

S B

472

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

110 SEWARD #13 JUNEAU ALASKA 99801

(907)585-3553

## POSITION PAPER

CS SB 472: An Act relating to the admissability of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation representing twenty programs statewide that provide services to victims of domestic violence and sexual assault, supports CSSB472, which would permit the admittance of hearsay evidence in grand jury proceedings in cases of child sexual assault.

The passage of legislation several years ago that permitted the video-raping of testimony of young (under 16) victims of sexual assault has had a positive impact on the prosecution of such cases. However, that method has not been used successfully in cases of sexual assault involving very young children.

A very young victim of sexual assault will often tell the non-offending parent or day care worker about the assault, but they most often will not repeatedly relate the details of the incident. Consequently, even the use of videotaping will not produce evidence that is admissable for prosecution. Often, the only available evidence is the statement of the adult to whom the child disclosed the incident. However, since that testimony is considered hearsay evidence and is not admissable in court under current law, cases of child sexual assault are not being fully prosecuted.

Washington state has enacted legislation similar to the proposed amendment to the Rules of Criminal Procedure. It is the Network's position that this legislation will provide for more effective and successful prosecution in cases of child sexual assault.



STATE OF ALASKA  
OFFICE OF THE GOVERNOR

ALASKA WOMEN'S COMMISSION  
3601 C STREET - SUITE 742  
ANCHORAGE, ALASKA 99503

March 21, 1984

Senator J. M. Kerttula  
State Capitol  
Pouch V  
Juneau, Alaska 99811

Dear Senator Kerttula:

The Alaska Women's Commission is committed to supporting all efforts made at preventing and aiding the victims of domestic violence, sexual assault and child abuse. We wish to take this opportunity to thank you for sponsoring the following bills this session that address these issues:

SCR 37, SB 477, SB 472, SB 416 and SB 445

We appreciate your continued concern for the welfare of Alaska's women and children. If the Women's Commission can be of any assistance in supporting your efforts, please don't hesitate to contact us.

Sincerely,

A handwritten signature in cursive script that reads "Kathy Marshall".

Kathy Marshall  
Executive Director



Municipality  
of  
Anchorage



POUCH 6-650  
ANCHORAGE, ALASKA 99502-0650  
(907) 264-4111

TONY KNOWLES  
MAYOR

DEPARTMENT OF HEALTH AND ENVIRONMENTAL PROTECTION

February 29, 1984

The Honorable Jalmar Kerttula  
Senate President  
Alaska State Legislature  
Pouch V  
Juneau, Alaska 99811

*Back of file also  
Frances  
D. Kerttula*

Dear Senator Kerttula:

I would like to support Senate Bill 472 "An act relating to preliminary examination in prosecutions for sexual assault and sexual abuse of a minor". The amendment to AS 12.80 will provide the much needed exclusion of general onlookers in these court cases when the child must retell the degrading and abusive actions obtruded on her or him.

Thank you for introducing this bill.

Sincerely yours,

*Frances S. Purdy* \_\_\_\_\_ *th. Knowles*

Frances S. Purdy  
Mental Health Program Coordinator  
Behavioral Health Division

FSP.II/d5/s

STATE OF ALASKA 1984 LEGISLATIVE SESSION  
FISCAL NOTE

Revision Date: \_\_\_\_\_

REQUEST

Bill/Resolution No.: SB 472  
 Title: Preliminary Exams in prosecutions for Sexual Assault of Minors  
 Sponsor: Kerttula  
 Requestor: \_\_\_\_\_  
 Date of Request: \_\_\_\_\_

FISCAL DETAIL

Agency Affected: Health & Social Services  
 Program Category Affected: \_\_\_\_\_  
 BRU, Program or Subprogram(s) Affected: \_\_\_\_\_

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 84	FY 85	FY 86	FY 87	FY 88	FY 89
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

Enactment of this bill would have no fiscal impact.

ANALYSIS: Attach a separate page for analysis

Prepared By: Michael Price, Director Phone: 465-3170  
 Division: of Family & Youth Services Date: 2/22/84

Approved by Commissioner: Robert Gordon Smith, Jr. Date: 3/2/84  
 Agency: Health & Social Services

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

12/1/83

POSITION PAPER

SENATE BILL NO. 472

"An Act relating to preliminary examinations in prosecutions for sexual assault and sexual abuse of a minor."

This Bill amends the Code of Criminal Procedure to permit the exclusion of the public in preliminary examinations for certain sex offenses. AS 12.45.048, enacted in 1982, made provisions for the public to be excluded from a trial during testimony by a young victim of sexual offenses. This Bill thus would extend the same opportunity to protect the victim of a sex crime from the severe distress, humiliation, and psychological damage which he or she might suffer if required to testify before the public. It is believed that to require a victim to testify before the public discourages the reporting, investigation, and prosecution of sexual offenses, and that the adverse effects of the young victim testifying can be substantially decreased by excluding the public from the preliminary examination.

Position

The Department of Health & Social Services supports Senate Bill 472.

RECOMMENDED BY:

*Michael L. Price*  
Michael L. Price, Director  
Division of Family and  
Youth Services

DATE:

*3/2/84*

APPROVED BY:

*Robert London Smith*  
Robert London Smith, Ph.D.  
Commissioner  
Department of Health and  
Social Services

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT  
POSITION PAPER

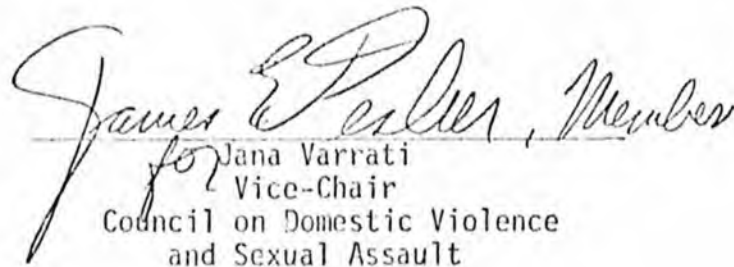
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PROPOSED CS for SB 472

"An Act relating to admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure."

The Council on Domestic Violence and Sexual Assault supports the admission of hearsay evidence in grand jury proceedings. Many victims of child sexual assault are too young to withstand the rigors of the proceedings or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other individuals in less threatening circumstances should be available for consideration. Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under pressure. These children deserve the protection of the criminal justice system as much as older, more articulate individuals. Although the admittance of hearsay evidence is not traditional in court, there are many exceptions to the rule. This circumstance, child sexual assault, warrants another exception.

The Council supports the change in SB 472 from preliminary examinations to grand jury proceedings because preliminary examinations are rare in Alaska.

James E. Peller, Member  
for Jana Varrati  
Vice-Chair  
Council on Domestic Violence  
and Sexual Assault