

BY THE JUDICIARY COMMITTEE

1 IN THE SENATE

2

SENATE BILL NO. 450

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to child abuse and neglect."

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

8 * Section 1. AS 47.17.010 is amended to read:

9 Sec. 47.17.010. PURPOSE. In order to protect children whose
10 health and well-being may be adversely affected through the inflic-
11 tion, by other than accidental means, of harm through physical injury
12 [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual
13 exploitation, or maltreatment, the legislature requires the reporting
14 of these cases by practitioners of the healing arts and others to the
15 department. It is not the intent of the legislature that investiga-
16 tions of suspected child abuse or neglect be conducted by those who
17 are required to make reports. Reports must be made when there is a
18 reasonable suspicion of child abuse or neglect in order to make state
19 investigative and social services available in a wider range of cases
20 at an earlier point in time, to make sure that investigations regard-
21 ing child abuse and neglect are conducted by trained investigators,
22 and to avoid subjecting a child to multiple interviews about the abuse
23 or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent of the
24 legislature that, as a result of these reports, protective services
25 will be made available in an effort to prevent further harm to the
26 child, to safeguard and enhance the general well-being of the children
27 in this state, and to preserve family life whenever possible.

28 * Sec. 2. AS 47.17.020(a) is amended to read:

29 (a) The following persons who, in the performance of their

1 occupational duties, have reasonable cause to suspect [CAUSE TO BE-
2 LIEVE] that a child has suffered harm as a result of child abuse or
3 neglect shall immediately report the harm to the nearest office of the
4 department:

5 (1) practitioners of the healing arts;

6 (2) school teachers and school administrative staff members
7 of public and private schools;

8 (3) social workers;

9 (4) peace officers, and officers of the Department of
10 Corrections;

11 (5) administrative officers of institutions;

12 (6) child care providers;

13 (7) paid employees of domestic violence and sexual assault
14 programs, and crisis intervention and prevention programs as defined
15 in AS 18.66.900;

16 (8) paid employees of an organization that provides coun-
17 seling or treatment to individuals seeking to control their use of
18 drugs or alcohol.

19 * Sec. 3. AS 47.17.020(b) is amended to read:

20 (b) This section does not prohibit the named persons from re-
21 porting cases that have come to their attention in their nonoccupa-
22 tional capacities, nor does it prohibit any other person from report-
23 ing a child's harm that the person has reasonable cause to suspect
24 [CAUSE TO BELIEVE] is a result of child abuse or neglect. These
25 reports shall be made to the nearest office of the department.

26 * Sec. 4. AS 47.17.020(c) is amended to read:

27 (c) If the person making a report of harm under this section
28 cannot reasonably contact the nearest office of the department and
29 immediate action is necessary for the well-being of the child, the

1 person shall make the report to a peace officer. The peace officer
2 shall immediately take [IMMEDIATE] action to protect the child and
3 shall, at the earliest opportunity, notify the nearest office of the
4 department.

5 * Sec. 5. AS 47.17.020(e) is repealed and reenacted to read:

6 (e) The department shall immediately notify the nearest law
7 enforcement agency if the department

8 (1) concludes that the harm was caused by a person who is
9 not responsible for the child's welfare;

10 (2) is unable to determine

11 (A) who caused the harm to the child; or

12 (B) whether the person who is believed to have caused
13 the harm has responsibility for the child's welfare; or

14 (3) concludes that the report involves

15 (A) possible criminal conduct under AS 11.41.410 -
16 11.41.455; or

17 (B) abuse or neglect that results in the need for
18 medical treatment of the child.

19 * Sec. 6. AS 47.17.020 is amended by adding a new section to read:

20 (f) If the department or a law enforcement agency determines
21 that a child has been abused or neglected and that the harm was caused
22 by a teacher or other person employed by the school in which the child
23 is enrolled as a student, the department or law enforcement agency
24 shall, at the earliest possible opportunity, notify the principal of
25 the school in which the teacher or other person is employed. The
26 notification must set out the factual basis for the department's or
27 law enforcement agency's determination. Within 10 days after receiv-
28 ing notification from the department or law enforcement agency under
29 this subsection about a person in the teaching profession, as defined

1 in AS 14.20.370, the principal shall file a report with the Profes-
2 sional Teaching Practices Commission that sets out the name of the
3 teacher and the information received from the department or law en-
4 forcement agency under this subsection.

5 * Sec. 7. AS 47.17.022 is amended to read:

6 Sec. 47.17.022. TRAINING. (a) A person employed by the state
7 or a school district who is required under this chapter to report
8 abuse or neglect of children shall receive training on the recognition
9 and reporting of child abuse and neglect.

10 (b) Each department of the state and school district that em-
11 ploys persons required to report abuse or neglect of children shall
12 provide

13 (1) initial training required by this section to each new
14 employee during the employee's first six months of employment, and to
15 any existing employee who has not received equivalent training; and

16 (2) appropriate in-service training required by this sec-
17 tion as determined by the department.

18 (c) Each department and school district that must comply with
19 (b) of this section shall develop a training curriculum that acquaints
20 its employees with

21 (1) laws relating to child abuse and neglect;

22 (2) techniques for recognition and detection of child abuse
23 and neglect;

24 (3) agencies and organizations within the state that offer
25 aid or shelter to victims and the families of victims of child abuse
26 or neglect; and

27 (4) procedures for required notification of suspected abuse
28 or neglect.

29 (d) Each department and school district that must comply with

1 (b) of this section shall file a current copy of its training curricu-
2 lum and materials [,] with the Council on Domestic Violence and Sexual
3 Assault. A department or school district may seek the technical
4 assistance of the council or the Department of Health and Social
5 Services in the development of its training program.

6 * Sec. 8. AS 47.17.023 is amended to read:

7 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
8 who, in the course of processing or producing visual or printed mat-
9 ter, either privately or commercially, has reasonable cause to suspect
10 [REASON TO BELIEVE] that the matter visually depicts a child engaged
11 in conduct described in AS 11.41.455(a) shall immediately [PROMPTLY]
12 report this to the nearest law enforcement agency, and provide the law
13 enforcement agency with all information known about the nature and
14 origin of the matter.

15 * Sec. 9. AS 47.17.025(a) is amended to read:

16 (a) A law enforcement agency shall immediately notify the de-
17 partment of the receipt of a report of harm to a child from abuse by a
18 person responsible for the child's welfare. Upon receipt from any
19 source of a report of harm to a child from abuse by a person responsi-
20 ble for the child's welfare, the department shall notify the Depart-
21 ment of Law and investigate the report and, within 72 hours of the
22 receipt of the report, shall provide a written report of its investi-
23 gation of the harm to a child from abuse to the Department of Law for
24 review.

25 * Sec. 10. AS 47.17 is amended by adding a new section to read:

26 Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department
27 or a law enforcement agency determines that there is reasonable cause
28 to suspect that a child has been abused or neglected by a person
29 responsible for the child's welfare, or as a result of conditions

1 created by a person responsible for the child's welfare, school offi-
2 cials shall permit the child to be interviewed at school by the de-
3 partment or a law enforcement agency before notification of, or re-
4 ceiving permission from, the child's parent, guardian, or custodian.

5 * Sec. 11. AS 47.17.040(b) is amended to read:

6 (b) Investigation reports and reports of harm filed under this
7 chapter are considered confidential and are not subject to public
8 inspection and copying under AS 09.25.110 and 09.25.120. However, in
9 accordance with department regulations, investigation reports may be
10 used by appropriate governmental agencies with child-protection func-
11 tions, inside and outside the state [ALASKA], in connection with
12 investigations or judicial proceedings involving child abuse, neglect,
13 or custody. A person, not acting in accordance with department regu-
14 lations, who recklessly makes public information contained in confi-
15 dential reports is guilty of a class B misdemeanor.

16 * Sec. 12. AS 47.17.050 is amended to read:

17 Sec. 47.17.050. IMMUNITY. Except as provided in (b) of this
18 section, a [A] person who complies with this chapter and [, IN GOOD
19 FAITH,] makes an immediate good faith [A] report of child abuse or
20 neglect [UNDER THIS CHAPTER], or who participates in judicial proceed-
21 ings related to the submission of reports under this chapter, is
22 immune from [ANY] civil or criminal liability that [WHICH] might
23 otherwise be incurred or imposed as a result of making the report,
24 except that a person who makes an untimely report is not immune from
25 civil or criminal liability based on the delay in making the report.

26 * Sec. 13. AS 47.17.050 is amended by adding a new subsection to read:

27 (b) Notwithstanding (a) of this section, a person accused of
28 committing the child abuse or neglect is not immune from civil or
29 criminal liability as a result of reporting the child abuse or

1 neglect.

2 * Sec. 14. AS 47.17.064(a) is amended to read:

3 (a) The department or a practitioner of the healing arts may,
4 without the permission of the parents, guardian, or custodian, take
5 the following actions with regard to a child who the department or
6 practitioner has reasonable cause to suspect has [BELIEVED TO HAVE]
7 suffered physical harm as a result of child abuse or neglect:

8 (1) take or have taken photographs of the areas of trauma
9 visible on the child; and

10 (2) if medically indicated, have a radiological examination
11 of the child performed by a person who is licensed to administer a
12 radiological examination.

13 * Sec. 15. AS 47.17.068 is amended to read:

14 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who
15 [KNOWINGLY] fails to comply with the provisions of [OR REFUSES TO
16 REPORT AS REQUIRED UNDER] AS 47.17.020 or 47.17.023, knowing of the
17 circumstances giving rise to the need for a report, is guilty of a
18 class B misdemeanor.

19 * Sec. 16. AS 47.17.070(2) is amended to read:

20 (2) "child abuse or neglect" means the physical injury or
21 neglect, mental injury, sexual abuse, sexual exploitation, or mal-
22 treatment of a child under the age of 18 by a person [WHO IS RESPONSI-
23 BLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indicate
24 that the child's health or welfare is harmed or threatened thereby;

25 * Sec. 17. AS 47.17.070(3) is amended to read:

26 (3) "child care provider" means an adult individual, in-
27 cluding a foster parent or an employee of an organization, who pro-
28 vides care and supervision to a child for compensation or reimburse-
29 ment;

1 * Sec. 18. AS 47.17.070(9) is amended to read:

2 (9) "practitioner of the healing arts" includes chiroprac-
3 tors, mental health counselors, dental hygienists, dentists, health
4 aides, nurses, nurse practitioners, occupational therapists, occupa-
5 tional therapy assistants, optometrists, osteopaths, naturopaths,
6 physical therapists, physical therapy assistants, physicians, physi-
7 cian's assistants, psychiatrists, psychologists, psychological associ-
8 ates, audiologists licensed under AS 08.11, hearing aid dealers li-
9 censed under AS 08.55, religious healing practitioners, and surgeons;

10 * Sec. 19. AS 47.17.070 is amended by adding new paragraphs to read:

11 (11) "immediately" means as soon as is reasonably possible,
12 and within 24 hours;

13 (12) "maltreatment" means ill-treatment that harms or
14 threatens a child's welfare, and includes conduct that causes a child
15 to be born with a controlled substance, as defined in AS 11.71.900, in
16 the child's blood or urine;

17 (13) "mental injury" means an injury to the emotional well-
18 being, or intellectual or psychological capacity of a child, as evi-
19 denced by an observable and substantial impairment in the child's
20 ability to function, with due regard to the child's culture;

21 (14) "reasonable cause to suspect" means cause, based on all
22 the facts and circumstances known to the person, that would lead a
23 reasonable person to suspect that something might be the case;

24 (15) "recklessly" has the meaning given in AS 11.81.900;

25 (16) "school district" means a city or borough school dis-
26 trict or regional educational attendance area;

27 (17) "sexual abuse" means criminal conduct under AS 11.41.-
28 410 - 11.41.455, or any other sexual behavior that harms or threatens
29 a child's health or welfare.