

COMMITTEE REPORT

SENATE

FURTHER:

5/7/85

Date 5/10/85

Mr. President

The Committee on FINANCE considered CSHB 88 (Fin)

protection of children, family members, and dependent adults; and.

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

do pass

do pass with attached amendment(s)

replace with/or adopt 5 CS for CSHB 88 (Fin)

new title

same title and recommends Do Pass

and attached a "LETTER OF INTENT" 7 NEW FISCAL NOTES

reports it back without recommendation

recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

MEMBERS HAVING
OTHER RECOMMENDATIONS

Rich Harford

Mike Gorman
Mike Gorman

Chairman

Chairman recommendation

5/10/85
SFC
Sackitt

SUMMARY OF FISCAL NOTES FOR SCS CSHB 88 (Fin)

<u>Department</u>	<u>Original Request</u>	<u>House</u>	<u>Proposed Senate</u>
DHSS	1992.7	1582.1	1357.3
Law	1160.6 GF 145.2 IAR	515.8 GF 108.9 IAR	370.4 GF 108.9 IAR
Public Defender	437.2	317.4	317.4
Public Advocacy	296.1	218.3	146.7
Domestic Violence	200.0	20.0	120.0
Court System	145.9	51.3	145.9
Troopers	-0-	-0-	-0-
TOTALS	4232.5 GF 145.2 IAR	2704.9 GF 108.9 IAR	2457.7 GF 108.9 IAR

Proposed reductions made by the Senate include the following:

- DHSS 3 positions (Administrative Asst's \$124.0) plus an additional \$100.0 spread throughout each allocation.
- Law 2 positions (\$84.4), \$10.0 Contractual and \$21.0 travel
- Public Advocacy 2 positions (\$65.0), and \$7.0 equipment

STATE OF ALASKA, 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/10/85

REQUEST Bill/Resolution No. SCSCSHB88 (Fin) **FISCAL DETAIL** Department of Health
Title: Relating to the protection of children Agency Affected: and Social Services
 Program Category Affected: Social Services
 Sponsor: Rules/Governor BRU, Program or Subprogram(s) Affected: _____
 Requestor: _____
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		939.9				
200 TRAVEL		85.3				
300 CONTRACTUAL		282.4				
400 SUPPLIES		13.3				
500 EQUIPMENT		37.3				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		1357.3				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		1357.3				
FEDERAL FUNDS						
OTHER						
TOTAL		1357.3				

POSITIONS:

FULL-TIME		28				
PART-TIME		7				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: . 5/10/85

REQUEST

FISCAL DETAIL

Bill/Resolution No.: SCSCSHB88 (Fin) Agency Affected: Department of Law
 Title: Relating to the protection of children Program Category Affected: Gen. Govt.

Sponsor: Governor BRU, Program or Subprogram(s) Affected: _____
 Requestor: _____ Legal Services, Prosecution
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		356.6				
200 TRAVEL		21.5				
300 CONTRACTUAL		82.2				
400 SUPPLIES		19.0				
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		479.3				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		370.4				
FEDERAL FUNDS						
OTHER		108.9				
TOTAL		479.3				

POSITIONS:

FULL-TIME		7				
PART-TIME		2				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/10/85

REQUEST

Bill/Resolution No.: SCSCSHB88 (Final)
 Title: Relating to the protection of children
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: Due Process
 BRU, Program or Subprogram(s) Affected: Public Defender Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

	- FY 85	- FY 86	- FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		252.9				
200 TRAVEL		20.0				
300 CONTRACTUAL		36.5				
400 SUPPLIES		4.5				
500 EQUIPMENT		3.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		317.4				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		317.4				
FEDERAL FUNDS						
OTHER						
TOTAL		317.4				

POSITIONS:

FULL-TIME		5				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Senator Ian Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA, 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/10/85

REQUEST

Bill/Resolution No.: SCSCSHB88 (Final)
 Title: Relating to the protection
of children
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Administration
 Program Category Affected: _____
 Due Process _____
 BRU, Program or Subprogram(s) Affected: _____
 Office of Public Advocacy _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		64.7				
200 TRAVEL		-0-				
300 CONTRACTUAL		75.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		7.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		146.7				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		146.7				
FEDERAL FUNDS						
OTHER						
TOTAL		146.7				

POSITIONS:

FULL-TIME		2				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No. SCSCSHB88 (Fin)
 Title: An Act relating to the
protection of children
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Council on Domestic Violence and
Sexual Assault

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		20.0				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 CRANTS, CLAIMS		100.0				
300 MISCELLANEOUS						
TOTAL OPERATING		120.0				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		120.0				
FEDERAL FUNDS						
OTHER						
TOTAL		120.0				

POSITIONS:

FULL-TIME		1/2				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

The personal services funds are to be used to upgrade the existing data clerk position to a research analyst position. This position will analyze as well as record data. This function is important to proper legislative analysis of the the Council and appropriate funding needs.

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/10/85

REQUEST

Bill/Resolution No. SCSCSHB 88 (Fin)
 Title: Relating to the protection
of children
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Alaska Court System
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Trial Courts

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		123.9				
300 CONTRACTUAL		22.0				
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		145.9				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		145.9				
FEDERAL FUNDS						
OTHER						
TOTAL		145.9				

POSITIONS:

FULL-TIME		3				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):
 Legislative Finance
 Legislative Sponsor
 Requestor
 Office of Management and Budget
 Impacted Agency(ies)

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 5/10/85

REQUEST

Bill/Resolution No. SCSHB 88 (Fin)
 Title: Relating to the
protection of children
 Sponsor: Rules/Governor
 Requestor: _____
 Date of Request: _____

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Troopers

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				

CAPITAL						
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REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee Date: 5/10/85
 Approved by Commissioner: _____ Date: _____
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

A M E N D M E N T S

TO: SCS FOR CS FOR HB 38 (JUDICIARY)

Adopted

Amendment #1, Page 2, delete Sec. 4, lines 3 through 26, and add:

Sec. 4. AS 12.45.045(a) is amended to read:

Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a) In prosecutions for the crimes [CRIME] of sexual assault in any degree, sexual abuse of a minor in any degree, or unlawful exploitation of a minor, or an attempt to commit any of these crimes [SEXUAL ASSAULT IN ANY DEGREE], evidence of the complaining witness' previous sexual conduct may [SHALL] not be admitted nor may reference be made to it in the presence of the jury except as provided in this section. When the defendant seeks to admit the evidence for any purpose, the defendant shall [MAY] apply for an order of the court at any time before or during the trial or preliminary hearing. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and that the probative value of the evidence offered is not outweighed by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the complaining witness, the court shall make an order stating what evidence may be introduced and the nature of the questions that may [WHICH SHALL] be permitted. The defendant may then offer evidence under the order of the court.

Adopted

Amendment #2, Page 2, delete Section 5, Lines 27 through 29, and on Page 3, Lines 1 through 3.

Adopted

Amendment #3, Page 3, delete Section 6, Lines 4 through 12.

No. - New Am #4

~~Amendment #4, Page 5, delete Section 9, Lines 15 through 27.~~

U/line 5 D/H 55 - Sen Ad Council

OUT See p 5, See 9

Withdrawn

~~Amendment #5, Page 6, Delete Line 6, except for the semi-colon.~~

Adopted

Amendment #6, Page 9, line 12, delete Section 21.

*Renumber the following bill sections accordingly.

5/10/85
Fails
84-

A M E N D M E N T

TO: SCS FOR CS FOR HB 88 (JUDICIARY)

Amendment #7, add a section to read: "This act takes effect July 1, 1985."

Offered: 5/7/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE *Finance*
BY THE JUDICIARY COMMITTEE
2 SENATE CS FOR CS FOR HOUSE BILL NO. 88 (*Finance*
~~Judiciary~~)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the protection of children,
7 family members, and dependent adults; and providing
8 for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 11.61.125(a) is amended to read:
11 (a) A person commits the crime of distribution of child pornog-
12 raphy if the person brings or causes to be brought into the state for
13 [SALE OR] distribution, or in the state distributes, or in the state
14 possesses, prepares, publishes, or prints with intent to distribute,
15 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
16 ial that visually depicts conduct described in [UNDER] AS 11.41.-
17 455(a), knowing that the production of the material involved the use
18 of a child under 18 years of age who engaged in the conduct.
19 * Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:
20 (d) In this section, "distribution" includes delivering, sell-
21 ing, renting, leasing, lending, giving, circulating, exhibiting,
22 presenting, providing, and exchanging, whether or not for monetary or
23 other consideration.
24 * Sec. 3. AS 12.10.020(c) is amended to read:
25 (c) Even if the general time limitation has expired, a prose-
26 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
27 former AS 11.41.430, or former AS 11.51.130(u)(4), for an offense
28 committed against a person under the age of 16 may be commenced within
29 one year after the crime is reported to a peace officer or the person

1 reaches the age of 16, whichever occurs first. This subsection does
2 not extend the period of limitation by more than five years.

3 * Sec. 4. AS 12.45.045(a) is repealed and reenacted to read:

4 (a) In prosecutions for the crimes of sexual assault in any de-
5 gree, sexual abuse of a minor in any degree, or unlawful exploitation
6 of a minor, or an attempt to commit any of these crimes, evidence of
7 the complaining witness' previous sexual conduct may not be admitted
8 nor reference made to it in the presence of the jury except as pro-
9 vided in this section. A defendant who seeks to admit the evidence
10 for any purpose shall apply for an order of the court before the trial
11 if the evidence is sought to be introduced at trial or before the
12 preliminary hearing if the evidence is sought to be introduced at the
13 preliminary hearing, unless the defendant demonstrates that the defen-
14 dant, despite exercising due diligence, was unable to apply before the
15 trial or preliminary hearing. After the application is made, the
16 court shall conduct a hearing in camera to determine the admissibility
17 of the evidence. If the court finds that evidence offered by the
18 defendant regarding the sexual conduct of the complaining witness is
19 relevant, and that the probative value of the evidence offered is not
20 outweighed by the probability that its admission will create undue
21 prejudice, confusion of the issues, or unwarranted invasion of the
22 privacy of the complaining witness, the court shall issue a written
23 order stating what evidence may be introduced and the nature of the
24 questions that may be permitted. The defendant may then offer evi-
25 dence under the order of the court.

26 * Sec. 5. AS 25.35.010(a) is repealed and reenacted to read:

27 (a) A person who is subjected to domestic violence may petition
28 a superior court for injunctive relief restraining the infliction of
29 further domestic violence against the petitioner by the respondent.

1 The court may appoint a guardian ad litem or attorney to represent a
2 minor who is subject to this chapter in the same manner as an attorney
3 may be appointed under AS 25.24.310.

4 * Sec. 6. AS 25.35.060 is amended to read:

5 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-
6 lence" means a crime under AS 11.41 when the victim is a spouse or a
7 former spouse of the respondent; a parent, grandparent, child, or
8 grandchild of the respondent; [,] a member of the social unit composed
9 [COMPRISED] of those living together in the same dwelling as the
10 respondent; [,] or a person who is not a spouse or former spouse of
11 the respondent but who previously lived in a spousal relationship with
12 the respondent.

13 * Sec. 7. AS 47.10.010(a) is amended to read:

14 (a) Proceedings relating to a minor under 18 years of age resid-
15 ing or found in the state are governed by this chapter, except as
16 otherwise provided in this chapter, when the court finds the minor

17 (1) to be a delinquent minor as a result of violating a
18 criminal law of the state or of a municipality of the state; or

19 (2) to be a child in need of aid as a result of

20 (A) the child being habitually absent from home or
21 refusing to accept available care, or having no parent, guardian,
22 custodian or relative caring or willing to provide care, includ-
23 ing physical abandonment by

24 (i) both parents,

25 (ii) the surviving parent, or

26 (iii) one parent if the other parent's rights and
27 responsibilities have been terminated under AS 47.10.080 or
28 voluntarily relinquished;

29 (B) the child being in need of medical treatment to

1 cure, alleviate, or prevent substantial physical harm, or in need
2 of treatment for mental harm as evidenced by failure to thrive,
3 severe anxiety, depression, withdrawal, or untoward aggressive
4 behavior or hostility toward others, and the child's parent,
5 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-
6 ING] to provide the [MEDICAL] treatment;

7 (C) the child having suffered substantial physical
8 harm or if there is an imminent and substantial risk that the
9 child will suffer such harm as a result of the actions done by or
10 conditions created by the child's parent, guardian or custodian
11 or the failure of the parent, guardian or custodian adequately to
12 supervise the child;

13 (D) the child having been, or being in imminent and
14 substantial danger of being, sexually abused either by the
15 child's parent, guardian or custodian, or as a result of con-
16 ditions created by the child's parent, guardian or custodian, or
17 by the failure of the parent, guardian or custodian adequately to
18 supervise the child;

19 (E) the child committing delinquent acts as a result
20 of pressure, guidance, or approval from the child's parents,
21 guardian or custodian;

22 (F) the child having suffered substantial physical
23 abuse or neglect as a result of conditions created by the child's
24 parent, guardian or custodian.

25 * Sec. 8. AS 47.10.142(a) is repealed and reenacted to read:

26 (a) The Department of Health and Social Services may take emer-
27 gency custody of a minor upon discovering any of the following circum-
28 stances:

29 (1) the minor has been abandoned;

1 (2) the minor has been grossly neglected by the minor's
2 parents or guardian as "neglect" is defined in AS 47.17.070(5), and
3 the department determines that immediate removal from the minor's
4 surroundings is necessary to protect the minor's life or provide
5 immediate necessary medical attention;

6 (3) the minor has been subjected to child abuse or neglect
7 by a person responsible for the minor's welfare, as "child abuse or
8 neglect" is defined in AS 47.17.070(1), and the department determines
9 that immediate removal from the minor's surroundings is necessary to
10 protect the minor's life or that immediate medical attention is neces-
11 sary; or

12 (4) the minor has been sexually abused under circumstances
13 listed in AS 47.10.010(a)(2)(D).

14 * Sec. 9. AS 47.10.142(c) is amended to read:

15 (c) When a child is taken into custody under (a) or (b) of this
16 section, the department shall immediately, and in no event more than
17 12 hours later unless prevented by lack of communication facilities,
18 notify the parents or the person or persons having custody of the
19 child. If the department determines that continued custody is neces-
20 sary to protect the child, the department shall notify the court of
21 the emergency custody by filing, within ¹²24 hours after custody was
22 assumed, [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
23 tion alleging that the child is a child in need of aid. If the de-
24 partment releases the child within ¹²24 hours after taking the child
25 into custody and does not file a child in need of aid petition the
26 department shall, within ¹²24 hours after ^{assuming custody of the} releasing the child, file with
27 the court a report explaining why the child was taken into custody.

28 * Sec. 10. AS 47.17.020(a) is amended to read:

29 (a) The following persons who, in the performance of their

New
Am #4

1 occupational [PROFESSIONAL] duties, have cause to believe that a child
2 has suffered harm as a result of child abuse or neglect shall immedi-
3 ately report the harm to the nearest office of the department:

4 (1) practitioners of the healing arts;

5 (2) school teachers and school administrative staff members
6 of public and private schools;

7 (3) social workers;

8 (4) peace officers, and officers of the Department of
9 Corrections;

10 (5) administrative officers of institutions;

11 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

12 (7) paid employees of domestic violence and sexual assault
13 programs, and crisis intervention and prevention programs as defined
14 in AS 18.66.900 [LICENSED FOSTER CARE PROVIDERS].

15 * Sec. 11. AS 47.17.020(b) is amended to read:

16 (b) This section does not prohibit the named persons from re-
17 porting cases that [WHICH] have come to their attention in their
18 nonoccupational [NONPROFESSIONAL] capacities, nor does it prohibit any
19 other person from reporting a child's harm that [WHICH] the person has
20 cause to believe is a result of child abuse or neglect. These reports
21 shall be made to the nearest office of the department.

22 * Sec. 12. AS 47.17.020 is amended by adding a new subsection to read:

23 (d) This section does not require a religious healing practi-
24 tioner to report as neglect of a child the failure to provide medical
25 attention to the child if the child is provided treatment solely by
26 spiritual means through prayer in accordance with the tenets and
27 practices of a recognized church or religious denomination by an
28 accredited practitioner of the church or denomination.

29 * Sec. 13. AS 47.17 is amended by adding a new section to read:

1 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
2 who, in the course of processing or producing visual or printed
3 matter, either privately or commercially, has reason to believe that
4 the matter visually depicts a child engaged in conduct described in
5 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
6 ment agency, and provide the law enforcement agency with all
7 information known about the nature and origin of the matter.

8 * Sec. 14. AS 47.17.064 is repealed and reenacted to read:

9 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. (a) The department or
10 a practitioner of the healing arts may, without the permission of the
11 parents, guardian, or custodian, take the following actions with
12 regard to a child believed to have suffered physical harm as a result
13 of child abuse or neglect:

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

16 (2) if medically indicated, have a radiological examination
17 of the child performed by a person who is licensed to administer a
18 radiological examination.

19 (b) The department or a practitioner of the healing arts shall
20 notify the parents, guardian, or custodian of a child as soon as
21 possible after taking action under (a) of this section with regard to
22 the child.

23 * Sec. 15. AS 47.17.068 is repealed and reenacted to read:

24 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who
25 knowingly fails or refuses to report as required under AS 47.17.020 or
26 47.17.023 is guilty of a class B misdemeanor.

27 * Sec. 16. AS 47.17 is amended by adding a new section to read:

28 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin
29 or limit a person from contact with a child if the attorney general

1 establishes by a preponderance of the evidence that the person

2 (1) has sexually abused a child;

3 (2) has physically abused a child; or

4 (3) has engaged in conduct that constitutes a clear and
5 present danger to the mental, emotional, or physical welfare of a
6 child.

7 (b) This section does not limit the authority of the attorney
8 general or the court to act to protect a child.

9 * Sec. 17. AS 47.17.070(6) is amended to read:

10 (6) "practitioner of the healing arts" includes chiroprac-
11 to - dental hygienists, dentists, health aides, nurses, nurse practi-
12 titioners, optometrists, osteopaths, physical therapists, physicians,
13 physician's assistants, psychiatrists, psychologists, psychological
14 associates, religious healing practitioners, and surgeons;

15 * Sec. 18. AS 47.17.070 is amended by adding new paragraphs to read:

16 (8) "child care provider" means an adult individual, or an
17 employee of an organization, who provides care and supervision to a
18 child for compensation;

19 (9) "organization" means a group or entity that provides
20 care and supervision for compensation to a child not related to the
21 caregiver, and includes a child care facility, pre-elementary school,
22 head start center, child foster home, residential child care facility,
23 recreation program, children's camp, and children's club;

24 (10) "person responsible for the child's welfare" means the
25 child's parent, guardian, foster parent, a person responsible for the
26 child's care at the time of the alleged child abuse or neglect, or a
27 person responsible for the child's welfare in a public or private
28 residential agency or institution.

29 * Sec. 19. AS 47.35.070 is amended to read:

1 Sec. 47.35.070. VIOLATIONS. A person who violates a provision
2 of this chapter [AS 47.35.070 - 47.35.100] or a regulation adopted
3 under this chapter [AS 47.35.10 - 47.35.100] is guilty of a class B
4 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
5 THAN \$200].

6 * Sec. 20. AS 47.35.070 is amended by adding a new subsection to read:

7 (b) The department may by regulation devise a system of civil
8 enforcement. The system may employ civil penalties not to exceed \$200
9 for each day during which one or more violations of a licensing stat-
10 ute or licensing regulation occurs. The imposition of a civil penalty
11 does not prevent prosecution and sentence for a criminal offense.

12 * Sec. 21. Section 5 of this Act takes effect September 30, 1985.

May 10, 1985

SUBJECT: SCS CSHB 88 (Fin)

TO: Sen. John Sackett
Chairman, Senate Finance CommitteeFROM: Edward H. Hein
Legislative Counsel

Please note that amendment no. 1, as adopted by your committee, included a change to the catchline of AS 12.45.045. This is not reflected in the committee substitute our office has prepared for you. Normally, catchlines are included in the text of a bill only when the entire statutory section is being amended. Because sec. 4 of the committee substitute amends only subsection (a) of AS 12.45.045, we have deleted the language of the catchline. Our revisor of statutes will amend the catchline appropriately when preparing Title 12 for reprinting. The

(Page 1 of 2)

erroneous inclusion of the catchline first appeared in the Governor's bill as originally introduced. We do not review the Governor's bills before they are introduced and did not correct the error until the bill reached the Senate Judiciary Committee. *EH*

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 10, 1985

SUBJECT: Title change to SCS CSHB 88 (Fin)
TO: Senator John Sackett
Chairman, Senate Finance Committee
FROM: Edward H. Hein *EHA*
Legislative Counsel

The enclosed committee substitute includes a change in the title of the bill that was adopted by the House. This change in the title, deleting the words ", family members," is necessitated by amendment no. 3 adopted by your committee. That amendment deleted section 6 of SCS CSHB 88 (Jud), which related to domestic violence against parents and grandparents, as well as children and grandchildren. The inclusion of that bill section by the House Judiciary Committee is the only reason "family members" was inserted in the bill title by the House. Therefore, the deletion of that bill section requires a change in the bill title.

Uniform Rule 24(c) provides that "A committee of the second house may not report a committee substitute for a bill or an amendment to a bill that requires a change in the title of the bill, other than a clerical or technical change, as the title was enacted in the house of origin."

It is our opinion that SCS CSHB 88 (Fin), as reported out by your committee, violates Uniform Rule 24(c). I have advised Elizabeth Hickerson of the Senate Advisory Council, who called me from your office, that there are at least three ways of remedying the problem: (1) reinsert sec. 6 of the bill; (2) include other language in the bill that requires the title to include the words "family members" as it read in the House version; or (3) suspend Uniform Rule 24(c) by adopting a concurrent resolution as provided in Uniform Rule 54.

Senator John Sackett
May 10, 1985
page 2

If you have any questions or comments, feel free to contact
me at your convenience.

EHH:csh
c4/044

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 88 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the protection of children,
7 family members, and dependent adults; and providing
8 for an effective date."

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

10 * Section 1. AS 11.61.125(a) is amended to read:

11 (a) A person commits the crime of distribution of child pornog-
12 raphy if the person brings or causes to be brought into the state for
13 [SALE OR] distribution, or in the state distributes, or in the state
14 possesses, prepares, publishes, or prints with intent to distribute,
15 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
16 ial that visually depicts conduct described in [UNDER] AS 11.41.-
17 455(a), knowing that the production of the material involved the use
18 of a child under 18 years of age who engaged in the conduct.

19 * Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:

20 (d) In this section, "distribution" includes delivering, sell-
21 ing, renting, leasing, lending, giving, circulating, exhibiting,
22 presenting, providing, and exchanging, whether or not for monetary or
23 other consideration.

24 * Sec. 3. AS 12.10.020(c) is amended to read:

25 (c) Even if the general time limitation has expired, a prose-
26 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
27 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense
28 committed against a person under the age of 16 may be commenced within
29 one year after the crime is reported to a peace officer or the person

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 10, 1985

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TO: Senator John Sackett
Chairman, Senate Finance Committee

FROM: Edward H. Hein *EHA*
Legislative Counsel

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LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

May 10, 1985

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TO: Sen. John Sackett
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Senator John Sackett
May 10, 1985
page 2

If you have any questions or comments, feel free to contact
me at your convenience.

EHH:csh
c4/044

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE FINANCE COMMITTEE

2 SENATE CS FOR CS FOR HOUSE BILL NO. 88 (Finance)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

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28 committed against a person under the age of 16 may be commenced within
29 one year after the crime is reported to a peace officer or the person

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Rewritten by

Conference

*Committee on
the Budget*

Revision Date: 5/10/85

REQUEST

FISCAL DETAIL

Department of Health

Bill/Resolution No.: SCSCSHB88 (Fin) Agency Affected: and Social Services
Title: Relating to the protection of children Program Category Affected: Social Services

Sponsor: Rules/Governor

BRU, Program or Subprogram(s) Affected:

Requestor:

Date of Request:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		939.9				
200 TRAVEL		85.3				
300 CONTRACTUAL		282.4				
400 SUPPLIES		13.3				
500 EQUIPMENT		37.3				
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		1357.3				
- CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1357.3				
FEDERAL FUNDS						
OTHER						
TOTAL		1357.3				

POSITIONS:

FULL-TIME		28				
PART-TIME		7				
TEMPORARY						

ANALYSIS: The funding levels and position counts are appropriated and approved for the purpose of certain social services throughout the state to combat the problems associated with child abuse. In areas of the state where social services are provided through regional contract agencies the department shall transfer sufficient funding to the contracting entity equal to the amount of funds expended in other areas of the state funded through this fiscal note.

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
Division: Senate Finance Committee Date: 5/10/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

**STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE**

Revision Date: May 1, 1985

REQUEST

Bill/Resolution No.: CS HB No. 88
 Title: An Act relating to the
protection of children
 Sponsor: Judiciary
 Requestor: _____
 Date of Request: 4/24/85

FISCAL DETAIL

Agency Affected: Health and Social Services
 Program Category Affected: _____
Social Services
 BRU, Program or Subprogram(s) Affected:
Social Services, Youth Services, Juvenile
Custody BRU's

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		1,360.0	1,414.4	1,471.0	1,529.8	1,591.0
200 TRAVEL		122.2	127.1	132.2	137.5	143.0
300 CONTRACTUAL		377.9	244.6	254.4	264.6	275.2
400 SUPPLIES		19.0	19.8	20.6	21.4	22.2
500 EQUIPMENT		87.2				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		1,966.3	1,805.9	1,878.2	1,953.3	2,031.4
CAPITAL		-0-				
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

GENERAL FUND	1,966.3	1,805.9	1,878.2	1,953.3	2,031.4
FEDERAL FUNDS					
OTHER					
TOTAL	1,966.3	1,805.9	1,878.2	1,953.3	2,031.4

POSITIONS:

FULL-TIME	31	31	31	31	31
PART-TIME	8	8	8	8	8
TEMPORARY	-0-				

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. Price Phone: 465-3170
 Division: Family and Youth Services Date: 5/1/85

Approved by Commissioner: John R. Bugh Date: 5/2/85 JCC
 Agency: Health and Social Services

Distribution (by Agency preparing fiscal note):

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

7/1/84

C. Computations

Personal Services

15 Social Worker, 3 Licensing Specialists
and 21 Clerical and Administrative

\$1,360.0 *

Travel

New Positions	56.0	
Staff Development	66.2	122.2

Contractual

New Positions	178.3 **	
Increased Legal	132.9	
Staff Development	30.7	
WATS and Zenith Lines	30.0	377.9

Supplies

New Positions	14.2	
Staff Development	4.8	19.0

Equipment

First Year Only		87.2
		<u>\$1,966.3</u>

* In original FY 86 budget submission, personal services request for these positions was lower by \$118.2 due to internal transfer of money. In the latest versions of the operating budget, this funding has been removed.

** In successive years, space will be budgeted by Department of Administration. Inflation calculated at 4%.

D. Economic Impact

The creation of these new positions will have a positive impact on local communities.

E. Impact on Local Governments

There is no quantifiable impact on local governments.

FISCAL NOTE SUMMARY BY DEPARTMENT

<u>Department</u>	<u>Original Request</u>	<u>Passed House</u>	<u>Bill #</u>
Health and Social Services	0	0	HB 67
	1966.3	1582.1	HB 88
	0	0	HB 92
	128.0	-----	SB 21
	0		SB 219
TOTALS	<u>2094.3</u>	<u>1582.1</u>	
<hr/>			
Public Safety	0	0	HB 67
	200.0	20.0	HB 88
	81.2	-----	SB 21
	1478.9	-----	SB 219
	TOTALS	<u>1760.1</u>	<u>20.0</u>
<hr/>			
Law	1520.5	515.8	HB 88
	0	0	HB 92
TOTALS	<u>1520.5</u>	<u>515.8</u>	
<hr/>			
Administration	733.3	535.7	HB 88

*FF: Moved
JS: Ob & discussion
5/9/85 pm*

5/9/85 pm

① Court System

145.9 *FF: Moved No Ob*
Adopted 5/9/85 pm

51.3

HB 88

Commerce

3.3

SB 263

Revenue

(69.6)

(69.6)

HB 92

+ 2.5

SB 263

TOTALS

(67.1)

(69.6)

AMENDMENT

Fiscal Note

by Ferguson

Adopted

To: CSHB88 (Finance)

Agency: Court System \$145.9

72
5/29/64

SUMMARY OF FISCAL NOTES FOR CS HB 88 (FINANCE)

<u>Agency</u>	<u>Original Request</u>	<u>HFC Figure</u>
DHSS	\$1992.7	\$1582.1
Law	\$1160.6 gen. funds 145.2 IARs	\$ 515.8 gen. funds 108.9 IARs
Public Defender	\$ 437.2	\$ 317.4
Public Advocate	\$ 296.1	\$ 218.3
Dom. Vio. Council	\$ 200.0	\$ 20.0
Court System	\$ 145.9	\$ 51.3
Troopers	\$ 0	\$ 0
TOTALS	\$4232.5 gen. funds 145.2 IARs	\$2704.9 gen. funds 108.9 IARs

SUMMARY OF H.F.C. REDUCTIONS TO CS HB 88 (FIN) FISCAL NOTES

1. DHSS

Personal services is funded for 10 months instead of 12, and all other lines are reduced by a maximum of 25%.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	1360.0	1133.0
Travel	122.2	91.6
Contractual	404.3	303.2
Supplies	19.0	14.3
Equipment	87.2	40.0
Total	1992.7	1582.0
Full Time	31.0	31.0
Part Time	8.0	8.0

2. Law

The following positions were eliminated or changed: 2 part time legal secretaries for the civil sections in Bethel and Fairbanks were eliminated. Prosecution reductions are as follows: one attorney IV in Anchorage, one secretary in Anchorage and the other attorney IV in Anchorage was reduced to an attorney II; one paralegal in Kenai and one attorney IV reduced to an attorney II in Kenai; one attorney in Fairbanks and the legal secretary in Fairbanks was reduced to part time; one paralegal in Kotzebue; one attorney III and one secretary in Barrow; one attorney III in Juneau; and one paralegal in Ketchikan. Also adjusted personal services as follows: two attorneys in the civil section are only partially funded with interagency receipts, the rest of their funding is from the general fund.

Miscellaneous other reductions taken as shown on the chart.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	938.2	441.0
Travel	77.5	42.5
Contractual	144.6	92.2
Supplies	70.5	30.0
Equipment	75.0	19.0
Total	1305.8	624.7
General Fund	1160.6	515.8
IARs	145.2	108.9
Full Time	19.0	9.0
Part Time	3.0	2.0

3. Public Defender

Eliminated one paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	347.7	252.9
Travel	30.0	20.0
Contractual	43.5	36.5
Commodities	6.5	4.5
Equipment	9.5	3.5
Total	437.2	317.4
Full Time	6.0	5.0

4. Public Advocate

Positions funded at 10 months instead of 12. Miscellaneous reductions taken in other lines.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	155.1	129.3
Travel	15.0	0
Contractual	100.0	75.0
Supplies	2.0	0
Equipment	24.0	14.0
Total	296.1	218.3
Full Time	4.0	4.0

5. Council on Domestic Violence and Sexual Assault

No additional funds were provided for grants since the FY 86 budget includes a maintenance grant amount of \$4414.9M. Instead, \$20,000 is provided to upgrade the existing data clerk to a research analyst. It is important that program data be analyzed in order for the legislature to adequately judge funding needs from year to year. This funding recommendation comes from the most recent legislative audit of the program.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	0	20.0
Grants	200.0	0
Total	200.0	20.0
Full Time	.5	.5

6. Court System

Funds provided are for 10 months of retired judge time in Anchorage and 10 months for a part time in court clerk in Anchorage. Other funds are eliminated because of cuts in funding to other agencies.

<u>Line</u>	<u>Original</u>	<u>Revised</u>
Personal Services	123.9	51.3
Travel	22.0	0
Total	145.9	51.3
Full Time	3.0	1.0
Part Time	0	1.0

7. Troopers

No funds were requested and no funds were provided.

CSHB 88 (FIN): Personal Services By Community
(does not include the Court System)

	FBKS	ANCH	PALMER	KETCH	JUNEAU	BETHEL	KOTZEBUE	KENAI	BARROW
DHSS	1 clk typ 1 A.A. 1 Acct Clk 2 SW	4 SW 2 DCL 1 A.A. 1 Act clk 2 Clk Typ	-0-	1 SW 1 DCL 1 Clk Typ 1 A.A.	2 SW	-0-	-0-	2 SW	1 clk typ
CIVIL	1 Atty 1 PPT Sec	1 Atty 1 PPT Sec	-0-	-0-	-0-	1 PPT Sec 1 Atty	-0-	-0-	-0-
PROS	1 Atty 1 P/L 1 Sec part-time	1 Atty 1 P/L 1 Sec 1 Atty reduced to Atty II	1 P/L 1 Sec	1 P/L	1 Atty	-0-	1 P/L	reduced to ATTY II 1 Atty 1 P/L	1 Atty 1 Sec
P.D.	1 P/L	1 Atty	1 P/L	-0-	-0-	1 P/L	1 Atty	1 P/L	-0-
P.A.	1 A. Atty 1 Sec	1 A. Atty 1 Clk Typ	-0-	-0-	-0-	-0-	-0-	-0-	-0-

Health & Social services

Aldez	1 Clk
Upper Center	1 Clk
Asilla	1 Clk
Alaska	1 Clk
Ordova	1 Clk
Billingham	1 Clk
anner	1 SW and 1 Clk Typ
elta	1 SW and 1 Clk Typ
ilena	1 SW and 1 Clk Typ
anana	1 SS Assoc.
l. Yukon	1 Clk
raig	1 Clk Typ

	Original			Reduced			
	T	PFT	PPT	T	PFT	PPT	
DHSS	39	31	8	DHSS	39	31	8
LAW	22	19	3	LAW	11	9	2
PD	6	6	0	PD	5	5	0
PA	4	4	0	PD	4	4	0
	71	60	11		59	49	10

= eliminated in Adams' proposed fiscal notes

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST No.1

Bill/Resolution No.: CSHB 88(Fin)
Title: Protection of children

FISCAL DETAIL

Agency Affected: Dept. Health & Social Serv.
Program Category Affected: Social Services

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		1133.0				
200 TRAVEL		91.6				
300 CONTRACTUAL		303.2				
400 SUPPLIES		14.3				
500 EQUIPMENT		40.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		1582.1				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1582.1				
FEDERAL FUNDS						
OTHER						
TOTAL		1582.1				

POSITIONS:

FULL-TIME		31				
PART-TIME		8				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Personal Services funded for 10 months instead of 12. All other lines funded at a maximum of 75% of original request.

Prepared By: Representative Adams - Chairman ^{MPA} Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

REQUEST No. 2
Bill/Resolution No.: CSIB 88 (Fin)
Title: Child Protection

FISCAL DETAIL
Agency Affected: Dept. Law
Program Category Affected: General Government

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:
Prosecution

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		441.0				
200 TRAVEL		42.5				
300 CONTRACTUAL		92.2				
400 SUPPLIES		30.0				
500 EQUIPMENT		19.0				
500 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		624.7				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUNDS		515.8				
FEDERAL FUNDS						
OTHER		108.9				
TOTAL		624.7				

POSITIONS:

FULL-TIME		9				
PART-TIME		2				
TEMPORARY						

ANALYSIS: PERSONAL SERVICES

Eliminated the following positions: 2 PPT legal secretaries in Bethel and Fairbanks which were requested by the Civil Section. Prosecution reductions are: 1 Attorney IV in Anchorage, one secretary in Anchorage, and reduce the other Attorney IV to an Attorney II; 1 Paralegal in Kenai, and reduce Attorney IV to an Attorney II in Kenai; 1 Attorney in Fairbanks and reduce 1 Legal Secretary in Fairbanks to PPT; one paralegal in Kotzebue; one Attorney III and one Secretary in Barrow; one Attorney III in Juneau; and one paralegal in Ketchikan.

Also Adjusted personal services as follows: - In the original fiscal note, two attorneys in the Civil Section were funded with interagency receipts from the Department of Health and Social Services. In this proposal, those attorneys would be funded 75% by interagency receipts and 25% by general funds. The Personal Services line has changed accordingly.

OTHER LINES

Miscellaneous reductions applied.

Prepared By: Representative Adams - Chairman
Division: House Finance Committee

Phone: 465-3706

Date: 5/3/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST No.3

Bill/Resolution No.: CS HB 88 (Fin)
Title: Protection of Children

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Due Process

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:
Public Defender Agency

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		252.9				
200 TRAVEL		20.0				
300 CONTRACTUAL		36.5				
400 SUPPLIES		4.5				
500 EQUIPMENT		3.5				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		317.4				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		317.4				
FEDERAL FUNDS						
OTHER						
TOTAL		317.4				

POSITIONS:

FULL-TIME		5				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Eliminated 1 paralegal position in Palmer. Funded all remaining positions for 10 months. Took miscellaneous cuts in other lines.

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST No. 4

Bill/Resolution No.: CSHB 88 (Fin)
Title: Protection of Children

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: Due Process

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

BRU, Program or Subprogram(s) Affected:
Office of Public Advocacy

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		129.3				
200 TRAVEL		-0-				
300 CONTRACTUAL		75.0				
400 SUPPLIES		-0-				
500 EQUIPMENT		14.0				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		218.3				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		218.3				
FEDERAL FUNDS						
OTHER						
TOTAL		218.3				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Positions funded for 10 months instead of 12. Miscellaneous cuts applied to other lines.

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION

FISCAL NOTE

Revision Date: _____

REQUEST No.5

Bill/Resolution No.: CSHB 88 (Fin)
 Title: Protection of Children

Sponsor: Rules/Governor
 Requestor: House Finance Committee
 Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety
 Program Category Affected: _____
Administration of Justice
 BRU, Program or Subprogram(s) Affected: _____
Council on Domestic Violence and Sexual
assault

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		20.0				
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		-0-				
800 MISCELLANEOUS						
TOTAL OPERATING		20.0				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.0				
FEDERAL FUNDS						
OTHER						
TOTAL		20.0				

POSITIONS:

FULL-TIME		1/2				
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary. The personal services funds are to be used to upgrade the existing data clerk position to a research analyst position. This position will analyze as well as record data. This function is important to proper legislative analysis of the Council and appropriate funding needs.

APA

Prepared By: Representative Adams - Chairman
 Division: House Finance Committee

Phone: 465-3706
 Date: 5/3/85

Approved by Commissioner: _____
 Agency: _____

Date: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST No.6
Bill/Resolution No.: CSHB 88 (Fin)
Title: Protection of Children

FISCAL DETAIL
Agency Affected: Alaska Court System
Program Category Affected: _____
Administration of Justice
BRU, Program or Subprogram(s) Affected: _____
Trial Courts

Sponsor: Governor
Requestor: House Finance Committee
Date of Request: 5/3/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		51.3				
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		51.3				

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING: (Thousands of Dollars)

GENERAL FUND		51.3				
FEDERAL FUNDS						
OTHER						
TOTAL		51.3				

POSITIONS:

FULL-TIME		1				
PART-TIME		1				
TEMPORARY						

ANALYSIS:

<u>PERSONAL SERVICES:</u>	<u>SALARY</u>	<u>BENEFITS</u>	<u>TOTAL COST</u>
Pro Tem Superior Court Judge Anchorage 10 Months	15,338	22,363	37,701
In-Court Clerk (Range 23 B) Anchorage 10 Months, Part Time	10,215	3,382	13,597

		<u>TOTAL PERSONAL SERVICES:</u>	\$51,298

APA

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____ PART

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST No. 7

Bill/Resolution No.: CS HB 88 (Fin)
Title: Protection of Children

Sponsor: Rules Committee
Requestor: House Finance Committee
Date of Request: 5/3/85

FISCAL DETAIL

Agency Affected: Public Safety
Program Category Affected: _____

Administration of Justice
BRU, Program or Subprogram(s) Affected:
1) Alaska State Troopers &
2) Administration (Records & Identification)

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		-0-				
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-				

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: Representative Adams - Chairman Phone: 465-3706
Division: House Finance Committee Date: 5/3/85

Approved by Commissioner: _____ Date: _____
Agency: _____

Distribution (by Agency preparing fiscal note):

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

7/1/84

Fiscal Notes
HB 88

HOUSE ANALYSIS

I. Department of Law 1160.9 805.8

Eliminate the following positions: 2 PPT legal secretaries in Bethel and Fairbanks which were requested by the Civil Section. 1 Attorney IV in Anchorage, 1 Paralegal in Kenai 1 Attorney in Fairbanks and reduce 1 Legal Secretary in Fairbanks to PPT.

Adjust the fiscal note for the following: In the original fiscal note, two attorneys in the Civil Section were funded with interagency receipts from the Department of Health and Social Services. In this proposal, those attorneys would be funded 75% by interagency receipts and 25 % by general funds. The Personal Services line has changed accordingly.

Personal Services	731.0
Travel	42.5
Contractual	92.2
Supplies	30.0
Equipment	19.0
Total	914.7
- General Fund	805.8
I.A.	108.9
PFT	15.0
PPT	2.0

II. Public Defender 437.2 368.0

Eliminate the following positions: 1 Paralegal in Fairbanks.

Personal Services	303.5
Travel	20.0
Contractual	36.5
Commodities	4.5
Equipment	3.5
Total	368.0
General Funds	368.0
PFT	5.0

III. Office of Public Advocacy 296. 244.1

Personal Services	155.1
Contractual	75.0
Equipment	14.0
Total	244.1
General Fund	244.1
PFT	4.0

IV. Department of Health and Social Services 1992.7 1582.1

Personal Services is funded for 10 months as opposed to 12 months
and all other lines are funded at 75% or less.

Personal Services	1133.0
Travel	91.6
Contractual	303.2
Supplies	14.3
Equipment	40.0
Total	1582.1
General Fund	1582.1
PFT	31.0
PPT	8.0

	WAS	NOW
I. Department of Law	1160.9	805.8
II. Public Defender	437.2	368.0
III. Office of Public Advocacy	296.1	244.1
IV. Health and Social Services	1992.7	1582.1
TOTAL	<u>3886.9</u>	<u>3000.0</u>

STATE OF ALASKA

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

BILL SHEFFIELD, GOVERNOR

REPLY TO:

1031 W 4th AVENUE
SUITE 200
ANCHORAGE, ALASKA 99501
PHONE: (907) 276-3550

1st NATIONAL CENTER
100 CUSHMAN ST.
SUITE 400
FAIRBANKS, ALASKA 99701
PHONE: (907) 452-1568

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

May 9, 1985

Hon. Jim Duncan
Alaska House of Representatives
Pouch V
Juneau, AK 99811

Re: Proposed appropriation for
certain salary increases
Our file: 366-491-85

Dear Representative Duncan:

At your request, we have prepared a proposed appropriation which would authorize the expenditure of money for comparable salary increases for partially exempt and classified employees not covered by a collective bargaining unit. The amount and source of the money appropriated was supplied by the Office of Management and Budget.

This appropriation, standing alone, presents a significant legal issue for your careful consideration. It is a well-recognized rule of appropriation law that an appropriation bill must be limited to appropriations. Alaska Const. art. II, § 13. The amendment we prepared authorizes a salary increase which, if enacted without further amendment to AS 39, conflicts with the existing pay plan set out in AS 39.27.011(a) for partially exempt and uncovered classified employees. This approach runs squarely into the interpretation of the confinement requirement advanced by Judge Walter Carpeneti in Legislative Budget and Audit Committee v. Hammond, No. 1JU-80-1163 CIV (Alaska Super. Aug. 20, 1980; decided May 25, 1983) (hereafter LBA). In that case, Judge Carpeneti adopted the following rule of construction to determine if conditions set out in appropriations are valid:

- (1) the qualifying language must be the minimum necessary to explain the legislature's intent regarding how the money is to be spent;
- (2) it must not administer the program of expenditure;
- (3) it must not amend existing law or enact new substantive law;

Hon. Jim Duncan
Alaska House of Representatives
Re: 366-491-85

May 9, 1985
Page #2

(4) it must not extend beyond the life of the appropriation; and

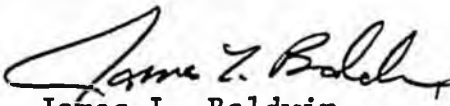
(5) it must be germane to an appropriations bill.

LBA, Mem. of Decision at 44, 45. Even under the more relaxed test offered by the legislature in LBA the comparable range and step increase covered by (1) of the proposed appropriation is probably not valid. The legislature urged the court to adopt the test adopted by the Pennsylvania Court in Biles v. Dept. of Public Welfare, 403 A.2d 1341 (Pa. Comm. 1979).

We believe that the remaining elements of the proposed appropriation set out in (2) -- (5) could be implemented solely by appropriation. The appropriations do not conflict with existing law because the compensatory payment does not require amendment to existing law. Similarly, the pay plans for permanent and temporary employees of the legislative and judicial branches of state government and the University of Alaska are established by general law without reference to a specific schedule established by law. These appropriations could be successfully implemented without amendment of existing law.

Sincerely yours,

NORMAN C. GORSUCH
ATTORNEY GENERAL

By: 
James L. Baldwin
Assistant Attorney General

JLB/pjg

Alaska State Legislature

Advisory Council Members
Senator Bennett, Chairman
Senator Kerttula
Senator Abood
Senator Sackett.



1024 W. 6th Avenue, Suite 20
Anchorage, Alaska 99501
Phone: (907) 274-1426

SENATE ADVISORY COUNCIL

MEMORANDUM

TO: SENATOR JAN FAIKS
FROM: ELIZABETH J. HICKERSON *EJH*
SUBJECT: CS HB 88 (FINANCE), AN ACT RELATING TO THE PROTECTION OF CHILDREN, FAMILY MEMBERS, AND DEPENDENT ADULTS; AND PROVIDING FOR AN EFFECTIVE DATE.
DATE: MAY 7, 1985

In response to your request for information on CS HB 88 (Finance), I offer the following section analysis.

Sections 1 and 2.

These two sections relate to the crime of distribution of child pornography and the definition of "distribution". The wording contained in these sections is based on a recent United States Supreme Court case, New York v Ferber, 458 U.S. 747 (1982), which allows the state to constitutionally regulate the production and distribution of material that depicts children engaged in sexual activity even when the material is not legally obscene.

Section 3.

This section allows prosecutions under AS 11.41.410 - 11.41.460 (sexual offenses), AS 11.66.110 - 11.66.130 (prostitution) and former AS 11.41.430 or former AS 11.51.130(a)(4) (formerly sexual assault and contributing to the delinquency of a minor), for an offense committed against a person under the age of 16. Prosecution may be commenced within one year after the crime is reported to a peace officer or the person reaches the age of 16 which ever occurs first. The period of limitation is not extended by more than five years.

Section 4.

AS 12.45.045, evidence of past sexual conduct in trials for sexual offenses, is amended to include, sexual abuse of a minor in any degree, or unlawful exploitation of a minor, or any attempt to commit any of these crimes. This statute provides for an in camera hearing to determine the admissibility of evidence.

Section 5.

AS 25.35.010(a) is repealed and reenacted to provide that the court may provide a guardian ad litem or an attorney to represent a minor who is subject to infliction of domestic violence. This differs from SB 29 which requires the minor to petition through a parent, guardian, or custodian.

Section 6.

The definition of victim of domestic violence is expanded to include: a parent, grandparent, child or grandchild of the respondent. This differs from the definition contained in SB 29 which only includes parent, grandparent or child.

Section 7.

The jurisdiction over a child in need of aid proceedings is amended to include: the child being in need of medical treatment to cure, alleviate, or prevent substantial physical harm, or in need of treatment for mental harm as evidenced by failure to thrive, severe anxiety, depression, withdrawal, or untoward aggressive behavior or hostility toward others, and the child's parent, guardian, or custodian has knowingly failed (parents are unwilling) to provide (medical) treatment.

Section 8.

This section rewrites the circumstances under which the Department of Health and Social Services may take emergency custody of a minor. AS 47.10.142(a)(2) allows the department to take emergency custody of minors that have been abandoned, or grossly neglected by their parents or guardian, if the department determines that immediate removal from the minor's surrounding is necessary to protect the minor's life, or provide immediate necessary medical attention. Previously the wording of this subsection read, "so that immediate removal from the minor's surrounding is, in the determination of the department, necessary to protect the minor's life." It is unclear how the wording will aid the department.

Section 9.

This section changes the procedure that the Department of Health and Social Services follows when children are taken into custody. Presently the person having custody of the child and the court must be notified immediately, and in no event no more than 12 hours later, when a child is taken into custody. CS HB 88(Finance) requires the department to notify the court of the emergency custody, within 12 hours after custody was assumed, only if the department determines that continued custody is necessary to protect the child. I disagree with changing the present procedure. The Department of Health and Social Services

should be required to notify the court of any emergency custody. The only effective means of ensuring that the Department of Health and Social Services is justified in their emergency taking, is for a court to review the circumstances of each case. If this section becomes law it will be possible for the Department of Health and Social Services to assume emergency custody of a child, return the child to his/her parents or guardian without presenting reasons for the original taking.

Section 10.

The purpose section of the child protection chapter is amended to provide that family life will be preserved when preserving it is in the best interest of the child. Previously the purpose statement read, "preserve the family life whenever possible." The difference involved here is slight, and therefore, if this section has created controversy, I recommend deleting it from CS HB 88 (Finance). It should be noted, however, that the best interest of a child is a test which involves the weighing and balancing of numerous relevant facts. Laws have been made to protect children, and in order to determine what is in the best interest of the child, the facts of each case must be reviewed for a proper determination.

Section 11.

Expands the list of individuals required to report instances of child abuse or neglect to the nearest office of the department. Presently school teachers and school administrative staff members must report, however, CS HB 88 (Finance) specifically designates that this applies to both public and private schools. In addition, child care providers, not just licensed day care providers, must report. Finally, paid employees of domestic violence and sexual assault programs and crisis prevention programs are required to report. If this section is controversial it could be deleted without major ramifications.

Section 12.

This section primarily represents housekeeping changes and replaces "non-occupational" for "nonprofessional".

Section 13.

Provides that religious healing practitioners are not required to report as neglect of a child the failure to provide medical attention to the child, if the child is provided treatment solely by spiritual means. This was advocated by the Christian Scientists.

Section 14.

This section makes it mandatory for persons who process or produce visual or printed matter containing child pornography to report to law enforcement.

Section 15.

This section allows for the taking of photographs and x-rays of a child believed to have suffered physical harm as a result of child abuse or neglect. While parental permission is not necessary, the parents, guardian or custodian are to be notified after the action is taken.

Section 16.

This section provides that a person who knowing fails or refuses to report an incidence of harm is guilty of a class B misdemeanor. This section deletes "willfully" which is no longer used.

Section 17.

Protective injunctions may be sought in cases against persons who have physically abused a child, or engaged in conduct that constitute a clear and present danger to the mental, emotional, physical welfare of a child. The purpose of this section is to allow the Department of Law to enjoin persons from continued association with children in the event that it is proved by a preponderance of the evidence that the person has committed the act.

Section 18.

The definition of practitioner of the healing arts is expanded to include: dental hygienists, nurse practitioners, physician's assistants and psychological associates. This definition is used for the required recording under AS 47.17.020.

Section 19.

Definitions for "child care provider", "organization" and "persons responsible for the child's welfare" are provided.

Section 20.

This section provides that violations of Title 47 or a regulation adopted under that chapter will be prosecuted as a class B misdemeanor. The prior fine under this section is deleted.

Section 21.

A system of civil enforcement may be adopted by the department for violations of a licensing statute or licensing regulation. This is seen as a needed provision for ensuring compliance by licensed day care facilities.

Section 22.

This Act takes effect September 30, 1985.

CC
4/10

HB 88



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 9, 1985

Representative Max Gruenberg, Co-Chair
Representative Niilo Koponen, Co-Chair
House HESS Committee
Alaska State Legislature
Juneau, Alaska 99811

Dear Representatives Gruenberg and Koponen:

I am writing with regard to a work draft of CSHB 88, relating to the protection of children, which is before the committee for hearing today. My comments are specifically directed to proposed section 13 (page 6), which includes "court personnel" within the group of persons required to report abuse or neglect of a child.

The court system is opposed to this provision. Court personnel should not be held to a higher duty than ordinary citizens in reporting incidents of this nature, especially given the court's adjudicatory role. This requirement could create the appearance that the court is taking sides in any legal disputes which may later arise. The court system believes its role should be limited to adjudication of cases, and should not be expanded to include a nonadjudicatory reporting function.

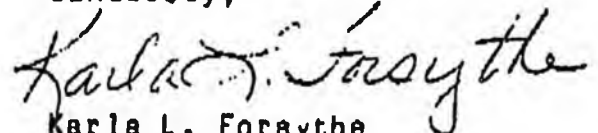
This legislation is complemented by CSSB 28, which provides that a person employed by the state who is required to report abuse or neglect shall receive training. Departments are required to develop curriculum for employees including training about laws relating to child abuse and neglect, techniques for recognition and detection, information about agencies and organizations that offer aid, and procedures for notification.

If both CSSB 28 and CSHB 88 are enacted, court system personnel would be required to report abuse, the court system would be required to provide training. The court system would not independently develop training materials, but instead would rely upon materials developed by the executive branch. However, the court system would still have to reproduce and disseminate these materials, as well as provide some minimal training, in the

form of one visit by administrative staff to each judicial district to train supervisors. The total cost of this limited training program is estimated at \$4,000. A copy of the court system's fiscal note is attached.

Thank you for this opportunity to provide comments. I will be glad to answer any questions.

Sincerely,



Karla L. Forsythe
General Counsel

KLF:smh

cc: Representative Mike Miller
Chair, House Judiciary Committee

Representative Al Adams
-- Chair, House Finance Committee

BILL SHEFFIELD
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 18, 1985

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which will enhance the state's ability to protect children who have been the victims of child abuse or neglect. The bill makes numerous changes to existing civil and criminal laws, and adds some badly needed provisions. A section-by-section analysis of the bill, explaining the reasons for and effect of the proposed changes, appears below.

In brief summary, secs. 1 and 2 of the bill create a new crime, endangering the welfare of a minor in the second degree, which would make it a crime for a daycare worker or other person entrusted with the care of a child to negligently expose the child to substantial risk of injury or to injure a child by unlawfully failing to provide the child with necessary food, care, clothing, or shelter. Section 3 strengthens existing law prohibiting sale and distribution of child pornography, and sec. 4 makes some technical amendments to an existing law which expands the statute of limitations in prosecutions for certain sexual offenses against children.

Section 5 adds a new statute to existing law, to allow the introduction of certain hearsay evidence in grand jury prosecutions for sexual offenses against children. Section 6 makes it clear that Alaska's "rape shield" statute applies to child victims as well as to adult victims. Sections 7, 8, and 9 expand existing law regarding a criminal records check of persons employed in positions of authority over children. Sections 10 and 11 revise the law regarding curfew violations; and sec. 12 revises the procedures for submission of predisposition reports in delinquency proceedings.

Section 13 and 14 revise existing procedures requiring the

Department of Health and Social Services, division of family and youth services (DFYS), to file a court petition to assume emergency custody of an abused or neglected child. Section 15 adds a definition of "sexual abuse" to the child abuse reporting laws, and secs. 16 and 23 add "mental injury" to the types of harm that must be reported. Sections 17, 18, 24, and 25 expand the classes of persons who are required under the law to report cases of suspected child abuse. Section 19 clarifies that a person who submits a report of abuse or neglect in good faith is immune from civil or criminal liability.

Section 20 abolishes the application of some evidentiary privileges that prevent the introduction of evidence in child abuse proceedings. Section 22 authorizes the state to seek an injunction prohibiting a person who has abused children in the past from having contact with a child not related to him. Section 26 allows the state to establish regulations devising a system of civil fines to enhance enforcement of child care licensing laws. Sections 27 and 28 describe the effect of two sections of the bill that would amend court rules.

SECTION-BY-SECTION ANALYSIS

Section 1

Under existing AS 11.51.100, endangering the welfare of a minor, it is class C felony offense for a parent or guardian to intentionally desert a child under circumstances which place the child in substantial danger of injury. Section 1 of this bill adds "in the first degree" to the title of the existing crime (sec. 2, below, adds a "second degree" form of the crime), and expands the law's coverage to children under the age of 18 (rather than under age 10).

Section 2

This section creates a new class A misdemeanor crime: endangering the welfare of a minor in the second degree. A person commits this crime if he has been entrusted with the care of a child under 13 and either: (1) negligently exposes the child to circumstances creating a substantial risk of injury or abuse, or (2) negligently exposes the child to physical injury by failing to provide the child with necessary care, food, shelter, or medical attention. This new provision would apply to child care providers (such as day care workers) who neglect children entrusted to their care or who allow the children to be exposed to dangerous conditions.

Section 3

Under AS 11.61.125, enacted in 1983, it is a class C felony offense to bring child pornography (visual depictions of children engaged in sex acts) into the state for sale or distribution. The law also prohibits possession or publication of such material with intent to sell it. As presently written, however, AS 11.61.125 does not explicitly prohibit the sale of child pornography. This omission makes prosecution under the new law more difficult. For example, who "possessed" illicit material sold over a bookstore counter? The store owner, or the clerk who actually made the sale? Under current law the answer is not clear. Section 3 of the bill clears up this ambiguity, and strengthens existing law, by explicitly including sale, distribution, or exhibition of child pornography for profit among the acts prohibited by law.

Section 4

AS 12.10.020(c), enacted in 1983, extended the general five-year statute of limitations for sex crimes against children. Under certain circumstances, a crime of this nature can be prosecuted up to 10 years after it was committed. This extension was adopted because, under the prior law, the five-year limitation period often expired before the child victim became old enough to report the assault. This was especially true when the victim was a very young child. Section 4 of this bill amends the language of AS 12.10.020 to include prostitution related offenses among those offenses to which the extension applies. The amended language also includes offenses committed under sections of the criminal code that were repealed when the laws relating to sexual offenses against children were revised in 1983.

Section 5

This section adds a new statute allowing a child's out of court ("hearsay") statement about a sexual offense to be introduced, under specified conditions, at grand jury proceedings. This would allow the grand jurors to hear and consider, for example, a videotaped statement given by the child victim immediately after the abuse was discovered. The statement must appear reliable and the child must either testify at the grand jury, or be "unavailable," as defined in the statute. Adoption of this measure will help to reduce the number of times a young child must be interviewed or testify about an assault, and will bring Alaska's procedure more in line with procedures used in other jurisdictions.

Section 6

AS 12.45.045, which limits the introduction in a sexual assault trial of evidence of the victim's previous sexual conduct, was adopted in 1978 as part of the new criminal code. Virtually all states have adopted some version of such a "rape shield" statute. The statute is designed to protect the sexual assault victim from unwarranted invasion into her private life. As originally adopted in the new criminal code, serious sexual offenses against children were included in the general sexual assault statutes. The protections included in AS 12.45.045 thus applied in child abuse cases as well as adult rape cases.

In 1983 the criminal laws regarding sexual offenses against children were revised; most sexual offenses against children are now called "sexual abuse of a minor" in one of four degrees. Unfortunately, the language of AS 12.45.045 was not altered to reflect the new designation for sexual crimes against children. Section 6 of this bill amends the statute to make it clear that the protections accorded to adult victims of a sexual assault apply to child victims as well.

Sections 7, 8, and 9

Existing AS 12.62.035 authorizes the release of certain criminal conviction records for persons who hold or are applying for paid or volunteer positions which would give them supervisory or disciplinary power over a child. Sections 7, 8, and 9 of this bill expand the types of convictions that may be reported to include all crimes that might pose a risk to children. Section 9 allows the state to inform an inquiring employer if there is a pending warrant for the arrest of the employee.

Sections 10 and 11

These sections revise existing law relating to curfews for minors. Section 10 provides that only a fine may be imposed upon a minor who violates a local curfew; no jail sentence may be given. Section 11 provides that curfew violations, like traffic and fish and game law violations, will be handled in an adult criminal court rather than in the juvenile justice system.

Under existing law, local communities have the authority to establish curfews for minors and to impose penalties for violations. Many communities, particularly in rural areas, have established curfews in hopes of controlling juvenile activity which might lead to delinquent behavior, and in hopes of providing protection for children and promoting family responsibility and unit. Present AS 29.43.110, passed in 1962, authorizes penalties of up to a \$300 fine and 30 days in jail for curfew violations.

These penalties cannot be enforced, however, because the statute conflicts with other state laws. Since minors alleged to have committed crimes come within the jurisdiction of AS 47.10, curfew violations must be handled through the juvenile court, which cannot impose fines or terms of imprisonment. Thus, juveniles accused of curfew violations may be adjudicated as delinquents, but may not be fined or sentenced as indicated in AS 29.43.110.

AS 29.43.110 reflects an outmoded approach to family and behavioral problems of youth. The intent of both federal and state laws passed within the last 15 years has been to limit the unnecessary detention of nondelinquent juveniles through the decriminalization of status offenses such as curfew violations. This is good public policy, especially since Alaska's juvenile detention facilities are already overcrowded by youth requiring secure detention in order to protect either the public or themselves.

In order to remove an anomalous provision from the state statutes, and at the same time provide municipalities with an effective method of enforcing curfews, this bill makes failure to comply with municipal curfew ordinances a violation rather than a crime, and requires that minors accused of violating curfew ordinances be made subject to prosecution, as they presently are subject to prosecution for violation of fish and game statutes or regulations and traffic laws.

A minor accused of a curfew violation would be charged and prosecuted in district court, and would be subject to a fine of up to \$300. The court could, of course, suspend any portion of the fine and require, as a condition of the suspension, that the minor complete a reasonable period of community service work or the fulfillment of similar reasonable conditions. This would reduce unnecessary detention of juvenile curfew violators. This is particularly important in rural areas where juveniles detained for such violations are held in adult jails which may not provide legally required sight and sound separation. It would also ensure that curfew violations are dealt with expeditiously, by allowing them to be handled by local law enforcement officers and judges. Communities would have greater flexibility in developing appropriate conditions to be met by violators.

Section 12

Under AS 47.10.081, before a juvenile court may "dispose of" (sentence) a delinquent minor, all parties must receive a predisposition report. This report is prepared by a DFYS worker. Section 12 amends AS 47.10.081(c) to provide that the report must be provided to all parties two (rather

than 10) working days before the hearing.

The present 10-day requirement presents considerable practical problems, and often requires a delay in the disposition proceedings. In delinquency dispositions where there are 30 or less calendar days between adjudication and disposition, investigating probation officers may have fewer working days to complete their investigation and prepare the disposition report than the parties have to review the document prior to court. The ten day requirement also eliminates any possibility of a practical effort to reduce the total time between adjudication and disposition for those children detailed during that process.

The present "10-day rule" has resulted in lengthening periods of detention because additional time is necessary to complete predisposition investigations and disposition hearings must be postponed. While there is no question that parties to a disposition hearing, including a child's attorney, must have prior access to investigative reports, a full 10 days of advanced availability is unnecessary. Two full working days should be sufficient time to allow all parties to carefully review the report.

Section 13

This section would change the standard for assuming emergency custody in neglect cases to conform to the same standard used in abuse cases. It would thus allow earlier emergency intervention to protect neglected children. It would also allow assumption of custody of neglected children who need immediate medical attention rather than requiring that their life be endangered.

Section 14

Section 14 of the bill modifies the time constraints upon DFYS for filing of petitions when a minor is taken into emergency custody. The modification relaxes the time-frame (in conformity with current practices in Anchorage) to allow a petition to be filed on the next business day following the assumption of custody of the minor. The Anchorage courts have permitted this practice for several years, notwithstanding the requirement in current law that the petition be filed within 12 hours after the minor has been taken into custody. Practices around the state vary, and a recent legislative audit report strongly suggests that practices should be made uniform throughout the state.

In those courts that interpret the 12-hour requirement literally, cases are brought before magistrates on weekends and holidays. The initial probable cause determination is usually not made by the magistrate, however;

the case is held over to the next business day. Although there is some minimal screening which occurs when the case appears before the magistrate, the same issue is addressed again on the next business day before a judge or special master. The advantage of the proposed change is that it prevents this additional hearing, and allows the social worker to perform the many tasks needed after emergency custody is assumed (making arrangements for placement and medical or other care as needed), while still requiring that the social worker attempt to immediately notify the parent of the assumption of custody.

Section 14 also includes language that allows DFYS discretion in filing petitions when emergency custody has been assumed in situations that do not require continued protective custody or DFYS involvement. These instances constitute a small percentage of the emergency custody cases, and involve situations in which a primary or temporary caretaker has allowed the child to wander off and the child is discovered by parties who do not know the family. Under current law, in order to provide temporary shelter for the child until parents are located, DFYS must assume emergency custody. A request to dismiss is often filed with the petition in these situations, and the petition is filed only because the present statute appears to require it. This section eliminates the need for this unnecessary paperwork.

Section 15

Section 15 defines the term "sexual abuse" for purposes of civil child in need of aid (CINA) proceedings under AS 47. Although the term "sexual abuse" is now used in AS 47, it is not defined. The proposed definition would prevent constitutional challenges to the state's assumption of jurisdiction over children who are sexually abused by their parents.

To allow DFYS intervention in all cases of suspected sexual abuse, the definition is quite broad. It includes all sexual conduct which is also a crime. Other forms of inappropriate touching are also included, but conduct reasonably necessary for normal caretaker or medical responsibilities is excluded. CINA proceedings focus on the ill-effects of sexualized contacts and overtures by a child's parents. The provisions in AS 47 are intended to protect against the mental and emotional harm which results from inappropriate sexual contact between a parent and a child. Thus, it is important that reasonable perceptions of the child be considered by the court in determining whether or not sexual abuse has occurred. The proposed definition specifically allows for this.

Section 16

Although existing law allows DFYS intervention to protect children from mental harm, it does not require that the harm be reported by professionals as is the case with neglect and physical and sexual abuse. This section will correct that deficiency. Together with sec. 23, which clearly defines "mental injury," this change will provide greater protection for children who have suffered observable mental injury, by increasing the reporting of such incidents. Similar provisions are included in the statutes of 47 other states, and inclusion in child protection laws is encouraged by federal policies and law.

Section 17

This section revises and expands existing law requiring persons in certain professions to report to DFYS suspected abuse of a child by a parent or other caretaker. Under existing law, a significant number of persons who regularly have access to information that a child has suffered harm as the result of abuse or neglect by a caretaker are not required to report that information. The revised statute focuses upon those individuals who regularly have contact with a child, or a child's family, and are therefore in a position to gain knowledge of child abuse and neglect. These changes are needed to insure that all children abused or neglected by caretakers come to the attention of DFYS.

The word "professional" has been deleted from AS 47.17.020(a), since many persons who have regular access to children and information about harm are considered para-professionals. Paragraph (a)(2) of AS 47.17.020 has been expanded to include all employees or volunteers of private or public schools, not just teachers or administrative staff. The term "social workers" in existing paragraph (a)(3) has been expanded to include all human service providers (defined in sec. 25).

In paragraph (a)(6), "licensed day care providers and paid staff" has been broadened to include all child care providers, including foster parents. This change is recommended because many persons who regularly provide day care services need not be licensed under existing law, and because children are cared for in a number of situations other than day care or foster care. Reference to "licensed foster care providers" has been eliminated from paragraph (a)(7), because they are now included in the scope of (a)(6). Instead, (a)(7) requires all counselors, licensed and unlicensed, to report suspected instances of child abuse. Present law applies to psychiatrists and psychologists (as "practitioners of the healing arts"), but not to other individuals who regularly counsel families or child-

ren. New paragraphs (a) (8) -- (10) add other categories of persons required to report.

Section 18

Under present law, persons in the categories listed in AS 47.17.020(a) are required to report suspected child abuse or neglect only if the abuse or neglect is caused by or attributable to the actions of a person "responsible for the child's welfare." See AS 47.17.070(1) and (7). Thus, harm caused by a person not related to the child or residing in the child's home need not be reported to DFYS.

Section 18 of this bill adds a new section to the statutes: reports to law enforcement agencies. If a person listed in AS 47.17.020 (the general reporting statute) has reason to believe that a child has suffered harm as a result of injury, neglect, or exploitation by someone other than a family member or caretaker, the person must report that harm to a law enforcement officer (rather than DFYS). The law should require that all instances of abuse or neglect be reported to the authorities, not just intrafamily abuse. All children should be protected under the law, without regard to the identity of the perpetrator or the relationship to the child victim.

New subsec. (b) requires film processors to report suspected cases of child pornography to law enforcement authorities for investigation. Several other states have such a requirement. On at least one occasion in the past, an Alaska man who photographed a young child engaged in sex acts with him was apprehended as a result of a similar reporting requirement in another state. A person who knowingly fails to make a report as required in this section is guilty of a class B misdemeanor under AS 47.17.068 (see sec. 21, below).

Section 19

Section 19 amends the immunity provision in existing AS 47.17.050 to make it clear that a person who makes a child abuse report in good faith, and whose information or testimony is used in connection with criminal prosecution of the offender, as well as in a civil proceeding, is immune from liability for making the report. This clarification is necessary as a result of the appellate court's decision in State v. R.H. and Wetherhorn, 683 P.2d 269 (Alaska App. 1984). The Wetherhorn court held that the phrase "judicial proceeding," as used in AS 47.17.060 (dealing with evidence that is not privileged), refers only to civil proceedings -- i.e., "child protection proceedings" -- under AS 47.10 ("Delinquent Minors and Children in Need of Aid"). 683 P.2d at 280.

Section 20

This section of the bill clarifies existing law regarding evidence that may be admitted in civil or criminal proceedings regarding the abuse of a child. The amendment abrogates some evidentiary privileges that prevent the introduction of evidence of harm. The clergyman privilege would not apply if the communication was made during the course of counselling sessions (rather than in furtherance of a religious practice).

Section 21

This section contains a conforming amendment extending existing "B" misdemeanor penalties for failure to report suspected child abuse, as explained above regarding sec. 18.

Section 22

Section 22 of this bill provides broad authority to the state to enjoin or limit persons who endanger children in the ways specified from having contact with children. While there may be common law authority for this view, statutory confirmation of this authority removes one issue from possible litigation in cases where the attorney general chooses to bring an action to enjoin or limit a person from contact with children. This addresses the problem of no regulation of day care providers who care for less than five children without burdening the public with regulation of all day care providers.

Section 23

This section amends the existing definition of "child abuse or neglect" to include mental injury caused by a person responsible for the child's welfare. The rationale for including "mental injury" is described in connection with sec. 16, above.

Section 24

Existing law requires "practitioners of the healing arts" to report suspected child abuse or neglect. This section expands the definition of this term to include nurse practitioners and physician's assistants. Although these health care professionals are considered included in the current definition, this amendment clears up any possible uncertainty by specifically referring to persons who hold these positions.

Section 25

This section adds new definitions related to the expanded classes of persons who must report child abuse (see secs. 17 and 18 of the bill).

Section 26

Section 26 of this bill makes two changes. First, AS 47.35.070(a) is amended to bring this statute into conformity with the criminal code by making violations of child care licensing statutes and regulations a class B misdemeanor. Second, subsec. (b) adds language that gives statutory authority to the Department of Health and Social Services to establish a system of civil enforcement (including the levy of up to \$200 daily in civil penalties) for violations of its licensing statutes and regulations.

This authority will provide the department with a valuable regulatory tool. Presently, the department has only two choices with respect to licensees who violate statutes and regulations. The department can either revoke the license or do nothing. While the department can require the licensee to establish a plan of correction for violations, its only lever to enforce this requirement is the authority to revoke the license. If a system of civil penalties existed, the department would have the additional tool of fining licensees for minor violations of regulations and statutes. The new language makes it clear that imposition of a civil penalty would not preclude criminal prosecution in appropriate circumstances.

Section 27

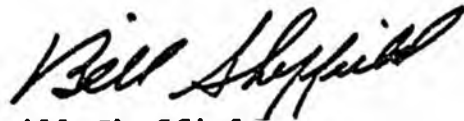
New AS 12.40.050, contained in sec. 5 of this bill, allows the introduction under certain circumstances of hearsay evidence of a child's statement in grand jury proceedings for sexual offenses against children. Section 28 indicates that this would have the effect of altering a court rule of criminal procedure. A two-thirds vote of each house is thus required on this section of the bill, under art. IV, sec. 15 of the Alaska Constitution.

Section 28

This section states that the changes proposed in sec. 20 of the bill would amend Alaska Rules of Evidence 504, 505, and 506 by preventing the application of the physician-patient privilege and the husband-wife privilege, and by limiting the application of the clergyman privilege, in civil or criminal proceedings arising from reports of abuse made under AS 47.17. A two-thirds vote of each house is required for passage of this section.

The problems related to the protection of children are among the most serious facing our society. Therefore, I urge your prompt, thoughtful, and favorable consideration of this measure.

Sincerely,

A handwritten signature in cursive script that reads "Bill Sheffield". The signature is written in dark ink and is positioned above the typed name and title.

Bill Sheffield
Governor

5/8/85
pm

A M E N D M E N T S

TO: SCS FOR CS FOR HB 88 (JUDICIARY)

Amendment #1, Page 2, delete Sec. 4, lines 3 through 26, and add:

Sec. 4. AS 12.45.045(a) is amended to read:

Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a) In prosecutions for the crimes [CRIME] of sexual assault in any degree, sexual abuse of a minor in any degree, or unlawful exploitation of a minor, or an attempt to commit any of these crimes [SEXUAL ASSAULT IN ANY DEGREE], evidence of the complaining witness' previous sexual conduct may [SHALL] not be admitted nor may reference be made to it in the presence of the jury except as provided in this section. When the defendant seeks to admit the evidence for any purpose, the defendant shall [MAY] apply for an order of the court at any time before or during the trial or preliminary hearing. After the application is made, the court shall conduct a hearing in camera to determine the admissibility of the evidence. If the court finds that evidence offered by the defendant regarding the sexual conduct of the complaining witness is relevant, and that the probative value of the evidence offered is not outweighed by the probability that its admission will create undue prejudice, confusion of the issues, or unwarranted invasion of the privacy of the complaining witness, the court shall make an order stating what evidence may be introduced and the nature of the questions that may [WHICH SHALL] be permitted. The defendant may then offer evidence under the order of the court.

Amendment #2, Page 2, delete Section 5, Lines 27 through 29, and on Page 3, Lines 1 through 3.

Amendment #3, Page 3, delete Section.6, Lines 4 through 12.

Amendment #4, Page 5, delete Section 9, Lines 15 through-27.--

Amendment #5, Page 6, Delete Line 6, except for the semi-colon.

*Renumber the following bill sections accordingly.

a.m.
Outdated
Pulled

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Amendment #3, Page 3, delete Section 6, Lines 4 through 12.

Amendment #4, Page 5, delete Section 9, Lines 15 through 27,
and add:

AS 47.10.142(c) is amended to read:

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the parents or the person or persons having custody of the child. If the department determines that continued custody is necessary to protect the child, the department shall notify the court of the emergency custody by filing, within 12 hours after custody was assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a petition alleging that the child is a child in need of aid.

Amendment #5, Page 6, Delete Line 6, except for the semi-colon.

*Renumber the following bill sections accordingly.

Offered: 5/4/85
Referred: Rules

Original sponsor: Rules/Governor

1 IN THE HOUSE BY THE FINANCE COMMITTEE
2 CS FOR HOUSE BILL NO. 88 (Finance)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - FIRST SESSION
5 A BILL
6 For an Act entitled: "An Act relating to the protection of children,
7 family members, and dependent adults; and providing
8 for an effective date."
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
10 * Section 1. AS 11.61.125(a) is amended to read:
11 (a) A person commits the crime of distribution of child pornog-
12 raphy if the person brings or causes to be brought into the state for
13 [SALE OR] distribution, or in the state distributes, or in the state
14 possesses, prepares, publishes, or prints with intent to distribute,
15 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
16 ial that visually depicts conduct described in [UNDER] AS 11.41.-
17 455(a), knowing that the production of the material involved the use
18 of a child under 18 years of age who engaged in the conduct.
19 * Sec. 2. AS 11.61.125 is amended by adding a new subsection to read:
20 (d) In this section, "distribution" includes delivering, sell-
21 ing, renting, leasing, lending, giving, circulating, exhibiting,
22 presenting, providing, and exchanging, whether or not for monetary or
23 other consideration.
24 * Sec. 3. AS 12.10.020(c) is amended to read:
25 (c) Even if the general time limitation has expired, a prose-
26 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
27 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense
28 committed against a person under the age of 16 may be commenced within
29 one year after the crime is reported to a peace officer or the person

1 reaches the age of 16, whichever occurs first. This subsection does
2 not extend the period of limitation by more than five years.

3 * Sec. 4. AS 12.45.045(a) is amended to read:

4 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR
5 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)
6 In prosecutions for the crimes [CRIME] of sexual assault in any de-
7 gree, sexual abuse of a minor in any degree, or unlawful exploitation
8 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-
9 SAULT IN ANY DEGREE], evidence of the complaining witness' previous
10 sexual conduct may [SHALL] not be admitted nor may reference be made
11 to it in the presence of the jury except as provided in this section.
12 When the defendant seeks to admit the evidence for any purpose, the
13 defendant shall [MAY] apply for an order of the court at any time
14 before or during the trial or preliminary hearing. After the applica-
15 tion is made, the court shall conduct a hearing in camera to determine
16 the admissibility of the evidence. If the court finds that evidence
17 offered by the defendant regarding the sexual conduct of the complain-
18 ing witness is relevant, and that the probative value of the evidence
19 offered is not outweighed by the probability that its admission will
20 create undue prejudice, confusion of the issues, or unwarranted inva-
21 sion of the privacy of the complaining witness, the court shall make
22 an order stating what evidence may be introduced and the nature of the
23 questions that may [WHICH SHALL] be permitted. The defendant may then
24 offer evidence under the order of the court.

25 * Sec. 5. AS 25.35.010(a) is repealed and reenacted to read:

26 (a) A person who is subjected to domestic violence may petition
27 a superior court for injunctive relief restraining the infliction of
28 further domestic violence against the petitioner by the respondent.
29 The court may appoint a guardian ad litem or attorney to represent a

1 minor who is subject to this chapter in the same manner as an attorney
2 may be appointed under AS 25.24.310.

3 * Sec. 6. AS 25.35.060 is amended to read:

4 Sec. 25.35.060. DEFINITIONS. In this chapter, "domestic vio-
5 lence" means a crime under AS 11.41 when the victim is a spouse or a
6 former spouse of the respondent; a parent, grandparent, child, or
7 grandchild of the respondent; [,] a member of the social unit composed
8 [COMPRISED] of those living together in the same dwelling as the
9 respondent; [,] or a person who is not a spouse or former spouse of
10 the respondent but who previously lived in a spousal relationship with
11 the respondent.

12 * Sec. 7. AS 47.10.010(a) is amended to read:

13 (a) Proceedings relating to a minor under 18 years of age resid-
14 ing or found in the state are governed by this chapter, except as
15 otherwise provided in this chapter, when the court finds the minor

16 (1) to be a delinquent minor as a result of violating a
17 criminal law of the state or of a municipality of the state; or

18 (2) to be a child in need of aid as a result of

19 (A) the child being habitually absent from home or
20 refusing to accept available care, or having no parent, guardian,
21 custodian or relative caring or willing to provide care, includ-
22 ing physical abandonment by

23 (i) both parents,

24 (ii) the surviving parent, or

25 (iii) one parent if the other parent's rights and
26 responsibilities have been terminated under AS 47.10.080 or
27 voluntarily relinquished;

28 (B) the child being in need of medical treatment to
29 cure, alleviate, or prevent substantial physical harm, or in need

1 of treatment for mental harm as evidenced by failure to thrive,
2 severe anxiety, depression, withdrawal, or untoward aggressive
3 behavior or hostility toward others, and the child's parent,
4 guardian, or custodian has knowingly failed [PARENTS ARE UNWILL-
5 ING] to provide the [MEDICAL] treatment;

6 (C) the child having suffered substantial physical
7 harm or if there is an imminent and substantial risk that the
8 child will suffer such harm as a result of the actions done by or
9 conditions created by the child's parent, guardian or custodian
10 or the failure of the parent, guardian or custodian adequately to
11 supervise the child;

12 (D) the child having been sexually abused either by
13 the child's parent, guardian or custodian, or as a result of
14 conditions created by the child's parent, guardian or custodian,
15 or by the failure of the parent, guardian or custodian adequately
16 to supervise the child;

17 (E) the child committing delinquent acts as a result
18 of pressure, guidance, or approval from the child's parents,
19 guardian or custodian;

20 (F) the child having suffered substantial physical
21 abuse or neglect as a result of conditions created by the child's
22 parent, guardian or custodian.

23 * Sec. 8. AS 47.10.142(a) is repealed and reenacted to read:

24 (a) The Department of Health and Social Services may take emer-
25 gency custody of a minor upon discovering any of the following circum-
26 stances:

27 (1) the minor has been abandoned;

28 (2) the minor has been grossly neglected by the minor's
29 parents or guardian as "neglect" is defined in AS 47.17.070(5), and

1 the department determines that immediate removal from the minor's
2 surroundings is necessary to protect the minor's life or provide
3 immediate necessary medical attention;

4 (3) the minor has been subjected to child abuse or neglect
5 by a person responsible for the minor's welfare, as "child abuse or
6 neglect" is defined in AS 47.17.070(1), and the department determines
7 that immediate removal from the minor's surroundings is necessary to
8 protect the minor's life or that immediate medical attention is
9 necessary; or

10 (4) the minor has been sexually abused under circumstances
11 listed in AS 47.10.010(a)(2)(D).

12 * Sec. 9. AS 47.10.142(c) is amended to read:

13 (c) When a child is taken into custody under (a) or (b) of this
14 section, the department shall immediately, and in no event more than
15 12 hours later unless prevented by lack of communication facilities,
16 notify the parents or the person or persons having custody of the
17 child. If the department determines that continued custody is neces-
18 sary to protect the child, the department shall notify the court of
19 the emergency custody by filing, within 12 hours after custody was
20 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
21 tion alleging that the child is a child in need of aid.

22 * Sec. 10. AS 47.17.010 is amended to read:

23 Sec. 47.17.010. PURPOSE. In order to protect children whose
24 health and well-being may be adversely affected through the inflic-
25 tion, by other than accidental means, of harm through child [PHYSICAL]
26 abuse or neglect [OR SEXUAL ABUSE OR SEXUAL EXPLOITATION,] the
27 legislature requires the reporting of these cases by practitioners of
28 the healing arts and others to the appropriate public authorities. It
29 is the intent of the legislature that, as a result of these reports,

1 protective services will be made available in an effort to prevent
2 further harm to the child, to safeguard and enhance the general well-
3 being of the children in this state, and to preserve family life
4 whenever preserving it is in the best interests of the child [POS-
5 SIBLE].

6 * Sec. 11. AS 47.17.020(a) is amended to read:

7 (a) The following persons who, in the performance of their
8 occupational [PROFESSIONAL] duties, have cause to believe that a child
9 has suffered harm as a result of child abuse or neglect shall
10 immediately report the harm to the nearest office of the department:

11 (1) practitioners of the healing arts;

12 (2) school teachers and school administrative staff members
13 of public and private schools;

14 (3) social workers;

15 (4) peace officers, and officers of the Department of
16 Corrections;

17 (5) administrative officers of institutions;

18 (6) child [LICENSED DAY] care providers [AND PAID STAFF];

19 (7) paid employees of domestic violence and sexual assault
20 programs, and crisis intervention and prevention programs as defined
21 in AS 18.66.900 [LICENSED FOSTER CARE PROVIDERS].

22 * Sec. 12. AS 47.17.020(b) is amended to read:

23 (b) This section does not prohibit the named persons from
24 reporting cases that [WHICH] have come to their attention in their
25 nonoccupational [NONPROFESSIONAL] capacities, nor does it prohibit any
26 other person from reporting a child's harm that [WHICH] the person has
27 cause to believe is a result of child abuse or neglect. These reports
28 shall be made to the nearest office of the department.

29 * Sec. 13. AS 47.17.020 is amended by adding a new subsection to read:

1 (d) This section does not require a religious healing practi-
2 tioner to report as neglect of a child the failure to provide medical
3 attention to the child if the child is provided treatment solely by
4 spiritual means through prayer in accordance with the tenets and
5 practices of a recognized church or religious denomination by an
6 accredited practitioner of the church or denomination.

7 * Sec. 14. AS 47.17 is amended by adding a new section to read:

8 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
9 who, in the course of processing or producing visual or printed
10 matter, either privately or commercially, has reason to believe that
11 the matter visually depicts a child engaged in conduct described in
12 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
13 ment agency.

14 * Sec. 15. AS 47.17.064 is repealed and reenacted to read:

15 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. (a) The department or
16 a practitioner of the healing arts may, without the permission of the
17 parents, guardian, or custodian, take the following actions with
18 regard to a child believed to have suffered physical harm as a result
19 of child abuse or neglect:

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

22 (2) if medically indicated, have a radiological examination
23 of the child performed by a person who is licensed to administer a
24 radiological examination.

25 (b) The department or a practitioner of the healing arts shall
26 notify the parents, guardian, or custodian of a child as soon as
27 possible after taking action under (a) of this section with regard to
28 the child.

29 * Sec. 16. AS 47.17.068 is repealed and reenacted to read:

1 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person who
2 knowingly fails or refuses to report as required under AS 47.17.020 or
3 47.17.023 is guilty of a class B misdemeanor.

4 * Sec. 17. AS 47.17 is amended by adding a new section to read:

5 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) A court may enjoin
6 or limit a person from contact with a child if the attorney general
7 establishes by a preponderance of the evidence that the person

8 (1) has sexually abused a child;

9 (2) has physically abused a child; or

10 (3) has engaged in conduct that constitutes a clear and
11 present danger to the mental, emotional, or physical welfare of a
12 child.

13 (b) This section does not limit the authority of the attorney
14 general or the court to act to protect a child.

15 * Sec. 18. AS 47.17.070(6) is amended to read:

16 (6) "practitioner of the healing arts" includes chiroprac-
17 tors, dental hygienists, dentists, health aides, nurses, nurse practi-
18 tioners, optometrists, osteopaths, physical therapists, physicians,
19 physician's assistants, psychiatrists, psychologists, psychological
20 associates, religious healing practitioners, and surgeons;

21 * Sec. 19. AS 47.17.070 is amended by adding new paragraphs to read:

22 (8) "child care provider" means an adult individual, or an
23 employee of an organization, who provides care and supervision to a
24 child for compensation;

25 (9) "organization" means a group or entity that provides
26 care and supervision for compensation to a child not related to the
27 caregiver, and includes a child care facility, pre-elementary school,
28 head start center, child foster home, residential child care facility,
29 recreation program, children's camp, and children's club;

1 (10) "person responsible for the child's welfare" means the
2 child's parent, guardian, foster parent, a person responsible for the
3 child's care at the time of the alleged child abuse or neglect, or a
4 person responsible for the child's welfare in a public or private
5 residential agency or institution.

6 * Sec. 20. AS 47.35.070 is amended to read:

7 Sec. 47.35.070. VIOLATIONS. A person who violates a provision
8 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted
9 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B
10 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
11 THAN \$200].

12 * Sec. 21. AS 47.35.070 is amended by adding a new subsection to read:

13 (b) The department may by regulation devise a system of civil
14 enforcement. The system may employ civil penalties not to exceed \$200
15 for each day during which one or more violations of a licensing stat-
16 ute or licensing regulation occurs. The imposition of a civil penalty
17 does not prevent prosecution and sentence for a criminal offense.

18 * Sec. 22. Section 5 of this Act takes effect September 30, 1985.

COMMITTEE REPORT
SENATE

FURTHER: FINANCE

5/6/85

Date 5-7-85

Mr. President

The Committee on JUDICIARY considered CSHB 88 (Fin)
protection of children, family members, and dependent adults; efd.

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

- do pass
- do pass with attached amendment(s)
- replace with/or adopt SCS for CSHB 88 (Judiciary)
 new title
- same title and recommends _____
- and attached a "LETTER OF INTENT" NEW FISCAL NOTE
- reports it back without recommendation
- recommends referral to _____ Committee

MEMBERS SIGNING
DO PASS

3 copies
Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS

James H. McRae

William J. Zeleny
Chairman

DO PASS
Chairman recommendation

COMMITTEE REPORT

SENATE

FURTHER: FINANCE

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MEMBERS SIGNING
DO PASS

Zeigler
Tim Kelly

MEMBERS HAVING
OTHER RECOMMENDATIONS

James Smith no rec

[Signature]
Chairman.
DO PASS
Chairman recommendation