and other U.S. schools have suggested that bullying was a factor in many of the incidents.

RECENT STATISTICS SHOW THAT:

- 1 out of 4 kids is Bullied. The American Justice Department says that this month 1 out of every 4 kids will be abused by another youth.
- Surveys Show That 77% of students are bullied mentally, verbally, & physically.
- In a recent study, 77% of the students said they had been bullied. And 14% of those who were bullied said they experienced severe (bad) reactions to the abuse.
- 1 out of 5 kids admits to being a bully, or doing some "Bullying."
- 8% of students miss 1 day of class per month for fear of Bullies.
- 43% fear harassment in the bathroom at school.
- 100,000 students carry a gun to school.
- 28% of youths who carry weapons have witnessed violence at home.
- A poll of teens ages 12-17 proved that they think violence increased at their schools.
- 282,000 students are physically attacked in secondary schools each month.
- More youth violence occurs on school grounds as opposed to on the way to school.
- Playground statistics - Every 7 minutes a child is bullied. Adult intervention - 4%. Peer intervention - 11%. No intervention - 85%.

ACCORDING TO THE BUREAU OF JUSTICE STATISTICS - School Crime and Safety:

- 48% of males, and 23% of females reported they had been in physical fights.
- Those in the lower grades reported being in twice as many fights as those in the higher grades. However, there is a lower rate of serious violent crimes in the elementary level than in middle or high schools.
- Teenagers say revenge is the strongest motivation for school shootings
 - — 87% said shootings are motivated by a desire to "get back at those who have hurt them."
 - — 86% said, "other kids picking on them, making fun of them or bullying them" causes teenagers to turn to lethal violence in the schools.
- Students recognize that being a victim of abuse at home or witnessing others being abused at home may cause violence in school.
 - — 61% said students shoot others because they have been victims of physical abuse at home.
 - — 54% said witnessing physical abuse at home can lead to violence in school.
- Students say their schools are not safe.

STATS 2001:

SELECTED SCHOOL VIOLENCE RESEARCH FINDINGS FROM 2001 SOURCES

- According to the latest poll, thirty-two percent of parents fear for their child's physical safety when the child is at school. Thirty-nine percent of parents with a child in grade six or higher are more likely to say they fear for their child's safety. Twenty-two percent of parents whose children are in grade five or lower fear for their child's safety. (*Parents Not Overly Concerned About School Environments for Their Children*, Gallup News Service, 2001)
- Bullying generally begins in the elementary grades, peaks in the sixth through eighth grades, and persists into high school. (*Addressing the Problem of Juvenile Bullying*, Office of Juvenile Justice and Delinquency Prevention, 2001)
- Among students, homicide perpetrators were more than twice as likely as homicide victims to have been bullied by peers. (*School-Associated Violent Deaths In the United States 1994-1999*, Centers for Disease Control and Prevention and U.S. Departments of Education and Justice, 2001, findings published by the Journal of the American Medical Association, 2001)

- Overall, almost eleven percent of a representative sample of youth reported bullying others sometimes, and almost nine percent admitted to bullying others once a week or more. Experiencing bullying was reported with similar frequency, with almost nine percent bullied sometimes and just over eight percent bullied once a week or more. (Bullying Behaviors Among US Youth, Journal of the American Medical Association, 2001)
- Of a representative sample of youth, almost thirty percent reported some type of involvement in moderate or frequent bullying, as a bully, a target of bullying, or both. (Bullying Behaviors Among US Youth, Journal of the American Medical Association, 2001)
- Bullying was reported as more prevalent among males than females and occurred with greater frequency among middle school-aged youth than high school-aged youth. For males, both physical and verbal bullying was common, while for females, verbal bullying and rumors were more common. (Bullying Behaviors Among US Youth, Journal of the American Medical Association, 2001)
- Research shows that those who bully and are bullied appear to be at greatest risk of experiencing the following: loneliness; trouble making friends; lack of success in school; and involvement in problem behaviors such as smoking and drinking. (Addressing the Problem of Juvenile Bullying, Office of Juvenile Justice and Delinquency Prevention, 2001)
- Seventy-four percent of 8- to 11-year-old students said teasing and bullying occur at their schools. (Talking With Kids About Tough Issues: A National Survey of Parents and Kids, Kaiser Family Foundation and Nickelodeon, 2001)
- Though recent studies show that as many as seventy-five percent of children have been victims of bullying during their school careers, about half of parents in this survey see bullying as no problem for their children. (Are We Safe?: The 2006 National Crime Prevention Survey, National Crime Prevention Council, 2001)
- Thirty-nine percent of middle schoolers and thirty-six of high schoolers say they don't feel safe at schools. (2000 Report Card: Report #1, The Ethics of American Youth: Violence and Substance Abuse: Data & Commentary, Josephson Institute of Ethics, 2001)

— North Carolina Department of Juvenile Justice and Delinquency Prevention Center for the Prevention of School Violence

Statistics compiled by Kathy Knoll at: <http://hometown.aol.com/kthynoll>

April 24, 2001 (National Institutes of Health)

Bullying Widespread in U.S. Schools, Survey Finds:

- Bullying is widespread in American schools, with more than 16 percent of U.S. school children saying they had been bullied by other students during the current term, according to a survey funded by the National Institute of Child Health and Human Development (NICHD).
- The study appears in the April 25, 2001, Journal of the American Medical Association. Overall, 10 percent of children said they had been bullied by other students, but had not bullied others. Another 6 percent said that they had both been bullied themselves and had bullied other children. Another 13 percent of students said they had bullied other students, but had not been bullied themselves.
- "Being bullied is not just an unpleasant rite of passage through childhood," said Duane Alexander, M.D., director of the NICHD. "It's a public health problem that merits attention. People who were bullied as children are more likely to suffer from depression and low self esteem, well into adulthood, and the bullies themselves are more likely to engage in criminal behavior later in life."
- The NICHD researchers surveyed 15,688 students in grades six-through-10, in public, parochial, and other private schools throughout the U.S. The nationally representative survey was part of the U.S. contribution to the World Health Organization's Health Behavior in School Children survey, an international effort in which many countries surveyed school-age children on a broad spectrum of health-related behaviors.
- For this study, researchers defined bullying as a type of behavior intended to harm or disturb the victim, explained the study's first author, Tonja R. Nansel, Ph.D. This behavior occurs repeatedly over time and involves an imbalance of power, with the more powerful person or group attacking the less powerful one. Dr. Nansel added. Bullying may be physical, involving hitting or otherwise attacking the other person; verbal, involving name-calling or threats; or psychological, involving spreading rumors or excluding a person.
- The children were asked to complete a questionnaire during a class period that asked how often they either bullied other students, or were the target of bullying behavior. A total of 10.6 percent of the children replied that they had "sometimes" bullied other children, a response category defined as "moderate" bullying. An additional 8.8 percent said they had bullied others once a week or more, defined as "frequent" bullying. Similarly, 8.5 percent said they had been targets of moderate bullying, and 8.4 percent said they were bullied frequently.
- Out of all the students, 13 percent said they had engaged in moderate or frequent bullying of others, while 10.6 percent said they had been bullied either moderately or frequently. Some students—6.3 percent—had both bullied others and been bullied themselves. In all, 29 percent of the students who responded to the survey had been involved in some aspect of bullying, either as a bully, as the target of bullying, or both.
- Bullying occurred most frequently in sixth through eighth grade, with little variation between urban, suburban, town, and rural areas; suburban youth were 2-3 percent less likely to bully others. Males were both more likely to bully others and more likely to be victims of bullying than were females. In addition, males were more likely to say they had been bullied physically (being hit, slapped, or pushed), while females more frequently said they were bullied verbally and psychologically (through sexual comments or rumors).

- Regarding verbal bullying, bullies were less likely to make derogatory statements about other students' religion or race. "There seem to be stronger social norms against making these kinds of statements than against belittling someone about their appearance or behavior," Dr. Nansel said.
- Both bullies and those on the receiving end of bullying were more likely to have difficulty adjusting to their environment both socially and psychologically. Students who were bullied reported having greater difficulty making friends and poorer relationships with their classmates. They were also much more likely than other students to report feelings of loneliness.
- "It's likely that kids who are socially isolated and have trouble making friends are more likely to be targets of bullying," Dr. Nansel said. "In turn, other kids may avoid children who are bullied, for fear of being bullied themselves."
- The study authors also reported that bullies were more likely to be involved in other problem behaviors, such as smoking and drinking alcohol, and to do more poorly academically. However, youth who were both bullies and recipients of bullying tended to fare the most poorly of all, experiencing social isolation, as well as doing poorly in school and engaging in problem behaviors, like smoking and drinking.
- "Unfortunately, we don't know much about this group," Dr. Nansel said. "We need to learn more about them to provide them with the help they need." She added that it is not known whether these children are first bullied by others and then imitate the bullying behavior they experienced, or if they are bullies who were later retaliated against.
- The study's authors concluded that the prevalence of bullying in U.S. schools suggests a need for more research to understand, and devise ways to intervene against, bullying. The authors noted that researchers in Norway and England have shown that school intervention programs can be successful. These programs focused on increasing awareness of bullying, increasing teacher and parent supervision, establishing clear rules prohibiting bullying, and providing support and protection for those bullied.

The NICHD is part of the National Institutes of Health, the biomedical research arm of the federal government. The Institute sponsors research on development before and after birth; maternal, child, and family health; reproductive biology and population issues; and medical rehabilitation. NICHD publications, as well as information about the Institute, are available from the NICHD Web site, <http://www.nichd.nih.gov>, or from the NICHD Information Resource Center, 1-800-370-2943; e-mail NICHDInformationResourceCenter@mail.nih.gov.

Close

LEGISLATIVE RESEARCH REPORT

MARCH 11, 2005



REPORT NUMBER 05.197

ALASKA SCHOOL DISTRICT POLICIES ON BULLYING AND HARASSMENT

PREPARED FOR REPRESENTATIVE SHARON CISSNA

BY KATHLEEN L. WAKFIELD, LEGISLATIVE ANALYST

You asked about Alaska school districts' policies regarding bullying and/or harassment. Specifically, you wished to know how districts define bullying and harassment, and how they determine the motivating factors behind the behavior.

POLICIES ON BULLYING AND HARASSMENT

We contacted all school districts in Alaska about their policies regarding bullying and/or harassment. We received responses from 17 districts: Copper River, Delta/Greely, Fairbanks North Star Borough, Haines Borough, Iditarod Area, Juneau, Kenai Peninsula Borough, Klawock, Lower Yukon, Mat-Su Borough, Mt. Edgecumbe, Northwest Arctic, Pribilof, St. Mary's, Southeast Island, Valdez, and Wrangell. We received the following responses:

- ◆ Three of these school districts have no policies on bullying or harassment: Lower Yukon, St. Mary's, and Valdez. All three districts indicated that they are developing such policies.
- ◆ Copper River, Klawock, and Mt. Edgecumbe have specific policies that prohibit bullying.
- ◆ Juneau includes bullying in its policy prohibiting harassment.
- ◆ Administrators in the Mat-Su Borough School District recently developed a policy on harassment that includes bullying. The school board will address this proposed policy at its next meeting.

- Kenai, Pribilof, and Southeast Island districts have no specific policies against bullying, but include references to bullying under "Violent and Aggressive Behavior" and/or "Positive School Climate."
- Eight districts include sexual orientation or sexuality as a protected class in their policies on bullying and/or harassment. These districts are Copper River, Fairbanks North Star Borough, Haines, Juneau, Mat-Su, Mt. Edgecumbe, Northwest Arctic, and Pribilof.

The Association of Alaska School Boards (AASB) Policy Reference Manual also contains policies on harassment, bullying, violent and aggressive conduct, and sexual harassment. The AASB policies specifically address sexual orientation as a protected class. According to AASB officials, 43 school districts use the AASB policy system.¹ For example, the Iditarod, Northwest Arctic, and Pribilof school districts use the AASB policy on harassment, and administrators in Valdez are recommending that the board adopt this language on harassment, as well.² Since the policy on bullying was only released in January 2005, AASB officials do not know how many districts have adopted it, although they expect that most districts will eventually do so.

Most district policies require the school principal or a designee to investigate all reports of bullying and/or harassment, and to prepare a written report of the incident and findings. Policies provide for a range of sanctions for students found guilty of bullying or harassment, up to and including expulsion for the most serious offenses.

The attached table contains the definitions of bullying and/or harassment for the 17 districts that responded to our request, and for the AASB.

OTHER STATES' LAWS

Other states have also grappled with the issue of bullying in schools over the past several years. According to the National Conference of State Legislatures, lawmakers in Hawaii, Indiana, Kentucky, Massachusetts, Michigan, Nebraska, Nevada, New York, South Carolina, and Texas have introduced legislation this year that addresses school bullying. New Hampshire, New Jersey, Oklahoma, Oregon, Rhode Island, Vermont, and Washington have already passed legislation requiring school districts to adopt policies on bullying. In addition, a lawmaker in Washington introduced a bill this year—SB 5849—to expand the state's anti-bullying law to include "cyber-bullying," or the use of "electronic means" such as communication via electronic mail, internet-based communications, pager service, cell phones, and electronic text messaging.³

¹ Personal communication from Sharon Young, Associate Executive Director, Association of Alaska School Boards, March 7, 2005.

² Personal communications from Joyce Turner, Board Secretary, Iditarod Area School District, February 28, 2005; Robert Boyle, Superintendent, Northwest Arctic School District, February 24, 2005; Malcolm Fleming, Superintendent, Pribilofs School District, February 24, 2005; Ernie Manzie, Superintendent, Valdez City School District, February 27, 2005.

³ We include a copy of SB 5849 as Attachment A.

In addition, the U.S. Congress has also considered bullying in schools. In 2004, Representative John Shimkus of Illinois introduced H.R. 4776 to amend the Safe and Drug-Free Schools and Communities Act to include bullying and harassment prevention programs. The bill died in committee.

FIRST AMENDMENT CONCERNS

While states and school districts continue to work to address bullying and harassment in schools, some challenges have been mounted due to concerns about violations of the First Amendment's free speech clause. For example, in 2001 an anti-harassment policy adopted by the Pennsylvania State College Area School District was challenged in district court.⁴ The plaintiffs—two students, and a school board member who also volunteered in the schools—argued that the policy prohibited their ability to express their beliefs about Christianity and certain moral topics such as homosexuality.

The district court disagreed with the plaintiffs, and granted the defendants' motion to dismiss. The plaintiffs appealed the case to the U.S. District Court of Appeals for the Third Circuit, which reversed the judgment, finding that the policy was "unconstitutionally overbroad since it appeared to cover substantially more speech than could be prohibited under the Tinker substantial disruption test." Maintaining that a substantial amount of offensive, distasteful speech still would not constitute actionable harassment under either federal or state law, the appeals court ruled in favor of the plaintiffs.

Also in 2001, a Christian Coalition group opposed SB 5528 and HB 1444, anti-bullying bills introduced in the Washington legislature. The group argued that the bills were "a cover for gay-rights efforts that could eventually force schools to teach about ho...sexuality in a positive light."⁵ Members of the coalition also contended that "anti-bullying policies in schools could violate the free-speech rights of students who expressed opposition to homosexuality."⁶

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

⁴ *David Warren Saxe v. State College Area School District*, 240 F.3d; U.S. App. (2001).

⁵ Mary Ann Zehr, "Legislatures Take on Bullies with New Laws," *Education Week*, May 16, 2001.

⁶ Washington lawmakers subsequently passed HB 1444, and the governor signed it into law, in 2002. We include copies of HB 1444 and RCW 28A.300.285 as Attachment B. We also include a copy of "Ask the Children: Youth and Violence—Students Speak Out for a More Civil Society, Summary and Discussion Guide," prepared by the Families and Work Institute and The Colorado Trust, as Attachment C.

School District Policies on Bullying and Harassment—Definitions

School District	Definition of Bullying	Definition of Harassment
Association of Alaska School Boards	Bullying is the repeated intimidation of others by inflicting or threatening physical, verbal, written, electronic, or emotional abuse, or damage to another's property. Bullying may include, but is not limited to, conduct such as physical abuse, damage or theft of another's property, social exclusion from activities, verbal taunts, name-calling, rumors, innuendoes, drawings, jokes, gestures, pranks, and put-downs relating to real or perceived differences, including another's culture, race, ethnicity, gender, sexual orientation, religion, body size, physical appearance, clothing, personality, age, socioeconomic status, ability or disability, or other distinguishing characteristics. (Board Policy 5131.43(a))	Harassment means intimidation by threats of or actual physical violence; the creation by whatever means of a climate of hostility or intimidation; or the use of language, conduct, or symbols in such a manner as to convey hatred, contempt, or prejudice or to have the effect of insulting or stigmatizing an individual. Harassment includes, but is not limited to, harassment on the basis of race, sex, creed, color, national origin, religion, sexual orientation, marital status, pregnancy, parenthood, or disability. (Board Policy 5145.5(a))
Copper River School District	Bullying is repeated intimidation of others by the real or threatened infliction of physical, verbal, written, electronic, or emotional abuse, or damage to another's property. Bullying may include, but is not limited to, conduct such as physical abuse, damage or theft of another's property, social exclusion from activities, verbal taunts, name-calling, rumors, innuendoes, drawings, jokes, gestures, pranks, and put-downs relating to real or perceived differences, including another's culture, race, ethnicity, gender, sexual orientation, religion, body size, physical appearance, clothing, personality, age, socioeconomic status, ability or disability, or other distinguishing characteristics. (Board Policy 5143)	

Delta/Greely School District		Harassment means intimidation by threats of, or actual, physical violence; the creation by whatever means of a climate of hostility or intimidation; or the use of language, conduct or symbols in such a manner as to convey hatred, contempt or prejudice, or to have the effect of insulting or stigmatizing an individual. Harassment includes, but is not limited to, harassment on the basis of race, sex, creed, color, national origin, religion, marital status, or disability. (Board Policy 5005)
Fairbanks North Star Borough School District		Harassment includes but is not limited to any oral, written, or physical conduct relating to race, creed, sex, national origin, marital status, political or religious beliefs, physical or mental conditions, family, social or cultural background, or sexual orientation that is sufficiently severe, pervasive, or persistent that it substantially interferes with or limits an individual's academic performance or creates an intimidating, hostile or offensive academic environment. (Board Policy 1012)
Haines Borough Schools		Harassment means intimidation by threats of or actual physical violence; the creation by whatever means of a climate of hostility or intimidation; or the use of language, conduct, or symbols in such a manner as to convey hatred, contempt, or prejudice or to have the effect of insulting or stigmatizing an individual. Harassment includes, but is not limited to, harassment on the basis of race, creed, color, national origin, religion, sexual orientation, marital status, or disability. [Board Policy 4119.12(a), and 5145(a)]

Iditarod Area School District	No policies—adopted AASB policies on discrimination and sexual harassment.	
Juneau School District		<p>...the Board does not tolerate discrimination against, or harassment of, any member of the Juneau school community on the basis of race, color, creed, sex, national origin, age, political or religious beliefs, mental or physical condition or disability, marital status, changes in marital status, pregnancy, parenthood, social background, economic status, culture, or sexual orientation. Discriminatory harassment includes, but is not limited to, bullying, slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, stereotyping, sexual advances or requests for sexual favors, physical assault or abuse, or other forms of verbal or physical harassment which adversely affect a person's employment or education or creating an intimidating, hostile, or offensive educational or working environment. Harassment includes creation of a climate of hostility and intimidation; or the use of language, conduct, or symbols in such a manner as to convey hatred, contempt, or prejudice or to have the effect of insulting or stigmatizing an individual or group. (Board Policy 1120)</p>

Kenai Peninsula Borough School District	<p>No specific policy, but includes the following language on bullying under other sections:</p> <p>Violent and aggressive conduct: Violent and aggressive acts include, but are not limited to, possession, threat with or use of a weapon, physical assault, verbal abuse, intimidation, extortion, bullying, gang participation, harassment, stalking, defiance, and racial slurs.</p> <p>Positive School Climate: Students shall be subject to disciplinary procedures for bullying other students or for using insults, slurs, or fighting words which may disrupt school activities. (Board Policies 3522.8 and 5137)</p>	<p>Harassment means intimidation by threats of or actual physical violence; the creation by whatever means of a climate of hostility or intimidation; or the use of language, conduct, or symbols in such a manner as to convey hatred, contempt, prejudice or to have the effect of insulting or stigmatizing an individual. Harassment includes, but is not limited to, harassment on the basis of race, sex, creed, color, national origin, religion, marital status, disability, or any other real or perceived difference. (Board Policy 4119.12)</p>
Klawock City School District	<p>Bullying takes many forms: gossip, cruel comments, insults, snubbing, put-downs, threats (physical or verbal) and violent attacks. It is deliberate, hurtful behavior that is often repeated and a form of anti-social behavior that has no place at school. It is the intent of this policy to make sure all members of our school community remain vigilant and consistent to help insure that bullying behavior is actively resisted and stopped, and that we provide a safe school environment for all students. Any acts of bullying, at any level, will not be tolerated and will result in disciplinary action. (Board Policy 5131.95)</p>	
Lower Yukon School District	No formal policy.	No formal policy.
Matanuska-Susitna Borough School District ¹	<p>Harassment, bullying, and discrimination are prohibited. Abusive language, sexual harassment, inappropriate physical contact, racial or ethnic slurs, hazing, and other similar provocative actions are included in these categories of prohibited conduct. Harassment is behavior which is intended to trouble or annoy someone. It is the exertion of power by one person over another; it may be based on misunderstanding or a deliberate act and often contains a subjective perspective. Discrimination and harassment may be based on culture, ability, physical appearance, size, sexuality, or religion, among other things. Bullying is defined as an aggressive behavior that is intentional and that involves an imbalance of power or strength. Harassment, bullying, and discrimination can take many forms such as hitting, tripping, kicking, punching, unwanted touching, name-calling, swearing, threatening, spreading rumors, ignoring, staring, gesturing, "standing over," preventing someone from joining in an activity, hiding, sending mean notes or e-mails, or damaging someone else's property. (Board Policy 5144.1(12))</p>	

Mt. Edgecumbe	Bullying is the repeated intimidation of others by inflicting or threatening physical, verbal, written, electronic, or emotional abuse, or damage to another's property. Bullying may include, but is not limited to, conduct such as physical abuse, damage or theft of another's property, social exclusion from activities, verbal taunts, name-calling, rumors, innuendoes, drawings, jokes, gestures, pranks, and put-downs relating to real or perceived differences, including another's culture, race, ethnicity, gender, sexual orientation, religion, body size, physical appearance, clothing, personality, age, socioeconomic status, ability or disability, or other distinguishing characteristics.	
Northwest Arctic School District		Harassment means intimidation by threats of or actual physical violence; the creation by whatever means of a climate of hostility or intimidation; or the use of language, conduct, or symbols in such a manner as to convey hatred, contempt, or prejudice or to have the effect of insulting or stigmatizing an individual. Harassment includes, but is not limited to, harassment on the basis of race, sex, creed, color, national origin, religion, sexual orientation, marital status, pregnancy, parenthood, or disability [Board Policy 5145.5(a)]
Pribilof School District	No specific policy, but includes the following language on bullying under "Positive School Climate:" The schools shall not tolerate any comments or gestures which are vulgar or obscene or which denigrate others on account of gender, race, color, religion, ancestry, national origin, handicap or disadvantage. Students shall be subject to disciplinary procedures for bullying other students or using insults, slurs, or fighting words which may disrupt school activities. (Board Policy 5137)	Harassment means intimidation by threats of or actual physical violence; the creation by whatever means of a climate of hostility or intimidation; or the use of language, conduct, or symbols in such a manner as to convey hatred, contempt, or prejudice or to have the effect of insulting or stigmatizing an individual. Harassment includes, but is not limited to, harassment on the basis of race, sex, creed, color, national origin, religion, sexual orientation, marital status, pregnancy, parenthood, or disability. [Board Policy 5145.5(b)]
St. Mary's School District	No policy.	No policy.

Southeast Island School District	No specific policy, but includes the following language on bullying under "Positive School Climate:" The schools shall not tolerate any comments or gestures which are vulgar or obscene or which denigrate others on account of gender, race, color, religion, ancestry, national origin, handicap or disadvantage. Students shall be subject to disciplinary procedures for bullying other students or using insults, slurs, or fighting words which may disrupt school activities. (Board Policy 5137)	
Valdez City School District	No policy.	May adopt Association of Alaska School Boards language for harassment.
Wrangell Public Schools	No policy.	Harassment on the basis of sex, color, race, religion, national origin, age, mental or physical disability, marital status, changes in marital status, pregnancy, or parenthood is specifically prohibited. Harassment includes, but is not limited to, slurs, epithets, threats, derogatory comments, unwelcome jokes, teasing, unwelcome sexual advances or requests for sexual favors, displaying offensive words, objects or pictures and other verbal or physical conduct which adversely affects an individual's educational opportunities, or has the purpose or effect of unreasonably interfering with an individual's education or creating an intimidating, hostile, or offensive education environment. (Board Policy IV-044.)
<p>Notes: Please note that those districts that submitted their policies on bullying may also have policies on harassment. Most districts also have policies specific to sexual harassment. 1 This is the proposed policy for the Matanuska-Susitna Borough School District, which the board will address at their March 16, 2005 meeting.</p>		
<p>Sources: Alaska Association of School Boards; school district superintendents.</p>		



Education Program

School Bullying: Legislation and Laws

2005 Enacted Legislation

Tennessee

HB 2114/SB 1621

Requires each Local Education Agency (LEA) to adopt a policy that prohibits harassment, intimidation, or bullying and to forward a copy of the policy to the commissioner of education by January 1, 2006; encourages school employees, volunteers, and students to report incidents of harassment, intimidation or bullying to the appropriate school authorities; provides school employee who promptly report an incident of harassment, intimidation, or bullying immunity against any suit based upon the reporting employee's failure to remedy the reported act; and encourages school districts to form harassment, intimidation or bullying prevention programs and task forces.

Virginia

HB 2266

Directs the Board of Education to include bullying in its standards for school board policies on student conduct and requires school boards to include (i) instruction on the inappropriateness of bullying in their character education programs and (ii) bullying provisions in their student conduct codes. In addition, the measure requires the reporting of incidents of stalking to principals and division superintendents. Finally, except as may be prohibited by federal law, regulation, or jurisprudence, principals must report certain violent acts, stalking, and other conduct to parents of the minor student who is the target of the conduct; included in this report is disclosure that the incident has been reported to law enforcement, and that the parent may contact law enforcement for further information. This bill is identical to HB 2879 (Marshall, R.G.).

HB 2267

Civil Immunity; school employees or volunteers reporting alleged acts of bullying or crimes. Immunizes school employees or volunteers from civil liability for the prompt good faith reporting to the appropriate school official, in compliance with specified procedures, of any alleged acts of bullying or any crimes.

2004 Enacted Legislation

New Hampshire

HB 1162

Requires school districts to notify the parents or legal guardians of the district's policies on bullying and requires that a report of any bullying incidents be made by telephone and by a written report sent by mail to the parent or legal guardian of the pupils involved.

Vermont

HB 629

Directs schools to include bullying in their policies for responding to misconduct on and off school grounds; and directs the commissioner of education to update model policies on student discipline to include a definition of bullying, a process for reporting acts of bullying, and responses to bullying.

Harassment Legislation

State Anti-bullying Policies

	X		X	X	X
			X		
	X				
		X			
		X	X	X	
				X	
		X			
		X			
			X		
	X		X	X	X
	X				
			X		X
	X		X	X	X
			X		X
	X	X	X	X	
	X	X		X	
Washington	X	X	X	X	
West Virginia	X		X	X	X

Prepared by the National Conference of State Legislatures – March 2006
 Staff Contact: Sara Vitaska, (303) 856-1647, sara.vitaska@ncsl.org

Vermont**HB 113**

Makes a variety of changes to the guidelines for harassment policies that educational institutions are required to maintain. The general definition of harassment is expanded to include written or visual conduct and conduct motivated by a student's perceived as well as actual membership in a protected category. Racial harassment is defined to mean conduct directed at the characteristics of a student's or a student's family member's actual or perceived race or color and includes the use of epithets, stereotypes, racial slurs, comments, insults, derogatory remarks, gestures, threats, graffiti, displays, or circulations of written or visual material, and taunts on manner of speech and negative references to racial customs.

Virginia**HB1331**

Relating to including hazing in the Board's guidelines and model policies for and school boards' regulations on codes of student conduct.

Archived Legislation**Select School Safety Enactments (1994-2003): Bullying and Student Harassment**

National Conference of State Legislatures (NCSL)

By Finessa Ferrell-Smith

SCHOOL BULLYING LAWS	
STATE/TERRITORY	CITATION
Arkansas	A.C.A § 6-18-514 (2004)
Arizona	HB 2368
California	Cal Ed Code § 32261, 32265, 32270, 35294.21
Colorado	C.R.S § 22-32-109.1 (2004)
Connecticut	Conn. Gen. Stat. § 10-222d (2003)
Georgia	O.C.G.A. § 20-2-751.4 (2004)
Guam	17 G.C.A § 3112.1
Illinois	105 ILCS 5/10-20.14 (2004)
Louisiana	La. R.S. 17:416.13 (2004)
New Hampshire	RSA 193-F3 (2004)
New Jersey	N.J. Stat § 18A:37-13 (2004)
New York	NY CLS Educ § 2801-a (2004)
Oklahoma	70 Okl. St. § 24-100.3-5 (2004)
Oregon	ORS § 339.356
Puerto Rico	L.P.R.A § 149f (2002)
Rhode Island	R.I. Gen Laws § 16-21-24 (2004)
Vermont	16 V.S.A. § 565 (2004)
Virginia	Va. Code § 22.1-208.01, 22.1-279.3:1, 22.1-279.6 (2005)
Washington	Rev. Code Wash. (ARCW) § 28A.300.285 (2004)
West Virginia	W. Va Code § 18-2C-1-5 (2004)

Source: NCSL 2005

Visitor counts for this page.

State	Bill Number	Last Action-Date	Summary
Alabama	HB 246	Jan-10, 2006—To House Committee on Education	N/A
Alaska	HB 233	Apr-28, 2005—From House Special Committee on Education: Do pass with substitute	Requires every governing body to adopt a policy prohibiting harassment, intimidation, or bullying.
Alaska	HB 482	Feb-13, 2006—To House Special Committee on Education	Outlines the requirement for adopting a policy prohibiting harassment, intimidation, or bullying. Outlines reporting procedures.
Arizona	HB 2325	Jan-17, 2006—Additionally referred to House Committee on Rules	Requires the school district to provide training to employed teachers to recognize and prohibit harassment, intimidation or bullying.
Arizona	HB 2368	Apr-20, 2005—Chapter No. 155	Requires every governing body to adopt a policy prohibiting harassment, intimidation, or bullying. Outlines reporting procedures.
Florida	HB 1303 SB 1848	Mar-29, 2005—In House. Laid on table. Apr-13, 2005—Withdrawn from further consideration.	Requires each local school district to adopt a policy prohibiting discrimination and harassment on school property, at school-sponsored functions, or on the school bus.
Florida	SB 1384	Jan-31, 2006—To Senate Committee on Education	Prohibits bullying or harassment of any student or school employee. Requires each local school district to adopt a policy prohibiting bullying and harassment on school property, at school-sponsored functions, or on the school bus. Outlines requirements for the policy.
Georgia	HB 424	Feb-10, 2005—To House Committee on Education	Allows each local education board to define bullying. Extends policies prohibiting bullying to apply to students from kindergarten to 12 th grade. Requires policies be developed in consultation with parent-teacher organizations, local school councils, and other

			community based organizations. Outlines minimum requirements for the policy.
Hawaii	HR 23 SCR 3	Apr-7, 2005—In House. Read third time. Passed House. Jan-25, 2006—Introduced	Requests schools to implement policy to reduce intimidation and promote safe and peaceful school environments that encourage learning.
Idaho	HCR 32	Feb-2, 2006—To House Committee on Education	Designates September 10-16, 2006, as Bullying Awareness Week
Illinois	SB 2630	Feb-16, 2006—Passed Senate***To House	Allows each school district to adopt policy preventing bullying in all grades.
Indiana	SB 285	Apr-27, 2005—Public Law No. 106	Requires the department of education to develop training for identifying, preventing, and intervening in bullying. Outlines minimum requirements for policy preventing bullying.
Iowa	HB 382	Feb-23, 2005—In House Committee on Education	Requires the board of directors of each school district to adopt and implement a policy prohibiting bullying and harassment. Outlines minimum requirements for the policy.
Iowa	SSB 2126	Feb-8, 2006—To Senate Committee on Education	Requires the board of directors of each school district to adopt and implement a policy prohibiting bullying and harassment. Outlines minimum requirements for the policy.
Kentucky	HB 270	Feb-6, 2006—To Senate Committee on Education	Requires school districts to have plans, policies, and procedures for harassment, intimidation, or bullying. Outlines requirements for the policy.
Kentucky	SB 15	Jan-5, 2006—To Senate Committee on Education	Requires school districts to establish a code prohibiting harassment, intimidation, or bullying. Outlines requirements for the code.
Maine	HB 419	Jun-3, 2005—Public Law No. 307	Defines bullying and harassment as unacceptable student behavior.
Massachusetts	HB 1029	Sept-15, 2005—In Joint	Requires the Department of Education to adopt policy

		Committee of Education: Heard. Eligible for Executive Session	prohibiting bullying. Outlines minimum requirements for the policy.
Massachusetts	HB 1067	Sept-15, 2005—In Joint Committee on Education: Heard. Eligible for Executive Session	Establishes, in consultation with parents, guardians, teachers, administrators, students, student councils where applicable and, where appropriate, the community at large, each public school district shall promulgate and implement a safe school plan, including procedures for preventing and disciplining bullying.
Massachusetts	HB 1068	Sept-15, 2005—In Joint Committee on Education: Heard. Eligible for Executive Session	Requires each county/school board of education to establish a policy prohibiting harassment, intimidation or bullying. Outlines minimum requirements for the policy.
Massachusetts	HB 1109	Sept-15, 2005—In Joint Committee on Education: Heard. Eligible for Executive Session	Requires the commissioner of Education to update and distribute a model school plan on student discipline on bullying.
Massachusetts	HB 1181	Sept-15, 2005—In Joint Committee on Education: Heard. Eligible for Executive Session	Requires the department of education to mandate every public school to create a "safe school plan." Outlines the requirements for the "safe school plan."
Massachusetts	HB 3809	Feb-15, 2006—In Joint Committee on Labor and Workforce Development: Set aside for Study	Requires the division on occupation safety to analyze the cost of psychological harassment in the workplace.
Michigan	HB 4026	Jan-27, 2005—To House Committee on Education	Requires the board of a school district or board of directors of a public school academy to adopt a bullying policy. Outlines minimum requirements for the policy.
Michigan	HB 4581	Mar-24, 2005—To House Committee on Education	Requires the board of a school district or board of directors of a public school academy to adopt a policy prohibiting harassment, intimidation or bullying at school. Outlines minimum requirements for the policy

Michigan	HB 5616	Jan-31, 2006—To House Committee on Education	Requires the board of a school district or board of directors of a public school academy to adopt a policy prohibiting harassment or bullying at school. Outlines minimum requirements.
Michigan	SB 44	Jan-25, 2005—To Senate Committee on Education	Requires the board of a school district or board of directors of a public school academy to adopt a policy prohibiting harassment, intimidation or bullying at school. Outlines minimum requirements for the policy.
Michigan	SB 369	Apr-12, 2005—To Senate Committee on Education	Requires the board of a school district or board of directors of a public school academy to adopt a policy prohibiting harassment, intimidation or bullying at school. Outlines minimum requirements for the policy.
Michigan	SB 1012	Jan-26, 2006—To Senate Committee on Education	Requires the board of a school district or board of directors of a public school academy to adopt a policy prohibiting harassment or bullying at school. Outlines minimum requirements.
Minnesota	HB 14	Jan-6, 2005—To House Committee on Education Policy and Reform	Requires the commissioner of education to make a model policy prohibiting intimidation and bullying available to school boards and schools. Requires each school board to adopt policy prohibiting intimidation and bullying of any student. Outlines minimum requirements for the policy.
Minnesota	HB 408 SB 40 SB 41	Jan-24, 2005—To House Committee on Education Policy and Reform Jan-6, 2005—To Senate Committee on Education Jan-6, 2005—To Senate Committee on Education	Requires the commissioner of education to make a model policy prohibiting intimidation and bullying available to school boards and schools. Requires each school board to adopt policy prohibiting intimidation and bullying of any student. Outlines minimum requirements for the policy.

Minnesota	HB 2152 SB 1939	Mar-29, 2005—To House Committee on Civil Law and Elections Mar-29, 2005—To Senate Committee on Judiciary	Allows school districts to release information on a juvenile pertaining to incidences of bullying to the juvenile justice system.
Missouri	HB 1218	Jan-27, 2006—To House Committee on Elementary and Secondary Education	Requires each school district to establish and adopt a policy prohibiting harassment, intimidation, or bullying at school. Outlines minimum requirements for the policy.
Missouri	HB 1502	Jan-26, 2006—To House Committee on Elementary and Secondary Education	Prohibits bullying or discrimination on school property, at any school function, or on a school bus. Requires each school district to establish and adopt a policy prohibiting harassment, intimidation, or bullying at school. Outlines minimum requirements for the policy.
Nebraska	LR 55	Mar-23, 2005—Passed Legislature	Designates September 12-16, 2005, as Nebraska School Bullying Awareness Week.
Nebraska	LR 109	May-9, 2005—To Legislative Committee on Executive Board	Authorizes a study to determine the feasibility of establishing a policy prohibiting bullying behavior in public schools.
New Jersey	AB 744 AB 3791 SB 993 SB 2222	Jan-10, 2006—To Assembly Committee on Education Feb-14, 2005—To Assembly Committee on Education Jan-17, 2006—To Senate Committee on Education May-23, 2005—From Senate Committee on Education	Prohibits bullying, intimidation and harassment from occurring through electronic communication, including but not limited to, a telephone, cellular phone, computer or pager.
New Jersey	AB 1181	Jan-10, 2006—To Assembly Committee on Education	Appropriates \$70,000 in FY 2005 to the Department of Education to reimburse school districts for the costs of establishing programs for the prevention of

			harassment and bullying.
New Mexico	HJM 8	Jan-19, 2006—To Senate Committee on Corporations and Transportation.	Requests the Labor Department to convene a task force to study bullying in the workplace.
New York	AB 1755	Jan-21, 2005—To Assembly Committee on Education	Requires instruction on civility, citizenship and character education to include methods of discouraging bullying. Prohibits bullying on school property or school functions. Requires school employees to report suspected bullying. Specifies bullying shall be disciplined according to the district's code of conduct. Establishes aggravated harassment of a teacher or school personnel is a class B misdemeanor.
New York	AB 3185 AB 9406	Feb-1, 2005—To Assembly Committee on Codes Jan-11, 2006—To Assembly Committee on Codes	Prohibits bullying on school property or school functions. Requires school employees to report suspected bullying. Specifies bullying shall be disciplined according to the district's code of conduct. Grants immunity to school employees that report bullying. Requires the commissioner to create a central registry for reporting alleged bullying or hazing.
New York	AB 8218	May-12, 2005—To Assembly Committee on Education	Requires the commissioner, in consultation with parents, school personnel and other interested parties, to promulgate rules and regulations prohibiting bullying, harassment, or intimidation.
New York	SB 5703	Jun-15, 2005—To Senate Committee on Rules	Creates an anti-bullying act. Prohibits bullying on school property or school functions. Specifies bullying shall be disciplined according to the district's code of conduct.
Ohio	HB 276	Jan-31, 2006—To Senate Committee on Education	Requires each board of education, in consultation with parents, school employees, school volunteers,

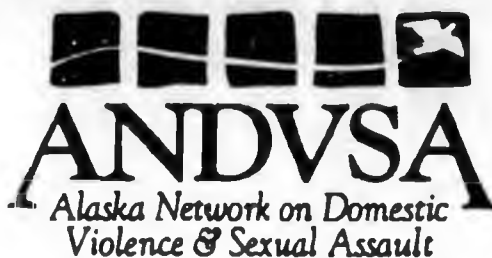
			students, and community members, to establish policy prohibiting bullying, harassment, or intimidation.
Pennsylvania	HB 178	Jun-29, 2005—In House. Laid on Table	Requests school entities to adopt policy prohibiting bullying, harassment, or intimidation.
Pennsylvania	HB 772 SB 1013	Mar-14, 2005—To House Committee on Education Nov-14, 2005—To Senate Committee on Education	Requires each school district to develop a coordinated bullying and student intimidation prevention plan. Requires the plan to be submitted to the Department of Education for approval.
Pennsylvania	SB 71	Jan-31, 2005—To Senate Committee on Education	Requires all school entities to establish policy or student code of conduct prohibiting bullying.
South Carolina	HB 3573	Feb-16, 2005—To House Committee on Education and Public Works	Requires each local school district, in consultation with parents and guardians, school employees, volunteers, students, administrators, and community representatives, to adopt a policy prohibiting harassment, intimidation, or bullying at school.
Tennessee	HB 2114	May-19, 2005—Public Chaptered. Chapter No. 202	Requires each school district to adopt policy prohibiting harassment, intimidation or bullying. Outlines minimum requirements for the policy.
Tennessee	HB 2470 SB 2687	Feb-8, 2006—To House Committee on Education Feb-9, 2006—Introduced	Requires local education agency to adopt a policy prohibiting harassment, intimidation, or bullying of teachers by principals or administrators. Outlines minimum requirements for the policy.
Utah	SCR 1	Feb-16, 2006—To House Committee on Health and Human Services	Request parents, individuals, and organizations to review and assist in the adoption of policies prohibiting bullying.
Virginia	HB 2266 HB 2879	Mar-21, 2005—Acts of Assembly. Chapter No. 461 Mar-21, 2005—Acts of Assembly. Chapter No. 484	Requires bullying to be included in the code for student conduct.
Virginia	HB 2267	Mar-21, 2005—Acts of Assembly.	Prohibits a school employee or school volunteer from

		Chapter No. 462	being held liable for reporting alleged acts of bullying.
Washington	HB 1968	Mar-3, 2005—Referred to House Committee on Appropriations	Encourages employers to create policy prohibiting bullying in the workplace.
Wisconsin	AB 627 SB 310	Aug-30, 2005—To assembly Committee on Education Jan-6, 2006—In assembly. Amendment No. 3 offered.	Requires the Department of Public Instruction to create a model school policy on bullying. Requires each school board to develop and adopt a policy prohibiting bullying.

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April 6, 2006

The Honorable Tom Anderson
State House of Representatives
Alaska State Capitol
Juneau, AK 99801-1182

Dear Representative Anderson:

The Alaska Network on Domestic Violence & Sexual Assault is a statewide coalition of member shelter and community based programs that provide direct services and advocacy for victims of domestic violence and sexual assault. We would like to thank you for introducing House Bill 482, "An Act related to harassment, intimidation, and bullying in schools", and offer our support.

Bullying in our schools is a form of interpersonal violence. As with all such violence, there can be devastating consequences and we must rise up as a community to condemn and prevent it. Many of our member programs work in schools across Alaska to teach children and staff about the damaging effects of bullying, and to teach them positive, effective responses. Unfortunately, all too often children tell us there is lots of bullying in their schools, they expect it and they think there's nothing adults can do to change it. We believe this legislation will be a positive influence and help protect children.

Thank you for your leadership in addressing this issue.

Please let me know if I can offer other support for this legislation.

Sincerely,

Peggy Brown
Executive Director

Member Programs

Anchorage AWAIC, AWRC, STAR Barrow AWIC Bethel TWC Cordova CFRC Dillingham SAFE Fairbanks IAC
Homer SPHH Juneau AWARE Kenai LeeShore Center Ketchikan WISH Kodiak KWRCC Kotzebue MFCC
Nome BSWG Palmer AFS Seward SCS Sitka SAFV Unalaska USAFV Valdez AVV

TESTIMONY HB 482
TOM HARVEY, NEA-ALASKA EXECUTIVE DIRECTOR

Chairman Neuman and members of the House Special Committee on Education. My name is Tom Harvey and I serve as the Executive Director for NEA-Alaska. NEA-Alaska represents over 11,400 active public school employees and over 1,300 retired public school teachers.

NEA-Alaska thanks Rep. Anderson for bringing this legislation forward. NEA-Alaska has adopted several resolutions that address the issues of harassment, intimidation and bullying.

We believe that a safe and effective school climate is necessary for promoting educational excellence in public schools. The Association also believes that all education employees, parents/guardians, students, school governing boards, and community members and agencies must work cooperatively to establish and maintain safe and orderly school communities. Students and education employees must be safe from physical, verbal, and psychological violence, the threat thereof, and all forms of harassment. There must be procedures to prevent and eliminate all types of harassment that might occur. Plans and procedures regarding discipline and/or harassment must include due process.

These plans and procedures must be provided to police and other community agencies that might be called upon when harassment, intimidation or bullying is detected. Parents/guardians must be made aware of the existence of these plans.

The Association also believes that students must be taught strategies and skills, including conflict resolution, that develop respect, self-discipline, and self-control. Students must learn to distinguish between their own rights and responsibilities and the rights and responsibilities of others. There must be appropriate services and placement within regular education and alternative education programs and/or with state and/or community agencies for students who disrupt the learning environment or who are dangerous to other students, education employees, and themselves.

The Association believes that a safe and effective school has a positive environment in which education employees, students, parents/guardians, and the community care for, communicate with, respect, understand, and trust each other.

The Association has developed several resources for schools, parents, students and community groups to utilize in their efforts to combat harassment, intimidation and bullying. Those resources are attached to this testimony.

Every school in Alaska ought to be a sanctuary where all students can learn, teachers can teach, and other school employees can work without the fear of intimidation or harassment. Many school districts are already engaged in good efforts to address these issues. Rep. Anderson's proposed legislation guarantees that every school will take the steps necessary to provide a good school climate for learning.