

**ALASKA STATE LEGISLATURE  
JOINT MEETING  
SENATE JUDICIARY STANDING COMMITTEE  
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

February 8, 2012

1:32 p.m.

**MEMBERS PRESENT**

SENATE JUDICIARY STANDING COMMITTEE

Senator Hollis French, Chair  
Senator Bill Wielechowski, Vice Chair  
Senator Joe Paskvan  
Senator Lesil McGuire  
Senator John Coghill

SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

Senator Bettye Davis, Chair  
Senator Dennis Egan  
Senator Johnny Ellis  
Senator Kevin Meyer  
Senator Fred Dyson

**MEMBERS ABSENT**

All members present.

**COMMITTEE CALENDAR**

PRESENTATION: ALASKA CHILDREN'S JUSTICE ACT TASK FORCE

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

JAN RUTHERDALE, Senior Assistant Attorney General  
Civil Division  
Child Protection Section (CPS)  
Department of Law  
Juneau, Alaska

**POSITION STATEMENT:** Presented information on the Alaska Children's Justice Act Task Force.

DR. KATHLEEN BALDWIN-JOHNSON, Trust Program Officer  
Alaska Mental Health Trust (AMHT)  
Department of Revenue and  
Medical Director  
Alaska Cares, Anchorage and The Children's Place, Wasilla  
Anchorage, Alaska

**POSITION STATEMENT:** Presented information on the Alaska Children's Justice Act Task Force.

THOM F. JANIDLO, Attorney at Law and Vice-Chair  
Children's Justice Act Task Force  
Anchorage, Alaska

**POSITION STATEMENT:** Presented information on the Alaska Children's Justice Act Task Force.

#### **ACTION NARRATIVE**

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**CHAIR HOLLIS FRENCH** called the joint meeting of the Senate Judiciary Standing Committee and the Senate Health and Social Services Standing Committee to order at 1:32 p.m. Present at the call to order were Senator Dyson and Chair Davis and Senators Wielechowski, McGuire, and Chair French. Senators Paskvan, Coghill, Egan, Ellis and Meyer arrived shortly thereafter.

#### **Presentation: Alaska Children's Justice Act Task Force**

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**CHAIR FRENCH** announced that the committee would hear a presentation on the Alaska Children's Justice Act (CJA) Task Force. He welcomed the presenters.

**JAN RUTHERDALE**, Senior Assistant Attorney General, Civil Division, Child Protection Section (CPS), Department of Law, said she was appearing today as Chair of the Children's Justice Act Task Force. She introduced the other presenters.

**CHAIR FRENCH** welcomed Senators Meyer, Egan and Coghill to the committee.

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**MS. RUTHERDALE** stated that the CJA is a federal program that has been in existence for 10 years in all 50 states. It provides grants to states, based on population, to combat child

maltreatment through a multidisciplinary approach. Because Alaska has a relatively small population, the task force works with a small pool of money to focus in the areas that are most in need at the moment. It relies on volunteer members and collaborates with other groups working on similar issues.

She displayed the mission statement of the task force, which is to:

Identify areas where improvement is needed in the statewide response to child maltreatment, particularly child sexual abuse, make recommendations and take actions to improve the system.

This broad mandate allows the task force to select projects based on a "who's not covering what" approach. This year the particular focus is criminal law.

MS. RUTHERDALE listed the task force projects. One is to develop and distribute better data. Another is to improve system response, and the third is to make recommendations for law changes. She elaborated on the difficulty of meshing data due to varying systems used by agencies. She noted the task force is grateful for collaboration with the Department of Health and Social Services (DHSS), Maternal and Child Health Epidemiology Unit on a Surveillance of Child Abuse and Neglect (SCAN) program.

CHAIR FRENCH asked if the task force had worked with Mr. Rosay from the University of Alaska Anchorage Justice Center.

MS. RUTHERDALE replied the UAA Justice Center is a very good resource and task force worked with Mr. Rosay in the past, but more recently had worked most closely with the SCAN unit.

CHAIR FRENCH recognized that Senator Ellis joined the committee.

MS. RUTHERDAY elaborated on improving system response. She talked about supporting the development of Child Advocacy Centers (CACs) and Multidisciplinary Teams (MDTs), and highlighted that Alaska has 10 regional CACs and two satellite centers. The Legislature has provided funding the last two years since federal funding stopped. Related to CACs, the task force has helped develop two publications. One is the Guidelines for the Multidisciplinary Response that helps explain the different roles in the initial response to investigations. Another is the standardized medical documentation forms that are used in the physical exams at the CACs.

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MS. RUTHERDALE discussed innovative programs the task force supports. The Pathway to Hope is a program that was developed by Alaska Natives to heal the intergenerational trauma of sexual abuse. It's a training curriculum that is used in Alaska and also presented nationally and internationally. The task force provides funds to publish the curriculum. The other programs specifically deal with the sexual exploitation of children, particularly on the Internet. To this end, the task force has worked with the Internet Crimes Against Children unit of law enforcement and NetSmartz, which was also developed by law enforcement. They also provided staff to help with in-school education programs to let children and parents know about the potential for becoming a victim.

She mentioned ways to improve system response through education and training. The task force developed and distributes the mandatory reporter training CD, and encourages professional development by offering scholarships for trainings and collaborating with the Alaska Children's Alliance to sponsor the biennial Alaska Child Maltreatment Conference. Annual legislative presentations are another education component. She listed presentations to the Children's Caucus and legislative committees and highlighted that recent presentations have focused on gaps in the criminal laws regarding maltreatment of children. This past year the task force took an additional step to develop legislation.

SENATOR PASKVAN joined the committee.

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DR. KATHLEEN BALDWIN-JOHNSON, Trust Program Officer, Alaska Mental Health Trust (AMHT), Department of Revenue, said she's also the medical director for Children's Place and Alaska Cares, the child advocacy centers in Wasilla and Anchorage. She provided 2008 data about maltreatment-related child deaths. About one of every five Alaskan child deaths was a result of maltreatment. The numbers are even higher for Alaska Native children at one out of four. Nearly three of every four were infant deaths.

CHAIR FRENCH asked the source of the data.

DR. BALDWIN-JOHNSON explained that the numbers came from the Maternal Child Health Epidemiology Unit within the Department of Health and Social Services (DHSS), but they are a compilation of

reports from the maternal infant mortality review team, child protection, law enforcement, hospital discharge data, and the court system.

She discussed the types of maltreatment - physical abuse, sexual abuse and neglect. In 2008 12,400 Alaskan children were likely victims of at least one incident of maltreatment, as evidenced by either a police report or medical diagnosis. Of those, 24 percent had at least one incident confirmed by a successful prosecution or substantiation by the Office of Children's Services (OCS). She stressed that these statistics represent the tip of the iceberg. Valid research shows that outcomes for children whose abuse is not substantiated are similar for those children for whom their abuse is substantiated. This translates to about 34 children a day who were likely maltreated.

Neglect is the most common type of maltreatment. In 2008, 8,900 Alaskan children were likely victims of at least one incident of neglect. About 25 percent of those had at least one incident confirmed, usually by OCS substantiation. That translates to about 25 children a day who were maltreated due to neglect.

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DR. BALDWIN-JOHNSON said that in 2008, 2,700 Alaskan children were likely victims of at least one incident of physical abuse. About 22 percent of those had at least one incident confirmed, which translates to about seven children a day who were maltreated due to physical abuse.

In 2008, about 1,900 Alaskan children were likely victims of at least one incident of sexual abuse. About 16 percent of those had at least one incident confirmed. This number is substantially lower than other types of confirmed maltreatment because sexual abuse is very hard to confirm. Oftentimes the children are very young, they typically have normal exams and there is often no corroborating evidence. This translates to as many as five Alaskan children a day who were likely victims of sexual abuse.

CHAIR FRENCH asked what type of behaviors are included in these statistics.

DR. BALDWIN-JOHNSON replied these cases usually involve personal contact.

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DR. BALWIN-JOHNSON related the costs for treatment of children who are maltreated, and the adults they become. There are costs to long and short-term medical and mental health care, child protection system and the juvenile and adult criminal justice systems. It affects future earnings and quality of life, something that is difficult to quantify monetarily.

She discussed results of the Centers for Disease Control and Prevention (CDC) Adverse Childhood Experiences (ACE) [Study] that was done in collaboration with Kaiser Permanente in California. The findings suggest a clear link between adverse childhood experiences and all the most common causes of adult disease and death. The first article written about this study was appropriately titled "Turning Gold into Lead."

DR. BALWIN-JOHNSON displayed a graph of actual and estimated rising health care costs in the U.S. from FY1996 to FY2016. Child maltreatment contributes to these costs. A recent online publication titled "The Economic Burden of Child Maltreatment in the United States" looked at the cost of fatal and non-fatal child abuse over the potential lifetime of that child. It estimated the average medical cost for a child who dies as a result of maltreatment to be \$14,000. Productivity losses for that child were estimated to be nearly \$1.3 million.

About 10 infants die every year in Alaska as a result of maltreatment. The annual economic cost to Alaskans for this, based on medical costs and productivity losses, is estimated to be nearly \$13 million. This number would likely double if older children were included.

The national average lifetime cost of nonfatal child maltreatment is about \$210,000 per child. The Alaska numbers (based on 3,000 to 12,400 cases - substantiated cases of abuse and suspected cases of abuse) show an estimated annual economic cost of child maltreatment to be between \$625 million and \$2.6 billion.

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THOM F. JANIDLO, Attorney at Law and Vice-Chair, Children's Justice Act Task Force, reported that over the past year, the task force reviewed child abuse statutes in Alaska and other states and found that Alaska laws had shortcomings that affect children and the perpetrators. The task force subsequently worked on proposals to raise the bar of accountability for perpetrators and provide greater protection for Alaska's children. It has four recommendations.

The first recommendation is to modify the assault statutes to create broader criminal liability for assaults on children. The problem is that for a felony prosecution to go forward, current statute requires a serious physical injury or multiple events or an event for which a reasonable caregiver would seek medical attention. He reviewed the statutory definition for "serious physical injury" and informed the committee that abuse of a child doesn't always rise to that standard. A solution would be to add a new definition in statute for "serious bodily injury to a child."

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DR. BALDWIN-JOHNSON displayed pictures of physical injuries to children by caretakers that did not meet the current statutory definition for "serious physical injury." These were photos of young children that had been burned, strangled and beaten.

CHAIR FRENCH stressed the extreme seriousness and violence of strangulation. It is very high on the lethality index.

DR. BALDWIN-JOHNSON described the damage done to children that does not meet current standards of physical injury.

MR. JANIDLO presented a new definition of serious bodily injury to a child:

    Serious bodily injury to the child" includes, but is not limited to, second- or third-degree burns, a fracture of any bone, a concussion, subdural or subarachnoid bleeding, retinal hemorrhage, cerebral edema, brain contusion, strangulation, injuries to the skin that involve severe bruising or the likelihood of permanent or protracted disfigurement, including those sustained by striking children with objects, or other physical injury that results in significant physical injury to the child.

CHAIR FRENCH asked if the task force discussed the proposed language with the Department of Law.

MR. JANIDLO replied there has been an ongoing dialog.

CHAIR FRENCH said he looks forward to hearing the Department of Law's reaction to these proposals.

MR. JANIDLO said the suggestion is to apply the proposed definition to children under age 12, and to children under age

16 who are mentally or physically impaired. The definition and applicability should be added to all three felony assault statutes.

He also mentioned a post-conviction recommendation. To recognize the mental harm resulting from physical injury, create a sentencing aggravator if the serious bodily injury to a child resulted in significant mental injury to the child.

MR. JANIDLO said the second recommendation is to strengthen statutes regarding exposure of children to drugs.

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DR. BALDWIN-JOHNSON presented information about the difficulty of prosecuting a person who has exposed a child to drugs to the extent that the child tests positive for that drug. For example, infants have tested positive for cocaine because their parents smoke crack cocaine in their presence. In other instances children have almost died from overdosing on drugs that were left sitting out and available.

CHAIR FRENCH asked if these cases occur with regularity.

DR. BALDWIN-JOHNSON replied yes, and it's a statewide issue.

MS. RUTHERDALE added that in child abuse and neglect cases, children are often tested for exposure to drugs. She clarified that the suggestion is not to prosecute every case, but to establish tools to do so.

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MR. JANIDLO said a solution to this problem is to amend the endangering the welfare of a minor statute to penalize reckless exposure of a child to controlled substances. The penalties would vary depending on how dangerous the drug is.

DR. BALDWIN-JOHNSON added that it's also difficult to prosecute for indirect exposure to dangerous chemicals used in drug labs, such as methamphetamine labs. Mr. Janidlo said here too, the solution is to penalize reckless exposure of a child to chemicals used in meth labs.

MR. JANIDLO said the third recommendation is to increase the penalties when a parent intentionally withholds adequate food or liquids.

DR. BALDWIN-JOHNSON highlighted that there have been a number of cases where children were intentionally starved, either as a punishment or a means of control. Although some of these children nearly died, the current penalty is a misdemeanor.

MR. JANIDLO said the solution is to modify the criminal nonsupport statute to create a class C felony for a parent or guardian who intentionally fails to provide adequate food and [liquids] to a child. The standard for that determination should be that a reasonable person would conclude that the child was not receiving adequate food or liquids.

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CHAIR FRENCH commented that here too, he would rely on the Department of Law to determine the scope of the problem.

MR. JANIDLO said the fourth recommendation is to create a criminal law that prohibits an incarcerated person from contacting a victim or witness. The problem is that the current statutes do not fully protect a child victim from influences and pressure prior to trial and sentencing. He gave examples.

The solution is to add new theories to the unlawful contact statute. Penalize a person who is jailed before trial or sentencing for contacting a victim or witness of the offense in violation of a no-contact order, and penalize a person who assists the defendant in engaging in such contact.

CHAIR FRENCH acknowledged that as he reviewed the statute just now, it was unclear as to what conditions pertain to a person who has not been released. He continued that he didn't recall which statute deals with violating a no contact order from jail.

MR. JANIDLO responded it's usually in the domestic violence statutes.

DR. BALDWIN-JOHNSON added that often the remedy is contempt of court, and it's frequently not exercised. However, it is important to discourage the behavior because the contact could result in the victim recanting.

CHAIR FRENCH offered assurance that he'd review this with DOL and fix anything that's missing.

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DR. BALDWIN-JOHNSON summarized that legislative changes are necessary to enhance the safety of Alaskan children.

MR. JANIDLO added that the solution is to pass legislation to make people more accountable, and find more champions for children.

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SENATOR COGHILL spoke of the difficulty of working between civil and criminal law, and asked the task force's perspective on how the two interact.

DR. BALDWIN-JOHNSON recalled times in her practice when civil and criminal cases went along simultaneously. It can be beneficial when, for example, there is communication between a parent's probation officer and a child's social worker.

SENATOR COGHILL mentioned the importance of CACs, and expressed concern about the potential for social workers to thwart or bias investigations. He then highlighted the differences between Title 47 and Title 11.

MS. RUTHERDALE related that social workers sometimes have to be reminded that they aren't in law enforcement. She gave an example.

MR. JANIDLO observed that there was a need for more CACs statewide.

CHAIR FRENCH thanked the presenters.

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There being no further business to come before the committees, Chair French adjourned the meeting at 2:25