

H B

117

COMMITTEE REPORT

HOUSE

FURTHER: JUDICIARY
FINANCE

1/26/83

Date: _____

Mr. Speaker:

The Committee on HESS has had RB 117

An Act relating to sexual abuse of a minor.

under consideration and reports it back as follows:

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

**MEMBERS SIGNING
DO PASS**

Mr. Miller

Mr. [unclear]

[unclear]

**MEMBERS HAVING
OTHER RECOMMENDATIONS:**

[unclear]

[unclear]

[unclear]

[unclear]
CHAIRMAN

From
Neil Horvath

COMMENTARY AND SECTIONAL ANALYSIS FOR THE
PROPOSED CS FOR HOUSE BILL 117 (HEALTH, EDUCATION AND
SOCIAL SERVICES); A BILL RELATING TO SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.430, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. The section prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including illegitimate or adopted children and stepchildren.

Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age difference between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. (Such behavior may in some circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime.) Forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree (AS 11.41.410), an unclassified felony.

The language in this section addresses a problem which has arisen under the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The provisions of the law are thus made applicable to juvenile offenders. This is important; studies of adult sexual offenders indicate that many convicted offenders began to commit sexual assaults in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders.

Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 2. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. It includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the

actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17-year-old boy and his 15-year-old girlfriend, for example) from prosecution. As in Section 1, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Paragraph 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of a more serious assault, this provision raises to the age of 17 those children who are protected under the law. This conduct is a class B felony offense, punishable by up to ten years in prison.

Section 3. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its present classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Staff Report
House bills 117,127,128
January 27, 1983

HB 117:

Under current statute, sexual abuse of a minor under 16 years of age is a class C felony.

As proposed by HB 117:

1. Sexual abuse of a minor under 13 years of age is a offense in the first degree and is a class B felony.

2. Sexual abuse of a minor aged 13 to 16 is sexual abuse in the second degree and is a class C felony.

HB 127:

Under current statute, the first felony conviction for sexual assault in the first degree, not involving firearms, use of a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 8 years. The proposal will change that sentence to 10 years.

Under current statute, the first felony conviction for sexual assault in the first degree involving firearms, a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 10 years. HB 127 changes that sentence to 12 years.

HB 128:

Under current statute, promoting prostitution is a class B felony. HB 128 provides that inducing or causing a person under 16 years of age to engage in prostitution is a class A felony.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802

586-3650

4553

POSITION PAPER

HB117: An Act relating to sexual abuse of a minor

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

The Network maintains that, in cases involving sexual abuse of a minor, sexual contact and penetration are equally serious offenses that should be incorporated in the same felony classification.

The Network would strongly support a comprehensive overview of current statutes governing the prosecution, sentencing, and treatment of persons charged and convicted of sexual abuse of a minor.

1 IN THE HOUSE

BY THE HEALTH, EDUCATION
AND SOCIAL SERVICES COMMITTEE

2 CS FOR HOUSE BILL NO. 117 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the laws relating to sexual abuse of
7 a minor."

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

9 * Section 1. AS 11.41 is amended by adding new sections to read:

10 Sec. AS 11.41.435. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE.

11 (a) A person commits the crime of sexual abuse of a minor in the
12 first degree if

13 (1) that person engages in sexual penetration with a person
14 who is under 13 years of age and at least three years younger than the
15 offender or aids, induces, causes, or encourages a person who is under
16 13 years of age and at least three years younger than the offender to
17 engage in sexual penetration with another person; or

18 (2) being 18 years of age or older, that person engages in
19 sexual penetration with a person who is under 18 years of age and who

20 (A) is entrusted to that person's care by authority of
21 law; or

22 (B) is that person's son or daughter, including an
23 illegitimate or adopted child, or a stepchild.

24 (b) Sexual abuse of a minor in the first degree is a class A
25 felony.

26 Sec. 11.41.437. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE.

27 (a) A person commits the crime of sexual abuse of a minor in the
28 second degree if

29 (1) that person engages in sexual contact with a person who

1 is under 13 years of age and at least three years younger than the
2 offender, or aids, induces, causes, or encourages a person under 13
3 years of age and at least three years younger than the offender to
4 engage in sexual contact with another person;

5 (2) being 18 years of age or older, that person engages in
6 sexual contact with a person who is under 18 years of age and who

7 (A) is entrusted to that person's care by authority of
8 law; or

9 (B) is that person's son or daughter, including an
10 illegitimate or adopted child or stepchild; or

11 (3) that person aids, induces, causes, or encourages a
12 person who is 16 years of age or younger to engage in conduct de-
13 scribed in AS 11.41.455(a)(2) - (6).

14 (b) Sexual abuse of a minor in the second degree is a class B
15 felony.

16 * Sec. 2. AS 11.41.440 is repealed and reenacted to read:

17 ~~Sec. 11.41.440. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.~~

18 (a) ~~A person commits sexual abuse of a minor in the third degree if~~

19 (1) that person engages in sexual penetration with a person
20 who is aged 13, 14, or 15, and at least three years younger than the
21 offender, or aids, induces, causes, or encourages a person who is aged
22 13, 14, or 15, and at least three years younger than the offender to
23 engage in sexual penetration with another person;

24 (b) Sexual abuse of a minor in the third degree is a class C
25 felony.

26 * Sec. 3. AS 11.41.410(a)(4) is repealed.

DEPT. OF LAW
3/25/83

COMMENTARY AND SECTIONAL ANALYSIS
FOR THE PROPOSED 1983 AMENDMENTS TO ALASKA'S LAWS
RELATING TO SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.410, Sexual Assault in the First Degree.

This section repeals subsections (a)(3) and (4) of the Sexual Assault in the First Degree statute. These subsections are reclassified in section 3, below, as Sexual Abuse of a Minor in the First Degree.

Section 2. AS 11.41.420, Sexual Assault in the Second Degree.

This section accomplishes two things. It amends the current Sexual Assault in the Second Degree statute to define the crime as "sexual contact with another person without consent of that person." The amended language is consistent with that used in the Sexual Assault in the First Degree statute, which prohibits sexual penetration without consent. Under the current Sexual Assault in the Second Degree law the prosecutor must prove that the victim was "coerced" to submit to the sexual contact by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping. Technically, the defendant's use of force without any threats may not be sufficient to establish this crime; felony charges have been lost through a literal application of these terms.

The second change which this section makes is to raise the current class C felony offense of Sexual Assault in

the Third Degree, penetration with a person who is suffering from a mental defect or is incapacitated, to Sexual Assault in the Second Degree, a class B felony punishable by up to ten years in prison.

Section 3. AS 11.41.430, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. This new crime prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including adopted, illegitimate or stepchildren. Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age span between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. Such behavior may in certain circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime. Forcible sexual

penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an ^{un-}classified felony.

These amendments address a serious omission in the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The section is thus made applicable to juvenile offenders. This is an important consideration, as some studies of adult sexual offenders indicate that the offenders began to sexually assault in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders. Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 4. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. This includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17 year old boy and his 15 year old girlfriend, for example) from prosecution for a felony. As in Section 3, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus

making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Subsection 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of more serious sexual conduct, this provision raises the age of children covered to 17, and makes this conduct a class B felony offense punishable by up to ten years in prison.

Section 5. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its current classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Section 6. AS 11.51.130(a)(4), Contributing to the Delinquency of a Minor.

Section 6 repeals the "sexual contact" subsection of the present Contributing to the Delinquency of a Minor statute. The seriousness of this conduct has been increased in Section 5, above, to Sexual Abuse of a Minor in the Third Degree, a class C felony.

Section 7. AS 11.41.460, Indecent Exposure.

This section creates a new crime entitled Indecent Exposure, which is the intentional exposure of a person's genitals, buttock, anus or female breast to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under current law this conduct is considered "Disorderly Conduct", a class B misdemeanor offense with a maximum penalty of ten days in jail. Some recent studies indicate that exposure is sometimes the first step^{for} sex offenders who later increase the seriousness of their conduct to sexual contact or penetration. The current law treats this behavior much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level if the object of the exposure is a child under the age of 16. The offense

remains a B misdemeanor if the witness to the exposure is an adult.

Section 8. AS 11.61.110(a)(7), Disorderly Conduct.

Section 8 repeals the current "exposure" subsection of the Disorderly Conduct statute. This conduct is included in the Indecent Exposure provisions set out in section 7.

Section 9. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010) to allow prosecution for a sexual offense against a child to be commenced within one year after the child reaches the age of 16, or reports the crime to a law enforcement officer, whichever occurs first. The period of limitation cannot be extended by more than ten years, however. This change is necessary because sexual offenses against young children (especially intrafamilial abuse) are frequently not discovered until the child reaches sufficient maturity to realize the wrongfulness of the conduct and to identify those adults to whom the conduct may safely be reported. A child of 12, 13 or 14 will often report for the first time sexual abuse which has been occurring since he or she was 4 or 5 years old. While the most recent assaults may be prosecuted, these offenses may be classified as less serious

than the earlier ones, because of the child's older age. In those situations where the sexual abuse has been a continuing course of conduct which spans several years of a child's life the trier of fact should be entitled to reach and consider all aspects of the adult's conduct.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: HB 117 Date on Bill: 1/26/83
 Title: An Act Relating to sexual abuse of a minor
 Sponsor: Representative Pestinger
 Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
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2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conder Phone: 465-4338
 Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [Signature] Date: 2/28/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

HB 117, 127, 128

Dave Palmer

FEB 21 1983

Brenda Stephens
Box 699
Soldotna, Ak. 99669
262-4643

I would like to see stronger support for changes in our state statutes regarding sexual abuse of minors.

I realize that statistics can be used in a variety of ways. This is a problem that I see first-hand, not as statistics in my local papers. I work as a crisis volunteer for the women's center in Soldotna and see a need for more teeth in our laws protecting our young people from abusive adults.

I urge you to consider the recommendations made by Sayle Horvath to the House Health, Education and Social Services Committee.

Please, let's protect our young people.

Brenda Stephens
cc: Don Gilman, Paul Fischer, Hugh Malone,
Nilo Fritz, Bette Cato

THE LEGISLATURE OF THE STATE OF ALASKA
THIRTEENTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 117
 Title "An Act relating to sexual abuse of a minor"
 Requested by Representative Pestinger Date Jan. 26, 1983

II. FISCAL DETAIL

Agency Affected Health & Social Services
 Program Category Affected Offender Confinement Reformation & Supervision
 BRU, Program or Subprogram(s) Affected Adult Confinement
 (Note: If more than one budget component is affected, separate
 line-item amounts and funding for each component in the analysis
 section.)

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 COMMODITIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS ETC.						
TOTAL	2044.0	-0-	64.1	370.0		

FUNDING (Thousands of Dollars)

GENERAL FUND	2044.0	-0-	64.1	370.0		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME						
PART TIME						
TEMPORARY						

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

This bill relates to the crime of sexual abuse of a minor in the first and second degrees.

IV. DATE February 4, 1983

PREPARED BY Roger C. Lange
 AGENCY Division of Adult Corrections

Original: Legislative Finance PHONE 465-3376
 cc: Budget and Management
 Prime Sponsor (First Legislator Named)

33-001 (Rev. 12/79)

BILL NUMBER House Bill No. 117

EXPENDITURES (Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86	FY 87	FY 88
100 PERSONAL SERVICES				261.2		
200 TRAVEL				1.8		
300 CONTRACTUAL			14.0	50.0		
400 COMMODITIES			45.9	48.7		
500 EQUIPMENT				2.0		
600 LAND & STRUCTURES	2044.0					
700 GRANTS, CLAIMS ETC.			4.2	6.3		
TOTAL	2044.0		64.1	370.0		

FUNDING (Thousands of Dollars)

GENERAL FUND	2044.0		64.1	370.0		
FEDERAL FUNDS						
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME				5.6		
PART TIME						
TEMPORARY						

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

The enactment of House Bill No. 117 will result in changing the offense of sexual abuse of a minor who is under 13 years of age from a Class C to a Class B felony. Conviction for this offense will result in longer sentences.

For purposes of this fiscal analysis, the following information was used:

1. There have been approximately 45 convictions annually for the crime of sexual abuse of a minor.
2. An assumption is made that 22 (approximately 50%) of the current convictions would be for the crime of sexual assault of a minor under 13 years of age.
3. Sentencing data for Class B and C felonies is not available by offense. Therefore, the data available for sentencing by class has been applied in this note. Therefore:
 - a. There will be an increase in time served by convicted offenders of 1.08 years, the current difference between Class B and Class C average length of sentence served.

- b. The effect would begin near the end of the first year the law is in effect as the average time served for a Class C felony is .8 years.
- c. 60% of the persons convicted of a Class B felony actually serve time.

Therefore, the impact on the state correctional system will be the need for approximately 14 additional beds. (22 convictions x 60% receiving jail sentences x 1.08 additional years = 14.2 beds.) The cost of the beds is estimated to be: 14 x \$146,000 (medium security bed cost) = \$2,044,000.

It is assumed these beds would be added to those identified in other fiscal notes. Also, because of construction time, they would not be available for occupancy until FY 1986. Personnel Service costs are not identified until that time.

In estimating personal services costs, it is assumed 1 staff person will be required for every 2.5 inmates. Fourteen beds would require 5.6 positions. An average FY 1984 position cost of \$44,000 (plus inflation) was used to project personal services costs. The final staffing of a correctional facility cannot be determined until it has been designed, and the staffing would be influenced by such factors as total bed capacity, floor plan for security, and programs to be provided as a part of rehabilitation.



BUSINESS
276-7279
24-HR. CRISIS
276-RAPE

CHILD PORNOGRAPHY

Q. What is the history behind the development of child pornography?

A. Throughout history children were exploited, sold and even killed. Sex between male adults and children had been sanctioned, or at the very least, tolerated as seen in institutions of slavery, prostitution and pornography. In the late 19th and early 20th centuries, western society was obsessed with the image of the pure, innocent, sexless little girl. The Arts were used to make the sexual use of children more acceptable. Florence Rush, noted author of a book on child sexual abuse, believes the frequent use of child sexuality by nineteenth-century authors contributed to the real use, abuse and sexual manipulations of children.

Q. What is the situation today? Certainly we have protection from the exploitation of children.

A. Today we expect the adult world to protect the young from sexual exploitation. Meanwhile, this society normalizes and accepts the exploitation of women in all forms of media. The last few years have brought much needed attention to the growing problem of child pornography, and fairly quick action has been taken by legislatures in our country. It is easier for us to become outraged by what is happening to young children than by what happens to grown women. We forget that young girls grow up to be women. About the time they reach the age of consent, what protection there is stops and the legalized exploitation starts again.

Q. What exactly is happening in the child pornography industry? What do they do with these kids?

A. Until recently, much of child porn sold in America was smuggled from abroad, but now most of it originates here.

Robin Lloyd, reporter and author of *For Money or Love*, a book on boy prostitution, collected 264 different child-porn magazines, each costing an

average of seven dollars. *Where the Young Ones Are*, a sex guide for pedophiliacs (pedophilia: sexual perversion in which children are the preferred sexual object), contains a listing of 378 places in fifty-nine cities where the young (sexual partners) can be found, and has sold over 70,000 copies. Also, publications advertise films entitled "Infant Love," "Children and Sex," "Little Girls," etc., in which one can see spread shots of children from 6 to 13 as they perform oral sex.

With little difficulty one can obtain *Lollitots*, which introduced Patti, "the most erotic ten-year-old you'll ever meet," or *Little Girls*, which offers pictures of ten and twelve-year-olds in intercourse with adult males. For \$45 one can purchase a film in living color and see a nine-year-old in a variety of sex acts with two Arab boys, then with an adult.

Yes, child pornography is very big business. According to researchers and reporters, child models are not difficult to recruit. Many magazine publishers and film producers use their own children; others advertise to parents.

In the book "Take Back the Night - Women on Pornography" we are told, "A recent advertisement in *Al Goldstein's* magazine *Screw* offered \$200 for young girl-child models. It brought dozens of responses from parents with female children.

A writer who followed up the ad reports: "Some parents appeared in the movie with their children; others merely allowed their children to have sex. One little girl, age 11, who ran crying from the bedroom after being told to have sex with a man of 40 protested, 'I can't do it.' 'You have to do it,' her parent answered. 'We need the money.' And, of course the little girl did."

Q. Exactly, how big is child pornography and why don't we know more about it?

A. The kiddy-porn industry is extremely clandestine - secretive, illegitimate and sly. Most statistics therefore are a loose approximation. In the opinion of Florence Rush, former social worker and author of a book on child sexual abuse, *The Best Kept Secret* - the numbers I quote here "represent only the tip of the iceberg."

FACT: Of the \$2.5 billion porn industry, about \$1 billion is from kiddy porn.

FACT: In 1975, Houston police uncovered a warehouse filled with child pornography, and among the collection were 15,000 color slides of children, 1,000 magazines, and thousands of reels of film.

FACT: At Crossroads Store in New York City, a group of investigators found, among the usual displays of *Lollitots*, *Moppets*, and other kiddy porn magazines, nineteen films on kiddy porn, and an additional sixteen on incest alone.

FACT: One and half million children under sixteen are used annually in commercial sex (prostitution or pornography).

FACT: Most runaways can survive only as prostitutes or by posing for pornography. Each year there are one million runaways, children whose ages range from eight through eighteen.

FACT: Covenant House in New York City shelters 5,000 runaways each year. Over 2,000 are involved in pornography and prostitution, and of this number, 1,000 are under 12.

FACT: Los Angeles police have estimated that 30,000 children are sexually exploited in Los Angeles alone every year.

(Taken from Section II "Child Pornography" of *PORNOGRAPHY; MEDIA VIOLENCE TOWARD WOMEN AND CHILDREN - An Education Packet* - Developed/compiled by Jean Felicia Craciun, Director of Education Service.)

Letter From The Editor

ANTI-PORNOGRAPHY AS A MOVEMENT

Diane E.H. Russell, Associate Professor of Social Science at Mills College, and a founding member of Women Against Violence in Pornography and Media, expresses a short-circuiting process that has plagued the issue of pornography. She states "In the case of pornography many people, including feminists, don't allow themselves to contemplate — is pornography a problem? Why does this problem exist? They simply say, 'I'm against censorship of any kind!' And the meaning of the First Amendment becomes the topic of discussion. In this way the freedom of speech issue has been used, not always consciously, to freeze us into saying and doing nothing against pornography." She addresses the need to end the short-circuiting in our thinking and feeling.

There are four, distinct and important steps in dealing with any social problem:

First, we need to recognize it, define it, see it.

The second step involves *feeling about the problem* once it is recognized. To simply acknowledge rape, woman-battering, child pornography, and not feel outraged is one kind of unhealthy short-circuiting that goes on.

Third, we need to try to understand the *cause of the problem*, to analyze it, before we collectively take action.

And, finally, there is the question of *what to do about it*.

In the case of pornography, in skipping the first three steps and starting at step four the issue of the pros and cons of censorship or banning comes up, and this is only one of many, many questions.

The anti-pornography movement now realizes that obscenity laws and government control of the pornography industry is not the way to go. Pornography cannot flourish on a mass-marketed, industrial scale without two basic conditions: A culture which crushes human eroticism into the distorted and abusive framework of dominance and submission, creating a demand for pornography rather than erotica ("erotica" is rooted in eros or passionate love, and thus in the idea of positive choice, free will, and the yearning for a particular person, from "Erotica and Pornography" article in MS., Nov., 1978 by Gloria Steinem); and free-enterprise capitalism, which will sell anything — even pain — for a profit.

Twentieth century capitalism supplies the means of mass production: efficient media technology, enormous profits for producers, and the freedom to market anything. And in enterprising capitalist nations, the law often follows the profits. Largely free of technological or legal constraints, mass-market pornography has now hit its stride. At \$7 billion a year, pornography is not merely a thriving industry, it is an utterly predictable product of free-market capitalism in a technologically advanced sexist society.

What it boils down to is the fact that media affects the way men and women view themselves and each other. *Individually* then we decide if we agree with the images and messages that the media and pornography convey to us. If we don't like what we see, the media violence toward women and children, then we need to understand the established cultural and sexual attitudes that have allowed this to flourish and change them *together!*

The Anchorage Crime Commission — Chamber of Commerce subcommittee on Child Abuse is researching among other things statutes on Commercial Sale to personal consumption of pornography.
[Paula M. Haley, Exec. Dir. of S.T.A.R. and Angela M. Rinaldo, past Exec. Dir. are serving on this committee.]



Pornography and the First Amendment

"Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press; or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

—First Amendment of the United States Constitution

Q. How does the First Amendment affect pornography?

A. Under this amendment, all speech (whether written or oral) is protected from governmental restriction unless proven to be one of the few categories of unprotected speech. Two types of unprotected speech relate to pornography: first, obscenity and second, child pornography.

There is no objective legal test for obscenity. Basically material is obscene if the average person, applying community standards, would find that such material as a whole appeals to prurient, i.e., lustful interests and lacks serious artistic, political or scientific value. There must be a court hearing first to determine if the material is obscene. If the court finds the material to be obscene, it will be removed from the stores and theaters. Just because one issue of a magazine is proven to be obscene does not mean that future issues of the magazine cannot be sold. Every new magazine issue, book or movie requires a separate court determination of obscenity.

In 1982, the United States Supreme Court added a new category of unprotected speech — child pornography, i.e., material that visually depicts sexual conduct by children. The legal procedure would be similar to the obscenity cases. The material cannot be forcibly removed from stores and theaters until it is proven.

Because of the importance of the First Amendment freedoms to our society, there can be no prior censorship by the government of anyone's speech. While the First Amendment legal procedure to remove pornography appears cumbersome because it must be repeated for every new pornographic item, the First Amendment also serves as a shield to the anti-pornography movement to protect its right to organize politically and to protest pornography.

—Mary Southard
Legal Advocate

CHILD SEX RINGS

The Anchorage media has recently grabbed on a theme known only to a few: child and adolescent sex rings. In separate accounts we have heard about attempts to extradite an alleged sex ring organizer from Florida to Anchorage; a Boys Club executive was charged with sexual abuse of minors; and a 19-year-old male charged with larceny claims in his defense that abuse in a prostitution and pornography ring contributed to his delinquent lifestyle. The police officer in charge of these investigations informed the press that only the "tip of the iceberg" has been exposed.

Research is beginning to shed some light on the dynamics of child sex rings. Among the information recently yielded are the following themes:

- 1) Runaways and kids with vulnerable lifestyles are especially susceptible.
- 2) Rings involve male victims approximately 3 to 1 over females.
- 3) Ann Burgess (the researcher who first defined the Rape Trauma Syndrome) has facilitated much recent research and has characterized three different types of sex rings. Two types involve primarily pre-pubescent children, the third and most sophisticated type involves those from puberty through age 18 or 19.
- 4) Many subtle (and a few not so subtle) methods are used to get victims involved and to force them to maintain secrecy about the rings.
- 5) The reporting of male victims (at all age levels) of sexual assault is increasing nationwide.
- 6) Ann Burgess suggests that these male children may be at an equal risk with females for sexual victimization.

Some features of the situations reported in Anchorage raise perplexing questions. In particular, it is noteworthy that disclosures of this victimization are not coming through the typical reporting channels. Instead, most disclosures are coming from a few adolescents already identified or in the custody of juvenile justice authorities. Others have come to light through police investigations resulting from the disclosures of other adolescents. The following are some tough questions that the Anchorage community should be asking itself:

- 1) Are we asking the right questions in

looking at the lifestyles of "kids in trouble?"

- 2) Are we looking for sexual abuse in the right places?
- 3) What are the barriers keeping boys from talking about sexual victimization and human service systems from being receptive to hearing it?
- 4) What are we doing to give permission to adolescents to talk about this kind of victimization?
- 5) What have we been doing in the socialization of our male children which keeps them (and us) blind to the risk of their sexual victimization?

—Ralph Brower
Male Education Project Director

JANUARY'S Volunteer of the Month

January's volunteer of the month, Linda Ambrosia, is a familiar face at all volunteer meetings. Linda has been an active S.T.A.R. volunteer for the last 3 years. She consistently takes a high number of hotline hours per month and she is always available to pinch hit for us. Linda is also eligible to be an advocate.

Linda said, "I chose to volunteer for S.T.A.R. because it is a big problem in Alaska. I've been doing crisis work off and on since 1968. I originally joined to work in prevention and when I saw the needs of the victim — I chose to work with hotline. I would like to see this become a past problem!"

She also always manages to make the long trek from her home in Eagle River to S.T.A.R. for meetings. Linda works as a substitute teacher. She's married and has one daughter.

Congratulations Linda!!!

—Deb Wilson-Neagle
Volunteer Coordinator

SEXUAL ASSAULT

1982 STATISTICS

The Direct Services unit of S.T.A.R. will be spending time this month compiling S.T.A.R.'s 1982 statistics on sexual assault. The final results will be in your next newsletter and should be interesting.

Special Contributors

Thanks to the following person for her generous donation to S.T.A.R.

Robin Ridder



HOLIDAY THANKS

The entire S.T.A.R. staff would like to thank each of the volunteers who took hotline shifts on Christmas and New Year's. Thanks to you we had 100% volunteer phone coverage. The following volunteers took Christmas and New Year's shifts:

DIANNE TOEBE SUSAN SACALOFF
MARTY KENNEDY JUDY PEACOCK
MARY RUSH DAWN RASMUSSEN
JEANNETTE MORIN
PAM CRAWFORD

We'd also like to thank all of the volunteers who took hotline during the busy month of December. We realize that people have a lot of social engagements during the holidays, and again we had 100% volunteer phone coverage. Thanks!!

—Deb Wilson-Neagle
Volunteer Coordinator

Any members interested in information on legislation concerning sexual assault, please call the S.T.A.R. office.

* 276-7279 *

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S.T.A.R. MEMBERSHIP FORM

_____ Yes, I want to stand with S.T.A.R. against Rape. Enclosed are my tax deductible annual membership dues.

_____ No, I do not wish to become a member of S.T.A.R. at this time, but please add my name to your mailing list.

_____ \$5.00 _____ \$10.00 _____ \$25.00 _____ \$50.00 _____ \$200.00
Limited Income Individual Friend of S.T.A.R. Agency Corporation

Name _____ Date _____

Mailing Address _____

_____ Signature _____

_____ Please check here if you would like a receipt.

REMEMBER: SEXUAL ASSAULT IS A PROBLEM TO TALK ABOUT.

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**THIS IS YOUR LAST NEWSLETTER!
MEMBERSHIPS EXPIRED JAN. 1,
1983. . . . PLEASE RENEW YOUR
MEMBERSHIP NOW!!!**

3/24/83

TO HESS COMMITTEE

C SHB 117 - SEXUAL ABUSE OF A
MINOR IS ON THE CALENDAR
FOR TOMORROW'S MEETING. IT MAY
BE WITHDRAWN - PENDING DISCUSSION
BETWEEN THE SPONSOR AND THE DEPT.
OF LAW

BUT NO ONE KNOWS FOR
SURE YET.

DAVE PALMER
x 3777

	dept of Law	Rep. Goll	HB 117
Sexual abuse 1st degree	<ol style="list-style-type: none"> 1. Penetration w/ person under 13 and 3 yrs younger 2. Being 18 yrs or older, penetration w/ person under 18 & in care <p>Class A felony</p>	<ol style="list-style-type: none"> 1. penetration w/ person 13 yrs. and 3 yrs younger 2. Being 18 yrs or older, penetration w/ minor under 18 and in care <p>Class A felony</p>	<ol style="list-style-type: none"> 1. Sexual contact w/ person under 13. 2. inducing person under 16 to engage in sexual activities in 11.41.455 a 2-6 Class B felony
Sexual abuse 2nd degree	<ol style="list-style-type: none"> 1. penetration w/ person 13,14,15,16 and 3 yrs. younger 2. Sexual contact w/ person under 13 and 3 yrs. younger 3. Being 18 yrs or older, sexual contact w/ person under 18 and in care 4. Inducing a person 16 yrs or younger conduct in 11.41.455 (a) 2-6. Class B Felony 	<ol style="list-style-type: none"> 1. Sexual contact w/ person under 13 and 3 yrs younger 2. penetration w/ person 13,14,15 and 3 yrs younger 3. being 18 yrs. or older, penetration w/ person under 18 yrs and in care Class B felony 	<ol style="list-style-type: none"> 1. Being 16 yrs or older penetration w/ person under 16 but over 13 Class C felony
Sexual abuse 3rd degree	<ol style="list-style-type: none"> 1. Sexual contact w/person 13,14,15,16 and 3 yrs younger. Class C felony 		
Sexual assault 2nd degree	Class b felony		
Indecent exposure			

AS11.41.455 DOCUMENT= 1 OF 1 PAGE = 1 OF 2
CHAPTER = 11.41
SECTION = 11.41.455
TITLE = 11

HEARINGS TITLE 11.
CRIMINAL LAW.
CHAPTER 41.
OFFENSES AGAINST THE PERSON.
ARTICLE 4.
SEXUAL OFFENSES.

CITATION SEC. 11.41.455.

CATCH LINE

UNLAWFUL EXPLOITATION OF A MINOR.

TEXT

(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 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;

AS11.41.455 DOCUMENT= 1 OF 1 PAGE = 2 OF 2

(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.

HISTORY (SEC. 3 CH 166 SLA 1978)

RO601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

<u>CRIME</u>	LAW	117	DRAFT
Pen-13-15	C	C	B
Pen- under 13	C	B	A
Contact - 13-15	<u>NOT COVERED</u> Cont'd to D.O.M. MISDEMEANOR	<u>NOT COVERED</u> MISDEMEANOR	C
Contact under 13	C	B	B
Exploitation -	C	B	B
Contact under 18 in custody over 16	<u>NOT COVERED</u> 13-16	<u>NOT COVERED</u>	B
13-16	MISDEMEANOR	MISDEMEANOR	B
under 13	C	C	B
Penetration over 16	13-16 <u>NOT COVERED</u>	<u>NOT COVERED</u>	A
13-16	C MISDEMEANOR	C	A
under 13	C		A

MARCH 14, 1983

MEMORANDUM

TO: COMMITTEE ON HEALTH EDUCATION AND SOCIAL SERVICES
ALASKA HOUSE OF REPRESENTATIVES
FROM: PETER GOLL
SUBJECT: HB 117

1 SEXUAL ABUSE OF MINORS SUBJECT TO CUSTODIAL RELATIONSHIP

Currently, sexual abuse of a minor in one's legal custody (step-child, etc.) is not covered by statute unless that minor is under 16 (Class A misdemeanor) or under 13 (Class C felony). A minor between 16 and 18, in the custody of an adult is not protected from sexual contact by the guardian unless there is a close blood relationship (incest).

This is a problem in Alaska, especially for the retarded or socially backward child who finds himself in a no-escape situation under the legal control of an adult.

The matter is omitted from HB117. It is addressed on page one (line 20) of the Dept. of Law's draft, and on page two (line 11) of that draft. Wording is inserted in HB117 draft committee substitute, attached.

On the recommendation of the Department, penetration of a minor in custody is changed from an unclassified felony to a Class A felony.

2 CRIMES COMMITTED BY MINORS AGAINST YOUNG CHILDREN NOT ADDRESSED

In HB 117, a person must be 16 years of age or older to be guilty of a violation. Nowhere is the six year old child protected from abuse by a 15 year old baby sitter or his or her friends. Nor is the 6 year old child protected from penetration by one under 16.

To remedy this, one could apply the language found on line 18 of page one of the Department of Law's draft (ie. "at least three years younger"). This would make a crime to commit sexual abuse of a minor three years younger than the offender.

It will also respond to problems of making felons of consenting adolescents.

3. THE DIVISION OF LEGAL SERVICES FINDS INEQUITIES IN SENTENCING
IN HB 117

The wording of HB 117 groups sexual penetration of a minor under 13 with sexual contact of a minor under 13. Contact with one under 13 is therefore considered more serious (B felony) than penetration of a minor under 16 (C felony). The Department of Law version separates these offences, making penetration of a minor under 13 a class A felony, and contact with a minor under 13 a B felony as in HB117. The attached draft substitute corrects this problem per recommendation of Department of Law.

Palmer

Dept of Law
3/25/83

COMMENTARY AND SECTIONAL ANALYSIS
FOR THE PROPOSED 1983 AMENDMENTS TO ALASKA'S LAWS
RELATING TO SEXUAL ASSAULT AND SEXUAL ABUSE OF A MINOR

Section 1. AS 11.41.410, Sexual Assault in the First Degree.

This section repeals subsections (a)(3) and (4) of the Sexual Assault in the First Degree statute. These subsections are reclassified in section 3, below, as Sexual Abuse of a Minor in the First Degree.

Section 2. AS 11.41.420, Sexual Assault in the Second Degree.

This section accomplishes two things. It amends the current Sexual Assault in the Second Degree statute to define the crime as "sexual contact with another person without consent of that person." The amended language is consistent with that used in the Sexual Assault in the First Degree statute, which prohibits sexual penetration without consent. Under the current Sexual Assault in the Second Degree law the prosecutor must prove that the victim was "coerced" to submit to the sexual contact by the express or implied threat of imminent death, imminent physical injury, or imminent kidnapping. Technically, the defendant's use of force without any threats may not be sufficient to establish this crime; felony charges have been lost through a literal application of these terms.

The second change which this section makes is to raise the current class C felony offense of Sexual Assault in

the Third Degree, penetration with a person who is suffering from a mental defect or is incapacitated, to Sexual Assault in the Second Degree, a class B felony punishable by up to ten years in prison.

Section 3. AS 11.41.430, Sexual Abuse of a Minor In the First Degree.

This section creates a new classification of offense, Sexual Abuse of a Minor in the First Degree. This new crime prohibits sexual penetration with a person who is under the age of 13 and at least three years younger than the actor. It also prohibits sexual penetration with a person under 18 who is entrusted to the actor's care by authority of law or because the person is his son or daughter, including adopted, illegitimate or stepchildren. Basically, this provision covers conduct which is currently classified as Sexual Assault in the First Degree, but the language here adds the requirement of a three year age span between the actor and the victim. This requirement is added to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a felony. Such behavior may in certain circumstances be cause for parental concern, but it is not considered appropriate or useful to classify it as a crime. Forceful sexual

penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an unclassified felony.

These amendments address a serious omission in the present sexual assault laws by deleting the requirement that the actor be 16 years of age or older. The section is thus made applicable to juvenile offenders. This is an important consideration, as some studies of adult sexual offenders indicate that the offenders began to sexually assault in their early teen years. Early identification and treatment of juvenile sexual offenders may ultimately decrease the number of adult offenders. Sexual Abuse of a Minor in the First Degree is a class A felony offense. It carries a maximum sentence of up to 20 years in prison, and a presumptive term of five years upon conviction for a first offense.

Section 4. AS 11.41.435, Sexual Abuse of a Minor in the Second Degree.

This section creates a new classification of crime, Sexual Abuse of a Minor in the Second Degree. This includes the offenses found in the current Sexual Abuse of a Minor statute (AS 11.41.440), with the addition of the requirement that the actor be at least three years older than the victim. This language exempts teenagers who have consensual sexual relations with other teens near their own age (a 17 year old boy and his 15 year old girlfriend, for example) from prosecution for a felony. As in Section 3, above, the amendment deletes the requirement that the actor be 16 years of age or older, thus

making the statute applicable to juvenile offenders who assault children much younger than themselves--the babysitter/toddler situation, for example.

Subsection 3 creates a new offense to address an omission in the current law. Under current law sexual contact by a parent or guardian with his own child is prohibited only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). Since fondling of a child's genitals or breasts by a parent is a serious violation of the trust and authority relationships within a family, and is often the precursor of more serious sexual conduct, this provision raises the age of children covered to 17, and makes this conduct a class B felony offense punishable by up to ten years in prison.

Section 5. AS 11.41.440, Sexual Abuse of a Minor in the Third Degree.

This section creates a new classification of offense entitled Sexual Abuse of a Minor in the Third Degree. Basically, this is the current Contributing to the Delinquency of a Minor statute raised from its current classification as an A misdemeanor to a class C felony offense. Class C felonies are punishable by up to five years in prison.

Section 6. AS 11.51.130(a)(4), Contributing to the Delinquency of a Minor.

Section 6 repeals the "sexual contact" subsection of the present Contributing to the Delinquency of a Minor statute. The seriousness of this conduct has been increased in Section 5, above, to Sexual Abuse of a Minor in the Third Degree, a class C felony.

Section 7. AS 11.41.460, Indecent Exposure.

This section creates a new crime entitled Indecent Exposure, which is the intentional exposure of a person's genitals, buttock, anus or female breast to another person with reckless disregard for the offensive, insulting or frightening effect that the exposure that might have on the other person. Under current law this conduct is considered "Disorderly Conduct", a class B misdemeanor offense with a maximum penalty of ten days in jail. Some recent studies indicate that exposure is sometimes the first step^{to} sex offenders who later increase the seriousness of their conduct to sexual contact or penetration. The current law treats this behavior much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level if the object of the exposure is a child under the age of 16. The offense

remains a B misdemeanor if the witness to the exposure is an adult.

Section 8. AS 11.61.110(a)(7), Disorderly Conduct.

Section 8 repeals the current "exposure" subsection of the Disorderly Conduct statute. This conduct is included in the Indecent Exposure provisions set out in section 7.

Section 9. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010) to allow prosecution for a sexual offense against a child to be commenced within one year after the child reaches the age of 16, or reports the crime to a law enforcement officer, whichever occurs first. The period of limitation cannot be extended by more than ten years, however. This change is necessary because sexual offenses against young children (especially intrafamilial abuse) are frequently not discovered until the child reaches sufficient maturity to realize the wrongfulness of the conduct and to identify those adults to whom the conduct may safely be reported. A child of 12, 13 or 14 will often report for the first time sexual abuse which has been occurring since he or she was 4 or 5 years old. While the most recent assaults may be prosecuted, these offenses may be classified as less serious

than the earlier ones, because of the child's older age. In those situations where the sexual abuse has been a continuing course of conduct which spans several years of a child's life the trier of fact should be entitled to reach and consider all aspects of the adult's conduct.

1 IN THE _____

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2 _____ BILL NO.

3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 THIRTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act revising the laws relating to sexual assault
7 and sexual abuse of a minor."

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

9 * Section 1. AS 11.41.410(a)(3) and (4) are repealed.

10 * Sec. 2. AS 11.41.420 is repealed and reenacted to read:

11 Sec. AS 11.41.420. SEXUAL ASSAULT IN THE SECOND DEGREE. (a) A
12 person commits the crime of sexual assault in the second degree if he
13 engages in

14 (1) sexual contact with another person without consent of
15 that person; or

16 (2) sexual penetration with a person who he knows

17 (A) is suffering from a mental disorder or defect
18 which renders him incapable of appraising the nature of the
19 conduct under circumstances in which a person who is capable of
20 appraising the nature of the conduct would not engage in sexual
21 penetration; or

22 (B) is incapacitated.

23 (b) Sexual assault in the second degree is a class B felony.

24 * Sec. 3. AS 11.41.430 is repealed and reenacted to read:

25 Sec. AS 11.41.430. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE.

26 (a) A person commits the crime of sexual abuse of a minor in the
27 first degree if

28 (1) ^{THAT PERSON} he engages in sexual penetration with a person who is
29 under 13 years of age and at least three years younger than ^{the offender} he or

1 aids, induces, causes or encourages a person who is under 13 years of
2 age and at least three years younger than ^{the offender} he to engage in sexual
3 penetration with another person; or

4 (2) being 18 years of age or older, ^{that person} he engages in sexual
5 penetration with a person who is under 18 years of age and who

6 (A) is entrusted to ^{that person's} his care by authority of law; or

7 (B) is ^{that person's} his son or daughter, including adopted, ille-
8 gitimate, or stepchildren.

9 (b) Sexual abuse of a minor in the first degree is a class A
10 felony.

11 * Sec. 4. AS 11.41 is amended by adding a new section to read:

12 Sec. 11.41.435. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE.

13 (a) A person commits the crime of sexual abuse of a minor in the
14 second degree if

15 (1) ^{that person} he engages in sexual penetration with a person who is
16 aged 13, 14, 15 or 16, and at least three years younger than ^{the offender} he, or
17 aids, induces, causes or encourages a person who is aged 13, 14, 15 or
18 16, and at least three years younger than ^{the offender} he to engage in sexual
19 penetration with another person,

20 (2) ^{that person} he engages in sexual contact with a person who is under
21 13 years of age and at least three years younger than ^{the offender} he, or aids,
22 induces, causes or encourages a person under 13 years of age and at
23 least three years younger than ^{the offender} he to engage in sexual contact with
24 another person;

25 (3) being 18 years of age or older, ^{that person} he engages in sexual
26 contact with a person who is under 18 years of age and who

27 (A) is entrusted to ^{that person's} his care by authority of law; or

28 (B) is ^{that person's} his son or daughter, including adopted, ille-
29 gitimate, or stepchildren; or

1
2 (4) ^{the per.} he aids, induces, causes or encourages a person who is
3 16 years of age or younger to engage in conduct described in
4 AS 11.41.455(a)(2) -- (6).

5 (b) Sexual abuse of a minor in the second degree is a class B
6 felony.

7 * Sec. 5. AS 11.41.440 is repealed and reenacted to read:

8 Sec. 11.41.440. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.

9 (a) A person commits sexual abuse of a minor in the third degree if
10 ^{that person} he engages in sexual contact with a person who is aged 13, 14, 15 or
11 16, and at least three years younger than ^{the offender} he.

12 (b) Sexual abuse of a minor in the third degree is a class C
13 felony.

14 * Sec. 6. AS 11.51.130(a)(4) is repealed.

15 * Sec. 7. AS 11.41 is amended by adding a new section to read:

16 Sec. 11.41.460. INDECENT EXPOSURE, (a) A person commits the
17 crime of indecent exposure if ^{that person} he intentionally exposes ^{that person's} his genitals,
18 buttock, anus or female breast to another with reckless disregard for
19 the offensive, insulting or frightening effect the act may have on
20 that person.

21 (b) Indecent exposure is a class A misdemeanor if the person
22 before whom the exposure is made is under 16 years of age; otherwise
23 it is a class B misdemeanor.

24 * Sec. 8. AS 11.61.110(a)(7) is repealed.

25 * Sec. 9. AS 12.10.020 is amended to add a new subsection to read:

26 (c) Even if the general time limitation has expired, a prosecu-
27 tion under AS 11.41.410 -- 455 for an offense committed against a
28 person under the age of 18 may be commenced within one year after the
29 crime is reported to a law enforcement official or the person reaches

1 the age of 16, whichever occurs first. In no case shall this provi-
2 sion extend the period of limitation by more than ten years.
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Alaska State Legislature

District 11
3305 Oregon Drive
Anchorage, Alaska 99503



While In Juneau
Pouch V
Juneau, Alaska
(907) 465-3759

Representative Mae Tischer

May 3, 1983

Jill Bottrell, Member
Fairbanks Inter-Agency Child
Sexual Abuse Task Force
c/o Fairbanks Community Mental Health
209 40 Mile Avenue
Fairbanks, Alaska 99701

Dear Ms. Bottrell:

Thank you for your extensive comments on
CSHB 117.

The House Health, Education and Social
Services Committee passed the original
HB 117 out of committee at the request of
the bill's sponsor.

If House Bill 117 passes both houses it
will become law.

Presently the bill is in the House Judiciary
Committee and I will forward your comments
to Chairman Bussell for the Committee's
consideration.

Thank you again for your comments.

Sincerely,

Mae Tischer
Representative Mae Tischer
District 11

MEMBER: Rules
MT/cw CO-CHAIR: Health, Education & Social Services
VICE-CHAIR: Community & Regional Affairs
FINANCE SUBCOMMITTEES: Health & Social Services • Rural Education Budget Oversight • Corred

The Honorable Mae Tischer
The Honorable Milo Fritz
Co-Chairpersons, House Health,
Education, & Social Services
Committee
State Capitol, Pouch V
Juneau, Alaska 99811

21 April 1983

AP 14

Dear Representatives Tischer and Fritz:

This letter is written in support of CS for House Bill No. 117 (HESS) on behalf of the Fairbanks Inter-Agency Child Sexual Abuse Task Force.

The Task Force is composed of representatives from nearly every agency in this community with any responsibility for dealing with the problem of sexual abuse of our children, including the Fairbanks police department, Alaska State Troopers, Division of Family & Youth Services, WIC-CA, District Attorney's office, Attorney General's office, Family Focus, Community Mental Health, Resource Center for Parents and Children, Tanana Chiefs, and various other community groups who participate on an ad hoc basis. The goal of the Task Force is to promote co-operation and co-ordination among the various agencies who become involved with families where sexual abuse may be occurring. We have been functioning for nearly two years and have seen tremendous changes in the way these cases are handled by the various member agencies.

After reviewing a variety of legislation proposed this session on the subject of sexual abuse of children, the Task Force would like to voice its support for this bill, suggesting only the addition of another group of people to which it should apply. Our collective experience shows that children are often abused by members of their household who are not technically legal custodians or step-parents, but who have assumed the same parenting or caretaking role and who are, therefore, in a position of natural authority over the child.

If the intent of Secs. 11.41.435(a)(2) and 11.41.440(a)(3) is to cover conduct by those persons who abuse this position of trust and authority, then it should not be limited to those with legal authority only. From the child's perspective, it is irrelevant whether the abuser is legally married to the mother or not.

These sections properly cover the situation where the caretaker can substitute this natural authority for the use of force, and the legislation appropriately addresses the seriousness of such abuse. The Task Force proposes, however, that an additional subsection be added to the above sections to include any "caretaker or adult household member in a position of authority or control over the child."

This recommendation is in accordance with the guidelines proposed by the National Legal Resource Center for Child Advocacy and Protection of the

American Bar Association, as set out in their recent publication, "Recommendations for Improving Legal Intervention in Intrafamily Child Sexual Abuse Cases," October, 1982. (It should be pointed out that this position paper has not been voted on by the Board of Governors and thus does not constitute an official policy statement of the ABA)

The proposed provision specifically limits the offender to an adult person in a caretaker position in the home. Older siblings or adult relatives not residing in the home are covered under different statutes. It does, however, address the large category of live-in boyfriends or other caretakers who are in a position to exercise and exploit the same type of parental authority which this legislation already addresses.

Although it is not directly related to this piece of legislation, the Task Force members would also like to take this opportunity to voice concern about the application of the present Statute of Limitations to child sexual abuse cases, and suggest that it be changed so that the State is not legally barred from prosecuting a case just because the offense is more than five years past.

Given that a prominent feature of in-family abuse is that it may not be disclosed for a long period of time, there will be many, many cases where the victim does not even tell anyone until more than five years has passed. Children are legally disabled in so many ways because of their immaturity and inexperience; it would make sense not to impose upon them the legal obligation to report sexual abuse until they are of an age when they can reasonably be expected to report.

The Task Force supports a statutory provision that would toll the Statute of Limitations until the child is of legal age, or some other agreed-upon "age of responsibility" such as 16. Of course, many cases would be, as a practical matter, too stale to prosecute, but the legal bar should not be there, where it is unreasonable to expect reporting. Many of the member agencies would be able to document a significant number of instances where disclosure of abuse came more than five years later, but where the offender was still known to the victim, possibly still in a position to commit other offenses, and where the victim's memory is quite clear.

Thank you for your consideration of the above matters, particularly as it relates to the proposed amendment.

Sincerely,



Jill Bottrell
Member, Fairbanks Inter-Agency Child
Sexual Abuse Task Force
c/o Fairbanks Community Mental Health
209 40 Mile Avenue
Fairbanks, Alaska 99701

AS11.41.440 DOCUMENT= 1 OF 1 PAGE = 1 OF 2
CHAPTER = 11.41
SECTION = 11.41.440
TITLE = 11

HB117

HEADINGS TITLE 11.
Criminal Law.
CHAPTER 41.
Offenses Against the Person.
ARTICLE 4.
Sexual Offenses.

CITATION Sec. 11.41.440.
CATCH LINE

SEXUAL ABUSE OF A MINOR.

TEXT (a) A person commits the crime of sexual abuse of a minor if, being 16 years of age or older, he
(1) engages in sexual penetration with a person who is under 16 years of age but 13 years of age or older or aids, induces, causes or encourages a person under 16 years of age but 13 years of age or older to engage in sexual penetration with another person;
(2) engages in sexual contact with a person who is

AS11.41.440 DOCUMENT= 1 OF 1 PAGE = 2 OF 2
under 13 years of age or aids, induces, causes or encourages a person under 13 years of age to engage in sexual contact with another person; or
(3) aids, induces, causes or encourages a person who is under 16 years of age to engage in conduct described in AS 11.41.455(a)(2) - (6).
(b) Sexual abuse of a minor is a class C felony.

STORY (Sec. 3 ch 166 SLA 1978; am sec. 9 ch 102 SLA 1980)

FOI * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SECTION = 12.55.125
TITLE = 12

HB127

HEADINGS TITLE 12.
Code of Criminal Procedure.
CHAPTER 55.
Sentencing and Probation.

CITATION Sec. 12.55.125.

CATCH LINE

SENTENCES OF IMPRISONMENT FOR FELONIES.

TEXT (a) A defendant convicted of murder in the first degree shall be sentenced to a definite term of imprisonment of at least 20 years but not more than 99 years. LIMITED EFFECTIVE DATE

(b) -EFFECTIVE UNTIL JANUARY 1, 1983- A defendant convicted of murder in the second degree or kidnapping shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.

POSTPONED EFFECTIVE DATE

-EFFECTIVE JANUARY 1, 1983- A defendant convicted of murder in the second degree, kidnapping, or misconduct involving a

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E1001 ENTER COMMAND IN CORRECT FORMAT OR RETURN TO CONTINUE

AS12.55.125 DOCUMENT= 1 OF 1 PAGE = 2 OF 5

controlled substance in the first degree shall be sentenced to a definite term of imprisonment of at least five years but not more than 99 years.

(c) A defendant convicted of a class A felony may be sentenced to a definite term of imprisonment of not more than 20 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and does not involve circumstances described in (2) of this subsection, five years;

(2) if the offense is a first felony conviction, other than for manslaughter, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, seven years;

(3) if the offense is a second felony conviction, 10 years;

(4) if the offense is a third felony conviction, 15 years.

(d) A defendant convicted of a class B felony may be sentenced to a definite term of imprisonment of not more than 10

AS12.55.125 DOCUMENT= 1 OF 1 PAGE = 3 OF 5

years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a second felony conviction, four years;

(2) if the offense is a third felony conviction, six years.

(e) A defendant convicted of a class C felony may be sentenced to a definite term of imprisonment of not more than five years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a second felony conviction, two years;

years.

(f) If a defendant is sentenced under (a) or (b) of this section,

(1) imprisonment for the prescribed minimum term may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under

AS12.55.125 DOCUMENT= 1 OF 1 PAGE = 4 OF 5

AS 12.55.085;

(3) imprisonment for the prescribed minimum term may not be otherwise reduced.

(g) If a defendant is sentenced under (c), (d)(1), (d)(2), (e)(1), (e)(2), or (i) of this section, except to the extent permitted under AS 12.55.155 12.55.175,

(1) imprisonment may not be suspended under AS 12.55.080;

(2) imposition of sentence may not be suspended under AS 12.55.085;

(3) terms of imprisonment may not be otherwise reduced.

(h) Nothing in this section or AS 12.55.135 limits the discretion of the sentencing judge except as specifically provided.

(i) A defendant convicted of sexual assault in the first degree may be sentenced to a definite term of imprisonment of not more than 30 years, and shall be sentenced to the following presumptive terms, subject to adjustment as provided in AS 12.55.155 - 12.55.175:

(1) if the offense is a first felony conviction and

AS12.55.125 DOCUMENT= 1 OF 1 PAGE = 5 OF 5

does not involve circumstances described in (2) of this subsection, eight years;

(2) if the offense is a first felony conviction, and the defendant possessed a firearm, used a dangerous instrument, or caused serious physical injury during the commission of the offense, 10 years;

(3) if the offense is a second felony conviction, 15 years;

(4) if the offense is a third felony conviction, 25 years.

HISTORY (Sec. 12 ch 166 SLA 1978; am sec. 18 ch 45 SLA 1982; am secs. 28-30 ch 143 SLA 1982)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

SELECT - QUERY
00003 ALL SECTION EQ 11.66.110

AS11.66.110 DOCUMENT= 1 OF 1

HB 128

CHAPTER = 11.66
SECTION = 11.66.110
TITLE = 11

HEADINGS TITLE 11.
CRIMINAL LAW.
CHAPTER 66.
OFFENSES AGAINST PUBLIC HEALTH AND DECENCY.
ARTICLE 1.
PROSTITUTION AND RELATED OFFENSES.

CITATION SEC. 11.66.110.

CATCH LINE

PROMOTING PROSTITUTION IN THE FIRST DEGREE.

TEXT (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.

HISTORY (SEC. 8 CH 166 SLA 1978)

R0601 * END OF DOCUMENTS IN LIST - ENTER RETURN OR ANOTHER COMMAND.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

P.O. BOX 809

JUNEAU, ALASKA 99802

586-3650

POSITION PAPER

HB117: An Act relating to sexual abuse of a minor

The Alaska Network on Domestic Violence and Sexual Assault is a non-profit corporation composed of twenty-one programs statewide that provide domestic violence, sexual assault, and adult crisis intervention services to members of their respective communities. Network programs are funded in part through grants and contracts awarded by the Council on Domestic Violence and Sexual Assault.

The Network was established in 1978, and has as one of its primary focuses the elimination of domestic violence and sexual assault through provision of shelter, advocacy, and education/prevention services.

The Network maintains that, in cases involving sexual abuse of a minor, sexual contact and penetration are equally serious offenses that should be incorporated in the same felony classification.

The Network would strongly support a comprehensive overview of current statutes governing the prosecution, sentencing, and treatment of persons charged and convicted of sexual abuse of a minor.

W  
Wine Reports

Staff Report
House bills 117,127,128
January 27, 1983

HB 117:

Under current statute, sexual abuse of a minor under 16 years of age is a class C felony.

As proposed by HB 117:

1. Sexual abuse of a minor under 13 years of age is a offense in the first degree and is a class B felony.
2. Sexual abuse of a minor aged 13 to 16 is sexual abuse in the second degree and is a class C felony.

HB 127:

Under current statute, the first felony conviction for sexual assault in the first degree, not involving firearms, use of a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 8 years. The proposal will change that sentence to 10 years.

Under current statute, the first felony conviction for sexual assault in the first degree involving firearms, a dangerous instrument, or causing serious physical injury requires a presumptive sentence of 10 years. HB 127 changes that sentence to 12 years.

HB 128:

Under current statute, promoting prostitution is a class B felony. HB 128 provides that inducing or causing a person under 16 years of age to engage in prostitution is a class A felony.

OCTOBER 1, 1982

Handwritten signature

FIRST FELONY CONVICTION SECOND FELONY CONVICTION THIRD FELONY CONVICTION

MURDER I	[20] -- 99	[20] -- 99	[20] -- 99
MUR. II & KIDNAP. & M. I. C. S. I	[5] -- 99	[5] -- 99	[5] -- 99
SEXUAL ASSAULT 1st **	5 -- (10) -- 30 HB 127 (12)	7 1/2 -- (15) -- 30	12 1/2 -- (25) -- 30
SEXUAL ASSAULT 1st	4 -- (8) -- 30 HB 127 (10)	7 1/2 -- (15) -- 30	12 1/2 -- (25) -- 30
A FELONY **	3 1/2 -- (7) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
A FELONY HB 128 ↑	2 1/2 -- (5) -- 20	5 -- (10) -- 20	7 1/2 -- (15) -- 20
B FELONY	0 -- 10	0 -- (4) -- 10	3 -- (6) -- 10
C FELONY HB 117 ↑	0 -- 5	0 -- (2) -- 5	0 -- (3) -- 5

**APPLIES WHEN A DEFENDANT POSSESSED A FIREARM, USED A DANGEROUS WEAPON OR CAUSED SERIOUS PHYSICAL INJURY EXCEPT FOR MANSLAUGHTER.
 NUMBERS IN (BRACKETS ARE) PRESUMPTIVE SENTENCES. NUMBERS ENCLOSED BY BOXES ARE MANDATORY MINIMUM SENTENCES.
 NUMBERS TO LEFT OF BRACKETS ARE LOWEST MITIGATED SENTENCES. NUMBERS TO RIGHT ARE HIGHEST AGGRAVATED SENTS.

HB 117

Current statute: Sexual abuse of a minor under 16 years of age is a class C felony

Proposed by HB 117

1) Sexual abuse of a minor under 13 years of age is an offense in the first degree and is a class B felony

2) Sexual abuse of a minor aged 13 to 16 is ~~remains~~ is sexual abuse in the second degree and is a class C felony.

STATE OF ALASKA
PRELIMINARY STATEMENT OF FISCAL IMPACT.

Bill No: HB 117 Date on Bill: 1/26/83
 Title: An Act Relating to sexual abuse of a minor
 Sponsor: Representative Pestinger
 Requestor: House HESS

1. Estimated fiscal impacts on:

a. Expenditures:

(Thousands of Dollars)

	FY 83	FY 84	FY 85	FY 86
Capital				
Operating				
Total	-0-	-0-	-0-	-0-

b. Revenues:

Revenue				
---------	--	--	--	--

2. Source of funds to offset fiscal impact of bill:

Source of funds not identified by sponsor

3. Assumptions:

No fiscal impact

4. Disclaimer:

This statement has not been reviewed by the OMB in the Office of the Governor. It therefore does not represent the final estimate of fiscal impact.

Prepared By: Paul Conder Phone: 465-4338
 Division: Administrative Services Date: 2/28/83

Approved by Commissioner: [Signature] Date: 2/28/83
 Department: Public Safety

5. Distribution:

- Original to Legislative Finance
- Copy to OMB
- Copy to Sponsor
- Copy to Requestor

2/15/83

MARCH 14, 1983

MEMORANDUM

TO: COMMITTEE ON HEALTH EDUCATION AND SOCIAL SERVICES
ALASKA HOUSE OF REPRESENTATIVES
FROM: PETER GOLL
SUBJECT: HB 117

1 SEXUAL ABUSE OF MINORS SUBJECT TO CUSTODIAL RELATIONSHIP

Currently, sexual abuse of a minor in one's legal custody (step-child, etc.) is not covered by statute unless that minor is under 16 (Class A misdemeanor) or under 13 (Class C felony). A minor between 16 and 18, in the custody of an adult is not protected from sexual contact by the guardian unless there is a close blood relationship (incest).

This is a problem in Alaska, especially for the retarded or socially backward child who finds himself in a no-escape situation under the legal control of an adult.

The matter is omitted from HB117. It is addressed on page one (line 20) of the Dept. of Law's draft, and on page two (line 11) of that draft. Wording is inserted in HB117 draft committee substitute, attached.

On the recommendation of the Department, penetration of a minor in custody is changed from an unclassified felony to a Class A felony.

2 CRIMES COMMITTED BY MINORS AGAINST YOUNG CHILDREN NOT ADDRESSED

In HB 117, a person must be 16 years of age or older to be guilty of a violation. Nowhere is the six year old child protected from abuse by a 15 year old baby sitter or his or her friends. Nor is the 6 year old child protected from penetration by one under 16.

To remedy this, one could apply the language found on line 18 of page one of the Department of Law's draft (ie. "at least three years younger"). This would make it a crime to commit sexual abuse of a minor three years younger than the offender.

It will also respond to problems of making felons of consenting adolescents.

3. THE DIVISION OF LEGAL SERVICES FINDS INEQUITIES IN SENTENCING
IN HB 117

The wording of HB 117 groups sexual penetration of a minor under 13 with sexual contact of a minor under 13. Contact with one under 13 is therefore considered more serious (B felony) than penetration of a minor under 16 (C felony). The Department of Law version separates these offences, making penetration of a minor under 13 a class A felony, and contact with a minor under 13 a B felony as in HB117. The attached draft substitute corrects this problem per recommendation of Department of Law.