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To whom it may concern,

I have been struggling over this letter the last couple of weeks. It seems like I should write something official and straight forward, though I am not sure I can guarantee no feelings will get in the way.

All of this is such a shock. From the very day that my dad was buried in the avalanche. Than Thom Fischer gets let off of any personal accountability, and only his company has to pay for his lack of providing a safe environment for his employees, but still at least it is something.

Between the criminal case and the civil suite all of it lasted six years. The day that Megan Holland, a reporter from Anchorage Daily News, called my sister, Jessica, to see if she was aware of the pardon and wanted to make a statement, made those six years seem in vain. I felt like my dad had died all over again.

I thought how is this possible? How can a pardon be granted without even consulting us, the family, on what we think and feel about the situation. Than to be informed, after the damage has already been done, not by anyone at the governors office, but from a reporter. This leaves me with even less faith in the justice system than before.

Nothing can change what has been done. My dad is not going to come back, those six years are not going to disappear, and this pardon will not be undone. I have to remind myself of these things all the time. I would not wish any of this on anyone not even Thom Fischer or Frank Murkowski.

My request is that in the future before a governor grants a pardon the victims, or victims families are made aware of the pardon application (by the governors office) and are able to state opinion and/or protest. Really all I am asking for is common decency, and it seems silly, but if there has to be a law for it so be it. I really want to have more hope and trust in how our justice system works, please help me with that.

Sincerely,
Katie N Stone

To Whom it May Concern,

So I have brought this letter down to the deadline to write and have spent numerous hours trying to write it, wondering where do I start? How do I convey the pain I have felt, endured, dealt with, and finally had put behind me? So I thought. How do you tell of a family so tight and close knit that you were the envy of all friends and for that matter anyone touched by a member of the family! A Father who had raised his kids strictly in the ways of wrong and right, but in an incredibly loving way. It left no option but for us to admire him and he became my hero. He always strived to love us and have a more meaningful relationship with us than his parents had with him.

After my parents divorced I always lived with my dad, he was my rock and in a way I was his. Although my siblings lived away they constantly sought my dad's counsel in their every day life, their walk with God, whatever it might have been.

You may ask what does this have to do with the pardon of Whitewater? I tell you it has everything to do with it! How can you understand the pain of a pardon like this without understanding the history of our family and what our dad meant to us. He had his weak points and faults as we all do. I'm not trying to make him into a legend, but we understood most of the faults and the ones we didn't we accepted anyway.

Myself I battled through several years of college battling depression and denial that I was depressed or even hurt by the loss of my dad. This continued for several years after college always trying to find some kind of stability wondering where I belonged and not having my confidant to lean on or go to for advice. So I wandered drifted from this place to that, sometimes living in my car, never telling my family what was going on cause they already worried about me so much as it was. Over the last year I have finally found myself, come to grips with the pains of my dad's death and for the first time in 7 years not allowed my past to dictate my future.

Last month, December of 2006 my sister Jessica called me and said that when I got off work she needed to talk to me, it was a Monday not much unlike tonight where I also worked late and she told me that when I got off work she wanted me to come over, she had something to talk to me about. When I arrived she told me that a reporter from the ADN had called and asked her if she knew that Whitewater had been pardoned? At that time my heart sank and I had the same feeling of numbness that I had April 15th 1999 as I called my siblings to tell them that our dad was trapped in an avalanche.

What do I think could have been done in the case of this pardon? For one I think a family should definitely be notified of a pardon before it is executed and given a forum in which they can give their opinion or feelings on the matter. Maybe something should be looked at in the way of establishing criteria that a person or company asking for the pardon should have to meet before being considered for a pardon. I know it's too late for my own family, my only hope is that we can help prevent another family from being blindsided like we were. Situations like these are ones that make a person wonder if there really is such a thing as justice or is it just temporary until a person elected to their position of authority decides on a whim that the punishment doesn't fit the crime. Did the Governor really look into this case and the facts of negligence?

Thank you for the care and opportunity to voice my opinion, hopefully it won't be in vain.

Sincerely

Micah A Stone

January 8, 2007

State of Alaska Legislature

To Whom It May Concern:

My name is Jessica Ridinger; I am the daughter of Howard Gariel Stone. My dad was killed on April 15th, 1999 in an avalanche. This took place in Cordova, Alaska. Whitewater engineering where rightfully charged with manslaughter, but they accepted lesser charge of criminal negligence. Recently, the governor of Alaska pardoned Whitewater Engineering of my dad's death.

I was home on a Monday evening making dinner for my family, and I received a phone call from a reporter from the Anchorage Daily News. Her words to me where: "Is this Jessica Ridinger?" I said "yes". She said, "Are you the daughter of Gary Stone?" I again said, "Yes". She then said, "Are you or your family aware that the Governor of Alaska has pardoned Whitewater Engineering for the death of your father?" At that moment I was in shock and disbelief. I could not believe I was hearing this for the first time, from a stranger and I was smart enough to know there is nothing I can do about this. But it felt like a stab through the heart. I instantly started crying. Just when our family is able to start the healing process once again... Something comes up that opens the wounds or even wounds more. Finding out this way and after the pardon had been made raises so many questions.

Why would the State of Alaska allow this the happen to the victims families? Why did we have no voice? Why we were not contacted in September 2006 (when the petition went in)? What does the Governor know about the negligence of Whitewater Engineering? And if he did, why would this pardon be granted? Why is it that my dad death means nothing, except to his devastated 5 children, his parents and his sister? Why did Whitewater get off so quickly after barely having a slap on the hand for their clear lack of regard for human life? Lack of regard for their employees? The small cloud that was over their head was there for a reason, because money and their business was put on a higher level than their employees lives. It just happened to be that it took my dad's life. Everyone else was at lunch, including my brother, Micah, thank God. Otherwise more families would be ruined. Why do I have to tell my brothers and sisters about this pardon (I had to tell my brother, Micah, who was in Cordova when it happened, worked with my dad and had just seen him 30 minutes before he died. He has just started getting on with his life; I had to tell him... How fair is that? Why do we once again have to have the small amount of peace or comfort pulled out from underneath us with out anyone in the State of Alaska having a single thought of the family of a very important human being, Gary Stone.

The way I found out about this was not even humane. I almost did not even take the time to right this; I feel that the State of Alaska let us down by not giving us the time of day in not giving us a chance to be notified of the request of pardon. Why should I give that State of Alaska the time of day? Because, I do not want this to happen to other families. I want to know that we have a voice as victims. When my dad knew that he was in danger, he voiced his opinion that he wanted them (Whitewater) to pay when they found him under that snow. Imagine going to work with the feeling that you may never leave... This is why we have our justice system. So we can hold people accountable for their actions. Through the consequences that were placed on Whitewater, I would hope that their business practice would be different, employces would always come first. But now that they have been cleared, I fear

for the families and the employees of Whitewater Engineering. A few year of punishment will be forgotten quickly.

I would like to know what kind of relations the governor of Alaska had with Whitewater Engineering. What did he know? Did he even care about the victim's families? Has he had to live a lifetime without a parent due to the negligence of someone else? Why would the state of Alaska waste the money on a criminal case to pardon so quickly? Does my father's life or death matter to the state of Alaska? Why did we have no voice? Why couldn't we be notified properly? Why do we matter that little?

Thank you for listening. Please make it so other families are notified before it is too late.

The daughter of Gary Stone,

Jessica Ridinger

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

From: Jeff and Pam Schmitz [mailto:jschmitz@alaska.net]
Sent: Tuesday, January 16, 2007 5:58 PM
To: Rep. Ralph Samuels; Sen. John Cowdery
Cc: Tim Benintendi
Subject: Pardon Legislation

Ralph, John,

I completely support amending Alaska Law regarding the pardon process. I was completely appalled, disgusted and saddened by Murky's last minute pardon of the Whitewater Corporation. Will we never hear the end of the guys' stupid pet tricks? I can only sympathize with the family of the backhoe operator that died in that avalanche.

I was employed as a State Microwave Tech at the time of the Cordova incident. We were working at an SOA microwave site above Cordova's Eyak Lake at about the 2500 - 3000 foot top of the mountain. The avalanche conditions were severe in the area. We received a request from the State Troopers to use our helicopter to access the site of the avalanche that had, as we later learned, caused the death of the backhoe operator. The troopers had apparently spotted the backhoe embedded in the avalanche and were pretty sure the operator was trapped inside and likely had not survived but wanted to make the confirmation to both be able to pass that information on to the family as well as put the possibility of any slim hopes of survival to rest. They considered the area far too unstable avalanche wise to send a ground party in and planned to have the helicopter remain at flight ready takeoff status while they did a fast check for the operator. A recovery of the victim was not contemplated.

We readily agreed. Our location at the top of the mountain was stable, we had adequate weather, shelter and were glad to be able to help even though the outcome was already likely known and not good. A few hours later our pilot returned and the worst was confirmed. The operator had not survived and was trapped underneath the remains of the backhoe. The report of the condition of the backhoe was totally sobering, the key item I recall being mentioned was the main rams that operated the boom were twisted like pretzels. The search party had to leave the body of the operator in place as conditions were as had been feared, too unstable to remain. And this was after one massive, deadly avalanche had come down.

Again, I support fixing this flaw that took someone like Murky to expose. We would hope that we never again have someone like that in the Governors office again but let's go ahead and fix it.

Best of Regards,

Jeff Schmitz
Anchorage

Legislature of the State of Alaska
Twenty-fifth Legislature-First session

Ref: House Bill 69
"An Act relating to executive clemency"

Honorable Representatives:

I am writing to offer my support, as a citizen of the State of Alaska and as a victim of violent crime, for the passage of **House Bill 69**.

My mother, R. Evangeline Landers, was murdered Nov 19th, 2004, in a domestic assault by my stepfather. She was shot in the back of the head while trying to run away from a man to whom she had been married nearly 30 years. The shot that ended her life was the third one fired. The first nearly ended the life of my mother's best friend. The second missed my mother as she tried to escape.

While it is my sincere hope that the recent sentencing of this convicted murderer would never be revoked by executive clemency, the mere possibility that it could be is another heartbreak added to those of the last two years. That clemency is presently possible without notification to the victims of violent crime is an egregious omission of Law, and I would respectfully request that the correction be made through the passage of this proposed legislation.

I understand the need for any defendant to be considered "innocent until proven guilty". I believe that our forefathers may not have anticipated that the process of reaching the necessary proof might drag inexorably through a court system and take years to complete. Had they envisioned a world where the murder of another human would be as commonplace as it has become, I believe they would have done what you now have the opportunity to do---- and that is to provide some protection and equal consideration to those whose lives have been shredded by the senseless violence.

Allowing executive clemency without notification to or comment from the victim(s) would render them powerless once again in a system that appears to be more protective of the rights of the offender rather than those who endured the pain and loss of the offense.

Thank you in advance for your careful consideration and passage of legislation that will lend some measure of dignity to those whose voices are not often heard but should be.

Respectfully submitted,

Rene' E. Breitkreutz
2135 W. Church Ridge Dr.
Wasilla, AK 99654
(907) 373-0118

January 16, 2007

Rep. Ralph Samuels
State Capitol Building
Room 126
Juneau, AK 99801-2095

Dear Rep. Samuels,

Although we are not in your district, we feel compelled to speak out concerning your proposed legislation.

We were deeply hurt when Gov. Murkowski, as he was leaving office, pardoned Whitewater. Our son, Kyle Angerman, was also killed while working for Whitewater in 1999, just months after Gary Stone was killed. We feel this was gross irresponsibility on the governor's part.

We are in full support of your legislation.

Sincerely,

Fred Angerman Σ
Mercedes Angerman

Fred Angerman, Sr.
Mercedes Angerman
PO Box 1
Wrangell, AK 99929
907-874-3872

Sent by Fax

HOUSE Conference
TO: HOUSE BILL 69

Date: 1-17-2007

SAMUEL

Phone:

465-3810

Fax:

1-907-465-3810

FROM:

Walter M. Wood - REA BROKER
P.O. Box 868
Valdez, Alaska 99686

Phone: 907-835-2408

Fax: 907-835-5462

Email: wldzrlty@alaska.net

COVER PAGE PLUS -- Q

MESSAGE -

HOUSE BILL 69 TOO MANY to NOT

BE CONCERNED FOR ALL OF US,
PLEASE SUPPORT.
THANK YOU.

Daily News letters

(Published: January 17, 2007)

Murkowski's pardon for Whitewater was irresponsible and a disgrace

I was horrified when I read that Frank Murkowski pardoned Whitewater Engineering Corp. for the negligent homicide conviction it received in the criminal case concerning the death of Gary Stone ("Company off hook thanks to pardon," Dec. 24). I was further hurt by the governor's comments that it was a "tragic accident" and the charges were "excessive punishment." I am sure that Mr. Stone's children -- now fatherless -- feel differently.

On May 5, 1999, weeks after the death of Gary Stone, my brother, Kyle Angerman, was electrocuted while working for Whitewater. While a criminal conviction was not pursued in this matter, there were many safety violations with which Whitewater was charged.

The Stone family and mine could once find common comfort in the knowledge that the finding of Whitewater's criminal responsibility for one of these deaths would prevent it from putting more Alaskans at risk. That has now been torn from both of our families, as well as the greater community of Alaskans who believe that this was a correct conviction -- one not appropriate for pardoning.

Many will watch Whitewater Engineering and its subsidiary companies with great vigilance if, and when, it attempts to do business in Alaska. And I will work to help ensure that Thom Fischer, and all who are in his employ, never forget Gary Stone and Kyle Angerman.

---- Mercedes Angerman

Anchorage

Sydney Morgan

From: Rep. Ralph Samuels
Sent: Wednesday, January 17, 2007 12:48 PM
To: Sydney Morgan
Subject: FW: Gov Pardons

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

From: keddington@alaska.com [mailto:keddington@alaska.com]
Sent: Wednesday, January 17, 2007 12:28 PM
To: Rep. Ralph Samuels
Subject: Gov Pardons

Email For: Representative Ralph Samuels
From: keddington@alaska.com
Name: Dave Keddington
Street: 7040 Tulugak Cr
City: Anchorage
Zip Code: 99507

Subject: Gov Pardons

Ralph,

Thanks a lot for championing the pardon (Whitewater Engineering Corp) legislation. What Gov M did was flat-out-wrong. I\'m a long-time Republican...and what he did was very embarassing for us all.

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

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Anchorage Daily News

Print Page

Close Window

For justice, for victims**Lawmakers should move quickly to prevent irresponsible pardons***(Published: January 17, 2007)*

Gov. Frank Murkowski succeeded at changing a lot of state laws, but he may soon be remembered for one more new law. Legislators and the public are so upset at the former governor's last-minute pardon of a company convicted in a worker's death -- a company that stiffed the state on a quarter-million-dollar fine and interest in the criminal case -- that lawmakers are likely to pass a bill blocking future governors from such a thoughtless and careless action ever again.

*(Peter Dunlap-Shohl)*

Passage of this bill can't come fast enough to reassure the public -- and the victim's family -- that the state of Alaska has learned from the irresponsible action of the former governor.

House Majority Leader Ralph Samuels' bill would require governors to submit pardon applications to the state Parole Board for review. The existing law makes that optional for governors. The former governor did not bother to ask the Parole Board for its opinion on the pardon that he issued just a few days before leaving office. Nor did Gov. Murkowski or his staff bother to ask whether Whitewater Engineering Corp. of Bellingham, Wash. had ever paid its fine to the state in the case. It hadn't paid a dime.

The company pleaded no contest in 2001 to criminally negligent homicide in the 1999 death of a backhoe operator on a Cordova hydroelectric power project job site. Gary Stone, 46, a father of five, was killed in an avalanche. State job safety officials had warned the company about avalanche dangers at the job site; prosecutors alleged the company did little to protect its workers.

The legislation also would require the state to notify victims of any pardon application in their case. It would require 60 days notice to victims, giving them time to tell the governor what they think of the pardon request.

No one from the Murkowski administration ever bothered to notify the family of the request for clemency or that the governor had pardoned Mr. Stone's former employer for the crime.

Rep. Samuels, an Anchorage Republican, is also thinking of amending his bill to ensure that a pardon would not wipe out any fines owed to the state or restitution owed to victims. Gov. Murkowski's pardon of Whitewater Engineering waived the company's debt to the state. The company had paid restitution to the victim's family.

The legislation would not interfere with a governor's constitutional prerogative to issue a pardon, but would shine a much brighter light on the process.

It's good that Rep. Samuels and his colleagues see the need for this legislation, which already has picked up bipartisan support. But it's sad that there is a need for this legislation.

BOTTOM LINE: It's too late to fix what's been done, but Alaska can do better next time.

Unfinished business

Bob Durst didn't rate any media attention when he died 11 days ago. And that was probably how he would have wanted it. He wasn't one to boast about his contributions to Anchorage and Alaska over the past 30 years.

I knew him only through Anchorage West Little League, which he helped found a decade and a half ago. He was that rare parent who stays on long after his kids have moved through the program, helping run things for the future generations of players.

Besides being the institutional history of our league, besides being an astute adviser on organizational and political matters, besides being a lifetime student of the game of baseball and how to teach it, he gladly helped with the sweaty physical work that a man of his age and stature might have easily skipped.

Bob was a busy architect with millions of dollars of projects on his resume and one of the biggest houses in the neighborhood. He was low-key about his professional work, though. I had forgotten that he designed the science wing of our neighborhood high school, West High, to great acclaim. Not until he died did I realize how far his work reached, from a church on Lake Otis Parkway in Anchorage to a school in Buckland to a substance-abuse treatment center in Barrow. He designed buildings that complemented the beauty of Alaska and brought some of that natural splendor inside.

Bob was passionate about smart city planning and cast a sharp eye on many a municipal project at Turnagain Community Council meetings. After he died, I heard from Simonian Little League about how much he helped with its new complex on the lower Hillside.

Bob was a staunch believer in getting kids to play baseball, whatever it took. The game was about the kids, not a way for coaches or parents to satisfy their egos through the exploits of children.

I sometimes tire of the burdens of running a Little League, but Bob seemed to have limitless energy for helping his community. Given Bob's enthusiasm for grunt work at the Little League fields, I had no idea he had a weak heart, which gave out on him after shoveling snow. He was only 56.

To steal a thought from Abraham Lincoln, the world won't long remember what I or others say about Bob. It is for those of us he left behind to carry on his unfinished work and do what we can to build a better community.

-- Matt Zencey



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Anchorage Daily News

Print Page

Close Window

Last-minute pardon leads to victims bill**SAMUELS: State legislator seeks clemency changes after a firm is cleared in homicide.**By MEGAN HOLLAND
Anchorage Daily News*(Published: January 16, 2007)*

A lawmaker whose brother was murdered nearly 20 years ago is proposing legislation to tighten restrictions on the governor when granting pardons to convicted criminals.

Rep. Ralph Samuels, R-Anchorage, the incoming House majority leader, has filed legislation to be considered in the session that begins today calling for more people, including victims of the crime involved, to be notified of any clemency action.

"It's about setting policy and moving forward. What do we want a governor to do? And what do we want the rights of a victim to be?" Samuels said in a telephone interview last week.

The proposed bill would prevent last-minute pardons by a sitting governor by making applicants go through the official channels of the state parole board and require governors to notify victims of the crime 60 days before the pardon goes through.

The bill comes on the heels of former Gov. Frank Murkowski's pardon just days before he left office of Whitewater Engineering Corp. The action let Whitewater, a construction and engineering firm based in Bellingham, Wash., off the hook for a criminally negligent homicide conviction stemming from the avalanche death of an employee.

Company owner Thom Fischer had hired lawyer Bruce Weyhrauch, who was also a sitting Republican legislator from Juneau, to appeal directly to the governor for clemency and bypass the parole board. Fischer also called the governor's office and told Murkowski's staff that he was an acquaintance of Murkowski's and needed to talk to him regarding a pardon, according to e-mail correspondence among the governor's staff at the time.

The family of backhoe operator Gary Stone, a 46-year-old father of five, killed in the 1999 avalanche at Whitewater's hydroelectric project near Cordova, was not notified of the pardon until weeks after it was irrevocably granted. Their father died in what prosecutors later said were extremely dangerous working conditions created by multiple state safety requirement violations.

The pardon cleared the company of the conviction and wiped from the books its \$150,000 unpaid court fine, the Department of Law said Friday.

Samuels, when reached this week, said he is considering adding a component to the bill that would say any fines owed to the state or restitution owed to the victims would still be owed even after a pardon.



"(Governors) ought to have respect for the victims," said Rep. Ralph Samuels, R-Anchorage. ()

Article 3, Section 21 of the Alaska Constitution gives the governor sole authority to grant executive clemency, but under rules and regulations prescribed by law. There have been no challenges to the governor's pardoning powers until now.

Former attorney general John Havelock, who is an Alaska Constitution expert, says he doesn't see any constitutional issues with the bill -- because the constitution specifies executive clemency is "subject to procedure prescribed by law."

Murkowski, who has been traveling much of the time since he left office in early December, has still not publicly given his reasons for granting the Whitewater pardon, other than a statement contained in a brief letter to Fischer declaring his company was being pardoned. In the letter, he said criminal penalties were excessive and that the death was "a tragic accident."

Murkowski's former chief of staff, Jim Clark, has said the former governor is currently on a cruise to Brazil and is not available.

Samuels said what happened with Whitewater highlighted problems with the current system. "I don't like pardons at the last waning hours of an administration. I would rather have people make their case," Samuels said.

And governors, he thinks, should ask victims their opinion. "They ought to have respect for the victims."

"With the 60 days notice, if someone is really upset, the governor will have to pass the red face test," Saumels said.

Stone's children have said if they knew Whitewater was being considered for a pardon, they would have opposed it. Several of them have already written letters to be shared with legislators in support of the proposed bill, according to the state Office of Victims' Rights, which worked with Samuels in drafting the legislation.

Samuels, who represents a section of South Anchorage in the state House, has long been a champion of victims' rights in the Legislature. He first entered politics because of the murder of his older brother, Duane, in 1989. Duane was a 29-year-old engineer who was shot three times by a 16-year-old who wanted his car.

Samuels sees this bill as an extension of existing victims' rights, which include the right to be informed about all court proceedings and the right to know when a prisoner's time in custody ends.

Samuels said the bill is a priority for him in the legislative session starting this week.

Daily News reporter Megan Holland can be reached at mrholland@adn.com or 257-4343.



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Anchorage Daily News

Print Page

Close Window

Pardon erases debt**Murkowski's decision saves company from court-ordered fine***(Published: January 10, 2007)*

Gov. Frank Murkowski's Nov. 30 pardon of Whitewater Engineering Corp. for the criminally negligent death of an employee appears to have saved the company almost a quarter-million dollars in an unpaid court fine and interest.

Wiping out the fine did a lot more than simply "remove the cloud that we work under," as company president Thom Fischer said a few weeks after the governor signed the order. It was a last-minute financial gift from a lame-duck governor, issued just four days before he left office.

The Bellingham, Wash., company never mentioned the unpaid fine in its pardon request, nor did the governor raise the issue in granting the unconditional pardon.

The lawyer hired by the company to file its pardon request never mentioned the debt in his letter accompanying the petition for clemency. That lawyer was a sitting legislator, Republican Rep Bruce Weyhrauch of Juneau.

Nor was the debt mentioned by another well-connected advocate of the pardon. Robin Taylor, a former state judge, former legislator and now a deputy commissioner at the Alaska Department of Transportation, e-mailed the governor with this misdirected plea for the pardon: "If ever compassion and common sense should prevail, this is such a case." Gov. Murkowski appointed Mr. Taylor to the department in 2003.

The administration's compassion did not extend to the family of backhoe operator Gary Stone, a 46-year-old father of five, killed in 1999 in an avalanche at a Cordova hydroelectric project. The governor never bothered to consult the family about the pardon and didn't even notify them of his decision. Nor did he consult the state Parole Board for advice, as recommended in state law, or review any of the legal issues with his attorney general.

In typical Frank Murkowski fashion, he simply made a decision, limited to the facts he thought he knew.

"The imposition of criminal penalties in this case seems to be excessive punishment," the governor said in his pardon letter, calling the death "a tragic accident."

That's not what the evidence showed. Mr. Fischer was warned repeatedly of avalanche danger in the area, and the company had no avalanche safety training or rescue plan in place, according to prosecutors. The company pleaded no contest to criminally negligent homicide after prosecutors agreed to drop a manslaughter charge against Mr. Fischer.

A state Superior Court judge ordered the company to make payments to Mr. Stone's family --

*(Peter Dunlap-Shohl)*

which it did -- and to pay a \$150,000 fine to the state -- which it did not. The court system four years later turned over the unpaid fine to the attorney general's office for collection. The attorney general's office reported no payments on the debt as of Tuesday, and Mr. Fischer did not return a phone call or e-mail about the unpaid fine.

With interest, the \$150,000 fine was close to \$250,000 when the governor pardoned the company, wiping out the debt.

The company, meanwhile, has been busy, actively supporting one of the governor's pet projects -- a road and power line punching through the mountains of the Southeast Alaska border with British Columbia, near Wrangell.

While stiffing the state for the court fine, Whitewater and its president were working state officials in support of \$3.2 million in legislative funding for further study of the governor's proposed Bradfield Canal transmission line intertie into British Columbia. Lawmakers approved the budget request this past year, giving the money to the Alaska Energy Authority. Mr. Fischer participated in an intertie planning meeting between state and municipal utility officials -- hoping for a financial stake in the project for his company -- as recently as two weeks before the governor signed the pardon.

The entire episode is shameful. It's too bad there is no provision in state law to revoke a pardon and require Whitewater to complete its sentence in the case.

BOTTOM LINE: The Whitewater pardon was an injustice worth a quarter-million dollars to a criminally negligent corporation.

Fallen

13th Alaskan killed in Iraq

Before he was cut down in a Baghdad firefight last Thursday, Staff Sgt. Charles D. Allen of Wasilla was a fortunate man, even on a second tour of duty in Iraq. He had a wife, a son, a family that cared. He had a mission he believed in and the mettle to carry it out. He was a combat medic with the 296th Brigade Support Battalion, 3rd Brigade, 2nd Infantry Division.

The 28-year-old Colony High graduate was remembered as a fit and outgoing man who cared about his troops.

Once again, Alaska has occasion to offer its condolences and prayers to a soldier's family and friends. They go now to Kerensa Allen and 7-year-old Orion.

Staff Sgt. Allen died doing what he wanted to do, where he wanted to be, in the field with his mates. That's both consolation and a deepening of the loss, for the war in Iraq continues to claim some of the nation's best people.

President Bush is due to speak to Americans today about his new strategy for the war in Iraq. He's expected to order a temporary increase in the number of U.S. troops -- what's been called a surge.

What Alaskans have seen in recent months is a surge in casualties of Alaskans and our adopted soldiers in the Stryker Brigade and 4th Airborne Brigade Combat Team of the 25th Infantry Division out of Fort Richardson. Alaskans want to know what the president has in mind, where he intends to

EXECUTIVE CLEMENCY IN ALASKA

An Informational Booklet for Prospective Applicants

ALASKA BOARD OF PAROLE

OCTOBER 2006

*Alaska Board of Parole
4500 Diplomacy Drive, Ste. #109
Anchorage, AK 99508*

TABLE OF CONTENTS

	State Constitutional and Statutory Provisions
I.	Introduction
II.	Executive Clemency – What It Is
	A. Pardons
	B. Amnesty
	C. Commutation of Sentence
	D. Remission of Fine or Forfeiture
III.	Eligibility for Clemency
IV.	Legal Effects of a Pardon in Alaska
	A. Rights
	1) Serving on a Jury
	2) Voting Rights
	B. The Right to Own and Possess Firearms
	C. Effect Upon the Judgment and the Sentencing for Subsequent Offenses
	D. Occupational Licensing
	E. Summary of Legal Effects of a Pardon
V.	The Application Process
	Eligibility Determination
	Application completion and submission to Parole Board staff
	Executive Clemency Advisory Committee
	Factors Considered in Evaluating Applications
VI.	Rules Governing Clemency Applications
	1. Content of clemency application
	2. Restrictions regarding application
	3. Restrictions regarding application
	4. Restrictions regarding application
	5. Restrictions regarding DWI offenses
	6. Procedure regarding Grant of Clemency
	7. Resubmission of an application, if denied
	8. Clemency effective date
	9. Clemency order document
	10. Retention of criminal records
VII.	Appendix (Definitions)

STATE CONSTITUTIONAL PROVISIONS AND STATUTES

RELATING TO EXECUTIVE CLEMENCY

Article III, Section 21 of the Constitution of the State of Alaska provides:

EXECUTIVE CLEMENCY

Subject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment. A parole system shall be provided by law.

Alaska Statute 33.20.070 provides:

GOVERNOR MAY GRANT PARDONS, COMMUTATIONS, AND REPRIEVES

The governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or in part for offenses against the laws of the State of Alaska or the Territory of Alaska.

Alaska Statute 33.20.080 provides:

BOARD OF PAROLE TO INVESTIGATE APPLICATIONS FOR EXECUTIVE CLEMENCY

(a) The governor may refer applications for executive clemency to the board of parole. The board shall investigate each case and submit to the governor a report of the investigation, together with all other information the board has regarding the applicant. When the report or investigation is submitted, the board shall also transmit to the governor the comments it has received under (b) of this section.

(b) If requested by the victim of a crime against a person, a crime involving domestic violence, or arson in the first degree, the board shall send notice of an application for executive clemency submitted by the state prisoner who was convicted of that crime. The victim may comment in writing to the board on the application for executive clemency.

(c) If the victim desires notice under (b) of this section, the victim shall maintain a current, valid mailing address on file with the board. The board shall send the notice required under this section to the victim's last known address. The victim's address may not be disclosed to the applicant for executive clemency or the applicant's attorney.

(d) In this section,

- (1) "crime against a person" has the meaning given in AS 33.30.901;
- (2) "crime involving domestic violence" has the meaning given in AS 18.66.990.
- (3) "victim" has the meaning given in AS 12.55.185.

NOTE: Definition of "victim" as provided in AS 12.55.185(16):

"Victim" means:

- (A) a person against whom an offense has been perpetrated;
- (B) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is a minor, incompetent, or incapacitated:
 - (i) an individual living in a spousal relationship with the person specified in (A) of this paragraph; or
 - (ii) a parent, adult child, guardian, or custodian of the person;
- (C) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is dead:
 - (i) a person living in a spousal relationship with the deceased before the deceased died;
 - (ii) an adult child, parent, brother, sister, grandparent, or grandchild of the deceased; or
 - (iii) any other interested person, as may be designated by a person having authority in law to do so.

I. INTRODUCTION

This booklet has been prepared by the Alaska Board of Parole with the assistance of the Department of Law to provide information to all persons interested in applying to the Governor of Alaska for Executive Clemency. It describes what Executive Clemency is, and what it is not — for there are a number of misconceptions about clemency. While this booklet provides basic information on Executive Clemency in Alaska, it is not intended either to encourage or discourage prospective applicants. Applicants should be aware, however, that the power of Executive Clemency is historically a power of the Governor which is exercised only sparingly, and is rarely granted.

II. EXECUTIVE CLEMENCY — WHAT IT IS

Executive Clemency in the State of Alaska is a power granted to the Governor by the Alaska Constitution to grant pardons, commutations of sentence, amnesty, and the remission of fines and forfeitures. It is a power which is exercised only at the Governor's discretion.

Pardons

A pardon is a form of Executive Clemency, which if full and unconditional, relieves an offender from further punishment and disabilities imposed by reason of a conviction of a criminal offense. It is an act of grace which represents forgiveness for the particular crime.

Amnesty

Amnesty is a form of pardon which is extended to a class or group of persons, usually persons who have all committed the same crime, however, it is extended without regard to the special circumstances of individual cases. Traditionally amnesties have been granted to restore social peace after a period of political upheaval.

Commutation of Sentence

A commutation of sentence is a reduction or lessening of the original sentence. Usually it takes the form of a reduction in the length of imprisonment. In some cases it may result in release from prison. A commutation may be granted conditionally.

Remission of Fine or Forfeiture

A remission of a fine is the forgiveness, in whole or in part, of the fine; a remission of a forfeiture is the forgiveness and restoration of property or a property right forfeited by reason of conviction of the crime.

NOTE: Pardons, amnesties, commutations and remissions may be full and unconditional, or conditional. The Governor may impose any conditions and the time the conditions may be in effect may extend beyond the term of the original sentence or even for life.

III. ELIGIBILITY FOR CLEMENCY

Any person who has committed a crime under the laws of the State of Alaska or the Territory of Alaska may apply to the Governor for clemency at any time. The power to grant clemency in Alaska does not extend to crimes committed under federal law, municipal law, or the laws of another state.

Certain conditions must be met in order for an application to be considered. No application for clemency will be considered prior to judgment and commitment, or during the course of an appeal from the conviction or sentence for which clemency is being sought. Similarly, no application for clemency will be considered while application is being made for any form of post-conviction relief, including a sentence reduction motion or federal habeas corpus motion.

Because a full and unconditional pardon is in most respects similar to a suspended imposition of sentence (SIS), absent exceptional circumstances, a pardon will not be granted to an offender who received such a disposition.

Likewise, a pardon will generally not be granted unless a significant period of time has passed since the applicant's final discharge under the sentence. During this period, the applicant is expected to demonstrate complete and total rehabilitation.

A commutation of sentence may be granted conditionally. Any conditions may be imposed. The time the conditions remain in effect may extend beyond the term of the original sentence or even for life.

Except for conditional commutations granted during a prisoner overcrowding emergency, an applicant must demonstrate extraordinary circumstances in order to receive a pardon, amnesty, commutation or remission.

SEE NEXT PAGE FOR "REASONS FOR CLEMENCY INELIGIBILITY"

REASONS FOR CLEMENCY INELIGIBILITY

(Informal Checklist)

- Application is not complete
- Applicant refuses to sign waiver for obtaining all personal/confidential documents
- Determination by Board staff or ECAC that "exceptional circumstances" do not exist
- Crime for which applicant seeks clemency is not a state crime (thus Governor has no clemency authority)-(federal offenses, municipal offenses, or infractions in a state other than Alaska are not eligible)
- Case for the applicant is pending appeal (at any level – including post-conviction relief, sentence reduction, or federal habeus corpus motion)
- If is a felony crime, not considered if it is within 3 months of expiration of sentence (except in exceptional and meritorious circumstances)
- Applicant has not yet received final judgment and commitment for the offense
- Applicant has not yet served any portion of the sentence
- Applicant has not yet reached parole eligibility date and/or has not applied for and been denied parole
- Parole would satisfy the request of the applicant (therefore clemency not necessary as first consideration)
- Applicant is currently on parole/probation (applicant must be off parole/probation) (Unless a life sentence, then applicant must have been on parole for minimum of 2 years to apply.)
- Applicant must have significant period of time since final discharge and have shown firm rehabilitation progress
- Governor cannot reinstate driving privileges for DWI convictions
- Applicant has been discharged from custody, but it has not been 2 years since release from parole/probation (NOTE: In specific circumstances, 10 years may be required.)
- Applicant has already been considered by the current Governor in this four-year term
- Clemency will not provide the relief sought by the applicant
- May not be considered if currently serving a Suspended Imposition of Sentence (SIS) granted by the court
- For individuals who have a set-aside sentence, a minimum of two years must have passed since the set-aside sentencing action was taken by the court
- Federal gun laws are primary factor in allowance to possess a weapon; clemency by State of Alaska cannot change those restrictions relating to possession of firearms
- Commutation only: length of time already served is an important factor; Board staff or ECAC to determine if enough time has been served to give consideration at any given time for commutation

*Note: "ECAC" is the Executive Clemency Advisory Committee
1/2003 - Alaska Board of Parole*

IV. LEGAL EFFECTS OF A PARDON IN ALASKA

A. Rights

One of the primary misconceptions about pardons in Alaska is that a pardon is the only manner by which one may have one's rights restored. In some states a pardon is the only manner by which a convicted felon may have his or her civil rights restored. However, in Alaska some rights are automatically restored upon unconditional discharge, which is the completion of one's sentence, including any period of probation, discretionary parole, or mandatory parole.

1. Right to Serve on a Jury

A person is disqualified from serving as a juror if the person has been convicted of a felony for which the person has not been unconditionally discharged. AS 09.20.037(1)

Thus, in Alaska, a pardon is not necessary to restore one's eligibility to serve on a jury or to vote. The right to vote and the right to serve on a jury are automatically restored to felons upon unconditional discharge of the sentence.

2. Voting Rights

Any person convicted of a felony involving moral turpitude under federal or state law may not vote in a federal, state or municipal election from the date of the conviction through the date of unconditional discharge. AS 15.05.030

Upon presenting proof that the person is unconditionally discharged from custody the person may register to vote [AS 15.07.135]. If you wish to participate in an election in Alaska after unconditional discharge of your sentence, contact your voting district's regional officer or contact:

State of Alaska
Division of Elections
P.O. Box 110017
Juneau, AK 99811-0017

B. The Right to Own and Possess Firearms

There is a very complex mix of state and federal law relating to the issue of firearm ownership and possession. Multiple state and federal statutes relate to this issue, and they are subject to frequent change by state and federal legislation. Both the federal and Alaska statutes are likely applicable to an applicant for executive clemency relating to these issues. These laws do vary with allowances and applicability.

As relates to this issue — and any resolutions relating to firearm ownership and possession forthcoming from executive clemency should it be granted — are not and will not be addressed by the Parole Board staff or the Office of the Governor in conduct of executive clemency investigations.

Should gun ownership or possession be of concern or critical to your anticipated relief by the granting of a pardon, you must explore and resolve any and all legal complexities (state and federal) through your own personal initiative and research. Due to the complexity of the issue, you should anticipate that this may well necessitate the retention of legal services.

No promise, assurance, or indication of expectation on the issue of gun ownership or possession will be made or implied through the processing and potential granting of executive clemency.

C. Effect Upon the Judgment and Upon Sentencing for Subsequent Offenses

Although many states take a different view, unless otherwise specified in the document granting a pardon in Alaska, a pardon sets aside the conviction. Thus, if a person who has received a pardon is later convicted of another offense, the earlier offense for which a pardon was received may not be considered as a prior conviction at sentencing. However, the facts giving rise to that conviction may be presented to the sentencing court.

A pardon does not eliminate or erase the conviction. The records of conviction continue to exist in both court and law enforcement files. The pardon is included in those files, and the purposes to which those files can be used are limited. In this sense then, to set aside the conviction means only that the individual is considered under the law not to have been previously convicted.

D. Occupational Licensing

Many occupations within the State of Alaska require special licenses which are issued by various licensing boards. Such occupations include barbering, welding, dentistry, law, real estate sales, nursing and guiding. Most of these occupational licensing laws contain provisions requiring that no person may be licensed unless they are of "good moral character." A few, such as the standards for becoming licensed as a guide, require a demonstration that the applicant "has not been convicted of a crime involving moral turpitude." Still others prevent licensing where an applicant has been convicted of a felony.

For example, a regional school board member who is convicted of a felony involving moral turpitude or an offense involving a violation of oath of office while serving as a school board member may not continue to serve. AS 14.08.045

A judge shall be removed from office upon final conviction of a "crime punishable as a felony under the state or federal law." AS 22.30.070(b)

A professional or occupational license may be denied, suspended or revoked because of a felony conviction.

Examples are:	Insurance Agent	AS 21.27.410(a)(7)
	Accountant	AS 08.04.450(5) & (6)
	Nurse	AS 08.68.270(2)
	Real Estate Broker	AS 08.88.171(a)

As discussed above, unless otherwise specified in the document granting a pardon, a pardon in Alaska sets aside the conviction. Therefore, if there is a requirement that the license applicant has not been convicted of a felony, the pardon would permit licensing. However, if the licensing standard is good moral character, the pardon does not erase the moral guilt associated with the commission of a criminal offense and the fact giving rise to that conviction may be considered in determining whether that person is of "good moral character."

E. Summary of Legal Effects of a Pardon

In summary, the primary legal effect of a pardon is that it sets aside a conviction for a crime committed under the laws of the State of Alaska or the Territory of Alaska. This serves to relieve the person to whom it is granted from all further punishment and other legal consequences imposed by reason of the conviction.

Finally, a conviction for which a pardon has been granted may not be considered at sentencing for the commission of a later offense, nor by any licensing board which issues licenses to practice certain occupations. However, the facts giving rise to that conviction may be considered by both a sentencing court and occupational licensing boards.

V. THE APPLICATION PROCESS

1. ELIGIBILITY DETERMINATION
2. APPLICATION COMPLETION AND SUBMISSION
3. EXECUTIVE CLEMENCY ADVISORY COMMITTEE

An applicant begins the process by first completing and submitting an "Eligibility Determination" form to the Alaska Board of Parole Office (ATTN: Clemency Determination). Once eligibility is positively determined, an Application Form will then be provided to the potential applicant. Requests for Eligibility Determination forms should be submitted to:

Alaska Board of Parole
ATTN: Clemency Determination
4500 Diplomacy Drive, Ste. #109
Anchorage, AK 99508

If an individual is determined to be eligible for executive clemency consideration, and once an application is provided to the applicant and received back in the Parole Board office: the application is investigated by staff of the Board of Parole and a summary is prepared and submitted to the Governor's Executive Clemency Advisory Committee (ECAC). Investigation and review of a clemency application can often take as long as one year.

The Executive Clemency Advisory Committee has historically been comprised of three persons: the Lieutenant Governor, the Attorney General or a representative from the Department of Law, and a public member. The committee meets as often as necessary to review pending applications. In recent years, ECAC meetings have averaged only once or twice a year, if needed.

Following consideration and review of applications, the Executive Clemency Advisory Committee prepares a summary and recommendation for each application and submits it to the Governor along with the complete file. The Governor then reviews each case, makes a decision and the applicant is notified of that decision. The entire process, from the time of submission of an application to the point of decision by the Governor can easily take one full year, but in some circumstances can take longer.

Some of the Factors Considered In Evaluating Applications for Clemency

Applicants for Executive Clemency should be aware that virtually their entire history is considered in evaluating an application for clemency. Applicants are required to sign waivers permitting an investigation of their employment and personal history (and medical conditions if pertinent).

Of particular importance will be the facts surrounding the offense for which clemency is requested, the presentence report, the record of the sentencing, progress reports during incarceration and behavior since release from custody. Additional factors include the person's arrest and conviction record for other offenses, and at times, the health of the applicant. Compliance with orders and conditions established by the court are especially important.

The comments of the Sentencing Judge, the District Attorney involved in the case, and comments of the Victim(s) are solicited and considered by the Executive Clemency Advisory Committee and the Governor.

In applications for commutation of sentence, the length of time already served is of particular importance.

Finally, the most important factor is the exceptional or extraordinary circumstance of the applicant that would justify use of the Governor's clemency power. Clemency is rarely granted, and only under the most exceptional of circumstances.

VI. RULES GOVERNING APPLICATIONS FOR EXECUTIVE CLEMENCY

After a Determination of Eligibility has been made:

1. The clemency application must be typewritten or fully completed in ink, preferably printed, and be legible. No one, including the applicant, is entitled to attend the hearing. Each applicant must provide the date of conviction, crime of conviction, court case number and the sentence imposed for each conviction. This information can be obtained from the clerk of court. In addition to the clemency application, all applicants are required to complete and submit the Executive Clemency Application. Documents relating to the completion or compliance with orders of the court should also accompany the application. Application forms are available from the Board of Parole – after the initial determination of positive eligibility by the staff of the Parole Board.
 2. All persons who have committed a crime under the laws of the State of Alaska or the Territory of Alaska may apply for Executive Clemency. Applications for pardon or commutation will not be considered for convictions of municipal laws, federal laws or convictions in other states. Applications will not be considered during pending appeals from judgments or conviction; nor, in felony cases, within three months before the expiration of sentence, except in unusually urgent and meritorious cases, or when circumstances surrounding the conviction indicate a violation of constitutional rights.
 3. Generally, applications for executive clemency will not be considered until after the person has served some portion of the sentence. Applications will not be considered until the person has reached his or her parole period (where applicable) or has been denied parole. Applications may be considered earlier only upon a substantial showing of innocence or some other exceptional circumstance arising since trial, which clearly justifies a possible extension of executive clemency. Every prisoner applying prior to his or her parole eligible date must state substantial facts showing why release on parole, when eligible, would not meet the situation in the prisoner's case.
 4. Applications for pardon or commutation will not be considered while parolees are on parole except in cases of prisoners serving life sentences and where the applicant has been on parole for more than two years.
 5. The Governor of Alaska will not circumvent AS 28.15.181(a)(5) which speaks to revocation of driver's licenses for operating a motor vehicle or aircraft while intoxicated.
 6. In the absence of exceptional circumstances, applications for pardon after completion of sentence will not be considered unless the applicant has been discharged from custody or from parole or probation for at least two years. A longer period may be required before favorable action is taken, dependent largely on the nature of the offense and the character of the applicant, both before and since the conviction. In cases of perjury, subornation of perjury or violation of a public trust involving personal dishonesty, or other crimes of a serious nature, the lapse of ten years after release is usually required.
 7. If the application is denied, the Governor will not accept resubmission of an application during the four-year term of office unless substantial new information is discovered.
 8. If clemency is granted, it does not become effective until it is delivered and accepted by the applicant. Once delivered, a conditional pardon or other forms of conditional clemency may be revoked by the Governor for violations of conditions imposed.
 9. If clemency is granted, the applicant, as well as appropriate officials will promptly receive an original signed and sealed document of the grant of clemency. A copy will also be sent to the sentencing court, and the Alaska Department of Public Safety (Records Section), to be retained in their files.
 10. Clemency **"Will forgive, but not forget."** All records regarding the conviction are retained by the appropriate agencies. In Alaska, there are no provisions for expungement of criminal records upon a grant of clemency.
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VII. APPENDIX

DEFINITIONS

AMNESTY --- is a form of Executive Clemency which is extended to a class or group of persons, usually persons who have all committed the same crime. It is extended without regard to the special circumstances of individual cases. Traditionally amnesties have been granted to restore social peace after a period of political upheaval.

APPLICATION FORM --- After a Determination of Eligibility has been made: The application process for Executive Clemency is begun by completing an application form and submitting it to the Alaska Board of Parole. The clemency application must be fully completed in ink, and be legible or typewritten. Each applicant must provide the date of conviction, crime of conviction, court case number and the sentence imposed for each conviction. This information can be obtained from the clerk of court. In addition to the clemency application, all applicants are required to complete and submit the Executive Clemency Questionnaire Worksheet. Letters from individuals or organizations in support of the applicant should be attached to the clemency application. Authors of such letters should include a statement relating to their knowledge of the applicant, including his or her background and present circumstances, and the reason they feel the applicant should be granted clemency. Documents relating to completion or compliance with orders of the court should be attached to the application. Application forms are available from the Board of Parole after a Determination of Eligibility is made.

BOARD OF PAROLE --- is the Alaska Board of Parole. The Governor may refer applications for executive clemency to the Board of Parole. The Board through its staff investigates each case and submits to the Executive Clemency Advisory Committee and the Governor a report of the investigation, together with all other information the Board has regarding the applicant. When the report or investigation is completed, the Board also transmits to the Executive Clemency Advisory Committee and the Governor the comments it has received from the victim.

COMMENTS REGARDING THE CLEMENCY APPLICATION --- The comments of the Sentencing Judge, the District Attorney involved in the case, and the comments of the Victim(s) are solicited and considered by the Executive Clemency Advisory Committee and the Governor. Letters submitted by those in support of the applicant's clemency application are also considered.

COMMUTATION OF SENTENCE --- is a reduction or lessening of the original sentence. Usually it takes the form of a reduction in the length of imprisonment. A commutation may be granted conditionally.

CONDITIONAL CLEMENCY --- Pardons, amnesties, commutations of sentence and remissions may be conditional. The Governor may impose any conditions and the time the conditions may be in effect may extend beyond the term of the original sentence or even for life. It is necessary to comply with the conditions imposed for the pardon, amnesty, commutation of sentence or remission to be valid.

CRIMES AGAINST PERSON --- means a crime set out in AS 11.41, except custodial interference under AS 11.41.320 and AS 11.41.330; or a crime against a person in this or another jurisdiction having elements substantially identical to those of a crime as set out in AS 11.41, except custodial interference under AS 11.41.320 and AS 11.41.330.

CRIMES OF MORAL TURPITUDE --- includes those crimes which are immoral or wrong in and of themselves, such as murder, sexual assault, robbery, kidnapping, incest, arson, burglary, theft and forgery. See AS 15.60.010(8). Contact the Division of Elections if you wish to obtain a list of the crimes of moral turpitude relating to voting rights.

EFFECTIVE DATE --- If clemency is granted, it does not become effective until it is delivered to and accepted by the applicant.

ELIGIBILITY -- Any person who has committed a crime under the laws of the State of Alaska or the Territory of Alaska may apply to the Governor for executive clemency, if determined to be eligible. Applications will not be considered for convictions of municipal laws, federal laws, or convictions in other states. Applications for clemency will not be considered during pending appeals from judgment or conviction. No applications will be considered where a Suspended Imposition of Sentence (SIS) disposition has been granted by the court. See "Reasons for Clemency Ineligibility."

EXECUTIVE CLEMENCY -- in the State of Alaska is the power granted to the Governor by the Alaska Constitution to grant pardons, commutations of sentence, amnesty and the remission of fines and forfeitures. It is a power which is exercised solely at the Governor's discretion. It is a general term used to describe pardons, commutation, amnesty or remissions.

EXECUTIVE CLEMENCY ADVISORY COMMITTEE -- is historically comprised of three persons: the Lieutenant Governor, the Attorney General or a representative from the Department of Law, and a public member. The Committee reviews each case and makes a recommendation to the Governor. The Committee meets as often as necessary to review pending applications, usually only once or twice per year.

EXECUTIVE PRIVILEGE -- The records, documents and reports generated during the executive clemency process are prepared for the exclusive use of the Governor. These clemency documents are confidential and are not considered public information. The Governor's final decision in each case and the official orders signed by the Governor are public information.

EFFECTIVE DATE -- If clemency is granted, it does not become effective until it is delivered to and accepted by the applicant.

FIREARM -- defined by AS 11.81.900(b)(24) is a weapon including a pistol, revolver, rifle, or shotgun whether loaded or unloaded, operable or inoperable, designed for discharging a shot capable of causing death or serious physical injury.

JURY SERVICE -- A person is disqualified from serving as a juror if the person has been convicted of a felony for which the person has not been unconditionally discharged. AS 09.20.037

LEGAL EFFECT OF CLEMENCY -- The primary legal effect of a pardon is that it sets aside a conviction for a crime committed under the laws of the State of Alaska or the Territory of Alaska. This serves to relieve the person to whom it is granted from all further punishment and other legal consequences imposed by reason of the conviction. Upon a grant of clemency the records continue to exist in court and law enforcement files. A grant of clemency "*will forgive, but not forget.*"

PARDON -- is a form of Executive Clemency, which if full and unconditional, relieves an offender from further punishment and disabilities imposed by reason of a conviction of a criminal offense. It is an act of grace which represents forgiveness for the particular crime. The governor may grant pardons in whole or in part for offenses against the laws of the State of Alaska or the Territory of Alaska.

CONDITIONAL PARDON -- is a form of Executive Clemency to which a condition or conditions are attached. The pardon does not become effective until the person pardoned has performed or completed the requirements outlined by the condition or conditions. The conditional pardon can also become void if some specific act or event occurs.

FULL PARDON -- is a form of Executive Clemency which relieves the grantee of all legal consequences, and without conditions.

GENERAL PARDON -- is a form of Executive Clemency usually granted to all the persons participating in a given criminal offense. [See definition of Amnesty above.]

PARTIAL PARDON -- is a form of Executive Clemency which relieves only a portion of punishment or absolves only a portion of the legal consequences of a crime.

UNCONDITIONAL PARDON -- is a form of Executive Clemency which relieves the grantee without any conditions whatsoever. It is the same as a full pardon.

PAROLE -- A prisoner, sentenced to one or more terms of imprisonment exceeding 180 days in the case of discretionary parole and of two years or more in the case of mandatory parole released by the Board or by operation of law before the expiration of the term, subject to custody and jurisdiction by the Board. Parole is a function of the Executive Branch of government.

PRISONER -- An offender confined for violation of state law, but does not include a person confined under AS Title 47.

PROBATION -- A court imposed sentence suspending incarceration and instead imposing a term of supervision in the community under the discretion of the probation officer. Probation is a function of the Judicial Branch of government.

QUESTIONNAIRE WORKSHEET -- All applicants are required to complete and submit the Executive Clemency Questionnaire Worksheet as an integral part of the Application Form. Questionnaire Worksheet forms are made available to you when the Application Form is sent.

RECORDS RETENTION -- A pardon does not eliminate or erase the conviction. The records of conviction are retained by the appropriate agencies and continue to exist in both court and law enforcement files. In Alaska there are no provisions for expungement of criminal records upon the granting of clemency.

RELEASE OF INFORMATION -- Each applicant must sign a release of information authorizing an investigation of the applicant's current and past record and character. This form is part of the clemency application.

REMISSION OF FINE -- is the forgiveness in whole or part, of a fine imposed by the court.

REMISSION OF FORFEITURE -- is the forgiveness and restoration of property or a property right forfeited by reason of conviction of the crime.

REVOCAION -- Once delivered: a conditional pardon, conditional commutation of sentence or other forms of conditional clemency may be revoked by the Governor for violations of the conditions imposed.

UNCONDITIONAL DISCHARGE -- A defendant is released from all disability arising under a sentence, including probation and parole. AS 15.60.010(33)

VICTIM -- as defined in AS 12.55.185(16), a "victim" means:

- (A) a person against whom an offense has been perpetrated;
- (B) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is a minor, incompetent, or incapacitated:
 - (i) an individual living in a spousal relationship with the person specified in (A) of this paragraph; or
 - (ii) a parent, adult child, guardian, or custodian of the person;
- (C) one of the following, not the perpetrator, if the person specified in (A) of this paragraph is dead:
 - (i) a person living in a spousal relationship with the deceased before the deceased died;
 - (ii) an adult child, parent, brother, sister, grandparent, or grandchild of the deceased; or
 - (iii) any other interested person, as may be designated by a person having authority in law to do so.

VICTIM COMMENTS -- The victim may comment in writing to the Board on the application for executive clemency. See AS 33.20.080. The comments are forwarded to the Executive Clemency Advisory Committee and the Governor.

VICTIM NOTIFICATION -- If requested by the victim of a crime against a person, a crime involving domestic violence, or arson in the first degree, the board shall send notice of an application for executive clemency submitted by the person who was convicted of that crime. The victim may comment in writing to the board on the application for executive clemency. If the victim desires notice, the victim shall maintain a current, valid mailing address on file with the Department of Corrections. The Board shall send the notice required under this section to the victim's last known address. The victim's address may not be disclosed to the clemency applicant or the applicant's attorney.

VOTING RIGHTS -- Any person convicted of a felony involving moral turpitude under state or federal law may not vote in a state, federal or municipal election from the date of the conviction through the date of unconditional discharge (*AS 15.05.030*). Upon presenting proof that the person is unconditionally discharged from custody the person may register to vote. If you wish to participate in an election in Alaska after unconditional discharge of your sentence or obtain a list of the crimes of moral turpitude, contact your voting district's regional office or: State of Alaska, Division of Elections, P.O. Box 110017, Juneau, AK 99811-0017 .

[10/2006 Clemency Handbook]



Sec. 33.20.080. Board of parole to investigate applications for executive clemency.

(a) The governor may refer applications for executive clemency to the board of parole. The board shall investigate each case and submit to the governor a report of the investigation, together with all other information the board has regarding the applicant. When the report or investigation is submitted, the board shall also transmit to the governor the comments it has received under (b) of this section.

(b) If requested by the victim of a crime against a person, a crime involving domestic violence, or arson in the first degree, the board shall send notice of an application for executive clemency submitted by the state prisoner who was convicted of that crime. The victim may comment in writing to the board on the application for executive clemency.

(c) If the victim desires notice under (b) of this section, the victim shall maintain a current, valid mailing address on file with the board. The board shall send the notice required under this section to the victim's last known address. The victim's address may not be disclosed to the applicant for executive clemency or the applicant's attorney.

(d) In this section,

(1) "crime against a person" has the meaning given in AS 33.30.901;

(2) "crime involving domestic violence" has the meaning given in AS 18.66.990.

(3) "victim" has the meaning given in AS 12.55.185.

Chapter 33.25. WESTERN INTERSTATE CORRECTIONS COMPACT

[Renumbered as AS 33.36.060 - 33.36.100].

Chapter 33.30. PRISON FACILITIES AND PRISONERS

Article 01. ESTABLISHMENT, CONTROL, AND MANAGEMENT

Sec. 33.30.010. Commissioner to control and manage state prison facilities. [Repealed, Sec. 12 ch 88 SLA 1986].

Repealed or Renumbered

Sec. 33.30.011. Duties of commissioner.

The commissioner shall

(1) establish, maintain, operate, and control correctional facilities suitable for the custody, care, and discipline of persons charged or convicted of offenses against the state or held under authority of state law; each correctional facility operated by the state shall be established, maintained, operated, and controlled in a manner that is consistent with AS 33.30.015;

NOTES TO DECISIONS

Forfeiture of good time authorized. — The Department of Corrections has the authority to forfeit good time for a prisoner's misbehavior engaged in before resentencing on the same offense. *Briggs v. Donnelly*, 828 P.2d 1207 (Alaska Ct. App. 1992).

Stated in *Hill v. State*, 22 P.3d 24 (Alaska Ct. App. 2001).

Cited in *Hill v. State*, 22 P.3d 24 (Alaska Ct. App. 2001).

Collateral references. — 72 C.J.S., Prisons, §§ 48, 144-146, 148, 154.

Withdrawal, forfeiture, modification, or denial of good-time allowance to prisoner. 95 ALR2d 1265.

Sec. 33.20.060. Restoration of forfeited good time. The commissioner of corrections may restore all or a portion of a prisoner's forfeited good time, under regulations adopted by the commissioner, if the prisoner demonstrates progress in faithfully observing the rules of the correctional facility in which the prisoner is confined. The amount of forfeited good time restored by the commissioner shall be related to the severity of the offense or rule violation committed by the prisoner and the length of time of good conduct that followed the offense or rule violation. (§ 6 ch 107 SLA 1960; am § ch 11 SLA 1986)

NOTES TO DECISIONS

Stated in *Hill v. State*, 22 P.3d 24 (Alaska Ct. App. 2001).

Cited in *Bear v. State*, 439 P.2d 432 (Alaska 1968).

Collateral references. — 72 C.J.S., Prisons, § 21. Right to credit for time served under erroneous or

void sentence or invalid judgment of conviction necessitating new trial. 35 ALR2d 1283.

Article 2. Power of Governor to Grant Pardons, Commutations and Reprieves.

Section

70. Governor may grant pardons, commutations and reprieves

Section

80. Board of parole to investigate applications for executive clemency

Sec. 33.20.070. Governor may grant pardons, commutations and reprieves. The governor may grant pardons, commutations of sentence, and reprieves, and suspend and remit fines and forfeitures in whole or part for offenses against the laws of the State of Alaska or the Territory of Alaska. (§ 1 ch 16 SLA 1961)

Cross references. — For the constitutional provision on this subject, see Alaska Const., art. III, § 21.

NOTES TO DECISIONS

There is no authority which would sanction the expansion of the superior court's jurisdiction to pass sentence into a realm of review and modification which is statutorily vested in either the

supreme court or the executive branch of government. *Davenport v. State*, 543 P.2d 1204 (Alaska 1975); *Szeratics v. State*, 572 P.2d 63 (Alaska 1977). Cited in *Bear v. State*, 439 P.2d 432 (Alaska 1968).

Collateral references. — Pardon as affecting impeachment by proof of conviction of crime. 30 ALR2d 893.

Habitual criminal statute, pardon as affecting consideration of earlier conviction in applying. 31 ALR2d 1186.

Procedure to be followed where jury requests infor-

mation as to possibility of pardon or parole from sentence imposed. 35 ALR2d 769.

Offenses and convictions covered by pardon. ALR2d 1261.

Prejudicial effect of statement or instruction of court as to possibility of parole or pardon. 12 ALR2d 832.

§ 17. **Convening Legislature** ~ Whenever the governor considers it in the public interest, he may convene the legislature, either house, or the two houses in joint session.

§ 18. **Messages to Legislature** ~ The governor shall, at the beginning of each session, and may at other times, give the legislature information concerning the affairs of the State and recommend the measures he considers necessary.

§ 19. **Military Authority** ~ The governor is commander-in-chief of the armed forces of the State. He may call out these forces to execute the laws, suppress or prevent insurrection or lawless violence, or repel invasion. The governor, as provided by law, shall appoint all general and flag officers of the armed forces of the State, subject to confirmation by a majority of the members of the legislature in joint session. He shall appoint and commission all other officers.

§ 20. **Martial Law** ~ The governor may proclaim martial law when the public safety requires it in case of rebellion or actual or imminent invasion. Martial law shall not continue for longer than twenty days without the approval of a majority of the members of the legislature in joint session.

§ 21. **Executive Clemency** ~ Subject to procedure prescribed by law, the governor may grant pardons, commutations, and reprieves, and may suspend and remit fines and forfeitures. This power shall not extend to impeachment. A parole system shall be provided by law.

§ 22. **Executive Branch** ~ All executive and administrative offices, departments, and agencies of the state government and their respective functions, powers, and duties shall be allocated by law among and within not more than twenty principal departments, so as to group them as far as practicable according to major purposes. Regulatory, quasi-judicial, and temporary agencies may be established by law and need not be allocated within a principal department.

§ 23. **Reorganization** ~ The governor may make changes in the organization of the executive branch or in the assignment of functions among its units which he considers necessary for efficient administration. Where these changes require the force of law, they shall be set forth in executive orders. The legislature shall have sixty days of a regular session, or a full session if of shorter duration, to disapprove these executive orders. Unless disapproved by resolution concurred in by a majority of the members in joint session, these orders become effective at a date thereafter to be designated by the governor.

§ 24. **Supervision** ~ Each principal department shall be under the supervision of the governor.

§ 25. **Department Heads** ~ The head of each principal department shall be a single executive unless otherwise provided by law. He shall be appointed by the governor, subject to confirmation by a majority of the members of the legislature in joint session, and shall serve at the pleasure of the governor, except as

otherwise provided in this article with respect to the secretary of state. The heads of all principal departments shall be citizens of the United States.

Editor's Note. Senate Joint Resolution No. 2, "changing the name of the secretary of state to lieutenant governor" in 16 sections of the Alaska Constitution, approved by the voters August 25, 1970, inadvertently omitted express amendment of this section.

§ 26. **Boards and Commissions** ~ When a board or commission is at the head of a principal department or a regulatory or quasi-judicial agency, its members shall be appointed by the governor, subject to confirmation by a majority of the members of the leg-

islature in joint session, and may be removed as provided by law. They shall be citizens of the United States. The board or commission may appoint a principal executive officer when authorized by law, but the appointment shall be subject to the approval of the governor.

§ 27. **Recess Appointments** ~ The governor may make appointments to fill vacancies occurring during a recess of the legislature, in offices requiring confirmation by the legislature. The duration of such appointments shall be prescribed by law.

§ 8. **Grand Jury** ~ No person shall be held to answer for a capital, or otherwise infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the armed forces in time of war or public danger. Indictment may be waived by the accused. In that case the prosecution shall be by information. The grand jury shall consist of at least twelve citizens, a majority of whom concurring may return an indictment. The power of grand juries to investigate and make recommendations concerning the public welfare or safety shall never be suspended.

§ 9. **Jeopardy and Self-Incrimination** ~ No person shall be put in jeopardy twice for the same offense. No person shall be compelled in any criminal proceeding to be a witness against himself.

§ 10. **Treason** ~ Treason against the State consists only in levying war against it, or in adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

§ 11. **Rights of Accused** ~ In all criminal prosecutions, the accused shall have the right to a speedy and public trial, by an impartial jury of twelve, except that the legislature may provide for a jury of not more than twelve nor less than six in courts not of record. The accused is entitled to be informed of the nature and cause of the accusation; to be released on bail, except for capital offenses when the proof is evident or the presumption great; to be confronted with the witnesses against him; to have

compulsory process for obtaining witnesses in his favor, and to have the assistance of counsel for his defense.

§ 12. **Criminal Administration** ~ Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted. Criminal administration shall be based upon the following: the need for protecting the public, community condemnation of the offender, the rights of victims of crimes, restitution from the offender, and the principle of reformation. [Amended 1994]

§ 13. **Habeas Corpus** ~ The privilege of the writ of habeas corpus shall not be suspended, unless when in cases of rebellion or actual or imminent invasion, the public safety requires it.

§ 14. **Searches and Seizures** ~ The right of the people to be secure in their persons, houses and other property, papers, and effects, against unreasonable searches and seizures, shall not be violated. No warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

§ 15. **Prohibited State Action** ~ No bill of attainder or ex post facto law shall be passed. No law impairing the obligation of contracts, and no law making any irrevocable grant of special privileges or immunities shall be passed. No conviction shall work corruption of blood or forfeiture of estate.

§ 16. **Civil Suits; Trial by Jury** ~ In civil cases where the amount in controversy exceeds two hundred fifty

dollars, the right of trial by a jury of twelve is preserved to the same extent as it existed at common law. The legislature may make provision for a verdict by not less than three-fourths of the jury and, in courts not of record, may provide for a jury of not less than six or more than twelve.

§ 17. **Imprisonment for Debt** ~ There shall be no imprisonment for debt. This section does not prohibit civil arrest of absconding debtors.

§ 18. **Eminent Domain** ~ Private property shall not be taken or damaged for public use without just compensation.

§ 19. **Right to Keep and Bear Arms** ~ A well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed. The individual right to keep and bear arms shall not be denied or infringed by the State or a political subdivision of the State. [Amended 1994]

§ 20. **Quartering Soldiers** ~ No member of the armed forces shall in time of peace be quartered in any house without the consent of the owner or occupant, or in time of war except as prescribed by law. The military shall be in strict subordination to the civil power.

§ 21. **Construction** ~ The enumeration of rights in this constitution shall not impair or deny others retained by the people.

§ 22. **Right of Privacy** ~ The right of the people to privacy is recognized and shall not be infringed. The legislature shall implement this section. [Amended 1972]

§ 23. **Resident Preference** ~ This constitution does not prohibit the State from granting preferences, on the basis of Alaska residence, to residents of the State over nonresidents to the extent permitted by the Constitution of the United States. [Amended 1988]

§ 24. **Rights of Crime Victims** ~ Crime victims, as defined by law, shall have the following rights as provided by law: the right to be reasonably protected from the accused through the imposition of appropriate bail or conditions of release by the court; the right to confer with the prosecution; the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process; the right to timely disposition of the case following the arrest of the accused; the right to obtain information about and be allowed to be present at all criminal or juvenile proceedings where the accused has the right to be present; the right to be allowed to be heard, upon request, at sentencing, before or after conviction or juvenile adjudication, and at any proceeding where the accused's release from custody is considered; the right to restitution from the accused; and the right to be informed, upon request, of the accused's escape or release from custody before or after conviction or juvenile adjudication. [Amended 1994]

§ 25. **Marriage** ~ To be valid or recognized in this State, a marriage may exist only between one man and one woman. [Amended 1998]

Governor Wally Hickel - Served 12/31/1980 - 12/5/1984

1	Grand Larceny	3 years	Pardon
2	Assault w/ deadly weapon	5 years & probation	Pardon
3	Assault II	3 yrs. with 3 suspended	Pardon
4	Extortion, receiving a bribe Robbery, Larceny stolen vehicle	4 yrs with 3 suspended	Pardon
5		4 years	Pardon

Governor Tony Knowles - Served 12/5/1984 - 12/5/2002

Through Gov. Office	Manslaughter	5 yrs	Pardon (Nov. 1997)
2	ASSAULT IV		Pardon (Dec. 2001)

James Willis

Jimmie V. West ^{Devised previously} done last minute

Governor Frank Murkowski - Serves 12/8/2002 to Present

1. _____ MICS III _____ PARDON _____ RUTHER F. T. ECHIVERRI
2. _____ ~~NEGLIGENT HOMICIDE~~ _____ PARDON (JUNE 2005) _____ (THOM FISCHER, PRESIDENT)
THOM FISCHER, PRESIDENT
3. _____ ASSAULT II _____ PARDON (NOV. 2006) - WHITTEWATER ENGINEERS
4. _____ DWI _____ PARDON (OCT. 2006) - RICHARD "PAT" PATERSON
5. _____ THEFT III _____ PARDON (OCT. 2006) - THOMAS E. KELLY
6. _____ THEFT II _____ PARDON (NOV. 2006) - RYAN ANGELO SARGENTO
- RESISTING ARREST } _____ PARDON (NOV. 2006) - WILSON DOUGLAS THORPE
- ISSUING A BAD CHECK }

EXECUTIVE CLEMENCY - GRANTED <i>(indicated by Governor)</i>			
Governor - Term of the Governor <i>[f:\clemency statistics.xls]</i>			
Gov. William Egan * Served 1/3/1959 - 12/5/1966			
	OFFENSE	SENTENCE	DECISION
1	Bribery of a law officer	5 years	Pardon
2	Pimping	8 mons	Pardon
3	Manslaughter	2 years	Pardon
4	Theft	4 years	Pardon
5	Statutory Rape	Life sentence	Commutation of Sentence to 30 years
6	Forgery	15 years	Commuted to Time Served
7	Assault w/intent to rape	3 years	Pardon
8	Murder I	Life sentence	Pardon
9	Murder I	Life sentence	Commutation of Sentence to 15 years
10	Forgery	8 years	Pardon
11	Felatio	1 1/2 years	Pardon
12	Embezzlement	6 years	Pardon
13	Arson & Burglary	10 years	Pardon
14	Manslaughter	6 years	Pardon

15	No data - jail says Anchorage	20 years	Pardon
16	Drunk & disorderly	6 mons	Pardon
17	Statutory Rape	3 years	Pardon
18	Assault & Battery & giving liquor to a minor	120 days	Commutated to 112 days
19	Burglary & Larceny	10 years	Commutation to 5 years
20	Statutory Rape	Life sentence	Commutation to 30 years
21	Rape	Life sentence	Commutation
22	Murder II	Life sentence	Commutation to 30 years
23	Murder II	25 years	Commutation to 20 years
24	Giving Liquor to a minor & reckless Driving	270 days	Commutated to Time Served
25	Through Governors office		Pardon
26	Through Governors office		Pardon
27	Through Governors office		Pardon
28	Through Governors office		Pardon
29	Cutting with intent to wound	9 years	Commutated to Time Served
30	Contributing to the delinquency of a minor	\$500.00 fine	Pardon
31	Burglary not in a dwelling X 2	18 mons	Pardon
32	Manslaughter	10 years	Commutated to Time Served
33	Murder II	15 years	Pardon

34. Through the Gov office	Fishing in a closed area		Pardon
35. Through Gov office	Fishing in a closed area		Pardon
36. Through Gov Office	Fishing in a closed area		Pardon
37. Through Gov Office	Assault & Battery		Pardon
38	Statutory Rape	8 years	Commuted to Time Served
39	Manslaughter	15 years	Commuted to Time Served
December 24 1962	Christmas Clemency's		9 Pardons not in yearly counts
40. Through Gov Office	Simple Assault		Pardon
41	Joyriding	\$800 Fine & 365 days	Pardon
42 Through Gov Office	Fishing in a closed area		Pardon
43 Through Gov. Office	Fishing in a closed area		Pardon
44 Through Gov. Office	Fishing in a closed area		Pardon
45 Through Gov Office	Fishing in a closed area		Pardon
46 Through Gov Office	Fishing in a closed area		Pardon
47	Minor in Possession of Alcohol	180 days	Pardon
48	Delinquent Minor		Pardon
49	Murder I	40 years	Commuted to 20 years
50	Disorderly Conduct	\$300.00 fine & 180 days	Pardon
51	Illegal Fishing	\$3000.00 fine	Fine remitted

December 24, 1963	Christmas Clemency's		3 pardons not in yearly courts
52	Drunkness	6 mons	Pardon
53	Illegal Fishing	19 1/2 mons	Pardon
54	Reckless driving	Suspended Sentence	Pardon
55	Issuing checks w/out funds	1 year	Pardon
56	Forgery	\$1,000.00 restitution/1 year	Pardon
57	Assault & Assault & Battery	90 days	Pardon
58	Child neglect	300 days	Pardon
59 Through Gov. Office	Assault & Battery	6 mons	Pardon
60	Manslaughter	12 years	Committed to Time Served
61	Murder I	Life sentence	Committed to 36 years
62	Murder II	Life sentence	Committed to 20 years
63	Child neglect	365 days	Committed to Time Served
64	Child neglect	365 days w/185 suspended	Committed to Time Served
65	Possession of Alcohol by minor	2 days	Pardon
66	Assault & Battery	6 mons	Committed to Time Served
67	Murder I	Life sentence	Committed to 30 years
68	Murder II	Life sentence	Committed to 30 years
69	Rape	Life sentence	Committed to 30 years

70	Murder I	18 years	Commute to 18 years
71	Assault w/intent to kill. Assault w/deadly weapon	21 years & 1 day	Pardon
	Larceny. Possession w/deadly weapon to and from court room.		
72	Murder I	Life sentence	Commute to 30 years
73	Murder II	25 years	Pardon
December 24 1966	Christmas Clemency's		1 pardon not in yearly count
74	Murder I	Life sentence	Pardon
75	Burglary & Assault w/dangerous weapon	5 years	Pardon
76	Issuing checks w/out funds	210 days	Pardon
77	Shoplifting	6 mons suspended	Pardon
78	Rape	30 years	Commute to 24 years 6 mons
79	Petty larceny	\$100.00 fine	Pardon
80	Involuntary Manslaughter	6 years	Commutated to Time Served
81	Drunk in Public	90 days	Commutated to Time Served
82	Assault & Battery	210 days/ \$100.00 fine	Commutated to Time Served & full remission of fine
83	Attempted Robbery	18 mons probation	Pardon

Governor Wally Hicke - Served 12/6/1966 - 1/19/1969

1	Murder II	Life sentence/ paroled	Pardon
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December 22 1966	Christmas Clemency's		11 commutation to time served, not in yearly counts
2	Grand Larceny	3 years	Commutation of Sentence
3	Manslaughter	8 years	Commutate to Time Served
4	Forgery	1 - 20 years	Commutate to 5 years
5	Issuing checks w/out funds	15 years	Commutate to 10 years
6	Disorderly Conduct	3 mons	Commutate to Time Served
7	Forgery	6 mons w/ 3 yrs probation	Pardon
8	Assault w/deadly weapon	3 years probation	Pardon
9	Possession of narcotics	2 years	Commutate to Time Served
10	Arson	3 years	Pardon
11	Child neglect	347 days	Time served

Governor Keith Miller * Served 1/19/1969 - 12/5/1970

1	Passing Forged checks	5 years	commuted to time served
2	Burglary in a dwelling	3 yrs suspended w/2 yrs probation	Pardon
3	Petty larceny	\$50.00 fine, \$25.00 suspended	Pardon
4	cc of crime	30 days suspended, \$50.00 fine	Pardon

Governor William Egan * Served 12/5/1970 - 12/2/1974

1	Murder II	15 years	Pardon
2	Murder I	Life Sentence	Commutation to 36 years

3	Manlaughter	20 years	Contribute to Time Served
4	Larceny in a building	7 years	Contribute to Time Served
5	Burglary not in a dwelling	2 yrs suspended	Pardon
6	Furnishing liquor to a minor	180 days	Pardon
7	Burglary	1 year & 1 day	Pardon
8	Robbery	1 - 15 years	Committed to 10 years
9	Assault with a deadly weapon/dueling	5 years	Pardon
10	Contributing to the death of a minor	4 years	Pardon
11	Murder 1	Life Sentence	Pardon
12	Assault w/ a deadly weapon	5 years w/ 4 suspended	Pardon
13	Removal of merchandise	10 days	Pardon

Governor Jay Hammond • Served 12/21/74 - 12/6/82

1	Petty larceny	6 mos suspended & \$100.00 fine	Pardon
2	Larceny in a building & burglary not in a dwelling	7 yrs	Pardon
3	Arson II	4yrs & \$500.00 fine	Pardon
4	Possession of hallucinogenic drugs & stimulants	30 days 1 year probation	Pardon
5	Forgery, probation violation	2 years	Pardon
6	Burglary not in a dwelling IV counts	3 years concurrent	Pardon
7	Attempted Rape	18 mos	Pardon

8	Murder I	30 - Life	Pardon
9	Murder II, Assault with intent to kill & rob, armed robbery	Life + 12 years	commutation to time served
10	Larceny from a person	90 days, 2 yrs probation	Pardon
11	Forgery	5 years w/2 suspended	Pardon
12	Arson	8 years	Pardon
13	Theft II 2 counts & issuing bad checks	4 years jail, 4 yrs probation	Commutation

Governor Bill Sheffield - Served 12/6/1982 - 12/1/1986

1	Misconduct involving a weapon	1 yr	Commutation
2	Embezzlement by Bailee	6 mcons	Pardon
3	Grand Larceny	2 yrs probation	Pardon
4	Assault I	6 yrs	Conditional Commutation
6	Fraudulent use of credit card	3 years	Conditional Commutation
6	Murder I	Life	Commutation time served
7	Murder I	Life	Conditional Commutation
8	Driving while license revoked	10 days, license revoked 1 yr	Limited driver license
9	Driving while license revoked	50 days jail, \$1000.00 fine,	Granted remission of fine & restored
		drivers license revoked 1 yr	Drivers license
10	DWI : Refusal	90 days w/70 suspended, \$500 fine	

		Drivers license suspended 1 yr	Conditional Commutation of Jail Sentence
11	Driving while license suspended	10 days, license revoked 1 yr	Limited driver license
12	Driving while license suspended	30 days, 500 fine	Commutation of 4 days sentence
13	Driving with suspended operators license	30 days, 500 fine	
		Drivers license suspended 1 yr	commute jail term to 10 days only

Governor Steve Cowper - Served 12/1/1986 - 12/3/1990

1	Assault IV, Misconduct involving weapon III	120 days	commuted
2	Violation of securities act, revocation of bond	2 years	Pardon
3	Possession of Marijuana while driving	150 fine	Pardon
4	Sexual Assault	6 years	Commute to Parole Eligibility
5	Sexual Assault I	8 years	Commutation
6	Misconduct involving controlled substance I	5 years	Commutation
7	Disorderly Conduct	\$25.00 fine	Pardon
8	Attempted burglary	3 years SIS, 3 yrs probation.	
10	DWI	Drivers license revoked 10 yrs	Conditional Commutation of Jail Sentence
11	Assault I	3 1/2 years	Granted eligibility of Parole
12	DWI	Drivers license revoked 10 yrs	Grant limited conditional pardon
13	Murder I	20 years	Conditional commutation, grant parole eligibility



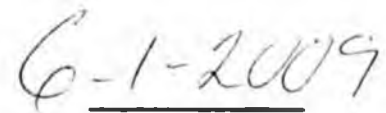
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HB

76

25-LS0349E

Bailey

1/23/07

CS FOR HOUSE BILL NO. 76(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - FIRST SESSION

BY THE HOUSE JUDICIARY COMMITTEE

Offered:

Referred:

Sponsor(s): REPRESENTATIVES RAMRAS AND LEDOUX

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the creation of a civil legal services fund."**

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

3 *** Section 1.** AS 37.05.146(c) is amended by adding a new paragraph to read:

4 (82) civil legal services fund under AS 37.05.590.

5 *** Sec. 2.** AS 37.05 is amended by adding a new section to article 6 to read:

6 **Sec. 37.05.590. Civil legal services fund.** The civil legal services fund is
7 established as a special account in the general fund. The fund consists of
8 appropriations to it. Annually, the legislature may appropriate to the fund from the
9 amount deposited into the general fund of the state under AS 09.17.020(j). The
10 legislature may make appropriations from the fund to organizations that provide civil
11 legal services to low-income individuals. Nothing in this section creates a dedicated
12 fund. In this section, "low-income individual" means an individual with an income
13 equal to or less than 125 percent of the most recent federal poverty guidelines for
14 Alaska set by the United States Department of Health and Human Services.

25-LS0349C

Bailey

1/17/07

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Alaska State Legislature House of Representatives



While in Session
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Representative Jay Ramras
District 10

House Bill 76 Sponsor Statement

"An Act relating to the creation of a civil legal services fund."

This bill is designed to help fund civil legal services for low-income Alaskans. This would be accomplished by creating a civil legal services account funded by provisions required under AS 09.17.020(j). The Alaska statutes require that 50% of any punitive damage awards go to the state to be deposited in the general fund. Each legislature would possess the option to appropriate these monies into a civil legal services fund.

Civil legal needs of low-income Alaskans are no different from others. Without the aide of non-profit organizations, indigent families may lose their homes, jobs, income, medical coverage, and their rights to be free from domestic violence. Adequate representation for low-income Alaskan's is necessary to protect their guarantee to "equal rights, opportunities, and protection under the law" as declared by the Alaska Constitution. Many low-income Alaskans attempt to represent themselves, which quite often results in not only personal losses mentioned above, but also negative impacts on the court system. Lack of legal representation in such cases has been shown to have required more judicial time, which resulted in postponement of other legal matters, and often placed the judges in the position of offering legal advice for those individuals who were unrepresented.

The Alaska Legal Services Corporation was established in 1966 in order to address the civil legal needs of low-income Alaskans. The ALSC is not a statewide agency, but is a charitable non-profit organization whose funding comes from a combination of state, federal and private sources. Over the last several years ALSC's funding has dwindled. Appropriations from the State of Alaska that were once as high as 1.2 million as of FY 1984, have ceased, the last appropriation being made for \$125,000 in FY 2004. House Bill 76 aims to address the financial needs of agencies such as the ALSC in order to create equal access to the justice system for low-income Alaskans, and to bridge the gap for lack of state funding.

FISCAL NOTE

STATE OF ALASKA
2007 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: HB076-DOA-FIN-1-22-07
 () Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
 Title An act relating to the creation of a civil legal RDU Centralized Admin Services
services fund Component Finance
 Sponsor Representatives Ramras and Ledoux
 Requester _____ Component No. 59

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012	FY 2013
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0
CAPITAL EXPENDITURES	0.0	0.0	0.0	0.0	0.0	0.0
CHANGE IN REVENUES ()	0.0	0.0	0.0	0.0	0.0	0.0

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2007) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2008 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

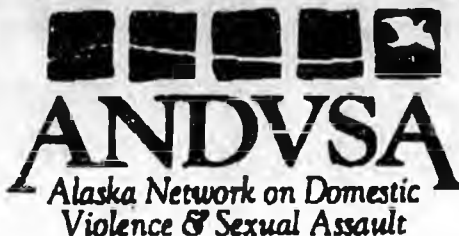
ANALYSIS: (Attach a separate page if necessary)

Establishing funds created by legislation such as this is in the normal course of business for the Division of Finance.

Prepared by: Kim Garnero
 Division: Finance
 Approved by: Kevin Brooks, Deputy Commissioner
 Agency: Department of Administration

Phone 463-2200
 Date/Time 1/19/07 6:00 PM
 Date 1/22/2007

Juneau Office
130 Seward St #209
Juneau, Alaska 99801
Phone: (907) 586-3650
Fax: (907) 463-4493
www.andvsa.org



Sitka Office
PO Box 6631
Sitka, Alaska 99835
Phone: (907) 747-7545
Fax: (907) 747-7547

January 22, 2007

Representative Ramras
State Capitol, Room 118
Alaska Senate
Juneau, AK 99801-1182

Dear Representatives Ramras and LeDoux:

The Alaska Network on Domestic Violence and Sexual Assault (ANDVSA) is in support of HB 76, a bill that would create a civil legal services fund with monies collected from punitive damages awards. This bill is essential to ensuring that Alaska's most vulnerable citizens have access to legal representation to enforce fundamental rights such as housing and safety for themselves and their children.

Victims of domestic violence and sexual assault often need civil legal representation when they are leaving a violent relationship. A civil legal aid attorney can help them to get housing, a divorce from an abusive partner, custody and safety for their children, and appropriate financial support so that they can sustain themselves. Without this type of assistance, many victims stay in abusive relationships. A study done through Department of Justice funding recently found that providing legal assistance to victims of domestic violence is the most effective means of ending the violence in their lives. Despite this great need, there are very few legal services attorneys in our state due to great cuts to Alaska Legal Services by the state and federal government. Our agency runs a pro bono program that fills some of the need for civil attorneys for victims, however it cannot fill the overwhelming demand. Each year we have to turn away many needy clients.

Please ensure that this bill passes and that civil legal aid has the financial support that it needs to provide attorneys to low income Alaskans.

Thank you for sponsoring this bill.

Peggy Brown

Executive Director, Alaska Network on Domestic Violence and Sexual Assault

Cc: Christine Pate, Director of ProBono Program

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

Emily Stancliff

From: Andy Harrington [aharrington@alsc-law.org]
Sent: Thursday, January 18, 2007 12:14 PM
To: Emily Stancliff
Subject: Re: HB 76
Attachments: State funding.pdf

Emily, thanks for the email and for relaying the question.

The short answer is, ALSC does not receive a state appropriation, so the risk of another drop in a regular state appropriation is equal to the amount of our current state appropriation, i.e., zero. A more detailed response follows.

ALSC formerly received an appropriation from the State, which had been as high as \$1.2 million in FY 1984, but has not received a State appropriation since FY 2004. Most of this came through the Department of Community and Economic Development and its predecessors, for general civil work; a smaller amount came through the Department of Health and Social Services to represent individuals receiving State "Interim Assistance" in their appeals of their Social Security Disability denials. The last (FY 2004) appropriation was just through the DCED, for \$125,000. The legislature had approved an appropriation in its FY 2005 budget, but then-Governor Murkowski line-item vetoed that in the summer of 2004, and ALSC has not received an appropriation since then. I'm attaching a table that shows the history of those appropriations.

Now, for the sake of completeness, you should understand that ALSC received in 2005 a total of \$264,811 from funding sources which our audit classifies as State funds, but which are in actuality from local municipal grants and from the Alaska Mental Health Trust Authority.

First, ALSC received local grants from the Fairbanks North Star Borough, the Municipality of Anchorage, and the Mat-Su Borough. These are awarded by the local municipalities to local charities under a competitive grant application process, which varies from community to community. (In Anchorage, these are administered by the United Way, and are on a two-year cycle; in the North Star Borough, they are administered by a Borough Commission, and are on a one-year cycle; etc.) The funds come from a State/local match (I think in a 70/30 ratio) under the Human Services Matching Grant Program. ALSC received a total of \$216,760 from the three local grants during 2005 (\$123,786 from Anchorage, \$55,110 from Fairbanks, and \$43,740 from Mat-Su). Although these figures include both the state share and the local share, our audit reflects the entire \$216,760 as state funding, notwithstanding the fact that the applications are submitted to, funding decisions made by, programs administered within, and services limited to residents of, the local municipalities.

Second, ALSC's "Beneficiary Self-Sufficiency Project" receives discretionary funding from the Alaska Mental Health Trust Authority, to focus on the civil legal needs of Trust Beneficiaries. In 2005, \$42,175 came to ALSC from this source. Again, our audit reflects this as State funds. However, services funded from this source are not made available to all State residents, instead limited to Trust Beneficiaries.

The potential for a reduction in the local or AMHTA funds is quite possible. None of these is by any means "secure," and ALSC works hard every year to deliver quality services to the constituents for each of these funding sources, and submit well-prepared competitive applications to each municipality. But if ALSC does at some point in the future lose these funds, it is more likely to be a result of a low-scored municipal grant application or a decision by the AMHTA than by legislative action.

I hope this answers your question regarding state appropriations. (Maybe more than you wanted to know, but I like to err on the side of providing too much information rather than too little.) Please let me know if I can supply further information on this or any other points, and thanks again!

Andy

Chart1

ALSC funding through State Appropriations (DCED and DHSS combined) over time

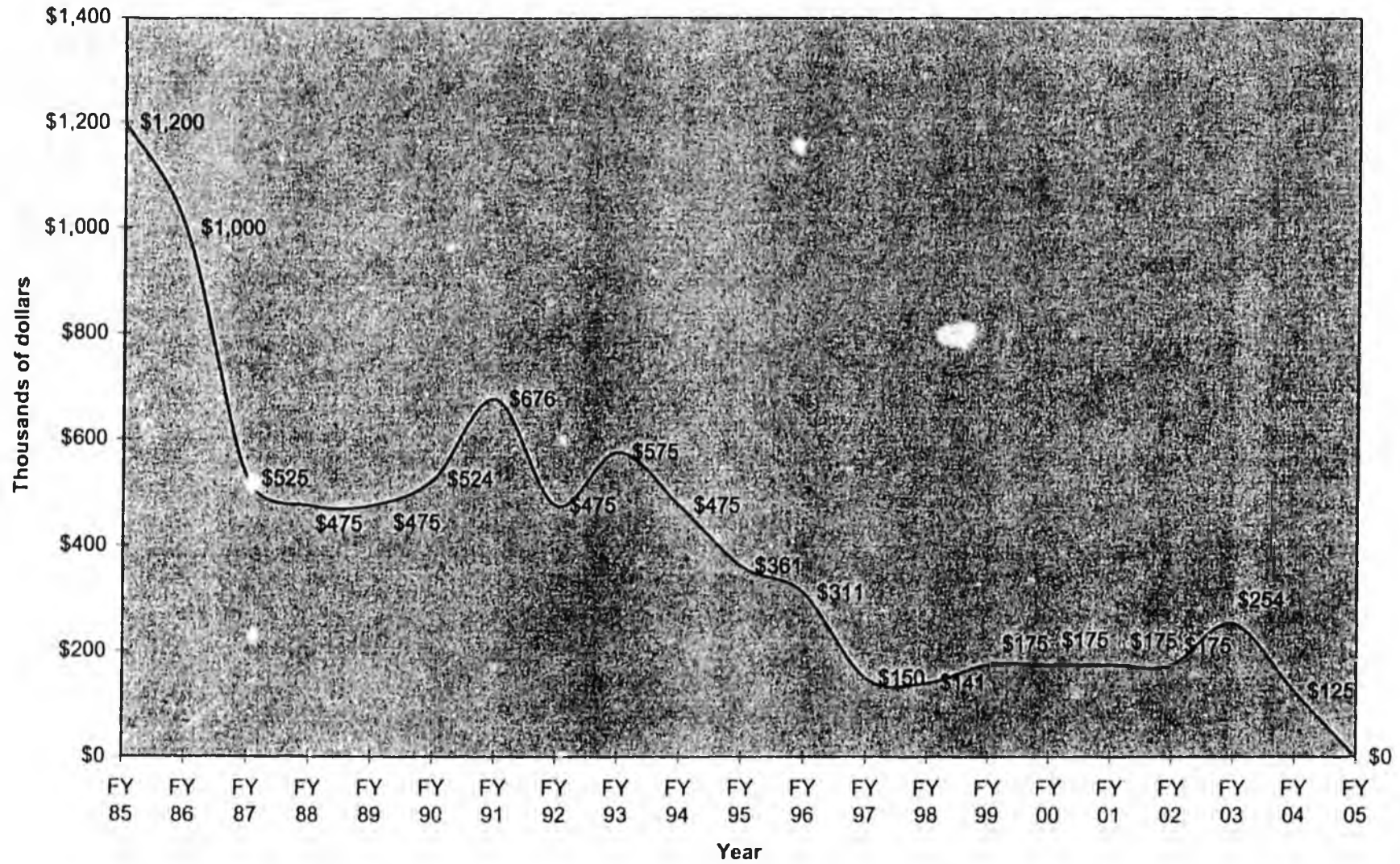
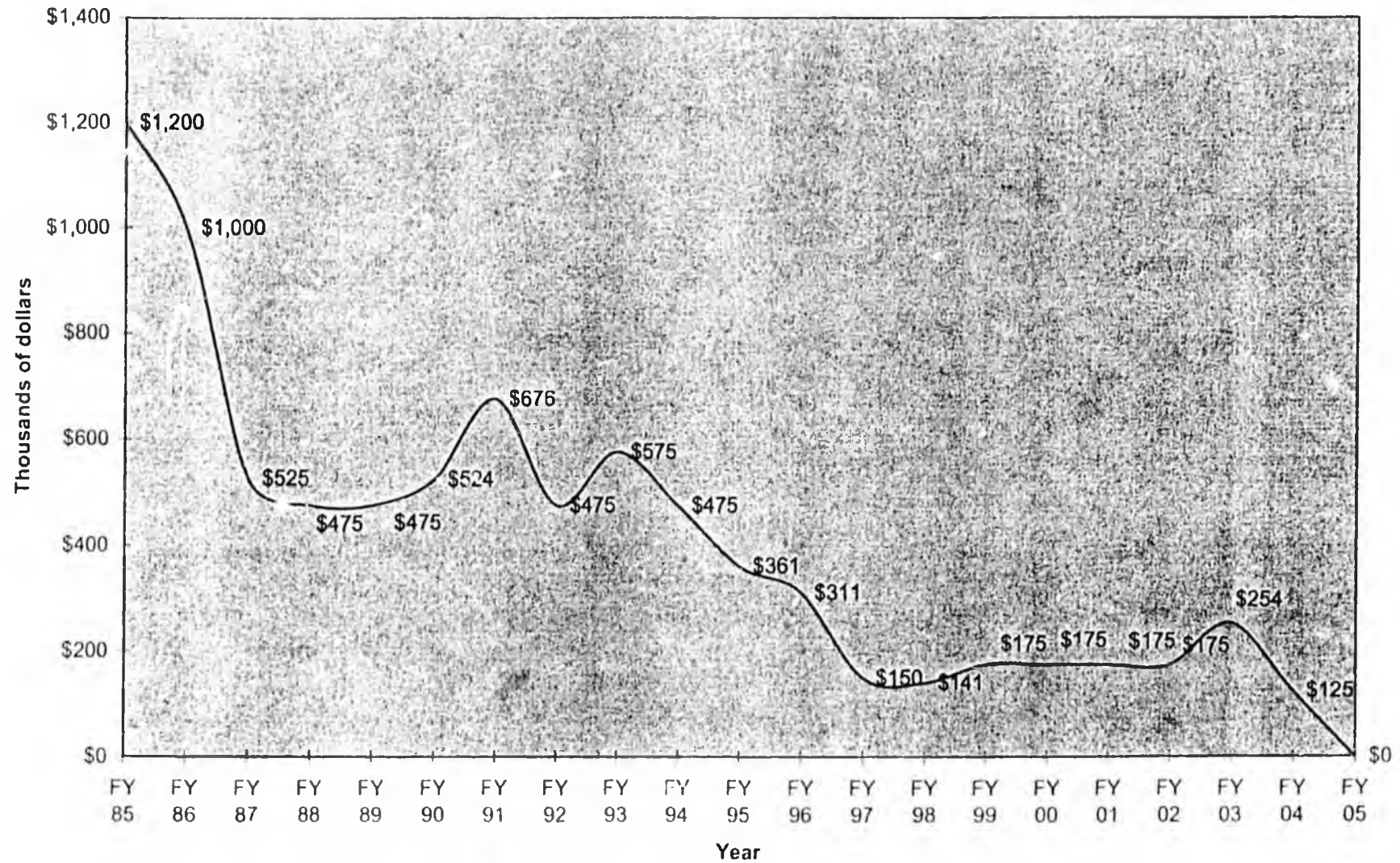


Chart1

ALSC funding through State Appropriations (DCED and DHSS combined) over time



STATE OF ALASKA

DEPARTMENT OF LAW
OFFICE OF THE ATTORNEY GENERAL

SARAH PALIN, GOVERNOR
1091 WEST 4TH AVENUE, SUITE 200
ANCHORAGE, ALASKA 99501-3509
PHONE: (907)261-190
FAX: (907)258-0760

January 22, 2007

The Honorable Jay Ramras
Alaska State Legislature
State Capitol, Room 104
Juneau, Alaska 99801-1182

Re: HB 76, An Act relating to the creation of a civil legal services fund.

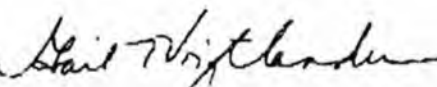
Dear Representative Ramras:

Enclosed is a spreadsheet prepared to reflect reported awards of punitive damages and collection by the state under AS 09.17.020(j). This spreadsheet reflects awards made in 2005, 2006, or which are still pending judicial action. We received a request for this information by the Executive Director of the Alaska Legal Services Corporation requesting that the information also be provided to your office. Under Alaska Civil Rule of Procedure 78(c), the Attorney General is to be provided notice of any awards of punitive damages.

Please feel free to contact me if you have any further questions.

Sincerely,

TALIS J. COLBERG
ATTORNEY GENERAL

By: 
Gail T. Voigtlander
Assistant Attorney General

GTV:hrh
encl.

cc: Andy Harrington, Executive Director, ALSC
Deborah Behr
John Bitney

**Awards 2005 - January 2007 or which are still judicially pending
PUNITIVE DAMAGE AWARDS**

Case Name	Case Number	Case Description	Amount of Punitive Damages Awarded by Verdict (Total)	Amount Collected	Verdict Date	State Move to Intervene	State's Calculation of State's Share	Credit for Rule 82 Award	Appeal Status	Notes
Reusi v. Alaska Petroleum Contractors	SKN-99-132	Employment Action	\$500,000 reversed on appeal		01/11/01	Yes	Yet to be determined		Appeal concluded	Amount to the State yet to be determined by the trial court.
State of Alaska v Karen Carpenter, Westwood One, and Tom Laykis	S-10700/10739	Tort Claim Arising Out of Radio Communication	\$150,000.00		2002	Yes	\$75,000 minus atty fees	On appeal	Yes	On Appeal to Supreme Court. Draft circulating.
MacDonald v City of Tenakee Springs, et al.	1JU-03-228 CI	Civil Assault	\$135,000.00		03/21/05	No	\$87,500			Insufficient assets.
Hudson v Brandner	3AN-03-6138 CI	Personal Injury	\$25,000.00		1/5/2006 Bench Trial	No	\$12,500 minus atty fees			On appeal.
Lamb v. Anderson	4FA-03-02534 CI	Personal Injury	\$1000 (settlement)	\$333.00	04/05/06	No				Received 7/12/06
Ayuluk v. Gary Austin	3AN-01-09443 CI	Personal Injury	\$8,500	None	05/06/05	No	\$3,250 minus atty fees	Not yet determined	Possible	Pending trial court motion practice.
Donna Walker v. Ella Lind	3AN-03-4407 CI	Personal Injury	\$100,000	None	10/09/06	No	\$30,000 minus atty fees			Plaintiff plans on trying to execute against defendant's Exxon Valdez claim.
F. S. Air Service v. Cascola	3AN-02-6489 CI	Misrepresentation/ Breach of Contract	\$300,000	None	02/27/02	No	\$150,000 minus atty fees	?	Completed	Defendant in Florida; pending criminal charges; restitution is not likely.

ALASKA WOMEN'S LOBBY

P.O. Box 20891 Juneau, Alaska 99802

Position Paper HB 76, January 2007

Thank you for the opportunity to comment on HB 76, Civil Legal Services Fund. The Women's Lobby supports passage of this legislation. It is difficult if not impossible to provide equal justice for all citizens without equal access to the courts. Unlike the criminal legal process where an attorney is provided to the accused if the person cannot afford representation, people who do not have economic advantages can be shut out of the civil legal process.

Organizations like Alaska Legal Services Corporation (ALSC) help bridge the gap, providing services to low-income citizens who need assistance navigating the courts. At some point over the course of a lifetime each of us will probably need legal assistance. Whether it is a consumer issue, housing, a will or probate issues, family matters such as adoptions, divorce, guardianships, or health issues, something will happen that requires legal expertise. With offices in many of the regional hubs in our state, ALSC can help some of the low-income people who need it. Unfortunately, adequate funding is not currently available to meet all the needs out there.

HB 76 provides an opportunity to allow ALSC's funding to stabilize so their attention can be more focused on service provision than seeking funds to keep the doors open. While ALSC receives about 40% of its funding from the Legal Services Corporation, they also work to garner private contributions through the Robert Hickerson Partners in Justice Campaign. The late Robert Hickerson devoted much of his career to ensuring equal access to the civil justice system for all Alaskans, serving ALSC as executive director from 1984 until his untimely death from cancer in 2001. We believe a funding partnership with the state will enhance ALSC's ability to raise other funds as well.

In passing HB 76, Alaska will be taking a good step forward in ensuring civil legal services will be available to Alaskan's in their time of need regardless of their economic status.

February 17, 2006

Dr. Obermeyer:

Attached is a list of the Alaska Legal Services (ALSC) attorneys working under Bar Rule 43. There is no limit on the amount of time Rule 43 attorneys may work for ALSC. Rule 43 only applies to ALSC lawyers, and does not apply to Catholic Social Services, the Disability Law Center or the Mental Health Trust.

Also included are the Legal Interns, the Rule 43.1 (military) lawyer and the Foreign Law Consultant.

Deborah O'Regan
Executive Director
Alaska Bar Association
907-272-7469
<mailto:oregan@alaskabar.org>

Rule 43 Attorneys	Date Started*	Bar Admission
Denise Bakewell	9/22/04	California
Kate Burkhart	8/15/01	Tennessee
Jody Davis	6/25/95	Ohio
Judith DeMarsh	1/19/01	California
Russell LaVigne	10/28/99	Montana
Diana Lucente	1/8/02	New York
Linda Mueller	9/14/05	Ohio
Jamy Patterson	1/6/05	South Dakota
Christina Reigh	6/25/04	Washington
Carol Yeatman	5/7/99	Nevada

* no end date as long as they are employed by ALSC

Legal Interns	Expiration Date (6 month period)
Jennifer Messick	3/27/06
Tran Smith	4/7/06
Paul Hart	5/11/06

Military Attorneys Rule 43.1	Dates of Practice (2 years)
Lt. Anthony Owens	7/8/04 - 7/8/06

Foreign Legal Consultant	Waiver Date (no end date)
Nickolai Shcherbina	9/23/93

As of 2/17/06

G:\ADMIN\EXDIR\Admissions\Waiver table.doc

under the provisions of AS 09.43.160, the party must serve a copy of the notice of appeal upon bar counsel. If a matter on appeal is remanded to the arbitrator or panel, a decision on remand will be issued within thirty (30) days after remand or further hearing.

(v) **Suspensions for Nonpayment of an Award.** Failure to pay a final and binding award will subject the respondent attorney to suspension for nonpayment as prescribed in Alaska Bar Rule 61(c).

(Old Rule 40 [SCO 176 as amended by SCO 470] deleted and new Rule 40 added by SCO 780 effective March 15, 1987; amended by SCO 888 effective July 15, 1988; by SCO 962 effective July 15, 1989; by SCO 1045 effective January 15, 1991; by SCO 1052 effective January 15, 1991; by SCO 1147 effective July 15, 1994; by SCO 1249 effective July 15, 1996; by SCO 1314 effective July 15, 1998; by SCO 1373 effective April 15, 2000; and by SCO 1547 effective October 15, 2004)

Annotations

Cases

The statutory standard of review is applicable to arbitration decisions issued pursuant to the Alaska Bar Rules; thus, findings of fact are unreviewable and the arbitrator's construction of the contract will be reviewed to determine whether it is a reasonably possible one that can seriously be made in the context in which the contract was made. *Breeze v. Sims*, Op. No. 3487, 778 P2d 215 (Alaska 1989).

Attenuated standard of review provided for under this rule does not violate due process under Alaska Constitution. *A. Fred Miller v. Purvis*, Op. No. 4372, 921 P2d 610 (Alaska 1996).

Argument that arbitrary and capricious standard of review applied to superior court review of bar association fee arbitration panel's decision was rejected. *Butler v. Duolap*, Op. No. 4465, 931 P2d 1036 (Alaska 1997).

Confirmation of attorney fee arbitration award may not be resisted merely by reciting without specificity that fraud existed; evidentiary support for particular fraud claims must be presented in opposition to award. *Law Off. of Vincent Vitale v. Tabbytite*, Op. No. 4852, 942 P2d 1141 (Alaska 1997).

Rule 41. Service.

Service of the petition by the Bar shall be by personal delivery or by certified mail, postage paid, to the respondent. Unless otherwise specifically stated in these rules, all other service shall be by personal delivery or by first class mail, postage paid, addressed to the person on whom it is to be served at his or her office or home address as last given to the Bar and shall include a certificate of service showing the date copies of the documents were served, to whom they were served, and the name or initials of the Bar

Association employee who serves the petition by mail is complete five business days after the time for performing any act shall expire on the date after service is complete.

(Old Rule 41 [SCO 176 as amended by SCO 610] deleted and new Rule 41 added by SCO 780 effective March 15, 1987; amended by SCO 888 effective July 15, 1988)

Rule 42. Informing the Public.

Blank copies of the petition form and booklets prepared by the Bar Council shall be provided to the clerks of courts in every state.

(Added by SCO 176 dated February 15, 1987; amended by SCO 780 effective March 15, 1987; by SCO 962 effective July 15, 1989)

PART IV.

Rule 43. Waivers to Practice Law Under the Alaska Legal Services Corporation.

Section 1. Eligibility. A person not admitted to practice law in this state may receive permission to practice law in the state if such person meets the following conditions:

(a) The person is a graduate of a law school which was accredited or approved by the Council on Legal Education of the American Bar Association or the Association of American Law Schools; the person entered or graduated and is in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice before the courts of that state, territory or the District of Columbia;

(b) The person will practice law in Alaska through the Alaska Legal Services Corporation on a part-time basis;

(c) The person has not failed the bar examination in any state.

Section 2. Application. Application for such permission shall be made as follows:

(a) The executive director of the Alaska Legal Services Corporation shall apply to the Board of Governors on behalf of a person eligible under Section 1;

(b) Application shall be made on forms approved by the Board of Governors;

Association of American Law Schools when he entered or graduated and is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to be admitted to practice upon taking the oath of that state, territory or the District of Columbia;

(b) The person is an active duty member of the United States Armed Forces assigned to the Judge Advocate General's Corps or the United States Coast Guard; and

(c) The person has not failed the bar exam of this state.

Section 2. Application. Application for such permission shall be made as follows:

(a) The Staff Judge Advocate of the Military Installation to which the applicant is assigned shall apply to the Board of Governors on behalf of a person eligible under Section 1;

(b) Application shall be made on forms approved by the Board of Governors; and

(c) Proof shall be submitted with the application that the applicant is a graduate of an accredited Law School as provided in Section 1 of this rule and is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to practice upon taking the oath of the state, territory or the District of Columbia.

Section 3. Approval. The Board of Governors shall consider the application as soon as practicable after it has been submitted. If the Board finds that the applicant meets the requirements of Section 1 above, it shall grant the application and issue a waiver to allow the applicant to practice law before all courts of the State of Alaska. The Board of Governors may delegate the power to the Executive Director of the Bar Association to approve such applications and issue waivers, but the Board shall review all waivers so issued at its regularly scheduled meetings.

Section 4. Conditions. A person granted such permission may practice law only as required in the course of representing military clients or their dependents, or when accepting a case under the auspices of the Alaska Pro Bono Program under this rule, and shall be subject to the provisions of Part II of these rules to the same extent as a member of the Alaska Bar Association. Such permission shall cease to be effective upon the failure of the person to pass the Alaska Bar examination.

(Added by SCO 345 effective December 18, 1978; amended by SCO 1333 effective January 15, 1999)

shall be submitted with the application that the applicant is an attorney in good standing, licensed to practice before the courts of another state, territory or the District of Columbia, or is eligible to practice upon taking the oath of that state, territory or the District of Columbia.

Approval. The Board of Governors shall consider the application as soon as practicable after it has been submitted. If the board finds that the applicant meets the requirements of Section 1 above, it shall grant the application and issue a waiver to allow the applicant to practice law before all courts of the State of Alaska. The Board of Governors may delegate the power to the executive director of the Bar Association to approve such applications and issue waivers, but the Board shall review all waivers so issued at its regularly scheduled meetings.

Conditions. A person granted such permission may practice law only as required in the course of representing clients of Alaska Legal Services Corporation, and shall be subject to the provisions of Part II of these rules to the same extent as a member of the Alaska Bar Association. Such permission shall cease to be effective upon the failure of the person to pass the Alaska Bar examination.

(Amendment No. 1 to SCO 176 effective December 18, 1978; amended by SCO 232 effective December 18, 1978; by SCO 484 effective November 2, 1987; by SCO 1153 effective July 15, 1994; by SCO 1604 effective January 15, 1998; and by SCO 1604 effective October 15, 2006)

Annotations

Practicing law in Alaska pursuant to this rule who is not a graduate of an ABA-accredited law school is not eligible for the Alaska bar examination. *Eyerly v. Alaska Bar Association*, Op. No. 2392, 631 P2d 480 (Alaska 1981).

Section 1. Waivers to Practice Law Under a United States Armed Forces Expanded Legal Assistance Program.

Eligibility. A person not admitted to the bar in this state may receive permission to practice law in the state for a period of not more than one year if such person meets all of the following conditions:

(a) The person is a graduate of a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the

Rule 44. Legal Interns.

Section 1. Practice Authorized When. The Integrated Bar Act prohibits the practice of law by anyone not admitted to practice in Alaska. This rule does not authorize an intern to perform any function prohibited by that Act other than those specifically set forth herein.

Section 2. Definition of Legal Intern. A "legal intern" is any person who has on file with the Alaska Bar Association an effective permit issued by the Bar Association through its Executive Director.

Section 3. Eligibility for Intern Permit. Every applicant for an intern permit shall:

(a) File an application in the form prescribed by the Board and produce and file the evidence and documents herein required as proof of eligibility for the permit;

(b) Be a student who:

(i) Is duly enrolled in a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered, or is enrolled in a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law school in which he or she is enrolled meets the American Bar Association Council of Legal Education Standards for approval;

(2) Has successfully completed at least one-half of the course work required for a law degree;

(3) Has filed with the application a certificate from the dean or other chief administrative officer of his or her law school, stating that he or she meets the requirements as set forth in subsections (b) (1) and (b) (2); or

(c) Be a law school graduate who:

(1) Has graduated from a law school which was accredited or approved by the Council of Legal Education of the American Bar Association or the Association of American Law Schools when the applicant entered or graduated, or has graduated from a law school in which the principles of English common law are taught but which is located outside the United States and beyond the jurisdiction of the American Bar Association and the Association of American Law Schools, provided that the foreign law

school from which he or she has graduated meets the American Bar Association Council of Legal Education Standards for approval;

(2) Has never failed a bar examination administered by any state of the United States, or the District of Columbia, or, despite failure, has subsequently passed such a bar examination; and

(3) Has filed with the executive director a certificate from the dean or other chief administrative officer of his or her law school which states that the legal intern applicant meets the requirements set forth in subsection (c) (1), and either

(i) A personal affidavit stating that he or she never failed a bar examination, as set forth in subsection (c) (2), or

(ii) A certificate from the supreme court of the state in which, subsequent to failure, a bar examination was passed.

Section 4. Prior Admission. Any applicant who has been admitted to practice in another jurisdiction must file a certificate of good standing from each jurisdiction in which the applicant is admitted. If not in good standing, the applicant shall submit satisfactory proof that the applicant has never been disbarred, suspended or otherwise disciplined.

Section 5. Act Authorized by Permit.

(a) A legal intern may appear and participate in proceedings before any district or superior court in this state to the extent permitted by the judge or presiding officer if the attorney representing the party is personally present and able to supervise the intern and has filed an entry of appearance with the clerk and the office of the Alaska Bar Association substantially in compliance with the form set forth in Section 9 of this rule;

(b) A legal intern may also appear and participate before any district court in small claims proceedings, arraignments, pleas, bail hearings, sentencing, recorded in-chambers conferences without the supervising attorney being personally present to supervise the intern under the following conditions:

(1) If the attorney representing the client files an appearance in the case and with the Bar Association substantially in compliance with the form set forth in Section 9 of this rule;

(2) If the supervising attorney files a certificate stating that the intern has previously been personally supervised in a similar proceeding and the supervising attorney believes the intern is competent to appear in such proceedings without the personal presence of the attorney;

LEGAL INTERN
CONSENT

I, (Name of Client), hereby agree that (Name of Intern) may represent me in this case under the supervision of (Name of Attorney).

DATED: _____

CLIENT
CONSENT

IT IS HEREBY ORDERED that (Name of Intern) may hereby appear in the above entitled case for all proceedings except _____

DATED: _____

JUDGE

(Added by Amendment No. 2 to SCO 176 dated June 28, 1974; and amended by Amendment No. 3 to SCO 176 dated September 17, 1974; by Amendment No. 4 to SCO 176; by SCO 342 effective December 18, 1978; by SCO 433 effective November 1, 1980; and by SCO 1153 effective July 15, 1994)

Rule 44.1. Foreign Law Consultants.

(a) **Introduction.** A person who is admitted to practice in a foreign country as an attorney or counselor at law or the equivalent, and who complies with the provisions of this rule for licensing of foreign law consultants, may provide legal services in the State of Alaska to the extent allowed by this rule.

(b) **Eligibility.** In its discretion, the court may license to practice as a foreign law consultant, without examination, an applicant who:

(1) for a period of not less than 5 of the 7 years immediately preceding the date of application:

(A) has been admitted to practice and has been in good standing as an attorney or counselor at law or the equivalent in a foreign country, and

(B) has engaged either (i) in the practice of law in that country or (ii) in a profession or occupation that requires admission to practice and good standing as an attorney or counselor at law or the equivalent in that country;

(2) be of good moral character, which will be found unless prior or present conduct of the applicant

(3) If the client gives written consent to the appearance. A governmental body may grant approval through its attorney; and

(4) If the judge or magistrate agrees to permit the legal intern to participate in the proceedings.

Section 6. Termination of Permit. A permit shall cease to be effective upon the occurrence of one of the following events whichever occurs first:

(a) The expiration of a period of six months from date of issuance;

(b) The failure of an intern to take the first Alaska Bar examination for which the intern is eligible;

(c) The failure of an intern to pass any bar examination.

Section 7. Renewal of Expired Permit. A permit which has expired under Section 6(a) may be renewed upon compliance with the conditions for issuing an original permit, providing there has been no prior revocation of any certificate, authorization or approval required by Section 5 of this rule. No other permit shall be renewed.

Section 8. Prior Certification. All interns certified prior to the effective date of this rule must comply with the provisions of this rule within 30 days of its effective date.

Section 9. Form. The form for entry of appearance under Section 5 of this rule shall be substantially as follows:

COMES NOW, (Name of Attorney), attorney at law, and enters his/her appearance on behalf of (Name of Party). Please service all pleadings and notices at counsel's address of record:

Pursuant to Alaska Bar Rule IV-44, (Name of Intern) hereby enters his/her appearance as a legal intern. Supervising counsel (Name of Attorney), certifies that he/she is supervising (Name of Intern) in all matters relating to this case.

(Name of Attorney), also certifies that (Name of Intern) has been supervised in previous proceedings and that the legal intern is competent to appear alone in the following proceedings: (Name of Intern) is a legal intern within the meaning of Alaska Bar Rule IV-44.

DATED: _____

SUPERVISING ATTORNEY

DATED: _____

would cause a reasonable person to believe that the applicant, if admitted to practice as a foreign legal consultant, would be unable or unwilling to act honestly, fairly and with integrity; and

(3) intends to practice as a foreign law consultant in the State of Alaska.

(c) Applications.

(1) An applicant for a license as a foreign law consultant shall file with the Executive Director at the office of the Alaska Bar Association an application, in duplicate, in the form provided by the Board. The application must be made under oath and must contain information relating to the applicant's age, residence, addresses, citizenship, occupations, general education, legal education, moral character and other matters as may be required by the Board. Any notice required or permitted to be given an applicant under these rules, if not personally delivered, will be delivered to the mailing address declared on the application unless notice in writing is actually received by the Board declaring a different mailing address. An applicant shall submit two duplicate 2-inch by 3-inch photographs of the applicant showing a front view of the person's head and shoulders. The application is deemed filed only upon receipt of a substantially completed form with payment of all required fees. Applications received without payment of all fees or which are not substantially complete will be promptly returned to the applicant with a notice stating the reasons for rejection and requiring payment of such additional fees as may be fixed by the Board as a condition of reapplication.

(2) The application must be accompanied by the following documents, together with duly authenticated English translations if the documents are not in English:

(A) a certificate from the authority having final jurisdiction over professional discipline in the foreign country or jurisdiction in which the applicant was admitted to practice, which must be signed by a responsible official, or one of the members of the executive body of such authority, and which must be accompanied by the official seal, if any, of the authority, and which must certify:

(i) as to the authority's jurisdiction in such matters,

(ii) as to the applicant's admission to practice in the foreign country, the date of admission and the applicant's good standing as an attorney or counselor at law or the equivalent, and

(iii) as to whether any charge or complaint has ever been filed against the applicant with the author-

ity, and, if so, the substance of each charge or complaint and the adjudication or resolution thereof;

(B) a letter of recommendation from one of the members of the executive body of the authority or from one of the judges of the highest law court or court of general original jurisdiction of the foreign country, certifying the applicant's professional qualifications, together with a certificate from the clerk of the authority, or of the court, attesting to the genuineness of the person's signature;

(C) a letter of recommendation of at least two attorneys or counselors at law or the equivalent admitted in and practicing in the foreign country, stating the length of time, when, and under what circumstances they have known the applicant, and their appraisal of the applicant's moral character; and

(D) other relevant documents or information that may be required by the Court or by the Board.

(3) The statements contained in the application and the supporting documents will be reviewed by the Board who shall report the results of their review with recommendations to the court. Prior to the grant of any license, the court must be satisfied of the good moral character of the applicant.

(4) In considering whether to license the applicant as a foreign law consultant under this rule, the court has discretion to consider whether an attorney in Alaska would be allowed a reasonable and practical opportunity to establish an office to give legal advice to clients in the applicant's country of admission in order to exercise its discretion, the court must require a reasonable showing that:

(A) an attorney in Alaska actively sought to establish an office in the applicant's country of admission;

(B) the authority in the foreign country having final jurisdiction over the application procedure in subsection (A) denied the attorney in Alaska an opportunity to establish an office in that country; and

(C) the denial in subsection (B) raises questions as to the adequacy of the opportunity for an attorney in Alaska to establish an office in the foreign country.

(d) **Hardship Waiver:** Upon a showing of compliance with the provisions of subsections (b)(1) or (c)(2) of this rule would cause the applicant unnecessary hardship, or upon a showing of exceptional professional qualifications to practice as a foreign law consultant, the court may waive the application of such provisions and license the

applicant to make any other showing as is satisfactory to the court.

(e) **Scope of Practice.** A person licensed as a foreign law consultant under this rule may provide legal services in the State of Alaska, subject to the limitations that the person shall not:

(1) appear for another person as attorney in any court or before any magistrate or other judicial officer in the State of Alaska, or prepare pleadings or any other papers in any action or proceeding brought in any such court or before any such judicial officer, except as authorized by Civil Rule 81(a)(2);

(2) prepare any deed, mortgage, assignment, discharge, lease, agreement, sale or any other instruction affecting title to real estate located in the United States of America;

(3) prepare:

(A) any will or trust instrument affecting the disposition of any property located in the United States of America and owned by a resident of the United States of America, or

(B) any instrument relating to the administration of a decedent's estate in the United States of America;

(4) prepare any instrument concerning the marital relations, rights or duties of a resident of the United States of America, or the custody or care of the children of a resident;

(5) provide professional legal advice on the law of the State of Alaska, any other state or territory of the United States of America, the District of Columbia, the United States or any foreign country other than the country where the consultant is admitted as an attorney or counselor at law or the equivalent, whether provided incident to the preparation of legal instruments or otherwise. If a particular matter requires legal advice from a person admitted to practice law as an attorney in a jurisdiction other than where the consultant is admitted as an attorney or counselor at law or equivalent, the foreign law consultant shall consult an attorney, counselor of law or the equivalent in the other jurisdiction on the particular matter, obtain written legal advice and transmit the written legal advice to the client;

(6) in any way represent that the person is licensed as an attorney or counselor at law in the State of Alaska, or the equivalent in any jurisdiction, unless so licensed; or

(7) use any title other than "foreign law consultant" provided that the person's authorized title and name in the foreign country in which the person

is admitted to practice as an attorney or counsel at law or the equivalent may be used if the title, firm name, and the name of the foreign country are stated together with the title "foreign law consultant."

(f) **Disciplinary Provisions.**

(1) A person licensed to practice as a foreign law consultant under this rule is subject to the jurisdiction of the Alaska Supreme Court, the Disciplinary Board of the Alaska Bar Association, the Rules of Disciplinary Enforcement, and Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association.

(2) A person licensed to practice as a foreign law consultant shall execute and file with the clerk, in the form and manner as the court may prescribe:

(A) a statement that the foreign law consultant has read and will observe the Rules of Disciplinary Enforcement, Ethics Opinions adopted by the Board of Governors of the Alaska Bar Association, and the Code of Professional Responsibility;

(B) an undertaking or appropriate evidence of professional liability insurance, in an amount as the Court may prescribe, to insure the foreign law consultant's proper professional conduct and responsibility;

(C) a signed document stating the foreign law consultant's address within the State of Alaska and designating the clerk of this court as the consultant's agent upon whom process may be served, with the effect as if served personally upon the consultant, in any action or proceeding brought against the consultant arising out of or based upon any legal services rendered or offered to be rendered by the consultant within or to residents of the State of Alaska, if due diligent service cannot be made upon the consultant at the consultant's address; and

(D) a commitment to notify the Court of any resignation or revocation of the foreign law consultant's admission to practice in the foreign country of admission, or of any censure, suspension, or expulsion respecting admission.

(SCO 946 effective January 15, 1989)

PART V. LAWYERS' FUND FOR CLIENT PROTECTION

Rule 45. Definitions.

(a) The "Board" is the Board of Governors of the Alaska Bar Association.

(b) The "Fund" is the Lawyers' Fund for Client Protection of the Alaska Bar Association.

ACCESS TO CIVIL JUSTICE TASK FORCE:

REPORT AND RECOMMENDATIONS

Table of Contents

I.	Executive Summary	2
II.	Summary of Recommendations	3
III.	The Myth of Equal Access to Justice and the Creation of the Access to Civil Justice Task Force	6
IV.	The Legal Needs of the Poor, Alaska's Poor and the Provision of Legal Services in Alaska	9
	A. The Legal Needs of the Poor	9
	B. Alaska's Poor	12
	C. Overview of Alaska Legal Services	13
	D. Other Providers of Legal And Social Services	15
	E. Crisis at Alaska Legal Services - Congressional Restrictions	17
V.	Subcommittee Findings and Approved Recommendations	19
	F. Non-Alaska Legal Services Eligible Subcommittee Income and Legislation	19
	G. Non-Alaska Legal Services Eligible Subcommittee Immigrants	21
	C. Alaska Legal Services Subcommittee	23
	D. Pro Bono Services Subcommittee	27
	E. Alternative Dispute Resolution Subcommittee	30
	F. Community Legal Support and Education Subcommittee	34
	G. Pro Se Litigants Subcommittee	38
	H. Fundraising and Public Relations Adjunct Subcommittee	40
	Appendix A - Task Force Members	
	Appendix B - Steering Committee Members	
	Appendix C - Findings from "And Justice For All - Fulfilling the Promise of Access to Civil Justice in California", 1996	
	Appendix D - Model Rule 6.1	

I. Executive Summary

The past five years has been marked by massive decreases in funding for social and legal services to low and moderate income Alaskans. This change corresponds to a decline in federal funding of programs assisting these individuals nationwide. The need for these services however has not declined. Indeed, it is greater than ever.

In Alaska, as in many states, the effect of these funding cuts created a crisis for groups charged with providing legal and social assistance to the poor and near-poor. The impact on Alaska Legal Services Corporation (Alaska Legal Services), the primary provider of civil legal services to the poor, was particularly profound. As various groups mobilized individually in response, it rapidly became apparent that a joint effort, examining the legal needs of Alaska's low- and moderate-income population and recommending new ways of meeting those needs, would ensure the most comprehensive and effective approach to the problem.

This movement spurred the creation of the Equal Access to Civil Justice Task Force in November 1997. Its mandate was to explore the unmet legal needs of Alaskans and to suggest ways of meeting those needs. The Task Force included representatives from as many parts of the community and state (urban and rural) as possible, including judges, business leaders, members of the private bar, court officials, and legal services providers. The recommendations formulated by the Task Force are directed to Alaska Legal Services, the private bar, the court system, other legal services providers and the state legislature.

This report presents the Task Force's recommendations. It is divided into three sections. First, a summary of the Task Force's prioritized recommendations is set out. Second, a narrative section provides an overview of the work and history of this Task Force, the legal needs of the poor and Alaska's poverty population, and outlines the history of Alaska Legal Services and its funding. The third section contains the various subcommittee findings and Steering Committee/Task Force approved recommendations.

This report contains a request to the Alaska Supreme Court to authorize the formation of an Implementation Task Force to put into place the recommendations set forth here.

II. Summary of Recommendations

The Steering Committee approved and presented to the Task Force approximately 60 specific recommendations. Over the course of a two-day meeting, the Task Force reviewed and prioritized those recommendations. The following list represents only these 22 prioritized recommendations. More detailed explanations of these and all the other recommendations appear in the last section of this report with a list of the findings made by each subcommittee to support the recommendations. (The page cite after the prioritized recommendations refers to the page in the report where the more detailed explanation of the recommendation appears). There is no significance to the order of the prioritized recommendations, i.e. Recommendation A has no greater priority than Recommendation V.

A. The Alaska Supreme Court should establish an "Access to Civil Justice Implementation Task Force" to act upon and put into place the recommendations forwarded by this Task Force.

B. The Alaska Bar Association should develop an Alaska "Modest Means Program" to provide moderate-income Alaskans (those who do not qualify for Alaska Legal Services), access to representation by attorneys who have agreed to charge a reduced hourly rate for their services. [p. 20]

C. A "One-Stop Shopping" customer-oriented intake and referral service for low-income clients with potential legal problems should be established. The service would include the development of a mentoring program for volunteer lawyers and would provide information on alternative dispute resolution and other resources. All resources in this "One-Stop Shopping" service would be available in as many different languages and formats as possible in order to assist the greatest number of people. This service would be available on-line and by an 800 number. [p. 26, 35]

D. By the year 2001, secure significant increased funding for Alaska Legal Services, at a minimum to 1982 levels. Even in 1982, the funding level was only minimally adequate funding for Alaska Legal Services. Updated to 2001 dollars that figure would be \$5,000,000 that should be raised from traditional and new sources. [p. 24-25]

E. Increase rural Alaska Legal Services staff and open an Alaska Legal Services office with attorneys on staff in every community that maintains an Alaska Superior Court. [p. 25]

F. Alaska Legal Services should increase coordination with other service providers, particularly in rural areas where there already may be a network of providers or staff willing and able to establish an affiliation with Alaska Legal Services. [p. 25]

- G. Alaska Legal Services and the Alaska Bar Association should coordinate a request to the American Bar Association regarding law students' externships outside a school's geographical area, to permit law students to come to Alaska (a state with no law school), and work at Alaska Legal Services for the externship period. [p. 26]
- H. The concept of an expanded and liberated (free of Congressional restrictions) Pro Bono Program should be explored.¹ [p. 29]
- I. A Pro Bono Asylum Project should be created to assist immigrants seeking political asylum in the United States. (A free continuing legal education class was held in March 1999, and is scheduled for March 2000 in Anchorage for attorneys willing to take on a pro bono asylum case. In 1999, thirty attorneys out of 40 attending accepted cases. Follow-up meetings are being held bi-weekly to provide mentoring for these attorneys). [p. 22]
- J. A Pro Bono Naturalization Program should be created to work with elderly and disabled immigrants. [p. 22]
- K. The Alaska Pro Bono Program should adopt administrative procedures that would allow for attorneys to assist other pro bono attorneys by doing discrete tasks such as research or motion preparation. [p. 30]
- L. The Alaska Pro Bono Program should develop a mentoring program. (This has already been implemented). [p. 29]
- M. The Alaska Bar Foundation should continue to seek new ways of increasing "Interest On Lawyer Trust Accounts" funding. [p. 30]
- N. The Alaska Bar Association should recommend that the Alaska Supreme Court adopt the American Bar Association's Model Rule 6.1 an aspirational guideline that all attorneys should perform 50 hours of pro bono work per year. [p. 29]
- O. The Alaska Bar Association should especially encourage public sector attorneys to perform pro bono work. [p. 29]
- P. The Alaska Bar Association should provide free continuing legal education classes to pro bono attorneys in poverty law areas, with the condition that the attorneys would then be obligated to take a pro bono case. (This was initiated in

¹ Currently, the Alaska Pro Bono Program operates under the same Congressional case restrictions as Alaska Legal Services. This might soon change as Alaska Legal Services has received oral and written confirmation from the national Legal Services Corporation approving a new plan for the Pro Bono Program which would in effect, sever it from Alaska Legal Services, and thus from the restrictions attached to the receipt of federal monies.

March 1999 with the presentation of two such seminars, one dealing with immigration law and the other with domestic violence). [p. 29, 36]

Q. The University of Alaska (at Anchorage, Fairbanks and Juneau) Paralegal Certificate Program should explore the placement of interns in the programs proposed in Recommendations B and C. [p. 35]

R. Establish a statewide "Alternative Dispute Resolution Steering and Implementation Committee" to evaluate and coordinate statewide alternative dispute resolution needs and make periodic recommendations to the Judicial Council. The committee's scope would include issues raised in this report as well as identifying sources of funding. The membership should include stakeholders listed in this report in addition to people who work in the field of domestic violence, from the community at large, and from the municipal government. [p. 31]

S. Establish a salaried statewide alternative dispute resolution Coordinator position. The person in this position would act as staff to the "Alternative Dispute Resolution Steering and Implementation Committee", and would establish a resource center for alternative dispute resolution materials. [p. 32]

T. Establishment of a "Pro Se Steering and Implementation Committee" which would regularly meet with court staff to discuss and develop pro se assistance. This committee would be court-administered and organized with as broad a membership as possible. This committee would also coordinate with the "One-Stop Shopping" Service described in Recommendation C and with the Pro Se Forms Committee described in Recommendation U. [p. 40]

U. The Alaska court system's existing Forms Committee membership should be modified to include forms users and practitioners. The work of this modified committee should be broadened to include regular review of court forms. The Forms Committee should focus on making the forms available in as many languages and formats as possible. [p. 40]

V. Systemic civil justice, legal and administrative snags should be reviewed and changes made to make the systems and agencies more client oriented. [p. 40]

III. The Myth of Access to Justice and the Creation of the Access to Civil Justice Task Force

The United States of America was founded on the principle of equal justice for all. This concept is embodied in the Equal Protection Clause of the United States Constitution, which declares that no State may "deny to any person within its jurisdiction the equal protection of the laws."² The Due Process Clause of the United States Constitution complements this concept by providing that no person may "be deprived of life, liberty or property without the due process of law."³ These principles are set out in the Bill of Rights, which summarizes the rights and liberties of the people of the United States and the principles of Constitutional law deemed to be fundamental. Indeed, "Equal Justice Under Law" is so much the cornerstone of the United States' legal system that the phrase is memorialized in stone on the facade of the United States Supreme Court building as a reminder to all who enter.

Despite these proclamations, the unfortunate reality for the poor and the disenfranchised in the United States is that the promise behind the words "equal justice for all" has not been fully realized. Over the past few years, the federal and state governments have curtailed the benefits accorded the poor. Although the reasons for doing so are described as necessary for budgetary purposes or to help the poor get off welfare, the reality is that there are fewer government benefits than are needed. Agencies who assist the poor are being asked to do more with less, and organizations defending the rights of the poor are seeing their funding restricted while at the same time being told that they cannot provide certain kinds of services to those most in need of them.

In response, a number of states have re-examined the legal needs of the poor and those of moderate means and recommended ways to fulfill the promises made by the founders of this country to guarantee to all citizens equal access to justice.⁴ This report encompasses Alaska's initiation into this process.

On November 25, 1997, the Alaska Supreme Court issued a resolution entitled "The Creation of a Statewide Task Force on Access to Civil Justice" which stated:

WHEREAS, recent precipitous funding declines for legal services to the poor have triggered a crisis in the access to justice; and

WHEREAS, the demand for civil legal services by those who cannot afford them is growing dramatically; and

² United States Constitution, Amendment XIV, Section 1.

³ United States Constitution, Amendment V.

⁴ See, "And Justice for All - Fulfilling the Promise of Access to Civil Justice in California", State Bar of California, 1996; "Report of the Joint Legal Services Access and Funding Committee", State of Minnesota, 1995.

WHEREAS, there exists a substantial gap between these legal needs and the resources available to meet them; and

WHEREAS, this lack of legal representation impedes access to justice, a subject in which the judiciary has a special responsibility;

NOW, THEREFORE, IT IS RESOLVED by the Alaska Supreme Court, that there should be established a statewide Access to Justice Task Force comprised of judges, bar leaders, legal services providers, and community leaders to investigate, plan and recommend methods to increase the delivery of civil legal assistance and improve access to justice for the people of Alaska.

This resolution responded to the growing unmet legal needs of low-income Alaskans, spurred in part by the massive closures of Alaska Legal Services' offices throughout the state, and by the increased congressional restrictions on the type of cases Alaska Legal Services is permitted to handle. The resolution recognizes the large and ever-growing gap between the need for legal services and the resources available to meet those needs, and also the impact on the poor, the community and the judicial system as a result of the lack of civil legal representation.

The effect of this resolution was the creation of a task force whose mission was two-fold: 1) to identify the need for legal services by low-income and moderate-income⁵ Alaskans and 2) to suggest recommendations to meet those needs. The Task Force, chaired by Justice Dana Fabe, included representatives from as many parts of the community as possible, including legislators, judges, attorneys, court officials, university officials, business leaders, and legal services providers. (A complete list of the Task Force members is attached as Appendix A). After the formation of the Task Force, a Steering Committee was created to coordinate and review the Task Force activities, and to issue a final set of recommendations to the Alaska Supreme Court. (A list of the Steering Committee members is attached as Appendix B). The Steering Committee in turn created six subcommittees, charged with conducting the initial fact-finding and creation of recommendations addressing particular areas of concern. Membership on the subcommittees was made up of Task Force members, and attorneys and non-attorneys from the community who might have a special interest in and could provide a variety of perspectives relevant to a particular subcommittee. The subcommittees are as follows:

- **Non-Alaska Legal Services Eligible** (comprised of two subcommittees): These subcommittees focused on the needs of persons whose income is above the poverty level, but who cannot afford to hire private attorneys to handle their legal needs, as well as those who are excluded from representation

⁵ Moderate-income Alaskans are those who are not below the poverty level but who nonetheless do not have the money to pursue their legal causes with the assistance of a hired attorney.

by Alaska Legal Services because of Congressional restrictions.

- **Alaska Legal Services:** This subcommittee explored the current status of Alaska Legal Services, with an emphasis on developing new service methods and securing new funding sources to support the organization.
- **Pro Bono:** This subcommittee focused on ways of encouraging members of the Alaska Bar Association to donate attorney services to persons who cannot afford to hire attorneys to represent them.
- **Alternative Dispute Resolution:** This subcommittee focused on ways in which alternative dispute resolution methods, such as mediation and arbitration, can address civil justice needs.
- **Community Legal Support and Education:** This subcommittee focused on defining and meeting community needs for law-related education and legal support.
- **Pro Se Litigants:** This subcommittee focused on the needs of persons who represent themselves in legal matters.

Each subcommittee met on its own over a period of several months, and presented to the Steering Committee specific findings as to the needs of that particular group or in that area and recommendations addressing those needs. For almost one year, the Steering Committee met on a monthly basis to review the findings and recommendations and voted on which of these recommendations to forward to the Task Force at large for review. The Task Force met for two days at the end of February 1999, and reviewed and prioritized the recommendations.

Although the mission of this Task Force is complete, the hope is that the momentum gained through the work of its members can be sustained into the future to put into place some or all of the recommendations made in this report. It will only be then that the words "equal access to justice" will be a reality for Alaskans.

IV. The Legal Needs of the Poor, Alaska's Poverty Population and the Provision of Legal Services in Alaska

A. The Legal Needs of the Poor

A number of studies have been done over a period of twenty years that examine the needs of the poor. Although they all offer insight into the situations faced by those at or near the poverty level, anyone with experience with these populations understands that people who live in poverty have legal issues that revolve around the basic necessities of life - food, shelter, safety, finances and medical care. Moreover, these issues often are precipitated by and become interrelated with other more personal and emotional ones such as divorce, custody, child support, ill health or loss of a job. A crisis brought on by the loss of income, can turn rapidly into one involving housing, resulting in an eviction perhaps, in turn creating a need for public benefits and subsidized housing.⁶

Legal and social services providers are also keenly aware that people living in poverty face an additional hurdle: the increasingly complex set of rules and regulations governing an ever-decreasing number of public benefits. It has become harder and harder to understand the requirements for various government programs, and harder still to determine whether the particular government agency involved is doing what it should be, when it should be. This means that people who deserve benefits don't get them, and don't know or are afraid to challenge the government bureaucracy involved. For individuals living in poverty, having the assistance of an attorney means the difference between having the basic necessities of life or going without.⁷

In order to better understand the kinds of situations faced by those living at or near the poverty level, the American Bar Association conducted a Comprehensive Legal Needs Study in 1993.⁸ The survey focused on low- and moderate-income households.⁹ Low-income was defined as households with income below the 125% level of the federal poverty guidelines (the bottom 5th of all households based on income). Moderate-income was defined as above the 125% level but below \$60,000 (representing the middle 3/5th of all households based on income). The purpose of the study was five fold:

⁶ Report of the Joint Legal Services Access and Funding Committee, p. 6, December 31, 1995, provided the basis for this information.

⁷ *Id.*

⁸ American Bar Association, *Legal Needs and Civil Justice - A Survey of Americans, Major Findings of the Comprehensive Legal Needs Study, 1994.* (Hereinafter, *Legal Needs Study*).

⁹ This survey was conducted only in the contiguous United States, and therefore excluded Alaska and Hawaii, and other US territories. The survey focused on households and so excluded those not living in a household setting, i.e. the homeless, those in institutions, the military, jail, nursing homes, hospitals etc. The surveys were conducted in Spanish or English only. Moreover, certain subgroups such as Native Americans or migrants may have been missed due to their small percentages in the population. p.7.

1. to learn about the nature and number of situations households face that raise legal issues;
2. to see what steps people take in dealing with those situations;
3. to ascertain what kinds of legal services are provided regarding needs brought to the legal system;
4. to assess the public awareness of the legal services available; and
5. to gauge the reactions of those who have had contact with the civil justice system.

The study found that of the approximately 3,000 households contacted, about 50% faced a situation that raised a legal issue in the previous calendar year (1992). This included new legal needs¹⁰ and ones continuing from before 1992. Legal Needs Study, p.3. Moreover, if someone in the household had one legal need, there was an almost even chance that they would also be dealing with another. *Id.* Factors such as a respondent's geographical location, urban or rural residence, or race, did not result in any significant difference in terms of them reporting more than one need. Households headed by individuals over the age of 65 reported substantially fewer legal needs as did households of the profoundly poor - those with income under \$10,000. Legal Needs Study, p.4.

Households included in the Legal Needs Study were also asked about the kinds of legal needs they experienced. There were 67 specific situations that they were asked about, which in turn were grouped into 17 general categories. Legal Needs Study, p.4. The responses from both the low- and moderate-income households were remarkably similar: personal finance and consumer issues, and matters regarding housing and real property were mentioned most often as the areas in which they experienced a legal need. Legal Needs Study, p.5. Moderate-income households reported that community and regional matters, employment related issues and family/domestic matters followed in terms of areas presenting legal needs. Legal Needs Study, p.6. Low-income households noted community and regional matters, and family/domestic issues presented the next greatest number of legal needs. *Id.*

In examining the steps that people took to deal with their legal needs the survey found that both groups mentioned as a first response that they would deal with the matter on their own. Legal Needs Study, p.11. For low-income households, the next most frequent response was to take no action at all. *Id.* For moderate-income households the next most frequent response was to turn to the civil justice system - this included contacting a lawyer (in private practice or from a legal services program), mediator, arbitrator, or an official hearing body such as a court. *Id.* The least likely course of action for both groups was to turn to a non-legal third party (service-providing agency, professionals - accountants, realtors, community organization or regulatory agency). It is critical to note that

¹⁰ In this study, "legal needs" were referred to as "specific situations members of households were dealing with that raised legal issues - whether or not they were recognized as legal or taken to some part of the civil justice system." Legal Needs Study, p.2.

nearly 3/4 of all legal needs of low-income and 2/3 of all legal needs of moderate-income households were NOT taken to the civil justice system. Legal Needs Study, p.12. There was no action taken at all in more than 1/3 of all low-income and 1/4 of all moderate-income cases. Id.

The Legal Needs Study questioned respondents about why they brought so few of their legal needs to the civil justice system. Low-income households noted they believed that turning to the legal system would not help and that it would cost too much. Moderate-income households stated they felt that the situation was not really a problem, that they could handle it on their own and that a lawyer's involvement would not help. Moderate-income households also noted that they did not know how to find a lawyer. Legal Needs Study, p.16.

The information presented in the Legal Needs Study is significant for Alaska despite the fact that the state was not included in the survey. There has been no comparable study conducted in the state, and the responses given by low- and moderate-income households in the lower 48 are thus as reliable a guide as exists to estimate the legal needs of Alaska's poor. It is safe to assume that Alaska's poor and near poor are likely to face the same number of legal needs as other Americans. Applying the Legal Needs Study results to Alaska means that with over 66,000 poor people in the state, (not including those that fall in the near-poor category), almost 33,000 (or 50%) will have a legal need in any given year. Given the limited financial resources of Alaska Legal Services, and the lack of other service providers, it is clear that reasonable access to legal services is going to be problematic, at best, for these households.

The Alaska Legal Services Subcommittee of this Task Force conducted a brief informal survey of five state superior court judges to obtain their opinion on the impact of restricted legal services on their courtrooms and litigants. The judges were unanimous in their opinion that the number of pro se litigants has increased over the past couple of years. Moreover, they all found that the effect of this increase has meant a corresponding increase in time spent on cases involving pro se litigants.

The judges noted that this jump in the number of pro se litigants has had an effect on others in their courtroom as well as beyond the courtroom. First, attorneys feel the impact due to judges postponing attention to more complex civil cases. Second, attorneys representing a client against a pro se litigant find themselves returning over and over to court due to the pro se litigant's lack of understanding of the legal process. Third, a judge frequently must assume either the role of mediator, or at other times attorney, for each of the unrepresented individuals, thereby putting the judge in an inappropriate position. Lastly, the community as a whole is impacted by the backlog created by the spillover from pro se cases, particularly in the area of domestic relations.

The effect on the judicial system as a whole is more insidious in that

everyone desires a legal system that reaches the correct result most of the time, and where the result is not dependent on money. Pro se litigants however, are severely disadvantaged by their inability to afford counsel because they are unable to assert their rights effectively due to their lack of knowledge about pertinent defenses and rights. One judge noted that this could have tragic results not just for the particular individuals or family involved, but also for all of us.

An additional area of concern stemming from the increase of pro se litigants focuses on those who do not speak English. There are significant numbers of non-English speaking individuals throughout the state. At least five different and distinct native languages are spoken in Alaska. Moreover, there are significant groups of Spanish speaking individuals, and large groups of Filipinos and Russians. These individuals face an increased burden when appearing in court due to their lack of familiarity with the English language, the lack of available translators, and the dearth of informational brochures and pamphlets in languages other than English.

The size and scope of the Legal Needs Study made it possible to gather information about the legal needs of low- and moderate-income Americans on an unprecedented scale. Combining this information with the growing local awareness of the numbers and problems of unrepresented litigants presents an opportunity to focus attention and efforts in Alaska in such a way as to assist those most in need.

B. Alaska's Poor

There are over 620,000 people in the State of Alaska.¹¹ Of this figure, approximately 66,558 live in poverty. The federal government defines poverty according to "the cost of food to families of different sizes on a nationwide basis."¹² For Alaskans, the poverty level is set at 125% of the federal poverty guidelines since the cost of food is approximately 25% greater than elsewhere in the country.

The figures above do not give an accurate picture of the financial conditions of the population as they are based on the nationwide poverty rate and not the 125% rate. AET, p.5. The difference between the two rates represents an additional 20,000 individuals living in poverty. (At the national rate only 47,906 individuals live in poverty in the state, whereas at the 125% rate, the figure jumps to over 66,000). Complicating the definition of poverty in Alaska is the fact that there are substantial differences in the costs of living across the

¹¹ Alaska Population Overview: 1998 Estimates, Alaska Department of Labor, Research and Analysis Section, June 1999.

¹² Alaska Economic Trends, July 1992, p.4. (Hereinafter, AET). This report was based on information from the 1990 Census.

state. In Anchorage, for example, the cost of living is probably closer to the average in the lower 48, but in the more remote areas of the state it is markedly higher. AET, p.4.¹³ Furthermore, the subsistence lifestyles of individuals in certain parts of the state adds to the confusion in defining poverty in Alaska and complicates calculating the cost of living for those different areas.

Despite these complications and variances the census report did yield some clear information about the level of poverty within particular areas and households in the state. For instance, the highest rates of poverty occurred in areas of the state that are predominantly Native and rural. AET, p.5. In contrast, 33% of all Alaskan poor people live in Anchorage, the state's largest city, although they only represent 10% of the city's total population. Id.

The census report and a following study also revealed that individuals under 25 or over 75 tend to live in poverty, and that the age group with the highest rate of poverty is among 18-24 year olds, and children under 5 in families. AET, p.5. In terms of household composition, the highest rate of poverty occurs in single parent families headed by women. (Almost 25% of these women live in poverty in Alaska). AET, p.5-6. Forty-five percent of all female-headed native households are at or below the 100% poverty line; 47% of white female-headed households are below the poverty line and 54% of black female-headed households are below the poverty line.

Despite the issues noted regarding the difficulty in defining the poverty level of Alaskans, these figures cannot mask the fact that Alaska has a large number of individuals living in poverty. Moreover, some of the problems described by the study, for example the remoteness and isolation of certain communities, are the very same ones that make the delivery of services to assist the poor so complicated and expensive.

C. Overview of Alaska Legal Services

The core of the civil legal services system in Alaska is Alaska Legal Services. It is the largest and most comprehensive provider of free civil legal assistance to low-income Alaskans. The program operates central offices in Anchorage and regional offices in Barrow, Bethel, Dillingham, Fairbanks, Juneau, Ketchikan and Nome, and serves a poverty population of approximately 66,558¹⁴ within a geographic area of 570,833 square miles. The urban poverty level population of approximately 32,714 Alaskans resides in or near the three major cities of Anchorage, Fairbanks and Juneau. The rural poverty population of approximately 33,844 resides in small, outlying communities and in 203

¹³ See also, Alaska Economic Trends, The Cost of Living - Measuring it for Alaska, June 1999, p. 3-16, particularly pages 8-11.

¹⁴ This figure is based on the 1990 census, which is the last year for which complete figures are available.

remote and isolated villages scattered throughout this immense geographic region.

Alaska Legal Services was founded in 1966 and began operating in 1967. It was formed during President Johnson's administration with a grant from the federal Office of Economic Opportunity. In the ensuing decade, federal funding for Alaska Legal Services increased and then became stable after the passage in 1974 of the Legal Services Corporation Act that provided then (and now) a system for funding and overseeing all the legal services programs nationwide.¹⁵

The mission of Alaska Legal Services since its formation has been to ensure fairness and equity by providing legal assistance to low-income Alaskans throughout the state. Its goal is to provide high quality legal services to the poor to enable them to obtain the basic necessities of life, such as food, safety, housing and medical care; obtain effective access to courts and administrative agencies; and to assert and enforce the legal rights of the poor in these forums.

Alaska Legal Services handles cases involving family law issues (divorce, custody, adoption, child or spouse abuse, child support), landlord/tenant, public entitlements, health, probate (wills or estates), and consumer issues. Native American clients are additionally represented in cases involving hunting and fishing issues, Indian child welfare (ICWA) and tribal jurisdiction. Alaska Legal Services advocates for its clients in both legal and administrative arenas. The agency does not handle any criminal cases, or any cases that are fee generating. It is also restricted from handling a variety of cases due to legislative restrictions imposed by Congress.¹⁶ Alaska Legal Services has always been restricted to representing individuals whose household income does not exceed the federal poverty guidelines.¹⁷

Alaska Legal Services provides a variety of legal services in the areas listed above. First and foremost, Alaska Legal Services represents clients in court or before an administrative agency. Second, it provides counsel and advice services where a client is given limited legal assistance (short of actual representation in court or before an agency) and information about how to handle their case on their own. Third, Alaska Legal Services offers a wide range of clinics and informational brochures on topics such as divorce, custody, preparing an answer in court cases, bankruptcy, landlord/tenant issues, and how to prepare a power of attorney, among others. In some cases, these clinics and brochures are held and prepared in conjunction with the Alaska Pro Bono Program and other non-profit agencies.

¹⁵ The Legal Services Corporation (LSC) is a private, non-profit corporation funded by Congress to provide free civil legal services to the poor. It distributes the funding it receives from Congress to the various legal services programs in the country.

¹⁶ Additional information regarding the newest restrictions imposed on Alaska Legal Services by congressional legislation appears in section E.

¹⁷ For 1999, the maximum poverty income for a single individual is \$12,900/yr. \$1,075/mo., \$248.08/wk; for a family of four, the income limit is \$26,000/yr., \$2,175/mo., \$501.92/wk.

The Alaska Pro Bono Program (APBP) works hand in hand with Alaska Legal Services, accepting clients that have been screened by Alaska Legal Services' staff and who meet Alaska Legal Services' income and case-type restrictions. The APBP refers these cases to private attorneys who have agreed to take cases at no charge to the client. Alaska Legal Services essentially remains co-counsel in these cases, providing assistance and mentoring as needed to the private attorney handling the case.

Over the course of the past few years, as funding for Alaska Legal Services has decreased, emphasis on referring cases to the Pro Bono Program has increased. Since referrals to the Pro Bono Program depend in large part on intake at Alaska Legal Services, the Pro Bono Program has faced limitations too on its number of referrals. Additionally, although Alaska Legal Services is the primary provider of civil legal services, referrals to and connections with other organizations providing legal and other assistance has increased.

In 1998, Alaska Legal Services assisted over 4400 people. Of those people, 82.6% were between the ages of 18 and 59; 17.1% were over the age of 60 and .3% were under the age of 18. Alaska Legal Services represented a variety of ethnic groups due to the diversity of the state's population: 57% of the 4,400 individuals were Caucasian, 33% Native American, 5% Black, 3% Hispanic and 2% Asian/Pacific Islanders. Two out of three Alaska Legal Services clients in 1998 were women. The Pro Bono program separately assisted an additional 1340 individuals in 1998. Of those individuals, 900 included clinic attendees and over 400 were provided full service representation.

D. Other Providers of Legal and Social Services

As noted above, Alaska Legal Services is the most comprehensive provider of civil legal services in Alaska. However, there are a number of other organizations throughout the state that provide more specialized legal and social assistance to individuals belonging to a particular subsection of the population. Several of these organizations are described below.

Catholic Social Services - The Immigration and Refugee Services Program (IRSP) at Catholic Social Services is the only agency in Alaska that is federally accredited with the Board of Immigration Appeals to provide immigration legal assistance to low-income immigrants. IRSP has three main priorities: 1, immigrants fleeing political persecution, 2, victims of domestic violence, 3, and family reunification. The IRSP serves the entire state of Alaska out of its Anchorage office. Current staffing includes three attorneys, one paralegal, one refugee resettlement assistant and one administrative assistant. Demand for IRSP's services has increased due to radical changes in the Immigration and Nationality Act: in fiscal year 1999, IRSP served 6,200 clients,

the majority of whom speak little or no English.

Alaska Native Justice Center – The Alaska Native Justice Center (ANJC) was formed in 1993 as a non-profit corporation with a statewide focus and mission to specifically meet the growing, unmet needs of the Alaska Native community in relation to the state's justice system – both civil and criminal. ANJC remains the only organization whose purpose is to advocate for those involved in the system either as defendants or as victims. ANJC works in four specific areas to implement change: advocacy, outreach, education and innovation (such as the Rural Youth Courts, a restorative justice project). In FY 1999 ANJC provided services to approximately 1,200 clients seeking services for legal assistance or referrals in a variety of areas including bankruptcy, contracts, employment, landlord/tenant, and wills and estates. ANJC's professional staff includes a President/Chief Executive Officer, Program Manager and an Administrative Assistant.

Abused Women's Aid in Crisis, Inc - This organization was founded in 1977. AWAIC's goal is to diminish the effects of domestic violence on the lives of women and children by providing a variety of support including recreational, educational, and counseling services in a safe, secure, empowering environment. Its ultimate vision is the elimination of domestic violence in Alaska's communities. AWAIC currently operates a twenty-four hour, 52-bed shelter for women and children made homeless by domestic violence. Other programs feature non-residential services including women's groups, a Male Awareness/Women's Awareness batterer's intervention program, a program helping women transition out of the shelter, a children's program dedicated to helping children witnesses/victims of domestic violence, and a twenty-four hour domestic violence hotline. (272-0100). In FY 1999, AWAIC programs provided services to 1,669 people, 55.5% were female, 45.5% male. Of that total, 20% were children, 36% were 18-29, 43% 30-65, and .2% were over the age of 65. (.8% did not give age information).

Disability Law Center of Alaska - This is a private not-for-profit organization established in 1977 under federal law to protect the human and civil rights of Alaskans with disabilities. Legally based advocacy is used to assist individuals who are discriminated against based on their disability. The organization has offices in Anchorage, Bethel, Fairbanks and Juneau. The Disability Law Center receives approximately 3,000 complaints every year, of which 300 become clients. Using a variety of interventions, staff is able to resolve 90-95% of client problems without resorting to litigation. The majority of the organization's funding comes from federal and state grants.

E. Crisis at Alaska Legal Services - Funding and Congressional Restrictions

At its peak, Alaska Legal Services had 14 offices, a staff of 97 and a total budget of over \$2.8 million. In the mid-1980's, Alaska Legal Services suffered from the first of several funding cuts. Funding from the state of Alaska fell by more than 50% from \$1.2 million in 1985, to \$475,000 in 1986 and 1987. Federal funding too, was slashed. Staff positions were correspondingly reduced from 97 to approximately 55. In the early 1990's Alaska Legal Services suffered another round of funding cuts from both the state and federal governments, resulting in a further reduction of staff. By 1996, state funding fell to only \$150,000 and the number of staff retained was 32 with only 5 offices remaining open.

Current (1999) staffing for Alaska Legal Services in 8 offices throughout the state includes 20 attorneys, five paralegals, one financial professional, one administrative professional, a development director, a pro bono coordinator, and support staff (for a total of 40 staff). Of the 40 staff, 6 are working on a part-time basis primarily due to budget constraints that do not permit full staffing in all offices. The total 1999 budget is approximately what it was 15 years ago (\$2.8 million). Moreover, Alaska Legal Services has had to expand its sources of funding instead of relying primarily on federal and state funds. For example, in 1998, funding came from the umbrella Legal Services Corporation¹⁸, four separate federal grants, four separate state grants, and 8 additional sources including local borough governments, tribes, the Alaska Bar Foundation, and a statewide fundraising campaign.

In addition to the drastic reduction in funding, Congress increased the legislative restrictions on the type of cases that legal services organizations are permitted to handle. The initial restrictions imposed on legal services providers were in the areas of abortion rights, selective service and on public boycotts and demonstrations. In the past few years, however, Congress has increased the restrictions on all legal services organizations receiving Legal Services Corporation funding. See generally 45 C.F.R. sec. 1610-1643. However, it is critical to note that the restrictions apply to the use of non-LSC funds as well. Alaska Legal Services is now also restricted from the following activities: 1, participating as counsel in a class action lawsuit; 2, initiating legal representation or participating in "litigation, lobbying, or rule making, involving an effort to reform a Federal or State welfare system" (except to comment on public rule making or respond to a written request for information or testimony); 3, engaging in legislative or administrative advocacy (with the same exception); 4, claiming or collecting attorney fees under a statute or court rule allowing them to the prevailing party (such as Alaska's Civil Rule 82); 5, representing aliens (except for certain narrow categories of lawful aliens and except in certain domestic violence cases); 6, participating in litigation on behalf of incarcerated persons; 7, defending a public housing tenant in eviction proceedings involving an allegation of the use of illegal drugs; 8, advocating or opposing any redistricting plan,

¹⁸ A substantial portion of the funds received by Alaska Legal Services from the Legal Services Corporation is the Native American Grant.