

Original sponsor(s): Judiciary Committee

1 IN THE SENATE BY THE HESS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 450 (HESS)

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 ne-
10 glect'."

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 persons
20 required to report suspected child abuse or neglect under this chapter
21 investigate the suspected child abuse or neglect before they make the
22 required report to the department. Reports must be made when there is
23 a reasonable suspicion of child abuse or neglect in order to make
24 state investigative and social services available in a wider range of
25 cases at an earlier point in time, to make sure that investigations
26 regarding child abuse and neglect are conducted by trained investiga-
27 tors, and to avoid subjecting a child to multiple interviews about the
28 abuse or neglect [APPROPRIATE PUBLIC AUTHORITIES]. It is the intent
29 of the legislature that, as a result of these reports, protective

1 8services will be made available in an effort to prevent further harm
2 to the child, to safeguard and enhance the general well-being of the
3 children in this state, and to preserve family life whenever possible.

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

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

10 (1) practitioners of the healing arts;

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

13 (3) social workers;

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

16 (5) administrative officers of institutions;

17 (6) child care providers;

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

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

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

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

1 reports shall be made to the nearest office of the department.

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

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

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

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

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

15 (2) is unable to determine

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

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

19 (3) concludes that the report involves

20 (A) possible criminal conduct under AS 11.41.410 -
21 11.41.455; or

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

24 * Sec. 6. AS 47.17.020 is amended by adding new subsections to read:

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

1 enrolled as a student, or (3) the harm occurred on the premises of the
2 school in which the child is enrolled as a student or on the premises
3 of a school within the district in which the child is enrolled as a
4 student, the law enforcement agency shall notify the chief administra-
5 tive officer of the school or district in which the child is enrolled
6 immediately after the agency determines that a child has been abused
7 or neglected under the circumstances set out in this section, except
8 that if the person about whom the report has been made is the chief
9 administrative officer or a member of the chief administrative offi-
10 cer's immediate family, the law enforcement agency shall notify the
11 commissioner of education that the child has been abused or neglected
12 under the circumstances set out in this section. The notification
13 must set out the factual basis for the law enforcement agency's deter-
14 mination. If the notification involves a person in the teaching
15 profession, as defined in AS 14.20.370, the law enforcement agency
16 shall send a copy of the notification to the Professional Teaching
17 Practices Commission.

18 (g) A person required to report child abuse or neglect under (a)
19 of this section who makes the report to the person's job supervisor or
20 to another individual working for the entity that employs the person
21 is not relieved of the obligation to make the report to the department
22 as required under (a) of this section.

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

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

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

1 provide

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

5 (2) at least once every five years, appropriate in-service
6 training required by this section as determined by the department or
7 school district.

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

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

12 (2) techniques for recognition and detection of child abuse
13 and neglect;

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

17 (4) procedures for required notification of suspected abuse
18 or neglect;

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

21 (6) a brief description of the manner in which cases of
22 child abuse or neglect are investigated by the department and law
23 enforcement agencies after a report of suspected abuse or neglect.

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

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

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

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

11 (a) A law enforcement agency shall immediately notify the de-
12 partment of the receipt of a report of harm to a child from abuse
13 committed by a person responsible for the child's welfare. Upon
14 receipt from any source of a report of harm to a child from abuse
15 committed by a person responsible for the child's welfare, the depart-
16 ment shall notify the Department of Law and investigate the report
17 and, within 72 hours of the receipt of the report, shall provide a
18 written report of its investigation of the harm to a child from abuse
19 to the Department of Law for review.

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

21 Sec. 47.17.027. DUTIES OF SCHOOL OFFICIALS. If the department
22 or a law enforcement agency provides written certification to the
23 child's school officials that (1) there is reasonable cause to suspect
24 that the child has been abused or neglected by a person responsible
25 for the child's welfare or as a result of conditions created by a
26 person responsible for the child's welfare; (2) an interview at school
27 is a necessary part of an investigation to determine whether the child
28 has been abused or neglected; and (3) the interview at school is in
29 the best interests of the child, school officials shall permit the

1 child to be interviewed at school by the department or a law enforce-
2 ment agency before notification of, or receiving permission from, the
3 child's parent, guardian, or custodian. A school official shall be
4 present during an interview at the school unless the child objects or
5 the department or law enforcement agency determines that the presence
6 of the school official will interfere with the investigation. Immedi-
7 ately after conducting an interview authorized under this section, the
8 department or agency shall make every reasonable effort to notify the
9 child's parent, guardian, or custodian that the interview occurred
10 unless it appears to the department or agency that notifying the
11 child's parent, guardian, or custodian would endanger the child.

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

13 (b) Investigation reports and reports of harm filed under this
14 chapter are considered confidential and are not subject to public
15 inspection and copying under AS 09.25.110 and 09.25.120. However, in
16 accordance with department regulations, investigation reports may be
17 used by appropriate governmental agencies with child-protection func-
18 tions, inside and outside the state [ALASKA], in connection with
19 investigations or judicial proceedings involving child abuse, neglect,
20 or custody. A person, not acting in accordance with department regu-
21 lations, who with criminal negligence makes public information con-
22 tained in confidential reports is guilty of a class B misdemeanor.

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

24 Sec. 47.17.050. IMMUNITY. Except as provided in (b) of this
25 section, a [A] person who, in good faith, makes a report under this
26 chapter, permits an interview under AS 47.17.027, or [WHO] partici-
27 pates in judicial proceedings related to the submission of reports
28 under this chapter, is immune from [ANY] civil or criminal liability
29 that [WHICH] might otherwise be incurred or imposed, except that a

1 person who knowingly makes an untimely report is not immune from civil
2 or criminal liability based on the delay in making the report.

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

4 (b) Notwithstanding (a) of this section, a person accused of
5 committing the child abuse or neglect is not immune from civil or
6 criminal liability for the child abuse or neglect as a result of
7 reporting the child abuse or neglect.

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

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

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

16 (2) if medically indicated, have a radiological examination
17 of the child performed by a person who is licensed to administer a
18 radiological examination.

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

20 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who
21 [KNOWINGLY] fails to comply with the provisions of [OR REFUSES TO
22 REPORT AS REQUIRED UNDER] AS 47.17.020 or 47.17.023 and who knew or
23 should have known that the circumstances gave rise to the need for a
24 report, is guilty of a class B misdemeanor.

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

26 (2) "child abuse or neglect" means the physical injury or
27 neglect, mental injury, sexual abuse, sexual exploitation, or mal-
28 treatment of a child under the age of 18 by a person [WHO IS RESPONSI-
29 BLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH] indicate

1 that the child's health or welfare is harmed or threatened thereby;

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

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

7 * Sec. 18. AS 47.17.070(6) is amended to read:

8 (6) "neglect" means the failure by a person responsible for
9 the child's welfare to provide necessary food, care, clothing, shel-
10 ter, or medical attention for a child;

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

12 (9) "practitioner of the healing arts" includes chiroprac-
13 tors, mental health counselors, dental hygienists, dentists, health
14 aides, nurses, nurse practitioners, occupational therapists, occupa-
15 tional therapy assistants, optometrists, osteopaths, naturopaths,
16 physical therapists, physical therapy assistants, physicians, physi-
17 cian's assistants, psychiatrists, psychologists, psychological associ-
18 ates, audiologists licensed under AS 08.11, hearing aid dealers li-
19 censed under AS 08.55, religious healing practitioners, and surgeons;

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

21 (11) "criminal negligence" has the meaning given in AS 11.-
22 81.900;

23 (12) "immediately" means as soon as is reasonably possible,
24 and no later than 24 hours;

25 (13) "maltreatment" means an act or omission that results in
26 circumstances in which a child appears to be a child in need of aid,
27 as described in AS 47.10.010(a)(2), except that, for purposes of this
28 chapter, the act or omission need not have been committed by the
29 child's parent, custodian, or guardian;

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

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

8 (16) "school district" means a city or borough school dis-
9 trict or regional educational attendance area.