

Original sponsor: Health, Welfare and Education Committee

Offered: 4/9/71  
Referred: Judiciary

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BY THE HEALTH, WELFARE AND EDUCATION COMMITTEE

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 223

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SEVENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the well-being and protection of  
7 children."

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

9 \* Section 1. AS 47 is amended by adding a new chapter to read:

10 CHAPTER 17. CHILD PROTECTION.

11 Sec. 47.17.010. PURPOSE. In order to protect children whose  
12 health and well-being may be adversely affected through the infliction,  
13 by other than accidental means, of harm through physical abuse or  
14 neglect requiring the attention of a practitioner of the healing arts,  
15 the legislature requires the reporting of these cases by practitioners  
16 and others to the appropriate public authorities. It is the intent  
17 of the legislature that, as a result of these reports, protective  
18 services will be made available in an effort to prevent further harm  
19 to the child, to safeguard and enhance the general well-being of the  
20 children in this state, and to preserve family life whenever possible.

21 Sec. 47.17.020. PERSONS REQUIRED TO REPORT. (a) The following  
22 persons who, in the performance of their professional duties, have  
23 cause to believe that a child has suffered harm as a result of abuse  
24 or neglect shall report the harm in accordance with sec. 30 of this  
25 chapter:

- 26 (1) practitioners of the healing arts;
- 27 (2) school teachers;
- 28 (3) social workers;
- 29 (4) peace officers, and officers of the division of

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1 corrections;

2 (5) administrative officers of institutions.

3 (b) This section does not prohibit the named persons from report-  
4 ing cases which have come to their attention in their nonprofessional  
5 capacities nor does it prohibit any other person from reporting a  
6 child's harm which he has cause to believe is a result of abuse or  
7 neglect. These reports shall be filed in accordance with sec. 30 of  
8 this chapter.

9 Sec. 47.17.030. REPORTING. (a) An immediate report of the harm  
10 shall be made. Every oral report should be followed within 24 hours  
11 by a written report.

12 (b) Oral and written reports shall contain

13 (1) the names and addresses of the child and of the parents  
14 or guardians, if known;

15 (2) the child's age and the nature and extent of the harm,  
16 including evidence of previous harm, if known; and

17 (3) information which might assist in determining the cause  
18 of harm and the identity of the person or persons responsible for the  
19 harm.

20 (c) If the child is believed to reside within the boundaries of  
21 a local government exercising health functions for the area in which  
22 the child is believed to reside, the report shall be made to the  
23 appropriate agency of that local government. If the child is believed  
24 to reside outside the boundaries of such a local government, the  
25 report shall be made to the nearest office of the state Department of  
26 Health and Welfare.

27 Sec. 47.17.040. ACTION ON REPORTS; TERMINATION OF PARENTAL RIGHTS.

28 (a) An agency receiving a report of harm shall, for each report  
29 received, investigate and take action, in accordance with law, which

1 may be necessary to prevent further harm to the child or to insure the  
2 proper care and protection of the child. In addition, a local govern-  
3 ment agency receiving a report of harm shall forward a copy of its  
4 report of the investigation, including information the department  
5 requires by regulation, to the department. Action shall be taken  
6 regardless of whether the identity of the person making the report of  
7 harm is known.

8 (b) Before the department or a local government health agency  
9 may seek the termination of parental rights, under AS 47.10.080(c)(3),  
10 it shall offer protective social services and pursue all other reason-  
11 able means of protecting the child.

12 Sec. 47.17.050. CENTRAL REGISTRY; CONFIDENTIALITY. (a) The  
13 department shall maintain a central registry of all investigation  
14 reports but not of the initial reports of harm.

15 (b) Investigation reports and reports of harm filed under this  
16 chapter are considered confidential and are not subject to public  
17 inspection and copying under AS 09.25.110 and 09.25.120. However,  
18 in accordance with department regulations, investigation reports may  
19 be used by appropriate governmental agencies with child-protection  
20 functions, within and outside Alaska, in connection with investigations  
21 or judicial proceedings involving child abuse or neglect.

22 Sec. 47.17.060. IMMUNITY. A person who, in good faith, makes  
23 a report under this chapter, or who participates in judicial proceed-  
24 ings related to the submission of reports under this chapter, is immune  
25 from any civil or criminal liability which might otherwise be incurred  
26 or imposed.

27 Sec. 47.17.070. EVIDENCE NOT PRIVILEGED. Neither the physician-  
28 patient nor the husband-wife privilege is a ground for excluding  
29 evidence regarding a child's harm, or its cause, in a judicial

1 proceeding related to a report made under this chapter.

2 Sec. 47.17.080. DEFINITIONS. In this chapter

3 (1) "abuse" means the infliction, by other than accidental  
4 means, of physical harm upon the body of a child;

5 (2) "child" means a person under 16 years of age;

6 (3) "department" means the Department of Health and Welfare;

7 (4) "institution" means a private or public hospital or  
8 other facility providing medical diagnosis, treatment, or care;

9 (5) "neglect" means the failure to provide necessary food,  
10 care, clothing, shelter, or medical attention for a child;

11 (6) "practitioner of the healing arts" includes chiro-  
12 practers, dentists, health aides, nurses, osteopaths, physical thera-  
13 pists, physicians, psychologists, and religious healing practitioners.

14 \* Sec. 2. AS 47.10.140(a) is amended to read:

15 (a) A peace officer may arrest a minor who violates a law or  
16 ordinance in his presence, or who he reasonably believes is a fugitive  
17 from justice [OR EVADING THE PERSON HAVING LEGAL CUSTODY OF HIM]. A  
18 peace officer may continue a lawful arrest made by a citizen. He may  
19 have the minor detained in a juvenile detention facility if in his  
20 opinion it is necessary to do so to protect the minor or the community.

21 \* Sec. 3. AS 47.10 is amended by adding a new section to read:

22 Sec. 47.10.142. EMERGENCY CUSTODY AND TEMPORARY PLACEMENT HEARING.

23 (a) The Department of Health and Welfare may take emergency custody  
24 of a minor upon discovering any of the following circumstances:

25 (1) the minor has been abandoned;

26 (2) the minor has been grossly neglected by his parents or  
27 guardian, as "neglect" is defined in AS 47.17.080(5), so that immediate  
28 removal from his surroundings is, in the determination of the depart-  
29 ment, necessary to protect his life;

1 (3) the minor has been abused, as "abuse" is defined in  
2 AS 47.17.080(1), so that immediate medical attention is necessary,  
3 in the determination of the department.

4 (b) A minor who has left home and is evading the person having  
5 legal custody of him may obtain the services of the department. The  
6 department shall assess the situation and furnish the minor with the  
7 social services it considers appropriate to protect the well-being of  
8 the minor and to preserve his family life if preserving it is con-  
9 sidered desirable under the circumstances. If, after assessing the  
10 situation, considering the wishes of the minor, and furnishing approp-  
11 riate social services, the department considers it necessary, the  
12 department may take emergency custody of the minor.

13 (c) When a child is taken into custody under (a) or (b) of this  
14 section, the department shall immediately, and in no event more than  
15 12 hours later unless prevented by lack of communication facilities,  
16 notify the court of the action. The department may file with the  
17 court a petition alleging dependency before the temporary placement  
18 hearing.

19 (d) The court shall immediately, and in no event more than 48  
20 hours after being notified unless prevented by lack of transportation,  
21 hold a hearing at which the minor, if his health permits, and his  
22 parents or guardian, if they can be found, shall be permitted to be  
23 present. The court shall determine whether probable cause exists for  
24 believing the minor to be a dependent minor, as defined in sec. 290(3)  
25 of this chapter. The court shall inform the minor, and his parents  
26 or guardian if they can be found, of the reasons given as constituting  
27 probable cause and the reasons given as authorizing his temporary  
28 placement.

29 (e) If the court finds that probable cause exists it shall order

1 the temporary placement of the minor which the court considers approp-  
2 riate. If the court finds no probable cause it shall order the minor  
3 returned to the custody of his parents or guardian.

4 \* Sec. 4. AS 11.67.005 - 11.67.070 are repealed.  
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