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COMMITTEE REPORT
SENATE

FURTHER: Finance

1/15/81

Date: _____

Mr. President:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had SB 89

amending the child protection laws

under consideration and (a majority of the committee) (the committee) reports it back with the following recommendations:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for SB 89 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation
- referred to the _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS:

CHAIRMAN

THE FOLLOWING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

Emotional Abuse of Children



The manner in which the emotional needs of children are met may be the single most significant factor in determining their attitudes, adjustment and performance.

A child's life may be impacted by emotional, verbal, emotional assault or emotional abuse. While all these situations may be abusive, not all such cases could be successfully taken to court to protect the child.

Emotional neglect is an act of omission, frequently the result of parental ignorance or indifference. As a result, the child is not given positive emotional support and stimulation. Parents may give adequate physical care to their child but leave him or her alone in a crib for long periods of time, seldom cuddle or talk to the child or fail to give him or her encouragement and recognition.

by Dorothy Dean

A child needs positive interactions, stimulation, security and a feeling of being loved and worthwhile which only a concerned and attentive caretaker can provide. If one or both of these are continuously missing, the child and a child's sense of self-worth is at a disadvantage and is reflected in the perception of self and in interactions with others.

Emotional attack is an attack on a child initiated by a parent or another adult which is done by a single incident or part of a continuing pattern. Most often it is a verbal assault—criticism, demeaning and emotionally devastating. The child feels attacked, vulnerable and frequently as he or she grows older, devalue. This may lead

to counterattacks which often escalate into estrangement and alienation of parent and child. A single, or infrequent, verbal assault is not sufficient to be considered emotional abuse, although the incident itself may be abusive.

In the extreme, an emotional assault and emotional assault may become emotional abuse and subject to court action.

Emotional abuse is the most difficult type of abuse to define and diagnose. Physical abuse and some sexual abuse involves tangible or observable evidence which can be documented and verified.

Dorothy Dean is Staff Development Supervisor and Coordinator of Family Units in Probation, San Diego County Probation Department, San Diego, California.

The victim, if old enough, can describe what occurred. Emotional abuse, however, is intangible. The wounds are internal but they may be more devastating and crippling than any other form of abuse. Emotional abuse also differs from other types of abuse in that the victim may not realize he is being abused and the abuser may not recognize his abusive behavior.

Many reporting laws now incorporate designations of "emotional abuse" or "mental suffering" but fail to define what they mean. Since there is a dearth of case law on emotional abuse, professionals are left in a quandary as to what does constitute emotional abuse and how such reports are viewed by the courts.

There are no consistent, accepted legal criteria for the determination of emotional abuse; the legal interpretation may vary from court to court. Some courts may refuse to recognize even the concept of emotional abuse. Consequently, few cases appear before the courts because of the difficulty in establishing both the emotional abuse and the need for legal intervention. Behavioral sciences may recognize and accept situations as emotional neglect or abuse which would not be upheld in a court of law. The entire area of emotional abuse requires difficult judgments and most courts are hesitant to intercede unless the effects of the emotional abuse are both extreme and readily apparent.

In this article, emotional abuse can be defined as a chronic attitude or act on the part of a parent or caretaker that is detrimental to, or prevents the development of, a positive self image in the child. This is an extremely broad definition and it should be emphasized that consideration of parents' attitudes or actions should not be limited to isolated instances, which probably occur in all families. Emotional abuse involves a persistent, chronic pattern of behavior toward a child, which then becomes the dominant characteristic in the child's life.

The difficulty in recognizing and understanding emotional abuse and the fact that many children themselves are unaware of being abused, results in many cases remaining unrecognized.

If a child is unaware of the abuse, and the parent is unaware that he or she is abusing, why should society concern itself?

Children who grow up under negative conditions, constantly being criticized, scapegoated and belittled, are not going to become competent adults capable of developing their full potential. They in-

corporate the image in which they have been cast by their parents and live with all the negative feelings they have developed as a result. They may develop character and behavior disorders, mental illness or, at best, become persons filled with self-doubt and internal anger. They view themselves as less desirable, less intelligent and less competent than their peers. Handicapped in establishing positive and effective relationships, they develop into adults who are less effective than they could be.

Three categories of emotional abuse have been presented successfully in the San Diego County Juvenile Court. They may be identified as those involving one or more of the following characteristics:

- An act that in itself is sufficient to establish abuse.
- Differential treatment of one child in the family.
- A reduction in the child's functioning that can be linked to abusive treatment.

In preparing a case for court, it is important to identify which of these characteristics or criteria are present and to document each one as extensively as possible. It is also necessary to show that the emotional abuse has had a detrimental effect upon the child.

Emotional abuse is the most difficult type of abuse to define and diagnose.

The following cases of Patty, Mark and Sandra illustrate emotional abuse resulting from an act sufficient in itself to establish abuse.

When Patty misbehaved, her parents identified the behavior and made her wear signs labeling it—"I am a liar" and "I hit my little sister." For example—wherever she was.

As punishment for his "stiffness," Mark was made to stand in the front yard clothed only in a diaper. What was embarrassing and shameful to a child is also humiliating and humiliating in the extreme for an adult.

Discipline and punishment for both Mark and Patty involved public humiliation. The court had to be shown to be emotionally abused, based on a child's right to reasonable and just discipline in the privacy of the home. Subjecting a child to public scorn was also considered abusive and of gross discipline.

Sandra's situation was similar but with a major difference—her case was

a one-time occurrence. Because Sandra returned home late one evening, her parents shaved her head. The emotional trauma that resulted affected her school attendance, employment and relationships with others. Sandra would not voluntarily leave her house and when forced to go out she wore a stocking cap to conceal her baldness. The court deemed her punishment inappropriate, resulting in obvious long-term effects and continuing mental suffering.

A type of abuse which most frequently comes to the attention of the courts is that in which there is an observable difference in the way one child is treated compared to other children in the home. Cindy's case is such an example.

When Cindy was eight, she was referred by school authorities. Her teachers were concerned that Cindy was being treated differently at home than her brothers and sisters and felt that she needed protection from the negative attitude displayed toward her. Not only the parents but the other children in the family scapegoated Cindy.

The school staff described a "Cinderella syndrome." Cindy was the child in the family who always wore cast-off clothing, was required to do more household tasks than the other children and was not given the same privileges and opportunities. The other children were allowed to join Brownie troops and Boy Scouts but Cindy was not allowed to join or participate in any outside activities. The family ate in the dining room—except for Cindy, who ate in the kitchen standing at the drainboard. The mother never visited Cindy's classroom nor inquired about her progress.

The contrast between her treatment and that of the other children in the family was obvious, tangible and observable. The parents felt that Cindy was different from all other children, and that her treatment was due to her own inability to integrate well into the family. She was seen as a difficult child most whom rigid discipline and control had to be exercised.

Cindy had been characterized in this way throughout her developmental years. She learned to read at less than five years and less desiring than the other children. She was depressed and unhappy about her inability to participate with the family but felt she was bad and did not deserve to be included.

Cindy is typical of many children who, for one reason or another, are treated by their parents and relegated to a position in the family which makes them unwanted and unwanted, and succeeds in

making them feel that there is a justifiable reason for the rejection. Like many other children in her position, Cindy did not fight back. She accepted her role without question, or without antagonism. She is one of the youngsters who can become the perpetual victims of society, one of those whose low self-esteem permits them to be used and abused in an uncomplaining and compliant manner.

Paul is a child whose reduced functioning could be linked to emotional abuse. Paul had been placed in an adoptive home when he was three weeks old. His adoptive parents, a young, professional couple, had material advantages and an unquestionable desire to be parents. As Paul grew older, however, he failed to develop some characteristics that his parents found desirable. "Paul was a cute baby, but he isn't a cute child," his mother said. She felt he was less physically attractive than she had expected and she detested the freckles he had developed.

When Paul entered school he did not

There are no consistent, accepted legal criteria for the determination of emotional abuse . . .

perform academically as well as the parents demanded or complete successfully in sports. His failure to be an outstanding student was upsetting to both parents, and his lack of accomplishment in sports was upsetting to the father. His parents, in many subtle ways, let Paul know that he was a disappointment to them. Paul got the message early in life that he had been adopted and given a home and, in return, was expected to perform at a standard which he was failing to achieve. Paul later said he felt "like a idiot who should be kept out of sight." He was also feeling guilty about failing to meet the needs of his parents.

At 12, Paul was sent to a private midwestern school, an excellent one only for holidays. Paul's worst rejection by his parents came when he was 14 and was waiting for them to pick him up for Christmas vacation. The students and most of the staff at his school were already gone when he was called into the office and told that his parents were enroute to Mexico City for the holidays. They had left without talking to him or explaining why they did not include him in their holiday trip. At that point he

hated his parents for not loving him, his natural mother for giving him up, and himself for being incapable of holding the love of either.

Paul ran away at age 10 and was referred to court. The reduction of functioning he displayed was apparent and documented by the schools he had attended. Despite a good I.Q., he had tested progressively lower at ages 12 and 14 than he had at age seven. His school records showed lower grades, shorter attention span and acting out behavior after each incident of parental rejection. By documenting specific instances when emotional abuse had occurred and showing a chronic pattern of reduced functioning, Paul was accepted by the court as an emotionally abused minor.

Although the parents of Cindy and of Paul may not have understood all the emotional implications of their behavior, they were aware that their actions were causing their child to be distressed, disappointed and isolated. Many times, however, emotional abuse is inflicted without the parents being aware of it or recognizing that they are causing emotional damage to their child. Troy's mother was such a parent.

Troy lived with his mother and elderly grandmother. Troy's unmarried mother had been unwilling to ask a man to accept her illegitimate child. The grandmother frequently told Troy that his father had seduced her daughter and then refused to marry her. Both mother and grandmother identified Troy with the father, to whom they made continuous negative references. Troy was given no recognition for his good behavior, but when he did something wrong he was compared to the father.

By the time Troy was 12 he had successfully incorporated a negative self-image. He considered himself to be lazy, unreliable, untrustworthy and bad. He also bore considerable guilt because of his identification with the father and he saw himself as the reason his mother could not marry. By age 12 he was a chronic runaway. He accepted an image of himself as of no value and believed that he would live out his life causing problems and trouble for other people. He felt his mother would be better off and happier if he were not in the home.

When Troy's mother was interviewed it was evident that she had never thought of Troy as an individual but only as an extension of his father. She loved her son, however, and willingly accepted counseling to reevaluate her relationship with Troy and learn to recognize his good qualities and help build a more

positive self-image.

Paul and Troy were referred to court for running away, not for emotional abuse. Paul was made a dependent child on the evidence of emotional abuse. No legal action was taken on behalf of Troy and proving emotional abuse would have been difficult. The pattern was evident but specific instances of abuse were not documented or linked to dysfunctional behavior.

Many children experience more than one characteristic of emotional abuse. Perhaps the most difficult of all to define, particularly before a court of law, is that in which parents have set such high standards for their children that they can never be reached. As a result, the children experience a constant cycle of defeat and failure. The intentions of the parents may be both legitimate and positive but the results can be devastating. Many parents who set high standards and are strict with their children are not abusive. However, when the standards become so unrealistic that a child can never attain them, and the parent is

An agency should . . . be an active advocate for children and intervene before a child's reactive behavior becomes the issue.

constantly critical of the child's failure, it becomes abuse.

Parents can maintain high standards for their children yet give them positive feelings about themselves and their abilities. Even if children know they will never achieve the standards, they still feel good about themselves because they receive recognition for their achievements and know that they are loved and a source of pride to their parents.

Ricky's is a classic case, one in which the positive elements were missing. His hard-working, conscientious parents never demonstrated affection toward their children and drove Ricky in the same manner they drove themselves, requiring that he excel in everything. Ricky was the oldest and therefore expected to perform at maximum capability at all times. The demands on the younger children were not as extreme and their punishment for failure less severe. Ricky was an honor student and an Eagle Scout. He had little interest in football but played because it was important to his father. His parents' work

(Continued on inside back cover)

Title XX funds. One faculty member, who was designated program co-director, has acted as a liaison with other college departments and offices and as coordinator of the training provided by other college faculty members. In addition, she has participated with the program director in weekly supervisory sessions for the home consultants.

Other college departments were also involved in the consultants' training over the 2-year period. For example, the Learning Center, a diagnostic facility for school-age children with learning difficulties, invited the trainees to attend staff meetings and observe individual testing sessions, and the college's laboratory school provided, in addition to observation opportunities, a series of workshops presented by a team of cur-

riculum specialists.

Conclusion

The connections described here, beginning in the neighborhood and growing to reach family day care mothers in every area of the state, have been accomplished with the assistance, involvement and commitment of many people. The day care providers themselves, and the children in their care, are benefitting from an ongoing education and training program. For the visiting home consultants, whole new career possibilities have now opened, for the skills they have developed may also be applied to foster care, parent education, child abuse and neglect and other programs.

By developing a sequential model of

training selected family day care mothers to then train other day care providers, we feel that we have initiated a program of exciting potential. It has been demonstrated that the training model is effective—and it can easily be adapted to programs in other parts of the country. We hope that by sharing Rhode Island's family day care story, other communities will be encouraged to take a look at some "connections" that might be made in the interest of families and children so that we may all continue to strengthen the potential for family day care. □

¹Television tapes are available for rental or purchase from the Television Department, Rhode Island College, Providence, R.I. 02908.

²Final Evaluation Report, Family Day Care Program, Rhode Island College and Day Care Services (Department of Social and Rehabilitative Services), August 1977.

Emotional Abuse (Continued from page 20)

ethic required the Ricky work hard and not involve himself in non-productive activities. Friendships were discouraged and when he was not at school he was at home. Family activities were done as a group and he was expected to participate.

Ricky was constantly criticized. Because his father had set impossibly high standards, Ricky was in the untenable position of never being able to satisfy him. No matter how successfully he was viewed by his friends, classmates and teachers, he was seen at home as a failure and a disappointment. Ricky was never allowed to air his feelings at home. The father's control was total and it was evident that Ricky had been indoctrinated and conditioned to the extent that he was unable to develop the normal escape mechanisms usually available to children in similar situations—running away, asserting himself or rejecting his father's standards. Instead, with each rebuttal by his father, he tried harder and continued to experience the cycle of defeat, frustration and rejection. The constant pressure began to be reflected in his performance. His grades slipped from A's to B's and C's, he began to lose weight, and his coach commented that he sometimes seemed disoriented and confused. Under increased pressures, he attempted suicide.

This is a tragic example of a situation in which a parent makes unrealistic de-

mands on a child without considering their effects on him or her. Ricky's parents are similar to others who feed their children well, provide them with good physical surroundings in which to grow, give them appropriate clothing and the advantages that they can afford, and yet fail to nurture them in the most impor-

Agencies should . . . help to establish a network of community services to provide counseling to families in which emotional abuse occurs.

tant way by helping them to develop self-esteem, and the knowledge that they are wanted, loved and appreciated. If anyone had suggested to Ricky's parents that they were emotionally abusive, they would probably have been shocked at the suggestion and insisted that all they wanted was to make certain that their son achieved his highest possible potential. Yet they were insensitive to the fact that his most basic need was not being met and neither parent recognized the impact of their behavior on Ricky's emotional health.

All of the children described here have one thing in common—low self-

esteem, accompanied by feelings of guilt and an assumption that they are responsible for being unworthy of their parents' love.

Agencies responsible for the protection of children should take the initiative in developing an action plan if court intervention has not been a recourse in cases of emotional abuse. Such a plan might incorporate the following steps:

- Contact the Juvenile Court and establish agreement on definitions and guidelines for court referrals.
- Document the abuse and its negative impact on the child.
- Use expert witnesses such as psychiatrists and psychologists.
- Determine what other interventions have been attempted and what results were achieved.

Agencies should also:

- Educate both the public and those in the juvenile justice system to recognize and report emotional abuse.
- Be an active advocate for children and intervene before a child's reactive behavior becomes the issue.
- Help to establish a network of community services to provide counseling to families in which emotional abuse occurs.

Emotionally abused children can be protected. Many identified families are willing to accept counseling but if official action is necessary there should be no hesitation by the designated agency to initiate court action to protect a child. □

THE PRECEDING DOCUMENT(S) MAY NOT FILM
LEGIBLY BECAUSE OF POOR QUALITY OF THE
ORIGINAL.

POSITION PAPER

SENATE BILL NO. 89

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

The Department of Health and Social Services is supportive of Senate Bill No. 89 amending the child protection laws, but suggests the following three amendments:

1. In Section 7 of Senate Bill 89, defining "mental injury or neglect," the Department recommends adding the phrase "with due regard to his culture." Experts in psychological testing acknowledge that cultural distortion is inherent in most measures of intelligence, so that a child of a culture different from the majority culture may have a low IQ score, but not be truly impaired intellectually. If amended, the definition would then read:

"mental injury or neglect means 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, with due regard to his culture."

2. The Department recommends an amendment to AS 47.10.142(a), the emergency custody statute, to more clearly protect the young sexually abused child, by adding a new subsection to read:

AS 47.10.142(a)(4) the minor has been sexually abused under circumstances defined in AS 47.10.010(a)(2)(C).

When the Children's Code was revised in 1977, there were no changes made in AS 47.10.142. The recommended amendment would more clearly protect the sexually abused child who is too young or too intimidated to refuse to return home. Although the definition of abuse includes sexual abuse, AS 47.10.142 (3) qualifies the taking of emergency custody of an abused child in a situation where "immediate medical attention is necessary." In most instances of sexual abuse, medical attention is indicated, but some might question whether it is "immediately" needed. Yet in most situations of sexual abuse, emergency custody is indicated. Reasons for this include: a) the pressures a child experiences from family members not to tell; or if they already have, to change their story; b) the child does not feel safe; c) there is a potential of physical retaliation; d) the telling does not prevent continuing sexual abuse from occurring; e) when the family convinces the child to change the story, the Department has no grounds to continue to intervene to protect the child; and f) the family generally will not accept the problem and stop the abuse without intervention. The Department views this recommended change as being consistent with AS 47.10.010 and AS 47.17, as well as with Senate Bill No. 89.

3. The Department also recommends amending AS 47.17.010 to require the reporting of sexual exploitation, as well as sexual abuse. Sexual exploitation includes prostitution, as well as pornographic filming or photography of a child. Alaska's Criminal Code makes it an offence for any person to induce or employ a child under 16 years of age to engage in obscene films (AS 11.41.455), and for a person to induce or cause a child to engage in prostitution (AS 11.66.110). However, without the requirement of reporting, our Department may be unable to investigate the circumstances of children who are being sexually exploited. The Department proposes the following definition be added to AS 47.17.070:

"Sexual exploitation includes allowing, permitting, or encouraging a child to engage in prostitution as defined by AS 11.66.110 by a person responsible for the child's welfare; and allowing, permitting, encouraging, or engaging in the obscene or pornographic photographing, filming, or depicting of a child for commercial purposes as those acts are defined by AS 11.41.455 by a person responsible for the child's welfare."

Senate Bill No. 89 has no fiscal impact on the Department of Health and Social Services.

RECOMMENDED BY:

John R. Pugh
John R. Pugh, Director
Division of Family and
Youth Services

DATE:

2/2/81

APPROVED BY:

Helen D. Beirne
Helen D. Beirne
Commissioner

DATE:

2/4/81

House Judiciary Changes to SB 89

DELETED:

1. the term "Sexual exploitation"
2. Reports required of school administrators, day care and foster care

New sections:

Sec. 4 - States that 47.17 does not prohibit any person, or person in nonprofessional capacity from reporting suspected abuse.
Report to department or law enforcement agency

Sec 5 - if immediate action is necessary, the depart, law enforcement agency or peace officer shall take action to protect the child

Sec 6 - a form for child abuse/neglect is created

Sec 7 - law enforcement agency shall immediately notify the department of report and vice versa
72 hrs for depart. to notify the Dept of Law,
investigate and write report
list info required for reporting

photos & x-rays - adds department to section and soap department will pay the cost.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y - STATE CAPITOL
JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 8, 1982

SUBJECT: Child protection laws
(HCS CSSB 89 (Judiciary))

TO: Representative Ramona L. Barnes
Chairman, House Judiciary Committee

FROM: Richard A. Bradley
Legislative Counsel *R.A.B.*

You have requested a sectional analysis of HCS CSSB 89 (Judiciary).

The sections of the bill constitute amendments to AS 47.10, a chapter dealing with "delinquent minors and children in need of aid" and to AS 47.17, a chapter dealing with "child protection".

Sec. 1 of the bill amends AS 47.10.010(a)(2), a section dealing with the jurisdiction of the superior court over a "child in need of aid"; the section adds the instance of a "child suffering substantial physical abuse or neglect as a result of conditions created by the child's parent, guardian, or custodian".

Sec. 2 is a similar provision; it amends AS 47.10.142, a section granting the Department of Health and Social Services "emergency custody and temporary placement (pending a) hearing" in a situation where "the minor has been sexually abused under circumstances listed in AS 47.10.010(a)(2)(D)". The circumstances listed in AS 47.10.010(a)(2)(D) relate to a child in need of aid as a result of sexual abuse by a parent, guardian, or custodian, as a result of conditions created by a parent, guardian, or custodian, or because of the failure of a parent, guardian, or custodian to supervise the child adequately.

May 8, 1982

Sec 3 amends AS 47.17.010, to add "sexual abuse" to the "purpose" section of AS 47.10, "child protection".

Sec. 4 repeals and reenacts AS 47.17.020(b); as requested, it added "or a law enforcement agency" to the end of the section. The further amendments made to the section clarify the technical terms used in the bill.

Sec. 5 repeals and reenacts AS 47.17.020(c). As requested, it added to the list of persons directed to take action to protect the child. As revised, this subsection is simplified and clarified.

Sec. 6 adds a new subsec. 20(d); the section specifies that a form for the report of harm to a child may be obtained from the agencies involved in providing protection to the child.

Sec. 7 adds a new sec. 25.

Sec. 25(a) provides that a law enforcement agency shall "immediately" notify the Department of Health and Social Services on a report of harm to a child from abuse or neglect. When it receives the report, it is required to investigate the report and within 72 hours of the receipt of the report, provide a written report of the investigation to the Department of Law for review.

Sec. 25(b) specifies what is to be included in the report from the Department of Health and Social Services.

Sec. 25(c) requires the Department of Law to review the report and to take appropriate action in consultation with the Department of Health and Social Services.

Sec. 8 includes a new sec. 64. The section permits the Department of Health and Social Services or a person required to report the "substantial harm as a result of physical abuse or neglect" to take photographs indicating the injury or to have a radiological examination (X-rays) performed. The section permits the examination to take place without the permission of the parents and at the expense of the Department of Health and Social Services.

Representative Ramona L. Barnes
Page 3
May 8, 1982

Sec. 9 amends AS 47.17.070(1), a part of the definitions section to add "or neglect" to the phrase "physical injury", a part of the definition of "child abuse or neglect".

In AS 47.17, the unmodified term "department" describes the Department of Health and Social Services. See AS 47.17.070(3), in existing law. If responsibility is given to a different department, the full name of that department is used.

RAB:ljb

Original sponsors: Parr, Fahrenkamp,
Fischer and Stimson

1 IN THE SENATE

BY THE RULES COMMITTEE

2 CS FOR SENATE BILL NO. 89 (Rules)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act amending the child protection laws; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 47.10.010(a)(2) is amended by adding a new subparagraph
10 to read:

11 (F) the child having suffered substantial physical abuse
12 or neglect as a result of conditions created by the child's parent,
13 guardian or custodian. *need of act*

14 * Sec. 2. AS 47.10.142(a) is amended by adding a new paragraph to read:

15 (4) the minor has been sexually abused under circumstances
16 listed in AS 47.10.010(a)(2)(D). *emergency custody*

17 * Sec. 3. AS 47.17.010 is amended to read:

18 Sec. 47.17.010. PURPOSE. In order to protect children whose
19 health and well-being may be adversely affected through the infliction,
20 by other than accidental means, of harm through physical abuse or neglect
21 or sexual abuse or sexual exploitation [REQUIRING THE ATTENTION OF A
22 PRACTITIONER OF THE HEALING ARTS], the legislature requires the reporting
23 of these cases by practitioners of the healing arts and others to the
24 appropriate public authorities. It is the intent of the legislature
25 that, as a result of these reports, protective services will be made
26 available in an effort to prevent further harm to the child, to safeguard
27 and enhance the general well-being of the children in this state, and to
28 preserve family life whenever possible.

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

shall report

(2) school teachers and school administrative staff members;

* Sec. 5. AS 47.17.020(a) is amended by adding a new paragraph to read:

(6) individuals involved in day care and ^{*shall report*} foster care.

* Sec. 6. AS 47.17 is amended by adding new sections to read:

Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. A person required under this chapter to report that a child suffered ^{*substantial*} harm as a result of physical ^{*substant*} abuse or neglect may without the permission of the parents

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

(2) if medically indicated, have a radiological examination of the child performed.

Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person required to file a report of abuse or neglect under AS 47.17.020 who wilfully or knowingly fails or refuses to report the harm required under AS 47.17.-020 is guilty of a class B misdemeanor.

* Sec. 7. AS 47.17.070(1) is amended to read:

(1) "child abuse or neglect" means the physical injury or neglect, sexual abuse, sexual exploitation, or maltreatment of a child under the age of 18 by a person who is responsible for the child's welfare under circumstances which indicate that the child's health or welfare is harmed or threatened thereby;

* Sec. 8. AS 47.17.070 is amended by adding a new paragraph to read:

(7) "sexual exploitation" means

(A) permission or encouragement to a child for prostitution prohibited by AS 11.66.100 - 11.66.150 by a person responsible for the child's welfare;

(B) permission, encouragement, or activity involved in the unlawful exploitation of a minor prohibited by AS 11.41.455 by a person responsible for the minor's welfare.

1 * Sec. 9. This Act takes effect July 1, 1982.
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55 89 file



THE CENTER FOR CHILDREN AND PARENTS

February 16, 1981

Charles H. Parr
Pouch V
Juneau, Alaska 99811

Dear Senator Parr:

This is a brief progress report on the work of the Anchorage Child Abuse Board, Inc. during the past year and thumbnail description of our goals for the coming year.

When measured over a lifetime, the cost of poor parenting and child abuse to the whole society is staggering. Virtually everyone in the prisons and mental hospitals was victimized by abuse and poor parenting. Lifelong patterns of dysfunction in the work place can frequently be traced to authority problems rooted in early child abuse. There is a direct correlation between behavior problems in the public schools and child abuse in the home.

According to the National Center for Child Abuse and Neglect, the state of Alaska has three times the rate of child abuse of any state of similar population. The staff of the Anchorage office of the State Division of Family and Youth Services, which has the civil authority to investigate and supervise child abuse and neglect cases, receives seventy to eighty new case reports monthly; fifteen percent of those are incest and child sexual abuse. This Anchorage rate of reported cases of child abuse is two times that of New York City on a per ten thousand population basis.

The Anchorage Child Abuse Board, Inc., a private, non-profit corporation and its programs, are separate from the Alaska State Division of Family and Youth Services (DFYS). The Board's programs are designed, however, to complement and support the case management activities of this public agency. Over the past year and a half a close working relationship has developed between the two agencies. The Board's Consultation Team meets monthly with state staff. In addition, the Board's clinical therapists have designed an incest treatment program in conjunction with DFYS staff to serve their clients. This program, the only one of its kind in the state, has served thirty-eight incest involved families since April 1980.

The Anchorage Child Abuse Board, Inc. has been in operation and providing services continuously since 1972. It is the oldest, largest and best established child abuse prevention and treatment center in Alaska with a proven track record of producing good results.

The Board has, during the past year, concentrated on the development of a tight fiscal and program management system to assure that funding will be used to maximum effectiveness. From our perspective cost effectiveness is more than cost containment. It ultimately means vastly extending the ratio of services delivered to dollars spent. Unless this is accomplished, even with the seemingly plentiful resources of the state of Alaska, the depth of social problems will far outstrip our ability to address them.

The Board employs two methods to stretch program dollars: a clinical treatment model involving professionally supervised self-help groups, and extensive use throughout the agency of community volunteers. Last year 102 volunteers gave 7,635 hours of service to the agency. This contribution of time and energy extends the service capacity of staff 40% and represents a cash equivalency of \$127,766 for the agency.

The Board's pride in its program management system was reaffirmed once again this year by a positive auditor's report, without qualification, from Peat, Marwick, and Mitchell, and Company. The audit revealed that administrative costs of programs were reduced from 25% in 1979 to 20% in 1980. This reduction is in line with the Board's policy of converting as many administrative dollars to direct service dollars as possible, while still maintaining fiscal and program accountability.

During the coming year, the Board's efforts will concentrate on the expansion of the prevention components as well as increased efforts to meet the high demand for treatment services.

As always, the goal of services is strengthening and maintaining the family unit while assuring the safety of children. The Board's programs and services are as follows:

PARENT AIDE SERVICES--This program consists of 25 trained, volunteer lay therapists, working one-to-one with abusive, or potentially abusive parents delivering in excess of 2,126 hours of direct counseling and support services to parents under staff supervision. In addition, staff organized and trained a 12 person parent aide unit in 1980 which serves the military community in Anchorage. Projection for FY82: Same.

CLINICAL SERVICES Three professionally trained family therapists in this unit provide counseling to abusing, or high-risk parents and their children. These therapists are specially trained to provide counseling and therapy to incest victims and their families. Group therapy is used whenever possible for cost-effectiveness. This unit served 92 families (22 individuals) in 1980. Incest involved families numbered 38 for the eight months that treatment services were offered to this group. Projection for FY82: Five therapists serving 200 families.

COMMUNITY EDUCATION AND TRAINING SERVICES-- Staff and professional volunteers provide education and training for the lay and professional communities in methods of identifying, reporting and referring child abuse and neglect cases. Some 19 people provided 221 hours of education to 2,737 people. This unit also provided parenting skills training classes to 120 parents in 1980. Projection for FY82: 500 hours of community education and training classes for 150 parents.

PROFESSIONAL CONSULTATION SERVICES -- A pediatrician, a psychiatrist, a social worker and a public health nurse join to provide weekly volunteer consultation to others who work with child abusing families to increase their effectiveness and case management skills. During the year the Team provided 280 consultation hours to over 50 professionals with direct benefits to 200 family members. These professional team members donated in excess of \$17,000 worth of their professional time to the agency in 1980. Projection for FY82: Same.

CRISIS NURSERY--INTERMISSION-Time Out for Parents, is a short-term, residential crisis nursery which provides up to three days care for children at high-risk of child abuse at the hands of their parents. This program is designed to prevent child abuse by giving isolated, desperate parents time away from their young children in times of crisis and stress. Staff and volunteers served 493 children in 1980. A new facility with expanded capacity has recently been leased. Projection for FY82: 1,000 children served.

VOLUNTEER SERVICES--This unit has responsibility for recruitment, training, assignment and evaluation of all volunteers at the Center for Children and Parents. Supervision is done in the service unit to which the volunteer is assigned. Volunteers have been an integral part of all the Board's programs since operations began in 1972. In 1980, 102 volunteers served the agency giving 7,635 hours of their time. Their contributions extended the direct service capacity of staff by 40%. Projection for FY82: 150 volunteers donating 10,000 hours of service.

The Anchorage Child Abuse Board, the staff and volunteers, and the families who have been touched and healed, wish to express their appreciation to you for your support in FY 1981.

Sincerely,



Michael E. Walti, MSW
Executive Director

TABLE OF APPENDICES

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Appendix II	Need for Services and Extent of the Problem: Documentation
Appendix III	FY 82 Budget
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Appendix I

Corporate Goals and Philosophy

CORPORATE GOALS

The Anchorage Child Abuse Board, Inc., a non-profit corporation, exists for the following reasons:

- 1) To develop the capacity of the State of Alaska, with emphasis on the Anchorage Community, to respond to the devastating effects of child abuse and neglect.
- 2) To eliminate or reduce the permanent and traumatic effects of child abuse and neglect.
- 3) To stop the cycle of abuse and neglect in an effort to prevent future generations from suffering.

CORPORATE PHILOSOPHY

- 1) To treat, not punish, families in which abuse and neglect occurs.
- 2) To maintain the family unit if the safety of the child can be assured.
- 3) To teach parents new ways of managing their children that do not involve abuse.

Appendix II

Need for Services and Extent of the Problem:
Documentation

NEED FOR SERVICES AND EXTENT OF THE PROBLEM

NATIONWIDE

Child abuse and neglect occurs in all segments of the community. No group is exempt. Abuse and neglect are not restricted by social class, race, religion, ethnic background, or sex.

ALASKA

Families in Alaska, and especially Anchorage, have many of the characteristics that contribute to placing them at high risk for abusing and neglecting their children. These characteristics include:

- 1) Social isolation from friends, extended family, and church and social groups.
- 2) Inability on the part of high risk families to make use of existing community resources and services.
- 3) Rigid expectations of children.
- 4) Multiple crises or stresses.
- 5) Inability of parents to get their needs met other than through their children.

These factors combine with Alaska's severe winters, the high rates of alcohol and drug abuse, and lack of availability of day care or after school supervision to contribute to the high rate of child abuse and neglect in Alaska.

Alaska has 150 open child abuse cases for each 10,000 persons in the state. Washington has 90 per 10,000; Idaho has 81 per 10,000. Source: National Center for Child Abuse, Region X.

Of all the Alaska Division of Family and Youth Services cases, 75% are child abuse and neglect. Source: Alaska Division of Family and Youth Services.

ANCHORAGE

Anchorage has 55 open cases of child abuse and neglect per 10,000 population; New York City has 23 per 10,000. Sources: New York City Social Services; Alaska Division of Family and Youth Services.

Anchorage averages 70-80 new reports of child abuse and neglect monthly. Approximately 12 of those are for incest and child sexual abuse. Source: Anchorage District Office, Division of Family and Youth Services.

INCEST AND CHILD SEXUAL ABUSE

New reports of incest in Anchorage averaged one per month in 1979. They averaged 12 per month in 1980. Source: Anchorage District Office, Division of Family and Youth Services.

The Anchorage Child Abuse Board and staff treated 33 incest involved families during the eight months this service was provided in 1980. Source: Center for Children and Parents.

Of the children in the cottages at McLaughlin Youth Center, 70% report being sexually abused in their homes by close relatives or family friends. Source: McLaughlin Youth Center.

Between 80% and 90% of the girls at the Salvation Army Booth Home in Anchorage report having been sexually abused by parents, relatives, or close family friends. Source: Booth Home Director.

"In 75% of child molest cases, the offender is a member of the child's own household, a neighbor, a friend, or a person in the community with whom the child has frequent contact.....In 27% of the cases the offender was a relative by blood or marriage.....Almost 40% of the cases involved persons closely related to the child. Source: Three year study in New York City; DeFrancis, 1979.

Between 20% and 30% of all girls in the United States will be sexually molested before the age of 16 years. The majority of these incidents will occur in the family by relatives of the victims. The figure for the boys is 10% to 20%. Source: Finklehor, 1980, and various other estimates and studies.

ALASKA AGENCIES WORKING ON THE PROBLEM

The Anchorage Child Abuse Board, Cook Inlet Native Association's Family Services Program, and the Fairbanks Child Protection Task Force are the only programs in Alaska which are specifically designed to focus on child abuse, its prevention and treatment. Other agencies encounter child abuse and neglect cases but only as a part of larger programs.

Appendix III

FY 82 Budget

1 ESTIMATED PROJECT BUDGET SUMMARY

Grantee Anchorage Child Abuse Board, Inc.				Project Budget Period July 1, 1981 - June 30, 1982		Budget Year FY82
BUDGET CATEGORY	STATE REQUEST 1	United Way 2	Fees, Donations and Other 3	LOCAL MATCH		TOTAL PROJECT 6
				CASH 4	IN-KIND 5	
100 PERSONAL SERVICES	\$512,715	\$ 27,270	\$ 11,315		\$ Equivalent Volunteer Hrs \$150,000	\$701,300
200 TRAVEL	\$ 10,200	\$ 500	\$ 300			\$ 11,000
300 FACILITY EXPENSES	\$ 82,350	\$ 4,250	\$ 1,900			\$ 88,500
400 SUPPLIES	\$ 24,850	\$ 1,250	\$ 600			\$ 26,700
500 EQUIPMENT	\$ 3,715	\$ 200	\$ 85			\$ 4,000
600 OTHER OPERATING EXPENSE	\$ 31,170	\$ 1,530	\$ 800			\$ 33,500
TOTAL DIRECT COST	\$665,000	\$ 35,000	\$ 15,000		\$150,000	\$865,000
INDIRECT COST % OF \$ (check on instructions)						
TOTAL PROJECT COST	\$665,000	\$ 35,000	\$ 15,000		\$150,000	\$865,000

Appendix IV

Volunteer Contributions

VOLUNTEER CONTRIBUTIONS TO THE
ANCHORAGE CHILD ABUSE BOARD, INC. - 1980

	<u>Actual Hours Volunteered</u>	<u>\$\$ Equivalency Per Hour</u>	<u>Total \$\$ Equivalent Per Year</u>
<u>COMMUNITY EDUCATION</u>			
Professional	149.0	\$35.00	\$ 5,215.00
Other	55.5	15.00	833.00
<u>CLERICAL</u>	68.5	8.00	548.00
<u>NEWSLETTER</u>	36.0	8.00	288.00
<u>CONSULTATION TEAM</u>	279.5	60.00	16,770.00
<u>CLINICAL</u>	334.0	10.00	3,340.00
<u>PARENT AIDES</u>	1,990.5	10.00	19,905.00
<u>PARENTS ANONYMOUS</u>	14.0	15.00	210.00
<u>PARENTING CLASSES</u>			
Professional	49.0	35.00	1,715.00
Interns	165.0	8.00	1,320.00
<u>INTERMISSION AIDES</u>	697.0	10.00	6,970.00
<u>STAFF AFTER HOURS</u>	173.0	15.00	2,595.00
<u>VISTA VOLUNTEERS</u>	3,416.0	12.00	40,992.00
* <u>BOARD OF DIRECTORS</u>	208.0	50.00	10,400.00
TOTALS:	<u>7,635.0</u>		\$111,101.00
			Fringe (+ 15%) 16,665.00
TOTAL NUMBER OF VOLUNTEERS = 102			Total: <u>\$127,766.00</u>

VOLUNTEERS TO THE ANCHORAGE CHILD ABUSE BOARD AND ITS PROGRAMS
EXTEND THE DIRECT SERVICE CAPACITY OF STAFF BY 40%

* Special committee time, not regular Board of Director Meetings.

Appendix V

FY 80 Audit Report

ANCHORAGE CHILD ABUSE BOARD, INC.

Financial Statements

June 30, 1980

(With Accountants' Report Thereon)



Peat, Marwick, Mitchell & Co.

Certified Public Accountants

Alaska Mutual Bank Building
601 West 5th Avenue, Suite 700
Anchorage, Alaska 99501

Board of Directors
Anchorage Child Abuse Board, Inc.:

We have examined the balance sheets of Anchorage Child Abuse Board, Inc. as of June 30, 1980, and the related statements of support, revenue, expenses and changes in fund balances and functional expenses for the year then ended. Our examination was made in accordance with generally accepted auditing standards, and accordingly included such tests of the accounting records and such other auditing procedures as we considered necessary in the circumstances.

In our opinion, the aforementioned financial statements present fairly the financial position of Anchorage Child Abuse Board, Inc. at June 30, 1980, and the results of its operations and changes in its fund balances for the year then ended, in conformity with generally accepted accounting principles applied on a basis consistent with that of the preceding year.

Peat, Marwick, Mitchell & Co.

October 9, 1980

ANCHORAGE CHILD ABUSE BOARD, INC.

Balance Sheets

June 30, 1980

Assets

Liabilities and Fund Balances

CURRENT UNRESTRICTED FUND

Cash	\$ 42,322	Accounts payable and accrued expenses	\$ 3,712
Accounts receivable	691	Fund balance	<u>43,757</u>
Prepaid expenses	<u>4,456</u>		
	\$ <u>47,469</u>		\$ <u>47,469</u>

EQUIPMENT FUND

Office equipment	13,329		
Training equipment	8,911		
Less accumulated depreciation	<u>(3,523)</u>	Fund balance	<u>18,717</u>
	\$ <u>18,717</u>		\$ <u>18,717</u>

See accompanying notes to financial statements.

ANCHORAGE CHILD ABUSE BOARD, INC.

Statement of Support, Revenue, Expenses and Changes in Fund Balances

Year ended June 30, 1980
with comparative totals for 1979

	1980			Total	1979 total
	Current Unrestricted	Funds Restricted	Equipment Fund		
Support and revenue:					
Contributions	\$ 167	350	-	517	9,789
United Way	22,190	-	-	22,190	48,750
Program service fees	2,540	-	-	2,540	1,437
Interest	7,090	-	-	7,090	279
Other	1,377	-	-	1,377	1,865
	<u>29,364</u>	<u>350</u>	<u>-</u>	<u>29,714</u>	<u>62,120</u>
Grants from governmental agencies:					
Division of Health and Social Services, State of Alaska	260,000	-	-	260,000	75,824
Department of Health, Education and Welfare	-	26,670	-	26,670	22,330
	<u>260,000</u>	<u>26,670</u>	<u>-</u>	<u>286,670</u>	<u>98,154</u>
Total support and revenue	269,364	25,020	-	294,384	160,274
Expenses:					
Program services:					
Community education	61,091	-	-	61,091	13,506
Parent aides	16,316	-	166	16,482	18,147
Counseling and parent classes	66,416	26,670	-	93,086	48,085
Consultation fees	6,706	-	-	6,706	9,961
Child nursery	79,985	350	-	80,335	-
Supporting services - management and general administration	59,805	-	1,516	61,321	29,339
Total expenses	265,815	25,020	1,902	292,737	119,078
Excess (deficiency) of support and revenue over expenses	3,549	-	(1,902)	1,647	41,196
Other change in fund balance - equipment acquisitions from unrestricted funds	(9,216)	-	9,216	-	-
Fund balances at beginning of year	69,526	-	14,401	83,927	10,401
Fund balances at end of year	\$ 60,310	-	12,497	72,807	50,897

See accompanying notes to financial statements.

ANCHORAGE CHILD ABUSE BOARD, INC.

Statement of Functional Expenses

Year ended June 30, 1980

	Program services				Crisis nursery	Management and general administration	Total
	Community education	Parent aides	Counseling and parent classes	Consultation team			
Salaries	\$ 31,688	22,465	40,910	1,320	63,172	35,669	195,204
Payroll taxes and employer benefits	5,894	4,175	7,614	246	4,150	6,631	28,710
Rent	765	3,060	8,415	765	4,884	2,295	20,184
Insurance	60	239	658	60	355	179	1,551
Telephone and utilities	709	709	710	710	751	709	4,298
Supplies	293	293	293	97	456	976	2,408
Postage	79	79	79	-	105	552	894
Printing	1,323	331	330	-	378	1,323	3,685
Repairs and maintenance	-	-	-	-	465	783	1,248
Food	-	111	296	37	3,053	296	3,753
Travel	-	429	-	-	161	1,288	1,878
Advertising	1,066	1,066	1,066	1,065	493	1,066	5,820
Awards	-	163	-	-	-	-	163
Staff and conferences	326	326	3,590	-	80	2,286	6,608
Technical assistance	403	403	404	404	-	403	2,017
Paper and books	485	485	486	-	-	485	1,961
Child care	-	-	1,005	-	-	-	1,005
1 1/2 Month consultant	-	-	1,210	-	-	-	1,210
Professional services	-	-	-	-	-	3,150	3,150
Miscellaneous	-	-	-	-	1,814	1,234	3,048
Total before depreciation	43,091	36,315	69,086	4,704	80,335	59,305	290,815
Depreciation of equipment	-	66	-	-	-	1,506	1,902
	\$ <u>43,091</u>	<u>36,381</u>	<u>69,086</u>	<u>4,704</u>	<u>80,335</u>	<u>60,811</u>	<u>292,717</u>

See accompanying notes to financial statements.

ANCHORAGE CHILD ABUSE BOARD, INC.

Notes to Financial Statements

June 30, 1980

(1) Purpose of the Organization and Summary of Significant Accounting Policies
Purpose of the Organization

Anchorage Child Abuse Board, Inc. (ACAB) was formed as a nonprofit corporation on October 10, 1972. The purpose of the organization is to promote the health and well-being of children who may be subject to battering, abuse and neglect. The principal areas of activity are Anchorage and south central Alaska.

Summary of Significant Accounting Policies

The organization reports in accordance with the American Institute of Certified Public Accountants' industry audit guide Audits of Voluntary Health and Welfare Organizations. Under the terms of the Guide, the following accounting policies unique to voluntary health and welfare organizations are followed:

- a. The Current Unrestricted Fund is used to account for all resources over which the governing board has discretionary control except those unrestricted net assets invested in equipment at the direction of the governing board.
- b. The Equipment Fund is used to account for the net investments in fixed assets and for unexpended resources restricted by donors to be used for the acquisition of fixed assets for use in operations. Equipment is recorded at cost if purchased with ACAB funds or at fair market value if donated.
- c. Depreciation is recorded in the Equipment Fund on a straight-line basis over the estimated useful lives of the assets (three to ten years).
- d. Current Restricted Funds are used to account for amounts restricted by donors to specific operating purposes.
- e. Donated materials, fixed assets and investments are recorded at fair market value when received.
- f. Donated services are not valued or recorded in the financial statements as there is not a clearly measurable basis for ascribing value.

Income Taxes

ACAB is a tax exempt corporation under Section 501(c)(3) of the Internal Revenue Code. Accordingly, no provision for federal income taxes is included in the financial statements.

(2) Leased Facilities

The building used by ACAB for its community services program is leased on a year-to-year basis. At June 30, 1980, the building was being leased for an annual cost of approximately \$15,600. Additional space is leased for the crisis nursery program at \$650 per month. This lease is cancelable upon written notification by ACAB.

Appendix VI

Program Articles

Anchorage Daily News

ANCHORAGE, ALASKA, SUNDAY, FEBRUARY 15, 1981



Anchorage Daily News/Jim Lavrakas

Erin Reeve, 3, the son of a worker at Intermission Crisis Care nursery, takes a peek outside the Intermission house.

Even perfect parents need Intermission

By SARAH MOTT
Daily News reporter

Even perfect parents need a break.

And in this all too imperfect world, a lot of mothers and fathers could use an occasional helping hand.

That hand is here and outstretched in the form of a local crisis nursery called Intermission.

An offshoot of the Center for Children and Parents, Intermission is a shelter for children whose parents are under stress and need time away from the kids. For up to 72 hours, parents can leave their children in a homelike situation while they work out their problems.

"Parents have this feeling they have to meet needs 24 hours a day, seven days a week. They become totally submerged in their kids," says caregiver Kalen Saxton. "If they don't give themselves time to be men or women — or a couple — if they don't have adult time, it's not totally healthy. They're not being whole people and at some point, that's going to come back at them."

That's where Intermission steps in.

The center is limited to caring for five children between the ages of six weeks and six years, although supervisor Karen Johnson is hoping to expand the staff to take in up to 12 children. The focus is on preschool-aged children and infants.

Although the free service is not

See Page D-3, INTERMISSION



Anchorage Daily News/Jim Lavrakas

Karen Johnson, supervisor of Intermission, talks with two mothers during lunch. Case worker Perry Reeve stands in the background.

Intermission

Continued from Page D 1

Limited to lower-income families, many of the children come from single parent households with little money. Many parents are also young and often have just moved to town. As Saxton explains, people with any extra money or any sort of network usually find a babysitter.

What they have in common is difficulty with parenting.

Often the stress is not related to the children themselves but, rather to situations that become too overwhelming for the parent to be able to cope with children as well, say center workers.

"We had a real run on twins when we first opened," says Saxton with a laugh. "Also mothers with a two-year-old and a new baby. They were perfect mothers (of one child) and then became faced with a situation where the older child grew jealous because of the baby or the mother simply didn't have time to be the kind of mother she had been to the two year old. She comes in saying 'I don't know what's wrong, I used to be able to cope.'

"Well, what's wrong is there's too much going on and she doesn't know how to take

off some of the pressure."

It can be financial or emotional stress. It can be the tension associated with a move or a change in the family structure. Put simply, it's when parents need room to be people.

Intermission is "a time-out for parents under stress," says Center for Children and Parents director Mike Walti. "A time to get it together without kids getting involved permanently in the social service system."

"Fundamentally, it's a child abuse prevention program — we're catching it before it gets to that stage."

The Center for Children and Parents is the only private non-profit group designed with a focus on child abuse.

The idea for a crisis nursery was spawned in a governor's conference on child abuse three or four years ago. Intermission opened its doors in December, 1990, with a special grant from

the Legislature.

Although the center is licensed under daycare regulations, everyone involved is emphatic that it is not a daycare service or facility.

Once the child's needs are met, Intermission works with the parents. Each parent is asked to spend a brief amount of time in a counseling session before dropping the child off and upon returning.

"We're really unique," says Hudson proudly. "We offer much more than daycare. We do a lot of parent modelling. For instance, we encourage parents to share a meal with us and the kids. Meals are often times of incredible stress. We can help suggest ways to deal with that through example."

Most parents come in with discipline problems, she says — "I can't get them to do what I want them to do when I want them to do it. For that, the center offers two-fold assistance to parents — first with skills and then with support.

Parents are also referred to agencies and organizations that make parenting less overwhelming. "We point out patterns, show them how to head off crises," says Saxton. "And we make a lot of difference. There are a lot of families that would have slowly self-destructed if someone hadn't intervened."

Anchorage Daily News

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By JODI STEPHENS
Daily News reporter

Like many military families in Alaska, plagued by tight finances and isolated from relatives Outside, Glen and Mary Folsom last year found their family relationships deteriorating.

"I had never seen weather like this," explains Mary, a native Californian. "I was cooped up with the kids, just looking at four walls all day, and I was getting really depressed." Mary's low spirits, of course, also affected her husband and her three young children.

Mounting tensions finally brought the family to Anchorage's Center for Children and Parents and, through the agency, the Folsoms found a friend — Dawn Russell, a volunteer with the Center's Parent Aide program. Today, although not all their problems are solved, Mary says, things are looking much better.

Started in 1972, the Parent Aide program is designed to help remedy family situations that can lead to child abuse, explains director Shirley Pittz; either such abuse already exists or the potential is there.

Parents enrolled in the program usually "don't have very many parenting skills," Pittz says. "They don't have good models and they don't know what to realistically expect from their children."

Often, Pittz says, just the presence of a "family friend," someone to turn to during crises, can greatly improve a home situation.

Currently, the Center has 17 active "matches," while eight volunteers remain unassigned, temporarily taking a break from the program. There are four families on the waiting list, Pittz says, and many others could benefit from the program if more parent aides were available.

Although motivations differ, volunteers in the Parent Aide program seem to have one thing in common: empathy with parental frustrations.

Margaret Sharrow, a six-year veteran of the program, feels that life with three sons has given her valuable insight into family problems. "I know how frustrating kids can be when you're cooped up with them all the time," she says.

Like Sharrow, most parent aides are women who have reared children themselves, but being a mother is not a requirement for volunteers. Single women who are especially tuned in to the concerns of child-rearing also have done well, Pittz says, and one great need now is for more male parent aides. At present, the center has only one male volunteer.

Female parent aides are assigned to work directly with mothers and, although they usually develop good relationships with both parents, it is felt that men would be able to establish that trust more easily.

A common situation indicating the need for more male volunteers is that husbands often think of child-rearing as the wife's problem, not as a mutual concern, so they're reluctant to discuss these family relationships. Another factor is the growing number of single fathers, many of whom are unprepared for the extra demands being made on them.

Regardless of sex, parent aides often find the first meeting with

Aides defuse explosive family situations

the family rather constrained. But by the second or third visit, as one aide explains, "it's just like a dam bursting. They'll talk and talk and talk for hours."

The role of a parent aide, Pittz explains, is more that of a friend than a counselor; in fact, volunteers are trained to "actively listen" and "not feel the need to constantly be giving advice."

Either deliberately or unconsciously, many parents do things to test the aide — asking her to babysit, lend money, run errands or do other things outside her role. Such requests must be diplomatically refused. As Hoefler explained in one such case, "My role was not to solve her problems for her, but to teach her how to solve her problems. If it meant going down and buying a stroller and learning how to use the bus system, that's what we'd do."

Persistence is one of the aide's chief tools. "We keep coming back," says Hoefler. "We don't judge, we don't reject. And we care enough to look for the good things."

"The one thing we can bank on," says Russell, "is that most people want to be good parents, they just don't know how."

While volunteers are originally told to count on spending four to six hours each week with "their" families, the length and scheduling of visits is determined by individual needs. "It quickly ceases to be an official relationship, and you become just friends," says Lorraine Hoefler, a parent aide for five years.

Sometimes a telephone call will suffice; at the other extreme, as Hoefler relates, "there were days when I would drop everything and rearrange my day, because I was needed."

"At first we met for lunch, just to get her out of the house," says Russell of her relationship with Mary Folsom. Later, they would sit at the kitchen table over coffee. Other confidences have been shared while taking the kids to the park, the Anchorage Historical and Fine Arts Museum, the Federal Building and the municipal greenhouse.

"My mother and (Dawn) are just about the same age. I enjoy it because talking to her is almost like talking to my mother," says Mary. "I don't consider her a parent aide. I consider her to be part of the family now."

One son, she adds, even calls Russell "grandma."

For the parent aide, the rewards of helping a family are numerous. "It's opened up horizons for me," says Sharrow. "I've been at a recording studio, and other places I'd never been before. And I never realized what difficult times some people have. It's hard enough being a parent without those problems."

Hoefler is certain that, with one of her families, "had I not been there, there would have been some physical abuse. It's a good feeling to know that the (child) is safe."

As a family's problems are resolved, official contacts between parents and aides become less frequent, but rarely is the relationship halted completely. After six months or a year of friendship, ties have become so strong that the family and former aide often continue to see each other on a casual basis.

What has made her relationship with the Folsom family most satisfying, Russell says, is the knowledge that she is helping "not only these parents, but many generations to come."

For the family, however, the rewards are more immediate. Having Russell as a friend, Mary Folsom says, "has really helped a lot. She's always there when I need her, and I can even see the change in me. I don't get so mad with the kids like I used to. I have a better attitude toward the kids and my husband. And I feel better about myself."

Son Glen, too, seems happier since Russell "joined" the family, Mary says. "He never used to play with the kids. Now sometimes I look out in the yard and there's 15 kids gathered around him. His whole attitude has changed. He tells the kids stories, which he never used to do."

She's found a solution to her depression just in "being out of the house more than I am in." Now she takes walks, plays with the kids, goes window shopping and, when she's home, spends more time with her macrame. Also, she says, she's learned "a lot of different ways" to disciplining the kids, rather than spanking them.

"If people need a parent aide and they're afraid to say it," Mary declares, "they're silly."

□

The Center for Children and Parents is currently recruiting volunteers for the Parent Aide Program; a 10-12 hour training course will be given in October. For more information, call 277-1491.

The legacy of incest: humiliation and fear

Daily News reporter

First of three parts

For Karen, it began at age 3 when her 20-year-old stepbrother came to her bedroom one night and fondled her. A year later, an uncle forced her to perform oral sex. At age 6, she was assaulted by her babysitter's husband. At 13, growing up on a military base, she endured six months of continual assaults by the father of two children for whom she babysat. At 14, it was her stepfather who molested her. At 16, on a trip to Seward, she was coerced into performing a sex act on a G.I. Later that year, another G.I. took her in the back seat of a car.

Karen is the first to admit that not all these instances involved the use of physical force, but she says she became vulnerable to such attacks because "It was drilled into me at a very early age that you don't say no.

"My parents got the message into me that sex was dirty. If I told them, I knew they would blame me. What are you supposed to do? Your uncle is not only someone you're supposed to love, he's also an adult, an authority figure. How can you say 'no'?"

"I never told my parents about any of this until last year," says Karen, now 25 and an avowed lesbian.

As harrowing as it is, Karen's story is not atypical of the tales told by other incest victims.

A national study indicates that nearly 30 percent of all girls and 10 percent of all boys have been sexually molested by age 18 — and 60 to 70 percent of the attacks were by family members. At some point in their lives, says an Anchorage expert, 7,000 local children will fall victim to incest.

Most recite long litanies of sexual violations beginning in early childhood and continuing through adolescence. Only recently have they sought help; only recently have they admitted — even to themselves — how the experiences have affected their ability to function as adults.

How many children in Anchorage are sexually abused by their parents or relatives? In a national study last year, researcher David Finkelhor determined that nearly 30 percent of all girls and 10 percent of all boys are sexually molested before they reach the age of 18, and 60 to 70 percent of these attacks are by family members. Based on these figures, Mike Walti, executive director of the Center for Children and Parents, estimates that, at some point in their lives, 7,000 Anchorage youngsters will become victims of incest.

Most of the attacks, Walti says, will go unreported; others will come to light years later when the victim seeks therapy for some seemingly unrelated emotional problem. Only a handful will be discovered as the incest is actually occurring — and many of these will first be perceived as a teen-age runaway problem or juvenile delinquency.

A disproportionate number of incestuous assaults, says Sgt. John Needham of the Anchorage Police Department, are reported from broken homes and lower-income families. The majority of victims are from 8 to 14 years old; some are even younger. Starting with cuddling and petting, the abuse increases in seriousness over two or three years until it becomes intercourse.

The perpetrators are usually fathers or stepfathers, although uncles, brothers and other male relatives also commit the abuse. Very seldom is a mother or female relative involved; when young boys are assaulted, they most often are victims of a homosexual attack.

APD's Juvenile Investigations Division handles 10 to 20 cases of sexual abuse each month; of these, Needham says, 10 to 15 percent involve actual intercourse. Only about one in every hundred victims is a boy. Usually, the incest has been going on for three to four years and, not infrequently, it involves all the daughters in the family.

Rarely does a victim seek help herself; more commonly, she tells a friend, the friend tells her mother, and the mother then notifies the police or the State Division of Social Services.

The victim's own mother often claims to be ignorant of the situation — and the girl herself is usually too scared or confused to know where to turn.

"For a long time," explains Paula R., "I thought, 'This is something every little girl's father does to her.' Then I noticed that no one else talked about it and I thought I was the only one in the world it happened to." At the time it was happening to her, the 23-year-old woman says, there was no readily available aid for incest victims.

Fortunately, Anchorage today has several agencies dealing with the problem, including the Center for Children and Parents, the Division of Social Services and Standing Together Against Rape. Yet even now, sexually abused children are reluctant to tell anyone what's happening to them.

"They learn early what things they can talk about and which are taboo," says Walti. "It's not O.K. to talk about sex in the home. They internalize that message and grow up with that secret."

Sometimes, says therapist Suz Pope, who leads a group of former incest victims at the Center, "they even begin to wonder if (the attack) really happened, especially if Dad keeps denying it."



One of the main reasons girls don't tell is because they've been sworn to secrecy, Pope adds. "The father says, 'Don't tell or I'll do this to your sister.'" Rather than physical threats, there most often is a "subtle coercion."

"Fear is part of it, the feeling that 'our family will be blown apart,'" she says.

In some instances, the girl learns that her sexual relationship with her father gives her a position of power in the family. She may even take over other wifely roles, such as looking after the younger children, talking finances with Dad and, in general, managing the household. Lesley M., the eldest of six children in a sexually abusive family, was almost solely responsible for her siblings by the age of 10; a younger sister, now 15, still calls her "Mom."

For the majority of victims, though, it's a time of powerlessness and humiliation. "For years I thought it was me, that my father was using me for what I was worth," is one statement Walti says he hears time and again. "There's a lot of guilt," he says, "and a feeling that 'It must be something I've done.'"

Karen H. acknowledges that, for her, sex became a way to win favors and avoid things she didn't like: "At a very early age, I learned to be seductive, as a way of getting things from men." This "seductive" behavior, she says, consisted of being "friendly and coy, jumping on people's laps when I was a little girl, things like that." She calls herself then — and now — a "people pleaser."

Social workers dealing with incest say extremes of behavior are tell-tale signs of sexual abuse at home. The victim may stay out late, miss school, run away — or she may be the studious, shy child that teachers love to have in class. Pope says very young girls may give away their secret by "talking specifically about

sex" and revealing a degree of knowledge too mature for their age.

Quite often, therapists say, sexual assaults halt or decrease when the girl reaches the age of 13 or 14 and is strong enough, physically and mentally, to ward off a man's advances or devise ways to avoid him. Also, the attacker may fear getting the girl pregnant. By this time, however, the emotional damage has been done, leaving the girl uncomfortable with her sexuality and, in many cases, unable to establish lasting relationships with men.

"Part of the reason I'm a lesbian," says Karen, "is from the sexual abuse I've suffered from men. I'm not ready for sex, because somewhere I missed the love that's supposed to go with it."

Of herself and other incest victims, she adds, "We weren't asking for sex, we were asking for love and attention."

Tuesday: Incest and the law

Incest cases are unlikely to reach the courts

By JODI STEPHENS

Daily News reporter

Second of three parts

"People think that just finding the abuser is the solution, but rarely does anything happen to these people. Virtually no one is brought to trial, convicted or sentenced." — Mike Wahl, executive director, Center for Children and Parents

Alaska's new criminal code reduced the penalty for incest from 10 years to five years and, for most offenders, the possibility of receiving even this lesser sentence is remote.

Sgt. John Needham, head of the Anchorage Police Department's Juvenile Division, estimates that his staff handles 10 to 20 cases of incest each month, yet few of these are referred to the district attorney for prosecution. According to intake officer Steve Branchflower, the DA's office accepts about 10 incest cases per year.

"It's difficult to prosecute those cases," says Branchflower, explaining that, before a case is taken to court, the office requires "proof beyond a reasonable doubt."

"The police don't send many cases because they recognize that there's not enough evidence," he says. "Unfortunately, a lot of these cases don't pan out because all you have is the statement of the victim, uncorroborated. It's a question of basic fairness to the defendant — anybody can make allegations. If we don't have more evidence than (a child's accusations), we could damage someone's reputation unfairly."

"It's her word against his," agrees Needham, citing the possibility that a child might falsely accuse a hated stepfather of attacking her, in order to get him out of the house.

Statistics on incest prosecutions are somewhat misleading, says Branchflower, because there are other statutes under which the offender may be charged. If force was used, the district attorney's office may prosecute under sexual assault or, if the victim is under 13, the charge may be statutory rape. Both crimes are Class A felonies carrying a maximum sentence of 20 years, while incest is a Class C felony.

In the cases that do get to court, Branchflower says, about half the offenders receive jail time and the rest are put on probation.

Conscious of the DA's evidence requirements, the police refer for prosecution only those cases in which there's a reasonable chance of conviction, according to Needham; most cases, therefore, are handled with an eye to treatment rather than legal action. Another factor operating to keep cases out of court is the reluctance to subject the victim (usually no more than 13 years old) to the trauma of courtroom testimony



and re-examination, usually in front of their parents.

"A 3-year-old makes a very poor witness," says Needham. "It's also hard if the child is not very intelligent, unless they're extremely convincing. And it's important that they have no previous criminal activity, since they can be discredited so easily."

Eye-witnesses, such as a mother or relative,

are extremely helpful, as are doctors' statements regarding physical injuries or the presence of sperm. The very best case, of course, Needham says, is one in which the abuser has confessed, but these are understandably rare.

Social workers view the necessity for legal action differently than do police and prosecutors; they see it primarily as a way of getting offenders into treatment.

"They (the DA's office) don't want to mess with it unless conviction is a certainty," says Dave Clitheroe, head of the state's Division of Social Services. "So there's no leverage in getting people into therapy. As it stands now, we're able to remove the child, but the kid probably will go home eventually and the environment probably won't be any different."

At present, counseling for the abuser is entirely voluntary or is done under the threat of having the state remove the child permanently from the home. In the latter case, Clitheroe says, the offender may fake readjustment or simply continue to deny that the assaults occurred; sometimes a father really doesn't care about the child and refuses to cooperate in any fashion.

If more cases were prosecuted, Clitheroe contends, more offenders would be forced into treatment — if only to avoid a jail term.

Therapists Karen Janicek and Leon Webber of the Family Institute of Alaska see an average of 20 families a year for incest counseling. (In most of these cases, the father also is receiving treatment. As Janicek and Webber point out, by the time the family reaches their offices, the initial period of denial is usually over.)

In treatment, says Webber, the first commitment is to assure that the child is perfectly safe, preferably with mutual guarantees from the mother and father. A main step in accomplishing this is helping the mother "re-establish a caring relationship with her daughter." More often than one might think, Webber says, mother teams up with father and blames the girl for being "seductive." The daughter must be assured that the fault lies with her father, not with her.

Second, Webber and Janicek seek to re-establish generational boundaries, so that the man does not require adult companionship — either of a sexual or emotional kind — from the child. Third, if possible, they try to re-establish a parental coalition in which both mother and father agree on supervision of their youngsters.

The question of why some fathers molest their children has no simple answers. Like other forms of child abuse, father-child incest tends to perpetuate itself through generations; many incestuous fathers were themselves abused as children, either sexually or physically. Other reasons may be marital problems, a personal

crisis such as job loss or the onset of middle age, and low self-esteem, especially about the man's sexual attractiveness.

Mike Walti expresses his theory about incest in terms of touching. Boys from abusive homes may grow up knowing only "violent touching" and "sexual touching" and never learn what Walti calls "the nurturing kind of touching." When their daughters ask for affection, he says, "what they get instead is sexual touching."

In a faltering marriage, explains Walti, "all kinds of emotional closeness have stopped, so the father reaches out to his daughter." He may feel closer to the child than to his wife and, if these feelings aren't channeled properly, this "companionship" may evolve into sexual relations.

Particularly if a man is unsure of himself with adult women, a daughter may seem to provide the perfect sex partner, contends therapist Sue Pope of the Center for Children and Parents: "His daughter looks up to him, respects him, idolizes him. He may fear other women."

Although alcohol often is blamed as a cause of incest, Pope feels — as do most social workers — that "it's just a great excuse." While liquor is involved in many cases, she says its main contribution is simply releasing the inhibitions — the real problem lies elsewhere.

Where is the mother while all of this is happening? Is she lying when she claims — as she often does — that "I didn't know what was going on"?

Psychologists and social workers have mixed responses to these questions. In a few cases, they say, the mother really is unaware of the incest and, when she discovers it, immediately confronts her husband or contacts authorities. In another handful of cases, she has totally rejected the child and is unconcerned about its welfare.

But, in the majority of families, the ignorance is one of convenience. "Life is simpler if she doesn't take any action," says Frances Milner, case work supervisor with the Division of Social Services.

"It was my feeling at first that 'I don't see how you couldn't know,'" says Gladys Langon, another DSS case worker, "But some women are so wrapped up in their own troubles that they are subconsciously ignoring it."

The mother may feel she's being forced to choose between her husband and her child, or — perhaps having been an incest victim herself — she may be afraid to say anything. The problem is compounded if she's financially dependent on the abuser or if the entire family is being physically abused.

Under any conditions, it takes courage to face the problem and seek help.

Wednesday: Psychological scars

Incest's emotional effects can last through adulthood

By JODI STEPHENS
Daily News reporter

Paula R., 23, can't remember when her father first began having sexual relations with her. "It's one of my earliest memories," she says; the attacks continued until, at age 13, "I started pushing him away."

Lesley M. grew up in a home in which "incest was just a part of it. The whole family was physically abused...when I was 10, my mother was turned out of the house (to be a prostitute)."

As a child, she was made to watch her father, mother and another woman have sex. At 16, she was raped by her father. She was raped by a stranger two months later on the Park Strip.

"Sometimes the memory comes back too clearly and I get real sick," says Lesley about her childhood. "At 17, I started realizing that I didn't want this, but I never had a girlfriend until I was 21."

According to Sue Pope, a counselor with the Center for Children and Parents, the emotional effects of incest on the child depend not so much on who assaults her, but how the act is accomplished, how young the child is, how long it continues and how the child feels about the experience.

"Just a few times is less devastating than a relationship that has gone on for a long time," Pope says.

Unfortunately, says therapist Karen Janleek of the Family Institute of Alaska, "Incest is seldom a one-time occurrence, and the more force that's used, the more damaging it is to the child."

Inevitably, a girl who's been

having sex with her father since she was 8 misses many important adolescent stages in developing healthy attitudes toward the opposite sex, says Mike Walti, the Center's executive director: "They don't have a lot in common with their giggly 10-year-old friends who are always falling in love with movie stars and rock stars."

The effects become especially pronounced when a teen-age girl begins dating; the father may show jealousy or even devise methods to keep boyfriends away, thus further hampering the girl's normal social development.

Paula R. recalls that, as a teen-ager, she was often grounded for minor offenses and her father took advantage of these evenings to molest her. "He'd say things like, 'If you want to go out, you've got to let me.' You feel like a prostitute and you start to equate love with sex."

"Sex is often the only recognizable experience of caring girls have in that family," explains Janleek, "but that still leaves the question, 'Can I get Dad to love me without being sexual?'"

Rob Firor, a counselor at the Salvation Army's Booth Home (eight of whose 14 residents are, or are suspected to be, incest victims), speaks of the sexual "vulnerability" of such girls. The victim may have numerous sexual encounters, but she often characterizes them as rapes.

"Girls will say 'I was overpowered,' or 'I did it but I didn't want to do it,' or 'I wanted this, so I went to bed with him.' Many are too young or don't know that it's wrong. You learn what's right or wrong from your parents and

their parents don't tell them," contends Firor.

"Their whole self worth is really low and that's just rein-



forced — that you're just a sex object or someone to be taken advantage of."

The worst consequence of incest is when a young girl runs away from the abuse, is "taken in" by a pimp and ends up as a prostitute, often supporting a drug habit. Sgt. John Needham, head of the Anchorage Police Department's Juvenile Division, says that most of the 11- and 12-year-old hookers he has seen were introduced to sex at

a very early age, usually by their fathers or stepfathers.

The reason incest is so destructive, therapists assert, is that the abuse is happening at home — the one place where a child ought to feel comfortable and protected. When the rapist is a stranger, the girl still may have love and stability within her family, but from incest, there is no escape. She is left emotionally anchorless.

"Why is it so bad?" Lesley asks rhetorically. "Because you trust your parents and they violate that trust."

As an adult, the incest victim may be plagued with memories that can cause problems in her marriage or even stop sexual relations. "Sometimes when my husband and I were having sex, I'd think, 'Oh, God, it's my father!' Then I'd open my eyes and it would be O.K.," recalls Paula R., adding that her husband didn't know about her incestuous experiences until she entered therapy. "I was super-secretive. I never gave him any indication that anything was wrong."

"The victim has a real confusion as to her sexuality," explains Pope. "When you've been used sexually by someone you thought you could trust, it becomes really difficult to trust men, or have a relationship with men."

Sometimes, like Mary L., incest victims go to the opposite extreme — bed-hopping from partner to partner in a chain of destructive relationships. "I could have sex, but I didn't enjoy it," Mary now admits.

Paula R., Lesley M., Karen H. and Mary L. all are members of an incest victims' group started last April by the Center for Children and Parents. All say they want to become volun-

teer counselors for other victims; some also are trying to help younger sisters still caught in the abuse cycle at home.

The group, says Paula, "is different than a professional speaking to a patient. We talk, we let a lot of the anger out. We beat on pillows and cry a lot, but we also concentrate on what's going on in our lives now."

Concentrating on the present also is the key for the social agencies working to halt sexual abuse. Besides the victims' group, the Center is trying to start groups for the abusers and the victims' mothers, as well. The first priority is to make family members realize they're not the only ones having this problem.

"We have to get rid of the taboos," says Florio of Booth Home. "Incest, to society, is the worst thing that can happen, but it's not so bad that you can't talk about it."

Dave Clitheroe, head of the local Division of Social Services, hopes to encourage greater cooperation among the various agencies dealing with incest — police, courts, non-profit organizations and the state — and possibly initiate a few changes in state policies. One example would be the current practice of removing the victim from the home. It would make more sense, and provoke less guilt in the victim, says Clitheroe, if the abuser was the one removed; he could be kept away from the home by court order until he gets treatment.

Victims strongly feel that incest should be brought out of the closet.

"I think it's something a lot of people don't realize — that incest is such a problem. They want to sweep it under the

rug," says Mary L. "But it helps to talk about it, and the more you talk about it, the easier it gets."

Lesley M. also is adamant that there be more sex education in schools. "School was the only place my parents let me go. I just wish they had someone in the schools that would teach you to realize when someone is touching you wrong."

For Lesley and other members of the Center group, attempts to pick up the pieces and get on with a normal life have met with varying degrees of success.

"I feel really good about where I'm at now, because I've grown so much in the past six months," says Lesley, now 25, married and the mother of two children. "I understand people in general — I interpreted so many things as rejection that weren't. I'm not through working, though; I don't think I ever will be."

While a happy marriage has helped make the memories less painful for Paula ("It's caused a lot of problems between us, but we've both grown a lot," she says), Karen still feels the bulk of her readjustment lies before her: "First, I want to get to know what my wants and needs are and get to know myself."

For Mary, life seems to be going more smoothly since she's entered therapy and started to sort out her feelings about men, love and sex. "Over-all, things are getting better and sex is improving," she declares.

"But you never forget."

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For information on incest and crisis counseling, call the Center for Children and Parents at 277-1494.

Baxley at 274-9929.

Here's help for parents, kids

Need help with your family relationships? The Center for Children and Parents offers a number of classes for people trying to improve their parenting skills and others who have had family difficulties.

Starting Sept. 9 or Sept. 25, you can take a 12-week "Survival Skills for Parents" course, focusing on child development, family communication, behavior problems and cooperative parenting.

The Center also sponsors community education classes each Monday from 5 to 7 p.m. Next Monday's program will feature Sharon Edberg discussing child abuse and neglect, while the class on Sept. 15 will deal with effective communication; a special session Wednesday, Sept. 17, will continue the topic of communication. On Sept. 22, Dr. Marianne von Hippel will discuss child development.

A group for women who were sexually molested as children will be starting Sept. 25 with a meeting from 7:30 to 9 p.m. at the Center.

If you have the time and desire to be a friend to a troubled family, your help is needed by the Center's Parent Aide Program. Informational meetings are scheduled for 7:30 p.m. Sept. 23 and 9:30 a.m. Sept. 30.

For details on any of these meetings, call the Center at 274-1231.

Appendix VII

List of Board of Directors

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CHILD ABUSE & NEGLECT

State Reporting Laws



*A Special Report from the National
Center on Child Abuse and Neglect*

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I. INTRODUCTION

This report surveys key elements of the child abuse and neglect statutes of the 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands that were in effect on January 1, 1979. The report also considers statutory elements of the reporting requirements, the child protective services, and the judicial proceedings in each of these 55 jurisdictions. These laws are listed in a separate section at the end of the report.

We hope this report will aid community leaders and concerned individuals who are seeking to improve state laws. We also hope the convenient summary of the present state of the law also will be useful to those who monitor trends in child abuse and neglect statutes and who wish to keep abreast of this dynamic area of the law. In this regard, similar prior studies of child abuse and neglect statutes are included in the bibliography.

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II. REPORTING CHILD ABUSE AND NEGLECT

The enactment of child abuse and neglect reporting laws by state legislatures began in earnest in the early 1960's. It coincided with the first formalized medical profile of the abused or battered child and increasing community awareness of the extent of the problem. Workers dealing with families in crisis had become concerned not only with identification of the problem but also with treatment and prevention of the underlying causes and sought legislation to aid their efforts.

The idea of a child abuse reporting statute was first explored in 1962, and in 1963 a model reporting statute was proposed by the Children's Bureau of HEW. By 1965, two other models had been developed and were offered to the public.¹ Reporting statutes were enacted in 20 states by 1964 and in 49 states by 1966. Today all 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands have reporting laws.

This section examines several key elements of the statutes dealing with the reporting of suspected or known cases of child abuse and neglect. These are: the purpose of the state reporting laws, reportable circumstances, the definition of abuse and neglect, age limits of children, the required state of mind of the reporter, and who must and may report. Also discussed are immunity for reporting and other acts, abrogation of privileges, special exemptions, and the criminal and civil sanctions imposed for failure to report.

Purpose Clause

Forty-one jurisdictions now explicitly state a purpose in their reporting law. Almost all purpose clauses emphasize the protection of children.

The purpose of any reporting statute is three-fold: first, to identify the child in peril as quickly as possible; second, to designate an agency to receive and investigate reports of suspected child abuse; and third, to offer, where appropriate, services and treatment.² The purpose clause in most states' reporting statutes includes a provision that encourages increased reporting of suspected cases of abuse and neglect, which is the first step in providing the greatest possible protection for children whose health and welfare may be adversely affected. Many purpose clauses also state that protective services will be provided to prevent further abuse. A majority of states also declare that the purpose of state intervention will be to preserve the unity and welfare of the family whenever possible, with services provided within the family environment.

Purpose clauses also are found in statutory provisions authorizing judicial proceedings. The purpose often stated is to provide judicial procedures in which the parties are assured a fair hearing and their constitutional and other legal rights are recognized and enforced. Another stated purpose is to separate clearly in the judicial process the abused or neglected child from the delinquent child and to provide appropriate and distinct options for the disposition and treatment of these children.

Reportable Circumstances

What circumstances or conditions must or may be reported? Every jurisdiction requires that suspected cases of child abuse be reported. Over the years states have broadened the concept of reportable circumstances by either expanding the definition of child abuse to include physical

¹As reported in B. G. Fraser, "A Glance at the Past, A Gaze at the Present, A Glimpse at the Future: A Critical Analysis of the Development of Child Abuse Reporting Statutes," *Chicago Kent Law Review* 54(1978): 649-650 [hereinafter cited as Fraser], the three models were set forth in: Children's Bureau, U.S. Department of Health, Education, and Welfare, *The Abused Child-Principles and Suggested Language for the Reporting of the Physically Abused Child* (1963); American Medical Association, *Physical Abuse of Children Suggested Legislation* (1965); Council of State Governments, *Program for Suggested State Legislation* (1965).

²Fraser, p. 651.

injury, emotional harm, sexual abuse and exploitation, and neglect, or by expressly requiring circumstances in addition to child abuse to be reported.³

All state laws are similar to the Model Child Protection Act in that they do not require a reporter to know or to be certain that a child has been abused or neglected.⁴ The degree of certainty most often expressed is "reason to believe" or "reasonable cause to believe or suspect," a standard based on the reasonable person's convictions.

A few jurisdictions also require reports when one "observes the child being subjected to conditions or circumstances which would reasonably result in child abuse or neglect."⁵

Definitions of Child Abuse and Neglect

Each jurisdiction defines child abuse and neglect differently and many jurisdictions have more than one definition. These definitions are found not only in reporting laws but also in

REPORTING LAWS

Alabama - ALA. CODE §§ 26-14-1 to -13 (1975).

Alaska - ALASKA STAT. ch. 17, §§ 47.17.010 to .070 (1975), amended by ch. 17, §§ 47.17.030 (e), .040 (b), .070 (1) (Supp. 1978).

Arizona - ARIZ. REV. STAT. ANN. §§ 8-546, -546.02, -546.03 (1974); §§ 8-546.01, -546.04 (Supp. 1978); § 13-3620 (Supp. 1978).

Arkansas - ARK. STAT. ANN. §§ 42-807 to -818 (Repl. 1977).

California - CAL. PENAL CODE §§ 11161.5 to 11161.8, 11110 (West Supp. 1979); § 11162 (West 1970).

Colorado - COLO. REV. STAT. §§ 19-10-101 to -115 (Supp. 1978).

Connecticut - CONN. GEN. STAT. ANN. §§ 17-38a to -38c, -38f (Supp. 1978); § 17-38d (1975).

Delaware - DEL. CODE ANN. tit. 16, §§ 901 to 909 (Supp. 1978).

District of Columbia - D.C. CODE ANN. §§ 2-161 to -165, -167 (Supp. 1978); § 2-166 (1973); §§ 6-2101 to -2107, -2111 to -2119 (Supp. 1978).

Florida - FLA. STAT. ANN. § 827.07 (1976), amended by § 827.07 (Supp. 1979).

Georgia - GA. CODE ANN. § 74-111 (Supp. 1978); §§ 79-4301, -4302 (1976).

Hawaii - HAWAII REV. STAT. §§ 350-1 to -5 (1976), amended by § 350-1 (Supp. 1977).

Idaho - IDAHO CODE §§ 16-1601, -1602, -1619, -1620, -1629 (Supp. 1978).

Illinois - ILL. ANN. STAT. ch. 23, §§ 2051-2061 (Smith-Hurd Supp. 1978); ch. 51, § 5.1 (Smith-Hurd Supp. 1978).

Indiana - IND. CODE ANN. §§ 12-3-4.1-2 to -5 (Supp. 1978); § 12-3-2-14 (1976); § 12-3-2-15 (Supp. 1978); §§ 31-5.5-3-1 to -8 (Supp. 1978).

Iowa - IOWA CODE ANN. §§ 235A.1 to .24 (Supp. 1978).

Kansas - KAN. STAT. ANN. §§ 38-716, -719 (1973), amended by § 38-716 (Supp. 1978); §§ 38-717, -718, -720 to -724 (Supp. 1978).

Kentucky - KY. REV. STAT. §§ 199.011, .335, .990 (7)-(8) (Supp. 1978); § 199.430 (1975).

Louisiana - LA. REV. STAT. § 14:403 (A), B (1), B (4), C to F (1974); § 14:403 B (2), (3) (Supp. 1978).

Maine - ME. REV. STAT. tit. 22, §§ 3851 to 3860 (Supp. 1978).

Maryland - MD. CODE ANN. Art. 27, § 35A (1976 Repl. Vol.), amended by Art. 27, § 35A (Cum. Supp. 1978); Art. 72A, §§ 4 to 11 (Cum. Supp. 1978).

Massachusetts - MASS. GEN. LAW ANN. ch. 119, §§ 51A to 51G (1975), amended by ch. 119, §§ 51A to 51F (Supp. 1979); ch. 233, §§ 20, 20B (1975), amended by ch. 233, § 20B (Supp. 1979).

Michigan - MICH. COMP. LAWS ANN. §§ 722.621 to .636 (Supp. 1978), amended by §§ 722.622, .623, .628, .633, P.A. 252, 1978 Mich. Legis. Serv. (West) 759.

Minnesota - MINN. STAT. ANN. § 626.556 (Supp. 1979); § 245.813 (Supp. 1979).

Mississippi - MISS. CODE ANN. §§ 43-21-5, -11 (Supp. 1978); §§ 43-24-1 to -9 (Supp. 1978).

Missouri - MO. REV. STAT. §§ 210.110 to .165 (Supp. 1979).

Montana - MONT. REV. CODES ANN. §§ 10-1300, -1301, -1303 to -1308 (Supp. 1977).

³ The reporting laws of 48 jurisdictions specifically include neglect as a reportable condition.

⁴ *Model Child Protection Act With Commentary*, draft, U.S. Department of Health, Education, and Welfare, Office of Human Development Services, Administration for Children, Youth and Families, Children's Bureau, National Center on Child Abuse and Neglect, August 1977, p. 17 [hereinafter cited as Model Act].

⁵ For example: Arkansas, Colorado, Idaho, Maine, Utah, West Virginia, American Samoa, and the Virgin Islands.

juvenile court laws, criminal codes, and welfare laws. Some jurisdictions define child abuse and neglect as a single concept; other jurisdictions have separate definitions for child abuse and child neglect. Statutory definitions of child abuse and neglect and distinctions between abuse and neglect are among the most controversial issues in the child protection area. One view of the controversy involving these definitions is found in the Model Child Protection Act commentary:

The time and effort spent in trying to distinguish between abuse and neglect serves no useful purpose. Differentiating between abuse and neglect neither establishes nor justifies service priorities; it only confuses the definition of what is reportable, thereby hindering accurate reporting, and detracting from the individualized handling of cases. A child may suffer

REPORTING LAWS (Cont)

Nebraska - NEB. REV. STAT. §§ 28-1501 to -1508 (1975).
 Nevada - NEV. REV. STAT. §§ 200.501, .5011, .502, .503, .504, .5045, .505, .506, .507 (1977); §§ 432.100 to .130 (1977); §§ 49.185 to .275 (1977).
 New Hampshire - N.H. REV. STAT. ANN. §§ 169:37 to 45 (Repl. 1977).
 New Jersey - N.J. STAT. ANN. §§ 9:6-8.8 to .20 (1976), amended by §§ 9:6-8.10a, -8.10b (Supp. 1978).
 New Mexico - N.M. STAT. ANN. §§ 32-1-3, -15, -16 (1978).
 New York - N.Y. SOC. SERV. LAW §§ 411 to 428 (McKinney 1976), amended by §§ 412 (1), 422 (4), 423 (3) (McKinney Supp. 1978).
 North Carolina - N.C. GEN. STAT. §§ 110-116 to -123 (1978).
 North Dakota - N.D. CENT. CODE §§ 50.25.1-01 to -14 (Supp. 1977).
 Ohio - OHIO REV. CODE ANN. §§ 2151.421, .99 (Page Repl. Vol. 1976).
 Oklahoma - OKLA. STAT. ANN. tit. 21, §§ 845 to 848 (Supp. 1978).
 Oregon - OR. REV. STAT. §§ 418.740 to .775, .990 (6), (7) (Repl. Part 1977).
 Pennsylvania - PA. STAT. ANN. tit. 11, §§ 2201 to 2224 (Supp. 1978).
 Rhode Island - R.I. GEN. LAWS §§ 40-11-1 to -16 (1977).
 South Carolina - S.C. CODE ANN. ch. 10, §§ 20-10-10 to -100, -130 to -160, -190 (Supp. 1978).
 South Dakota - S.D. COMP. LAWS ANN. §§ 26-10-1.1, -10 to -12.3, -14 (1976); § 26-10-15 (Supp. 1978); § 19-2-1 (1967); §§ 19-2-3, -3.1 -5.1 (Supp. 1978).

Tennessee - TENN. CODE ANN. §§ 37-1201, -1202, -1204 (1977 Repl. Vol.); §§ 37-1203, -1205 to -1213 (Supp. 1978).
 Texas - TEX. FAM. CODE ANN. §§ 34.01 to .06 (1975), amended by §§ 34.02, .05 (Supp. 1978); §§ 34.07, .08 (Supp. 1978), § 35.04 (Supp. 1978).
 Utah - UTAH CODE ANN. §§ 78-3b-1 to -13 (Supp. 1978); § 55-15a-26 (Repl. Vol. 1974); § 55-15b-19 (Repl. Vol. 1974).
 Vermont - VT. STAT. ANN. tit. 13, §§ 1351 to 1356 (Supp. 1978).
 Virginia - VA. CODE §§ 63.1-248.1 to .17 (Supp. 1978).
 Washington - WASH. REV. CODE ANN. §§ 26.44.010 to .900 (Supp. 1977); § 5.60.060 (3), (4) (Supp. 1977); § 18.83.110 (Supp. 1977).
 West Virginia - W.VA. CODE §§ 49-6A-1 to -10 (Supp. 1978); § 49-7-1 (Supp. 1978).
 Wisconsin - WIS. STAT. ANN. §§ 905.04 (4) (c), .05 (1), (2), (3) (b) (1975); § 48.981, ch. 355, § 4, 1977-78 Wis. Legis. Serv. 1709.
 Wyoming - WYO. STAT. §§ 14-3-201 to -215 (1978); § 42-1-116 (1977).
 American Samoa - A.S. CODE tit. 21, ch. 29, §§ 2901 to 2914 (Supp. 1978).
 Guam - GUAM PENAL CODE § 273 (d), (e) (Supp. 1974); GUAM GOV'T. CODE § 9120, 1978 P.L. 14-137, 14th Legislature.
 Puerto Rico - P.R. LAWS ANN. tit. 3, § 211 m (Supp. 1977).
 Virgin Islands - V.I. CODE ANN. tit. 19, §§ 171 to 176 (1976), amended by tit. 19, §§ 171 to 183 (Supp. 1977).

serious or permanent harm and even death as a result of neglect. Therefore, the same reasons that justify the mandatory reporting of abuse require the mandatory reporting of child neglect.⁶

A survey of the definitions reveals a broad list of maltreatment that constitutes abuse and neglect, including battering; dependency; deprivation; abandonment; exploitation; overwork; emotional maltreatment; failure to provide necessities, proper supervision, or care; and excessive corporal punishment.

One common generalized expression of reportable maltreatment that appears in many statutes is "harm or threatened harm to a child's welfare by the acts or omissions of his parent or other person responsible for his welfare," which follows the language in the Model Act definition of "abuse or neglect."⁷ The term "harm or threatened harm" is usually further defined in the statutes. A typical definition of neglect is "a failure to provide, by those legally responsible for the care of the child, the proper or necessary support, education as required by law, or medical, surgical or any other care necessary for his well-being." Abuse is often defined as "any physical injury, sexual abuse or mental injury inflicted on a child other than by accidental means by a person responsible for the child's health or welfare." Several states specify a variety of specific manifestations of abuse, such as "skin bruising, bleeding, malnutrition, failure to thrive, burns, fractures of any bone, subdural hematoma or soft tissue swelling."

Over the years many states have broadened the concept of reportable abuse to include sexual abuse and exploitation and mental or emotional injury. A growing number of states also have specifically defined these terms. For example, almost all jurisdictions now include sexual abuse in their definition of child abuse. Maryland has defined sexual abuse in its reporting law as:

...any act or acts involving sexual molestation or exploitation, including but not limited to incest, rape, or sexual offense in any degree, sodomy or unnatural or perverted sexual practices on a child . . .

⁶ Model Act, p. 17.

⁷ *Ibid.*, Section 4(b), p. 4.

⁸ *Id.*, p. 652.

⁹ They are: Colorado, Ohio, Oklahoma, South Carolina, and Washington.

MD. CODE ANN. Art. 27, § 35A(b)
(8) (Cum. Supp. 1978)

Florida has broadened its definition of abuse to include sexual exploitation:

"Abuse" or "mal'treatment" also includes the aiding, abetting, counseling, hiring, or procuring of a child to perform or participate in any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts sexual conduct, sexual excitement, or sadomasochistic abuse involving a child.

FLA. STAT. ANN. § 827.07(1)(b)
(Supp. 1979)

Over half of the jurisdictions include the element of mental or emotional injury in their definitions of child abuse. Wyoming defines mental injury as:

...an injury to the psychological capacity or emotional stability of a child as evidenced by an observable or substantial impairment in his ability to function within a normal range of performance and behavior with due regard to his culture . . .

WYO. STAT. § 14-3-202(a)(ii) (1978)

This discussion of the definitions of abuse and neglect underscores a concern of many scholars in the field. Many feel that the variations in definitions from state to state lead to nonuniform reporting. And reporters, faced with the variations and ambiguities, cannot pinpoint what must be reported. As more states attempt to define by statute terms such as sexual abuse and mental injury, this problem should be minimized.

Corporal punishment can be defined as inflicted nonaccidental physical injury, and, as such, it would seem to fall within the typical statutory definition of child abuse. No state, however, prohibits parents from using reasonable corporal punishment in the upbringing of their children.⁹ Five states expressly permit the use of reasonable corporal punishment and note that it is not child abuse.⁹

In addition, 26 jurisdictions have enacted laws that justify the use of physical force upon a minor by a person responsible for his care and supervision to the extent reasonably necessary to maintain discipline or to promote the welfare of the minor.¹⁰ These justification statutes may be used as a defense in criminal or civil proceedings brought against parents, guardians, and teachers for the use of physical force upon children. These statutes do not excuse or lessen the duty to report child abuse, and since they only justify the use of reasonable physical force, they should not preclude a judicial finding of child abuse in cases brought under the child protection laws.

Age Limits of Reportable Children

The federal Child Abuse Prevention and Treatment Act defines a child as a person under the age of 18 or the age specified by the child protection law of a state.¹¹ Fifty-four jurisdictions set the age limit of reportable children at 18 years or younger. Wyoming sets the reportable age limit at 16.

Several jurisdictions qualify their age limit or include separate considerations in their laws. Delaware and American Samoa include mentally retarded persons, regardless of age. Ohio sets the age at under 18 years or any crippled or otherwise physically or mentally handicapped child under 21. Washington's law applies to adult developmentally disabled persons, and Nebraska extends protection to incompetent or disabled persons. Tennessee's law refers to a person under 18 years or persons who are reasonably presumed to be under 18 years. North Dakota's law applies to a person who is under 18 years and is neither married and cohabiting with spouse nor in the military service. Texas refers to a person under 18 years who has not been married or had his disabilities of minority removed for general purposes.

Who Must Report

The earliest focus on mandatory reporting was directed at physicians. Their training and contact

with injured children singled them out as the group most likely to detect and report child abuse and neglect. Table A shows that every jurisdiction requires physicians to report child abuse. This is mandated either by specific mention of physicians or by a more general directive, such as "practitioners of the healing arts" or "any person."

A recent survey indicated that only 1.6% of the child abuse reports filed in the United States came from private physicians.¹² Physicians do not have daily access to young children, and, in most cases, a physician only sees a child when the injuries are so severe that they require immediate medical attention. Over the years, states have broadened the base of mandated reporters to include persons who have more frequent contact with children. Table A indicates which states require reports from other medical professionals, such as nurses, dentists, osteopaths, and interns; and which states also require nonmedical professionals, such as teachers and law enforcement and child care personnel, to report.

A comparison of categories of reporters in each state named in a 1973 report¹³ with the current categories in Table A shows the extent of the trend toward expansion of the scope of those who must report. As of January 1, 1979, reports from teachers or other school personnel are specifically mandated by 45 jurisdictions; thirty-one states required their reports in 1973. Today, 46 jurisdictions require reports of harm from social service workers, as opposed to 32 in 1973. In 1973, nurses were required to report in 38 states; currently the figure is 47. Twenty-five states and two territories currently mandate reports from coroners or medical examiners; only eight states required coroner's reports in 1973. The requirement for clergymen to report has expanded from three states to seven and attorneys are now included in four reporting laws, as opposed to two in 1973.

Nineteen jurisdictions currently mandate "any person" or "any other person" to report. In addition, a variety of persons not included in the categories in Table A are required to make reports. Arizona, Louisiana, and Missouri require reports

¹⁰ They are: Alabama, Arizona, Arkansas, Colorado, Connecticut, Delaware, Georgia, Hawaii, Kentucky, Louisiana, Maine, Minnesota, Missouri, Montana, Nebraska, New Hampshire, New Jersey, New York, North Dakota, Oregon, Pennsylvania, South Dakota, Texas, Utah, Washington, and Wisconsin.

¹¹ P.L. No. 93-247, January 31, 1974, as amended by Act of April 24, 1978, P.L. No. 95-266.

¹² *American Medical News*, December 19, 1977, p. 8.

¹³ V. De Francis and C. L. Lucht, *Child Abuse Legislation in the 1970's*, rev. ed., (Denver: The American Humane Association, Children's Division, 1974) p. 174.

from any "other person with responsibility for the care of children." Florida requires reports from "any person, including, but not limited to . . . employees of a public or private facility serving children." Pennsylvania's law focuses on "any person who, in the course of their [sic] employment, occupation, or practice of their profession comes into contact with children." Alabama mandates reports from "any other person called upon to render aid or medical assistance to any child"; Oregon speaks of "any public or private official." North Dakota, West Virginia, and the Virgin Islands require reports from "any other medical professional." Virginia includes "any person licensed to practice medicine . . . and any professional staff person employed by a private or state-operated hospital, institution or facility which children have been committed to or placed in for care or treatment." California requires reports from "every person, firm, or corporation conducting any hospital in the state, or the managing agent thereof; or the person managing or in charge of such hospital, or in charge of any ward or part of such hospital, who receives a patient from a health care facility . . ."

One clause, which commonly appears in the reporting laws, requires medical staff to notify the person in charge of the institution, who, in turn, is responsible for the report. This requirement follows the language in Section 5(b) of the 1977 Model Act draft and is aimed at increasing administrative accountability and the establishment of reporting and follow-up procedures. The Arkansas statute, a typical example, reads:

Whenever such person is required to report . . . in his capacity as a member of the staff of a medical or public or private institution, school, facility or other agency, he shall immediately notify the person in charge . . . or his designated agent, who shall then become responsible for making a report or cause such report to be made. ARK. STAT. ANN. § 42-808 (Repl. 1977)

The New York statute does not completely shift the responsibility for reporting once a staff member notifies his superior:

Whenever such person is required to report under this title in his capacity

as a member of the staff of a medical or other public or private institution, school, facility, or agency, he shall immediately notify the person in charge of such institution, school, facility, or agency, or his designated agent, who then also shall become responsible to report or cause reports to be made. However, nothing in this section or title is intended to require more than one report from any such institution, school or agency.

N.Y. SOC. SERV. LAW § 413 (McKinney 1976)

Another special clause, which is gaining favor in state laws, requires that child fatalities due to abuse and neglect be reported to medical examiners or coroners and district attorneys.¹⁴ The West Virginia law, which closely follows the language in section 7 of the Model Act draft, reads:

Any person or official who is required . . . to report cases of suspected child abuse or neglect and who has reasonable cause to suspect that a child has died as a result of child abuse or neglect, shall report that fact to the appropriate medical examiner or coroner. Upon the receipt of such a report, the medical examiner or coroner shall cause an investigation to be made and report his findings to the police, the appropriate prosecuting attorney, the local child protective service agency and, if the institution making a report is a hospital, to the hospital. W.VA. CODE § 49-6A-3 (Supp. 1978)

Discretion Not to Report

Two states give mandatory reporters discretion not to make a report under certain circumstances. The Maryland child neglect reporting law provides:

A person required to notify and report under the provisions of this section need not comply with the notification and reporting requirements of this section if:

¹⁴ Examples include: Arkansas, Maine, Massachusetts, Minnesota, Missouri, New York, Pennsylvania, Virginia, Washington, West Virginia, and American Samoa.

TABLE A
WHO REPORTS

WHO MUST REPORT

States and Territories	"Any Person" or "Any Other Person"	Physician	Nurse	Surgeon	Osteopath	Dentist	Resident	Intern	Hospital/Institution Personnel	Practitioner of Healing Arts ¹	Chiropractor	Optometrist	Podiatrist	Pharmacist	Mental Health Professional	Coroner/Medical Examiner
Alabama		X	X	X	X	X			X		X	X	X	X	X	X
Alaska		X	X	X	X	X			X		X	X	X	X	X	X
Arizona		X	X	X	X	X	X	X			X				X	X
Arkansas		X	X	X	X	X	X	X	X		X				X	X
California		X	X	X	X	X	X	X	X		X				X	X
Colorado		X	X	X	X	X			X		X				X	X
Connecticut	X	X	X	X	X	X	X	X			X				X	X
Delaware	X	X	X	X	X	X	X	X		X					X	X
District of Columbia		X	X	X		X					X					X
Florida		X	X	X		X	X	X							X	X
Georgia		X	X	X		X	X	X		X						X
Hawaii		X	X	X		X										X
Idaho		X	X	X		X	X	X								X
Illinois		X	X	X		X			X		X		X			X
Indiana	X		X	X		X	X	X	X		X		X			
Iowa		X	X	X		X	X	X	X		X		X		X	X
Kansas			X	X		X	X	X	X		X		X		X	X
Kentucky	X	X	X	X		X	X	X	X		X		X		X	X
Louisiana	X	X	X	X		X	X	X	X		X		X		X	X
Maine		X	X	X		X	X	X			X			X		X
Maryland		X	X	X		X	X	X		X					X	X
Massachusetts		X	X	X		X		X								X
Michigan		X	X	X		X										X
Minnesota			X	X		X	X	X	X		X				X	X
Mississippi		X	X	X		X	X	X	X		X		X		X	X
Missouri		X	X	X		X	X	X	X		X		X		X	X
Montana	X	X	X	X												X
Nebraska	X	X	X	X					X							X
Nevada		X	X	X		X	X	X	X		X				X	X
New Hampshire	X	X	X	X		X	X	X	X		X				X	X
New Jersey	X															
New Mexico	X		X	X			X	X	X		X				X	X
New York		X	X	X		X	X	X	X		X				X	X
North Carolina		X	X	X		X	X	X	X		X				X	X
North Dakota		X	X	X		X	X	X							X	X
Ohio		X	X	X		X	X	X							X	X
Oklahoma	X	X	X	X		X	X	X							X	X
Oregon		X	X	X		X	X	X			X		X		X	X
Pennsylvania		X	X	X		X	X	X	X		X		X		X	X
Rhode Island	X															
South Carolina		X	X	X		X	X	X		X					X	X
South Dakota		X	X	X		X	X	X							X	X
Tennessee	X															
Texas	X	X	X	X												
Utah	X	X	X	X		X	X	X			X					
Vermont		X	X	X		X	X	X			X					X
Virginia		X	X	X		X	X	X		X					X	X
Washington		X	X	X		X	X	X		X					X	X
West Virginia		X	X	X		X	X	X							X	X
Wisconsin		X	X	X		X	X	X			X				X	X
Wyoming	X															
America Samoa		X	X	X		X	X	X			X				X	X
Guam		X	X	X		X	X	X			X				X	X
Puerto Rico	X	X	X	X		X	X	X			X				X	X
Virgin Islands	X	X	X	X		X	X	X			X				X	X

Numbers refer to explanatory notes in Appendix A.

* A state that does not specify categories of professionals that must report, but instead requires that every person or any person report, is in this column.

TABLE A (Continued)
WHO REPORTS

WHO MUST REPORT											WHO MAY REPORT			
Teachers 2	Other School Personnel	Social Services Worker	Law Enforcement Officer	Peace Officer	Police Officers	Probation Officer	Parole Officer	Religious Healing Practitioner 3	Child Care Institution/Worker	Clergyman	Attorney	Others 4	States and Territories	Permissive Reporting
X	X	X	X	X				X	X			X	Alabama	●
X	X	X		X								X	Alaska	●
X	X	X		X								X	Arizona	●
X	X	X		X								X	Arkansas	●
X	X	X	X	X		X		X	X	X		X	California	●
X	X	X						X	X	X		X	Colorado	●
X	X	X			X				X				Connecticut	●
X	X	X											Delaware	●
X	X	X	X						X			X	District of Columbia	●
X		X										X	Florida	●
X		X	X						X				Georgia	●
X		X											Hawaii	●
X		X							X			X	Idaho	●
X		X	X					X	X				Illinois	●
X		X							X				Indiana	●
X		X		X									Iowa	●
X		X							X				Kansas	●
X		X	X						X			X	Kentucky	●
X		X		X								X	Louisiana	●
X		X										X	Maine	●
X		X	X						X			X	Maryland	●
X		X	X			X			X			X	Massachusetts	●
X		X	X						X			X	Michigan	●
X		X	X						X				Minnesota	●
X		X	X						X			X	Mississippi	●
X		X	X			X			X			X	Missouri	●
X		X	X									X	Montana	●
X		X	X									X	Nebraska	●
X		X	X						X			X	Nevada	●
X		X	X						X			X	New Hampshire	●
X		X	X						X			X	New Jersey	●
X		X	X						X			X	New Mexico	●
X		X	X	X					X			X	New York	●
X		X	X						X			X	North Carolina	●
X		X	X		X				X			X	North Dakota	●
X		X	X						X			X	Ohio	●
X		X	X						X			X	Oklahoma	●
X		X	X	X					X			X	Oregon	●
X		X	X						X			X	Pennsylvania	●
X		X	X						X			X	Rhode Island	●
X		X	X		X				X			X	South Carolina	●
X		X	X						X			X	South Dakota	●
X		X	X										Tennessee	●
X		X	X										Texas	●
X		X	X										Utah	●
X		X	X		X							X	Vermont	●
X		X	X			X			X			X	Virginia	●
X		X	X						X			X	Washington	●
X		X	X	X					X			X	West Virginia	●
X		X	X						X			X	Wisconsin	●
X		X	X						X			X	Wyoming	●
X		X	X						X			X	American Samoa	●
X		X	X						X			X	Guam	●
X		X	X						X			X	Puerto Rico	●
X		X	X						X			X	Virgin Islands	●

(1) Efforts are being made or will be made to alleviate the conditions or circumstances which may cause the child to be considered a neglected child and it is concluded by the health practitioner, educator, social worker, or law enforcement agency or officer that these efforts will alleviate these conditions or circumstances; or

(2) The health practitioner, educator, social worker, or law enforcement agency or officer believes that the notification and reporting would inhibit the child, parent, guardian, or custodian from seeking assistance in the future and thereby be detrimental to the child's welfare.

MD. CODE ANN. Art. 72A, § 6(c)
(Cum. Supp. 1978)

The Maine reporting law states:

This subsection does not require any person to report when the factual bases for knowing or suspecting child abuse or neglect came from treatment of the individual for suspected child abuse or neglect, the treatment was sought by the individual for a problem relating to child abuse or neglect, and, in the opinion of the person required to report, the child's life or health is not immediately threatened.

ME. REV. STAT. Tit. 22, § 3853(1)
(Supp. 1978)

Who May Report

The last column in Table A shows the 32 jurisdictions which currently provide specific authorization for permissive reporting. Many states make no provision for permissive reporting because they mandate reporting by everyone.

Immunity for Participation in the Making of a Report

One of the eligibility criteria for state grants under the federal Child Abuse Prevention and Treatment Act is a provision extending "immunity

for persons reporting instances of child abuse and neglect from prosecution, under any state or local law, arising out of such reporting."¹⁵ This provision serves to encourage full reporting by removing the threat of legal action from reporters and, in particular, from medical professionals.

Table B shows that all 50 states, the District of Columbia, American Samoa, Guam, Puerto Rico, and the Virgin Islands grant immunity from any liability, civil or criminal, for the making of a report. This chart also reflects the fact that most jurisdictions provide additional immunity for participation in any judicial proceeding resulting from the report.

Table B also indicates that the majority of jurisdictions qualify their grant of immunity with the requirement that the report be made in good faith. Twenty of these jurisdictions, however, include a presumption of the good faith of reporters. Arizona, Indiana, Louisiana, and North Dakota specifically withhold immunity from reporters if they are charged with or suspected of abusing or neglecting a child who is the subject of a report.

Immunity for the Retention or Removal of a Child

At least 17 jurisdictions explicitly extend the grant of immunity to any person participating in the temporary removal of a child pursuant to state law.¹⁶

Immunity for the Taking of Photographs and/or X-rays

Photographs, and especially X-rays, can be important to a diagnosis of alleged abuse or neglect and to preservation of the evidence for court action or provision of protective services. At least 13 jurisdictions grant immunity to persons participating in good faith in the taking of photographs of the areas of trauma visible on a child. Several jurisdictions extend this immunity to any person who takes such photographs; others extend the immunity only to mandatory reporters or persons authorized by the reporting laws to take photographs. Table B shows that 10 of these 16 jurisdictions also extend immunity to those performing X-ray examinations that are medically indicated.

¹⁵ P.L. No. 93-247, January 31, 1974, Section 4 (b)(2)(A)

¹⁶ They are: Alabama, Arkansas, Colorado, Florida, Illinois, Michigan, Missouri, New Jersey, New York, Pennsylvania, Utah, Virginia, Washington, Wyoming, American Samoa, Guam, and the Virgin Islands.

TABLE B
IMMUNITY

States and Territories	Civil and Criminal Immunity in Making of a Report	Immunity for the Taking of Photographs	Immunity for the Taking of X-rays	Immunity in Resulting Judicial Proceedings	Requirement of Good Faith	Good Faith Presumed
Alabama	X			X		
Alaska	X			X	X	
Arizona	X			X	X	
Arkansas	X	X				X
California	X			X	X	
Colorado	X	X		X		X
Connecticut	X			X	X	
Delaware	X			X	X	
District of Columbia	X			X	X	X
Florida	X	X		X		X
Georgia	X			X	X	
Hawaii	X			X	X	
Idaho	X			X	X	
Illinois	X	X		X		X
Indiana	X	X		X	X	X
Iowa	X			X	X	
Kansas	X			X	X	
Kentucky	X			X		
Louisiana	X			X	X	
Maine	X			X		X
Maryland	X			X	X	
Massachusetts	X			X	X	
Michigan	X	X ¹				X
Minnesota	X			X	X	
Mississippi	X	X		X	X	X
Missouri	X		X	X	X	
Montana	X			X	X	X
Nebraska	X			X	X	
Nevada	X			X	X	
New Hampshire	X			X	X	
New Jersey	X			X	X	
New Mexico	X			X		X
New York	X	X				X
North Carolina	X			X	X	
North Dakota	X			X	X	X
Ohio	X			X		
Oklahoma	X			X	X	
Oregon	X			X	X	
Pennsylvania	X	X		X	X	X
Rhode Island	X			X	X	
South Carolina	X			X	X	X
South Dakota	X			X	X	
Tennessee	X			X		X
Texas	X			X	X	
Utah	X	X		X	X	
Vermont	X			X	X	
Virginia	X			X	X	
Washington	X			X	X	
West Virginia	X	X ²		X ²	X	X
Wisconsin	X	X			X	X
Wyoming	X	X ³		X ³	X	X
America Samoa	X	X			X	X
Guam	X	X			X	X
Puerto Rico	X					
Virgin Islands	X	X ⁴		X ⁴	X	

Numbers refer to explanatory notes in Appendix A.

TABLE C

AUTHORITY TO TAKE X-RAYS AND PHOTOGRAPHS

States and Territories	Photographs	X-Rays	Notify of or forward to Child Protective Service	Taken at Public Expense
Alabama				
Alaska				
Arizona	X	X		
Arkansas	X	X	X	X
California				
Colorado	X	X	X	
Connecticut				
Delaware				
District of Columbia	X	X		
Florida	X	X	X	X
Georgia				
Hawaii				
Idaho				
Illinois	X	X		X
Indiana	X	X	X	X
Iowa	X	X	X	X
Kansas				
Kentucky	X	X		
Louisiana				
Maine				
Maryland				
Massachusetts				
Michigan	X	X	X	
Minnesota				
Mississippi				
Missouri	X	X	X	X
Montana				
Nebraska				
Nevada				
New Hampshire				
New Jersey	X	X	X	
New Mexico				
New York	X	X	X	X
North Carolina				
North Dakota				
Ohio	X	X		
Oklahoma				
Oregon	X			
Pennsylvania	X	X	X	
Rhode Island				
South Carolina	X	X	X	
South Dakota				
Tennessee				
Texas		X		
Utah	X	X	X	
Vermont				
Virginia	X	X		
Washington	X			
West Virginia	X	X	X	X
Wisconsin				
Wyoming	X	X		X
America Samoa	X	X	X	X
Guam	X	X	X	
Puerto Rico				
Virgin Islands	X	X	X	X

TABLE D
ABROGATION OF PRIVILEGED COMMUNICATIONS

States and Territories	All Privileges	Physician Patient	Husband-Wife	Any Similar Privileges	All But Attorney-Client	Social Workers	Psycho-Therapist-Patient Privileges	Ministers	Other ¹
Alabama					X				
Alaska		X	X						
Arizona		X	X		X	X			X
Arkansas		X	X		X			X	X
California									
Colorado		X	X						
Connecticut			X						
Delaware		X	X		X	X			X
District of Columbia ²		X	X						
Florida			X		X		X		
Georgia									
Hawaii		X	X						
Idaho		X	X		X			X	X
Illinois	X	X							
Indiana		X	X						
Iowa		X	X						
Kansas		X		X					
Kentucky			X		X				
Louisiana		X	X		X			X	X
Maine			X		X				
Maryland		X				X			X
Massachusetts			X				X		X
Michigan					X				
Minnesota		X	X						
Mississippi									
Missouri					X				
Montana		X		X					
Nebraska		X	X						
Nevada		X	X					X	X
New Hampshire					X				
New Jersey									
New Mexico		X		X					
New York		X	X	X		X			
North Carolina		X	X						
North Dakota			X		X				
Ohio		X							
Oklahoma		X		X					
Oregon		X	X						X
Pennsylvania		X	X						X
Rhode Island			X		X				
South Carolina			X						X
South Dakota		X	X				X		X
Tennessee			X				X		
Texas					X				
Utah		X							
Vermont									
Virginia		X	X						
Washington		X					X	X	
West Virginia			X		X				
Wyoming		X	X						
Wyoming			X		X				
American Samoa		X	X		X			X	X
Guam				X					
Puerto Rico									
Virgin Islands			X		X				

Numbers refer to explanatory notes in Appendix A

Statutory Authority to Take Photographs and/or X-rays

Table C indicates that at least 26 jurisdictions specifically authorize some persons or any person to take, or cause to be taken, photographs or X-rays of injury to a child without parental permission. Fifteen of these 26 jurisdictions are those which also specifically grant immunity for the taking of photographs. Ten of the 26 jurisdictions that authorize the taking of photographs or X-rays extend this authorization to any person required to report.¹⁷ The other jurisdictions extend the authorization to physicians or other medical personnel, law enforcement or social services personnel, or to any person responsible for the child abuse or neglect investigation.

Table C also indicates that 16 jurisdictions require the person authorized to take photographs and/or X-rays to notify the appropriate child protection service of their action or to forward any such evidence to that agency.

To encourage complete reporting and the preservation of evidence of harm, 11 jurisdictions explicitly authorize that the photographs and X-rays be taken at public expense.¹⁸

Abrogation of Privileged Communications

There are certain classes of communications between persons who stand in a confidential relationship with each other which the law will not permit to be divulged or will not allow inquiry into during a judicial proceeding, unless the person to be protected voluntarily waives the privilege. In order to make available all relevant evidence in a judicial proceeding, the laws of most jurisdictions make these legal restrictions on divulging confidential information inapplicable in child abuse and neglect cases.

Table D records the specific privileges excluded. The physician-patient privilege is explicitly excluded in 32 jurisdictions. Another 14 abrogate the physician-patient privilege by excluding "all" privileges or "all other privileges except the attorney-client privilege."

Some remaining jurisdictions exempt physicians by inference, by excluding, for example, "any privilege . . . provided for by professions or a code of ethics."

Explicit restrictions on the husband-wife privilege are found in more than 30 jurisdictions. Another 11 states restrict the husband-wife privilege by inferences such as exclusion of "all" privileges, "all other privileges except attorney-client," or "any similar privilege or rule against disclosure."

Four states specifically abrogate the confidential communications privilege for social workers. Six states restrict the minister-penitent communications privilege and five jurisdictions restrict the psychotherapist-patient privilege. Thirteen jurisdictions abrogate the privileges between other professionals, such as counselors, and their clients, or waive any privilege provided for by professions or a code of ethics.

Religious Immunity or Exclusion

The religious immunity or spiritual healing exemption has been the subject of widespread legislative activity. In its modern form, the clause qualifies a statutory definition of neglect or maltreatment:

. . . any child who does not receive specific medical treatment by reason of the legitimate practice of the religious belief of said child's parent, guardian, or other legally responsible for said child, for that reason alone, shall not be considered to be an abused or neglected child. . .
MO. REV. STAT. § 210.115(3)
(Supp. 1979)

Despite some commentators' characterization of these clauses as an impediment to the protection of children,¹⁹ legislative adoption of the clause has increased from 11 jurisdictions in 1974 to 44 jurisdictions today.

¹⁷ They are Arkansas, Iowa, New York, Ohio, Pennsylvania, South Carolina, West Virginia, American Samoa, Guam, and the Virgin Islands.

¹⁸ Florida requires reimbursement from the parent, guardian, or custodian of the child for the cost of X-rays and photographs.

¹⁹ See, for example, Ho I. Evans, *Child Abuse Legislation in the 1970's*, p. 17.

They are:

Alabama	Michigan
Alaska	Minnesota
Arizona	Mississippi
Arkansas	Missouri
California	Nevada
Colorado	New Hampshire
Connecticut	New Jersey
Delaware	New York
District of Columbia	Ohio
Florida	Oklahoma
Georgia	Oregon
Hawaii	Pennsylvania
Idaho	Rhode Island
Illinois	South Dakota
Indiana	Utah
Iowa	Vermont
Kansas	Virginia
Kentucky	Washington
Louisiana	West Virginia
Maine	Wisconsin
Maryland	Wyoming
Massachusetts	Guam

Three states, Arizona, Connecticut, and Washington, limit the exception to Christian Science practitioners. Many other states limit the exception to treatment in accordance with the tenets and practices of a recognized or well-recognized church or religious denomination.

In an attempt to balance the conflict between the parents' right to religious freedom and the child's right to live, some states have modified the clause. Alabama, Florida, Kansas, Kentucky, Maine, Michigan, Missouri, and Rhode Island, for example, explicitly authorize courts to order medical treatment when the child's health requires it.²⁰ Even without explicit statutory authorization, a court might still have the power to authorize necessary medical treatment.²¹

Penalty for Failure to Report

While it is generally maintained that complete reporting ultimately rests with the concerned response of the community, an additional motivation for reporting abuse and neglect is the penalty

provision. At this writing the following 45 jurisdictions impose a criminal penalty for failure to report:

Alabama	New Jersey
Arizona	New Mexico
Arkansas	New York
California	North Dakota
Colorado	Ohio
Connecticut	Oklahoma
Delaware	Oregon
District of Columbia	Pennsylvania
Florida	South Carolina
Georgia	South Dakota
Indiana	Tennessee
Iowa	Texas
Kansas	Utah
Kentucky	Vermont
Louisiana	Virginia
Maine	Washington
Massachusetts	West Virginia
Michigan	Wisconsin
Minnesota	American Samoa
Missouri	Guam
Nebraska	Puerto Rico
Nevada	Virgin Islands
New Hampshire	

Failure to report is generally a misdemeanor. The typical penalties range from a low of 5 to 30 days in jail and/or a \$10 to \$100 fine to as high as a year in jail and/or a \$1,000 fine. The basis of liability giving rise to a penalty is most often expressed in state law as a "knowing" or "willful" failure to report. The requirement of proving a willful failure to report beyond a reasonable doubt makes the likelihood of a successful prosecution very unlikely. Despite the widespread provision for penalties, there are no reported cases of a criminal prosecution for failure to report an abused or neglected child.

Another incentive for complete reporting is the exposure of mandated reporters to civil liability for damages proximately caused by their failure to report. Five jurisdictions, Arkansas, Colorado, Iowa, New York, and American Samoa, provide for civil liability, in addition to a criminal penalty.

The most celebrated case of civil liability for failure to report is a 1976 California Supreme

²⁰ For appellate court decision summaries, cases involving parental refusal to provide medical care see: E. W. Brown and L. Peary, *The Non-Delinquent Child in Juvenile Court: A Theory of Case Law* (Henn, Nevada: National Council of Juvenile Court Judges, 1974) pp. 9-11.

²¹ See, for example, *In the Matter of Sampson*, 29 N.Y. 2d 900, 278 N.E. 2d 919 (1972).

Court decision,²² which held that a doctor who fails to report a child abuse victim can be exposed to liability for subsequent injuries to the child on a theory of medical malpractice. The case involved an 11-month-old girl. She was released by the defendant doctor to her parents after an examination, despite signs of brutality evidenced by unexplained fractures, bruises, and lacerations. The court held that whether a physician's required standard of care included properly diagnosing and treating the battered child syndrome was a question to be decided by a jury on the basis of expert

testimony, and not as a matter of law. The issue of whether the intervening injuries were reasonably foreseeable by a prudent physician was held to be a fact to be decided from trial testimony.²³

Another California case, resulting in a \$600,000 settlement, arose when a father brought an action on behalf of his 3-year-old son who had suffered permanent brain damage after repeated beatings by the custodial mother's boyfriend. The child was allegedly examined by four doctors before he was reported as a battered child.²⁴

²² *La. v. Flood*, 17 Cal. 3d 399, 551 P.2d 309, 131 Cal. Rptr. 69 (1976).

²³ See J. N. Clymes, "The Battered Child—A Doctor's Civil Liability for Failure to Diagnose and Report," *Washington Law Journal* 16 (Winter 1977): 543-551; N. J. Lehto, "Civil Liability for Failing to Report Child Abuse," *Detroit College of Law Journal* (Spring 1977): 133-166; W. T. Curran, "Failure to Diagnose Battered Child Syndrome," *New England Journal of Medicine* 296 (April 7, 1977): 795-796.

²⁴ *The Capital Times*, November 1, 1972, p. 16.

III. ROLE OF PROTECTIVE SERVICES AGENCY

Reporting Procedures

Table E lists the various procedures that reporters are required to follow. Nearly all jurisdictions require immediate action in reporting. The breakdown of procedures in the jurisdictions is: 25 require oral reports to be followed by written reports; four merely require oral reports; two allow the reporter to choose between oral or written reports; 17 require oral reports to be followed by written reports, if requested; and eight require reports, but do not specify the procedure in the reporting law.

Oral reports are to be made "immediately," "promptly," or "as soon as possible." The time within which written reports must follow oral reports ranges from 24 hours to 7 days. The purpose of the oral report is to permit the receiving agency to take immediate protective action if the child's life or health is in danger. The purpose of the written report is to provide a foundation for the investigation and a written record of the report.²⁵

States vary somewhat on the required contents of the report. Typically, the reporter is required to state, if known, the names and addresses of the child and his parents or person having custody of the child and the nature and extent of the child's injuries, including evidence of previous injuries or neglect. A commonly used catch-all phrase reads: "Any other information that the person making the report believes may be helpful in establishing the cause of the injury . . . and protecting the child."

Many states require that the reporter make an accusatory report or name the person allegedly responsible for the harm. Others, such as Connecticut and Hawaii, avoid a direct mandate to name the suspected perpetrator by requiring the reporter

only to name the "person responsible for the care of the child, if available." Some, such as Arkansas, require both.

To facilitate oral reporting, many local communities and state have established toll-free, 24-hour-a-day reporting hotlines. A number of states established these hotlines through legislation.²⁶ The hotline simplifies the reporting procedure and provides a trained person to receive the call.

A trend has developed in which the statutes designate a single agency to be responsible for the receipt and subsequent investigation of reports of child abuse and neglect. Table E indicates that many states now require that reports be made directly to the local or state social services department. In 1974, 13 jurisdictions named a department of social services to be the sole receiver of reports.²⁷ More than 25 currently name the social services department as the sole receiver. A few continue to require reports to be made only to law enforcement agencies, and many jurisdictions allow reporters to choose between two or more agencies, typically the social services department or a local law enforcement agency. Thirteen jurisdictions also require or allow reports to be made to other persons or agencies, such as the state's attorney, district court, probation services office, or a person or agency designated to be responsible for the protection of children.

Mandated Action

The majority of state laws require the agency receiving the report of abuse or neglect to initiate an investigation "immediately," "promptly," or "within 48 hours" and to take appropriate action to protect the child. The trend in recent years has been to develop specific guidelines for the

²⁵ *Fraser*, p. 660.

²⁶ Examples include Arkansas, Maine, Massachusetts, Minnesota, Missouri, New York, Pennsylvania, Virginia, West Virginia, and American Samoa.

²⁷ *De Francis, Child Abuse Legislation in the 1970's*, p. 170.

TABLE E
REPORTING PROCEDURE

States and Territories	Orally, Followed By Writing	Time When Writing is Due	As Soon As Possible (ASAP) or Not Specified (NS)	Orally Only	Orally or In Writing	Orally, Then In Writing If Requested	Time When Due, If Requested	Procedure Not Specified	Receipt of Report			
									Social Services Agency	Law Enforcement Agency	Other Agency	
Alabama	X		NS						X	X ⁶	X	X
Alaska								X	X	X		
Arizona						X	48 hours		X	X	X	
Arkansas	X	36 hours							X	X	X	X
California	X		NS						X	X	X	
Colorado	X ¹	72 hours							X	X	X	
Connecticut						X	NS ³		X	X	X	
Delaware						X	NS		X	X	X	
District of Columbia			ASAP			X	NS		X	X ⁷	X	
Florida	X								X	X	X	
Georgia										X ⁷		
Hawaii	X		ASAP						X ¹	X	X	
Idaho										X	X	
Illinois	X	24 hours		X						X	X	
Indiana										X	X	
Iowa	X ²	48 hours								X	X	
Kansas						X	NS					X
Kentucky						X	48 hours			X ⁸	X	
Louisiana	X	5 days				X	48 hours			X	X	
Maine										X	X	
Maryland	X	48 hours								X	X	
Massachusetts	X	48 hours								X	X	
Michigan	X	72 hours								X	X	
Minnesota	X		ASAP							X	X	
Mississippi	X		ASAP							X	X	
Missouri	X	48 hours								X	X	
Montana										X		X
Nebraska	X		NS							X	X	
Nevada	X		ASAP							X	X	
New Hampshire						X	48 hours			X	X	
New Jersey										X	X	
New Mexico										X	X ⁴	X
New York	X	48 hours			X					X	X	
North Carolina					X					X	X	
North Dakota						X	48 hours			X	X	
Ohio						X	NS			X	X	
Oklahoma	X		ASAP							X	X	
Oregon				X						X	X	
Pennsylvania	X	48 hours								X	X	
Rhode Island	X		NS							X	X	
South Carolina				X						X	X	
South Dakota				X						X	X	
Tennessee	X	5 days								X	X	X
Texas	X					X	48 hours			X	X	X
Utah										X	X	
Vermont	X	7 days								X	X	
Virginia	X		NS							X	X	
Washington						X	NS			X	X	
West Virginia						X	48 hours			X	X	
Wisconsin						X	NS			X	X	
Wyoming						X	NS			X	X	
American Samoa	X	48 hours				X	48 hours			X	X	X
Guam												
Puerto Rico	X											
Virgin Islands						X	48 hours			40 ⁵	X	X

Numbers refer to explanatory notes in Appendix A

investigation. The Arkansas law, a typical example, states:

The investigation shall include the nature, extent and cause of the child abuse, sexual abuse or neglect; the identity of the person responsible therefore; the names and conditions of other children in the home; and evaluation of the parents or person responsible for the care of the child; the home environment and the relationship of the child(ren) to the parents or other persons responsible for their care; and all other pertinent data. ARK. STAT. ANN. § 42-813(b) (Repl. 1977)

To accomplish these objectives, many states authorize the investigation to include a visit to the child's home, a physical examination of the child, and an interview with the child. If admission to the child's place of residence cannot be obtained, state laws may specifically authorize the court with juvenile jurisdiction, upon good cause shown, to order the person responsible for the child's care to allow the interview, examination, and investigation.

The social services department also is authorized in many states to enlist the assistance of law enforcement agencies or other state agencies in its investigation.

The central element of the investigation is a determination of whether there is probable cause to believe that the child who is the subject of the report is abused or neglected. Expressions of a discernible standard to determine the validity of a report vary from state to state. Some states, such as Oregon, require "reasonable cause to believe." New York requires "some credible evidence of the alleged abuse or maltreatment." Other states, such as South Carolina, require a determination that a report is either "indicated" or "unfounded"; an indicated report is one "supported by facts which warrant a finding that abuse or neglect is more likely than not to have occurred."

If the investigation indicates that child abuse or neglect has occurred, the social services department must determine what services and further action would be appropriate. The Wyoming law, for example, states:

The local child protection agency shall . . . (iv) if the investigation discloses that child abuse or neglect is present, initiate services with the fam-

ily of the abused or neglected child to assist in resolving problems that lead to or caused the child abuse or neglect. WYO. STAT. § 14-3-204(a) (1978)

If the investigation indicates that there is reasonable cause to believe the child is in immediate danger, many states, such as Massachusetts and Connecticut, authorize the immediate removal of the child from his surroundings.

The investigating department may also be given discretion or mandated to forward a copy of its findings to an appropriate agency for possible legal action. The Wyoming law, for example, states:

The local child protection agency shall: . . . (vi) when the best interest of the child require court action, contact the county and prosecuting attorney to initiate legal proceedings. WYO. STAT. § 14-3-204(a) (1978)

To assist the social services department with identification, investigation, and disposition of reported cases of child abuse and neglect, several states have legislatively established child protection teams. The teams are comprised of members with a variety of expertise, such as social services workers, physicians, nurses, attorneys, mental health professionals, and lay representatives of the community. The responsibilities of the team vary from state to state. In several states, such as Massachusetts, Michigan, Missouri, Pennsylvania, South Carolina, and Utah, the social services department has the option of utilizing the team's expertise. The department may ask the team to assist in investigations and in the planning and providing of protective services. In other states, such as Tennessee, the team is required to review each report of suspected child abuse and make recommendations to the department of social services, and is permitted to file a petition in the juvenile court on behalf of an abused child.

Investigation of Institutional Abuse and Neglect

Institutional child abuse and neglect generally refers to situations in which the person responsible for a child's welfare is not the biological parent. These include foster homes, private institutions, or government residential facilities. The incidence of child maltreatment in such settings is not insignificant. Many states have attempted to insure that investigations will be independent and thorough when the agency responsible for the investigation is related administratively to the institution in

which the alleged harm took place. A growing number of states have incorporated clauses into their legislation to insure independence in investigations.²⁸ Other states have adopted administrative procedures to implement this standard. Examples of the language used in the laws are:

If there is reasonable cause to suspect that a child in the care of or under the control of a public or private agency, institution, or facility is an abused or neglected child, the agency, institution, or facility shall be investigated by an agency administratively independent of the agency, institution, or facility being investigated.

MICH. COMP. LAWS ANN. § 722.628(4) (Supp. 1978)

If an employee of the local department is suspected of abusing or neglecting a child, the report shall be made to the juvenile and domestic relations court of the county or city where the abuse or neglect was discovered . . .

VA. CODE § 63.1-248.3(A) (Supp. 1978)

Central Registry

In 1966, only four states had legislation establishing a central registry of reported cases of child abuse and neglect.²⁹ By 1973, 33 states had established a central registry.³⁰ Table F illustrates the 44 jurisdictions that have legislatively provided for a central registry system as of January 1979. In addition, several jurisdictions maintain a centralized record of child abuse reports as a matter of administrative policy.³¹

Except in California, where the registry is within the Department of Justice, all state laws place central registries somewhere within the structure

of the state department of welfare or social services. Most jurisdictions provide for one registry located at the state level. A few states, such as New York and Tennessee, require both state and county registries.

The central registry has many potential uses. Information on incidents of suspected child abuse and neglect can assist medical and protective services personnel in properly diagnosing maltreatment and in determining the extent of danger to a child. Follow-up information can provide a record of how cases are handled and assist in evaluating the effectiveness of protective services. As a source of research data, the registry provides information and statistics on the extent of child abuse and neglect and the impact of various treatment efforts on behalf of the child and the family.

Several states have incorporated these concepts in their central registry statutes. The District of Columbia's law states:

The purposes of the Register are to:

- (1) maintain a confidential index of cases of abused and neglected children;
- (2) assist in the identification and treatment of abused and neglected children and their families; and
- (3) serve as a resource for the evaluation, management, planning of programs and services . . .

D.C. CODE ANN. § 2111(b) (Supp. 1978)

Proponents of the central registry, however, acknowledge the widespread failure of these systems in fulfilling their "diagnostic, case monitoring and statistical function."³² Insufficient staffing and office space, as well as inefficient methods of relaying reports to the registry, play roles in this failure.

Twenty-eight of the jurisdictions that have legislated central registries specify what categories

²⁸ Examples include: Alabama, District of Columbia, Florida, Georgia, Indiana, Kansas, Michigan, Minnesota, Nevada, Oklahoma, Pennsylvania, South Carolina, Utah, Vermont, Virginia, West Virginia, Wisconsin, Guam, Puerto Rico, and the Virgin Islands.

²⁹ They were: California, Illinois, Maryland, and Virginia.

³⁰ De Francis, *Child Abuse Legislation in the 1970's*, pp. 13, 18, 178.

³¹ They include: Georgia, Indiana, Kansas, Kentucky, Minnesota, North Dakota, and West Virginia.

³² D. J. Hedatov, "Putting Central Registries to Work," *Children Today* (September/October 1977): 9-13.

TABLE F
CENTRAL REGISTRIES MANDATED BY STATUTES

States and Territories	Central Registry Mandated by Statute	Statute Silent About Types of Reports in Registry	Only Initial Reporter's Report Included	Reports Describing Results of All Investigations Included	Reports Describing the Results of "Founded" or "Indicated" Investigations Included	Reports Describing Results of All Investigations & Initial Reports Included	Follow-up Reports Included	Other Information Authorized to be Included
Alabama				X		X	X	X
Alaska	X ¹					X		
Ark.	X					X		
Ariz.	X					X		
Ark. Stat.	X					X		
Calif.	X					X		X
Calif. Zonia	X		X ⁴					
Colorado	X	X						
Connecticut	X		X					
Delaware	X ⁷							
District of Columbia	X			X			X	X
Florida	X				X ⁸			
Georgia								
Hawaii	X	X						
Idaho	X							
Illinois	X		X					
Indiana								
Iowa	X					X	X	
Kansas								
Kentucky	X							
Louisiana	X	X						
Maine								
Maryland	X	X ⁶						
Massachusetts	X ¹							
Michigan	X	X						
Minnesota								
Mississippi	X ²							
Missouri	X					X	X	
Montana	X	X						
Nebraska	X		X					
Nevada	X			X			X	X
New Hampshire	X							
New Jersey	X	X						
New Mexico						X		
New York	X					X	X	X
North Carolina	X							
North Dakota	X	X						
Ohio	X							
Oklahoma	X			X				
Oregon	X							
Pennsylvania	X				X			
Rhode Island	X	X					X	
South Carolina	X							
South Dakota	X ³							
Tennessee	X ²							
Texas	X	X						
Utah	X							
Vermont	X				X		X	X
Virginia	X							
Washington	X	X						
West Virginia	X							
Wisconsin	X			X				
Wyoming	X ¹¹				X			X
American Samoa	X					X	X	X
Guam	X				X		X	X
Puerto Rico								
Virgin Islands								

Numbers refer to explanatory notes in Appendix A.

of information should or can be placed in the registry. The Arkansas statute, for example, states:

The central registry shall contain, but shall not be limited to: all information in the written report; record of the final disposition of the report including services offered and accepted; the plan for rehabilitative treatment; the names and identifying data, dates and circumstances of any person requesting or receiving information from the registry; and any other information which might be helpful in furthering the purposes of this Act.
ARK. STAT. ANN. § 42-818(3)
(Repl. 1977)

Table F indicates that four states place only the initial reporter's report in the central registry. Oregon and South Carolina include only the reports of all "founded" or "indicated" investigations while four other jurisdictions include these reports and follow-up reports. Four states include all investigation reports, and Nevada includes all investigation reports plus follow-up reports. Arizona retains all initial reports and investigation reports. Nine jurisdictions authorize the inclusion of "other" information. Fifteen jurisdictions do not describe the categories of data to be placed in the registry.

Confidentiality and Access to Records

In addition to operational problems, the potential for infringement of privacy in central registry systems is ever-present, despite efforts to keep registry information current and accurate. This risk often is compounded by a failure to inform the subjects of reports of the existence of the file or its contents. In response to privacy considerations, most states have a provision in their laws declaring the confidential nature of records. This trend has gained added impetus because of the federal Act's eligibility criteria provision for methods "to preserve the confidentiality of all records."³³

A majority of states also have legislated penalties for any breach of the confidentiality of re-

ords, a federal requirement in order for a state to qualify for grants. The offense is typically a misdemeanor and punishable by fine, imprisonment, or both. Some states, such as Iowa and West Virginia, specifically include provisions imposing civil liability for damages resulting from a breach of the confidentiality of records.

One common approach to the confidentiality issue is for state law to authorize the department of social services to regulate entry, retention, and access to records. Another approach is to enumerate in the statute those parties with authorization to see records. Although this varies from state to state, most statutes are consistent with the federal regulations³⁴ and allow the following agencies and persons to have access to child abuse and neglect records: child protective agencies investigating reports of child abuse and neglect or treating a child or family which is the subject of a report; law enforcement agencies investigating reports; physicians or persons authorized to place a child in protective custody when such persons have before them a child whom they reasonably suspect may be abused or neglected; any person named in the report who is alleged to be abused or neglected or, if he is a minor or otherwise incompetent, his guardian ad litem; a parent or guardian named in the report; a court; a grand jury; any appropriate state or local official responsible for child protective services and legislation; and persons engaged in bona fide research.

Due to the potential research value of registry information, access to researchers has been provided, but the authorization usually is narrowly confined. For example:

Reports . . . shall only be made available to: . . . (h) any person engaged in a bona fide research purpose, provided, however, that no information identifying the subjects of the report shall be made available to the researcher unless it is absolutely essential to the research purpose and the state board of social welfare gives prior approval.

N.Y. SOC. SERV. LAW § 42(4)
(McKinney Supp. 1978)

³³ P.L. No. 93-247, January 31, 1974, Section 4(b)(2)(E).

³⁴ 45 C.F.R. 1340.3-1(a)(5).

Destruction, Sealing, Expunction, and Amendment of Central Registry Data

Twenty jurisdictions that have established central registries by statute have provided in their reporting laws for the destruction, sealing, expunction, or amendment of information in these data systems.³⁵ Other states may have administrative procedures or other statutes that regulate the handling of records held by state agencies.

Sealing records means merely closing them by putting them in a sealed binding or in a locked file. Sealed records are not destroyed, so there is the possibility that they may be unsealed at a later time. Expunction is the physical erasure or obliteration of information. This material cannot be retrieved later although the document or file from which the information was removed often survives. Amending a record involves the adding or subtracting of information in a file in light of new information or corrections brought to the attention of the agency responsible for maintaining the files.

The circumstances that necessitate the destruction, sealing, expunction, or amendment of registry information vary from state to state. Several states, such as Iowa, New Hampshire, and Vermont, destroy all records if the investigation indicates that a report is unfounded, while other jurisdictions, such as Arkansas, Florida, Massachusetts, New York, and Pennsylvania, retain the unfounded report but expunge names and other identifying information. Arizona and Vermont destroy the records when the child who is the subject of the report reaches the age of 18. A few states, such as Arkansas, Nevada, and New York, seal all records no later than when the subject reaches the age of 28. Instead of sealing or destroying records, several states provide for the expunction of identifying information when certain conditions, such as the termination of services, have been met.

Only a few jurisdictions such as the District of Columbia, New York, Pennsylvania, and South Carolina, require that persons listed in the central

registries be told that they are in the data system. These states also require that subjects be told of their right to challenge the contents of their files. In several other states, for example, Arkansas, Iowa, and Michigan, subjects have the right to request amendment, sealing, or expunction of their records. At least ten jurisdictions give subjects the right to a hearing if their request to change a record is denied.³⁶

Education and Training

"Ultimately," according to the Model Act commentary, "the key to more effective prevention, identification, and treatment of child abuse and neglect . . . is the support of an informed and aware citizenry and the capable efforts of concerned professionals."³⁷

A growing number of jurisdictions have endorsed this approach by legislatively mandating state or local agencies to operate training programs for persons who work in the area of child abuse and neglect, and publicity and education programs for the public, staff personnel, persons required to report, and others.³⁸ The Wisconsin law, a typical example, states:

The department and county agencies to the extent feasible shall conduct continuing education and training programs for state and county department staff, persons and officials required to report, the general public and others as appropriate The department and county agencies shall develop public information programs about child abuse and neglect.
Ch.355, § 11, 1977-78 Wis. Legis. Serv. 1713

Section 4(b)(2) of the federal Act describes such provisions for the dissemination of information as an element of its eligibility criteria.

³⁵ They are: Arizona, Arkansas, Colorado, District of Columbia, Florida, Iowa, Maryland, Massachusetts, Michigan, Nevada, New Hampshire, New York, Pennsylvania, South Carolina, Tennessee, Utah, Vermont, Wisconsin, Wyoming, and American Samoa.

³⁶ They include: Arkansas, Colorado, Iowa, Maryland, Michigan, New York, Pennsylvania, Utah, Vermont, and American Samoa.

³⁷ Model Act, Section 26, p. 103.

³⁸ For example: California, Florida, Georgia, Indiana, Iowa, Kansas, Michigan, Missouri, New York, Pennsylvania, South Carolina, South Dakota, Virginia, West Virginia, Wisconsin, American Samoa, Guam, and the Virgin Islands.

IV. JUDICIAL PROCEEDINGS

Protective Custody

The previous chapter briefly mentioned the provisions found in state reporting laws that allow the emergency removal and temporary custody of children without parental consent or decree of the court in order to protect the child from further abuse or injury.

Most jurisdictions authorize police to remove from the home a child in imminent danger of extreme abuse. A growing number of states now extend this protective custody power to child protection agencies.³⁹ An even greater number of jurisdictions extend protective custody powers to hospitals when a physician believes it is necessary to retain the child in order to protect him from further injury.⁴⁰ The authorization usually limits the custodial period from 24 to 72 hours or until the next session of a family or juvenile court.

Most states limit the circumstances in which a child can be placed in protective custody. States that allow removal without a court order require that authorized persons have reasonable cause to believe the child is in imminent danger and that there is not time to secure a court order. Similar limitations are imposed by the Fourth Amendment to the Constitution, which prohibits unreasonable seizures. In states that require a court order prior to removal, the person requesting the order must establish that immediate harm may occur to a child unless the order is issued.

Most states require that the parents of children taken into custody be notified immediately and that a petition be filed for a formal hearing within some fixed period of time. These requirements attempt to balance the rights of the parents and the welfare of the child. The issue of parental rights versus the welfare of the child is still a controversial one in child protection law.

Another restriction, which attaches to the protective custody process in a growing number of states, prohibits placing abused or neglected children in any adult detention facility. Several states also forbid placing abused or neglected children in any detention facility.

Guardian Ad Litem or Legal Counsel for the Child

Section 4(b)(2)(G) of the federal Act requires that states, in order to be eligible for federal grants from the National Center on Child Abuse and Neglect, "provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child." The court gives this person the power and the duty to represent the interests of the child in these court proceedings.

Often the interest of the parents and the child conflict in child protection proceedings. It is this built-in conflict which has led some commentators to hold the following view:

The traditional legal adversary system assumes that the only way to judicial truth is through competing lawyers who each advance his own client's cause with the judge as referee. It is questionable whether such a system can effectively result "in the best interests" of the child if there is no independent counsel for the child.⁴¹

While the federal Act does not define the qualifications or function of the guardian ad litem,

³⁹For example: Alabama, Alaska, Arizona, Arkansas, Connecticut, Florida, Maryland, Massachusetts, Montana, New Jersey, New York, Texas, Virginia, and American Samoa.

⁴⁰For example: Alabama, Arkansas, Connecticut, Florida, Illinois, Kentucky, Michigan, Missouri, New Jersey, New York, North Carolina, North Dakota, Pennsylvania, Rhode Island, Tennessee, Utah, Virginia, Washington, Wyoming, American Samoa, Guam, and the Virgin Islands.

⁴¹S. N. Katz, R. W. Howe, and M. McGrath, "Child Neglect Laws in America," *Family Law Quarterly* 9(Spring 1975) 5.

eleven states require that only a lawyer can serve in this capacity.⁴² Twenty other jurisdictions require the appointment of a guardian ad litem in child abuse and neglect proceedings but do not specify any qualifications for appointment.⁴³ Nine states do not mention guardian ad litem but do require that a lawyer be appointed to represent the child's interests in these proceedings.⁴⁴ South Carolina provides for the appointment of both a guardian ad litem and legal counsel to represent the child. Many states have specific conditions or requirements in their statutes providing for a lawyer or guardian ad litem, or only provide for such appointment at the discretion of the court.⁴⁵

Section 25 of the draft Model Act⁴⁶ suggests that a child should be represented by an independent attorney who also serves as the child's guardian ad litem. The section reads:

(a) Any child who is alleged to be abused or neglected in a juvenile court [family or other similar civil court] proceeding shall have independent legal representation in such proceeding. If independent legal representation is not available, the court shall appoint counsel to represent the child at public expense. The attorney representing a child under this section shall also serve as the child's guardian ad litem unless a guardian ad litem has been appointed by the appropriate court.

Legal Representation for the Parents and Agency

Although the parents' right to counsel is well established in criminal actions resulting from alleged child abuse and neglect, the right to counsel in civil proceedings in juvenile court is not so widely recognized. Nevertheless, over one half of the states, including Arizona, California, Connecticut, Rhode Island, South Carolina, and Utah, do provide in their statutes for appointment of counsel for the parents, if they are indi-

Many commentators feel that child protection agencies are at an unfair disadvantage if they appear in proceedings without counsel, especially if the parents are represented by counsel. In addition, full representation of all parties avoids any inclination by the court to advocate an unrepresented party's interests and confines the court to an unbiased assessment of all the evidence. Some states, such as Rhode Island and South Carolina, do require that an attorney assist a child protective services agency appearing in child abuse and neglect proceedings. Others, such as Colorado, leave appointment of counsel to the discretion of the court. The statutes specify whether the state attorney, local district attorney, or the agency's own attorney will represent it in court.

Reports as Evidence in Judicial Proceedings

Reports made pursuant to the child protection laws can be useful evidence in judicial proceedings concerning child abuse and neglect. Several juris-

⁴² They are: Alabama, District of Columbia, Florida, Idaho, Kansas, New Jersey, New York, North Carolina, Pennsylvania, Virginia, and Wisconsin. New Jersey specifies that the law guardian be employed by the Office of Public Defender. Florida provides for the appointment of a guardian ad litem from the office of the public defender, or, if there is a conflict of interest, the appointment of a member of the bar.

⁴³ They are: Alaska, Arkansas, Colorado, Delaware, Georgia, Iowa, Maine, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Rhode Island, South Carolina, Utah, American Samoa, Puerto Rico, and the Virgin Islands.

⁴⁴ They are: Arizona, California, Connecticut, Michigan, Nevada, New Hampshire, Oklahoma, South Dakota, and West Virginia.

⁴⁵ For example: Hawaii—the court has the power to appoint a guardian, Illinois—unless the guardian ad litem is an attorney, the minor shall be represented by counsel; Indiana—the court may appoint a guardian ad litem, who need not be an attorney but may be an attorney; Louisiana—the court may also appoint an attorney to represent the sole interest of the child; Maryland—the court may appoint an attorney; Montana—the court may appoint a guardian ad litem; Oregon—the court may appoint some suitable person to appear in behalf of the child; Tennessee—the guardian ad litem may not be a party to the proceeding or his employee or representative; Texas—the court may appoint a guardian ad litem. The court may appoint an attorney to represent the interests of a minor child in which a guardian ad litem has not been appointed; Vermont—the court shall appoint a guardian ad litem or counsel; Washington—the requirement of a guardian ad litem is satisfied if the child is represented by counsel; Wyoming—the court shall appoint counsel. Any attorney representing a child shall also serve as the child's guardian ad litem unless a guardian ad litem has been appointed by the court; Guam—any child may be represented by legal counsel.

⁴⁶ Model Act, Section 25, p. 98.

dictions, such as Arkansas, Colorado, Illinois, and American Samoa, specifically provide that such reports are admissible in evidence. Other jurisdictions do not expressly provide for admission, but do state that the report shall not be excluded

on the grounds that the matter is the subject of a privilege or a rule against disclosure.⁴⁷ Whether the report is admissible may depend on the stage of the litigation, i.e., fact-finding or disposition, at which it is offered.⁴⁸

⁴⁷ For example: Kansas, Nevada, New Mexico, Oklahoma, and Guam.

⁴⁸ See *In the Interest of J.C.*, 251 S.E. 2d 299 (Ga. 1978).

V. SUMMARY

In the last 15 years, state child abuse and neglect law has been one of the most active areas of legislative adoption and amendment. It is an area which continues to generate activity. As this report documents, similarities among states are at least as great as the differences so often commented on.

Evidence of this legislative activity is reflected in the findings of earlier surveys.⁴⁹ Between 1967 and 1970, 27 states and two territories passed amendments modifying one or more basic elements of their child abuse and neglect statutes; 18 of these were in the reporting laws. Between 1970 and 1973, 38 jurisdictions enacted substantive amendments. In the last two years, more than 30 have amended some characteristic of their reporting laws. More than 20 have enacted amendments to their judicial proceedings and criminal codes. Significant changes have been enacted since April 1977 in the District of Columbia, Indiana, Kansas, Maryland, Mississippi, Montana, North Carolina, Oklahoma, South Carolina, and Utah, to name a few. The number of jurisdictions having a similar approach to any single feature of child protection laws does not remain static for long.

Similarly, although two years after passage of the Child Abuse and Neglect Prevention and Treatment Act of 1974 only 28 states were eligible to receive state grants under the terms of the Act,⁵⁰ by 1978, 40 states, American Samoa, Guam, Puerto Rico, and the Virgin Islands qualified for grants from the National Center on Child Abuse

and Neglect.⁵¹ The fiscal year 1978 total of grants, conditional grants, and supplements approached \$5 million. National Center grants to eligible states from 1974 to 1978 have reached a total of \$12,740,639.

Trends noted in earlier surveys have continued. Most prominent among these is the expansion of the categories of mandated reporters and a broadening of the concept of reportable abuse and neglect. Another trend shows the extension of immunity to reporters and the imposition of criminal and civil sanctions for failure to report. A growing number of states now are directing reports of abuse and neglect to social service agencies and mandating the operation of central registries, with specific requirements for access to records and penalties to ensure confidentiality. Another significant trend in this area is the legislative requirement that a guardian ad litem be appointed by a court to independently represent the best interest of the child in abuse and neglect proceedings. States also have begun, through their legislation, to mandate or encourage the use of multidisciplinary child protection teams.

The purpose of the child protection laws is to increase the reporting of children in peril and to institute more comprehensive services on behalf of those children and their families. There are no simple answers, but these steps, identification and treatment, are vital to elimination of child abuse and neglect.

⁴⁹ De Francis, *Child Abuse Legislation in the 1970's*, p. 7.

⁵⁰ *Ibid.*, p. 4.

⁵¹ The following states have not yet met all of the eligibility requirements to qualify for a grant under Section 4(b)(2) of P.L. No. 93-247, as amended by P.L. No. 95-266: Alaska, Arizona, Idaho, Indiana, Maryland, Montana, Nevada, Oregon, Pennsylvania, and Wisconsin. New Mexico did not receive a grant in 1978.

Appendix A

FOOTNOTES FOR TABLES

TABLE A – Who Reports

1. Jurisdictions requiring reports of child abuse from "Practitioners of the Healing Arts" imply that all medical professionals must report. If a statute enumerates specific medical professionals, in addition to "practitioners," these were checked in the appropriate column as well. Similarly, some states require reports of abuse from "any person, such as...or including, but not limited to...." In such cases, each party listed was checked as well as the "Any Other Person" column.

2. The following have been designated under both the "Teacher" and "Other School Personnel" column because of the statutes' interence: Arizona, Colorado, Delaware, Iowa, Nebraska, and Oregon refer to school personnel or employees; Minnesota refers to "a professional or his delegate who is engaged in the practice of...education."

3. All jurisdictions checked in the "Religious Healing Practitioner" column, except for Alaska, California, and Ohio, refer to Christian Scientists. South Carolina and West Virginia refer to both Christian Scientists and religious healing practitioners.

4. Other specifically named persons not listed by a separate heading in Table A, but required to report include: Alabama – sanitarium; Alaska – health aide, physical therapist, and Officers of the Division of Corrections; Colorado – child health associates; Illinois – truant officer, social services administrator, and Illinois Department of Public Aid; Kentucky – health professional; Maryland – professional employee of a correctional institution and state trooper; Massachusetts – guidance or family counselor; Michigan – audiologist; Missouri – juvenile officer; New Hampshire – therapist; North Carolina – public health worker; Ohio – speech pathologist or audiologist; Oregon – employee of the Department of Human Resources, county health department, community mental health program, and county juvenile department; Vermont – physician's assistant; Washington – employee of the department of social and health services.

TABLE B – Immunity for Reporters

1. Michigan's immunity section extends to "assisting in any other requirement of this act," and §

722.626 (1), (2) (Supp. 1978) authorizes physicians to detain endangered children in protective custody and to take X-rays and photographs.

2. West Virginia's immunity extends to "any act permitted or required by this article," and § 49-6A-4 authorizes any person required to report to take photographs and X-rays at public expense.

3. Wyoming's immunity extends to "any act required or permitted" and § 14-3-206(c) allows any person investigating, examining, or treating suspected child abuse or neglect to take photographs and X-rays.

4. The Virgin Islands' immunity extends to "any act permitted or required by this chapter," and § 175 authorizes mandatory reporters to take photographs and X-rays; § 176 (a) authorizes police and physicians to take protective custody of children.

TABLE D – Abrogation of Privileged Communications

1. The thirteen jurisdictions included in the "Other" column are: Arizona and Delaware – "any privilege...provided for by professions such as nursing covered by law or a code of ethics regarding practitioner-client confidences...;" Arkansas, Idaho, Pennsylvania, and American Samoa – "any privilege...between any professional person...including...counselors, hospitals, clinics, day care centers, and schools and their clients;" Louisiana and South Carolina – "any privilege...between any professional person and his client...;" Maryland – "every health practitioner, educator or law enforcement officer, who contacts, examines, attends, or treats a child and who believes...the child has been abused is required to make a report...notwithstanding any other section...relating to privileged communications...;" Massachusetts – "any privilege established...by court decision or by profession code relating to the exclusio...of confidential communications and the competency of witnesses...;" Nevada – "shall not be excluded on the grounds that the matter would be privileged...under chapter 49 of Nevada Revised Statutes (which includes accountant-client, lawyer-client, school counselor and teacher-student)...and the news media privilege...;" Oregon – "the privilege

extended to staff members of schools and to nurses...;" and South Dakota - "school counselor and student."

2. The District of Columbia excludes the physician-patient and husband-wife privileges..."provided that the Division determines such privilege should be waived in the interest of public justice."

TABLE E - Reporting Procedure

1. Connecticut - In addition to § 17-38a (c), which is reflected in Table E, Connecticut law has several variations in its reporting procedure: § 17-38b states that "Any of the persons...described in subsection (b) of section 17-38a having reasonable cause to believe that any child...is in danger of being abused, but who does not have reasonable cause to suspect any such abuse has actually occurred, shall immediately cause a written report to be made..." And § 17-38c states that "Any person other than those enumerated in subsection (b) of section 17-38a having reasonable cause to suspect or believe that any child...is in danger of being abused or neglected...or has been so abused or neglected shall immediately cause a written or oral report to be made..."

2. Iowa - "...Each report made by a mandatory reporter...shall be made both orally and in writing. Each report made by a permissive reporter...may be oral, written, or both..."

3. Delaware - "...in accordance with the rules and regulations of the Division of Social Services..."

4. Idaho - "...within twenty-four hours..."

5. Puerto Rico - "...by the quickest means of communication, within a period of not more than 48 hours after the minor's condition is known."

6. Alaska - "If the person making a report...cannot reasonably contact the nearest office of the Department, and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer..."

7. Georgia - "...to a child welfare agency providing protective services...or, in the absence of such agency, to an appropriate police authority..."

8. Kentucky - "...to the Bureau...If the person making the report has reason to believe that immediate protection for the child is advisable, the person shall also make an oral report to an appropriate law enforcement agency."

9. New York - "...Oral reports...to the statewide central register...unless the ...local plan...provides that oral reports should be made to the local child protective service... Written reports shall be made to the appropriate child protective service..."

TABLE F - Central Registries Mandated by Statutes

1. The central registry contains "data sufficient to identify children whose names are reported..."

2. The central registry contains only the name, address, and age of each child; the nature of the harm reported; and the name and address of the person responsible for the care of the child.

3. The central registry contains reports of court actions only.

4. The central registry contains reports of physical injury only as well as arrests for, and convictions of, violation of § 273a.

5. The central registry contains the initial reports of "founded" or "indicated" investigations also.

6. The name of any person may not be entered unless he has been adjudicated a child abuser, has unsuccessfully appealed the entry through Department procedures, or has failed to respond to notification that his name would be entered.

7. "Information concerning each case of abuse or neglect" is included.

8. The central registry contains reports "under investigation," "founded," or "closed."

Appendix B

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Appendix C

STATUTE COMPILATION

STATE CHILD ABUSE AND NEGLECT STATUTES*

Alabama — ALA. CODE §§ 26-14-1 to 13 (1975); § 38-1-1 (1975); § 38-2-6 (Supp. 1978); §§ 12-15-1 to -71 (1975); §§ 44-3-1 to -6 (Supp. 1978); § 30-4-51 (1975); § 13-1-113 (1975); § 26-15-1 to -1 (Supp. 1978).

Alaska — ALASKA STAT. ch. 17, §§ 47.17.010 to .070 (1975), amended by ch. 17, §§ 47.17.030 (e), .040(b), .070(1) (Supp. 1978); ch. 10, §§ 47.10.010(a), (c), .050, .080, .142, .290 (1975), amended by ch. 10, §§ 47.10.010(a), .050, .080, .142, .290 (Supp. 1978); ch. 35, §§ 11.35.010 (Supp. 1978); ch. 40, § 11.40.090 (Supp. 1978).

Arizona — ARIZ. REV. STAT. ANN. §§ 8-546 to -546.04 (1974), amended by §§ 8-546.01 (C) (3), (D), -546.04(A) (Supp. 1978); §§ 13-3613, -3619, -3620 (Supp. 1978); §§ 8-201, -201.01, -202, -225, -226, -241, -531 to -544 (1974), amended by §§ 8-241, -535 (Supp. 1978); § 8-223 (Supp. 1978); § 12-2458 (Supp. 1978).

Arkansas — ARK. STAT. ANN. §§ 42-807 to -818 (Repl. 1977); § 83-104(2), (9) (Repl. 1976); § 5-912(6) (Repl. 1976); §§ 45-401 to -444, -448 (Repl. 1977); §§ 41-2405, -2407, -2408 (Repl. 1977).

California — CAL. PENAL CODE §§ 11161.5 to 11161.8, 11110; §§ 270, 273a, 273b, 273d, (West Supp. 1979); § 11162 (West 1970); CAL. WELF. & INST. CODE §§ 300 to 395, 726, 727, 10850, 16500 to 16502, 18275 to 18289, 18950 to 18950.3 (West Supp. 1979); §§ 16504 to 16509; §§ 18250 to 18253 (West 1972); CAL. CIV. CODE §§ 203, 237 (West 1971); §§ 232 to 239 (West Supp. 1979); CAL. HEALTH & SAFETY CODE §§ 306.5, 320.5, 320.7 (West Supp. 1979).

Colorado — COLO. REV. STAT. §§ 19-10-101 to -115 (1978); §§ 19-1-101 to -104, -106, -114 (1978); § 19-2-103 (1978); §§ 19-3-105, -111 (1978); §§ 19-4-101 to -103 (1978).

Connecticut — CONN. GEN. STAT. ANN. §§ 17-38a to -38c, 38f (Supp. 1978); §§ 17-38d, -39, -40 (1975); §§ 17-38e, -32, -32c, -32d, -47a (Supp. 1978); §§ 51-301, -302, -310, -316(b), -317 (Supp. 1978); § 45-54 (Supp. 1978); §§ 53-20, -21, -23 (1960); P.A. 77-577, § 1, 1977 Conn. Legis. Serv. 1154.

Delaware — DEL. CODE ANN. tit. 16, §§ 901 to 909 (Supp. 1978); tit. 31, §§ 301 to 305 (1974); tit. 10, §§ 901, 921 (1)-(9), 922, 924, 925, 932, 933, 936, 937, 940 to 942, 950 (1974), amended by tit. 10, §§ 901, 921, 933, 937, 950 (Supp. 1978); tit. 11, §§ 1101, 1102, 1104 (1974), amended by § 1102 (Supp. 1978); tit. 11 § 1103 (Supp. 1978); Family Court Rules, Rule 60(a) (1974).

District of Columbia — D.C. CODE ANN. §§ 2-161 to -165, -167 (Supp. 1978); § 2-166 (1973); §§ 6-2101 to -2107, -2111 to -2135 (Supp. 1978); § 3-116 (1973); §§ 3-114, -117 (Supp. 1978); §§ 16-1001 to -1006, -2301, -2303 to -2305, -2309 to -2311, -2315, -2320 (1973), amended by §§ 16-2301, -2304, -2305, -2309 to -2311, -2315, -2320 (Supp. 1978); §§ 16-2332, -2336 to -2338 (Supp. 1978); § 11-1101 (13) (1973); §§ 22-901, -902 (1973).

Florida — FLA. STAT. ANN. § 827.07 (1976), amended by § 827.07 (Supp. 1979); § 409.145 (1973), amended by § 409.145 (Supp. 1979); § 828.03 (Supp. 1979); §§ 39.001, .01, .40, .402, .4035, .405, .406, .407, .408, .411 (Supp. 1979); §§ 827.01 to .06 (1976), amended by §§ 827.04, .05, .07 (Supp. 1979); §§ 775.082, .083,

*Statutes include reporting laws, child welfare laws, juvenile court laws and criminal laws in effect on January 1, 1979. State reporting laws also appear on pages 10, 11, and 12.

.084 (1976), amended by §§ 775.082, .083 (Supp. 1979).

Georgia — GA. CODE ANN. § 74-111 (Supp. 1978); §§ 99-4301, -4302 (1976); §§ 99-202, -203, -209, -211, -214(1), (m), (n) (1976); §§ 99-903b to -917b (Supp. 1978); §§ 24A-101, -201, -301, -302, -401, -1301, -1401, -1402, -1403, -2001, -2301, -3201, -3301 (1976), amended by §§ 24A-301, -401, -1402, -1403, -1404, -3201 (Supp. 1978); §§ 74-108(3), (6) to -110 (1974); §§ 74-9902, -9905 (Supp. 1978); § 26-2801 (Supp. 1978).

Hawaii — HAWAII REV. STAT. §§ 350-1 to -5 (1976), amended by § 350-1 (Supp. 1977); §§ 346-1, -10, -11, -14, -55 (1976), amended by §§ 346-1, -10, -11, Act 105 (1978), ADV. SESS. LAWS REP. (CCH) 411, 417; §§ 571-1, -2, -11, -13, -14, -31, -32, -41, -44, -48, -61 to -63 (1976); §§ 709-903, -904 (1976); § 551-2 (1976); S.R. 404 (1977), ADV. SESS. LAWS REP. (CCH) 67.

Idaho — IDAHO CODE §§ 16-1601 to -1605, -1608 to -1610, -1612 to -1621, -1623 to -1625, -1629, -2007 (Supp. 1978); §§ 56-204A, -204B (1976); § 5-306 (1948); §§ 18-401, -403, -1501 (Supp. 1978).

Illinois — ILL. ANN. STAT. ch. 23, §§ 2051 to 2061, 2359, 2361, 2368, 2370, 5005, 5035.1 (Smith-Hurd Supp. 1978), amended by ch. 23, § 5005, P.A. 80-1124, 1978 Ill. Legis. Serv. (West) 238 and P.A. 80-1364, 1978 Ill. Legis. Serv. (West) 713; ch. 23, § 2360 (Smith-Hurd 1968); ch. 51, § 5.1 (Smith-Hurd Supp. 1978); ch. 37, §§ 702-1, -4, -8; § 703-1; §§ 704-1, -6, §§ 705-7, -9 (Smith-Hurd 1972); § 701-20; § 703-2; §§ 704-2, -5, -8; §§ 705-2, -8, -10 (Smith-Hurd Supp. 1978), amended by ch. 37, § 701-20, P.A. 80-1364, 1978 Ill. Legis. Serv. (West) 722 and ch. 37, § 701-5, P.A. 80-1163, 1978 Ill. Legis. Serv. (West) 321.

Indiana — IND. CODE ANN. §§ 12-3-1-1 to -6 (Supp. 1978); § 12-3-2-14 (1976); § 12-3-2-15 (Supp. 1978); §§ 31-5-5-1 to -9 (Supp. 1978); § 12-1-1-1, § 12-1-2-3, § 12-1-3-4, § 12-1-8-1 (1976); §§ 12-3-3-1, -2 (1976); §§ 31-5-3-10, 11 (Supp. 1978); §§ 31-5-7-1, -3, -6, -7, -9, -12, -12.2, -15, -21, -23 (1976); §§ 31-3-1-6, -7 (1976); §§ 31-5-5-2-1 (Supp. 1978); § 33-12-2-3 (Supp. 1978); §§ 31-6-4-3 to -6, -8, -10 to -19 (Supp. 1978); §§ 35-46-1-1, -4, -5 (Supp. 1978). Ind. Rules of Trial Procedure, Rule 170 (1973).

Iowa — IOWA CODE ANN. §§ 235A.1 to .24 (Supp. 1978); § 238.32 (Supp. 1978); §§ 232.7, .15, .17, .18, .19, .28, .33 (1969), amended by § 232.33 (1949) (Supp. 1978); §§ 232.2, .11, .29

.32 (Supp. 1978); §§ 600A.1 to .9 (Supp. 1978); §§ 726.3, .4, .6, 1978 Crim. Laws Pamph.

Kansas — KAN. STAT. ANN. §§ 38-716, -719 (1973), amended by § 38-716, (Supp. 1978); §§ 38-717, -718, -720 to -724, -802, -806, -815, -819 to -825 (Supp. 1978); § 39-713c (Supp. 1978); §§ 75-5322 to -5324 (1977); §§ 21-3604, -3605, -3608, -3609 (1974), amended by § 21-3605 (Supp. 1978).

Kentucky — KY. REV. STAT. §§ 199.011, .335, .460, .603, .990 (7)-(8) (Supp. 1978); § 199.430 (1975); § 194.090 (4), (7) (Supp. 1978); §§ 208.010, .020, .060 (3) (a), .80, .200, .990 (Supp. 1978); § 208.120 (1975); §§ 530.030 to .060 (1975), amended by § 530.050 (Supp. 1978).

Louisiana — LA. REV. STAT. §§ 14:403 A, B (1), B (4), C to I (1974); §§ 14:403 B (2), (3) (Supp. 1979); § 46.65 (Supp. 1979); §§ 13:1569, 1580, 1583, 1600 to 1605 (Supp. 1979); Act 172, Arts. 14, 15, 17, 25, 30, 34, 40, 60, 114 to 121, 1978 La. Sess. Law Serv. (West) 554; § 14:92.1 (1974); §§ 14:74, 93 (Supp. 1979).

Maine — ME. REV. STAT. tit. 22, §§ 3701, 3703, 3713, 3792, 3793, 3803, 3851 to 3860, 3891-A to -F (Supp. 1978); tit. 17A, §§ 106, 552 to 554 (Supp. 1978); tit. 19 §§ 218, 481 (Supp. 1978).

Maryland — MD. CODE ANN. Art. 27, § 35A (1976 Repl. Vol.), amended by Art. 27, § 35A (Cum. Supp. 1978); Art. 27, § 88 (Cum. Supp. 1978); Art. 27, § 96 (1976 Repl. Vol.); Art. 72A, §§ 4 to 11 (Cum. Supp. 1978); Art. 88A, §§ 1, 3, 6 (1976 Repl. Vol.), amended by Art. 88A § 3 (Cum. Supp. 1978); MD. CTS. & JUD. PRO. CODE ANN. §§ 3-801, -802, -804, -814, -815(c), -818, -820 to -822, -831, -834 (Cum. Supp. 1978).

Massachusetts — MASS. GEN. LAW ANN. ch. 119, §§ 1, 22 to 26, 29, 39, 51A to 51G (1975) amended by §§ 23, 24, 26, 29, 51A to 51F (Supp. 1979); ch. 233, §§ 20, 20B (1975) amended by ch. 233, § 20B (Supp. 1979); ch. 273, § (Supp. 1979); ch. 28A, §§ 1, 4 (1973); ch. 209A, §§ 1 to 6 (Supp. 1979).

Michigan — MICH. COMP. LAWS ANN. §§ 722.621 to 636 (Supp. 1978), amended by §§ 722.622, 623, 628, 633, P.A. 252, 1978 Mich. Legis. Serv. (West) 759, § 400.1 (Supp. 1978), § 400.14, P.A. 87, 1978 Mich. Legis. Serv. (West) 321, §§ 722.532, 561 to 565 (1968), §§ 712A.1, .14, .17 (1968), §§ 712A.2 (b) (1), (2), .15, .18, .19a (Supp. 1978), §§ 750.135, .136, .136a (1968).

Minnesota — MINN. STAT. ANN. § 626.556 (Supp. 1979); § 245.813 (Supp. 1979); §§ 256.01, .12 (9), (14) (1971) amended by §§ 256.01, (2), (6), (8), .12 (10), (15) (Supp. 1979); § 257.175 (1971), § 393.07 (1), (2) (Supp. 1979); §§ 260.011, .015 (1), (2), (4), (6)-(14), .111, .151, .155 (2), .165, .191, .221, .231, .241, .255 (1971), amended by §§ 260.015 (9), (10), .111, .151 (1), .191, .221, .231, .241 (4) (Supp. 1979); §§ 260.235, .155 (4), (7) (Supp. 1979); § 609.375 (Supp. 1979); § 15.165 (1979).

Mississippi — MISS. CODE ANN. §§ 43-21-3, -5, -11, -17, -27 (Supp. 1978); §§ 43-21-7, -13, -19, -23, -25 (Supp. 1978); §§ 43-24-1 to -9 (Supp. 1978); §§ 43-15-1 to -11 (1973) amended by §§ 43-15-3, -5, -13 to -17 (Supp. 1978); §§ 43-23-3, -9, -15, -41 (Supp. 1978); §§ 43-23-1, -5, -11, -17, -21, -23, -25 (1973).

Missouri — MO. REV. STAT. §§ 210.110 to .165 (Supp. 1979); §§ 207.010, .020 (Supp. 1979); §§ 211.011, .021, .131, .451 to .501 (1962); §§ 211.031, .181, .442, .447, .452, .457, .467, .472, .477, .482, .487, .492 (Supp. 1979); §§ 568.030, .040, .050, .060 (Supp. 1979).

Montana — MONT. REV. CODES ANN. §§ 10-1300 to -1315, -1317, -1318, -1320, -1322 (Supp. 1977); §§ 10-1202, -1203, -1206 (1), -1211 (Supp. 1977); § 94-5-607 (Supp. 1977); § 94-3-107, 1977 Mont. Crim. Code Pamph.

Nebraska — NEB. REV. STAT. §§ 28-1501 to -1508 (1975); §§ 43-201, -201.01, -202, -205.06, -208, -209, -210.04 (Supp. 1975); §§ 43-205.01 to .03 (1974); § 38-114 (1974); §§ 28-115 to -117, -177 (1975).

Nevada — NEV. REV. STAT. §§ 200.501 to .508 (1977); §§ 432.100 to .130 (1977); §§ 49.185 to .275 (1977); §§ 432.030, .270 (1977); 424.105 (1975); §§ 200.504, .508 (1977); §§ 62.010, .020, .030, .040, .043, .085, .170, .200 (1977); §§ 128.010 to .140 (1975); §§ 201.020, .090 to .110 (1975).

New Hampshire — N.H. REV. STAT. ANN. §§ 169:37 to 45 (Repl. 1977); §§ 169:1, 2, 7, 8, 10 (I), (IV), 10a (Supp. 1977); § 161:2 (Repl. 1977), amended by § 161:2 (Supp. 1977); § 604-A 1-a (Repl. 1974); § 462:1 (1968).

New Jersey — N.J. STAT. ANN. §§ 9-6-8-1 to 73 (1976), amended by §§ 9-6-8-10a, 10b, 21, 22, 24, 26 to 40, 42, 43, 46, 47, 50 to 52, 54, 56, 59, 61, 65, 70 (Supp. 1978); §§ 9-6-4, -5, -8 (1976); §§ 9-6-1, -11, -2, -3, 6, -7 (1976);

ch. 95, § 2C:24-4 (a), 1978 N.J. Sess. Law Serv. 383; §§ 9:12-1, -2 (1976).

New Mexico — N.M. STAT. ANN. §§ 32-1-1, -2, -3, -4, -9, -10, -13, -15 to -18, -22 to -24, -26, -27 (E to H), -31, -34, -37, -38, -41, -42, -44 (1978); § 32-1-25 (Supp. 1978); §§ 27-1 to -3 (1978); § 30-6-1 (Supp. 1978); Children's Court Rules, Rules 1, 40 to 47 (1978).

New York — N.Y. SOC. SERV. LAW §§ 371, 397, 398, 411 to 428 (McKinney 1976), amended by §§ 371 (1), (4-b), 398 (1), (2), (6f), (6m), 412 (1), 422 (4), 423 (3) (McKinney Supp. 1978); N.Y. FAM. CT. ACT §§ 113, 115, 617 (a), (b), 626, 632, 633, 1011 to 1074 (McKinney 1975), amended by §§ 1012 (e), (f), 1024 (b), 1027 (b), 1031 (d), 1034, 1048 (c), 1051 (d), 1055 (d) (McKinney Supp. 1978); §§ 249, 611, 614, 616, 617 (c), (d), 622 to 625, 631, 634 (McKinney Supp. 1978); N.Y. PENAL LAW §§ 260.00, .15 (McKinney 1967); §§ 260.05, .10, .11 (McKinney Supp. 1978).

North Carolina — N.C. GEN. STAT. §§ 110-116 to -123 (1978); §§ 108-19 (14), (15), -45 (1978), amended by § 108-45 (Interim Supp. 1978); § 110-119 (1978), amended by § 110-119 (Interim Supp. 1978); §§ 7A-278, -284, -288 (1969), amended by §§ 7A-278 (1), -284 (Supp. 1977); §§ 7A-277, -279, -283, -285, -286 (Supp. 1977); § 7A-451 (Interim Supp. 1978); §§ 14-316.1, -318.2 (Supp. 1977); §§ 14-322, -322.1 (1969).

North Dakota — N.D. CENT. CODE §§ 50-25.1-01 to -14 (Supp. 1977); §§ 27-20-01, -02, -03, -13, -14, -16, -26, -30, -44, -48 (1974), amended by § 27-20-02 (1) (Supp. 1977); § 14-09-22 (Supp. 1977).

Ohio — OHIO REV. CODE ANN. §§ 2151.03, .031, .04, .05, .07, .23, .27, 281, 31, 311, 312, .35, 352, 353, 354, 36, 41, 421, 49 (Page Repl. Vol. 1976); § 5153.16 (Page Repl. Vol. 1976); § 5153.18 (Page 1970); § 2919.21 (Page 1975); § 2919.22 (Page Supp. 1977).

Oklahoma — OKLA. STAT. ANN. tit. 21, §§ 843 to 848 (Supp. 1978); tit. 10, §§ 24, 1101, 1102, 1104, 1105, 1107 to 1109, 1116, 1117, 1120, 1128, 1130, 1135, 1136, 1204, 1404 (f) (Supp. 1978).

Oregon — OR. REV. STAT. §§ 410-05, 010, 015, 740 to 775, 990 (6), (7) (Repl. Part 1977); §§ 419-473, 476, 494, 498 (2), 507, 509, 511, 513, 515, 523, 525, 527 (Repl. Part 1977); §§ 161-535, 545, 551 (Repl. Part 1977).

Pennsylvania — PA. STAT. ANN. tit. 11, §§ 2201 to 2224, 50-101 to -321 (Supp. 1978); tit. 71, § 1473 (1) (d) (1962); tit. 42, §§ 6301 to 6304, 6321, 6324, 6325, 6327, 6336, 6337, 6351 (Supp. 1978); tit. 18, §§ 4304, 4321 (1973).

Rhode Island — R.I. GEN. LAWS §§ 40-11-1 to -16 (1977); § 15-7-7 (Supp. 1978); §§ 14-1-1, -2, -3, -5, -8, -9, -22, -58, -59 (1970), amended by §§ 14-1-3 (H), -34, -35 (Supp. 1978); § 11-9-5 (Supp. 1978).

South Carolina — S.C. CODE ANN. ch. 10, §§ 20-10-10 to -190 (Supp. 1978); ch. 11, §§ 43-11-10 to -100 (1976), amended by § 42-11-20 (Supp. 1978); ch. 15, §§ 43-15-80, -90 (1976); ch. 17, §§ 43-17-10 to -50 (1976); ch. 21, §§ 14-21-10 to -20, -30, -510, -550, -560, -590, -610, -620, -810, -820, -830, -840 (1976), amended by § 14-21-510 (Supp. 1978); ch. 11, §§ 20-11-10 to -60 (1976), amended by § 20-11-30 (Supp. 1978); ch. 7, § 20-7-10 to -40 (1976).

South Dakota — S.D. COMP. LAWS ANN. §§ 26-10-1, -1.1, -10 to -12.3, -14 (1976); § 26-10-15 (Supp. 1978); §§ 19-2-1, -3 (1967); §§ 19-2-3, -3.1, -5.1 (Supp. 1978); §§ 26-4-7, -9 (1976); §§ 26-8-1, -1.1, -6, -19.1, -19.2, -19.3, -22.10, -22.12, -22.2, -22.4, -30, -35, -36, -40.6, -48, -59 (1976), amended by § 26-8-1.1 (Supp. 1978), §§ 26-9-1 to -17 (1976).

Tennessee — TENN. CODE ANN. §§ 37-101, -201, -202, -203, -213, -216, -228, -230, -248, -1201, -1202, -1204 (1977 Repl. Vol.), amended by §§ 37-202, -213 (a) (3), -230 (c) (Supp. 1978), §§ 37-1203, -1205 to -1213 (Supp. 1978), § 14-105 (1973) amended by § 14-105 (F) (Supp. 1978), § 14-110 (Supp. 1978), §§ 39-202, -204, -217 (1975), § 39-1012 (Supp. 1978).

Texas — TEX. FAM. CODE ANN. §§ 34-01 to -06 (1975), amended by §§ 34-02, -05, -07, -08 (Supp. 1978), § 35-04 (Supp. 1978), §§ 11-01, -02, -11 (1975), amended by §§ 11-01, -11 (Supp. 1978), § 11-10 (Supp. 1978), § 15-02 (Supp. 1978), § 15-05 (1975), §§ 17-01, -05 (Supp. 1978), § 51-11 (1975), TEX. REV. CIV. STAT. ANN. Art. 695a (1964), amended by Art. 695a (Supp. 1978), Art. 695c, § 4 (Supp. 1978), Art. 1426a, §§ 1-01 to -08 (b), 2-01 to -31, 3-01 to -04, 4-00 (Supp. 1978) TEX. PENAL CODE ANN. § 9-61 (1974), § 22-04 (Supp. 1978).

Utah — UTAH CODE ANN. §§ 78-36-1 to -11 (Supp. 1978), §§ 55-15a-26, § 55-15b-19 (Repl. Vol. 1974), §§ 55-15b-2 to -4 (1973), amended by §§ 55-15b-2 (4), (17), (45), (10), -7 (Supp. 1977), §§ 78-3a-2, -16, -19 to -21, -28 to -30,

-35, -36, -38, -39, -48 (1977), amended by §§ 78-3a-19.5, -20 (Supp. 1978).

Vermont — VT. STAT. ANN. tit. 13, §§ 1351 to 1356 (Supp. 1978); tit. 13, §§ 1304, 1305 (1974); tit. 33, §§ 631, 632, 633, 639, 642, 643, 653, 656 2592 to 2595, 2751, 2801, 2851 (Supp. 1978).

Virginia — VA. CODE §§ 63.1-248.1 to .17 (Supp. 1978); § 63.1-53 (Supp. 1978); § 63.1-126 (Repl. Vol. 1973); §§ 16.1-228, -241, -251, -266, -279, -283 (Supp. 1978); § 40.1-103 (1976); § 20-61 (Supp. 1978).

Washington — WASH. REV. CODE ANN. §§ 26.44.010 to .900 (Supp. 1977); § 5.60.060 (3), (4) (Supp. 1977); § 18.83.110 (Supp. 1977); §§ 74.13.020, .031 (Supp. 1977); §§ 13.34.010, .030, .040, .050, .90, .100, .110, .130, .140, .160, .180 to .210 (Supp. 1977); § 26.20.030 (Supp. 1977).

West Virginia — W. VA. CODE §§ 49-6A-1 to -10 (Supp. 1978); § 49-7-1 (Supp. 1978); §§ 49-2-1 to -3, -16 (Repl. Vol. 1976); §§ 49-1-1 to -5 (Supp. 1978); § 49-2-14 (Supp. 1978), § 49-5-4 (1975); §§ 49-5-2, -8 (a), (b), -13 (b) (4) (Supp. 1978); §§ 49-6-1 to -8 (Supp. 1978); § 61-8-24 (Repl. Vol. 1977).

Wisconsin — WIS. STAT. ANN. §§ 905.04 (4) (e), .05 (1), (2), (3) (b) (1975); §§ 48.25 (5), .981, ch. 355, 1977-78 Wis. Legis. Serv. 1708, §§ 46.001, .011, .01 (7), .22 (4), (5) (g) (Supp. 1978), amended by §§ 46.001, .03 (7), ch. 354, 1977-78 Wis. Legis. Serv. 1662, §§ 48.06, .07, .57 (Supp. 1978), amended by §§ 48.06, .07, ch. 354, 1977-78 Wis. Legis. Serv. 1662 and §§ 48.06, .07, .57, ch. 205, 1977-78 Wis. Legis. Serv. 1428, §§ 48.25 (6), .56, .78 (1975), amended by §§ 48.25 (6), .56 (Supp. 1978) and ch. 271, 1977-78 Wis. Legis. Serv. 1429, §§ 48.01, .02, .13, .14, .35, .40 to .45 (1973), amended by §§ 48.13, .35, .41, .44 (Supp. 1978), and § 48.02, chs. 205, 249, 354, 1977-78 Wis. Legis. Serv. 1346, 1533 and 1664, and §§ 48.01, .13, .14, .35, .42, .44, .45, ch. 354, 1977-78 Wis. Legis. Serv. 1662, and § 48.43, ch. 271, 1977-78 Wis. Legis. Serv. 1429, §§ 977.01 to .09 (Supp. 1978), amended by § 977.08, ch. 354, 1977-78 Wis. Legis. Serv. 1708, §§ 52.05, .055 (1971), amended by § 52.055 (2m) (Supp. 1978) and §§ 52.05 (5), .055 (3), ch. 271, 1977-78 Wis. Legis. Serv. 1433, § 940.201, ch. 355, 1977-78 Wis. Legis. Serv. 1714, § 48.02 (8), ch. 249, 1977-78 Wis. Legis. Serv. 1533.

Wyoming — WYO. STAT. §§ 14-3-201 to -215 (1978); §§ 42-1-102, -116 (1977); §§ 14-7-101 to -104 (1978); § 42-3-102 (a) (iii) (1977); §§ 14-6-201, -203, -205 to -210, -212, -216, -219, -220, -222, -224, -226, -228, -229, -230, -241 (1978); §§ 14-3-101, -103 (1978); §§ 6-4-504, -505 (1978).

American Samoa — A.S. CODE tit. 21, ch. 29, §§ 2901 to 2914 (Supp. 1978); tit. 15, ch. 13, § 203 (1973); tit. 15, ch. 95, § 1022 (1973).

Guam — GUAM PENAL CODE § 273 (d), (e) (Supp. 1974); §§ 270 to 273a (1970); GUAM GOV'T. CODE §§ 9115, 9118, 9119 (1970), amended by § 9115 (b), (c) (Supp. 1974); § 9120, 1978 P.L. 14-137, 14th Legislature; GUAM CODE CIV. PRO. §§ 250, 251, 252, 254, 258 to 263, 265 to 269 (1970); GUAM CIV.

CODE §§ 203, 204 (1970); GUAM PENAL CODE §§ 270 to 273a (1970).

Puerto Rico — P.R. LAWS ANN. tit. 3, §§ 211 b, d, m-s (Supp. 1977); tit. 34, §§ 2001, 2002, 2005, 2007, 2010, 2013, App. I R8.2 to 8.4 (1971); § tit. 34, §§ 2101 to 2106 (Supp. 1977); tit. 8, § 24 (1971); tit. 33, §§ 4241, 4242 (Supp. 1977); tit. 32, § 634 (Supp. 1977).

Virgin Islands — V.I. CODE ANN. tit. 19, §§ 171 to 176 (1976), amended by §§ 171 to 183 (Supp. 1977); tit. 3, §§ 371, 384 (1967); tit. 3, § 533 (Supp. 1977); tit. 34 §§ 1, 2, 101, 102 (1967); tit. 4, §§ 171 to 173 (1967); tit. 5, §§ 2501 to 2513 (1967), amended by §§ 2503, 2505, 2506, 2511 (Supp. 1977); tit. 14, § 481 (a) (1964), tit. 14, § 481 (b) (Supp. 1977); tit. 15, § 827 (1964); tit. 19, § 183 (Supp. 1977).

4 February 1981

Dear Blanche,

Thank you for your letter of January 29th regarding SB 89 and your remarks about the sexual exploitation problem and the frustrating funding situation for your organization.

I have given a copy of your letter to Senator Parr and appreciate the information and comments you passed on. The funding situation is a bit cumbersome, to say the least. We will look into it and see what can be done.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Rogers", written over the word "Sincerely".

Rep Brian Rogers

SB 89 Feb

FAIRBANKS CHILD PROTECTION TASK FORCE, INC.
RESOURCE CENTER FOR PARENTS & CHILDREN

RESOURCE CENTER FOR PARENTS & CHILDREN

January 29, 1981

Representative Brian Rogers
Pouch V, State Capital
Juneau, Alaska 99811

Dear Brian:

Just to let you know that we appreciate the update on SB 89, amending the child protection statutes. In discussing this bill with other local agencies & regional Division of Social Services staff, some expansion of the intent of this legislation seems indicated.

Sexual exploitation needs to be included as a reportable form of child abuse. It is a growing problem nationally, & does exist in Alaska. The definition of mental injury or neglect of a child makes no allowance for the diverse cultures represented in our state. In the present law, sexual abuse is not mentioned as grounds for taking emergency custody of a child by the Division of Social Services, although the other recognized forms of abuse & neglect are included. This restricts early intervention, & would most likely put the child & family under greater pressure, if sexual abuse is suspected & no intervention was possible at the time of initial investigation by the Division.

These may seem rather insignificant points. But those of us who must work within the prevailing helping system recognize the complexities of abuse & neglect, clearer definitions within the child protection statutes will be valuable resources in providing services earlier to families in need.

I will have our funding proposal to you within a week. So that you may have a greater understanding of the plight of non-profit contractors with the Division of Health & Social Services. I am enclosing a copy of a letter from the Director of Social Services, John Pugh. You probably wonder why organizations such as ours must continually ask the legislature for money. The reasons are clearly outlined on the first page of the letter. It is a frustrating framework. Providing quality services is juggled at least 2 months out of each year with the real funding crunch we face. I am not attempting to place blame. I do think that if contracted services are as important as we all feel they are then the most basic way available to show their credibility is to provide money so that they may exist.

I will look forward to your comments. Thanks again for keeping us informed, & being supportive of our program.

Sincerely,

Blanche Brunk
Blanche Brunk, Director
545 Ninth Avenue

Fairbanks, Alaska 99701

(907) 456-2866

STATE OF ALASKA

JAY S. HALMOND, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES
Division of Family and Youth Services
~~DIVISION OF SOCIAL SERVICES~~

POUCH H-05
JUNEAU, ALASKA 99811
(907) 465-3170

January 9, 1981

Dear Grant Applicant:

Subject to the availability of funds, the Division of Family and Youth Services plans to fund preventive and early intervention youth services projects in communities throughout the State. Funding will be specifically for the period July 1, 1981 to June 30, 1982; however, two year funding (through June 30, 1983) may occur, contingent upon a project's operational efficiency, performance and effectiveness, and the availability of funding. Although funds may be awarded on a multi-year basis, applicants are encouraged to pursue alternative funding arrangements for the long-term maintenance of their operation.

Projects will be selected on the basis of their individual merits to provide a range of services and methodologies to meet the needs of Alaskan youths and their families. All agencies and organizations which submit a Letter of Intent and a complete application package which meets the minimum qualifications and deadlines will be considered.

When preparing the FY '82 State budget, the Division was directed to compute the funding level to be the FY '81 appropriation level plus an adjustment for inflation. As a result, the youth services budget request for the upcoming year is \$743,900. Although the final figure may be adjusted upward or downward by the legislature, you should be aware that \$743,900 represents the most realistic planning level we can anticipate at this time.

Because of the number of Letters of Intent and the size of the estimated budgets submitted to the Division (proposed budgets exceed two million dollars), I strongly recommend that grant applicants submit alternative plans of action and budgets for varying levels of funding when completing their grant applications. Competition will be intense, and few, if any grant proposals will be funded in full. In addition, the Review Committee will attempt to establish a geographic balance when awarding grants. As a result of these constraints, the provision of optional activity/staffing and expenditure levels will greatly assist the grant review committee in knowing the full range of realistic levels of effort for a potential grantee.

The Division's primary focus for the upcoming year is on the provision of preventive services. Preventive services are defined as those services which address a personal or family problem before it becomes necessary to have direct intervention by the State. Examples of services which prevent young people from entering the formal juvenile justice system include:

- 1) parenting: providing information/education/training to youth and their parents in order to increase community awareness and parenting skills;
- 2) community education: services which are designed to heighten the awareness of specific target groups in local communities about the problems of youth and alternative methods of reducing these problem areas; and
- 3) diversionary services: services which are designed to provide alternative activities for high-risk youth.

The Division will also consider applications for projects which provide such early intervention services as:

- 1) individual/group/family counseling: this encompasses services to youth and their families who need assistance to resolve problems in interpersonal functioning, social interaction, and family stability; and
- 2) supportive services: services which focus on strengthening youth as individuals in their respective roles to enable them to manage their individual responsibilities, as well as those of family life.

It should be noted that youth service funds are to be allotted for the provision of direct services. Such capital expenditures as the construction or remodeling of a building, or the purchase of equipment which exceeds \$500 in value are not allowable.

Enclosed are supplementary grant application instructions which detail the criteria to be used in evaluating the grant applications. This information makes more specific the general instructions given in the standard application package.


To qualify for consideration applications must be postmarked no later than March 1, 1981; applicants not meeting this deadline will not be considered for funding and have no right of appeal. One (1) original and four (4) copies of the application should be mailed to:

Freda M. Borchick, Administrative Officer
Division of Family and Youth Services
Department of Health and Social Services
Pouch H-05
Juneau, Alaska 99811

January 9, 1981

Thank you for your interest in youth services. I look forward to receiving an application from your organization. Please feel free to call Frank Hickey at 465-3023 should you have additional questions.

Sincerely,

A handwritten signature in cursive script that reads "John R. Pugh".

John R. Pugh
Director

Enclosure

JP:lt:ed



January 21, 1981

Senator Charles H. Parr
Pouch V, State Capitol
Juneau, Alaska 99811

Dear Charlie,

I urge your committee's favorable consideration of SB 119, amending the child protection laws in Alaska. This bill would strengthen mandatory reporting requirements by school personnel and foster and day care providers--- often the only contact points for a child who is being abused or neglected. The legal definitions of abuse and neglect would be broadened by this legislation, to include those emotional abuses which are as harmful to a child as physical maltreatment.

As a professional involved with families, I know that child abuse and its far reaching damage are significant problems in our state. SB 119 would make major contributions to earlier intervention and prevention of child abuse and neglect, making more likely the successful resolution of this complex problem.

Thank you for your support of and interest in this important legislation.

Sincerely,

Blanche Brank, Director

FPCFI, INC. Resource Center for Parents & Children



January 30, 1981

Senator Charlie Parr
Pouch V, State Capital
Juneau, Alaska 99811

Dear Charlie:

I want to reiterate my support of SB 89, amending the child protection statutes. However, in reviewing it more closely and discussing its implications with Division of Social Services staff, there are three areas of the bill which deserve further consideration.

1. Sec. 7 AS47.17.070
The definition of mental injury or neglect does not reflect allowances for the many cultural differences in the children of our state. "With due regard to his culture" is omitted at the conclusion of the definition.
2. Sec. 6 AS47.17.070(1)
This section of the bill is concerned with the types of reportable abuse and neglect. It does not include the sexual exploitation of children as a reportable form of child abuse. Child pornography is a growing national problem, and does exist in Alaska.
3. Sec. 47.10.14?
Sexual abuse is not mentioned as grounds for taking emergency custody of a child by the Division of Social Services, although the other recognized forms of abuse and neglect are included. This restricts early intervention, and would most likely put the child and the family under greater pressure, if sexual abuse exists and no intervention is possible at the time of initial investigation by the Division.

The issues raised may seem insignificant. Those of us who must work within the prevailing helping system are aware that, in the best of situations, child abuse and neglect presents a complex set of problems to face with a family. Clearer definitions within the child protection statutes would be a valuable resource in providing services earlier to families in need.

If further background material is needed regarding this legislation, please feel free to contact the Center for assistance. Thank you again for your continued effort and support of this important legislation.

Sincerely,

Blanche Brank, Director
645 North Avenue

Fairbanks, Alaska 99701

1981 156-2100

Statistics on sexual exploitation - see p. 2

Introduced: 1/15/81
Referred: Health, Education &
Social Services and Finance

1 IN THE SENATE

BY PARR, FAHRENKAMP, FISCHER
AND STIMSON

2 SENATE BILL NO. 89

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 TWELFTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act amending the child protection laws; and pro-
7 viding for an effective date."

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

9 * Section 1. AS 47.10.010(a)(2) is amended by adding a new subpara-
10 graph to read:

11 (F) the child having suffered substantial mental or
12 physical neglect as a result of conditions created by the child's
13 parent, guardian or custodian.

14 * Sec. 2. AS 47.17.010 is amended to read:

15 Sec. 47.17.010. PURPOSE. In order to protect children whose
16 health and well-being may be adversely affected through the infliction,
17 by other than accidental means, of harm through physical or mental abuse
18 or neglect [REQUIRING THE ATTENTION OF A PRACTITIONER OF THE HEALING
19 ARTS], the legislature requires the reporting of these cases by practi-
20 tioners of the healing arts and others to the appropriate public autho-
21 rities. It is the intent of the legislature that, as a result of these
22 reports, protective services will be made available in an effort to
23 prevent further harm to the child, to safeguard and enhance the general
24 well-being of the children in this state, and to preserve family life
25 whenever possible.

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

27 (2) school teachers and school administrative staff members;

28 * Sec. 4. AS 47.17.020(a) is amended by adding a new paragraph to read:

29 (6) individuals involved in day care and foster care

1 * Sec. 5. AS 47.17 is amended by adding new sections to read:

2 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. A person required to
3 report suspected physical or mental injury or neglect under this chapter
4 may without the permission of the parents

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

7 (2) if medically indicated, have a radiological examination
8 of the child performed.

9 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person required
10 to file a report of abuse or neglect under AS 47.17.020 who wilfully or
11 knowingly fails or refuses to report the harm required under AS 47.17.-
12 020 is guilty of a class B misdemeanor.

13 * Sec. 6. AS 47.17.070(1) is amended to read:

14 (1) "child abuse or neglect" means the physical or mental
15 injury or neglect, sexual abuse, ^{or sexual exploitation - pornography} or maltreatment of a child under the
16 age of 18 by a person who is responsible for the child's welfare under
17 circumstances which indicate that the child's health or welfare is
18 harmed or threatened thereby;

19 * Sec. 7. AS 47.17.070 is amended by adding a new paragraph to read:

20 (7) "mental injury or neglect" means injury or neglect to
21 the intellectual or psychological capacity of a child evidenced by a
22 substantial impairment to the child's ability to function within the
23 child's normal range of performance and behavior.

24 * Sec. 8. This Act takes effect July 1, 1981.
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29

SB 89

§ 11.66.100

ALASKA STATUTES

§ 11.66.120

§ 11.66

(Effective January 1, 1980)

Article 1. Prostitution and Related Offenses.

- Section 100. Prostitution
- 110. Promoting prostitution in the first degree
- 120. Promoting prostitution in the second degree

- Section 180. Promoting prostitution in the third degree
- 140. Evidence required for §§ 110 — 180 of this chapter
- 160. Definitions

Sec. 11.66.100. Prostitution. (a) A person commits the crime of prostitution if he engages in or agrees or offers to engage in sexual conduct in return for a fee.

(b) Prostitution is a class B misdemeanor. (§ 8 ch 166 SLA 1978)

Common law. — The keeping of a bawdyhouse was a misdemeanor at common law, whereas fornication and prostitution were not. *Eleazar v. United States*, 16 Alas. 561, 241 F.2d 385 (9th Cir. 1956), decided under former AS 11.40.220.

Am. Jur., ALR and C.J.S. references. — 42 Am. Jur., Prostitution, § 1 et seq.

Prostitution as vagrancy, 14 ALR 1501. Entrapment to procure women for immoral purposes, 18 ALR 186; 66 ALR 506; 86 ALR 272. 73 C.J.S., Prostitution, § 1 et seq.

Sec. 11.66.110. Promoting prostitution in the first degree. (a) A person commits the crime of promoting prostitution in the first degree if he

- (1) induces or causes a person to engage in prostitution through the use of force;
- (2) as other than a patron of a prostitute, induces or causes a person under 16 years of age to engage in prostitution; or
- (3) induces or causes a person in his legal custody to engage in prostitution.

(b) In a prosecution under (a)(2) of this section, it is not a defense that the defendant reasonably believed that the person he induced or caused to engage in prostitution was 16 years of age or older.

(c) Promoting prostitution in the first degree is a class B felony. (§ 8 ch 166 SLA 1978)

For case construing former statute prohibiting importing or exporting females for immoral purposes, see *State v. Adkerson*, Sup. Ct. Op. No. 294 (File No. 520), 403 P.2d 673 (1965).

Sentence for procurement upheld. — See *Price v. State*, Sup. Ct. Op. No. 1450 (File No. 2794), 565 P.2d 658 (1977), decided under former AS 11.40.350.

Am. Jur., ALR and C.J.S. references. — 42 Am. Jur., Prostitution, § 5 et seq. Transporting female for purpose of prostitution, 74 ALR 330. Woman consenting or consenting to own transportation, 64 ALR 375. 73 C.J.S., Prostitution, §§ 6 to 6.

Sec. 11.66.120. Promoting prostitution in the second degree. (a) A person commits the crime of promoting prostitution in the second degree if he

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(1972).

(Effective January 1, 1980)

State, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Physical conduct punished under former statute. — See *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977); *Smiloff v. State*, Sup. Ct. Op. No. 1637 (File No. 3006), 579 P.2d 28 (1978).

Former section prohibited fellatio. — See *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Consent is not at issue. — The state may forbid an adult to have fellatio with a child under the statutorily prescribed age regardless of whether the child consents to the act. *Anderson v. State*, Sup. Ct. Op. No. 1407 (File No. 2641), 562 P.2d 351 (1977).

Sentence under AS 11.15.134 upheld. — See *Noble v. State*, Sup. Ct. Op. No. 1286 (File No. 2468), 552 P.2d 142 (1976); *Buchanan v. State*, Sup. Ct. Op. No. 1316 (File No. 2553), 554 P.2d 1153 (1976).

Am. Jur., ALR and C.J.S. references. — 36 Am. Jur., *Mayhem and Related Offenses*, § 1 et seq.

Mayhem as dependent on part of body injured and extent of injury, 16 ALR 955; 58 ALR 1320.

Mayhem by use of poison or acid, 58 ALR 1328.

57 C.J.S., *Mayhem*, §§ 1 to 12.

Sec. 11.41.445. General provisions. (a) In a prosecution under §§ 410 — 440 of this chapter, it is an affirmative defense that, at the time of the alleged offense, the victim was the legal spouse of the defendant unless

- (1) the spouses were living apart; or
- (2) the defendant caused physical injury to the victim.

(b) In a prosecution under §§ 410 — 440 of this chapter, whenever a provision of law defining an offense depends upon a victim's being under a certain age, it is an affirmative defense that, at the time of the alleged offense, the defendant reasonably believed the victim to be that age or older, unless the victim was under 13 years of age at the time of the alleged offense. (§ 3 ch 166 SLA 1978)

Sec. 11.41.450. Incest. (a) A person commits the crime of incest if, being 18 years of age or older, he engages in sexual penetration with a person who is related to him, either legitimately or illegitimately, as

- (1) his ancestor or descendant of the whole or half blood;
- (2) his brother or sister of the whole or half blood; or
- (3) his uncle, aunt, nephew, or niece by blood.

(b) Incest is a class C felony. (§ 3 ch 166 SLA 1978)

Death of defendant abated prosecution under former section. *Hartwell v. State*, Sup. Ct. Op. No. 391 (File No. 704), 423 P.2d 282 (1967), decided under former AS 11.40.110.

Am. Jur., ALR and C.J.S. references. — 27 Am. Jur., *Incest*, § 1 et seq.

Aiding and abetting offense of incest by one not related to party, 5 ALR 784.

Relationship created by adoption as within statute regarding incest, 151 ALR 1146.

Consent as element of incest, 36 ALR2d 1299.

42 C.J.S., *Incest*, §§ 1 to 16.

Sec. 11.41.455. Unlawful exploitation of a minor. (a) A person commits the crime of unlawful exploitation of a minor if, in this state and with the intent of producing for any commercial purpose a live performance, film, photograph, negative, slide, book, newspaper, or

(Effective January 1, 1980)

magazine that depicts such conduct, he knowingly induces or employs a child under 16 years of age to engage in, or photographs, films, or televises a child under 16 years of age engaged in

- (1) sexual penetration;
- (2) the obscene touching of another person's genitals, anus, or female breast;
- (3) the obscene touching by another person of the child's genitals, anus, or female breast;
- (4) masturbation;
- (5) bestiality; or
- (6) the obscene exhibition of the child's genitals.

(b) Unlawful exploitation of a minor is a class B felony. (§ 3 ch 166 SLA 1978)

Sec. 11.41.470. Definitions. For purposes of §§ 410 — 470 of this chapter, unless the context requires otherwise,

(1) "in. apacitated" means that a person is temporarily incapable of appraising the nature of his conduct and is physically unable to express unwillingness to act;

(2) "victim" means the person alleged to have been subjected to sexual assault in any degree or sexual abuse of a minor;

(3) "without consent" means that a person

(A) with or without resisting, is coerced by the use of force against a person or property, or by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping to be inflicted on anyone; or

(B) is incapacitated as a result of an act of the defendant. (§ 3 ch 166 SLA 1978)

Article 5. Robbery, Extortion, and Coercion.

Section

500. Robbery in the first degree

510. Robbery in the second degree

Section

520. Extortion

530. Coercion

Sec. 11.41.500. Robbery in the first degree. (a) A person commits the crime of robbery in the first degree if he violates § 510 of this chapter and, in the course of violating that section or in immediate flight thereafter, he or another participant

(1) is armed with a deadly weapon or represents by words or other conduct that he or another participant is so armed;

(2) uses or attempts to use a dangerous instrument or represents by words or other conduct that he or another participant is armed with a dangerous instrument; or

(3) causes or attempts to cause serious physical injury to any person.

(b) Robbery in the first degree is a class A felony. (§ 3 ch 166 SLA 1978)

Copy to Linda

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FROM: TERRY
TARGET: WJH2 SUEJ- POM

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TO: SGM. KENNETH FAHRENKAMP, POBR, WANKUCHTH, ELLISON, PERSON, WOH.
SGM. SACKETT STANSON, COLLETT, FITCHER, PENNY, STURBULEW.
FR: WJH2 SUEJ- 1007 EVERGREEN ST. 97701, PH 456-7887
REF: FAHRENKAMP RESOURCE CENTER FOR PARENTS & CHILDREN

TO: CB 84
PLEASE ADVISE FOR DENIALS WILL BE. PLEASE ALSO INCLUDE ADULTS - INFER-
ENCES AND/OR ADVISORIES FOR CULTURAL DIFFERENCES. SEE: 6 (1) NEEDS
ALSO TO INCLUDE PERMANENT EDUCATION, (PONSORSHIP, ETC.)

copies for members

St. Matthew's Episcopal Church

1030 Second Avenue Fairbanks, Alaska 99701

January 28, 1981



The Rev. Donald F. Hart, Rector

Mr. Charlie Parr
Pouch V
Juneau, Alaska 99811

Dear Charlie:

I see that Senate Bill No. 98, revising the child abuse statues has come up for discussion, and I want to thank you very much for your work in promoting it.

Although it may not have the bright lights significance of oil legislation and permanent fund allocations, I believe that this bill does speak to the quality of life here in Alaska and our treatment of children. And it is terribly important that we do our best in providing for their rights. SB 89 does a good job, and I hope that your committee will report it out with a clear recommendation to the Senate for passage.

Many thanks for all that you do. My best wishes.

Sincerely,

Donald P. Hart

DPH/agp

SB 89

§ 47.10.142

ALASKA STATUTES

§ 47.10.142

(f) A peace officer may detain a minor who is evading the person having legal custody of him if the minor is not otherwise subject to arrest or detention under (a) of this section, for the sole purpose of either (1) returning the minor to the person having legal custody of him or (2) if the minor prefers, taking him to an office specified by the Department of Health and Social Services, facility or contract agency of the Department of Health and Social Services where such exists in the community. Immediately upon detaining a minor under this provision, the peace officer shall advise him of his right to social services under AS 47.10.142(b), and, if known, the peace officer shall advise the person having the legal custody of the minor of his detention.

(g) No minor who is detained under (f) of this section may be detained in a jail or other facility unless kept out of contact with adult persons convicted or accused of a crime. No minor may be detained in a jail or other detention facility which has not been approved by the Department of Health and Social Services before detention of the minor. (§ 15 art I ch 145 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972)

Detention orders neither based on competent testimony nor accompanied by the required statement of facts are invalid. In re P.H., Sup. Ct. Op. No. 857 (File No. 1538), 504 P.2d 837 (1972).

Sec. 47.10.142. Emergency custody and temporary placement hearing. (a) The Department of Health and Social Services may take emergency custody of a minor upon discovering any of the following circumstances:

(1) the minor has been abandoned;

(2) the minor has been grossly neglected by his parents or guardian, as "neglect" is defined in AS 47.17.070(5), so that immediate removal from his surroundings is, in the determination of the department, necessary to protect his life;

(3) the minor has been abused, as "abuse" is defined in AS 47.17.070(1), so that immediate medical attention is necessary, in the determination of the department.

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

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the

§ 47.10.150

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(d) The after being hearing at guardian, court shall minor to b shall infor of the rea given as a

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parents or the person or persons having custody of the child and the court of the action and file with the court a petition alleging that the child is a child in need of aid.

(d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if his health permits, and his parents or guardian, if they can be found, shall be permitted to be present. The court shall determine whether probable cause exists for believing the minor to be a child in need of aid, as defined in AS 47.10.290(8). The court shall inform the minor, and his parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing his temporary placement.

(e) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or order him returned to the custody of his parents or guardian subject to the department's supervision of his care and treatment. If the court finds no probable cause it shall order the minor returned to the custody of his parents or guardian. (§ 3 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 24 ch 63 SLA 1977)

Effect of amendment. — The 1977 amendment substituted "that the child is a child in need of aid" for "dependency" at the end of subsection (c) and "child in need of aid, as defined in § 290(8)" for "dependent minor, as defined in § 290(3)" in the second sentence of subsection (d).

Article 2. Juvenile Institutions.

Section	Section
150. General powers of department over juvenile institutions	190. Conditions governing detention
160. Duties of department	200. Releasing juveniles after commitment
170. Power of cities to maintain and operate home or facility	210. Youth counselors
180. Operation of homes and facilities	220. Grants-in-aid

Sec. 47.10.150. General powers of department over juvenile institutions. The Department of Health and Social Services may

- (1) purchase, lease or construct buildings or other facilities for the care, detention, rehabilitation and education of children in need of aid or delinquent minors;
- (2) adopt plans for construction of juvenile homes, juvenile detention facilities, and other juvenile institutions;
- (3) adopt standards and regulations under this chapter for the design, construction, repair, maintenance and operation of all juvenile detention homes, facilities, and institutions;
- (4) inspect periodically each juvenile detention home, facility, or other institution to insure that the standards and regulations adopted are being maintained;

The legacy of incest: humiliation and fear

Daily News reporter

First of three parts

For Karen, it began at age 3 when her 20-year-old stepbrother came to her bedroom one night and fondled her. A year later, an uncle forced her to perform oral sex. At age 6, she was assaulted by her babysitter's husband. At 13, growing up on a military base, she endured six months of continual assaults by the father of two children for whom she babysat. At 14, it was her stepfather who molested her. At 16, on a trip to Seward, she was coerced into performing a sex act on a G.I. Later that year, another G.I. took her in the back seat of a car.

Karen is the first to admit that not all these instances involved the use of physical force, but she says she became vulnerable to such attacks because "It was drilled into me at a very early age that you don't say no.

"My parents got the message into me that sex was dirty. If I told them, I knew they would blame me. What are you supposed to do? Your uncle is not only someone you're supposed to love, he's also an adult, an authority figure. How can you say 'no'?"

"I never told my parents about any of this until last year," says Karen, now 25 and an avowed lesbian.

As harrowing as it is, Karen's story is not atypical of the tales told by other incest victims.

A national study indicates that nearly 30 percent of all girls and 10 percent of all boys have been sexually molested by age 18 — and 60 to 70 percent of the attacks were by family members. At some point in their lives, says an Anchorage expert, 7,000 local children will fall victim to incest.

Most recite long litanies of sexual violations beginning in early childhood and continuing through adolescence. Only recently have they sought help; only recently have they admitted — even to themselves — how the experiences have affected their ability to function as adults.

How many children in Anchorage are sexually abused by their parents or relatives? In a national study last year, researcher David Finkelhor determined that nearly 30 percent of all girls and 10 percent of all boys are sexually molested before they reach the age of 18, and 60 to 70 percent of these attacks are by family members. Based on these figures, Mike Walti, executive director of the Center for Children and Parents, estimates that, at some point in their lives, 7,000 Anchorage youngsters will become victims of incest.

Most of the attacks, Walti says, will go unreported; others will come to light years later when the victim seeks therapy for some seemingly unrelated emotional problem. Only a handful will be discovered as the incest is actually occurring — and many of these will

first be perceived as a teen-age runaway problem or juvenile delinquency.

A disproportionate number of incestuous assaults, says Sgt. John Needham of the Anchorage Police Department, are reported from broken homes and lower-income families. The majority of victims are from 8 to 14 years old; some are even younger. Starting with cuddling and petting, the abuse increases in seriousness over two or three years until it becomes intercourse.

The perpetrators are usually fathers or stepfathers, although uncles, brothers and other male relatives also commit the abuse. Very seldom is a mother or female relative involved; when young boys are assaulted, they most often are victims of a homosexual attack.

APD's Juvenile Investigations Division handles 10 to 20 cases of sexual abuse each month; of these, Needham says, 10 to 15 percent involve actual intercourse. Only about one in every hundred victims is a boy. Usually, the incest has been going on for three to four years and, not infrequently, it involves all the daughters in the family.

Rarely does a victim seek help herself; more commonly, she tells a friend, the friend tells her mother, and the mother then notifies the police or the State Division of Social Services.

The victim's own mother often claims to be ignorant of the situation — and the girl herself is usually too scared or confused to know where to turn.

"For a long time," explains Paula R., "I thought, 'This is something every little girl's father does to her.' Then I noticed that no one else talked about it and I thought I was the only one in the world it happened to." At the time it was happening to her, the 23-year-old woman says, there was no readily available aid for incest victims.

Fortunately, Anchorage today has several agencies dealing with the problem, including the Center for Children and Parents, the Division of Social Services and Standing Together Against Rape. Yet even now, sexually abused children are reluctant to tell anyone what's happening to them.

"They learn early what things they can talk about and which are taboo," says Walti. "It's not O.K. to talk about sex in the home. They internalize that message and grow up with that secret."

Sometimes, says therapist Sue Pope, who leads a group of former incest victims at the Center, "they even begin to wonder if (the attack) really happened, especially if Dad keeps denying it."

RESOURCE CENTER FOR
PARENTS & CHILDREN

January 30, 1981

Senator Charlie Parr
Pouch V, State Capital
Juneau, Alaska 99811

Dear Charlie:

I want to reiterate my support of SB 89, amending the child protection statutes. However, in reviewing it more closely and discussing its implications with Division of Social Services staff; there are three areas of the bill which deserve further consideration.

1. Sec. 7 AS47.17.070
The definition of mental injury or neglect does not reflect allowances for the many cultural differences in the children of our state. "With due regard to his culture" is omitted at the conclusion of the definition.
2. Sec. 6 AS47.17.070(1)
This section of the bill is concerned with the types of reportable abuse and neglect. It does not include the sexual exploitation of children as a reportable form of child abuse. Child pornography is a growing national problem, and does exist in Alaska.
3. Sec. 47.10.142
Sexual abuse is not mentioned as grounds for taking emergency custody of a child by the Division of Social Services, although the other recognized forms of abuse and neglect are included. This restricts early intervention, and would most likely put the child and the family under greater pressure, if sexual abuse exists and no intervention is possible at the time of initial investigation by the Division.

The issues raised may seem insignificant. Those of us who must work within the prevailing helping system are aware that, in the best of situations, child abuse and neglect presents a complex set of problems to face with a family. Clearer definitions within the child protection statutes would be a valuable resource in providing services earlier to families in need.

If further background material is needed regarding this legislation, please feel free to contact the Center for assistance. Thank you again for your continued effort and support of this important legislation.

Sincerely,

Blanche

Blanche Brunk, Director
345 Ninth Avenue

Fairbanks, Alaska 99701

(907) 456-2866

January 21, 1981

Senator Charles H. Parr
Pouch V, State Capitol
Juneau, Alaska 99811

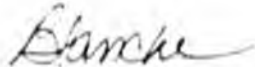
Dear Charlie,

I urge your committee's favorable consideration of SB 89, amending the child protection laws in Alaska. This bill would strengthen mandatory reporting requirements by school personnel and foster and day care providers--- often the only contact points for a child who is being abused or neglected. The legal definitions of abuse and neglect would be broadened by this legislation, to include those emotional abuses which are as harmful to a child as physical maltreatment.

As a professional involved with families, I know that child abuse and its far reaching damage are significant problems in our state. SB 89 would make major contributions to earlier intervention and prevention of child abuse and neglect, making more likely the successful resolution of this complex problem.

Thank you for your support of and interest in this important legislation.

Sincerely,



Blanche Brunk, Director

FCPTF, INC. Resource Center For Parents & Children

FEBRUARY 17, 1981

TO WHOM IT MAY CONCERN,

WE AS MOTHERS ARE FEELING THE PAIN AND WITNESSING THE EMOTIONAL DAMAGE OF OUR SEXUALLY ABUSED CHILDREN DUE TO INCEST IN WHICH HAS TAKEN PLACE IN OUR HOME. AS MOTHERS OF OUR VICTIMIZED CHILDREN, WE BEG OF YOU TO CHANGE THE LAW OF THIS UNJUSTIFIED CRIME SO JUSTICE WILL BE DONE TO THE ABUSER. AS YOU MUST BE AWARE OF, INCEST IS NO LESS THAN A CRIME AND SHOULD BE TREATED AS SUCH. WE AS MOTHERS HAVE EXPERIENCED PAIN AND HEARTBREAK ABOVE ALL OTHERS. WE WATCH OUR CHILDREN SUFFERING EACH MINUTE OF THE DAY FROM THE EMOTIONAL DAMAGE PUT UPON THEM BY THEIR FATHER'S. WE ARE LEFT TO PICK THE PIECES UP WHILE THE ABUSER IS REMOVED FROM THE HOUSE TO ROAM AROUND WITH NO CRIMINAL JUSTICE DONE TO THEM. OUR CHILDREN HAVE BEEN SEXUALLY ABUSED AND WE BEG OF YOU FOR THE ABUSER TO BE JAILED IMMEDIATELY. SOMETHING HAS TO BE DONE-----INCEST IS A CRIME AND SHOULD BE TREATED AS SUCH! WE AS MOTHERS ALSO FEEL A WORK PROGRAM IS THE ANSWER FOR THIS CRIME. WE WOULD LIKE TO SEE THE ABUSER BE ALLOWED TO WORK HIS JOB SO AS SUPPORT WILL CONTINUE TO THE HOUSEHOLD; AND RETURN TO JAIL IMMEDIATELY AFTER WORK IN WHICH CASE COUNSELING IS REQUIRED IN ALL CASES-----NOT ONCE A WEEK, BUT SEVERAL TIMES A WEEK. OUR CONCERN IS THE WELFARE OF OUR CHILDREN BEING ABLE TO LIVE A NORMAL LIFE AFTER THIS HORRIBLE, UNCAINNY CRIME HAS BEEN DONE TO THEM. THE WAY THE LAW IS NOW THEY CAN'T FULLY RECOVER KNOWING NO PUNISHMENT HAS BEEN DONE TO THE ABUSER. IT'S LIKELY IN A LOT OF CASES THAT THE ABUSER WILL REPEAT HIS CRIME BECAUSE HE HAS NOT ACKNOWLEDGED THE WRONG HE'S DONE SINCE HE HAS NOT BEEN PUNISHED.

WE FIND IT HARD TO ACCEPT THAT IF THE ABUSER SEXUALLY ABUSED THE NEIGH-
BORS' CHILDREN, CRIMINAL JUSTICE WOULD BE DONE-----BUT WHEN THE ABUSER
SEXUALLY ABUSES HIS CHILDREN, NO CRIMINAL JUSTICE IS DONE!! WE ARE
ASKING FOR THE SYSTEM TO CHANGE WITHOUT FUTURE DELAY FOR THE SAKES OF
OUR CHILDREN AND OTHER FAMILY MEMBERS.

Susan G. Boyle

Elizabeth W. Holt

Diana L. Parker

White - Jan

Mary T. White

Renee K. White

Cheryl Smith

Deborah A. Haase

5/5/84 (unclear)

Edna Cameron

Rick Martinez

Kim Whitman

Janet Clark

Ken Hill

Patricia Hansen

SIGNED,

Kimberly Soufer
Aly Taylor

Darlene Soufer

Clare King

Judith B. Harvey, V.M.D.
SR 70389
Fairbanks, AK 99701
January 22, 1981

Sen. Charles H. Parr
Room 210, Behrends
Pouch V
Juneau, AK 99811

Dear Sen. Parr;

I am writing in support of Senate Bill 89. This bill would be an important step in helping the children of this state. It makes reporting of suspected child abuse mandatory by all those who may come in contact with an abused child. It also adds 'emotional' abuse as abuse. I feel this is most vital. So often we only think of physical abuse... injury to a body. Physical injuries heal but so often it is mental abuse... either abuse or abuse through neglect or improper attention to a child's emotional needs that leave longer lasting scars.

Alaska is often a difficult state to survive in and even a more difficult state in which to raise children. Problems exist such as 'cabin fever' and increased indoor time for children. I feel it most urgent to add this Bill to the child protection laws. I do not look at it as 'government interference' into family life, but rather as help for the children when they really need it.

I feel sure you feel the same way. I would appreciate your mentioning my letter of support for the Bill to the rest of the Senate Health, Education, and Social Services Committee.

Sincerely yours,

Judith Harvey

Judith B. Harvey, V.M.D.

Rocky

talk to Sandra about this and take over where she left off -

if available { books -> info
Arch. -> info
journals info

Introduced: 1/15/81
Referred: Health, Education & Social Services and Finance

1 IN THE SENATE BY PARR, FAHRENKAMP, FISCHER AND STIMSON

2 SENATE BILL NO. 89
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 TWELFTH LEGISLATURE - FIRST SESSION
5 A BILL

6 For an Act entitled: "An Act amending the child protection laws; and providing for an effective date."
7

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

9 * Section 1. AS 47.10.010(a)(2) is amended by adding a new subparagraph
10 to read:

11 (F) the child having suffered substantial mental or
12 physical neglect as a result of conditions created by the child's
13 parent, guardian or custodian.

14 * Sec. 2. AS 47.17.010 is amended to read:

15 Sec. 47.17.010. PURPOSE. In order to protect children whose
16 health and well-being may be adversely affected through the infliction,
17 by other than accidental means, of harm through physical or mental abuse
18 or neglect (REQUIRING THE ATTENTION OF A PRACTITIONER OF THE HEALING
19 ARTS), the legislature requires the reporting of these cases by practitioners
20 of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to
21 prevent further harm to the child, to safeguard and enhance the general
22 well-being of the children in this state, and to preserve family life
23 whenever possible.
24
25

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

27 (2) school teachers and school administrative staff members;

28 * Sec. 4. AS 47.17.020(a) is amended by adding a new paragraph to read:

29 (6) individuals involved in day care and foster care.

1 * Sec 5. AS 47.17 is amended by adding new sections to read:

2 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. A person required to
3 report suspected physical or mental injury or neglect under this chapter
4 may without the permission of the parents

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

7 (2) if medically indicated, have a radiological examination
8 of the child performed.

9 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person required
10 to file a report of abuse or neglect under AS 47.17.020 who wilfully or
11 knowingly fails or refuses to report the harm required under AS 47.17.-
12 020 is guilty of a class B misdemeanor.

13 * Sec. 6. AS 47.17.070(1) is amended to read:

14 (1) "child abuse or neglect" means the physical or mental
15 injury or neglect, sexual abuse, or maltreatment of a child under the
16 age of 18 by a person who is responsible for the child's welfare under
17 circumstances which indicate that the child's health or welfare is
18 harmed or threatened thereby;

19 * Sec. 7. AS 47.17.070 is amended by adding a new paragraph to read:

20 (7) "mental injury or neglect" means injury or neglect to
21 the intellectual or psychological capacity of a child evidenced by a
22 substantial impairment to the child's ability to function within the
23 child's normal range of performance and behavior.

24 * Sec. 8. This Act takes effect July 1, 1981.
25
26
27
28
29

Miko Walti 276-4994
Judy Sharp
Center for Children &
Parents
808 E Street
99501

SB 89 Testify

Sheffield
716
6-6900

SB 89

Saibanks Child
Protection Task
Force

456-2866

Blanch Brock - R

~~Blanch Brock~~

545 9th Ave. 99701

Mira Munson - 274-7502
anch.

Model Leg.

State law not in conformance
w/ Fed. laws - does not include
mental abuse. - law needs to meet
standards

456-5235 Don Hart - ~~Episcopal~~ Episcopal Minister

Gronne Walker - Junau H&SS office
465-3173

technical

w/tech. ~~technical~~ assistance

277-1494 Anchorage Child Abuse Board
Unit for Children & Parents
343 G St.
anch. 99501

* Leda Shaw - Dept. Law 3603
gone until 2-13-81

Kay Smith 6-1861
James Fox, Pres. 452-1844

social workers -

Dee Ann Schafeld - 3190

Barbara McPherson - CTPA -

2-2-81

M&SS

any special cases?

Judith E. Harvey, V.M.D.
SR 70389
Fairbanks, AK 99701
January 22, 1981

Sen. Charles H. Parr
Room 210, Behrends
Pouch V
Juneau, AK 99811

Dear Sen. Parr;

I am writing in support of Senate Bill 39. This bill would be an important step in helping the children of this state. It makes reporting of suspected child abuse mandatory by all those who may come in contact with an abused child. It also adds 'emotional' abuse as abuse. I feel this is most vital. So often we only think of physical abuse... injury to a body. Physical injuries heal but so often it is mental abuse... either abuse or abuse through neglect or improper attention to a child's emotional needs that leave longer lasting scars.

Alaska is often a difficult state to survive in and even a more difficult state in which to raise children. Problems exist such as 'cabin fever' and increased indoor time for children. I feel it most urgent to add this Bill to the child protection laws. I do not look at it as 'government interference' into family life, but rather as help for the children when they really need it.

I feel sure you feel the same way. I would appreciate your mentioning my letter of support for the Bill to the rest of the Senate Health, Education, and Social Services Committee.

Sincerely yours,

Judy Harvey

Judith E. Harvey, V.M.D.

MEMORANDUM

TO: [

John Pugh
Social Services Field Adm.
Juneau, Alaska

DATE

March 4, 1980

FILE NO

TELEPHONE NO

SUBJECT

Emergency Custody
Statutes 47.10.142

FROM:

Floy Ann MacPhee *FAM*
Staff Manager
Northern Regional Office

As you know, when the children's codes were revised 47.10.142 was not. I am really seeing the need for a change/addition to more clearly protect the young sexually abused child, the child who is too young to refuse to return home. Although the definition of abuse includes sexual abuse 47.10.142 (3) qualifies the taking emergency custody of an abused child to a situation where "immediate medical attention is necessary." (Or imminent danger of physical harm.)"

In most instances of sexual abuse, medical attention is indicated but it is often not "immediately" needed. In most situations where there is sexual abuse of a child under teenage years, emergency custody is indicated. Reasons for this include:

- 1) The child comes under incredible pressure from the family not to tell or if they already have, to change their story.
- 2) The child does not feel safe.
- 3) Potential of physical retaliation.
- 4) The telling does not prevent on-going sexual abuse.
- 5) When the family convinces child to change the story we often have no grounds to continue to intervene to protect the child.
- 6) The family generally will not confront and deal with what has occurred without intervention.

Although we are taking emergency custody in most situations, if we ever get challenged on this, we are probably on pretty shaky grounds. Suggested wording for a change in the statute could be: 47.10.142 (3) the minor has been sexually abused under circumstances defined in 47.10.010(D). Change current (3) to (4).

CC: Niesje Steinkruger

FAM/dh

TABLE A
WHO REPORTS

States and Territories	"Any Person" or "Any Other Person"	WHO MUST REPORT															
		Physician	Nurse	Surgeon	Osteopath	Dentist	Resident	Intern	Hospital/Institution Personnel	Practitioner of Healing Arts ¹	Chiropractor	Optometrist	Podiatrist	Pharmacist	Mental Health Professional	Coroner/Medical Examiner	
Alabama		X	X	X	X	X											X
Alaska		X	X	X	X	X				X							X
Arizona		X	X	X	X	X											X
Arkansas		X	X	X	X	X											X
California		X	X	X	X	X											X
Colorado		X	X	X	X	X				X							X
Connecticut	X	X	X	X	X	X											X
Delaware	X	X	X	X	X	X											X
District of Columbia		X	X	X	X	X											X
Florida	X	X	X	X	X	X											X
Georgia		X	X	X	X	X											X
Hawaii		X	X	X	X	X											X
Idaho		X	X	X	X	X											X
Illinois		X	X	X	X	X											X
Indiana	X	X	X	X	X	X											X
Iowa		X	X	X	X	X											X
Kansas		X	X	X	X	X											X
Kentucky	X	X	X	X	X	X											X
Louisiana	X	X	X	X	X	X											X
Maine		X	X	X	X	X											X
Maryland		X	X	X	X	X											X
Massachusetts		X	X	X	X	X											X
Michigan		X	X	X	X	X											X
Minnesota		X	X	X	X	X											X
Mississippi		X	X	X	X	X											X
Missouri		X	X	X	X	X											X
Montana	X	X	X	X	X	X											X
Nebraska	X	X	X	X	X	X											X
Nevada	X	X	X	X	X	X											X
New Hampshire	X	X	X	X	X	X											X
New Jersey	X	X	X	X	X	X											X
New Mexico	X	X	X	X	X	X											X
New York		X	X	X	X	X											X
North Carolina		X	X	X	X	X											X
North Dakota		X	X	X	X	X											X
Ohio		X	X	X	X	X											X
Oklahoma	X	X	X	X	X	X											X
Oregon		X	X	X	X	X											X
Pennsylvania		X	X	X	X	X											X
Rhode Island	X	X	X	X	X	X											X
South Carolina		X	X	X	X	X											X
South Dakota	X	X	X	X	X	X											X
Tennessee	X	X	X	X	X	X											X
Texas	X	X	X	X	X	X											X
Utah	X	X	X	X	X	X											X
Vermont		X	X	X	X	X											X
Virginia		X	X	X	X	X											X
Washington		X	X	X	X	X											X
West Virginia		X	X	X	X	X											X
Wisconsin		X	X	X	X	X											X
Wyoming	X	X	X	X	X	X											X
American Samoa		X	X	X	X	X											X
Guam		X	X	X	X	X											X
Puerto Rico	X	X	X	X	X	X											X
Virgin Islands		X	X	X	X	X											X

Numbers refer to explanatory notes in Appendix A.

* A state that does not specify categories of professionals that must report, but instead requires that every person of any profession, is checked only in this column.

TABLE A (Continued)
WHO REPORTS

WHO MUST REPORT												WHO MAY REPORT		
Teachers 2	Other School Personnel	Social Services Worker	Law Enforcement Officer	Peace Officer	Police Officers	Probation Officer	Parole Officer	Religious Healing Practitioner 3	Child Care Institution/Worker	Clergyman	Attorney	Others 4	States and Territories	Permissive Reporting
X	X	X	X	X					X			X	Alabama	•
X		X		X				X				X	Alaska	•
X	X	X		X								X	Arizona	
X	X	X	X	X					X			X	Arkansas	•
X	X	X		X		X		X	X	X		X	California	•
X	X	X						X	X			X	Colorado	•
X	X	X			X				X	X			Connecticut	
X	X	X	X						X				Delaware	
X		X	X						X				District of Columbia	•
X		X										X	Florida	
X	X	X	X						X				Georgia	•
X		X											Hawaii	•
X		X							X				Idaho	
X	X	X	X					X	X			X	Illinois	•
													Indiana	
X	X	X		X					X				Iowa	•
X	X	X	X										Kansas	•
X	X	X		X					X			X	Kentucky	
X		X										X	Louisiana	•
X	X	X	X					X	X				Maine	•
X	X	X	X		X	X	X					X	Maryland	
X	X	X			X	X						X	Massachusetts	•
X	X	X	X						X			X	Michigan	•
X	X	X	X						X				Minnesota	•
X	X	X	X						X	X			Mississippi	
X	X	X	X	X		X	X	X	X	X		X	Missouri	•
X		X	X								X		Montana	
X	X												Nebraska	
X	X	X							X	X	X		Nevada	•
X	X		X					X	X	X		X	New Hampshire	
		X	X										New Jersey	
	X	X	X	X				X	X				New Mexico	
X	X	X	X					X					New York	•
X	X	X	X		X				X				North Carolina	
X	X	X	X			X			X			X	North Dakota	•
X	X	X						X	X		X	X	Ohio	•
													Oklahoma	
X	X	X		X					X	X	X	X	Oregon	
X	X	X	X	X				X	X			X	Pennsylvania	•
													Rhode Island	
X	X	X	X		X			X	X				South Carolina	•
X	X	X	X										South Dakota	•
													Tennessee	
													Texas	
													Utah	
					X							X	Vermont	•
X	X	X	X			X		X	X			X	Virginia	•
X	X	X						X	X			X	Washington	•
X	X	X	X	X				X	X			X	West Virginia	•
X	X	X	X		X				X				Wisconsin	•
													Wyoming	
X	X	X	X	X				X	X				American Samoa	•
X	X	X	X	X				X	X			X	Guam	•
X	X	X							X				Puerto Rico	
X	X	X	X	X					X			X	Virgin Islands	•

NEED FOR SERVICES AND EXTENT OF THE PROBLEM

NATIONWIDE

Child abuse and neglect occurs in all segments of the community. No group is exempt. Abuse and neglect are not restricted by social class, race, religion, ethnic background, or sex.

ALASKA

Families in Alaska, and especially Anchorage, have many of the characteristics that contribute to placing them at high risk for abusing and neglecting their children. These characteristics include:

- 1) Social isolation from friends, extended family, and church and social groups.
- 2) Inability on the part of high risk families to make use of existing community resources and services.
- 3) Rigid expectations of children.
- 4) Multiple crises or stresses.
- 5) Inability of parents to get their needs met other than through their children.

These factors combine with Alaska's severe winters, the high rates of alcohol and drug abuse, and lack of availability of day care or after school supervision to contribute to the high rate of child abuse and neglect in Alaska.

Alaska has 150 open child abuse cases for each 10,000 persons in the state. Washington has 90 per 10,000; Idaho has 81 per 10,000. Source: National Center for Child Abuse, Region X.

Of all the Alaska Division of Family and Youth Services cases, 75% are child abuse and neglect. Source: Alaska Division of Family and Youth Services.

ANCHORAGE

Anchorage has 55 open cases of child abuse and neglect per 10,000 population; New York City has 23 per 10,000. Sources: New York City Social Services; Alaska Division of Family and Youth Services.

Anchorage averages 70-80 new reports of child abuse and neglect monthly. Approximately 12 of those are for incest and child sexual abuse. Source: Anchorage District Office, Division of Family and Youth Services.

INCEST AND CHILD SEXUAL ABUSE

New reports of incest in Anchorage averaged one per month in 1979. They averaged 12 per month in 1980. Source: Anchorage District Office, Division of Family and Youth Services.

The Anchorage Child Abuse Board and staff treated 38 incest involved families during the eight months this service was provided in 1980. Source: Center for Children and Parents.

Of the children in the cottages at McLaughlin Youth Center, 70% report being sexually abused in their homes by close relatives or family friends. Source: McLaughlin Youth Center.

Between 80% and 90% of the girls at the Salvation Army Booth Home in Anchorage report having been sexually abused by parents, relatives, or close family friends. Source: Booth Home Director.

"In 75% of child molest cases, the offender is a member of the child's own household, a neighbor, a friend, or a person in the community with whom the child has frequent contact.....In 27% of the cases the offender was a relative by blood or marriage.....Almost 40% of the cases involved persons closely related to the child. Source: Three year study in New York City; DeFrancis, 1979.

Between 20% and 30% of all girls in the United States will be sexually molested before the age of 16 years. The majority of these incidents will occur in the family by relatives of the victims. The figure for the boys is 10% to 20%. Source: Finklehor, 1980, and various other estimates and studies.

ALASKA AGENCIES WORKING ON THE PROBLEM

The Anchorage Child Abuse Board, Cook Inlet Native Association's Family Services Program, and the Fairbanks Child Protection Task Force are the only programs in Alaska which are specifically designed to focus on child abuse, its prevention and treatment. Other agencies encounter child abuse and neglect cases but only as a part of larger programs.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL ANALYSIS

Department Public Safety	Sponsor (Principal) Health, Educ. & Soc. Ser.Com.	Bill Number CSSB 89
Department Position Support Bill		
Division Director Colonel T. K. Anderson	Date 4-03-81	Commissioner William R. Nix <i>W.R.N.</i>

GOVERNOR'S OFFICE USE

Comments:

<input type="checkbox"/> Position Noted	By	Date
---	----	------

SUMMARY

1. a) Related Bills (Similar or Conflicting)	1. b) Other Agencies Affected by Bill
2. a) Organizational Support for Bill	2. b) Organizational Opposition to Bill
3. Program Effects of Bill	

4. Fiscal Impact: None Fiscal Note Attached

5. Amendments Proposed:

6. Comments:

RESOURCE CENTER FOR
PARENTS & CHILDREN

January 30, 1981

Senator Charlie Parr
Pouch V, State Capital
Juneau, Alaska 99811

Dear Charlie:

I want to reiterate my support of SB 89, amending the child protection statutes. However, in reviewing it more closely and discussing its implications with Division of Social Services staff; there are three areas of the bill which deserve further consideration.

1. Sec. 7 AS47.17.070
The definition of mental injury or neglect does not reflect allowances for the many cultural differences in the children of our state. "With due regard to his culture" is omitted at the conclusion of the definition.
2. Sec. 6 AS47.17.070(1)
This section of the bill is concerned with the types of reportable abuse and neglect. It does not include the sexual exploitation of children as a reportable form of child abuse. Child pornography is a growing national problem, and does exist in Alaska.
3. Sec. 47.10.142
Sexual abuse is not mentioned as grounds for taking emergency custody of a child by the Division of Social Services, although the other recognized forms of abuse and neglect are included. This restricts early intervention, and would most likely put the child and the family under greater pressure, if sexual abuse exists and no intervention is possible at the time of initial investigation by the Division.

The issues raised may seem insignificant. Those of us who must work within the prevailing helping system are aware that, in the best of situations, child abuse and neglect presents a complex set of problems to face with a family. Clearer definitions within the child protection statutes would be a valuable resource in providing services earlier to families in need.

If further background material is needed regarding this legislation, please feel free to contact the Center for assistance. Thank you again for your continued effort and support of this important legislation.

Sincerely,

Blanche

Blanche Brunk, Director
575 Ninth Avenue

Fairbanks, Alaska 99701

(907) 456-2800

January 21, 1981

Senator Charles H. Parr
Pouch V, State Capitol
Juneau, Alaska 99811

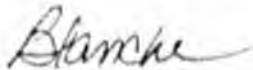
Dear Charlie,

I urge your committee's favorable consideration of SB 89, amending the child protection laws in Alaska. This bill would strengthen mandatory reporting requirements by school personnel and foster and day care providers--- often the only contact points for a child who is being abused or neglected. The legal definitions of abuse and neglect would be broadened by this legislation, to include those emotional abuses which are as harmful to a child as physical ma treatment.

As a professional involved with families, I know that child abuse and its far reaching damage are significant problems in our state. SB 89 would make major contributions to earlier intervention and prevention of child abuse and neglect, making more likely the succe ful resolution of this complex problem.

Thank you for your support of and interest in this important legislation.

Sincerely,



Blanche Brunk, Director

FCPTF, INC. Resource Center For Parents & Children



January 28, 1981

Senator Charlie Parr
Pouch V, State Capitol
Juneau, Alaska 99811

Attention: Rocky Williams

Dear Rocky:

Enclosed are some background materials which may be helpful to you regarding SP 89, the child protection statutory changes.

Child Abuse & Neglect - State Reporting Laws is very recent, & gives an excellent national overview. The tables are most useful in pinpointing the strengths & weaknesses in the present Alaska Statute, & makes comparisons between states.

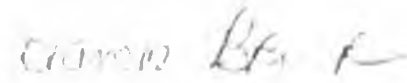
It might be helpful to include some of that information in the legislators packets, when the bill is before them in the Senate.

Although not so recent, Child Abuse & Neglect: Model Legislation for the States is also a good resource. The article on emotional abuse is one of the best & easy to read.

I appreciate your thoroughness in researching this particular matter, & hope we are able to be successful in getting the statute changed.

If I can be of further assistance, please feel free to contact me.

Sincerely,


Blanche Brunk, Director

BB:ees

Enclosures (as noted)

P.S. I am attempting to locate more of the orange booklets for distribution to key legislators.

SB 89

SENATE JOURNAL - PAGE 77- 2 1/15/81

SENATE BILL NO. 89 by Senators Parr, Fahrenkamp, Fischer
and Stimson, entitled:

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

was read the first time and referred to the Health, Educa-
tion and Social Services Committee and the Finance Committee.

SB 89

SENATE JOURNAL - PAGE 506- 3 3/20/81

The Health, Education and Social Services Committee considered
SENATE BILL NO. 89 (amending the child protection laws) and
recommends it be replaced with CS FOR SENATE BILL NO. 89 (HESS)
and reports it back as follows: Senator Parr, Chairman and
Senators Stimson and Fischer signed "do pass". The committee
further attaches a zero fiscal note.

Senator Dankworthy, Co-Chairman of the Finance Committee
waived referral on SENATE BILL NO. 89 and the bill was
referred to the Rules Committee.

Rules CS - Monday

Senate approves measure to protect abused children

2/11/82
Anch. Daily News

The Associated Press

JUNEAU — The state Senate unanimously has approved a bill aimed at protecting children who are victims of sexual abuse or exploitation.

Sen. Charlie Parr, D-Fairbanks, who introduced the measure, called it "a big step forward." The bill (CSSB89 Rules am) would make several changes in current law.

The bill, approved by the Senate on Tuesday, authorizes the state Department of Health and Social Services to take emergency custody of children who have been sexually abused or exploited.

Under present law, the department may not take emergency custody of children who have been sexually abused unless their lives are in danger, Parr said.

The bill also expands the number of people required to report cases of child abuse and neglect — including both physical and sexual abuse — to state authorities. Under the bill, school administrative staff members would be required to report children who have been abused.

In addition, current law requires doctors, teachers, social workers, police and administrators of corrections institutions to report cases of child abuse.

Under Parr's bill, a person required to file a report of abuse or neglect who knowingly refuses to make a report would be guilty of a class B misdemeanor, which is punishable by up to six months in jail.

The bill also authorizes people who are required to report cases of child abuse or neglect to take photographs or make X-ray examinations, of the child without permission of the child's parents.

"This should give us better reporting," Parr said. "If the photos and X-rays are taken it should give us a better chance of showing the condition" of an abused child.