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STATE OF ALASKA THE LEGISLATURE

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JUNEAU, ALASKA 99811
907-465-3800

LEGISLATIVE AFFAIRS AGENCY

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May, 1986

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS date base CM 14. In order to save space copies of minutes have not been left in the files.

Jeanie Henry

Senate Health Education & Social Services Committee 4/10/86, 1:42 pm
" " " " " " 4/15/86, 1:43 pm

COMMITTEE REPORT



SENATE

FURTHER: JUDICIARY

3/27/86

Date April 15, 1986

Mr. President

The Committee on HESS considered CSSSHB 471(Jud) relating to the abuse and exploitation of children.

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 CS for _____
- 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

MEMBERS HAVING
OTHER RECOMMENDATIONS

Joe Josephson
Arthur Stanguloch

Ed De Vries N.R.
Paul Frick N. Rec.

DeWayne J. Jansen
Arthur Stanguloch
Chairman

Chairman recommendation

Alaska State Legislature

Sandra

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



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STATE CAPITOL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3762

Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 10, 1986

DATE: April 8, 1986

On Thursday, April 10, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will receive a briefing by the Department of Health and Social Services on implementation of our state's child protection laws. The Department has specifically been asked to address emergency custody procedures, treatment of runaway youth, the issue of parents rights in child protection proceedings, and recommendations for improvements to the system. The Department will be available for discussion of additional items as well.

In conjunction with the briefing, public testimony will be taken on:

CS SSHB 471 (Jud) Relating to abuse and exploitation of children

Current statute requires certain health and child care professionals to report suspected cases of abuse by "persons responsible for the child's welfare." HB 471 would expand the reporting requirement to include suspected abuse by persons not responsible for the child's welfare. Reports would be made to law enforcement agencies.

HB 471 is intended to encourage persons to report assaults against children by removing the burden of determining who caused the abuse.

Offered: 3/14/86
Referred: Rules

Original sponsors: Goll and Gruenberg

1 IN THE HOUSE BY THE JUDICIARY COMMITTEE
2 CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (Judiciary)
3 IN THE LEGISLATURE OF THE STATE OF ALASKA
4 FOURTEENTH LEGISLATURE - SECOND SESSION
5 A BILL

6 For an Act entitled: "An Act relating to the abuse and exploitation of
7 children."

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

9 * Section 1. AS 47.17.020 is amended by adding a new subsection to
10 read:

11 (e) A person listed in (a) of this section, who in the perfor-
12 mance of the person's occupational duties has cause to believe that a
13 child has suffered harm as a result of abuse, shall promptly report
14 the harm to the nearest ^{police officer} (law enforcement agency) if the person making
15 the report (1) has cause to believe that the harm was caused by a
16 person who is not responsible for the child's welfare; or (2) is
17 unable to determine (A) who caused the harm to the child; or (B)
18 whether the person who is believed to have caused the harm has respon-
19 sibility for the child's welfare. If a person making a report under
20 this subsection cannot reasonably contact the nearest ^{police officer} (law enforcement
21 agency) and immediate action appears necessary for the well-being of
22 the child, the person shall make the report to the nearest office of
23 the department. The department shall take immediate action to protect
24 the child and shall, at the earliest opportunity, notify the nearest
25 law enforcement agency. In this subsection, "abuse" means the phys-
26 ical injury, sexual abuse, sexual exploitation, or maltreatment of a
27 ^(under chapeau of 18) child by any person under circumstances that indicate that the child's
28 health or welfare is harmed or threatened.

29 * Sec. 2. AS 47.17.070(10) is amended to read:

OK.
already defined

1 (10) "sexual exploitation" includes [MEANS]
2 (A) allowing, permitting, or encouraging [PERMISSION
3 OR ENCOURAGEMENT TO] a child to engage in [FOR] prostitution
4 prohibited by AS 11.66.100 - 11.66.150, by a person responsible
5 for the child's welfare;
6 (B) allowing, permitting, encouraging, or engaging in
7 [PERMISSION, ENCOURAGEMENT, OR] activity [INVOLVED IN THE UNLAW-
8 FUL EXPLOITATION OF A MINOR] prohibited by AS 11.41.455(a)
9 [11.41.455], by a person responsible for the child's [MINOR'S]
10 welfare.

Sec. 47.17.010. Purpose.

NOTES TO DECISIONS

Cited in *Gerlach v. State*, Ct. App. Op.
No. 468 (File No. A-501), P.2d
(1985).

Sec. 47.17.020. Persons required to report. (a) The following persons who, in the performance of their occupational duties, have cause to believe that a child has suffered harm as a result of child abuse or neglect shall immediately report the harm to the nearest office of the department:

- (1) practitioners of the healing arts;
- (2) school teachers and school administrative staff members of public and private schools;
- (3) social workers;
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) child care providers;
- (7) paid employees of domestic violence and sexual assault programs, and crisis intervention and prevention programs as defined in AS 18.66.900.

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

(c) If the person making a report of harm under this section cannot reasonably contact the nearest office of the department and immediate action is necessary for the well-being of the child, the person shall make the report to a peace officer. The peace officer shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest office of the department.

(d) This section does not require a religious healing practitioner 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 through prayer in accordance with the tenets and practices of a recognized church or religious denomination by an accredited practitioner of the church or denomination. (§ 1 ch 100 SLA 1971; am §§ 4, 5 ch 104 SLA 1982; am E.O. No. 55, § 42 (1984); am §§ 8—10 ch 39 SLA 1985)

Helping the abused

Legally mandated reports of child abuse would no longer point a finger at a suspect, under a bill passed by the state House earlier this week.

The bill solves a problem that inhibits reporting of child abuse. Alaska law now requires health and child care professionals to make a report, but only in cases of abuse by "a person responsible for the child's welfare," such as a parent or guardian.

Under this law, the worker's report can be construed as an accusation against the parent or guardian. If the person who discovers the abuse isn't sure who did it, he may not go out on a limb to report it. That's especially true in close-knit rural communities. Under the House bill, a report would carry no presumption of who committed the abuse, leaving that to the authorities to discover.

The bill also fixes an anomaly in the current law, which doesn't require a report if the suspect is not someone responsible for the child's welfare. The House bill would require those who work with children to report any abuse that endangers a child's health.

Abuse is one of the worst fates that can befall a child, but it can't be stopped until it's detected. Under HB 471, more abused children should get help because it will be easier to report their cases. The bill deserves swift approval in the Senate.

51-20R11L 3-76-86 JUNE 11 1986

Wider reporting of abuse cases favored

3-76

FAIRBANKS NEWS MINN

JUNEAU (AP)—The House has passed a bill that would permit teachers, police officers, social workers and other professionals to report suspected cases of child abuse—no matter who they think might be to blame.

Current law says professionals are required to report suspected child abuse cases only when they believe the injury was caused by a parent or guardian.

The House measure would close a loophole by allowing people to report violence against a child without having to make an accusation against anyone, said Rep. Peter Goll, a Haines Democrat who is one of the prime sponsors of the bill.

The proposal passed the House Monday after lengthy debate about some of the language in the bill, but could come up for more discussion before being sent to the Senate.

A state attorney said the measure (CSHB471) would take the burden off professionals who think a

child has been abused, but aren't sure who caused the injury.

"The law should not place teachers, nurses, or day care workers in a position where they must try to guess the identity of the abuser in order to decide if they are required to report their concern for a battered or sexually abused child," Assistant Attorney General Gayle Horetski wrote in a letter to Goll last week.

House members passed the bill on a 36-to-3 vote, but not before a long debate about whether the measure makes it too easy for people to file unfounded child abuse charges.

Some legislators told stories of parents who were falsely accused of child abuse, yet subjected to public scorn because of the charges.

But two amendments which would have required stronger proof before suspected child abuse could be reported were defeated.

"All this does is say you no longer have to make a determination of

who the offender was," Goll said in an interview.

The measure has been strongly backed by the Departments of Law, Public Safety and Health and Social Services, he said.

State. Sup. Ct. Op.
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(d) If the court finds that probable cause exists, it shall determine whether the minor should be detained pending the hearing on the petition or released. It may either order the minor held in detention or released to the custody of a suitable person pending the hearing on the petition. If the court finds no probable cause, it shall order the minor released and close the case.

(e) Except for temporary detention pending a detention hearing, a minor may be detained only by court order.

(f) [Repealed, § 3 ch 42 SLA 1985.]

(g) [Repealed, § 3 ch 42 SLA 1985.](§ 15 art I ch 145 SLA 1957; am § 3 ch 118 SLA 1962; am § 2 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am §§ 1, 2 ch 128 SLA 1972; am §§ 1, 3 ch 42 SLA 1985)

Effect of amendments. — The 1985 amendment rewrote subsection (e) and repealed subsections (f) and (g).

Sec. 47.10.141. Runaway and missing minors. (a) Upon receiving a request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public Safety Information Network and the National Crime Information Center computer system. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to either (1) return the minor to the legal custodian or (2) take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if

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Sec. 47.10.141. Runaway and missing minors. (a) Upon receiving a request to locate a minor evading the minor's legal custodian or to locate a minor otherwise missing, a law enforcement agency shall make reasonable efforts to locate the minor and shall immediately complete a missing person's report containing information necessary for the identification of the minor. As soon as practicable, but not later than 24 hours after completing the report, the agency shall transmit the report for entry into the Alaska Public Safety Information Network and the National Crime Information Center computer system. As soon as practicable, but not later than 24 hours after the agency learns that the minor has been located, it shall request that the Department of Public Safety and the Federal Bureau of Investigation remove the information from the computer systems.

(b) A peace officer shall take into protective custody a minor described in (a) of this section if the minor is not otherwise subject to arrest or detention. The peace officer shall honor the minor's preference to either (1) return the minor to the legal custodian or (2) take the minor to an office specified by the Department of Health and Social Services or a facility or contract agency of the department. If an office specified by the department or a facility or contract agency of the department does not exist in the community, the officer shall take the minor to another suitable location and promptly notify the department. A minor under protective custody may not be housed in a jail or other detention facility. Immediately upon taking a minor into protective custody the officer shall advise the minor orally and in writing of the right to social services under AS 47.10.142(b), and, if

known, the officer shall advise the legal custodian that the minor has been taken into protective custody. (§ 2 ch 42 SLA 1985)

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

(1) the minor has been abandoned;

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

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

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

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

(c) When a child is taken into custody under (a) or (b) of this section, the department shall immediately, and in no event more than 12 hours later unless prevented by lack of communication facilities, notify the 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, a petition alleging that the child is a child in need of aid. If the department releases the child within 12 hours after taking the child into custody and does not file a child in need of aid petition the department shall, within 12 hours after releasing the child, file with the court a report explaining why the child was taken into custody.

(d) The court shall immediately, and in no event more than 48 hours after being notified unless prevented by lack of transportation, hold a hearing at which the minor, if the minor's health permits, and the minor's parents or guardian, if they can be found, shall be

§ 47.10.142

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§ 47.10.230 WELFARE, SOCIAL SERVICES & INSTITUTIONS § 47.10.230

permitted to be present. The court shall determine whether probable cause exists for believing the minor to be a child in need of aid, as defined in AS 47.10.290. The court shall inform the minor, and the minor's parents or guardian if they can be found, of the reasons given as constituting probable cause and the reasons given as authorizing the minor's temporary placement.

(e) If the court finds that probable cause exists it shall order the minor committed to the department for temporary placement, or order the minor returned to the custody of the minor's parents or guardian subject to the department's supervision of the minor's care and treatment. If the court finds no probable cause it shall order the minor returned to the custody of the minor's parents or guardian. (§ 3 ch 100 SLA 1971; am § 6 ch 104 SLA 1971; am § 24 ch 63 SLA 1977; am § 2 ch 104 SLA 1982; am §§ 6, 7 ch 39 SLA 1985)

Effect of amendments. — The 1985 amendment, effective July 1, 1985, rewrote subsections (a) and (c).

NOTES TO DECISIONS

Cited in *Gerlach v. State*, Ct. App. Op. No. 468 (File No. A-501), P.2d (1985).

Article 3. Care of Children.

Sec. 47.10.230. Powers and duties of department over care of child.

NOTES TO DECISIONS

Quoted in *In re J.R.S.*, Sup. Ct. Op. No. 2869 (File Nos. 7421, 7422), 690 P.2d 10 (1984).

Chapter 17. Child Protection.

Section
20. Persons required to report
23. Reports regarding child pornography
64. Photographs and x-rays

Section
68. Penalty for failure to report
69. Protective injunctions
70. Definitions

HB 471

BILL SHEFFIELD, GOVERNOR

REPLY TO

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 21, 1986

CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-328

OFFICE OF SPECIAL PROSECUTIONS
AND APPEALS
1031 WEST 4TH AVENUE, SUITE 318
ANCHORAGE, ALASKA 99501-5993
PHONE: (907) 279-7424

The Honorable Peter Goll
Alaska House of Representatives
P.O. Box V
Juneau, Alaska 99811

Re: HB 471, "An Act relating to the abuse and neglect of children."

Dear Representative Goll:

Under existing law (AS 47.17.020(a)), certain professional persons such as doctors, social workers, and school teachers are required to report suspected cases of child abuse or neglect to the Department of Health and Social Services. These reporting requirements apply, however, only if the person required to report suspects that the harm to the child was caused by "a person who is responsible for the child's welfare," such as a parent or guardian. See AS 47.17.070(2) and (8).

HB 471 adds a new subsection (e) to existing AS 47.17.020, to require that the professional persons listed in AS 47.17.020(a) report all cases of suspected child abuse, regardless of the identity of the perpetrator. This is a beneficial change to existing law, as often a school teacher or day care worker who suspects that a child is being physically or sexually abused may have no knowledge as to the identity of the perpetrator. Under this new provision, unless there is reason to suspect that the perpetrator is a parent or guardian, reports of harm to a child would be made to the nearest law enforcement agency.

The law should not place teachers, nurses, or day care workers in a position where they must try to guess the identity of the abuser in order to decide if they are required to report their concern for a battered or sexually abused child. Under this bill, such persons would make a report, either to DHSS or to a local law enforcement agency, and social workers and/or police officers would then conduct an investigation to find out whom, if anyone, has been mistreating the child.

The Honorable Peter Goll

March 21, 1986

Page -2-

The Department of Law supports this tightening of the reporting requirements, contained in § 1 of all four versions of the bill. The protection of the law should be accorded to all abused or mistreated children, regardless of whether the perpetrator of the abuse is the child's parent, other relative, scout leader, babysitter, or a total stranger.

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By: 

Gayle A. Horetski
Assistant Attorney General

GAH/gb-09

POSITION PAPER

CS FOR SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 471 (HESS)

For an Act entitled: "An Act relating to the abuse and neglect of children."

The bill as originally proposed would add to and clarify the responsibility of persons now required to report instances of suspected child abuse or neglect. It would make reporting mandatory in suspected instances of child abuse or neglect involving perpetrators who are not responsible for the child's welfare or in situations in which the perpetrator is unknown. The current statute requires that specified persons report only when it is suspected that the person responsible for the child's welfare is the perpetrator.

The amendment also requires that reports of abuse or neglect of this nature be reported to the nearest law enforcement agency, as distinguished from reports involving perpetrators within the family, which are reported to the Department of Health and Social Services.

The HESS Committee Substitute also added a new section two which would amend AS 47.17.07u(10) to broaden the definition of sexual exploitation. Our goal is to meet the federal model language for defining sexual exploitation and, thereby, close a possible loophole in the present definition. Under the current definition, a caretaker could be aware that a child was involved in sexually exploitative activities, but still not be held liable because, although aware, the caretaker did not actually give permission for the child to engage in the activity. Suggested language would not require affirmative action by the caretaker, and the department supports section two.

The department continues to support this bill.

RECOMMENDED:

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

DATE:

March 12, 1986

APPROVED:

John R. Pugh
for John R. Pugh, Commissioner
Department of Health
and Social Services

DATE:

March 12, 1986

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - SSHB 471

January 31, 1986

Support

HB 471 - "An Act relating to the abuse and neglect of children."

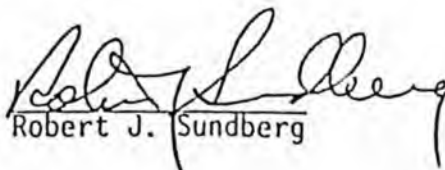
The Council on Domestic Violence and Sexual Assault supports HB 471 which adds a new section requiring that reports of harm to children caused by persons not responsible for the child's welfare be reported to law enforcement agencies. Existing legislation requires only reporting child abuse committed by persons responsible for a child's welfare.

Recent cases in Alaska and national studies show that non-familial child sexual assault is a major problem. In a study of child sexual abuse conducted by Dr. Anne Russell, an expert on adult and child sexual assault, 11 percent of the perpetrators were total strangers, 29 percent were relatives and 60 percent were known but unrelated to the victim.

It has been assumed that people accept their responsibility to report crimes against children to law enforcement agencies. However, this has not always proven to be the case. People may be reluctant to become involved with the criminal justice system because of the time required for the process. This reluctance is exacerbated in small communities where the alleged perpetrator is a peer and possibly a friend. This legislation provides a needed incentive to assure reporting of all assaults against children.

In order to more fully guarantee protection of children, all suspicions of child abuse should be investigated so the abuse can be stopped and the child and her/his family can receive the necessary support and treatment to overcome the trauma.

A suggested change to be made in the bill is to make the language in the bill that refers to the "nearest law enforcement agency" consistent with the language in the existing statute 47.17.020(c), to make reports to "a peace officer".


Robert J. Sundberg

TO: SENATOR JAN FAIKS
SENATOR RICK HALFORD

FROM: ELIZABETH J. HICKERSON

SUBJECT: LEGISLATIVE BUDGET AND AUDIT CONCERNING
TROUBLED AND RUNAWAY YOUTH

DATE: APRIL 7, 1986

Based on my experience with the state agencies and their grantees which provide services to troubled and runaway youths and their families, it is my conclusions that things are not going well. Intent language for an assessment and plan for troubled and runaways youths has already been submitted for inclusion in Health and Social Services budget.

In order to gather needed information on this issue, I believe that Budget and Audit should do a review, similar to the one prepared on the Division of Mental Health and Developmental Disabilities. There are several agencies which should be included: Family and Youth Services, Youth Services, Mental Health and Developmental Disabilities, Alcohol and Drug Abuse Services, the Department of Education, state and local law enforcement agencies, and the court system.

The grantees of these agencies provide crucial services and therefore should be included. Foster care, residential child care, community mental health grants, and drug and alcohol abuse grants are several service providers for review.

The purpose of the report should include:

1. Evaluation of the management, administrative, and budgetary operations of these agencies and their grantees for economy and efficiency in achieving program results as established by law and regulation.
2. Determination of the extent of coordination of efforts between these agencies including their grantees in the delivery of services.
3. Evaluation of the criteria, procedures, and case management for referral, handling and treatment of troubled and runaway youths and their families by these agencies and their grantees.

Suggested intent language for assessment and plan for troubled youth, ^{and} including runaways, for inclusion in the Health and Social Services Budget.

\$30,000 is appropriated for a needs assessment and plan for severely troubled youth, ^{and} including runaways, ~~who have multiple~~ needs.

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The Commissioners of the Departments of Health and Social Services and Education will jointly appoint a responsible party for ensuring the completion of a needs assessment and the development of a state plan for the handling of severely troubled and runaway youths and for providing services to these youths. The plan shall be submitted to the Speaker of the House of Representatives, the President of the Senate, and the Governor no later than February 1, 1987.

The plan shall include:

1. Needs assessment for the state to include a count of troubled youth and runaways.
2. Criteria and procedures for handling and referral of troubled youths and runaway youths using the least restrictive alternatives available.
3. Provisions for contacting parents or guardians;
4. Review and analysis of the impact of statutes related to serving troubled youth across agencies and departments.
5. Policy for coordinating relationships between involved agencies, runaway youth centers, law enforcement agencies, and the departments;
6. Policy for ensuring that treatment programs do not exclude troubled youth on the basis of running away;
7. Statewide statistics on client groups;
8. An estimate of funding needed to appropriately serve this population;
9. Standards and program goals for treatment services for troubled youths, ^{and} including runaways, with emphasis on early intervention, aftercare, and coordination of services across all involved agencies.

DOE/RSA?

Include

goal -
DHS services affect
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leg. audit - needs of troubled children
DOE - emotionally disturbed
DMH - severely emot. disturb
DFYS - child in custody or being, who are
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grants

Alaska State Legislature

BETTYE FAHRENKAMP, Chairman
ARLISS STURGULEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DE VRIES



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Senate Committee on Health, Education and Social Services

M E M O R A N D U M

TO: Members, Senate Committee on Health, Education and Social Services

FROM: Committee Staff

RE: Committee Meeting, April 15, 1986

DATE: April 11, 1986

On Tuesday, April 15, 1986 from 1:30-3:30 p.m. in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear the following legislation:

CS SSHB 471 (Jud) Relating to abuse and exploitation of children

Current statute requires certain health and child care professionals to report suspected cases of abuse by "persons responsible for the child's welfare." HB 471 would expand the reporting requirement to include suspected abuse by persons not responsible for the child's welfare. Reports would be made to law enforcement agencies.

HB 471 is intended to encourage persons to report assaults against children by removing the burden of determining who caused the abuse.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CS SS HB471(HESS) No 1
 Title : "An Act relating to the abuse and neglect of children"
 Sponsor : Goli and Gruenberg
 Requestor : H. Judiciary
 Date of Request : _____

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Council on Domestic Violence and Sexual Assault
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

K. L. L.
 Prepared by: Barbara Miklos, Exec. Director Phone: 465-4356
 Division: COUNCIL on DV/SA Date: 2/10/86

Approved by Commissioner: *[Signature]* Date: 2/13/86
 Agency: Dept. of Public Safety

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date : _____

REQUEST

Bill Resolution No. : SSHB 471
 Title : "an act relating to the abuse and neglect of children."
 Sponsor : Rep. Goll and Rep. Gruenberg
 Requestor : H. HESS
 Date of Request : 1/28/86

FISCAL DETAIL

Agency Affected : Public Safety
 BRU : Alaska State Troopers
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

GENERAL FUND		0	0	0	0	0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: *Kathy Niles*
 Kathy Niles, Admin. Ass't
 Division : Commissioner's Office
 Phone : 465-4336
 Date : 1/27/86

Approved by Commissioner: *[Signature]*
 Agency : Public Safety
 Date : 1/28/86

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : SS HB 471
 Title : An Act relating to Abuse and Neglect of Children
 Sponsor : Goll and Gruenberg
 Requestor : _____
 Date of Request : 1/24/86

FISCAL DETAIL

Agency Affected : Health & Social Services
 BRU : Social Services
Youth Services
 Components : _____

EXPENDITURES/REVENUES : (Thousands of Dollars)

OPERATING	FY 86	FY 87	FY 88	FY 89	FY 90	FY 91
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		-0-	-0-	-0-	-0-	-0-
CAPITAL						
REVENUE						

FUNDING : (Thousands of Dollars)

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

POSITIONS :

FULL-TIME		-0-	-0-	-0-	-0-	-0-
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by: Michael L. Price, Director *Michael L. Price* Phone: 465-3170
 Division: Family and Youth Services Date: January 27, 1986 *cc*

Approved by Commissioner: John R. Pugh *John R. Pugh* Date: 1/28/86
 Agency: Health and Social Services

Distribution (by Agency preparing fiscal note):

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

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

BILL SHEFFIELD, GOVERNOR

POUCH N
JUNEAU, ALASKA 99811
PHONE: (907) 465-4356

OFFICE ADDRESS: 450 WHITTIER STRE.

October 31, 1985

The Honorable Mike Miller, Chair
House Judiciary Committee
Alaska State Legislature
Capitol Building
Pouch V
Juneau, Alaska 99811

Dear Representative Miller:

I've learned about your interim hearings to address legislation to further protect children. Thank you for the attention your committee has and continues to pay to these issues. I cannot attend the hearings on November 21-23, so I am writing this letter to provide input to your process.

The Council on Domestic Violence and Sexual Assault is grateful for the legislation regarding child protection that passed last session. It clarified and closed gaps in existing legislation. One section of HB88 that did not pass, which we feel is important, required reporting of child abuse committed by an individual who is not responsible for the child's welfare. Section 18 of the original HB88 amended AS 47.17 to address what we consider a major gap in the existing system.

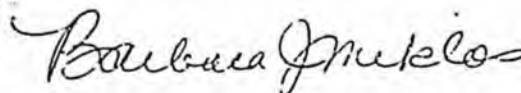
AS 47.17.02 requires reporting to the Department of Health and Social Services if "in the performance of their professional duties", a person listed in statute has "cause to believe that a child has suffered harm as a result of abuse or neglect". Section 47.17.070(i) defines child abuse or neglect as "the physical injury or neglect, sexual abuse, sexual exploitation or maltreatment of a child...by a person who is responsible for the child's welfare..." Therefore, there is no existing mandate for a professional to report abuse by a non-caretaker. For instance, a teacher who has reason to believe that another teacher is harming a child is not mandated to report.

Although, national statistics show that most abuse occurs in the home, it is obvious from talking to Alaskan professionals and reading the newspaper and police reports that there are many non-family incidences in our state. Often parents can and do take action if a non-family member is abusing the child. However, they may not know that abuse is occurring or where to turn if it does. Reporting these crimes will further protect children.

Representative Mike Miller
October 31, 1985
Page Two

We also feel it is necessary for the system to address the emotional needs of the child victims and families when abuse is by a person who is not responsible for the child's welfare. Presently, in Alaska, there are insufficient support and treatment resources for these cases. Domestic violence and sexual assault programs provide support, assistance and, in some cases, counseling to victims and their families. However, these services are severely limited due to insufficient funding. In order to address the needs of all victims and their families, legislation must address child protection adequately and resources must be provided so children throughout the state are given the services they need to grow up to be healthy adults.

Sincerely,



Barbara Miklos
Executive Director

cc: Members, Council on Domestic
Violence & Sexual Assault

Council funded programs

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 501 • Juneau, Alaska 99801 • (907) 586-3650

- Abused Women's Aid in Crisis (AWA/C);
- Advocates for Victims of Violence (AVV);
- Aiding Women in Abuse and Rape Emergencies (AWARE);
- Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
- Bering Sea Women's Group (BSWG);
- Cordova Women's Resource Center (CWRC); Emmonak Women's Shelter;
- Kodiak Women's Resource & Crisis Center (KWRC); MEN, Inc.;
- Men's Support Network (MSN); Safe & Fear-Free Environment (SAFE);
- Sitka's Against Family Violence (SAFV);
- Southwestern Alaska Council for the
- Prevention of Child Sexual Assault (SWACPSA);
- South Peninsula Women's Services (SWPS);
- Tundra Women's Coalition (TWC); Valley Women's Resource Center (VWRC);
- Women in Crisis Counseling & Assistance (WICCA);
- Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

POSITION PAPER: HB 471

The Alaska Network on Domestic Violence and Sexual Assault is a membership organization composed of 19 programs that provide domestic violence and sexual assault services throughout the state. We provide member programs with training, technical assistance and information concerning current issues in the field.

The Network supports House Bill 471. Statistics from the U.S. Dept. of Justice's National Symposium, Oct., 1984 (unpublished report), reveal that in 1984, 1 in 3 females and 1 in 3 males between the ages of 3 to 18 years had been sexually abused. 64 percent of these children were abused by non-family members. Most other studies indicate a significantly higher incidence of abuse outside of the family. Further research reports indicate that in 76 to 90 percent of all reported cases of child sexual abuse, the offender is either a relative or is known to the victim (Finkelhor, 1978; U.S. Dept. of Justice Symposium, 1984; Conte and Berliner, 1981). Taken together, the research infers that most reported offenses are committed by non-family members who are known to the children.

Many of the same factors that make it unlikely a child will report an incest violation also operate for a child who has been abused by someone they know. People sometimes find it difficult to accept this possibility and believe a child, a child is embarrassed and fears other repercussions. This can be especially true in Alaska's small villages and towns where many people have known each other for the better part of their lives.

The Network feels it is essentially sound public policy to clearly define child abuse as unacceptable behavior whether it occurs inside or outside of the family. We feel that this legislation moves us closer towards this goal by helping to ensure that cases of child abuse will be reported whether or not they occur within or outside of the family.

In fact, we believe that in many instances this legislation may make it easier for required reporters to report. These reporters will no longer be put in the position of "accusing the family" since they will be required to report suspected abuse irregardless of whether it occurred inside or outside of the family. It will be up to others who work in the field to make a determination as to who the abuser might be.



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL AMENDMENT REPORT

DEPARTMENT Health & Social Serv.	DIVISION <i>Amendment 2 Recd</i> Family & Youth Serv.	BILL NUMBER HB 471	SPONSOR
DEPARTMENT POSITION Support			
PREPARED	DATE	COMMISSIONER'S SIGNATURE <i>John P. ...</i>	DATE 3/21/86

SUMMARY

OTHER AGENCIES AFFECTED BY BILL Public Safety	CONSTITUENT GROUP(S) AFFECTED BY BILL Child victims of sexual exploitation and perpetrators.
ORGANIZATIONAL SUPPORT FOR BILL	ORGANIZATIONAL OPPOSITION TO BILL

CHANGE IN FISCAL IMPACT: NO YES — NEW FISCAL NOTE ATTACHED

COMPARISON TO LAST VERSION/PROGRAM EFFECTS

For an Act entitled: "An Act relating to the abuse and neglect of children."

The bill as originally proposed would add to and clarify the responsibility of persons now required to report instances of suspected child abuse or neglect. It would make reporting mandatory in suspected instances of child abuse or neglect involving perpetrators who are not responsible for the child's welfare or in situations in which the perpetrator is unknown. The current statute requires that specified persons report only when it is suspected that the person responsible for the child's welfare is the perpetrator.

AMENDMENTS PROPOSED

The amendment requires that reports of abuse or neglect of this nature be reported to the nearest law enforcement agency, as distinguished from reports involving perpetrators within the family, which are reported to the Department of Health and Social Services.

HESS Committee Substitute also added a new section two which would amend AS 47.17.070(10) to broaden the definition of sexual exploitation. Our goal is to meet the federal model language for defining sexual exploitation and, thereby, close a possible loophole in the present definition. Under the current definition, a caretaker could be aware that a child was involved in sexually exploitative activities, but still not be held liable because, although aware, the

Amendments Proposed (Continued)

caretaker did not not actually give permission for the child to engage in the activity. Suggested language would not require affirmative action by the caretaker, and the department supports section two.

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571. ANCHORAGE. ALASKA 99510

March 6, 1986

Honorable Mike M. Miller, Chairman
House Judiciary Committee

Mr. Chairman and members of the committee:

The Alaska Women's Lobby would like to express it's strong support for HB 471 which addresses a serious loophole in the state's reporting statute on child abuse and neglect.

The flaw requires that the person who recognizes that a child has suffered harm must first make a determination of who caused the harm and is only required to report if they believe the harm was caused by a person responsible for the child's welfare.

This legislation addresses that flaw by requiring that all suspected cases of child abuse and neglect must be reported regardless of who may have caused the harm. It also clarifies the definition of child sexual exploitation.

We believe the changes provided by HB 471 will benefit the welfare of Alaskan children and we urge it's passage.

Thank you for your consideration.

Sherrie Goll

Sherrie Goll
Alaska Women's Lobby



ALASKA
CHAPTER

NATIONAL ASSOCIATION OF
SOCIAL WORKERS

April 2, 1986

The Honorable Rick Halford
Alaska State Legislature
Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Halford:

Thank you for the assistance you have continued to give the Alaska Chapter of NASW regarding the implementation of a foster care review system by the Alaska Division of Family and Youth Services, in response to the requirements of Public Law 96-272. We are aware of the permanency planning project in Southeastern Alaska which is implementing an independent foster care review demonstration project in conjunction with the Division under the auspices of the First Judicial District.

Because of recent progress which has been made on the problems of long term foster care placements in Alaska, the Alaska Chapter NASW, Board of Directors has determined that it would be beneficial to permit these review systems to operate for a time and be evaluated rather than pursue passage of House Bill 297 at this point.

In conjunction with that determination, however, we still have a number of concerns. First, we are concerned that the foster care review system be implemented on a statewide basis and we have requested from the Division a copy of their plan and timetable. Second, we are in the process of providing to the Division recommendations for change in their manual which would strengthen parents' meaningful participation in the process. Third, there is a need for research, data collection, and an evaluative comparison of the two approaches (administrative versus independent) over time which should be built into the present activities. However, there is a need to extend the present demonstration project in Southeast Alaska until December 1, 1986 so that valid comparisons can be made. We are hopeful that you will be willing to support the continuation of that demonstration project.

Fourth, there is a need for data to be collected and analyzed on the relationship of these foster care review systems to obtaining permanent placements for children, and the cost savings, if any, to the State of Alaska.

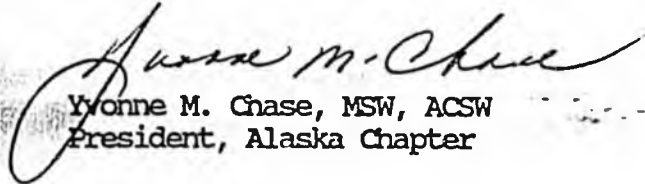
P.O. Box 101394 • Anchorage, Alaska 99510 • (907) 274-4479

P.O. Box 10430 • Fairbanks, Alaska 99710 • (907) 457-5914

We are hopeful that improvement in the present approach will result in achieving the goal of permanent placements for children in foster care so that no further action toward passage of foster care review legislation will be necessary. If this goal is not achieved, NASW will be reactivating our efforts to secure legislation.

Your assistance on behalf of foster children and their families is greatly appreciated.

Sincerely,



Yvonne M. Chase, MSW, ACSW
President, Alaska Chapter

YMC/kw

cc: Representative Sund
Representative Cotten
Michael Price, Director, Division of Family and Youth Services