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Referred: Rules

6-2075J

Original sponsor(s): Judiciary Committee

1 IN THE SENATE BY THE JUDICIARY COMMITTEE
2 CS FOR SENATE BILL NO. 450 (Judiciary) am
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 reporting and investigation of
7 child abuse and neglect; relating to training of
8 persons required to report child abuse or neglect;
9 and amending the definition of 'child abuse or
10 neglect'."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 47.17.010 is amended to read:
13 Sec. 47.17.010. PURPOSE. In order to protect children whose
14 health and well-being may be adversely affected through the inflic-
15 tion, by other than accidental means, of harm through physical injury
16 [ABUSE] or neglect, mental injury, [OR] sexual abuse, [OR] sexual
17 exploitation, or maltreatment, the legislature requires the reporting
18 of these cases by practitioners of the healing arts and others to the
19 department. It is not the intent of the legislature that investiga-
20 tions of suspected child abuse or neglect be conducted by those who
21 are required to make reports. Reports must be made when there is a
22 reasonable suspicion of child abuse or neglect in order to make state
23 investigative and social services available in a wider range of cases
24 at an earlier point in time, to make sure that investigations regard-
25 ing child abuse and neglect are conducted by trained investigators,
26 and to avoid subjecting a child to multiple interviews about the abuse
27 or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent of the
28 legislature that, as a result of these reports, protective services
29 will be made available in an effort to prevent further harm to the

1 child, to safeguard and enhance the general well-being of the children
2 in this state, and to preserve family life whenever possible.

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

4 (a) The following persons who, in the performance of their
5 occupational duties, have reasonable cause to suspect [CAUSE TO BE-
6 LIEVE] that a child has suffered harm as a result of child abuse or
7 neglect shall immediately report the harm to the nearest office of the
8 department:

9 (1) practitioners of the healing arts;

10 (2) school teachers and school administrative staff members
11 of public and private schools;

12 (3) social workers;

13 (4) peace officers, and officers of the Department of
14 Corrections;

15 (5) administrative officers of institutions;

16 (6) child care providers;

17 (7) paid employees of domestic violence and sexual assault
18 programs, and crisis intervention and prevention programs as defined
19 in AS 18.66.900;

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

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

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

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

2 (c) If the person making a report of harm under this section
3 cannot reasonably contact the nearest office of the department and
4 immediate action is necessary for the well-being of the child, the
5 person shall make the report to a peace officer. The peace officer
6 shall immediately take [IMMEDIATE] action to protect the child and
7 shall, at the earliest opportunity, notify the nearest office of the
8 department.

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

10 (e) The department shall immediately notify the nearest law
11 enforcement agency if the department

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

14 (2) is unable to determine

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

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

18 (3) concludes that the report involves

19 (A) possible criminal conduct under AS 11.41.410 -
20 11.41.455; or

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

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

24 (f) If a law enforcement agency determines that a child has been
25 abused or neglected and that (1) the harm was caused by a teacher or
26 other person employed by the school in which the child is enrolled as
27 a student, (2) the harm occurred during an activity sponsored by the
28 school in which the child is enrolled as a student, or (3) the harm
29 occurred on the premises of the school in which the child is enrolled

1 as a student, the law enforcement agency shall, at the conclusion of
2 its investigation, notify the chief administrative officer of the
3 school or district in which the child is enrolled. The notification
4 must set out the factual basis for the law enforcement agency's deter-
5 mination. Within 10 days after receiving notification from the law
6 enforcement agency under this subsection about a person in the teach-
7 ing profession, as defined in AS 14.20.370, the chief administrative
8 officer shall file a report with the Professional Teaching Practices
9 Commission that sets out the name of the person in the teaching pro-
10 fession and the information received from the law enforcement agency
11 under this subsection.

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

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

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

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

23 (2) appropriate in-service training required by this sec-
24 tion as determined by the department or school district.

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

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

29 (2) techniques for recognition and detection of child abuse

1 and neglect;

2 (3) agencies and organizations within the state that offer
3 aid or shelter to victims and the families of victims of child abuse
4 or neglect; [AND]

5 (4) procedures for required notification of suspected abuse
6 or neglect;

7 (5) the role of a person required to report child abuse or
8 neglect and their employing agency after the report has been made; and

9 (6) the manner in which cases of child abuse or neglect are
10 investigated by the department and law enforcement agencies after a
11 report of suspected abuse or neglect.

12 (d) Each department and school district that must comply with
13 (b) of this section shall file a current copy of its training curricu-
14 lum and materials [,] with the Council on Domestic Violence and Sexual
15 Assault. A department or school district may seek the technical
16 assistance of the council or the Department of Health and Social
17 Services in the development of its training program.

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

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

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

28 (a) A law enforcement agency shall immediately notify the de-
29 partment of the receipt of a report of harm to a child from abuse

1 committed by a person responsible for the child's welfare. Upon
2 receipt from any source of a report of harm to a child from abuse
3 committed by a person responsible for the child's welfare, the depart-
4 ment shall notify the Department of Law and investigate the report
5 and, within 72 hours of the receipt of the report, shall provide a
6 written report of its investigation of the harm to a child from abuse
7 to the Department of Law for review.

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

9 Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department
10 or a law enforcement agency determines that there is reasonable cause
11 to suspect that a child has been abused or neglected by a person
12 responsible for the child's welfare, or as a result of conditions
13 created by a person responsible for the child's welfare, school offi-
14 cials shall permit the child to be interviewed at school by the de-
15 partment or a law enforcement agency before notification of, or re-
16 ceiving permission from, the child's parent, guardian, or custodian.
17 A school official may be present during an interview at the school
18 unless the child objects or the department or law enforcement agency
19 determines that the presence of the school official will interfere
20 with the investigation.

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

22 (b) Investigation reports and reports of harm filed under this
23 chapter are considered confidential and are not subject to public
24 inspection and copying under AS 09.25.110 and 09.25.120. However, in
25 accordance with department regulations, investigation reports may be
26 used by appropriate governmental agencies with child-protection func-
27 tions, inside and outside the state [ALASKA], in connection with
28 investigations or judicial proceedings involving child abuse, neglect,
29 or custody. A person, not acting in accordance with department

1 regulations, who with criminal negligence makes public information
2 contained in confidential reports is guilty of a class B misdemeanor.

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

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

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

14 (b) Notwithstanding (a) of this section, a person accused of
15 committing the child abuse or neglect is not immune from civil or
16 criminal liability as a result of reporting the child abuse or ne-
17 glect.

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

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

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

26 (2) if medically indicated, have a radiological examination
27 of the child performed by a person who is licensed to administer a
28 radiological examination.

29 * Sec. 15. AS 47.17.064 is amended by adding a new subsection to read:

1 (c) Notwithstanding the definition of "maltreatment" in AS
2 47.17.070, nothing in this chapter requires a practitioner of the
3 healing arts to test a newborn child's blood or urine for the presence
4 of a controlled substance.

5 * Sec. 16. AS 47.17.068 is amended to read:

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

11 * Sec. 17. AS 47.17.070(2) is amended to read:

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

17 * Sec. 18. AS 47.17.070(3) is amended to read:

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

22 * Sec. 19. AS 47.17.070(9) is amended to read:

23 (9) "practitioner of the healing arts" includes chiroprac-
24 tors, mental health counselors, dental hygienists, dentists, health
25 aides, nurses, nurse practitioners, occupational therapists, occupa-
26 tional therapy assistants, optometrists, osteopaths, naturopaths,
27 physical therapists, physical therapy assistants, physicians, physi-
28 cian's assistants, psychiatrists, psychologists, psychological associ-
29 ates, audiologists licensed under AS 08.11, hearing aid dealers

1 licensed under AS 08.55, religious healing practitioners, and
2 surgeons;

3 * Sec. 20. AS 47.17.070 is amended by adding new paragraphs to read:

4 (11) "criminal negligence" has the meaning given in AS 11.-
5 81.900;

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

8 (13) "maltreatment" means behavior that harms or threatens a
9 child's health or welfare, and includes conduct that results in a
10 controlled substance, as defined in AS 11.71.900, being found in a
11 newborn child's blood or urine unless administration of the controlled
12 substance to the mother or child was authorized under AS 17.30;

13 (14) "mental injury" means an injury to the emotional well-
14 being, or intellectual or psychological capacity of a child, as evi-
15 denced by an observable and substantial impairment in the child's
16 ability to function;

17 (15) "reasonable cause to suspect" means cause, based on all
18 the facts and circumstances known to the person, that would lead a
19 reasonable person to suspect that something might be the case;

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

22 (17) "sexual abuse" means criminal conduct under AS 11.41.-
23 410 - 11.41.455 or any other sexual behavior intentionally performed
24 in the presence of a child that harms or threatens the child's health
25 or welfare.