

HB

545

POSITION PAPER

HOUSE BILL NO. 545

"An Act amending the child protection laws; and providing for an effective date."

House Bill No. 545 is comprised of nine sections, one of which amends 47.10.010, and seven of which amend 47.17, the child protection statute. Specific comments regarding each section follow:

Section 1. This amendment to 47.10.010(a)(2) provides for a new condition under which a child may be declared a child in need of aid (CINA). It reads as follows: (F) the child having suffered substantial mental or physical neglect as a result of conditions created by the child's parent, guardian or custodian.

While the Department supports adding mental harm to the conditions for CINA, a change is recommended in the wording, deleting physical neglect and reading instead: (f) the child having suffered substantial mental harm as a result of conditions created by the child's parent, guardian, or custodian. Physical neglect is already covered under AS 47.10.010(a)(2)(C) which states that there is "imminent and substantial risk that the child will suffer harm as a result of the actions done by or conditions created by his parent..."

The 1977 changes in the Children's Code were intended to clearly tie grounds for adjudication to the actual harm which would result to the child rather than to parental faults or habits. The Department favors keeping such a focus on the harms to the child.

Section 2. This amendment to 47.17.010 adds mental abuse to the harms which must be reported to the Department. It also deletes requiring the attention of a practitioner of the healing arts from the phrase pertaining to the harms, moving that phrase to the requirement to report.

This amendment appears to be consistent with other proposed changes, and is supported by the Department.

Section 3. This amendment strengthens the present provisions indicating persons who are required to report by including school administrative staff members. The Department supports this section as worded because there have been known instances of failure to report by some school districts. This change would make school administrators mandatory reporters also.

Section 4. This amendment expands persons mandated to report to include individuals involved in day care and foster care. The Department supports this section as worded because persons who are involved in day care and foster care may be in a position to identify abuse or neglect which may not come to the attention of others.

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Management and Budget Section

Section 5. This amendment expands the definition of child abuse or neglect which must be reported to include mental injury or neglect. There are instances in which mental injury or neglect may be the only indications that a child is in need of protection. Generally, persons are so conservative in their reporting that children who are in danger of harm fail to be reported. This would make it more apparent that protection is called for in situations where the more obvious problem may be an emotional problem but where often physical harm also exists.

Section 6. This section amends the definition of child to mean a person under 18 years of age. This amendment will resolve present inconsistencies in age which exist between AS 47.17.070(1) and (2). Since age 18 was the age used in the latest statutory revision of 47.17, it would appear that this age was intended to apply. This is the age used in AS 47.10 also. The Department supports this change.

Section 7. This section amends 47.17.070 to define "mental injury or neglect" to mean "injury or neglect to the intellectual or psychological capacity of a child evidenced by a substantial impairment to the child's ability to function within the child's normal range of performance and behavior."

The Department has serious concerns about this definition because it does not take into account cultural factors which affect a child's performance on psychological tests which measure intelligence or "normal behavior." With this definition it would become quite easy to justify identifying many children who are not of the dominant culture as being abused or neglected.

We would prefer to see this statute be consistent with 47.10.010(a)(2) (B) which specifies that mental harm is "evidenced by failure to thrive severe anxiety, withdrawal, or untoward aggressive behavior or hostility toward others."

Section 8. This section amends 47.17 by adding two sections. Section 47.17.064 permits a mandated reporter to take photographs of areas of trauma visible on a child and, if medically indicated, permits the taking of X-rays without parental permission. This amendment could be very useful in proving cases of physical abuse, and would generally have most utility where medical personnel are the first to suspect physical abuse. Under this proposed statute, a person required to report would be allowed to take photographs of bruised or fractured areas as well as to perform X-rays when either current or past fractures are suspected. Many severe cases of child battering show evidence, upon X-ray examination, of repeated fractures over several years which may have healed and which would not show up without radiological examination. The Department finds this to be a very significant strengthening of protection for vulnerable children.

Section 47.17.068 specifies that a person who is required to report abuse or neglect and who willfully or knowingly fails or refuses to report the harm is guilty of a class B misdemeanor. This is an important provision because under the current statute there is no sanction against ignoring or refusing to comply with the statute. The Department is aware of instances of severe physical abuse which have gone unreported because doctors or hospitals hesitated to get involved and knew there was no penalty for their not doing so.

The Department strongly supports both 47.17.064 and 47.17.068 as proposed.

Section 9. This section allows for an effective date of July 1, 1980, which appears to be a reasonable time for enactment.

Summary. In summary, the Department position is as follows:

- Section 1. Supports, with amendment
- Section 2. Supports
- Section 3. Supports
- Section 4. Supports
- Section 5. Supports
- Section 6. Supports
- Section 7. Oppose as worded, amendment suggested
- Section 8. Supports
- Section 9. Supports

RECOMMENDED BY: Art Holmberg DATE: 1-25-80
 Art Holmberg, Director
 Division of Social Services

APPROVED BY: Helen D. Beirne DATE: 2-4-80
 Helen D. Beirne, Commissioner
 Department of Health and Social Services

THE LEGISLATURE OF THE STATE OF ALASKA
ELEVENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 545

Title amending the child protection laws and providing for an effective date.

Requested by _____ Date January 25, 1980

II. FISCAL DETAIL

Agency Affected Department of Health and Social Services

Program Category Affected Social Services

BRU, Program, or Subprogram(s) Affected Social Services

(Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 79	FY 80	FY 81	FY 82	FY 83	FY 84
100 PERSONAL SERVICES	0	0	0	0	0	0
200 TRAVEL	0	0	0	0	0	0
300 CONTRACTUAL	0	0	0	0	0	0
400 COMMODITIES	0	0	0	0	0	0
500 EQUIPMENT	0	0	0	0	0	0
600 LAND & STRUCTURES	0	0	0	0	0	0
700 GRANTS, CLAIMS, ETC.	0	0	0	0	0	0
TOTAL	0	0	0	0	0	0

FUNDING (Thousands of Dollars)

GENERAL FUND	0	0	0	0	0	0
FEDERAL FUNDS	0	0	0	0	0	0
OTHER (Specify Fund Source)	0	0	0	0	0	0
	0	0	0	0	0	0
	0	0	0	0	0	0

POSITIONS

FULL TIME	0	0	0	0	0	0
PART TIME	0	0	0	0	0	0
TEMPORARY	0	0	0	0	0	0

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

This Bill has no fiscal impact on the Department of Health and Social Services. While these changes will probably add to the caseload, these additions will be absorbed by existing staff.

IV. DATE January 25, 1980

PREPARED BY Art Holmberg Art Holmberg, Director

AGENCY Dept. of Health & Social Services/Div. Soc. Svcs.

Original: Legislative Finance

PHONE 465-3170

cc: Budget and Management

Prime Sponsor (First Legislator Named)

*Reviewed by Michael Orlano
Director of Mgt & Budget
DHSS 1/28/80*

33-001 (Rev. 12/78)

SELECTED STATISTICS ON CHILD ABUSE AND NEGLECT

Region X
February 5, 1979

	Total	Alaska	Idaho	Oregon	Washington
1976	26,891	774	4089	*909	21,119
1977	30,839	**435	1095	*1023	28,286
1977***		1.2	1.3	.4	8.1

- * Abuse only
- ** Six months only
- *** Number of reports per 1,000 people

Attachments

#1

Alaska

Table 5.1 1977 Semi-annual report on involved children on validated reports, age and sex.

#2

Idaho

Type of abuse by age, sex and race. Disposition of cases for children still receiving services.

#3

Oregon

Abuse cases by months and years.

#4

Washington

Table 31 (one month)

TABLE 5.1
INVOLVED CHILDREN ON VALIDATED REPORTS
AGE AND SEX

STATE OF ALASKA
1977 SEMI-ANNUAL REPORT

AGE	-----ABUSE ONLY-----				-----NEGLECT ONLY-----				-----ABUSE & NEGLECT-----				-----ALL CASES-----			
	M	F	SUBTOT	COL X	M	F	SUBTOT	COL X	M	F	SUBTOT	COL X	M	F	SUBTOT	COL X
<1	5	6	11	14.5	5	8	13	7.0	1	1	2	3.6	11	15	26	8.2
1	3	2	5	6.6	3	6	9	4.8	1	2	3	5.5	7	10	17	5.3
2	4	3	7	9.2	5	4	9	4.8	2	1	3	5.5	11	8	19	6.0
3	3	2	5	6.6	3	2	5	2.7	4	1	5	9.1	10	5	15	4.7
4	2	2	4	5.3	9	4	13	7.0	1	1	2	3.6	12	7	19	6.0
5	0	0	0	0.0	5	9	14	7.5	1	0	1	1.8	6	9	15	4.7
6	4	2	6	7.9	5	5	10	5.3	0	5	5	9.1	9	12	21	6.6
7	3	2	5	6.6	2	4	6	3.2	3	2	5	9.1	8	8	16	5.0
8	2	2	4	5.3	2	4	6	3.2	2	3	5	9.1	13	9	22	6.9
9	1	1	2	2.6	10	7	17	9.1	2	2	4	7.3	13	10	23	7.2
10	2	1	3	3.9	11	5	16	8.6	2	0	2	3.6	15	6	21	6.6
11	0	0	0	0.0	3	9	12	6.4	4	0	4	7.3	7	9	16	5.0
12	3	1	4	5.3	8	5	13	7.0	1	3	4	7.3	12	9	21	6.6
13	1	0	1	1.3	6	4	10	5.3	2	1	3	5.5	9	5	14	4.4
14	1	3	4	5.3	3	7	10	5.3	1	1	2	3.6	5	11	16	5.0
15	1	6	7	9.2	2	6	8	4.3	2	1	3	5.5	5	13	18	5.7
16	0	3	3	3.9	2	3	5	2.7	0	2	2	3.6	2	8	10	3.1
17	1	4	5	6.6	1	3	4	2.1	0	0	0	0.0	2	7	9	2.8
TOT	36	40	76	100.0	92	95	187	100.0	29	26	55	100.0	157	161	318	100.0

MISSING OBSERVATIONS = 1

FOR TIME PERIOD FROM 06/25/76 TO 07/25/77

CHILD ABUSE/NEGLECT STATISTICS

DISPOSITION OF CASES FOR CHILDREN STILL RECEIVING SERVICES

	TOTAL CHILDREN REPORTED	RETURNED TO OWN HOME	PLACED IN FOSTER CARE	PLACED IN SHELTER CARE	PLACED IN RELATIVE HOME	RELEASED TO NEW FOR ADOPTION	COURT ACTION PENDING	OTHER DISP.
REGION I	174	6	11	5	1		71	82
REGION II	159	3	18	1	3		61	76
REGION III	250	18	18	5	9		132	72
REGION IV	298	11	30	2	5		60	199
REGION V	101	5	8		1		57	30
REGION VI	148		10				57	91
REGION VII	62	1	12	1			35	13
REGION VIII								
STATE TOTAL	1,192	44	107	14	19		473	564

WSS40SP REPORT 1

STATE OF IDAHO
DEPARTMENT OF HEALTH AND WELFARE

DATE OF RUM 12/29/77

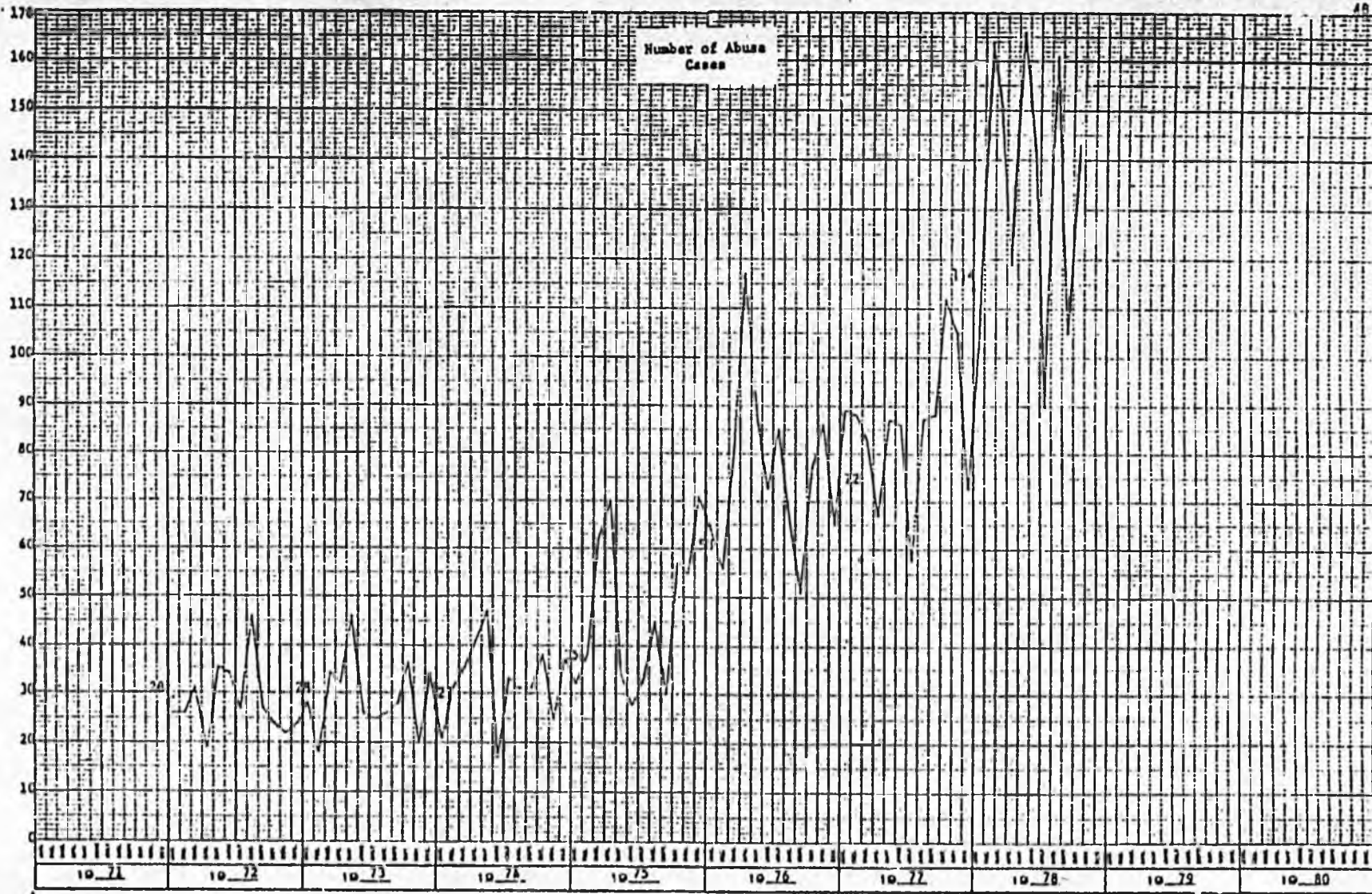
CHILD ABUSE/NEGLECT STATISTICS

DATE TIME PERIOD FROM 06/25/76
TO 07/25/77TYPE AND SEVERITY
BY AGE, SEX AND RACE

TYPE AND SEVERITY	FOR STATE						R A C E						TYPE TOTAL			
	UNDER	1-4	5-9	10-14	15-17	18-20	SEX FEMALE	SEX MALE	SEX UNKN	BLACK	INDIAN	ORIENTAL		SPANISH	WHITE	UNKN
BANDAGING		21	21	27	16		45	45	8	2	7		15	70	4	98
BATINGS	1	37	43	36	11	2	66	69	22	2	3			112	34	157
BITE FRACTURE		2	3	5	2		4	9			1			12		13
HAIR DAMAGE/ SKULL FRACTURE		2	1	3	1		1	6						7		7
BURNS, SCALDS		6	2	4		1	5	4	5		1			8	5	14
INGESTED DRUG ADDICTION			3	4			2	3	5				2	2	6	10
HITS, BLOWSES, WELTS		25	23	15	14	3	42	47	11	2	4		4	72	18	100
LOSS OF ARRIVAL		1	2	1			4	1					4	1		5
ISOLATION/SPPRINS		1	5	2	5	3	10	11			1		2	15	3	21
TWISTING/SHAKING																
EDUCATIONAL NEGLIGENCE	1	13	23	43	17	3	68	48	5	1	2		13	96	9	121
EMOTIONAL NEGLIGENCE	4	76	101	89	61	0	212	169	31	3	11		27	336	34	412
EXPOSURE TO ELEMENT	1	6	14	14	4	2	30	18	2		4		5	36	5	50
FAILURE TO THRIVE	1	21	10	5	3		21	23	4		3		2	34	7	40
PHYSICAL INJURIES		1		1				2						2		2
LACK OF SUPERVISION	2	44	56	72	29		123	91	29		21		15	170	27	243
LOCKING IN/OUT		1	6	4			3	8	1		3		1	7	1	12
ALNUTRITION	2	3	7	9	4	2	16	10	4		4			23	3	30
FOODICAL NEGLIGENCE	2	16	22	16	7	4	48	26	6		2		3	69	6	80
OTHER	12	59	52	66	29	6	128	102	30	1	15		12	193	38	267
PHYSICAL NEGLIGENCE	3	31	43	22	8	1	50	55	10		4		14	87	18	123
DISMEMBERING			2				1	1						2		2
SEXUAL ASSAULT	1	1	8	34	28	2	57	18	19	2	1		7	61	23	94
UNUSUAL HEMORRHAGE OR HEMATOMA		1		1			1	1						2		2
TOTAL	30	367	447	473	239	37	937	767	270	13	87	3	132	1,428	241	1,904
MULTIPLE TYPES	6	78	107	106	52	9	233	189	38	2	18	1	37	295	41	424

COUNT OF ADULTS (311)

OREGON



	JUL	AUG	SEP	OCT	NOV	DEC	JAN	FEB	MAR	APR	MAY	JUN	FY AVG.
CASES OF ABUSE BY MONTH													
FY 1971-72							26	26	31	19	35	34	28
72-73	27	46	27	24	22	24	28	18	34	32	46	26	28
73-74	25	26	28	36	20	34	21	31	35	41	47	17	27
74-75	33	31	31	38	25	37	32	38	62	70	34	28	35
75-76	33	45	30	57	55	71	64	56	81	117	88	73	58
76-77	85	66	51	77	86	65	89	88	83	67	87	86	72
77-78	58	87	88	112	105	73	102	164	150	119	166	142	114
78-79	90	161	105	143									125

Service month parameters are displayed.

TABLE 3I: PROTECTIVE SERVICES FOR CHILDREN: NUMBER OF CASES (CHILDREN) OPENED AND NUMBER SERVED, BY ADMINISTRATIVE UNIT, JUNE 1978 ^{1/}

LOCAL OFFICE OR ADMINISTRATIVE UNIT	CASES OPENED DURING MONTH	TOTAL SERVED DURING MONTH
TOTAL	2,136	10,661
Asotin-Garfield	16	53
Benton-Franklin	70	272
Chelan-Douglas	38	135
Clallam	21	65
Clark	61	719
Cowlitz-Wahkiakum	78	427
Crawt-Adams	61	93
Crays Harbor	94	357
Island	16	87
Jefferson	5	9
King, total ^{2/}	399	1,929
Kitsap	54	286
Kittitas	7	19
Klickitat-Skamania	36	88
Lewis	40	179
Mason	13	35
Okanogan	17	239
Pacific	12	42
Pend Oreille	3	63
Pierce, total ^{2/}	232	1,483
Skagit	46	190
Everett	140	644
Mountlake Terrace	65	414
Spokane-Lincoln	326	1,061
Stevens-Ferry	9	221
Thurston	58	349
Walla Walla-Columbia	39	225
Whatcom-San Juan	56	289
Whitman	4	84
Yakima	75	408
Toppanish	41	174
Sunnyside	4	22

^{1/} Protective services are specialized social services initiated on the basis of a complaint that a child or adult is being physically or emotionally neglected, abused, exploited or cruelly treated.

^{2/} Breakout by local office not available for Pierce and King Counties.

TABLE 3J: PROTECTIVE SERVICES FOR CHILDREN: OPENINGS BY SOURCE OF COMPLAINT, JUNE 1978

SOURCE OF COMPLAINT	NUMBER OF OPENINGS
TOTAL	2,136
Court/court staff.....	49
Law enforcement-prosecuting attorney, sheriff, police.....	256
School officials.....	188
Physicians (private practice).....	63
Health agencies.....	134
Within local office.....	80
Within other local offices.....	70
Other social agencies.....	124
Relatives.....	294
Neighbors.....	459
Anonymous.....	202
Other ^{1/}	217

^{1/} A total of 36 openings resulted from self-referrals.

TABLE 3K: PROTECTIVE SERVICES FOR CHILDREN: CLOSINGS BY REASON, JUNE 1978

REASONS FOR CLOSING	NUMBER OF CLOSINGS
TOTAL	2,478
No abuse/neglect exists.....	726
Family functioning with no further need for CPS or other service.....	630
Family functioning with no further need for CPS, referred to Ongoing Services or continued with Ongoing worker.....	235
Family functioning with no further need for CPS, referred to another agency or professional for other services.....	181
Family referred to Juvenile Court for removal of children.....	26
Child(ren) placed out of home, referred to children's worker.....	97
Family moved out of LO's jurisdiction.....	185
Family moved and can't be located.....	94
Family refused to cooperate, referral to Juvenile Court not possible.....	169
Other.....	135

REPORTING CHILD ABUSE

Who Reports or Causes a Report to be made?

In each of the states in Region X, any citizen may report a suspected instance of child abuse or neglect. Each of the states, however, have designated certain people as being required to make reports.

ALASKA: Required (no stated penalty)

In the performance of their professional duties, practitioners of the healing arts (chiropractors, dentists, health aides, nurses, optometrists, osteopaths, physical therapists, physicians, psychiatrists, psychologists, religious healing practitioners, and surgeons); social workers; school teachers; peace officers and officers of the Division of Corrections; and administrative officers of institutions.

IDAHO: Required (no stated penalty)

Any physician, resident on a hospital staff, intern, nurse, coroner, school teacher, day care personnel, social worker, or other person having reasonable cause to believe that a child under the age of eighteen (18) has been abused or who observes the child being subjected to conditions or circumstances which would reasonably result in abuse, shall report.

OREGON: Required (penalty--misdemeanor, fine of \$ 250)

Physicians (including interns and residents); dentists; school employees; licensed practical or registered nurses; employees of the Department of Human Resources, county health departments, community mental health programs, county juvenile departments, or licensed child care agencies; peace officers; psychologists; clergymen; social workers; optometrists; chiropractors; certified providers of day care, foster care or employees thereof; attorneys.

WASHINGTON: Required (penalty--misdemeanor)

Medical practitioners (licensed podiatrists, optometrists, chiropractors, registered or licensed nurses, dentists, osteopaths, surgeons, physicians, and religious healing practitioners); professional school personnel; social workers; licensed psychologists; pharmacists; employees of the Department of Social and Health Services.

What to Report?

ALASKA:

Abuse--Non-accidental infliction of injury or physical harm on a child's body.

Neglect--Failure to provide necessary food, care, clothing, shelter or medical attention for a child.

IDAHO:

Abuse--Any case in which a child has been the victim of conduct resulting in skin bruising, bleeding, malnutrition, sexual molestation, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, and such condition or death not justifiably explained, or at variance with the history given for it, or if circumstances indicate it may not be the product of an accidental occurrence.

Neglect--Without proper parental care and control or subsistence, education, medical or other care necessary for well-being because of the conduct or omission of his/her parents, guardian or other custodian or their neglect or refusal to provide them; whose parents, guardian or other custodian are unable to discharge their duties to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; who has been placed for care or adoption in violation of law.

Abandonment--Failure of parent to maintain a normal parental relationship with his child including but not limited to reasonable support or regular personal contact.

OREGON:

Any physical injury to a child which appears to have been caused by other than accidental means, including any injury which appears to be at variance with the explanation given of the injury; neglect which leads to physical harm; sexual molestation.

WASHINGTON:

Instances of non-accidental injury, neglect, death, sexual abuse, and cruelty to children by their parents, custodians or guardians, and instances where child is deprived of his/her right to conditions of minimal nurture, health and safety.

Definition of "Child"

ALASKA: Any person 16 years or under.

IDAHO: Any person under the age of 18.

OREGON: Any unmarried person under the age of 18.

WASHINGTON: Any person under the age of 18 and any developmentally disabled person, regardless of age.

How to Report?

ALASKA:

To whom? An immediate report should be made to nearest office of the Department of Health and Social Services. If unable to contact the nearest office and immediate action is necessary for the well-being of the child, a peace officer may be contacted and the situation reported to the Department at the earliest opportunity.

When? Immediately.

Information Required: Not specified.

IDAHO:

To whom? The proper law enforcement agency or, in the case of attending hospital or institutional staff, to the person in charge of the institution who shall make the necessary reports.

When? Within 24 hours.

Information required: Not specified.

OREGON:

To whom? The local office of the Children's Protective Services Division or the local law enforcement agency (city or municipal police department, county sheriff's office, Oregon State Police, or county juvenile department).

When? Immediately by phone or in person. Written reports are not required.

Information required: Names and addresses of the child and the adults responsible for her/his care, the child's age, nature and extent of the abuse (including any evidence of previous abuse), the explanation given for the abuse and any other information which might be helpful in establishing the cause of the abuse and the identity of the perpetrator of the abuse.

WASHINGTON:

To whom? Law enforcement agency or Department of Social and Health Services.

When? Immediately by phone (in writing, if requested).

Information required: Name, address and age of child; name and address of adult having custody; nature and extent of injury, neglect and/or sexual abuse; any evidence of previous injuries and their nature and extent; and any other information helpful to establish the cause of the injury and identity of perpetrator(s).