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As requested, I am forwarding the message below for your consideration.

To: Senator Bettye Fahrenkamp  
Fm: The Fairbanks Inter-Agency Child Sexual Assault Task Force  
Re: CS for Senate Bill #74 (Judiciary)

The following are points we feel should be considered regarding Seante Bill #74:

1) We would suggest including another group of people to whom this law should apply. This subsection would apply to any "caretaker or adult household member in a position of authority or control over the child".

The highest percent of sexual abuse cases involving children are cases in which the child is abused by a member of their household or a caretaker who is not technically their legal custodian or step-parent, but who has assumed the same parenting or caretaker role and who is, therefore, in a position of natural authority over the child. This would include a parent's boyfriend or girlfriend, any relative such as a grandfather, uncle, cousin, older sibling or a babysitter.

2) It seems arbitrary to make the victim's age the deciding factor in determining if the abuse is an unclassified felony or a class B felony. It becomes a matter of when the victim's birthday occurs.

Victims between the age of 13 or 18 are as much or more emotionally damaged, from our experiences, by sexual abuse as a younger victim, yet they do not have the same protection.

The judge should have the authority to take the circumstances of each case into consideration at sentencing. Factors such as the child's age, special physical or emotional needs and the relationship of the offender and the victim would all warrant the judge's consideration.

3) Many child sexual abuse cases do not include penetration. Is it worse for a victim to be subjected to penetration or to have to perform fellatio? Often sexual contact other than penetration is equally as damaging.

4) Section 11.41.440 could fail the requirement of proof that the juvenile has committed an act which would have been criminal if committed by an adult (ie: no adult can commit sexual assault in the fifth degree).

5) Regarding presumptive sentencing this allows no discretion on the part of the judge and may discourage or prevent treatment for the offender.

Thank you for your consideration and for distributing this to all senators and representatives for us.

June 15, 1983

Virginia Moll 452-9307  
Room 407, 604 Barnette Street  
Fairbanks, AK 99701

RECEIVED

JUN 2 1983

Josephson,

"IT TAKES LESS ENERGY TO BE FREE AND FLOWING THAN TO BE LOCKED UP IN STRESS"

NEXT MEETING  
 Thursday, March 1, 1984  
 7:00 - 9:00 P.M.  
 Wendy's Downstairs Conference Room  
 Airport Road

The speaker will be Patrick J. Molloy, Ph.D. Dr. Molloy will discuss the functions and purposes of schizophrenia; the reorganization process of the psyche that takes place in schizophrenia; the developing personality and how this process has potential for expanding personality and the things that interfere with that process.

What are the positives in this negative situation?

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The Chinese Auction added \$28.00 to the FAMI bank account and a SMURF thermos to our guest's household. We'll hold another at this month's meeting.

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INSANITY "DEFENSE"

Dr. Irvin Rothrock's talk on the history of the insanity plea filled in many gaps. Of particular interest was the Michigan study which followed up on patients found Guilty but Mentally Ill. Eighty percent had received no significant degree of treatment and had been sent to jail. There is no correctional system with adequate treatment. Dr. Rothrock stated that at one time the State considered a 60-bed psychiatric correctional unit, fully staffed, in Seward. However, this never came about.

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Prisons are no place for the mentally ill. It will take major reforms to enable more

mentally ill to receive appropriate treatment and protection in a medical rather than a correctional setting. (See H.B. 606 and H.B. 493 under Legislative Update.)

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THE NETWORK

What happens when people who have never met become a "we"?

"We" move into a new posture, requiring an entirely different way of looking at things. The solitary frustration is over.

Consider this from THE AQUARIAN CONSPIRACY, by Marilyn Ferguson:

"Effective informal internal networks often succeed in changing the emphasis in [society's] official philosophy; they bring in more innovative speakers for programs, run for office, and otherwise break the hold of the thinking of the old guard. The collusion is so low-key that no one notices, and there is usually no significant struggle among network members for offices or honors."

A new perspective tends to trigger change. The attitude toward mental health needs new avenues of thrust; new lines of demarcation.

"Can 'we' etch in new forms?"

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Legislative Update - Alaska

H.B. 606 provides for issuance of \$60 million in general obligation bonds to pay for a prison in Seward. (Will it have a psychiatric unit?)

Legislative Update (continued)

S.B. 303 addresses the licensing of social workers, and establishing the Board of Social Worker Examiners. FAMI reviewed and approves of this bill. It sets out strict requirements for licensing of social workers, establishes procedures for disciplinary sanctions, and would require two years of supervised experience in the area of chronic mental illness before specialization in that field would be allowed. At present, Alaska has a Board of Barbers and Hairdressers but lacks a Board of Social Worker Examiners. Is the hair more precious than a life?

S.B. 334 establishes three Health Service Areas and designates regional health resources organizations for each "H.S.A.". In Fairbanks this resource organization is the Northern Alaska Health Resource office which was instrumental in planning "Programs for Progress" presented to the Borough this past year. (Note. A copy of FAMI's concept plan for a living facility was recently brought to NAHRA's office for evaluation and input.) Our letters should encourage continued funding of this office.

S.B. 312 would set up a new Office of Public Advocacy. We have many questions about this bill as it duplicates the activity of the Public Defender's office. It addresses commitment proceedings, guardianship, guardian ad litem services, etc. The bill comes from the Dept. of Administration (Governor's office). We should look into the expense of setting up an office that mirrors the functions of an existing office. More study needed on this bill.

S.B. 346 relates to amendments to the commitment act. We understand "civil rights" proponents are opposing these amendments. More letters are needed which

point out the right to treatment is being overlooked.

S.B. 457 would set requirements for mental health insurance coverage. This is a very important bill for us and could use all of our support!

Of interest:

S.B. 455 would appropriate \$306,000 for a community health building in Homer.

S.B. 461 would expand functions of Medicaid Rate Commission to include providing for rates charged by health facilities.

S.B. 477 would relax the law for officers making arrests in cases of domestic violence. (Should be read as many of our calls for help are construed as domestic violence cases and patients taken to jail instead of the hospital).

S.B. 484 relating to social services fund and eligibility requirements.

S.B. 493 would require that alcoholics and intoxicated people not be criminally prosecuted for consumption of alcoholic beverages; calls instead for treatment. (Should be read for comparative purposes.)

Copies of all these bills may be obtained at:

Legislative Information Office  
315 Barnette St., Suite 101  
Fairbanks, Alaska 99701

452-4448

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Diminished Capacity

Many of us have noticed an apparent diminished capacity for thinking among some of the most seriously mentally ill. It seems to resemble mental retardation. This problem also frustrates the mentally ill themselves when simple tasks such as tooth brushing or drawing a glass of water become overwhelming.

In an article entitled Intellectual Assessment of Young Adult Chronic Patients, by Barbara Feitel, Ph.D. and Mary Sano, M.A., Hospital and Community Psychiatry, December 1983, the authors discuss the relationship of this lowering of the IQ to readmissions to hospitals.

The authors' suggest that much of the recidivism experienced by the young adult patient is due to an inadequate understanding of these patients' deficits. Often clinicians fail to first conduct diagnostic tests of both psychological and intellectual functioning. Without adequate information concerning intellectual capacity on which to base treatment plans, the pressure of such plan may force the patient into retreat.

"For instance, clinicians frequently do not know if limitations in cognitive abilities or intellectual functioning could be hampering a former inpatient's success in a training program. Limited achievement that has led to illiteracy could make it difficult for a patient to benefit from any services."

The patients studied were between the ages of 18 and 35. They have lived in an era of deinstitutionalization since the onset of their illness. Their rapid return to the community, without remedial education included in a treatment plan, results in chaos -- confusion for the patient.

The authors stated:

"The majority of [the patients studied] had below normal IQs (83%) and more than half were found to be functionally illiterate."

The method of study and the results are well documented in this article.

Even the most gifted individual seems to function with diminished capacity at times, unable to read or write successfully. "Thus, given currently available rehabilitation services, they appear to be doomed to failure in any attempts to return to the community."

"Perhaps not enough attention has been paid to the functional retardation that afflicts many young adult chronic patients. Further research efforts should be directed toward evaluation of the intellectual and social functioning of the patients, so that precise and appropriate methods for rehabilitation can be developed."

(Copies of this article are available to FAMI members. Request that it be brought to the family sharing meeting.)

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SCHIZOPHRENICS IN TRANSITION  
POETRY CONTEST

The SIT Poetry Contest, which was reported in our May, 1983 Newsletter, netted \$550 after expenses for this San Diego group, whose focus is on rehabilitation. A report from SIT

F.A.M.I.  
Fairbanks Alliance for the  
Mentally Ill  
Page 4

Box 30754  
Fairbanks, Alaska 99701  
907) 452-3733

Poetry Contest (continued)

states 352 poems were submitted, from Italy, England, Canada and 35 states in this country. A jury selected 100 poems for publication. The SECRET SONGS II collection is now available for a \$5 tax-deductible donation. All funds received will help finance other rehabilitation projects. For copies of this book of poems, send to:

SIT Corporation  
301 Hidden Pines Road  
Del Mar, California 92014

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Book Review

The Disordered Mind: What We Now Know about Schizophrenia, by Patrick O'Brien; Prentice-Hall, Englewood Cliffs, New Jersey, 1978, 304 pages.

This book is a thorough and open-minded overview of the diagnosis, etiology, course, prognosis, and treatment of the "Schizophrenic-type disorders." It is for the general reader and specialist alike. There is a summary section at the end of each chapter for the reader who wants a brief overview; there are excellent notes and references for the reader who wants further information. The only thing missing is a glossary of terms.

What is most delightful about this book is the author's deep respect for the individual with schizophrenia and for the variety and importance of "individual differences." He is very frank about the limitations of our current knowledge. He gives the reader the necessary information to evaluate "skeptically" the current theories. At the same time, he is willing to admit the possibility of a range of

disorders, and therefore the possibility that different treatments may benefit different sub-groups of patients. I highly recommend this book to both professionals and their patients and families.

(This review was done by Mary E. Woesner, M.D., for Hospital and Community Psychiatry, October, 1983.)

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- CONVENTIONS AND CONFERENCES -

May 4 - 5, Fairbanks

"Coping with Mental Illness", a family seminar, has been made possible for FAMI by several generous donations from Fairbanks service groups. The tentative dates for this local, two-day seminar, being handled by Conferences & Institutes are May 4 and 5, 1984. Fliers will be forthcoming. Mark your calendars now.

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May 29 - 31

Region X Community Support Conference  
Anchorage, Alaska

July 5 - 8

NAMI ANNUAL CONFERENCE

University of California, Irvine.  
Deposits of \$25 per person now accepted. (We expect 1000 - we have only 600 spaces for dormitory rooms.)  
Send reservations to

Helen Teisher  
5820 Yorkshire Avenue  
La Mesa, CA 92041

Conventions & Conferences (continued)

The planning committee of the National Alliance for the Mentally Ill Annual Conference, 1984, keeping in mind the theme: SURVIVING THE MENTAL ILLNESSES: FAMILIES FACE THE CHALLENGES is designing an intensive three-day conference. We will learn from the best neuroscientists and researchers in the world today. We will also have a chance to choose from a wide variety of workshops. We will enjoy a variety of recreational activities, including a Mexican dinner with mariachi band, and a barbeque with Country and Western music.

Editors Note: There have been a series of family crises recently, and it isn't even Spring -- our historically "crucial" period. This has meant a hold-up in some committee work; a backlog in some of our duties; all understandable. We continue to persevere.

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FAIRBANKS ALLIANCE FOR THE MENTALLY ILL  
Membership Application

The Fairbanks Alliance for the Mentally Ill recognizes that mental illness is a handicapping condition. The alliance works toward the eradication of the effects of mental illness and toward improving the quality of life of its victims.

The sole support of FAMI at this time is from membership dues.

ANNUAL DUES

*General Membership	\$12.00
*Associate Membership	\$10.00
Newsletter Only	\$ 5.00

Name \_\_\_\_\_  
Mailing Address \_\_\_\_\_  
City \_\_\_\_\_  
State \_\_\_\_\_ Zip \_\_\_\_\_

Please make checks payable to: FAMI  
and send to: Treasurer, FAMI, SR Box 30754  
Fairbanks, Alaska 99701

I enclose \$ \_\_\_\_\_ for \_\_\_\_\_ memberships. \_\_\_\_\_  
NEWSLETTER \_\_\_\_\_ Date

- \*From FAMI Code of Bylaws, Article Two:
- Sec. 1. Classes of Members. The members of the corporation shall be divided into two (2) classes: General Membership; and Associate Membership.
- Sec. 2. General Membership. General Membership shall be available only to mental health service consumers, their families and guardians. Each General Member shall have one vote.
- Sec. 3. Associate Membership. Associate membership is open to anyone.

## APPENDIX II

# State-by-State Information on Marital Rape Exemption Laws

by Joanne Schulman

*Staff Attorney with the National Center  
on Women and Family Law, Inc.*

A husband's rape of his wife is not a crime in most states. This legal right of wife rape is known as the "marital rape exemption," and is included in most states' rape statutes.

There are many types of marital rape exemption. This state-by-state summary divides the exemptions into the following categories.

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### CATEGORY

- 1 *Absolute Exemption.* A husband can never be prosecuted for rape of his wife so long as the parties are married. The exemption still applies even if the parties are separated by court order. The exemption only ends when the parties are divorced; when the man is no longer *legally* the victim's husband.
- 2 *Partial Exemption.* A husband can be prosecuted for rape of his wife in some circumstances. Some states allow prosecution if the rape occurred after one spouse filed papers in court to end the marriage, or when the parties were not living together. The event or circumstance that ends the exemption differs from state to state.
- 3 *Cohabitant Exemption.* A man who is living with a woman that he is not legally married to cannot be prosecuted for raping her. Often this exemption is stated as a "defense," rather than a bar to prosecution. Thus, the district attorney may institute rape charges against the man, but he cannot be convicted of rape if he can prove he was living with the victim.
- 4 *Voluntary Social Companion Exemption.* This exemption may apply to husbands, cohabitants and social companions (i.e., dates). There is no requirement that the rapist live or have lived with the victim. Most states that have this type of exemption require that there have been past voluntary sexual relations between the defendant and victim in order for the exemption to apply. However, West Virginia does not require any past sexual activity.

CATEGORY	
5	<i>Silent Statute.</i> The law does not mention whether husbands may or may not be prosecuted for rape of their wives. It has been assumed, until recently, that husbands could <i>not</i> be prosecuted because of Hale's alleged "common law" marital rape exemption. However, recent lawsuits in New Jersey, Massachusetts and Florida have held that no "common law" exemption exists. Thus, it is not clear if husbands can be prosecuted for marital rape in these "silent" states. Whether marital rape is a crime in these states will depend on future judicial decision, or legislative interpretation of the statutes.
<i>No Exemption</i>	The marital rape exemption has been abolished; husbands can be charged with rape of their wives in all or most cases.
<i>Rape Degrees</i>	In some states, there are different "types" of rape, murder, assault, etc. In most states, the criminal laws punish rape more or less severely depending on the circumstances of the rape (e.g., whether a weapon was used; age, mental and/or physical condition of the victim; whether the assault involved illegal sexual penetration, conduct, contact or use of a foreign object). These differences in the law are called "degrees." It is not possible to give a uniform definition for each "degree" as each state bases its rape degrees on different factors. (The fact that the marital rape exemption may apply in some rape degrees and not others has political and practical significance. The law is saying that it will tolerate certain violence by husbands against their wives that it will not tolerate between strangers. Practically, the different application of the exemption, based on the degree of rape charged, may decide whether marital rape cases will ever be prosecuted or what, if any, penalty will be imposed.)
<i>Gender-Neutral Statutes</i>	Traditionally, the law defined rape as a crime only men could commit. Thus, only husbands were granted the "immunity" or protection of the marital rape exemption. Today, many states have rewritten their laws in gender-neutral terms. Under these new rape laws, women can also be prosecuted for rape and the immunity granted under the marital rape exemption is extended to both spouses. The following chart does not incorporate these gender-neutral changes since it is intended to reflect reality rather than pure "legalese."

These categories are general, and states may fall into more than one category. In addition, considerable legislation and litigation has been occurring over the last two years, and therefore the following chart only reflects the law as of July 1, 1981.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Alabama	1, 3	Husbands and cohabitators can <i>never</i> be charged with rape of mate.	Title 13A-6-60(4), 13A-6-61
Alaska	2	Husband can only be charged with rape of wife if parties were living apart or he caused	Stat § 11.41.445(a)

\*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW severe physical injury (besides the rape).	CITATIONS*
Arizona	2	Husband cannot be charged with wife rape while parties are living together.	R.S. § 13-1404-06
Arkansas	5	Statute only exempts husbands in statutory rape cases. Whether marital rape is a crime will depend on judicial decision or legislative interpretation of "common law" exemption.	Stat. § 41-7803, <i>et seq.</i>
California	<i>No Exemption</i>	Husband can be charged with crime of "spousal rape." Thirty-day reporting requirement.	Pen. C. § 262
Colorado	2	Husband cannot be charged with rape of wife while parties live together.	R.S. § 18-3-409
Connecticut	<i>No Exemption to First-Degree Rape; 1, 3</i>	Spouse/cohabitators can be charged with first degree rape; marital and cohabitor exemption for all other sexual assaults.	Pen. Code § 53a-67(b), as amended by H.3-5247
Delaware	3, 4	"Voluntary social companion" of victim cannot be charged with first degree rape; this may exempt husbands, cohabitators and "dates." Cohabitators (and spouses living together) cannot be charged with rape of mate.	D.C.A. §§ 761-764, 772(b)
District of Columbia	5	Not known if "common law" exemption applies, making marital rape legal.	R.S.D.C. § 22-2801
Florida	<i>No Exemption</i>	Husbands can be charged with rape of wife, the same as a stranger. ( <i>State v. Larry Smith</i> )	S.A. § 794.011
Georgia	5	Statute only exempts husbands in statutory rape cases. Marital rape may be legal under "common law" exemption; will	C.A. § 26.2001, 2018

\*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
		depend on judicial decision or legislative interpretation of statute.	
Hawaii	4, 2	"Voluntary social companion" of victim cannot be charged with forcible (first degree) rape; this may exempt husbands, cohabitators and "dates." Husbands cannot be charged with "lesser" sexual assaults of wife while parties are living together.	R.S. § 707-730 to 732
Idaho	2	Husband cannot be charged with rape of wife <i>unless</i> parties have been living apart at least 180 days or legal action for divorce or separation started (petition filed).	C. § 18-6107
Illinois	1	Husband can <i>never</i> be charged with rape of wife.	A.S. Ch. 38 § 11-1
Indiana	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	S.A. § 35-42-4-1(b)
Iowa	<i>No Exemption to First- and Second-Degree Rape; 3</i>	Husbands <i>can</i> be charged with first and second degree rape of wife. Husbands and cohabitators <i>cannot</i> be charged with third degree sexual abuse of mate.	C.A. § 709.2 to 709.4
Kansas	1	Husband can <i>never</i> be charged with rape of wife.	S.A. § 21-3502
Kentucky	2	Husbands and cohabitators cannot be charged with rape of spouse <i>unless</i> court order of separation.	R.S. § 510.010 (3)
Louisiana	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	R.S.A. § 14.41

\*The citation is included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Maine	2, 3	Husbands and cohabitants cannot be charged with rape of mate while parties living together.	R.S.A. Title 17A § 251, 252
Maryland	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	A.C. § 27-464D
Massachusetts	<i>No Exemptions</i>	Husbands can be charged with rape of wife same as a stranger (no exemption). ( <i>Commonwealth v. Chretien</i> )	A.L. Ch. 265 § 22; Ch. 277 § 39
Michigan	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	M.S.R.C.C. Ch. 23 § 2340
Minnesota	<i>No Exemption</i>	Husbands can be charged with rape of wife under most circumstances.	S.A. § 609.349
Mississippi	2, 5	Husband cannot be charged with "sexual battery" of wife <i>unless</i> parties living apart. Separate "rape" statute does <i>not</i> exempt husbands; unknown if marital rape is a crime.	MCA § 97-3-95 to 103, (Supp. 1980)
Missouri	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	A.S. § 566.010:2
Montana	2, 3	Husbands/cohabitants cannot be charged with rape of mate while parties are living together.	R.C. § 45-5-506
Nebraska	<i>No Exemption</i>	Husband can be charged with rape of wife the same as a stranger.	R.S. § 28-319, 320
Nevada	2	Husbands cannot be charged with rape of wife <i>unless</i> parties live apart and court action for separation or divorce started (petition filed).	R.S. § 200.373

\*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
Rhode Island	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	G.L. § 11-37-1
South Carolina	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	C. § 16-3-658
South Dakota	1	Husband can <i>never</i> be charged with rape of wife.	C.L.A. § 22-22-1
Tennessee	2	Husband cannot be charged with rape <i>unless</i> court action for divorce or separation started (petition filed).	C.A. § 39-3702
Texas	1, 3	Husbands and cohabitor can <i>never</i> be charged with rape of wife/mate.	§ 21-02(a) § 21-12
Utah	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	Crim. C.A. § 76-3-402 407
Vermont	1	Husband can <i>never</i> be charged with rape of wife.	S.A. Title 13 § 3252
Virginia	1	Unknown if marital rape is a crime.	Code 18.2-61, <i>et seq.</i> (effective 7/1/81)
Washington	1	Husband can <i>never</i> be charged with rape of wife.	R.C.A. Ch. 9A.44.010, <i>et seq.</i> (Supp., 1979)
West Virginia	1, 3, 4	Husbands and cohabitants can <i>never</i> be charged with rape of mate. "Voluntary social companion" cannot be charged with 1st degree sexual assault (date-rape exemption).	Code § 61-8B-1
Wisconsin	2	Husband cannot be charged with rape of wife <i>unless</i> parties live apart and court action for divorce or separation started (petition filed).	S.A. § 940.225(6)
Wyoming	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	S.A. § 6-4-307

\*The citations are included so interested readers can more easily obtain full details of these laws.

STATE	CATEGORY	STATUS OF MARITAL RAPE LAW	CITATIONS*
New Hampshire	<i>No Exemption</i>	Husband <i>can</i> be charged with rape of wife under most circumstances.	RSA 632-A:5 (H.B. 516, effective 8/81)
New Jersey	<i>No Exemption</i>	Husbands <i>can</i> be charged with rape of wife, same as a stranger (no exemption).	S.A. § 2C:14-5(b)
New Mexico	2, 3	Husbands/cohabitants cannot be charged with rape of their mates <i>unless</i> parties living apart or legal action for divorce or separation started (petition filed).	Stat. § 30-9-10, 11
New York	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation.	Pen. L. § 130.00
North Carolina	2	Husband cannot be charged with rape of wife <i>unless</i> court order of separation or spouses living apart pursuant to written agreement.	G.S. § 14-27.8
North Dakota	2	Husbands cannot be charged with rape of wife <i>unless</i> court order of separation.	C.A. § 12.1-20-01, 02, 03
Ohio	2	Husband cannot be charged with rape of wife <i>unless</i> parties live apart and court action started (petition filed) or written separation agreement entered into.	ORC § 2907.01, 02
Oklahoma	1	Husband can <i>never</i> be charged with rape of wife.	S.A. Title 21 § 1111
Oregon	<i>No Exemption</i>	Husbands can be charged with rape of wife same as a stranger.	R.S. § 163.305
Pennsylvania	2, 3	Husbands/cohabitants cannot be charged with rape of mates <i>unless</i> parties living apart or written separation agreement entered into.	S.A. Title 18 § 3103

\*The citations are included so interested readers can more easily obtain full details of these laws.

**ALASKA NETWORK ON DOMESTIC  
VIOLENCE AND SEXUAL ASSAULT  
P.O. BOX 809  
JUNEAU, ALASKA 99802  
586-3650**

POSITION PAPER

SB74: An Act relating to sexual abuse of a minor

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

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

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 paragraphs (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. 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 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. 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 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.

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 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 present 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" paragraph 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 11.41.470, Definitions.

This section removes the requirement in the definition of "without consent" that an express or implied threat of death or kidnapping be "imminent". Threats to inflict harm of this magnitude are inherently coercive, and the prosecution should not have to prove exactly when the defendant intended to cause the death or kidnapping. A threatened physical injury must still be "imminent" to fit within the definition.

Section 9. AS 11.61.110(a)(7), Disorderly Conduct.

Section 9 repeals the current "exposure" paragraph of the Disorderly Conduct statute. This conduct is included in the Indecent Exposure provisions set out in section 7.

Section 10. 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.





Act	Current Law	Proposed CS for SB 74	Original Version SB 74
person, 16 or older, induces person under 16 to perform acts for pornographic movies, pictures, etc.	Sexual Abuse of a Minor C Felony	Sexual Abuse of a Minor in the Second Degree B Felony	Sexual Abuse of a Minor [First Degree] B Felony
person, 16 or older, has sexual contact with person 13-15 and more than 3 years younger	Contributing to the Delinquency of a Minor (actor must be 19 or older) A Misdemeanor	Sexual Abuse of a Minor in the Third Degree C Felony	
person, under 16, has sexual contact or penetration with person under 13 and more than 3 years younger	Not covered	Sexual Abuse of a Minor in the Fourth Degree A Misdemeanor	
person, any age, intentionally exposes genitals, etc.	Disorderly Conduct B Misdemeanor (maximum sentence: 10 days)	Indecent Exposure A Misdemeanor (if witness is under 16), B Misdemeanor (if witness is 16 or older)	

DEFINITIONS

"Sexual contact" means (A) the intentional touching, directly or through clothing, by the defendant of the victim's genitals, anus, or female breast; or (B) the defendant's intentionally causing the victim to touch, directly or through clothing, the defendant's or victim's genitals, anus, or female breast. (AS 11.81.900(b)(51))

"Sexual penetration" means genital intercourse, cunnilingus, fellatio, anal intercourse, or an intrusion, however slight, of an object or any part of a person's body into the genital or anal opening of another person's body. (AS 11.81.900(b)(52))

MAXIMUM SENTENCES:

Unclassified felony (Sexual Assault 1st Degree)	30 years (8)
Class A felony . . . . .	20 years (5)
Class B felony . . . . .	10 years
Class C felony . . . . .	5 years
Class A misdemeanor . . . . .	1 year
Class B misdemeanor . . . . .	90 days

Act	Current Law	Proposed CS for SB 74	Original Version SB 74
person, any age, has sexual <u>contact</u> with another person without consent	Sexual Assault Second Degree (limited coverage) B Felony	Sexual Assault Second Degree  B Felony	
person, any age, has sexual <u>penetration</u> with person suffering from mental disorder or who is incapacitated	Sexual Assault Third Degree  C Felony	Sexual Assault Second Degree  B Felony	
person, 16 or older, has sexual <u>penetration</u> with person under 13	Sexual Assault First Degree  Unclassified Felony	Sexual Abuse of a Minor in the First Degree A Felony	
person, 18 or older, has sexual <u>penetration</u> with son or daughter under 18	Sexual Assault First Degree  Unclassified Felony	Sexual Abuse of a Minor in the First Degree A Felony	
person, 16 or older, has sexual <u>penetration</u> with person 13-15 and more than 3 years younger	Sexual Abuse of a Minor  C Felony	Sexual Abuse of a Minor in the Second Degree B Felony	Sexual Abuse of a Minor in the Second Degree C Felony
person, 16 or older, has sexual <u>contact</u> with person under 13 and more than 3 years younger	Sexual Abuse of a Minor  C Felony	Sexual Abuse of a Minor in the Second Degree B Felony	Sexual Abuse of a Minor [First Degree] B Felony
person, 18 or older, has sexual <u>contact</u> with son or daughter under 18	Not fully covered Child: 0-12, Sexual Abuse of a Minor, class C Felony 13-15, Contributing to Delinquency of a Minor, class A Misdemeanor 16-17, Harrassment, class B Misdemeanor	Sexual Abuse of a Minor in the Second Degree B Felony	

February 24, 1983

MEMORANDUM

TO: Senator Joe Josephson, Chairman  
Senate HESS Committee

RE: Senate Bill No. 74

As a member of the Juneau Child Sexual Assault Task Force, I would like to bring to your attention our concern regarding the amendment to State Bill No. 74.

Sec. 11.41.442 Sexual Abuse of a Minor in the Second Degree appears to discriminate against the 13-15 year old minor.

Sec. 11.41.440 states that sexual abuse to a minor under 13 years of age is a crime in the first degree. We contend that the person committing the crime of sexual abuse to a minor is committing a crime of the same degree whether that minor be 13-15 years of age or under 13 years of age. We hope that you will consider this point in your committee review of this bill.

You are welcome to contact the task force for further information or questions regarding child sexual assault. Our contact person is Shelly Burns, 586-3585.

Thank you for your attention to this matter.

Sincerely,

*Wendy White*

Wendy White  
Member, Child Sexual Assault Task Force

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 74 Date on Bill: 1/26/83  
 Title: An Act relating to Sexual Abuse of a Minor  
 Sponsor: Sen. Petty John  
 Requestor: Senate 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:

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 Conger Phone: 269-5691  
 Division: Division of Administrative Services Date: 2/22/83

Approved by Commissioner: *James D.* Date: 2/23/83  
 Department: Public Safety

5. Distribution:  
 Original to Legislative Finance  
 Copy to OMB  
 Copy to Sponsor  
 Copy to Requestor

2/15/83

Joe, Vic, Paul, Pappy

May 16, 1983

SB 74

Susan Clark

marital rape exemption.

16 states do not exempt spouse

Dr Elaine Schroeder - sexual abuse coordinator

Caren Robinson - AWARE

Rocky Patrick-Weller - Council of Domestic Violence

Jim Lear LAA legal

repeal?

common law would come into play if  
provision is repealed.

AS 11.41.445 (a) In a prosecution under AS 11.41.410 -  
11.41.440 it is not a defense that, at the time  
of the alleged offense, the victim was the  
legal spouse of the defendant.  
delete (1) and (2)

May 11, 1983

Jae, Paul, Vic, Pappy, Rick

SB 74 - Sexual assault/abuse minors

1. page 2, line 7 change Class "A" felony to an unclassified felony
2. use of male pronoun perpetrator - victim

unmarital rape

eliminate exception - 16 states

4 states have legislation

Calif. Jan 1980 - Feb 1983

57 cases investigated

32 arrests

28 convicted of rape

3 acquitted.

Rick Is there any middle ground?

Burden of proof.

aff. defense

physical injury "pain or impairment of physical condition" in criminal code.

Wed - May 4

May 4, 1983  
SB 74

Joe, Rick, Pappy

Gail Haretski - Dept. of Law

CS encompasses attempt of 74 but does  
it better - breaks statute into

- 4 degrees of seriousness
- pulls in conduct scattered in other parts  
of the code
- sec. 2 - lowers sexual assault in  
the second degree from Class A to B felony.

forcible sexual assault is still an  
unclassified felony

Sec 1.-

sexual contact - against the law "threats  
imminent injury, kidnapping, death"  
does not include force.

Current law - original bill - CS SB 74

Nancy  
Notes  
5/4/83

H.E.S.S.

BY THE JUDICIARY  
COMMITTEE

74

SENATE

SENATE

IN THE ~~HOUSE~~

CS for ~~House~~ BILL NO. ~~127~~ (Judiciary)

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

A BILL

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

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

\* Sec. 1. AS 11.41.420 is repealed and reenacted to read:

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

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

(2) sexual penetration with a person who he knows

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

(B) is incapacitated.

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

\* Sec. 2. AS 11.41 is amended by adding a new section to read:

Sec. AS 11.41.432. SEXUAL ABUSE OF A MINOR IN THE FIRST DEGREE.

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

(1) being 16 years of age or older, he engages in sexual  
penetration with a person who is under 13 years of age or aids,  
induces, causes, or encourages a person who is under 13 years of age

DRAFT

Class A because policy decision (Medical Law)  
in some circumstances family intervention  
may be able to salvage the family unit -  
quit a child from putting family member  
away.

1 to engage in sexual penetration with another person; or

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

4 (A) is entrusted to his care by authority of law; or

5 (B) is his son or daughter, including an illegitimate  
6 or adopted child, or a stepchild.

7 (b) Sexual abuse of a minor in the first degree is a class A  
8 felony. *unclassified??*

9 \* Sec. 3. AS 11.41 is amended by adding a new section to read:

0 Sec. 11.41.434. SEXUAL ABUSE OF A MINOR IN THE SECOND DEGREE.

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

3 (1) being 16 years of age or older, he engages in sexual  
4 penetration with a person who is aged 13, 14, or 15, and more than  
5 three years younger than he, or aids, induces, causes or encourages a  
6 person who is aged 13, 14, or 15, and more than three years younger  
7 than he to engage in sexual penetration with another person;

8 (2) being 16 years of age or older, he engages in sexual  
9 contact with a person who is under 13 years of age and more than three  
0 years younger than he, or aids, induces, causes, or encourages a  
1 person under 13 years of age and more than three years younger than he  
2 to engage in sexual contact with another person;

3 (3) being 18 years of age or older, he engages in sexual  
4 contact with a person who is under 18 years of age and who

5 (A) is entrusted to his care by authority of law; or

6 (B) is his son or daughter, including an illegitimate  
7 or adopted child, or a stepchild; or

8 (4) being 16 years of age or older, he aids, induces,  
9 *Sex. Exploitation (Child Pornography)*  
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 in the second degree is a class B felony.

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

Sec. 11.41.446. SEXUAL ABUSE OF A MINOR IN THE THIRD DEGREE.

(a) A person commits sexual abuse of a minor in the third degree if, being 16 years of age or older, he engages in sexual contact with a person who is aged 13, 14, or 15, and more than three years younger than he.

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

\* Sec. 5. AS 11.41 is amended by adding a new section to read:

Sec. 11.41.448. SEXUAL ABUSE OF A MINOR IN THE FOURTH DEGREE.

(a) A person commits sexual abuse of a minor in the fourth degree if, being under 16 years of age, he engages in sexual penetration or sexual contact with a person who is under 13 years of age and more than three years younger than he.

(b) Sexual abuse of a minor in the fourth degree is a class A misdemeanor.

\* Sec. 6. AS 11.41 is amended by adding a new section to read:

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

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

\* Sec. 7. AS 11.41.470 is amended to read:

1           Sec. 11.41.470. DEFINITIONS. For purposes of §§ 410 - 470 of  
2 this chapter, unless the context requires otherwise,

3           (1) "incapacitated" means that a person is temporarily  
4 incapable of appraising the nature of his conduct and is physi-  
5 cally unable to express unwillingness to act;

6           (2) "victim" means the person alleged to have been subject-  
7 ed to sexual assault in any degree or sexual abuse of a minor;

8           (3) "without consent" means that a person

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

14           (B) is incapacitated as a result of an act of the  
15 defendant.

16 \* Sec. 8. AS 12.10.020 is amended to add a new subsection to read:

17           (c) Even if the general time limitation has expired, a prosecu-  
18 tion under AS 11.41.410 -- 11.41.455 for an offense committed against  
19 a person under the age of 16 may be commenced within one year after  
20 the crime is reported to a peace officer or the person reaches the age  
21 of 16, whichever occurs first. In no case does this provision extend  
22 the period of limitation by more than 5 years.

23 \* Sec 9. AS 11.41.410(a)(3) and (a)(4), 11.41.430, 11.41.440,  
24 11.51.130(a)(4) and AS 11.61.110(a)(7) repealed.

COMMENTARY AND SECTIONAL ANALYSIS  
FOR CSHB 117 (JUDICIARY)

Section 1. AS 11.41.420, Sexual Assault in the Second Degree.

This section does 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, if a defendant physically forces a person to have sexual contact with him, and does not make any threats toward the person, the defendant's actions may not be sufficient to constitute this crime. The amended language makes clear that any sexual contact with a person without the other person's consent is a class B felony.

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). The language describing the crime has not been altered.

Section 2. AS 11.41.432, 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 a person 16 years of age or older from engaging in sexual penetration with a person who is under the age of 13. It also prohibits a person 18 years of age or older from engaging in sexual penetration with a person under 18 who is entrusted to the adult's care by authority of law or is his son or daughter, including illegitimate or adopted children and stepchildren.

Basically, this provision covers conduct which is currently considered Sexual Assault in the First Degree, contained in subsections (a)(3) and (a)(4) of present AS 11.41.-410. The conduct is re-classified from an unclassified to a class A felony level; 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. Forcible sexual penetration of any person, including a child, would continue to be punishable as Sexual Assault in the First Degree, an unclassified felony.

Section 3. AS 11.41.434, 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 all three types of conduct now prohibited in the Sexual Abuse of a Minor statute (AS 11.41.440), but raises the classification of the crime from a C to a B felony. The section also adds the requirement that the actor be at least three years older than the victim. This language would exempt from prosecution those 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).

Paragraph 3 creates a new offense to address an omission in existing law. Under current law, sexual contact by a parent or guardian with his own child is a crime only if the child is under 13 (a class C felony) or under 16 (a class A misdemeanor). 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. The existing law in this area is not sufficiently serious or comprehensive. This provision extends the law's protection to all children under age 18, and raises the classification of the conduct to a B felony offense, punishable by up to ten years in prison.

Section 4. AS 11.41.446, 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 (AS 11.51.130(a)(4)) 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.

The contributing statute now applies to persons 19 years of age or older. The threshold age in this provision has been dropped to 16 to be consistent with the other sexual abuse provisions, but the requirement that there be at least a four year age difference between the actor and the victim will exempt from prosecution consensual sexual contact between teenagers of approximately the same age.

Section 5. AS 11.41.448, Sexual Abuse of a Minor in the Fourth Degree.

This section creates a new provision to address a problem which has arisen under the present sexual assault laws.

Virtually all of the statutes which deal with sexual offenses against children require that the actor be 16 years of age or older. Unfortunately, prosecutors and social workers have discovered numerous instances where an older child has sexually mistreated a much younger child, often while "babysitting" the younger child. This section prohibits all sexual contact or penetration between a child under 16 and another child who is 4 or more years younger, and makes such contact a class A misdemeanor.

The four year age difference requirement is included to ensure that a child who engages in sexual play with another child of the same age level could not be charged with a crime. Such behavior may in some circumstances be cause for parental concern, but it is not generally considered appropriate or useful to classify it as a crime. The purpose of making it a misdemeanor crime for a child to prey upon much a younger child is to establish the violation of a law which would allow intervention by the juvenile courts or social workers. This intervention could be 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.

#### Section 6. 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 it is not uncommon for sex offenders to begin their assaultive behavior by exposing themselves to young children, and to later increase the seriousness of their conduct to sexual contact or penetration. The current law treats sexual exposure, especially to children, much too leniently. This section raises the classification of Indecent Exposure to an A misdemeanor level (maximum sentence of one year) if the object of the exposure is a child under the age of 16. The offense remains a B misdemeanor (maximum sentence of 90 days in jail) if the witness to the exposure is an adult.

Section 7. AS 11.41.470, Definitions.

This section amends the definition of "without consent" to remove the requirement that an express or implied threat of death or kidnapping be "imminent". Threats to inflict harm of this magnitude are inherently coercive, and the prosecution should not have to prove exactly when the defendant intended to cause the death or kidnapping. A threatened physical injury must still be "imminent" to fit within the definition.

Section 8. AS 12.10.020, Specific Time Limitation.

This section creates an exception to the general five year statute of limitations (AS 12.10.010). If the five year limitation period has expired, this provision would 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. In no case will the period of limitation be extended by more than five 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.

Section 9. Repealed sections.

This section repeals those statutes whose content has been incorporated into the provisions discussed above.

\$148,000 statewide for treatment.

(3 yrs)  
Human Creek, Eagle Riv. (1 yr) FIBX8 (1 yr.)

14% of all in jail in Ak. are sex offenders

problem of program is that after judge orders treatment, the Classification Committee determines where they go; and then treatment is voluntary.

Long Mander, Psychologist, says he needs 5 yrs of treatment to have effect.

3/4 of sex offenders were sexually abused as children. 860% increase in juvenile in reported sexual abuse. most offenders begin age 13 to 15 with "peeping", "flashing", child molesting.

juvenile treatment programs very important. They need rigid programs to guarantee responsibility, need 5 yrs counseling - facility separate from other offenders.

Massachusetts (50 yr program) has a 10% return rate.

Joe Depart. of Law give Statistics on recidivism rates, costs of treatment program compared to repeated incarceration -> expense of State to civil suits for lack of treatment.

Vic hold will hear from Depart. of Law

As 11.81.900

modify by gender??

STATE OF ALASKA  
PRELIMINARY STATEMENT OF FISCAL IMPACT

Bill No: SB 74 Date on Bill: 1/26/83  
 Title: An Act relating to Sexual Abuse of a Minor  
 Sponsor: Sen. Petty John  
 Requestor: Senate 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:

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 Conger Phone: 269-5691  
 Division: Division of Administrative Services Date: 2/22/83

Approved by Commissioner: *James H.* Date: 2/23/83  
 Department: Public Safety

5. Distribution:

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

2/15/83

# Sentenced to 17 years for murder of Ba

mit," said Superior Court Judge Seaborn Buckalew in sentencing Yvette Richards. "An unarmed, intoxicated, defenseless man was shot down for no apparent reason."

Details of the murder revealed in court records and

attorneys' statements indicate that Richards, 22, pulled a gun from her purse and shot Johnny "Gin Gin" Ahtaungaruk, 24, on the sidewalk in front of the Elbow Room bar early in the morning of Sept. 1. An argument and tussle preceded the shooting, eyew-

itnesses said.

Last December, Richards agreed to a plea bargain in which she pleaded no contest to second-degree murder, which carries a penalty of from five to 99 years.

During her sentencing, Assistant District Attorney Rob-

ert Bundy advocated a substantial jail sentence, saying "If you shoot someone down in these streets, (people know that) you're going to jail for a long time doesn't matter whether you're male or female or rich or poor. (Ahtaungaruk) di-

## court report

### ks arrests

Saturday after a fight that involved two pickup trucks on Anchorage police, a truck driver, 24, and William Wultz, 24, were charged with third-degree assault after being seen drinking beer bottles at another truck's back window. The truck with the driver was parked in a parking lot near Fifth Avenue and its occupants fought. Wultz was armed with a knife, and the driver was charged with third-degree assault.

### jured

A man was injured when he was struck by a car at a gift shop, 324 E. 5th Ave., on Saturday afternoon in a parking lot near the Stratton Hotel, police said. The man was charged with first-degree assault and was Tim Walunga, 24.

### arged with theft

Two men who work for a retail affairs employees have been charged with theft of government property and a boat. Riley Meganack, 44, and another man are charged from an English Bay road. They are alleged to have stolen a boat, gasoline, a space heater and a space heater. They were charged with paying BIA and working on the boat. U.S. Attorney General was the crew and Meganack was a mechanic.

### accident

A pickup truck left the Knik River, Alaska, on Thursday and two passengers escaped with injuries. The accident Thursday was Melvin Douglas H. Reich, 19, and another man, managed to escape from the truck at Valley Hospital in Anchorage. The elder Reich one and another man were in the truck. Efforts to revive him were

### Woman sentenced for welfare fraud

An Anchorage woman will spend 20 days in jail and the next three years repaying the state more than \$11,000 she admitted obtaining under false pretenses. Yvette Wilson Montgomery pleaded no contest Friday to 80 counts of welfare fraud. Investigators said she held three different jobs while collecting welfare, Medicaid payments and food stamps over a 23-month period. The mother of five must repay the state at \$25 per month.

### Pair sentenced for having sex with child

A man and woman have been sentenced to jail terms for having sex with a 4-year-old boy. Eldon Gibson, 46, and Susan Meehan, 21, received jail terms of eight years and six years, respectively, for a first-degree sexual assault other children. Meehan's sentence was reported they had observed through Meehan's trailer's window. Two years of Meehan's sentence are to be spent on probation. "The facts are so shocking and appalling," said prosecutor Elizabeth Sheley, "that if you told them to people on the street they wouldn't believe it." Judge Seaborn Buckalew called the crime "barbaric."

### Warrant dismissed

California has decided not to extradite a man on a felony drunken driving charge, a prosecutor told an Anchorage District Court judge Friday. The state had earlier extended the time on a fugitive warrant against Franz Baum to await a decision by Santa Cruz, Calif., prosecutors whether to ship him to California to be tried for what Baum's lawyer called a minor-injury accident. The warrant was dismissed Friday.

### Trial in tailor's killing stalled

An ongoing problem between defense and state attorneys over the trial date for two men who have been charged with the alleged contract killing of Korean tailor Hiu Yi remains unresolved as a judge substituting for a vacationing trial judge deflected the question back to the trial judge. The trial of Daniel Mozzetti and Timothy Arnold is presently scheduled to start late next month, but defense attorney Phillip Paul Weidner asked for more time to prepare Mozzetti's defense. Weidner said he returned from a out-of-state trip to find 410 pages of investigative grand jury transcripts, a new attorney for Arnold and rumors of an inconclusive FBI ballistics report that he said the state refused to discuss.

### Warrant issued

A Superior Court bench warrant was issued for a man who police say they found in the brother's death is under the warrant.

### Psychiatric analysis

A convicted robber went to court for a psychiatric analysis but Palmer Superior Court Judge Seaborn Buckalew sentenced him and, instead of a psychiatric analysis, Prosecutor Robert Bundy had Taylor receive a sentence. Gearing's sentence of three years and 20-year-olds robbed an Oa 1982. Cutler said she agreed to similar sentences, but was not sure the incident was just some of revelry or whether Taylor

### Man charged with

A 37-year-old man has been charged with 10 counts of first-degree sexual assault. The man sexually assaulted a young woman. Lopez was set at \$25,000 per month as a custodian and additional charges were issued.

### Men admit to cocaine

Two men pleaded guilty to cocaine charges during a plea bargain at Anchorage Superior Court. The men admitted to possessing cocaine manufacture, and Sean Matika delivering cocaine to an unlicensed person. Thomas Jr., 26, pleaded no contest to cocaine. Three others also pleaded guilty to possession of cocaine. He is accepted into a diversion program. Conditions imposed. Prosecutor Robert Bundy, 31, and James Meehan