

HB



Wall Center for Missing & Exploited Children
 Janet Kosig (202) 634-9821 - reviews state leg.
 Jay Howell - nms center.

Senate Health, Education and Social Services Committee

Legislation Checklist

Bill number: SB 21
 Sponsor: Ferguson
 Date referred to committee:
 Synopsis completed: 1/10/85
 Fiscal note:
 Further referrals:

Crime Commission Anch Mini report
 George Nelson, Chip Kennaheim

CONTACTS:

Mike Scott 3862
 Ferguson
 Dept Public Safety, Frank Yorkham 4322
 Paul Conger 4336
 Ken Roney, Anch Crime Lab 269-5685
 Marilyn Crenshaw 4343 (Records)
 Don't know - ...
 James Vaden
 Dep Comm

CS SB 21 (HESS)

- ✓ Paul Conger, Pub Safety 4336 2/12
- ✓ Gail Horetski, Dept Law 3428 2/12
- ✓ ~~Carta Timpona~~ ^{Margo Dick}, Network Dom. Vio. 586-3650 2/12
- ✓ Frank Barthell, H & SS 3208 2/12
- ✓ Melinda Gruening, Juv Just Adv Comm 586-4474 Mike Price
- ✓ ~~Cindy Nelson~~, Corrections 3376 no fiscal impact 4/12
- ✓ Caren Robinson, AWARE 586-6624
- ✓ Ray Gillespie, Gov. 3500 no
- ✓ Mike Scott ~~3862~~ 3862 no
- ✓ Dana Fabe, Public Defender 279-7541 no
- ✓ Karla Forsythe, Ct Admin 264-0634
- ✓ Brant McGee, Public Advocacy 274-1684 2/12
- ✓ Barbara Miklos, Council Domestic Violence 4356 2/12
- ✓ Mike Ford, Legal 2450
- ~~Patty ... 474 6330~~

Yvonne Chase, Anch
 Commun Health 586-371000

Jo Kuykendahl, Discovery Center 456-7887
 Gail Pierce NEA Alaska 586-3090 147 S Franklin Juv 99801
 Marcie Peterson W 586-7516 H 789-2825 wants to testify on Sec 16. "mental abuse"

5-10-85

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



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.

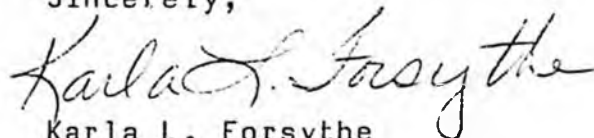
This legislation is complemented by CSSB 28, which provides that a person employed by the state who is required to report abuse or neglect shall receive training. Departments are required to develop curriculum for employees including training about laws relating to child abuse and neglect, techniques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

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB 28
 Title: AN ACT RELATING TO
REPORTING CHILD ABUSE
 Sponsor: FATKS
 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)

	FI 85	FI 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		2.5	2.7	2.9	3.1	3.3
300 CONTRACTUAL		.5	.5	.6	.6	.6
400 SUPPLIES		1.0	1.1	1.2	1.3	1.4
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
900 MISCELLANEOUS						
TOTAL OPERATING		4.0	4.3	4.7	5.0	5.3

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

FUNDING: (Thousands of Dollars)

	FI 85	FI 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		4.0	4.3	4.7	5.0	5.3
FEDERAL FUNDS						
OTHER						
TOTAL		4.0	4.3	4.7	5.0	5.3

POSITIONS:

	FI 85	FI 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

Prepared By: ROBERT G. FISHER, FISCAL OFFICE

Phone: 264-0561

Division: ALASKA COURT SYSTEM

Date: 4/9/85

Approved by Commissioner: A. U. H. Smith II

Date: 4/9/85

Agency: ALASKA COURT SYSTEM

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

7/1/84

ALASKA COURT SYSTEM

CSSB 28 - REPORTING OF CHILD ABUSE
FISCAL IMPACT

The committee substitute for Senate Bill 28 requires training certain court employees to recognize and report child abuse situations. To implement this bill, the Court System will have to develop and disseminate training materials to employees. Additional travel, postage, and supply expenses will be incurred in fulfilling this responsibility. Travel funds will be needed for trainers to visit major court sites around the state. Postage costs will increase from mailing training materials to other courts. The preparation of training packets for employees will increase supply costs. The following is an estimate of these costs:

TRAVEL - visits to major courts for training	\$2,500
CONTRACTUAL - postage costs for mailing training materials	500
SUPPLIES - printshop time and materials for training packets	1,000

Total	\$4,000
	=====



Steve Lindbeck, Editorial Page Editor

Katherine Fanning, Editor and Publisher 1971 to 1983
Lawrence Fanning, Editor and Publisher 1967 to 1971

Alaska's Only Morning Newspaper • Founded in 1946 by Norman C. Brown

Anchorage Daily News 9/16/84

No good reason to ignore abuse

Gov. Bill Sheffield acted belatedly but sensibly last week in approving \$200,000 in emergency funds to hire new staff to cope with Alaska's growing rates of family violence and sexual abuse. The next question is: What will the administration and the legislature come up with next year, and beyond, to address a problem with appalling human and social costs?

Just why the State of Alaska — which disposes of nearly \$4 billion a year in oil and other revenues — hadn't kept up with staffing needs as child abuse soared over the past half-dozen years is an embarrassing question. Public awareness of the issue and the statistical record of family violence have increased considerably in that time — to the point where the national newsweeklies have featured the issue in recent cover stories. And if anything is different about Alaska concerning child abuse, it is that the magnitude of the problem is even greater here than in the rest of the country. The issue, in short, was no secret to anyone.

Here's the record of Alaska's public response:

Field staff for the Division of Family and Youth Services increased just 22 percent between 1978 and 1983; but during the same period total caseloads went up 173 percent, reports of child neglect and abuse increased 319 percent, and substantiated reports of child sexual abuse increased 578 percent. At 21 of 36 field offices around the state, the average number of cases served by each social worker exceeds the accepted caseload standard of 50; in seven of those offices that standard is exceeded by 100 percent or more.

The state ombudsman's office, after probing the death of a 5-year-old abused child in Fairbanks, suggested that a burdensome workload prevented social workers from dealing with the case even after prior warnings that the child may have been a victim of abuse. And two reports so far from the Legislative Budget and Audit Division have recommended staff increases for the Division of Family and Youth Services.

Now Gov. Sheffield has ordered an emergency expenditure of \$200,000 to provide more social workers and staff support. He probably will recommend 35 new staff positions for the division in the fiscal 1986 budget now being prepared. Both steps are necessary and important.

But the governor may well find opposition to the big staff increase when he takes it to the legislature. There's little or no political gain involved in addressing such a painful, awkward and often furtive issue, and in any case Alaska lawmakers have focused considerably more on pork-barrel goodies in recent years than in meeting human needs. And the "conservatives" who control the political agenda nowadays in Alaska have frequently made it a point to attack human and social services as the focus of government waste.

But the issue won't go away. The problems of child abuse or neglect, sexual abuse and family violence in Alaska demand increased state attention. Any government that failed to respond adequately to such acute human suffering and need among such defenseless members of society would rightly be called neglectful, no matter what its financial circumstances. A government as rich and profligate as Alaska's — at least when shopping for capital projects — has no excuse if it fails to meet such basic human demands.

POSITION PAPER

COMMITTEE SUBSTITUTE FOR SENATE BILL No. 21 / HB 88

For an act entitled: "an act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure."

The department supports Senate Health and Social Services Committee's decision to substitute the Governor's Child Protection bill (HB 88) for SB 21. However, the department does have some concern with section 26, criminal history checks. Although the department supports the concept of criminal history clearance on individuals who work directly with children, the department has some reservations which are listed below.

Committee Substitute for Senate Bill 21 is an important part of a comprehensive approach to enhancing the State's ability to protect children who have been abused or neglected. Both improved laws and resources are needed to provide effective State intervention in cases of child abuse or neglect.

Committee Substitute for Senate Bill 21 contains numerous improvements to existing civil and criminal law. This Bill is the result of extensive review and proposals by personnel in the Departments of Health and Social Services and Law. A detailed section by section analysis of the Bill was transmitted to Representative Ben Grussendorf and printed in the January 18, 1985 House Journal. Major components of the Bill will:

- facilitate prosecution where appropriate;
- improve the law as it applies to child victims, through hearsay evidence changes and a "rape shield";
- expand the criminal records check of persons employed in positions of authority over children;
- provide municipalities with an effective method of enforcing curfews;
- provide practical procedures for predisposition reports in delinquency proceedings and for assuming emergency custody of an abused or neglected child;
- expand the child abuse reporting law to include "mental injury" and expand the classification of persons required under the law to report suspected child abuse or neglect;

- authorize the State to enjoin dangerous persons from child contact; and
- authorize a system of civil fines to enhance enforcement of the child care licensing law of residential facilities. The completed forms are then submitted to the Department of Public Safety which does a state record check. DFYS does not now do fingerprinting nor does it have the expertise to do fingerprinting. Fingerprinting is best done by the Department of Public Safety personnel who are trained for that activity.

Section 26 of this bill will require a criminal history check, through both state records and national FBI records, on the licensee and employees in licensed residential child care facilities, child day care facilities and child foster homes. This portion of the bill has the potential to prevent some cases of child sexual abuse by identifying persons who have endangered or harmed children in the past. However, the department has the following major concerns with section 26:

- subsection (a) does not cover volunteers or adult members of the licensee's family living in the foster home or child care home. These persons should be included in check requirements.
- subsection (a) states that all persons licensed shall have a criminal history check. "Person" as defined in AS 01.10.060(7) includes "corporation", "association", and "organization", so a question arises as to whether the board of directors of child care facilities would also be required to submit to criminal history checks.
- ^{no} subsection (a)(2) requires the background check report to be completed before the new employee can start work. Although this may be a good policy, it may cause hardships on employers, and a reduction in staff to child ratios while an employer waits for a clearance on a new replacement employee. The Department of Public Safety has stated that it could be as long as ten (10) weeks before a criminal history check is completed.
- subsection (b) states that a criminal record clearance card is valid for two (2) years. However, a method of revoking a card is needed so that a person who commits a crime which has or could endanger children during the two year card validation period could not be hired by another child care facility.
- subsection (c) refers to training for DHSS. The Department of Public Safety has stated that the training would include the taking of fingerprints. Presently the Division of Family and

*Discretionary
Approved by the Board*

Youth Services requires a Licensing Record Clearance Request form to be completed by applicants for a foster home license, all adult members of a foster home, and administrators of residential facilities. The completed form is then submitted to the Department of Public Safety which does a state record check. DFYS does not now have the expertise to do fingerprinting. Fingerprinting is best done by the Department of Public Safety personnel, who are trained for that function, and who otherwise perform this type of service. Criminal history checks and the issuance of cards could probably be most efficiently performed within the Department of Public Safety. If DHSS must do fingerprinting, fiscal note needs revision up.

subsection (c) states that if an applicant is denied employment one-half the criminal clearance fee will be refunded. The direct charge for a FBI clearance is presently \$12.00. DPS has stated that the price to do a state criminal check should be \$8.00. Will DHSS or DPS be required to refund \$10.00 out of State general funds to the applicant? A refund policy would be costly and time consuming in both direct cost and accounting costs. This provision should be deleted from the bill.

*Pub. Safety
already in
plate*

subsection (d) addresses confidentiality. Under the present agreement giving DFYS access to criminal records at the Department of Public Safety, DFYS cannot allow anyone, including the applicant, to see a criminal history report. Subsection (d), as written, continues that procedure, stating that criminal reports can be used by governmental agencies who by law license child care facilities or who protect children. May it be used by a child care employer to deny employment? Apparently, the employer will be authorized to deny employment based on the applicant's failure to obtain a clearance card from DHSS. Will there be an appeal procedure from a DHSS decision not to issue a clearance card?

The department urges this committee to hear from all private and public agencies and individuals involved in this area of criminal history checks to obtain their comments on the difficulties and possible hardships of such a new policy. Specifically, the department urges this committee to hold a public teleconference on this issue, inviting child care operators to share their concerns about the cost and delay inherent in requesting and waiting for criminal records check on all potential employees. The Governor's Criminal History Working Group has expressed concerns over procedural and legal aspects of history checks. Furthermore, the cost for this new program is not in the Governor's proposed FY 86 budget.

Practical and important improvements to the State's civil and criminal laws are needed and addressed by Committee Substitution Senate Bill 21 but these improvements will not alone meet the challenge of ensuring adequate protective services for children in Alaska. Both the child protection staff increments contained in the Division of Family and Youth Services operating budget and the management information system for the division contained in the capital budget must be fully funded to adequately address the problem. Only with improved laws, resources, and an ability to manage will Alaska break the destructive cycle of child abuse and neglect.

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

DATE: 2/12/85

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

DATE: 2/12/85

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB No. 21
 Title: An Act relating to.....
protection of children
 Sponsor: Sen Ferguson
 Requestor: _____
 Date of Request: 2/5/85

FISCAL DETAIL

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

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		28.5	29.6	30.8	32.1	33.3
200 TRAVEL		-0-	-0-	-0-	-0-	-0-
300 CONTRACTUAL		9.0	9.4	9.7	10.1	10.5
400 SUPPLIES		.8	.8	.9	.9	.9
500 EQUIPMENT		5.2	-0-	-0-	-0-	-0-
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		43.5	39.8	41.4	43.1	44.7

CAPITAL		-0-	-0-	-0-	-0-	-0-
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REVENUE		-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND		43.5	39.8	41.4	43.1	44.7
FEDERAL FUNDS						
OTHER						
TOTAL		43.5	39.8	41.4	43.1	44.7

POSITIONS:

FULL-TIME						
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See attached

Prepared By: Michael L. Price *Michael L. Price* Phone: 465-3170
 Division: Family and Youth Services Date: 2/8/85

Approved by Commissioner: J. R. Coy *J. R. Coy* Date: 2/12/85 *JCC*
 Agency: _____

Distribution (by Agency preparing fiscal note):

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

IV. ANALYSIS

A. Assumptions

This legislation results in significant changes in the civil child protection laws and in the laws relating to criminal prosecution of persons who fail to provide adequate protection for children. As a result, there is a high potential for increased service demands on division social workers. The extent and magnitude of these impacts are undefinable at this time, and caseload impacts cannot be precisely quantified. It is believed that the child protection staff increments requested in the Governor's FY 86 budget will provide staff levels necessary to provide adequate levels of investigation and family protective services. It must be emphasized that this fiscal note does assume full funding of the Governor's FY 86 increments, otherwise an amended fiscal note will be required. Section 26 of the bill will have an impact. While the Department has informed the Department of Public Safety that we will not roll fingerprints, tracking the estimated 6,268 individuals requiring fingerprints, and receiving reports of new individuals during a year estimated at 20% or 1,254 will place a burden on offices in Fairbanks and Anchorage requiring two PPT positions, Clerk Typist III's, in those offices.

B. Program Summary

New positions required by this legislation will be as follows:

Clerk Typist III, PPT, 1 each in Anchorage and Fairbanks

C. Computations

Personal Services - Clerk Typist III, PPT, Fairbanks	\$15.1
Clerk Typist III, PPT, Anchorage	13.4
Travel	-0-
Contractual - 2 Clerk Typist III's @ \$4.5	9.0
Supplies - 2 Clerk Typist III's @ \$.4	.8
Equipment - 2 Clerk Typist III's @ \$2.6	5.2
	\$43.5

Calculations for successive years at 4%.

D. Economic Impact

There will be no impact on the state economy.

E. Impact on Local Governments

There would be no impact on local governments.

1.	POSITION TITLE Clerk Typist III				RANGE/STEP 8A	BARG. UNIT GGU	PAGE/LINE	COV.	APPROV.	DISAST.
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER	BRU PRIORITY	LOCATION Fairbanks	ELECTION DISTRICT	LEG.		
3.	CONTINUATION LEVEL				JUSTIFICATION					
4.	TYPE OF EXPENDITURE			AMOUNT						
	1	2	3							
	PERSONAL SERVICES									
5.	Salary	11.0								
6.	Benefits	4.1								
7.	Supplemental Benefits									
8.	Fixed Benefits									
9.	TOTAL PERSONAL SERVICES	01	15.1							
10.	Travel	02	-0-							
11.	Contractual	03	4.5							
12.	Commodities	04	.4							
13.	Equipment	05	2.6							
14.	Other									
15.	TOTAL COST		22.6							
16.	RECEIPT CODE	FUNDING SOURCE								
17.		Federal Receipts 1002								
18.		C.F. Match 1003								
19.		General Funds 1004 ✓		22.6						
20.		I-A Receipts 1005								
21.		Program Receipts 1028								
		Other								
FOR B&M USE ONLY KEY NUMBER _____										

Personal Services calculations based on PAC's
Calculations for Contractual, Supplies and Equipment based of FY 86 budget submission.

REQUEST FOR
NEW POSITION

AGENCY Health and Social Services
Social and Economic Assistance
PROGRAM for the General Population
BRU Social Services
COMPONENT Northern Region

Page 1 of 2
Revised Date _____

FY 86

1.	POSITION TITLE Clerk Typist III			
2.	TYPE OF POSITION PPT	STAFF MONTHS 6	RP NUMBER	PCN NUMBER
3.	CONTINUATION LEVEL			
4.	TYPE OF EXPENDITURE			AMOUNT
	1	2		3
	PERSONAL SERVICES			
5.	Salary		9.8	
6.	Benefits		3.6	
7.	Supplemental Benefits			
8.	Fixed Benefits			
9.	TOTAL PERSONAL SERVICES	01		13.4
10.	Travel	02		-0-
11.	Contractual	03		4.5
12.	Commodities	04		.4
13.	Equipment	05		2.6
14.	Other			
15.	TOTAL COST			20.9

RANGE/STEP 8A	BARG. UNIT GGU	PAGE/LINE	GOV.	APPROV.	DISAST.
BRU PRIORITY	LOCATION Anchorage	ELECTION DISTRICT	LEG.		

JUSTIFICATION

Personal Services calculations based on PAC's.

Calculations for Contractual, Supplies and Equipment based on FY 86 budget submission.

	RECEIPT CODE	FUNDING SOURCE	
16.		Federal Receipts 1002	
17.		C.F. Match 1003	
18.		General Funds 1004	20.9
19.		I-A Receipts 1005	
20.		Program Receipts 1028	
21.		Other	

FOR B&M USE ONLY
KEY NUMBER _____

**REQUEST FOR
NEW POSITION**

AGENCY Health and Social Services
Social and Economic Assistance
PROGRAM for the General Population

BRU Social Services

COMPONENT Southcentral Region

Page 2 of 2
Revised Date _____

FY 86

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

CSSB 21 (HESS) / HLB 88

"An Act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

The ~~Council on Domestic Violence and Sexual Assault~~ (Council) is commenting upon those sections of CSSB21 (HESS) that directly affect the persons or programs the Council serves. The Council feels that other agencies and individuals have more information about the needs for sections not commented upon.

Section 3. The Council supports the clarification and strengthening of AS 11.61.125(a) concerning child pornography. It is known that a large percentage of perpetrators of child sexual assault receive and utilize child pornography, and it is obvious that children who are presented in pornographic materials are victimized. Therefore, the Council feels that society should take the necessary steps to inhibit distribution of child pornography.

Section 4. The Council supports extending the statute of limitations in child prostitution cases and clarifying the extension of the statute of limitations in child sexual assault cases. As in child sexual assault, a child induced or forced into prostitution might be dependent upon a perpetrator or not have the information or wherewithal necessary to report the crime until he/she is older and more self confident. These crimes should receive the scrutiny of the criminal justice system even though they weren't reported immediately.

Section 5. The Council supports the allowance of hearsay evidence in grand jury proceedings for child sexual assault cases. Many victims of child sexual assault are too young to withstand the rigors of the proceedings or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other individuals in less threatening circumstances should be available for consideration. Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under pressure. These children deserve the protection of the criminal justice system as much as older, more articulate individuals.

The U.S. Attorney General's Task Force on Family Violence, which heard testimony in six U.S. cities, reviewed state statutes and researched issues, has recommended that hearsay evidence be allowed in preliminary hearings so the child is not required to testify repeatedly. To quote the Task Force Report:

"To enable children to more easily and effectively relate the abuse they have suffered, prosecutors should adopt special procedures for child abuse and molestation cases.

At the preliminary hearing the court considers only whether the evidence is sufficient to go forward with prosecution. The prosecutor should not require the child to testify in person. Consistent with state procedures, a videotaped statement, testimony by the child to a law enforcement investigator, or other such presentations should be adequate. If the state rules of procedure do not provide for such presentation, the prosecuting offices should work with concerned citizen groups and lawmakers to modify the rules of procedure to make such a presentation possible."

Section 6. The Council supports including child sexual assault cases in the rape shield law. A victim's past sexual conduct should not be admissible in court. This is as important for child victims as adult victims. Child sexual assault often makes victims more vulnerable to repeated assaults by adults in power; more knowledgeable and interested in sex and more sexually active than children who have not been victimized. Therefore, a child should be protected from further victimization by the court in making this information public. If it is necessary to admit such evidence, it can be decided by the judge.

Sections 7,8, & 9. The Council supports these sections which expands the crimes that may be covered by background checks and includes checks for outstanding warrants. The additional crimes included are pertinent when screening applicants who will work with children. A recent research project on child sex rings and the production of pornography within these rings showed that almost half of the offenders used their occupation as the major access route to child victims. The offenders in this category included teachers (nursery school, grammar and junior high levels) a city health physician, an engineer, a school bus driver, a camp counselor, a photographer, a gas station owner and scout leaders. Although expanding this definition does not address all people who have responsibility for children, it provides additional important information for some of the major employers.

Section 15. The Council believes it's necessary to define sexual abuse in AS 47 and supports this addition. The Council suggests that the word "female" be stricken from (C). Definition of gender is irrelevant in cases concerning children.

Section 17. The Council supports expanding and clarifying the list of people required to report child abuse. It is the responsibility of all of us, particularly professionals and workers listed in this amendment to AS 47.17, to protect children. The Council suggests that section (9) be reworded to say employees and volunteers of domestic violence and sexual assault programs or crisis shelters or that (9) be removed and this language be added to the definition of human service providers (3) which are defined in Section 25 of CSSB21 (HESS).

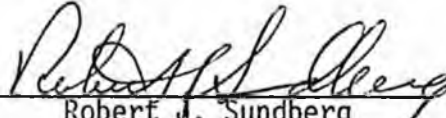
Section 18. The Council supports adding this section so children who have been abused by an individual not responsible for the child's welfare can be guaranteed protection under the law. Under existing statute, reporting and

protection is mandated only in cases where the abuse or neglect is caused by a person who is responsible for the 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 Anne Russell an expert on adult and child sexual assault, 11 per cent of the perpetrators were total strangers, 29 per cent were relatives and 60 per cent were known but unrelated to the victim. Child victims of non-family assaults should be protected by the criminal justice system and receive support and treatment for the assaults.

Section 24. The Council suggests adding dental hygenist to the definition of "practitioner of the healing arts". Dental hygenists are in the same mid-level range of practice as nurse practitioners and physicians assistants. They frequently see patients not seen by dentists and see some patients on a more regular basis than dentists do.

Section 25. The Council supports Section 25. See comments for Section 17.

Section 26. The Council on Domestic Violence and Sexual Assault supports the concept of conducting background checks on people licensed and their employees described in AS 47.35. As discussed under Sections 7,8 and 9, often people in positions of authority over children take advantage of their positions and abuse children.


Robert J. Sundberg
Commissioner
Department of Public Safety

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

JAN 28 1985

*Child
Sexual
Assault*

January 25, 1985

The Alaska Network on Domestic Violence and Sexual Assault, a non-profit corporation, was established in 1977 to facilitate coordination of domestic violence and sexual assault services on a statewide basis. The Network represents 20 domestic violence and sexual assault programs.

Network programs have been involved in the prevention, intervention, and treatment of child sexual assault through community education and public awareness efforts, curriculum development and implementation, therapeutic counseling services, coordination with social service and criminal justice agencies, and legislative advocacy.

In June 1984 the Network formed a Child Sexual Assault Task Force for purposes of reviewing currently applied policies and practices to determine their appropriateness and the consistency of their application. The work product of the Task Force is the attached Summation of Major Issues Arising in Handling Child Sexual Assault Incest Cases and Recommendations for Resolution.

The Summation, which deals exclusively with child sexual assault perpetrated by a family member, outlines "ideal" policies and practices, those which we feel should be implemented in order to achieve the most favorable outcome. Some of these policies and practices have been implemented by some agencies in some communities; others are either inconsistently applied or not applied at all.

It is the Network's intention that the policies and practices detailed in the Summation be adopted by all agencies involved with child sexual assault cases. It is our firm belief that coordinated and comprehensive education, prevention, intervention, and treatment efforts will positively impact the high incidence of child sexual assault in our state.

We welcome your comments on this report, and suggest that you contact Ruth Lister, WICCA, Inc., Fairbanks (452-2293) or Rosemary Murray, Alaska Women's Resource Center, Anchorage (276-0528) to provide input or obtain additional information.

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

JAN 28 1985

SUMMATION OF MAJOR ISSUES ARISING IN HANDLING CHILD SEXUAL ASSAULT INCEST CASES & RECOMMENDATIONS FOR RESOLUTION

Prepared by:

Child Sexual Assault Task Force

Ruth Lister, WICCA, Inc.

Rosemary Murray, Alaska Women's Resource Center

Co-chairs

Summation of Major Issues Arising in Handling
Child Sexual Assault Incest Cases
& Recommendations for Resolution

In all phases of involvement with child sexual assault incest cases, the Network accepts the following as a philosophy: the child victim's disclosure is to be credited, the non-offending parent should be encouraged to be supportive and protective of the child victim, and responsibility for the assault always rests with the offender. All policy statements are predicated on that philosophy.

ISSUES	VICTIM	NON-OFFENDING PARENT	OFFENDER
1. <u>Intervention</u>	child reports sexual assault to non-offending parent and/or others; child is protected by DFYS or criminal intervention; if possible, child stays in the home; child receives immediate advocacy and support; number of interviews required of child should be minimized	assessment of non-offending parent's ability to protect & be supportive of child should be made; receives immediate advocacy to understand need to be supportive & protective of child; obtains TRO to protect child if needed	offender is investigated while child is protected; offender should be removed from the home if victim is living at home and non-offending parent is supportive
2. <u>Coordination</u>	DFYS and police/troopers coordinate investigation of victim's report of assault and provide protection of child; child is interviewed in private and is protected from onset of interview; initial and on-going advocacy should be provided by local or closest Network program or other advocacy agency	DFYS and police/troopers coordinate investigation of assault, with inclusion of advocate for non-offending parent, if requested; initial and on-going advocacy should be provided by local or closest Network program or other advocacy agency	DFYS and police/troopers coordinate investigation of offender; report of investigation is made to DA
	DFYS coordinates immediate contact with qualified treatment and/or advocacy program/people		
	Communities should develop protocols for purposes of protection of the child and to facilitate coordination. Community protocols should be reviewed on an annual basis and should include input from DFYS, law enforcement, criminal justice system, Network programs, mental health centers, schools, and other agencies involved in child sexual assault cases		

ISSUES

VICTIM

NON-OFFENDING PARENT

OFFENDER

3. SAFETY

the priority issue is insuring the victim's safety so s/he is not placed in a position to be re-victimized

support given to non-offending parent in protecting the victim and other siblings; provide counseling, shelter, and support when domestic violence has also occurred

strict controls over access to victims and other potential victims are to be applied in setting bail conditions, incarceration, treatment, work release, and probation; safety issues are to be adequately addressed throughout the criminal justice process; regular monitoring and safety checks should occur while offender is on probation and should be conducted by Probation Officer; probation for no less than 10 years is recommended

because of the possibility of suicide and violence to family, arrest should occur immediately

Victim and family members must receive full protection from time of report. Monitoring and treatment services should be available for at least two (2) years

4. IMPRISONMENT

victim is reassured that s/he is not responsible for the incarceration; victim is encouraged to understand that the offender is being punished for wrong-doing

provided support in assuming role as single parent while offender is in prison and/or treatment and out of the home; non-offending parent should not be required to comply with unreasonable and/or non-therapeutic court ordered obligations, such as visitation, etc.

punishment for crime through imprisonment; treatment and rehabilitation will be provided in a secure facility; treatment will continue if offender is in a work release program or halfway house

ISSUES

VICTIM

NON-OFFENDING PARENT

OFFENDER

5. Treatment

receives therapy and information necessary to work through difficulties arising from assault and subsequent disruption in family after disclosure; individual/group treatment is made available

victim is given choice, in her/his own time, whether or not to have contact with the offender; all contact between victim and offender must be supervised

receives support to work through any problems arising from single parenthood and any emotional/financial barriers faced in supporting child; individual/group treatment is made available

1) gets treatment with focus on sexual deviancy as first stage; 2) treatment provided in a secure facility and continuing treatment through community-based programs; 3) with continuation of treatment for sexual deviancy and at the request of the victim, later stages of treatment may focus on healing the relationship with the victim and other family members

All treatment staff must have adequate training in treatment model, and all treatment must be predicated on the basis that the responsibility for the assault always rests with the offender. The well-being of the child victim must be the primary concern for all family members and treatment providers. All decisions regarding the potential, possible, and/or actual reuniting of the family should be made only when the child victim agrees and only when treatment focusing on sexual deviancy will be continuing. Contact between the child victim and the offender or any other person who is not supportive of the child should be restricted and should only occur under circumstances that are therapeutic for and agreed upon by the child

6. Rural Issues

Local safe homes and support and advocacy must be immediately available to victims and non-offending parents. Community education and organizing, and prevention and education for children and adults, are high priorities. All personnel who are a part of prevention, intervention, and/or treatment in child sexual assault cases must be specifically trained in the dynamics of child sexual assault

7. Community Safety

Through media, education, and community organizing, the harmful effects of child sexual assault and the need for protection are made clear. Age appropriate prevention information should be made available to all children

There is no known "cure" for sex offenders except their control over their own behavior. Provision and/or "completion" of a treatment or rehabilitation program should not be assumed to guarantee the safety of the child victim or potential victims

8. Adult Survivors

Treatment should be made available, either free of charge or at reasonable sliding scale fees, for adult survivors of child sexual assault by qualified treatment staff

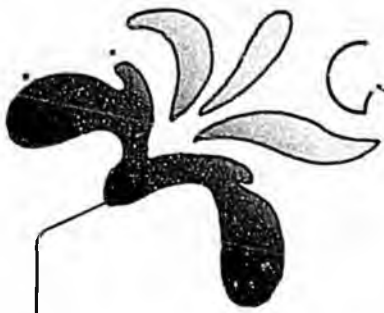
9. Training

All therapists providing treatment in the areas of child sexual assault must have a minimum of forty (40) hours of specialized training in victim, survivor, or offender treatment

Those working in the field without a master's degree in social work or counseling must, in addition to having received specialized training, be a staff member of a counseling agency or advocacy program and be supervised by a degreed person

Training in the dynamics of child sexual assault and appropriate recognition and intervention techniques should be made available to all who come into contact with victims, non-offending parents, and offenders. This training should, at the minimum, be provided to law enforcement personnel, criminal justice personnel, teachers, day care providers, social workers, and staff members of agencies providing counseling and advocacy

If limited funds are available for training, priority in allocation should be given to those agencies demonstrating a history of effective and broad based training experience and/or provision of service



WICCA

*file child abuse
shu same
me this
at jbx.
hemins*

March 28, 1985

Dear Senator Fahrenkamp,

The Fairbanks Child Sexual Abuse Task Force was formed in 1981 to address the many legal and treatment issues that are involved in cases of child sexual abuse. In the past four years the Task Force has developed effective and cooperative strategies for intervention, prosecution, and treatment.

Two meetings of the Legislative Committee of the Task Force and one meeting of the full body have addressed the proposed legislation in the House and Senate. We hope you will give our recommendations serious consideration. Changes in legislation will impact our work and, most importantly, the victims of sexual abuse whose interests we represent. Your concern and work in this area is much appreciated.

SB 3 and HB 67: Strongly support the need for hearsay evidence. The older the child the less likely it is that she/he will be unavailable but the tool should be available to the DA, if possible up to age 16.

SB 27: Strongly support.

SB 8: Strongly support.

SB 28: Strongly support.

SB 21: Support as changed.

SB 243/HB 88: See attached.

In addition we are concerned by some suggested changes to SB 243. Specifically, the present version of Section 11 should be retained. In Section 21 we would add to line 15 "or suspected nonaccidental."

If you have any questions please call me.

Sincerely,

Ruth Lister
Chair, Legislative Committee
Fairbanks Child Sexual Abuse Task Force

Legislative Committee
Fairbanks Child Sexual Abuse Task Force

Position on HB 88:

Section 1- no position

Section 2- oppose

AS 11.51.110

- overbroad: threatens low income, single parent family
- better ways of influencing situation with family
- creates additional risk and burden for child care providers

Section 5- support

- older the child the less likely she'll be unavailable to testify but should be a tool available to DA.

Section 7- should not be adopted- too broad.

Section 15- AS 47.10.290

- Add female breast and anus to both touching child and making child touch.

Section 17 and 24- Strike volunteers everywhere

Section 17 part 9- include domestic violence and sexual assault in definition of human services in #24.

Section 22- keep as is. Add increase in allowable years of probation from 5 to 10 years for sexual offenses.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

PUBLIC DEFENDER AGENCY

January 29, 1985

600 W. 5th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 279-7541

Re: HB 88

Attention: Nancy Bennett

Max F. Gruenberg, Jr., Co Chair
House Committee on Health, Education
and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Gruenberg:

Thank you for soliciting my comments on HB 88. This bill addresses a number of different aspects of the important issue of child protection. Many of the provisions will serve to insure that children receive greater protection from our laws. Following is an analysis of the sections of the bill which could cause some problems.

Section 2. This section creates a new crime of Endangering the Welfare of a Minor in the Second Degree. This offense involves exposing a child under 18 to circumstances creating a substantial risk of physical injury as well as sexual abuse. Of particular concern is that the caregiver need act only with criminal negligence, which could theoretically cover any home accident. This section could have broad application to parents and caregivers who accidentally allow children to be hurt, even if there is no intent to do so. Thus, if a caregiver negligently allows a child to crawl into a cabinet which contains toxic cleaning chemicals or allows a child to get too close to a hot wood stove, that caregiver's behavior may expose him or her to criminal prosecution. It should be noted that this would be a Class A misdemeanor, carrying up to one year of jail time.

Section 5. This provision allows the use of hearsay evidence at the grand jury in prosecutions for sexual offenses. A grand jury functions to screen prosecution evidence to determine whether enough

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OFFICE OF THE
GOVERNOR

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evidence exists to charge a suspect with a felony. Because being charged with a felony involves a potential for stigma as well as incarceration prior to trial, the constitutional right to a grand jury indictment must be carefully guarded. Taken to its extreme, allowing unlimited hearsay evidence at a grand jury proceeding would reduce that proceeding to a police officer reading the police report to the grand jurors. Since grand jurors currently are able to judge for themselves the weight and credibility of live witnesses, the issue of introduction of hearsay at the grand jury should be evaluated carefully.

Current Alaska case law allows the introduction of hearsay testimony at a grand jury when a compelling justification exists. If the legislature wishes to create a statutory exception to protect young victims of sexual assault, it should be as narrow and as close to a compelling circumstance as possible.

I would suggest the following changes in this provision if a hearsay exception is to be created for these cases:

1.) The exception should apply only to very young victims (under the age of 10) since the ability and motive for such children to fabricate is less than that of older children and the trauma of testimony could be gravest for children of a tender age.

2.) The hearsay exception should only apply to the actual victim of the offense. The provision in HB 88 would cover offenses other than child sexual offenses, including many sexual assaults not involving minors. The statute as now drafted would allow hearsay testimony of any witness under the age of sixteen, even if that witness was not a victim and the offense involved an assault on an adult rather than a child. This may allow a broader erosion of the rule against hearsay at the grand jury than first appears on the surface of the bill.

3.) The provisions of this statute allow hearsay testimony to be admitted when a child is unavailable. The definition of unavailability includes situations where the child does not remember what he or she said earlier or the child has been declared incompetent to testify by a judge. Both of these definitions of unavailability raise concerns since the grand jury should have an opportunity to judge the credibility of a witness. If a witness cannot remember details, the grand jury should be aware of this fact. Furthermore, one of the chief reasons a child may be declared by a judge to be incompetent is that the child is not able to distinguish between truth and falsehood.

Section 12. This section reduces the time required to make a pre-disposition report available to counsel in a juvenile delinquency hearing. This provision will create practical problems. If a pre-disposition report recommends institutionalization of the minor, an attorney who represents the juvenile client will often search for a less restrictive alternative placement for the juvenile. Furthermore, the attorney may wish to consult with the client to determine whether factual discrepancies exist in the report and to correct those discrepancies. Receipt of the report only two working days prior to an important disposition hearing in a juvenile delinquency matter will not allow the juvenile's attorney adequate time to prepare for the disposition hearing or to work to locate alternatives to institutionalization.

Section 14. This section removes the requirement that parents of children who have been removed from the home be notified of that event within 12 hours. The substitution of "make reasonable efforts" to immediately notify parents could be a problem. If a child has been removed from his or her home by the State, parents may become frantic when they learn their child is missing if they do not receive immediate notification. The outside limit of 12 hours is certainly not unreasonable and should not be removed.

This section also allows the Department of Health and Social Services to extend the time of notification of the court of the emergency custody by allowing a filing to be made within 24 hours excluding weekends or holidays. The current time limit is 12 hours with no exclusions. In such a serious matter as removing a child from the custody of his or her parents, the court should be notified as quickly as possible. Allowing 24 hours plus the exclusion of weekends or holidays could result in the following scenario. If a child were picked up on the Friday prior to a three day holiday weekend, the court would not have to be notified until the following Tuesday, four full days after the removal of the child.

Section 15. This section expands the conduct which permits the state to remove a child from the home of his or her parents. Certainly, conduct which constitutes a sexual offense against a child under AS 11. is appropriately contained within this section. Unfortunately, this section expands the definition of "sexual abuse" to include touching of a child's thighs, buttocks, or groin, or the child's touching of those areas of the parent or another. Although this section attempts to exclude "reasonable touching" in the exercise of "normal caretaker responsibilities", it cannot possibly contemplate every type of beneficial touching which might occur. For example, if a caretaker were to place a small child on his shoulders so that the child could better see a parade, that conduct could be classified as "sexual abuse" under this definition if the State felt that this was not a "reasonable touching within normal caretaker responsibility". Declaring a child to be in

Max Gruenberg

-4-

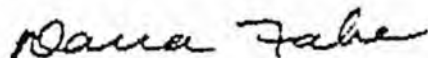
January 29, 1985

need of the state's protection is certainly necessary in many cases, but this expansion of the definition of sexual abuse will cause confusion, problems, and possible abuses of this function.

Section 23. Section 23 adds to the definition of child abuse or neglect the term "mental injury". This greatly broadens the category of children who may be declared in need of aid given the very broad definition of mental injury. Mental injury is defined as any psychological or intellectual injury evidenced by observable and substantial impairment in the child's ability to function within a normal range of performance and behavior. This definition appears to be much too broad, since many basically healthy child/parent relationships may still result in the child having some psychological or behavioral problems.

These are some of the concerns I have with HB 88. The fiscal impact of this legislation, in conjunction with the great increases in staffing requested in the operating budget of the Departments of Law and Health and Social Services as part of the Governor's Child Protection Package will require six new positions for this agency--two attorneys and four paralegals. Our detailed fiscal note and analysis for HB 88 is attached to this letter. Thank you again for asking for my comments on this bill. I also have been requested by your staff to testify on this bill during a teleconference from Anchorage on Wednesday, February 6, 1985 and plan to do so. Please let me know if I can be of any further assistance on this bill or on any other.

Very truly yours,



Dana Fabe
Public Defender

Enclosures

DF:cms

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/22/85

Page 1 of 9

REQUEST

Bill/Resolution No.: HB 88
Title: "An Act relating to the protection of children."
Sponsor: Rules Committee
Requestor: House Judiciary
Date of Request: 1/19/85

FISCAL DETAIL

Agency Affected: Administration
Program Category Affected: _____
Due Process _____
Ext. Program or Subprogram Affected: _____
Public Defender Agency _____

OPERATING REQUIREMENTS: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	
PERSONNEL SERVICES		347.7	363.6	390.7	374.1	378.0
TRAVEL		30.0	31.3	23.7	25.7	27.2
CONSTRUCTION		43.5	46.1	48.9	51.2	51.2
INVENTORY		6.5	6.9	7.3	7.7	8.2
EQUIPMENT		9.5	-0-	-0-	-0-	-0-
DEVELOPMENT & SPECIAL RES.						
COMMOD. & CLAIMS						
OTHER SERVICES						
TOTAL	-0-	437.2	453.4	480.6	509.3	530.9

FUNDING: (Thousands of Dollars)

FUND 1	-0-	437.2	453.4	480.6	509.3	530.9
FUND 2						
FUND 3						
TOTAL						

POSITIONS:

CLASSIFIED	-0-	6.0	6.0	6.0	6.0	6.0
UNCLASSIFIED						
TOTAL						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis

Prepared By: Dana Fabe, Public Defender Phone: 279-7541
Division: Public Defender Agency Date: 1/22/85

Approved by Commissioner: Lisa Rudd Date: 1/30/85
Agency: Department of Administration

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

House Bill 88
 Fiscal Note Analysis
 Prepared by Division of Public Defender Agency
 Department of Administration
January 22, 1985

This legislation has been introduced by the Governor as part of a total child protection package. The various sections of this legislation will increase the number and strength of prosecutions of persons charged with offenses against children, particularly sexual abuse of minors. As part of this child protection package, the Governor's operating budget requests new positions in the Department of Law and the Department of Health and Social services to accomplish this goal.

The increase of prosecutions in child sexual assault offenses will necessitate six new positions for this agency. These positions are the bare minimum necessary to handle the anticipated increase in workload and avoid inordinate delays in processing these cases through the courts:

Fiscal Analysis

Second Judicial District

Attorney III (Nome/Kotzebue)	
Personal Services	83.1
Travel	5.0
Contractual	
(office space, experts, etc.)	10.0
Supplies	2.0
Equipment	
(one time expenditure)	<u>2.0</u>
subtotal	102.1

Third Judicial District

Attorney IV (Anchorage)	70.8
Paralegal Asst II (Kenai)	45.5
Paralegal Asst II (Palmer)	44.2
Personal Services	160.5
Travel	15.0
Contractual	
(office space, experts, etc.)	17.0
Supplies	3.5
Equipment	
(one time expenditure)	<u>4.5</u>
subtotal	200.5

(continued)

House Bill 88
Fiscal Note Analysis
Prepared by Division of Public Defender Agency
Department of Administration
January 22, 1985

Fourth Judicial District

Paralegal Asst II (Fairbanks)	48.7	
Paralegal Asst II (Bethel)	55.4	
Personal Services		104.1
Travel		10.0
Contractual		
(office space, experts, etc.)		16.5
Supplies		1.0
Equipment		
(one time expenditure)		<u>3.0</u>
	subtotal	134.6
TOTAL ALL DISTRICT		437.2



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

February 11, 1985

Senator Bettye Fahrenkamp
Chair, Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The committee has asked the Alaska Court System to indicate its position regarding CSSB 21, an acting relating to the protection of children.

The Alaska Court System takes no position about the substantive merits of this bill. However, I have attached a memorandum forwarded to me by Judge Victor Carlson, which expresses his individual viewpoint about the proposed legislation. Additionally, Judge Thomas Schulz has expressed his disagreement with proposed section 11 relating to curfew violations. He notes that these matters are handled informally in Ketchikan, an approach which he believes is preferable.

With regard to the fiscal impact of this bill, it is the understanding of the Alaska Court System that the Department of Law has requested nine new attorney positions in its budget to implement this legislation. Three of these attorneys would handle CINA cases (one each in Anchorage, Fairbanks and Bethel), and six would prosecute child protection offenses (two attorneys in Anchorage, and one each in Barrow, Kenai, Ketchikan and Fairbanks). The additional offenses prosecuted by attorneys in these latter positions will have a direct impact upon judicial workloads.

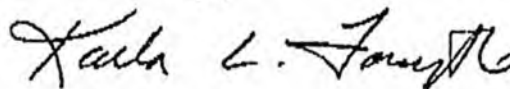
Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional retired judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state. The attached fiscal note reflects a total expenditure of \$123,904 for two

years of pro tempore judge time, and support services of one in-court clerk.

Thank you for this opportunity to provide comments.

If there are any questions about the court system's position on this legislation, please let me know.

Sincerely,



Karla L. Forsythe
General Counsel

KLF:emh

cc: Arthur H. Snowden, II

Memorandum

Alaska Court System

TO: Karla Forsythe
General Counsel

DATE : February 1, 1985

FROM: Victor D. Carlson
Superior Court Judge

SUBJECT: House Bill No. 88,
Protection of Children

In general I find the proposed legislation to be consistent with current practice and will promote the protection of children and the fair determination of cases relating to children. However, I have several specific comments:

1. Section 11 concerning traffic, etc. offenses. The phrase "in a district court" is redundant and serves no purpose, it is possible that a traffic offense would be prosecuted in the superior court and not just before a superior court judge sitting as a judge of the district court. Further, I question if it is the intent of the legislature to have children convicted of traffic, fish and game, and parks and recreation facilities violations sentenced to serve time in jail, e.g., on an operating a motor vehicle while under the influence of alcohol or drug. The current wording of this statute leaves this question and the amendments do not cure it.

→ 2. Section 12 concerning predisposition reports. Two working days for review of a report appears to be reasonable and if more time is needed, the attorney for the child can move for a continuance. Currently, the defense attorneys use the ten-day requirement to create undue strain on the probation officers, it is nearly impossible to prepare a predisposition report and have it typed and distributed within twenty days of disposition, the current rules provide that no more than thirty days are to elapse between adjudication and disposition.

3. Section 14 concerning notification of emergency custody. A note expressing legislative intent that every effort must be made to notify the custodian when a child is taken into custody including the leaving of a note at the place where custody was taken, informing a neighbor or relative and anything else that will help to inform the custodian should be appended. I believe the court should be informed each time a child is taken into custody without a court order and a sworn statement of probable cause made to the court. Requiring a report to the court with a statement of probable cause will tend to police the discretion of the social workers. The only other policing technique is the civil suit for damages which is generally ineffective.

VDC:rw
Adm. F-1
Rev. 2-73

V.D.C.

HOUSE BILL 88

FISCAL NOTE ANALYSIS

Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: HB 88/SB 21
 Title: An Act Relating to Child Protection
 Sponsor: _____
 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		123.9	131.3	139.2	147.6	156.5
200 TRAVEL						
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		123.9	131.3	139.2	147.6	156.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		123.9	131.3	139.2	147.6	156.5
FEDERAL FUNDS						
OTHER						
TOTAL		123.9	131.3	139.2	147.6	156.5

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		3	3	3	3	3
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
 Division: Alaska Court System Date: 2/4/85
 Approved by Commissioner: [Signature] Date: 2/4/85
 Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

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

12/1/83

ALASKA COURT SYSTEM
 HB 88 - CHILD PROTECTION
 FISCAL IMPACT

PERSONAL SERVICES:

	SALARY	BENEFITS	TOTAL COST
Pro Tem Superior Court Judge Ketchikan - 6 months	\$9,203	\$13,418	\$22,621
Pro Tem Superior Court Judge Kenai - 6 months	9,847	13,563	23,410
Pro Tem Superior Court Judge Anchorage - 12 months	18,405	26,836	45,241
In-Court Clerk (Range 12B) Anchorage - 12 months	24,516	8,116	32,632

Total Personal Services			\$123,904 *****

Subsequent fiscal years adjusted to reflect six percent inflation.

4330-111-1111-1111-1111-1111
FEB 12 1985

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER

CSSB 21 (HESS)

"An Act relating to the protection of children; and amending Rules 504, 505, and 506, Alaska Rules of Evidence, and Rule 6(r), Alaska Rules of Criminal Procedure; and providing for an effective date."

The Council on Domestic Violence and Sexual Assault (Council) is commenting upon those sections of CSSB21 (HESS) that directly affect the persons or programs the Council serves. The Council feels that other agencies and individuals have more information about the needs for sections not commented upon.

Section 3. The Council supports the clarification and strengthening of AS 11.61.125(a) concerning child pornography. It is known that a large percentage of perpetrators of child sexual assault receive and utilize child pornography, and it is obvious that children who are presented in pornographic materials are victimized. Therefore, the Council feels that society should take the necessary steps to inhibit distribution of child pornography.

Section 4. The Council supports extending the statute of limitations in child prostitution cases and clarifying the extension of the statute of limitations in child sexual assault cases. As in child sexual assault, a child induced or forced into prostitution might be dependent upon a perpetrator or not have the information or wherewithal necessary to report the crime until he/she is older and more self confident. These crimes should receive the scrutiny of the criminal justice system even though they weren't reported immediately.

Section 5. The Council supports the allowance of hearsay evidence in grand jury proceedings for child sexual assault cases. Many victims of child sexual assault are too young to withstand the rigors of the proceedings or to be effective witnesses. Yet their disclosure of sexual assault to police officers and other individuals in less threatening circumstances should be available for consideration. Children often block out their very negative experiences and cannot remember specifics of the experience, particularly under pressure. These children deserve the protection of the criminal justice system as much as older, more articulate individuals.

The U.S. Attorney General's Task Force on Family Violence, which heard testimony in six U.S. cities, reviewed state statutes and researched issues, has recommended that hearsay evidence be allowed in preliminary hearings so the child is not required to testify repeatedly. To quote the Task Force Report:

"To enable children to more easily and effectively relate the abuse they have suffered, prosecutors should adopt special procedures for child abuse and molestation cases.

At the preliminary hearing the court considers only whether the evidence is sufficient to go forward with prosecution. The prosecutor should not require the child to testify in person. Consistent with state procedures, a videotaped statement, testimony by the child to a law enforcement investigator, or other such presentations should be adequate. If the state rules of procedure do not provide for such presentation, the prosecuting offices should work with concerned citizen groups and lawmakers to modify the rules of procedure to make such a presentation possible."

Section 6. The Council supports including child sexual assault cases in the rape shield law. A victim's past sexual conduct should not be admissible in court. This is as important for child victims as adult victims. Child sexual assault often makes victims more vulnerable to repeated assaults by adults in power; more knowledgeable and interested in sex and more sexually active than children who have not been victimized. Therefore, a child should be protected from further victimization by the court in making this information public. If it is necessary to admit such evidence, it can be decided by the judge.

Sections 7,8, & 9. The Council supports these sections which expands the crimes that may be covered by background checks and includes checks for outstanding warrants. The additional crimes included are pertinent when screening applicants who will work with children. A recent research project on child sex rings and the production of pornography within these rings showed that almost half of the offenders used their occupation as the major access route to child victims. The offenders in this category included teachers (nursery school, grammar and junior high levels) a city health physician, an engineer, a school bus driver, a camp counselor, a photographer, a gas station owner and scout leaders. Although expanding this definition does not address all people who have responsibility for children, it provides additional important information for some of the major employers.

Section 15. The Council believes it's necessary to define sexual abuse in AS 47 and supports this addition. The Council suggests that the word "female" be stricken from (C). Definition of gender is irrelevant in cases concerning children.

Section 17. The Council supports expanding and clarifying the list of people required to report child abuse. It is the responsibility of all of us, particularly professionals and workers listed in this amendment to AS 47.17, to protect children. The Council suggests that section (9) be reworded to say employees and volunteers of domestic violence and sexual assault programs or crisis shelters or that (9) be removed and this language be added to the definition of human service providers (3) which are defined in Section 25 of CSSB21 (HESS).

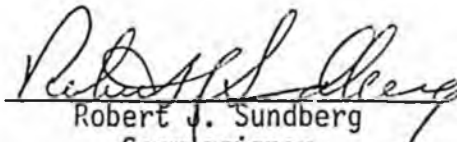
Section 18. The Council supports adding this section so children who have been abused by an individual not responsible for the child's welfare can be guaranteed protection under the law. Under existing statute, reporting and

protection is mandated only in cases where the abuse or neglect is caused by a person who is responsible for the 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 Anne Russell an expert on adult and child sexual assault, 11 per cent of the perpetrators were total strangers, 29 per cent were relatives and 60 per cent were known but unrelated to the victim. Child victims of non-family assaults should be protected by the criminal justice system and receive support and treatment for the assaults.

Section 24. The Council suggests adding dental hygenist to the definition of "practitioner of the healing arts". Dental hygenists are in the same mid-level range of practice as nurse practitioners and physicians assistants. They frequently see patients not seen by dentists and see some patients on a more regular basis than dentists do.

Section 25. The Council supports Section 25. See comments for Section 17.

Section 26. The Council on Domestic Violence and Sexual Assault supports the concept of conducting background checks on people licensed and their employees described in AS 47.35. As discussed under Sections 7,8 and 9, often people in positions of authority over children take advantage of their positions and abuse children.


Robert J. Sundberg
Commissioner
Department of Public Safety

Selected State Legislation

**A Guide for Effective
State Laws to Protect Children**

January 1985

National Center for Missing & Exploited Children

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Foreword

Each year in this country hundreds of thousands of children disappear, and thousands more become the victims of criminal and sexual exploitation. Our efforts to prevent crimes against children and to treat cases of child victimization have not been adequate to assure the safety and protection of all children.

There has been an urgent demand from all walks of American life that initiatives be undertaken to address the problem of missing and exploited children. Effective legislation at the state level will have a dramatic impact on our society's ability to prevent crimes against children and to deal with the child victim of abduction or exploitation.

Is Your State Legislation Adequate?

The professionals who deal with cases of missing and exploited children have learned that it is critical that methods for dealing with child victimization be updated and improved. New programs are desperately needed to educate children and their families on prevention techniques. We have made good progress, but in every state we can do more to protect our children.

Some states have passed laws to meet the growing need for comprehensive legislation to address the issue of child victimization. Some state codes, however, remain seriously deficient in provisions protecting children. There is a critical need for state and local agencies to share information about the most effective and innovative child protection programs, many of which were made law in 1984.

By comparing the examples of legislation in this book with your own state code, you will be able to see where your statutes may need improvement. Each state, however, has its own systems for criminal, youth, and social services. Users of this selection should recognize that existing legislation serves a particular jurisdiction and that the examples and model legislation must be modified to meet each state's special needs.

The National Center for Missing and Exploited Children

The National Center for Missing and Exploited Children, in cooperative agreement with the U.S. Department of Justice, was chartered as a clearinghouse of information and assistance on the issues of missing children and the criminal and sexual exploitation of children. The Center's staff is made up of professionals and experts trained in the treatment of missing and exploited children.

The Center has received thousands of letters and calls from governors, legislators, and citizens requesting information about legislative measures that can be taken to protect our children. To develop this legislation package, the Center obtained copies of the existing effective state legislation and then analyzed and summarized it. In instances where there is no legislation addressing a certain child protection issue, this package includes basic principles or models for guidance.

The professionals who screened and analyzed this legislation constitute a multi-disciplinary team of attorneys, prosecutors, youth service providers, child advocates, law-enforcement officers, and others interested in the welfare and protection of children.

The Purpose of This Selection of State Legislation

This information package is designed to highlight some of the most effective state laws that concern child victimization. It is a resource intended for use by state legislators, governors, and state officials as well as all citizens concerned about protecting children.

This legislation package is not comprehensive. For example, it does not include any statistical data, nor does it cover all child protection issues or all existing state legislation in these areas. Rather, it contains a sampling of varied legislation from a number of states around the country. The samples chosen demonstrate how the complex issues of missing and exploited children are treated most effectively in each state.

How You Can Contribute

The National Center for Missing and Exploited Children will be expanding this legislation package as more information becomes available. We urge you to submit any information you may have about child protection issues and actions. Even if only a small part of the legislation seems new or worthwhile, please send it to the Center. We intend to act as a central resource in this area and would greatly appreciate any and all contributions.

A Message to the Citizen

There are a number of different ways in which you can be instrumental in effecting new laws in your state. The most common approach is to contact your state representatives or state senators and explain what provisions you feel are needed. Give them a copy of this selection of state laws. If they support the concepts in the laws, they will introduce a bill in your state legislature.

A second approach is to contact your governor, who can, in many instances, initiate legislation. Even when your state representative is introducing a bill, it is helpful to secure the backing of the governor. Remember, the governor is definitely in a position to influence legislation.

No matter which approach you take, though, it is wise to solicit the support of community organizations and local interest groups. You may want to organize a meeting between your state representatives and senators and those individuals and organizations that are working for the safety and protection of children.

Getting a bill through the state legislature is not a mystery. A few general rules apply. You should contact elected representatives from both sides of the legislature if your state has a two-part legislature. It is also wise to contact members of both parties: Laws to protect children should transcend party affiliation. In addition, bills that are cosponsored and have bipartisan support are the most likely to succeed.

Finally, you should make an effort to track the bill throughout the legislative process. Citizens can attend hearings, assess the bill's problems, and lobby for its passage by contacting state representatives who seem undecided about the issue. Furthermore, some states have provisions that allow citizens to comment directly on pending bills.

1. Missing Children

The problem of missing children is one of the most pressing concerns in our country today. While no one is sure of the exact numbers, it is estimated that at least 1,500,000 children are missing from their homes each year, many of whom end up abused or even victims of homicide.

The U.S. Congress highlighted this problem and took important steps to resolve it by passing the Missing Children Act in 1982 and, later, the Missing Children Assistance Act in 1984. Establishment of the National Center for Missing and Exploited Children is another example of the federal government's commitment to solving the problem of missing and exploited children.

Much more can be done on the state level, however. Comprehensive state legislation is critically needed to address the particular needs of missing and exploited children and to help solve problems that are unique to the state level.

State Boards and Clearinghouses

Several states have enacted important legislation to address the problem of missing and criminally or sexually exploited children. Such legislation includes creating a *state board or commission* with a variety of responsibilities, or establishing a *clearinghouse* or central registry for the state.

Kentucky The State of Kentucky (1984, H.B. 486) recently enacted comprehensive legislation addressing the problem of missing and exploited children in the state. The Kentucky statute creates a special state child abuse and exploitation prevention board within the office of the attorney general that does the following:

1. Coordinates and exchanges information on prevention programs.
2. Provides educational and public information seminars on prevention of child sexual abuse and exploitation.
3. Encourages the development of community prevention programs.
4. Recommends to the governor and the state assembly changes in state programs and policies that will reduce the problem of child sexual abuse and exploitation.
5. Provides prevention services to children and parents or guardians.
6. Authorizes a trust fund as a resource for a private nonprofit or public organization to develop or operate a prevention program.
7. Funds local task forces.

One of the most important provisions of the Kentucky statute is the creation of a state clearinghouse on missing children. Kentucky established a Kentucky Missing Child Information Center that serves as a central repository, or clearinghouse, of information about Kentucky children believed to be missing and children from other states believed to be located in Kentucky. The Missing Child Information Center is required to issue flyers with descriptive information about these children. And, a very important provision of this law is that within 24 hours after completing a missing chil-

Office of Child Advocacy
* Council on Domestic Violence
& Sexual Assault
missing children registry
Public Safety

dren report, the local law-enforcement agency is required to send the report to the Kentucky Missing Child Information Center and, from there, to the National Crime Information Center computer at the FBI.

The provisions of the Kentucky legislation on this state board appear on pages 4-7.

New Jersey Like Kentucky, the State of New Jersey (1984, Com. Sub. A. 1121, 1647) recently established a State Commission on Missing Persons. This Commission is mandated to provide state action plans and guidance for future legislation to address the problem of missing and exploited children. The New Jersey statute also establishes a Missing Persons Unit in the Department of Law and Public Safety, which does the following:

1. Coordinates, files, and investigates all missing children cases in the state and creates a central office on missing children.
2. Collects and maintains data on missing children and unidentified bodies in New Jersey and throughout the United States.
3. Coordinates with other states and with the federal government in investigating cases of missing children and unidentified bodies.
4. Provides special training to law-enforcement officers and medical examiners to help them handle cases of missing children and unidentified bodies.

Illinois The State of Illinois (1984, S.B. 1655) has also passed comprehensive legislation addressing the problem of missing and exploited children. The Illinois legislation established local units that do the following:

1. Establish a data system to collect and disseminate information that can assist agencies in recovering missing children.
2. Require law-enforcement agencies to furnish to the Department of Law Enforcement any information relating to sex crimes in their areas.
3. Set up education and prevention programs and provide prevention guidelines for children.

Florida, Kansas, and Minnesota Both Florida (S937.033) and Kansas (1984, S.B. 803) have established clearinghouses that allow parents to report cases of missing children to a central file. Florida has created a Missing Children Information Clearinghouse within the Department of Law Enforcement. The clearinghouse is a centralized file of information on missing children that allows any parent, guardian, or legal custodian to submit a missing children report. It requires all state and local law-enforcement agencies to submit a missing children report to the clearinghouse—information which is then transmitted to the National Crime Information Center of the FBI. Florida has also set up a statewide 1-800 telephone line to receive reports on missing children.

The clearinghouse maintained by the State of Kansas allows for the comparison of reports of unidentified deceased persons with reports of missing children. In addition, the Kansas statute mandates that any law-enforcement agency that fails to make reports of missing children is liable to pay a civil penalty.

The State of Minnesota (1984, H.F. 1428) has placed the responsibility upon the Commissioner of Public Safety to perform a variety of services, including the following:

1. Compiling annual statistics on the number of missing children.
2. Developing recommendations for better reporting and use of computer systems.
3. Providing the necessary equipment for the use of the National Crime Information Center by all local law-enforcement agencies.

Unidentified Deceased Persons

In addition to clearinghouses, there is a great need for state legislation to address the problem of *unidentified deceased persons*. These are people, many of whom are children, who are buried nameless in "John Doe" or "Jane Doe" graves each year.

The Missing Children Act, mentioned above, provides for a nationwide system to identify deceased persons. As a result, the FBI established an extremely sophisticated and comprehensive tracking system both for missing persons and for the unidentified dead. The section of the FBI that houses this operation is called the National Crime Information Center (NCIC). Each year the Center locates thousands of missing children and has also begun to identify deceased individuals who were buried as unknowns. It is critical that the federal systems have the support of each state.

Several states have enacted legislation to set up a centralized file of information crucial to identifying missing and deceased persons. The state file operates on the same principle as the National Crime Information Center computer. The reason for having such a file at the state level, however, is to ensure that all state and local agencies participate in this important program. The National Crime Information Center is an excellent resource, but states and communities must be required to *use* it, by state legislative mandate.

California (§11113, 11114), Michigan (1980, S.B. 961), and Georgia (Act 980) provide that dental records and other descriptive information on missing children be collected at the state level. In addition, the medical examiners and coroners in those states are required to report descriptive information concerning deceased persons who remain unidentified. This information is then correlated with the missing children information. State law, in addition, should require that this information be forwarded to the NCIC national files on missing or deceased individuals.

Eliminating Waiting Periods

A continuing problem with missing children cases is that official action is sometimes delayed because of 24-, 48-, or 72-hour *waiting periods* before an investigation is undertaken. As a result, precious hours are lost—often the most important hours in the investigation. Because of the critical nature of the first few hours of an investigation, some states, such as Iowa (1984, S.F. 517) and Kentucky (1984, H.B. 486), require prompt reporting and *investigating* procedures. Following is an excerpt from the Iowa legislation:

Sec. 3. Report on a Missing Person

1. A law enforcement agency in which a complaint of a missing person has been filed shall prepare, as soon as practicable, a report on a missing person. That report shall include, but is not limited to, the following:

- a. All information contained in the complaint on a missing person.
- b. All information or evidence gathered by a preliminary investigation, if one was made.
- c. A statement, by the law enforcement officer in charge, setting forth that officer's assessment of the case based upon all evidence and information received.
- d. An explanation of the next steps to be taken by the law enforcement agency filing the report.

Sec. 4. Dissemination of Report. Upon completion of the report, a copy of the report shall be forwarded to:

1. All law enforcement agencies having jurisdiction of the location in which the missing person lives or was last seen.
2. All law enforcement agencies considered to be potentially involved by the law enforcement agency filing the report.
3. All law enforcement agencies which the complainant requests the report to be sent to, if the request is reasonable in light of the information contained in the report.

4. Any law enforcement agency requesting a copy of the missing person report.

Requiring Data Entry into the National Computer

Nationwide surveys indicate that not all law-enforcement agencies regularly relay descriptive information about missing children to the appropriate state agency or enter it into the National Crime Information Center (NCIC) computer operated by the FBI. Such data entry into the NCIC computer is critical to ensure an effective nationwide distribution of information on a missing child and to compare missing children data with the records of the unidentified dead.

Both Texas (1983, H.B. 2333) and Minnesota (1984, H.F. 1428) have mandated that appropriate information about missing persons be shared promptly with the FBI National Crime Information Center computer. Minnesota requires that law-enforcement agencies, after a preliminary investigation, immediately enter descriptive information on missing children into the NCIC computer and also requires prompt notification to NCIC when the child is located. Following is an excerpt from the Minnesota legislation:

Sec. 3. [299C.53]

Subdivision 1. Upon receiving a report of a child believed to be missing, a law enforcement agency shall conduct a preliminary investigation to determine whether the child is missing. If the child is determined to be missing, the agency shall immediately enter identifying and descriptive information about the child through the CJIS into the NCIC computer. Law enforcement agencies having direct access to the CJIS and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Subd. 2. Immediately after a missing child is located, the law enforcement agency which located or returned the missing child shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the NCIC computer.

The Texas legislation also requires that every law-enforcement agency provide to the FBI any information that would assist in locating and identifying missing children.

Kentucky Legislation

Following are sections of the Kentucky legislation referred to in the text.

(H.B. 486)

ACT relating to, sexually abused, missing and exploited children, including those persons who commit offenses relating thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) As used in Section 1 through 9 of this Act:

(a) "Child" means a person under eighteen (18) years of age;

(b) "Child sexual abuse and exploitation" means harm to a child's health or welfare by any person, responsible or not for the child's health or welfare, which harm occurs or is threatened through nonaccidental sexual contact which includes violations of KRS 510.040 to 510.150, 530.020, 530.070, 531.310, 531.320 and 531.370;

(c) "Local task force" means an organization which meets the criteria described in Section 9 of this Act;

(d) "State board" means the state child sexual abuse and exploitation prevention board created in Section 3 of this Act;

(e) "Prevention program" means a system of direct provision of child sexual abuse and exploitation prevention services to a child, parent, or guardian, but shall not include research programs related to prevention of child sexual abuse and exploitation; and

(f) "Trust fund" means the child victims' trust fund established in the office of the state treasurer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state child sexual abuse and exploitation prevention board is created as an autonomous agency within the office of the attorney general.

(2) The state board may appoint an executive director of the state board to exercise the powers and carry out the duties of the state board.

SECTION 3. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall be composed of the following members:

(a) The secretary of the human resources cabinet, the secretary of finance and administration cabinet, the superintendent of public instruction, the commissioner of the state police, and the attorney general, or designees authorized to speak on their behalf; and

(b) Ten (10) public members appointed by the governor. It is recommended that, as a group, the public members shall demonstrate knowledge in the area of child sexual abuse and exploitation prevention; shall be representative of the demographic composition of this state; and, to the extent practicable, shall be representative of all the following categories: parents, school administrators, law enforcement, the religious community, the legal community, the medical community, professional providers of child sexual abuse and exploitation prevention services, and volunteers in child sexual abuse and exploitation prevention services

(2) The term of each public member shall be three (3) years, except that of the public members first appointed, three (3) shall serve for three (3) years, three (3) for two (2) years, and four (4) for one (1) year. A public member shall not serve more than two (2) consecutive terms whether partial or full. A vacancy shall be filled for the balance of the unexpired term in the same manner as the original appointment.

(3) The attorney general shall serve as chairman or designate a chairperson of the state board in which case the chairperson shall serve in that position at the pleasure of the attorney general. The state board may elect other officers and committees as it considers appropriate.

(4) There shall be no per diem compensation; however, the schedule for reimbursement of expenses for the public members of the state board shall be the same as for state employees. The reimbursement, executive director and staff salaries, and all actual and necessary operating expenses of the state board shall be paid from the trust fund, pursuant to an authorization as provided in Section 8 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The business which the state performs shall be conducted at a public meeting of the state board held in compliance with the open meetings act.

(2) A writing prepared, owned, used, in the possession of, or retained by the state board of the performance in an official function shall be made available to the public in compliance with the open records act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board shall do all of the following:

(a) Meet not less than twice annually at the call of the chairperson;

(b) One (1) year after the original appointment of the state board, and biennially thereafter, develop a state plan for the distribution of funds from the trust fund. In developing the plan, the state board shall review already existing prevention programs. The plan shall assure that an equal opportunity exists for establishment of prevention programs and receipt of trust fund money among all geographic areas in this state. The plan shall be transmitted to the clerk of the house of representatives, to the clerk of the senate, and to the governor;

(c) Provide for the coordination and exchange of information on the establishment and maintenance of prevention programs;

(d) Develop and publicize criteria for the receipt of trust fund money by eligible local task forces and eligible prevention programs;

(e) Review, approve, and monitor the expenditure of trust fund money by local task forces and prevention programs;

(f) Provide statewide educational and public informational seminars for the purpose of developing appropriate public awareness regarding the prevention of child sexual abuse and exploitation; encourage professional persons and groups to recognize and deal with prevention of child sexual abuse and exploitation; encourage and coordinate the development of local task forces; make information about the prevention of child sexual abuse and exploitation available to the public and organizations and agencies which deal with problems of child sexual abuse and exploitation; and encourage the development of community prevention programs; and

(g) Establish a procedure for an annual, internal evaluation of the functions, responsibilities, and performance of the state board. In a year in which the biennial state plan is prepared, the evaluation shall be coordinated with the preparation of the state plan.

(2) The state board may enter into contracts with public or private agencies to fulfill the requirements of this section. The state board shall utilize existing state resources and staff of participating departments whenever practicable.

SECTION 6. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may recommend to the governor and the general assembly changes in state programs, statutes, policies, budgets, and standards which will reduce the problem of child sexual abuse and exploitation, improve coordination among state agencies that provide prevention services and improve the condition of children and parents or guardians who are in need of prevention program services.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The state board may accept federal funds granted by the Congress or executive order for the purposes of this Act as well as gifts and donations from individuals, private organizations, or foundations. All funds received in the manner described in this section shall be transmitted to the state treasurer for deposit in the trust fund, and shall be made available for expenditure as appropriated by the general assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The state board may authorize the disbursement of available money from the trust fund, upon legislative appropriations, for exclusively the following purposes, which are listed in the order of preference for expenditure:

(a) To fund a private nonprofit or public organization in the development or operation of a prevention program if at least all of the following conditions are met:

1. The appropriate local task force has reviewed and approved the program. This subparagraph does not apply if a local task force does not exist for the geographic area to be served by the program;

2. The organization demonstrates an ability to match through money fifty percent (50%) of the amount of any trust fund money received;

3. The organization demonstrates a willingness and ability to provide program models and consultation to organizations and communities regarding program development and maintenance; and

4. Other conditions that the state board may deem appropriate.

(b) To fund local task forces; and

(c) To fund the state board created in Section 2 of this Act for the actual and necessary operating expenses that the board incurs in performing its duties.

(2) Authorizations for disbursement of trust fund money under subsection (1)(c) of this section shall be kept at a minimum in furtherance of the primary purpose of the trust fund which is to disburse money under subsec-

tions (1)(a) and (b) of this section to encourage the direct provision of services to prevent child abuse and exploitation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

In making grants to a local task force, the state board shall consider the degree to which the local task force meets the following criteria:

(1) Has as its primary purpose the development and facilitation of a collaborative community prevention program in a specific geographical area. The prevention program shall utilize trained volunteers and existing community resources wherever practicable;

(2) Is comprised of local law enforcement and social services representatives and does not exclude any organization or person that the state board deems necessary;

(3) Demonstrates a willingness and ability to provide prevention program models and consultation to organizations and communities regarding prevention program development and maintenance;

(4) Demonstrates an ability to match through money fifty percent (50%) of the amount of any trust fund money received. The amount and types of in-kind services are subject to the approval of the state board; and

(5) Other criteria that the state board deems appropriate.

SECTION 11. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) The justice cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center," which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.

(2) The cabinet shall provide the missing child information center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child referred to in subsection (1) of this section.

(3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, social security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.

(4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the state police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.

(5) The cabinet, through the Kentucky missing child information center, shall regularly issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.

(6) For purposes of this Act, child shall mean any person under eighteen (18) years of age or any person certified or known to be mentally incompetent or disabled.

(7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and recommendations for more accurate and timely reports and better usage of the computer.

(8) The cabinet may issue regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.

(9) The Kentucky state police and each city, county, and urban county police department and each sheriff's office shall fingerprint children without charge on forms provided by the cabinet. The completed fingerprint forms shall be delivered to the child's parent or guardian and no copy of the fingerprint form shall be retained by the police department or sheriff's office.

SECTION 12. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

(1) Upon notification by a parent or guardian that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the justice cabinet and which shall include such information as the cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky missing child information center computer and shall cause the report to be entered into the national crime information center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4) Within twenty-four (24) hours after a missing child is located and returned to his parent, guardian or to the state, if a ward of the state, the law enforcement agency which found or returned the missing child shall notify both the missing child information center and the national crime information center of that fact.

...

2. Sexual Abuse and Exploitation

The National Center for Missing and Exploited Children is chartered to address the problem of children who are criminally or sexually exploited, which includes child molestation, child prostitution, and child pornography. State legislation can be effectively used to improve many laws regarding the treatment of criminally or sexually exploited children. The state legislation referred to in this section has proved highly successful in addressing the problems of exploited children. (See also "Child Pornography and Child Prostitution," pages 45-47.)

Reporting and Investigating Cases of Child Sexual Exploitation

Who Must Report? In order to ensure that all cases of child abuse or exploitation are indeed reported, some states include a broad category of citizens who are required to report.

The State of Delaware (§16-903) has mandated that reports are required from physicians, persons in the healing arts, school employees, social workers, psychologists, medical examiners, and *any other person*.

The State of Kentucky (§199.335) requires reports from many of the same professions as the Delaware statute and adds child care personnel as well. Virginia (§63.1-248.3) specifies social workers, nurses, probation officers, mental health professionals, and law-enforcement officers as well. Both the Delaware and Kentucky laws are significant because they include the words *or any other person* to include all citizens in general. It is not appropriate, however, to penalize citizens in the same way that professionals are penalized for failure to report.

North Carolina (§7A-543) requires "any person or institution that has cause to suspect that any juvenile is abused or neglected" to report such cases. South Dakota (§26-10-11) specifically requires abuse reports by hospital and school personnel and notification of the officials in charge. An excerpt from the South Dakota statute follows:

26-10-11. Child abuse reports by hospital personnel—Failure as misdemeanor—Written policy required as to reporting. When the attendance of any person under §26-10-10 with respect to a child is pursuant to the performance of services as a member of a staff of a hospital or similar institution, such person shall, in addition to the report required by §26-10-10, forthwith notify the person in charge of the institution or his designated delegate, who shall report or cause reports to be made in accordance with the provisions of §26-10-12. Any such person in charge or delegate who knowingly and intentionally fails to make a report required of him is guilty of a Class 1 misdemeanor. Each hospital or similar institution shall have a written policy on reporting of child abuse and neglect.

26-10-11.1. Child abuse reports by school personnel—Failure as misdemeanor—Written policy required as to reporting. When the presence of any person under §26-10-10 is pursuant to the performance of services as a teacher, school nurse, school counselor, school official or administrator, such person shall, in addition to the report required by §26-10-10, notify the school principal or school superintendent or his designate who shall report or cause reports to be made in accordance with the provisions of §26-10-12.

When a child is discovered and appears to be in imminent danger, the child may be removed by the local law enforcement officer. In the event a child who is in a hospital or under the immediate care of a physician appears to be in such certain danger of injury or death if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child in the physician's office or the hospital without court order provided that an attempt is made to obtain such court order at the earliest practicable time not to exceed seventy-two (72) hours. Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person responsible for such child, if the officer has reasonable cause to believe that there exists an imminent danger to the child's life or health.

Protecting Individuals or Institutions That Report Many cases of child abuse may go unreported because people are afraid that they will be penalized in some way. Therefore, a number of states have instituted *immunity* and *protective measures* for those who report. The following examples of state legislation provide critical support and protection measures for those who report child abuse, neglect, and exploitation.

The states of Mississippi (§43-21-355) and South Dakota (§26-10-14) protect those who report "in good faith." The State of Kentucky (§199.335) protects those who report based upon a "reasonable cause." Further, Mississippi law (§43-21-355) provides for *immunity from liability*, civil or criminal, for individuals who are acting "in good faith." That means that a civil or criminal suit cannot be brought against those who report. Criminal liability can mean a possible jail sentence or fine.

The State of Vermont (T.33§683) provides for the *confidentiality of the name* of the person making the report or any person mentioned in the report. The State of Colorado (§19-10-110) ensures that the person reporting "in good faith" is immune from civil or criminal liability or termination of employment that otherwise might result. Following is an excerpt from the Colorado statute:

19-10-110. Immunity from liability—persons reporting. Any person participating in good faith in the making of a report or in a judicial proceeding held pursuant to this title, the taking of photographs or X rays, or the placing in temporary protective custody of a child pursuant to this article or otherwise performing his duties or acting pursuant to this article shall be immune from any liability, civil or criminal, or termination of employment that otherwise might result by reason of such reporting. For the purpose of any proceedings, civil or criminal, the good faith of any person reporting child abuse, any person taking photographs or X rays, and any person who has legal authority to place a child in protective custody shall be presumed.

Kentucky (§199.335) provides for immunity from liability for photographs, x-rays and other appropriate medical procedures taken without the consent of the parent as part of an investigation. Finally, Rhode Island (1984, H. 7519) recently provided that those who report child abuse be advised about the agency efforts that may have taken place because of the report.

Penalties for Failure to Report Many states impose criminal sanctions or fines upon those professionals who do not report cases of child abuse, neglect, or exploitation. For example, the State of Michigan (§722.633) provides that a person required to report an instance of child abuse is civilly liable for the damages caused by the failure. Of course, this kind of penalty should apply only to professionals required to report.

But in states requiring regular citizens to report such cases, it is not fair to make the penalties as high for the ordinary citizen as they are for the trained professional. A civil fine is as serious as the penalty should be for a citizen. And, certain protections, such as immunity from liability, should also apply to the average individual who reports child abuse, neglect, and exploitation.

ordination, consultation, and other supportive services that the teams shall be capable of providing include, but are not limited to, the following:

(a) Medical diagnosis and evaluation services, including provision or interpretation of X-rays and laboratory tests, and related services, as needed, and documentation of findings relative thereto.

(b) Telephone consultation services in emergencies and in other situations.

(c) Medical evaluation related to abuse or neglect, as defined by department policy or rule.

(d) Such psychological and psychiatric diagnosis and evaluation services for the child, parent or parents, guardian or guardians, or other care givers, or any other individual involved in a child abuse or neglect case, as a child protection team may determine to be needed.

(e) Short-term psychological treatment. It is the intent of the Legislature that short-term psychological treatment be limited to no more than 6 months' duration after treatment is initiated, except that the appropriate district administrator may authorize such treatment for individual children beyond this limitation if he deems it appropriate.

(f) Expert medical, psychological, and related professional testimony in court cases.

(g) Case staffings to develop, implement, and monitor treatment plans for a child whose case has been referred to a child protection team. A child protection team may provide consultation on any other child who has not been referred to a team, but who is alleged or is shown to be abused, which consultation shall be provided at the request of a representative of the children, youth, and families program or at the request of any other professional involved with a child, his parent or parents, guardian or guardians, or other care givers. In all such child protection team case staffings, consultations, or staff activities involving a child, a children, youth, and families program representative shall attend and participate.

(h) Case service coordination and assistance, including the location of services available from other public and private agencies in the community.

(i) Such training services for program and other department employees as is deemed appropriate to enable them to develop and maintain their professional skills and abilities in handling child abuse and neglect cases.

(j) Educational and community awareness campaigns on child abuse and neglect in a effort to enable citizens more successfully to prevent, identify, and treat child abuse and neglect in the community.

(2) Child abuse and neglect cases that are appropriate referrals by the children, youth, and families program to child protection teams for support services as set forth in subsection (1) include, but are not limited to, cases involving:

(a) Bruises, burns, or fractures in a child under the age of 3 years and in a nonambulatory child of any age.

(b) Unexplained or implausibly explained bruises, burns, fractures, or other injuries in a child of any age.

(c) Sexual abuse of a child in which vaginal or anal penetration is alleged, or in which other unlawful sexual conduct has been determined to have occurred.

(d) Venereal disease, or any other sexually transmitted disease, in a prepubescent child.

(e) Reported malnutrition of a child and failure of a child to thrive.

(f) Reported medical, physical, or emotional neglect of a child.

(g) Any family in which one or more children have been pronounced dead on arrival at a hospital or other health care facility, or have been injured and later died, as a result of suspected abuse or neglect, where any sibling or other child remains in the home.

(h) Symptoms of serious emotional problems in a child where emotional or other abuse or neglect is suspected.

In all instances where a child protection team is providing certain services to abused or neglected children, other offices and units of the department shall avoid duplicating the provision of those services.

*Kerttula had bill last yr.
Dept. resistant to limit
indicators thru a list.
Preferred training
employees.*

currently reimbursed
by Victim Crimes Compensation
Bd. unless 3rd party insurance
coverage.

Payment for Physical Exams

Unfortunately, in many states, the victim of a sexual assault must, in addition to suffering from the effects of the crime, pay for the required medical examination. Some states have protected the victim by mandating that such exams be paid for out of social services, law enforcement, or other community funds. Following is a Montana statute (§46-15-411) that requires the local law-enforcement agency to pay for the required exam.

46-15-411. Payment for medical evidence. (1) The local law enforcement agency within whose jurisdiction an alleged incident of sexual intercourse without consent occurs shall pay for the medical examination of a victim of alleged sexual intercourse without consent when the examination is directed by such agency and when evidence obtained by the examination is used for the investigation or prosecution of an offense.

(2) This section does not require a law enforcement agency to pay any costs of treatment for injuries resulting from the alleged offense.

Also, the State of Minnesota (§609.35) has mandated that the cost of the examination of the victim of a sexual assault will not be charged to the victim.

Emergency Protection for the Child

Because of the unique nature of child sexual assault and exploitation, special measures are often necessary to provide immediate protection for the child. The State of Colorado (§19-10-116) has allowed its juvenile courts to issue *restraining orders* to prevent sexual offenses. This emergency protection includes preventing anyone from threatening, molesting, or injuring a child. It also can exclude someone from the family home or prevent someone from contacting the child elsewhere. An excerpt from the Colorado statute follows:

19-10-116. Restraining orders and emergency protection orders.

(1) (a) The juvenile court and the district court shall have authority to issue restraining orders to prevent an unlawful sexual offense . . . when requested by the local law enforcement agency, county department, or a responsible person who asserts, in a verified petition supported by affidavit, that there are reasonable grounds to believe that a child is in danger in the reasonably foreseeable future of being the victim of an unlawful sexual offense, based upon an allegation of a recent actual unlawful sexual offense or threat of the same.

The Colorado law also provides that the person who disobeys the restraining order can be held in contempt of court.

Limiting the Number of Interviews

The demands of the social services and criminal justice system often mean that a child victim of a sexual assault may be interviewed about the assault as many as a dozen times—by a social services investigator, the police, the local prosecutor's office, therapists, and many others. This would be a great strain on any adult, let alone a child already under extreme stress.

The State of Florida (1984, S.B. 890) recently considered a bill that would require the chief judge of each local circuit to provide for *reasonable limits on the number of interviews* a child victim would have to undergo. An excerpt from the Florida legislation is reproduced below:

Section 1. Child abuse and sexual abuse victims under age 12; limits on interviews.—The chief judge of each judicial circuit, after consultation with

"Kidnapping" if
expand authority
to take emergency
custody beyond DHS
and police.

in AK law crime
to violate TRD

Statute
proposed

the state attorney for the judicial circuit and the sheriff of each county within the judicial circuit, shall provide by rule for reasonable limits on the number of interviews a victim of a violation of s. 794.011, s. 827.03, or s. 827.04, Florida Statutes, who is under 12 years of age must submit to for law enforcement or discovery purposes. The rule shall, to the extent possible, protect the victim from the psychological damage of repeated interrogation while preserving the rights of the public, the victim, and the person charged with the violation.

3. Criminal Code Provisions

The provisions of state *criminal codes* dealing with child abuse, sexual offenses, and kidnapping directly affect the issue of missing and exploited children. State criminal codes determine what acts are considered crimes and how these crimes are punished. In addition, criminal code provisions determine who is released early from prison (paroled) and under what circumstances. State legislation can be used to strengthen state criminal codes to protect missing and exploited children.

Time Limits (Statute of Limitations)

A recurring difficulty in prosecuting cases of child victimization is the fact that many cases go unreported for years. Because the children are often very young, confused, and feel responsible for the act, they are afraid to report or may not even know that what happened is indeed a crime. This is especially true in incest cases, but it also occurs in cases involving molestation by those other than family members. As a result, many cases of child victimization cannot be prosecuted simply because the child did not report it until years later and the *statute of limitations* had expired.

Many states, therefore, are extending their statute of limitations for crimes involving children. These extensions ensure that crimes against children can be prosecuted even several years after the offense has occurred. The State of Minnesota (Chapter 496) recently lengthened its statute of limitations from three years to seven years for any criminal or sexual conduct involving a minor. Utah (1984, H.B. 209) extended this time limitation to eight years. Florida (Chapter 84-86) took a different approach and mandated that if the victim is under the age of 16, the time limitation does not begin until the victim has reached the age of 16 or until the violation is reported, whichever is earlier. Actually, the statute of limitations in these cases should be at least 15 years.

"Consent" and Past Sexual Experiences of the Child Victim

Two obstacles sometimes encountered in prosecuting child victimization cases are 1) a requirement to prove that the child did not consent to the act, and 2) an inquiry into the child's prior sexual experiences. The State of Florida (Chapter 84-86) now requires that neither the victim's lack of chastity nor the victim's consent is a defense for certain sexual offenses committed against children. Utah (1984, H.B. 209) provides that a seizure, confinement, detention, or transportation is considered against the will of any victim under 14, if it is without the consent of the parent or guardian. Of course, this provision was not intended to apply to cases of parental kidnapping.

Mandatory Prison Sentences for Sexual Offenders

Some states have enacted legislation that provides for mandatory prison sentences for those convicted of certain specified sexual crimes against children (California Penal Code §1203.066; Kentucky, 1984, Chapter 382; Utah, 1984, H.B. 209). While these statutes do address the critical problem of the serious or repeat offender who does not have to serve any time in jail or prison, they do raise two issues that will need to be

12.10.010(c)

Current statute outside limit 10 yrs. (except murder) Hard to prosecute if any longer.

Sup Ct Ruling - minors cannot give consent - "Statutory rape" - age 13? but add anyway

mandatory vs. presumptive
↓
flat minimum
↓
can be reduced
mitigating
circumstances
SB 535 last year

addressed. Both issues concern the unique nature of cases of incest or intrafamily sexual abuse. If the child who is a victim of these particular intrafamily crimes learns that his or her father or stepfather faces an automatic prison sentence, it often makes the child reluctant to report the crime or to continue to tell the truth throughout the investigation and court procedures. In addition, family members and friends may put significant pressure upon the child to recant a truthful account of the crime so that the defendant does not have to serve any period of imprisonment.

What this means is that any state law that includes mandatory imprisonment should also include provisions that allow the judge, at his or her discretion, to impose a probated (no incarceration) or suspended sentence if there are specific findings, which follow:

1. The defendant is a natural parent, stepparent, adoptive parent, relative, other legal guardian, or a member of the victim's household who has lived in the household.
2. It is in the victim's best interest that the defendant not be incarcerated.
3. There is no continuing threat of physical harm to the child if the defendant is not incarcerated.
4. The defendant has been accepted for mental health treatment in a recognized center that deals with therapy for the kind of offense committed.

These provisions are an attempt to deal with the conflicting interests of the required incarceration of a child molester and the needs of the child who is a victim of intrafamily sexual abuse. Also, the judge is still free to impose a mandatory jail sentence if it is in the best interest of the child.

Registering Sexual Offenders

In order to know the whereabouts of those convicted of sex offenses, the State of Ohio (§2950.02) and the State of Utah (1984, H.B. 209) have mandated that sex offenders register with local or state officials in that state. The Utah provisions are comprehensive and also require that notice be given to the victim before the offender is released from prison. Both provisions are significant.

if on probation or parole, already must register. what about right to privacy?

Paroling Sexual Offenders

Because many sexual offenders repeat their crimes against children, some states have legislated specific provisions to guarantee more protection for children. Legislation in Utah (1984, H.B. 209) is an excellent answer to the problem of repeat offenders. The Utah legislation includes the following:

Currently done by Dept Law as long as ~~keep~~ provide current address.

1. A requirement that the prosecutor inform the parole board of the circumstances surrounding a conviction or plea of guilty, plea bargaining, and other background information. *already available.*
2. Provisions for notifying the local prosecutor and the victim concerning a parole hearing on an individual convicted of certain specified offenses against children.
3. An examination before parole by a disinterested third party to determine whether or not the individual is a continuing danger to children.
4. Requirement for three years of outpatient treatment for paroled individuals convicted of certain crime against children.

The above recently enacted state laws regarding parole are innovative steps to protect children that all states should consider.

4. The Child in the Courtroom

The child victim or witness faces a particularly difficult time in the courtroom. Various criminal justice system procedures subject the child to repeated interrogation and a traumatic ordeal that some experts refer to as a second victimization. Some procedures and laws make it difficult or impossible for the child victim to have his or her story heard in the courtroom by a judge or jury. In addition, the formal procedures in the criminal courtroom force the child to relive the episode of exploitation or abuse in a public setting. State legislation addressing these difficult issues is described in this chapter.

Courtroom Procedures Protecting the Child Victim or Witness

Some states have adopted certain courtroom procedures that make it less traumatic for the child victim or witness to testify, such as allowing the child to testify, permitting leading questions, allowing additional evidence, using videotapes and closed-circuit television to record testimony, and removing corroboration rules.

Allowing the Child to Testify Many state laws require that the child pass a specific set of threshold inquiries before he or she is allowed to testify. The child may have to show an understanding of the difference between a true statement and an untrue statement and an appreciation of the nature of the oath to tell the truth. Also included are requirements that the child have an ability to sufficiently recall and relate the details of the incident of abuse or exploitation. Some scholars of law have characterized this kind of prejudice against a child's testimony as "archaic." It is important to note, however, that fewer than half the states in the United States have these provisions, and the Federal Rules of Evidence, applicable in federal courtrooms, presume that every person is competent to be a witness.

If the child is allowed to testify, it is still up to the trier of fact (the judge or the jury) to determine if the child's ability to recall and relate the incidents and his or her understanding of the oath to tell the truth is sufficient to make the testimony convincing. This is a guarantee that the child's testimony will be appropriately evaluated in the trial.

The State of Utah (1984, H.B. 209) recently attempted to address the problem of prejudice against the child's testimony by enacting the following provisions:

Notwithstanding any other provision of law or rule of evidence, a child victim of sexual abuse, under the age of ten, shall be considered a competent witness and shall be allowed to testify without prior qualification in any judicial proceeding. The trier of fact shall be permitted to determine the weight and credibility to be given to the testimony.

The age of ten is included in the Utah statute because of particular provisions of that state's laws. Actually, any child victim of sexual assault should be accorded this protection.

Permitting Leading Questions In most courtroom situations, *leading questions* (those simply requiring a yes or no answer) are prohibited. A child, however, obviously

has difficulty in articulating complete and detailed sentences. Therefore, several states, including California (1984, S.B. 1599) allow that, in certain kinds of crimes, "the court may in the interests of justice permit a leading question to be asked of a child under ten years of age."

Allowing Additional Evidence Traditionally, the criminal justice system excludes as evidence any statements made outside the courtroom. To make it easier for the child, however, Colorado (§18-3-411, §19-1-107) recently enacted provisions that would allow as evidence any out-of-court statements made by a child describing any act of sexual contact, intrusion, or penetration. Most states that have enacted this kind of legislation have also included provisions such as those required by Minnesota (Chapter 588), which ensure the reliability of out-of-court statements. This is a determination made by the judge in the case. Such a specific evaluation of the reliability of the statement is critical.

Similar legislation has been enacted in Indiana (1984, H. 1205) and Utah (1984, H.B. 209). The Utah legislation contains the following provisions:

(1.) Notwithstanding any other provision of law or rule of evidence, a child victim's out of court statement regarding sexual abuse of the child is admissible into evidence although it does not qualify under an existing hearsay exception so long as: (1) the child testifies; or (2) in the event that the child does not testify, there is other corroborative evidence of the abuse. Before admitting such a statement into evidence, the judge shall determine whether the general purposes of the evidence are such that the interest of justice will best be served by admission of the statement into evidence. In addition, the court shall consider the age and maturity of the child, the nature and duration of the abuse, the relationship of the child to the offender, the reliability of the assertion, and the reliability of the child witness in deciding whether to admit such a statement.

Some states have required that out-of-court statements by children will be admissible if the judge finds, among other conclusions, that "the emotional or psychological well-being of the child would be impaired" by testifying. Maine (§1205) has such a law. CAUTION: These innovative attempts to address the needs of the child victim are being tested by the courts.

Videotaping the Child's Testimony Some state legislatures have attempted to lessen the child victim's ordeal of testifying in the courtroom about a sexual assault. The State of New Mexico (§30-9-17) mandated that *videotaping* may be used to record the child's testimony:

A. In any prosecution for criminal sexual penetration or criminal sexual contact of a minor, upon motion of the district attorney and after notice to the opposing counsel, the district court may, for a good cause shown, order the taking of a videotaped deposition of any alleged victim under the age of sixteen years. The videotaped deposition shall be taken before the judge in chambers in the presence of the district attorney, the defendant and his attorneys. Examination and cross-examination of the alleged victim shall proceed at the taking of the videotaped deposition in the same manner as permitted in a trial under the provisions of Rule 611 of the New Mexico Rules of Evidence. Any videotaped deposition taken under the provisions of this act (this section) shall be viewed and heard at the trial and entered into the record in lieu of the direct testimony of the alleged victim.

B. For the purposes of this section, "videotaped deposition" means the visual recording on a magnetic tape, together with the associated sound, of a witness testifying under oath in the course of a judicial proceeding, upon oral examination and where an opportunity is given for cross-examination in the presence of the defendant and intended to be played back upon the trial of the action in court.

C. The supreme court may adopt rules of procedure and evidence to govern and implement the provisions of this act.

6th am?
Ours limits to
trial. Not
being used.

- D. The cost of such videotaping shall be paid for by the state.
- E. Videotapes which are a part of the court record are subject to a protective order of the court for the purpose of protecting the privacy of the victim.

For examples of similar legislation, see the statutes enacted in Arkansas (§43-2036), Colorado (§18-3-411), Iowa (§232.96), Kentucky (Chapter 382), Ohio (1984, H.B. 555), Florida (1984, S.B. 140), and Wisconsin (Act 197). CAUTION: These procedures are currently being tested in the state courts. Their constitutionality has not yet been determined. Videotaping may not provide a comprehensive answer to the plight of the child victim.

Closed-Circuit Television Another alternative considered by some state legislatures is the use of *closed-circuit television* to record the child's testimony. The following excerpt from Texas law (§38.071) is an example:

of those not essential to conduct of trial.

Section 3. The court may, on the motion of the attorney for any party, order that the testimony of the child be taken in a room other than the courtroom and be televised by the closed circuit equipment in the courtroom to be viewed by the court and the finder of fact in the proceeding. Only the attorneys for the defendant and for the state, persons necessary to operate the equipment, and any person whose presence would contribute to the welfare and well-being of the child may be present in the room with the child during his testimony. Only the attorneys may question the child. The persons operating the equipment shall be confined to an adjacent room or behind a screen or mirror that permits them to see and hear the child during his testimony, but does not permit the defendant to observe and hear the testimony of the child in person, but shall ensure that the child cannot hear or see the defendant.

Note: The Sixth Amendment to the United States Constitution guarantees that the accused person shall enjoy the right to be confronted with the witnesses against him. The use of videotaping or closed-circuit television will be a subject of state court decisions in the months ahead. The validity of a provision that prevents the child from hearing or seeing the defendant has not yet been ruled upon by the courts.

Removing Corroboration Rules Several states have requirements that make it extremely difficult for the child victim or witness to testify. These are called *corroboration rules*, which require that 1) the child cannot simply testify as to the sexual assault without other evidence to substantiate the child's story, or 2) if the child is allowed to testify, as soon as that testimony is questioned, attacked, or impeached, then it is required that additional evidence be introduced to substantiate the child's story. Obviously, these kinds of procedures interfere with the child's ability to seek justice in the courtroom. If these corroboration rules exist by statute or court decision, state legislators should carefully consider removing or eliminating them.

Anatomically Correct Dolls

The child victim of a sexual assault usually finds it very difficult to tell the story in adult language. Therefore, some states have tried to make this procedure easier for the child. Pennsylvania (1984, S.B. 1361) recently passed a provision that allows for the use of *anatomically correct dolls* to assist a child victim in testifying in the courtroom. An excerpt from the Pennsylvania statute follows:

§ 5986. Use of anatomically correct dolls.

In any criminal proceeding charging unlawful sexual contact or penetration with or on a child, the court shall permit the use of anatomically correct dolls or mannequins to assist an alleged victim in testifying on direct and cross-examination.

Somebody wants to use in Juneau soon

Already have allowed exclusion of others from trial, not being used.

Law not using tools to protect child now.

AK doesn't have any

we use already

Current 120-day speedy trial rule. AK doesn't suffer from backlog of cases.

3rd Jud Dist has domestic violence task force - looking at prioritizing these cases.

Prompt Disposition

Because the trial process is extremely stressful for a child, the State of Pennsylvania (1984, S.B. 1361) recently passed legislation that would require the court and the prosecuting attorney to ensure a *prompt disposition* of a case of a child victim. This also assists the young child who may not remember the details of the offense itself for an extended period of time. An excerpt from the Pennsylvania statute follows:

§ 5983. Duty to expedite proceedings.

In all criminal case and juvenile proceedings involving a child victim or witness, the court and the district attorney shall take appropriate action to ensure a speedy trial in order to minimize the length of time the child must endure the stress of involvement in the proceedings. In ruling on any motion or other request for a delay or continuance of proceedings, the court shall consider and give weight to any adverse impact the delay or continuance may have on the well-being of a child victim or witness.

The Rights of Child Victims or Witnesses

At least two states have adopted a specific listing of victims' rights—in particular, child victims. This "bill of rights" assures that children will be given certain assistance during the course of a criminal proceeding. An excellent example of this kind of legislation is the Wisconsin Bill of Rights for Children (§950.055), which is reproduced below:

AK has victims bill of rights - doesn't specifically exclude children!

950.055 Child victims and witnesses: rights and services

(1) Legislative intent. The legislature finds that it is necessary to provide child victims and witnesses with additional consideration and different treatment than that usually afforded to adults. The legislature intends, in this section, to provide these children with additional rights and protections during their involvement with the criminal justice system. The legislature urges the news media to use restraint in revealing the identity of child victims or witnesses, especially in sensitive cases.

(2) Additional services. In addition to all rights afforded to victims and witnesses under s. 950.04 and services provided under s. 950.05, counties are encouraged to provide the following additional services on behalf of children who are involved in criminal proceedings as victims or witnesses:

already done

(a) Explanations, in language understood by the child, of all legal proceedings in which the child will be involved.

(b) Advice to the judge, when appropriate and as a friend of the court, regarding the child's ability to understand proceedings and questions. The services may include providing assistance in determinations concerning the taking of videotaped depositions under s. 967.04 (7) and the duty to expedite proceedings under s. 971.105.

(c) Advice to the district attorney concerning the ability of a child witness to cooperate with the prosecution and the potential effects of the proceedings on the child.

(d) Information about and referrals to appropriate social services programs to assist the child and the child's family in coping with the emotional impact of the crime and the subsequent proceedings in which the child is involved.

(3) Program responsibility. In each county, the county board is responsible for the enforcement of rights and the provision of services under this section. A county may seek reimbursement for services provided under this section as part of its program plan submitted to the department under s. 950.06. To the extent possible, counties shall utilize volunteers and existing public resources for the provision of these services.

juvenile proceedings automatically confidential
But is an issue over whether name of adult
offender (who offend^{our} child) is withheld. And
where place restraint? DA's office - don't
keep name from public.
Can't restrain news media!

Problem
if victim
related
to offender.

5. Protecting the Privacy of the Child Victim

The child victim often faces the additional ordeal of the release and publication of highly personal information, including his or her name and the nature of the acts committed. Public release of the victim's name, address, picture, and the details of the assault violates the child's privacy. It is not only embarrassing and traumatic for the child and the family, but it can result in severe psychological and emotional harm.

The issue of the victim's privacy is not a simple one, however. Freedom of the press is guaranteed by the First Amendment and is applied to the states through the Fourteenth Amendment. In order to protect the child victim from undergoing the stress and stigma associated with publicity, it is critical that states enact legislation to protect the privacy of the child.

Protecting the Child's Identity

Traditionally, all fifty states have protected the identity of children *accused* of crimes for the reason that publicity interferes with the child's rehabilitation. Publicizing the names of juvenile defendants may hinder their adjustment in society and acceptance by the public. Protecting the child's identity also guards against embarrassment to the child's family. Unfortunately, though, while the privacy of juvenile offenders is protected in our court system, the privacy of child victims is not.

Several states have enacted legislation to attempt to protect the privacy of the sexual assault victim. The State of Minnesota (Chapter 573) has recently enacted legislation that keeps the name of the victim confidential in the court records and reports related to complaints or indictments of sexual abusers of children. The State of Connecticut (§54-46) exempts from public access official records containing the name and address of the victim of a sexual assault. In addition, the Connecticut statute provides for the use of a fictitious name for the child or no name at all in the indictment. Further, the defendant cannot learn the victim's name if it has been omitted from the documents.

Oregon's statute (§192.500) prevents disclosure of biographical information concerning both the complaining party and the victim. Nevada (§48.071) provides that the district attorney may exclude the victim's address and telephone number in any prosecution for sexual assault.

Criminal Penalties for Disclosing Information In the past, Florida (§794.03), South Carolina (§16-3-730), and Georgia (§26-9901) ruled it a misdemeanor for the news media or private person to publish the name of a sexual assault victim. Following is an excerpt from the Florida statute:

794.03 Unlawful to publish or broadcast information identifying sexual offense victim.— No person shall print, publish, or broadcast, or cause or allow to be printed, published, or broadcast, in any instrument of mass communication the name, address, or other identifying fact or information of the victim of any sexual offense within this chapter. An offense under this section shall constitute a misdemeanor of the second degree.

In 1975, in *Cox Broadcasting Corp. v. Cohn* 420 U.S. 469 (1975), the Supreme Court of the United States ruled that states could prohibit, by criminal sanction, the disclosure of victims' names before they become part of the public record in a hearing or trial. After the name is part of the public record, however, the penalty cannot apply. Thus, the child's identity would be protected only before the record was made public.

In the *Cox v. Cohn* decision, however, the Supreme Court did authorize states to further protect sexual assault victims by keeping the victim's identity from becoming part of the public record in the first place. The Court stated the following:

The First and Fourteenth Amendments will not allow exposing the press to liability for truthfully publishing information released to the public in official court records. If there are privacy interests to be protected in judicial proceedings, the States must respond by means which avoid public documentation or other exposure of private information.

Model State Legislation for Protecting the Privacy of Child Victims of Sexual Assault

Because of the severe emotional and psychological trauma associated with sexual assaults, child victims need even stronger privacy protections. Because we could find no comprehensive protection for the child sexual assault victim, however, we have included an example of provisions that can be enacted by state legislatures. The following example was proposed by attorney Jacqueline Parker for an article appearing in the *Albany Law Review*, 1983 (Vol. 47).

a) In order to protect the child from possible trauma resulting from publicity, the name of the child victim and identifying biographical information shall not appear on the indictment or any other public record. Instead, a Jane Doe or John Doe designation shall appear in all public records. Sealed non-public records containing the child's name and necessary biographical information shall be kept in order to insure that no defendant is indicted twice.

b) In order to protect the child from stigma and trauma, no person shall disseminate via the print or broadcast media, the name, address, or other identifying information concerning the victim of any sexual offense. With the trial judge's approval, the victim's guardian, parent, or attorney may consent to release some or all of the identifying biographical information, unless the parent or guardian is involved in the alleged offense. This section does not apply to truthful information disclosed in court documents open to public inspection.

c) Upon the request of the victim of a sexual offense, a judge may order that the name of the victim, and the details of the offense obtained by government agencies, be under protective order unless there is a demonstration of a need for disclosure. If the defendant demonstrates a need for disclosure in order to prepare his defense, dissemination of the identity of the child, or other biographical information, by the defendant or his agents, other than for the purpose of preparing his defense, will constitute contempt.

Note: If this model is used, the judge must consider the best interests of the child before releasing identifying information, even if the victim's guardian, parent or attorney consents. An alternative solution providing the same protection would be a two-part state legislative approach consisting of the following:

1. The prohibitions against disclosure identified in the Florida statute (page 23).
2. A state law providing that the court records concerning the identity of a child in a criminal or juvenile proceeding wherein the child is the victim of specified crimes will not be public. (This is the same kind of protection now accorded in all states to children who are accused of committing a crime.)

6. Education and Prevention

Educating children, families, and professionals about abduction, sexual exploitation, and child abuse is the best way to reduce crime against children. The schools are a good place to begin. The National Center for Missing and Exploited Children in late 1985 will provide information on effective training and education programs for the schools.

State legislation may be used to mandate that education and prevention programs for children be available throughout the state. In addition, state legislation may be used to set up community programs to educate professionals about child abuse and exploitation. It is important to note that these programs should be directed toward sexual abuse, exploitation, and abduction as well as child abuse.

State Programs

California (1984, A.B. 2443) recently passed a comprehensive education and training proposal to establish two state education centers and local prevention programs to address the issues of child abuse, sexual assault and, in general, the vulnerability of children. In enacting this important law, the legislature issued findings that included the following assessments of the school's unique ability to be the appropriate setting for the prevention program:

1. Child abuse and neglect is a severe and increasing problem in California.
2. School districts and preschools are able to provide an environment for training of children, parents, and all school district staff.
3. Primary prevention programs in the school districts are an effective and cost-efficient method of reducing the incidence of child abuse and neglect and for promoting a healthy family environment.
4. To ensure comprehensive and effective primary prevention education to all of California's public school children, it is the intent of the legislature to provide adequate funding for training for children four times in their school career, including once in preschool, elementary school, junior high school, and senior high school.

The legislature was careful to define the goal of the new initiative as one that included preventing physical abuse, sexual assault, neglect, and reducing the general vulnerability of children.

California established two distinct kinds of programs. The first is a primary prevention program that provides workshops for parents, teachers, and children. These workshops are designed to counteract common stereotypes about victims and offenders, provide parents and school staff personnel the proper training on child safety, how to detect abuse victims, what to do in a crisis, and how to report the information to the proper agencies.

In addition, the legislature had the foresight to provide for a period of counseling and reporting for the children after each children's workshop.

The second program provides for two Prevention Training Centers, which will act as state clearinghouses to provide information on prevention curriculums and technical assistance to local programs.

Kentucky (1984, H.B. 486) has established a child victims' trust fund that allows residents of that state to make a tax refund donation election of two dollars for individuals or four dollars for joint returns. One of the primary purposes of the trust fund is to help organizations in developing or operating prevention programs.

Regional or Community Programs

Illinois (1984, S.B. 1655), as part of its comprehensive missing children legislation, included education and prevention programs to be directed by its regional I-SEARCH units. These programs will do the following:

1. Establish and conduct programs to educate parents, children, and communities in ways to prevent the abduction of children.
2. Conduct training programs and distribute materials providing guidelines for children when dealing with strangers, casual acquaintances, or non-custodial parents, in order to avoid abduction or kidnapping situations.

The State of Utah (1984, H.B. 58) has specifically provided for community-based education and prevention efforts that include programs to prevent sexual molestation and exploitation. This is an important step because these kinds of programs are often most effective at the community level. The Utah legislation provides that the duties of the Director of the Division of Family Services include the following:

- (1) Contract with public or private nonprofit organizations, agencies, schools, or with qualified individuals to establish community-based educational and service programs designed to reduce the occurrence or recurrence of child abuse and neglect.

For more information on school-based programs, see "Schools," pages 27-29.

7. Schools

Schools provide a unique setting for child protection efforts. The school is an appropriate environment in which children can be calmly taught about child abuse, exploitation, and abduction. Lists of missing children may be circulated and compared with lists of enrolled students to identify victims of abduction or kidnapping. The school is an excellent center for the distribution of critical information and descriptive data on abducted children. Finally, the school should be made aware of the arrest of any school employees who have been charged with sexual offenses.

Protection and Other Programs in the Schools

One of the best ways to prevent the victimization of children is to set up in schools effective training procedures for child safety. These self-protection programs can be designed for the child from kindergarten all the way through high school.

State legislators should consider a mandate that education and prevention programs become a regular part of the school curriculum. Otherwise, there are no guarantees that all children will learn how to protect themselves. The State of California (1984, A.B. 2443) has designed a two-part prevention program that is described in "Education and Prevention," pages 25-26. The State of California (1984, S. Con. Res. 83) has also proposed legislation that would require yearly education programs and establish procedures for new students who cannot provide previous school records when enrolling. Following is an excerpt from the California legislation:

(a) Any information regarding missing children submitted to the Superintendent of Public Instruction by their parents shall be distributed to the schools by the superintendent on a monthly basis.

(b) Each school shall post the information distributed pursuant to subdivision (a), and other flyers and information concerning missing children provided by parents, law enforcement agencies, or volunteer groups, in an area accessible to both faculty and students, and shall update the posted information regularly.

(c) Crisis information, including, but not limited to, phone numbers for local counseling, shelters, and runaway hotlines, shall be openly posted at schools.

(d) Schools shall work with parent groups and law enforcement personnel to implement a voluntary child fingerprinting program to provide participating parents with a set of their child's fingerprints.

(e) Schools shall provide at least one annual presentation focusing on consequences leading to, and prevention of, abduction and runaways to pupils in kindergarten and grades 1 to 12, inclusive.

(f) The Superintendent of Public Instruction shall develop procedures to be followed by school personnel in cases where new students are unable to provide complete school records when enrolling for classes. The procedures shall include, but not be limited to, notification of agencies or groups involved with the recovery of missing children. All school personnel responsible for registering students shall receive information regarding these procedures. [italics ours]

What are current enrollment procedures?

Some states have mandated by law or regulation that any new student should have appropriate records from parents or previous schools. Many states require such evidence as birth certificates or other permanent records. In practice, however, these rules are not strictly followed, and many children are registered in school without proper documentation. State legislation can be used to step up enforcement of these laws.

Lists of Missing Children

Many missing children end up enrolled under their proper names in schools far from where they may have been kidnapped. A comparison of lists is an effective way to determine the location of missing children. Florida and Kentucky have enacted legislation that would require that *lists of missing children* at the state clearinghouse be circulated to all school districts and individual schools within the state. These lists of missing children would be compared with the rolls of students currently in school. Florida (1983, Com. Sub., H.B. 452) and Kentucky (1984, H.B. 486) require that lists of missing children be compared with lists of children currently in school. Following is an excerpt from the Florida statute:

Section 1. Department of Education to compile list of missing Florida school children: forms; notification.—The Department of Education shall provide, by rule, for a program to identify and locate missing Florida school children who are enrolled in Florida public school districts in kindergarten through grade 12. Pursuant to such program, the department shall:

(1) Collect each month a list of missing Florida school children as provided by the Florida Crime Information Center. A missing Florida school child shall be defined for the purposes of this section as a child 18 years or younger whose whereabouts are unknown. The list shall be designed to include such information as the department deems necessary for the identification of the missing school child.

(2) Compile from the information collected pursuant to subsection (1) a list of missing Florida school children, to be distributed monthly to all public school districts admitting children to kindergarten through grade 12. The list shall include the names of all such missing children, together with such other information as the department deems necessary. The school districts shall distribute this information to the public schools in the district by whatever manner each district deems appropriate.

Section 2. Duty of public school districts.—Every public school district in this state shall notify the Department of Education at its earliest known contact with any child whose name appears on the department's list of missing Florida school children.

The State of New Jersey (1984, A.B. 2024) provides that, in addition to comparison of lists, the withdrawal of children from school be noted in particular. A reproduction of the New Jersey legislation follows:

2. A board of education shall furnish to the Missing Persons Unit of the Division of State Police within the Department of Law and Public Safety and to the Department of Education the name of, and other pertinent information about, any child enrolled in a school administered by that board if either:

- a. The child's parent or guardian withdraws the child from school and the school does not receive an official request for the child's records from another school within 15 school days if the withdrawal occurs during the school term or within 60 calendar days if the withdrawal occurs at the end of the school term; or
- b. The child does not attend school for 5 consecutive school days and school officials are unable to locate or otherwise account for the student.

Pub Safety has capability to access NCIC.



Report of Arrest of School Employee

The State of Utah (1984, H.B. 209) has recently enacted legislation that requires a sheriff or chief of police to notify the school district, the department of public safety, and the superintendent of schools if a public school teacher is arrested for offenses involving sexual conduct. In addition, if the school employee is a non-teacher, the sheriff or police chief shall notify the superintendent of schools concerning information about the arrest.

In late 1985, the National Center for Missing and Exploited Children will be distributing information on the most effective programs for safety, training, and education in the schools. Any request for this kind of information should be sent to the National Center for Missing and Exploited Children. For additional information about education and prevention programs, see "Education and Prevention," pages 25-26.

8. Licensing and Criminal History Information

Unfortunately, many child sexual assault victims are molested by those in a position of trust and authority over them. And, it is a sad fact that many dedicated and sincere professionals who are deeply concerned about the welfare of children are working in organizations and institutions with those who would seek to harm or exploit children. The vast majority of those who work with children, however, are dedicated people who would *never* seek to harm a child in any way.

It is important to note that criminal history checks will *not* be a complete or thorough solution to the problem of child exploitation in specific institutions and child activities. It is one important step that many states have undertaken to protect children from criminal and sexual exploitation.

Criminal History Information

One step that many states have undertaken to protect children from criminal and sexual exploitation is a check on an individual's criminal record. While some states have focused their attention on particular professions, such as school employees or day care personnel, it is more appropriate to consider all individuals who work with or volunteer to assist children in a variety of occupations and activities. The scope of the problem goes far beyond one or two institutions and activities.

A *criminal history check* is a two-part process:

1. A check through the state law-enforcement system to determine if there have been any particular kinds of offenses committed by that individual in the state.
2. A check through the federal law-enforcement information system to determine if other states have records of the criminal history of the individual. A record check through both systems will cost between \$20 and \$25.

Some of the state statutes providing for a criminal history authorize access by prospective employers; other statutes allow access to the information by authorizing or licensing an agency of the state government. Also, some states authorize a check by the individual's name and Social Security number, while others use fingerprints as well.

Federal Law Requiring Background Information and Criminal Histories In 1984 a federal law was passed that requires that any state wishing to receive certain specific funds under Title XX of the Social Security Act to enact, by September 1985, the following:

A state law or regulation to provide for employment history, background checks, and nationwide criminal record checks for all "existing and prospective operators, staff, or employees of child care facilities (including any facility or program having primary custody of children for 20 hours or more per week), juvenile detention, correction, or treatment facilities." (P.L. 98-473)

AS 12.62 allows for checks

AS 25.2 B.200
adoptive / foster
regs.
Home study, but
no criminal
record checks.

State Laws Requiring a Criminal History Inquiry Checking criminal histories is not an unusual procedure in some states. For example, one state allows such checks for a total of over 65 occupations or professional licenses, including licenses for acupuncture, automobile dealerships, barber shops, bingo operators, funeral directors, engineers, nurses, plumbers, public accountants, school bus drivers, and many others. Another source for background information is the state child abuse and neglect registry, which identifies abusers. Care must be taken to exclude those individuals who were referred to the registry but who were never proved to be abusers.

Criminal History Information on Those Supervising Children At least three states have enacted legislation to allow an employer to request information about convictions of sex crimes for *any person* who would have supervisory or disciplinary power over a minor. Kentucky (1984, H.B. 486) recently enacted such a law, an excerpt of which is reproduced below:

SECTION 10.

(1) Notwithstanding any other provisions of law, an employer may request from justice cabinet records of all available convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The cabinet shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

(2) Any request for records under subsection (1) of this section shall be on a form approved by the cabinet, and the cabinet may charge a fee to be paid by the employer for the actual cost of processing the request.

(3) The cabinet shall adopt regulations to implement the provisions of this section.

(4) As used in this section "employer" means any organization specified by the attorney general which employs or uses the services of volunteers or paid employees in positions in which the volunteer or employee has supervisory or disciplinary power over a child or children.

(5) As used in this section "sex crimes" means a conviction for a violation or attempted violation of KRS 510.040 to 510.150, 529.020 to 529.050, 529.070, 539.020, 530.020, 531.310, 531.320, 531.340, to 531.370, and the criminal offense of unlawful transaction with a minor. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

Alaska (§ 12.62.035) and California (Penal Code, §11105.2) have enacted legislation similar to Kentucky's. An excerpt from the California statute follows:

§11105.2. Record of conviction involving sex crime: availability to employer for applicant for position with supervisory or disciplinary power over minor.

(a) Notwithstanding any other provisions of law, an employer may request from the Department of Justice records of all convictions involving any sex crimes of a person who applies for employment or volunteers for a position in which he or she would have supervisory or disciplinary power over a minor. The department shall furnish the information to the requesting employer and shall also send a copy of the information to the applicant.

New York law (§ 378-a) also provides an authorized agency access to records in the Criminal Justice Division to determine the qualifications of persons who will care for and supervise children. An excerpt from the New York statute follows:

§378-a. Access to conviction records by authorized agencies.

Subject to rules and regulations of the division of criminal justice services, an authorized agency shall have access to conviction records maintained by state law enforcement agencies pertaining to persons who have applied for and are under active consideration for employment by such authorized

agency in positions where such persons will be engaged directly in the care and supervision of children.

Criminal History Information on Foster and Adoptive Parents Connecticut legislation (§ 54-142K) provides for criminal conviction checks on prospective foster or adoptive parents. This statute, a portion of which is reproduced below, also provides for the Department of Children and Youth Services to obtain criminal conviction records for those working with children:

will discuss

(f) Notwithstanding any other provisions of law to the contrary, upon request to a criminal justice agency by the department of children and youth services or by any other youth service agency approved by the department such criminal justice agency shall provide information to the department or youth service agency concerning the criminal conviction record of an applicant for a paid or voluntary position, including one established by contract, whose primary duty is the care or treatment of children, including applicants for adoption or foster parents. All information, including any criminal conviction record, procured by the department of children and youth services or any other youth service agency shall be confidential and shall not be further disclosed by such agencies or their representatives. Any violation of the provisions of this subsection relative to the confidentiality of information received by the department of children and youth services or other youth service agencies shall be punishable by a fine of not more than one thousand dollars.

will discuss

Criminal History Information on School Employees Three states have enacted legislation that would require criminal history inquiries for anyone connected with the school system. California (Education Code, 45123) has mandated that no person who has been convicted of a sex offense may be employed by a school district. Following is an excerpt from the California statute:

45123. Employment after conviction of sex offense or narcotics offense.
No person shall be employed or retained in employment by a school district who has been convicted of any sex offense.

Florida (1984, H.B. 969) has also recently mandated that applicants for teacher certification be subject to both state and federal criminal history checks to determine if the applicant had been convicted of a misdemeanor, felony, or other criminal charge.

The State of Nevada (391.020) requires that an applicant for teacher certification submit fingerprints and written permission authorizing a criminal history check:

391.020 Certificates granted by superintendent of public instruction; fingerprinting of applicants.

1. All certificates for teachers and other educational personnel are granted by the superintendent of public instruction. He may issue certificates to all qualified persons under the regulations of the state board of education.

2. Every applicant for a certificate shall submit with his application a complete set of his fingerprints and written permission authorizing the superintendent to forward such fingerprints to the Federal Bureau of Investigation for its report. The superintendent may issue a provisional certificate pending receipt of such report if he determines that the applicant is otherwise qualified.

3. Upon receipt of the report referred to in subsection 2 and a determination by the superintendent that the applicant is qualified, a certificate must be issued to the applicant.

Licensing Child Care Institutions

Several states have enacted legislation requiring criminal record information on those connected specifically with *child care institutions*. New Hampshire (§170-E:4) requires investigations of all those dealing with children at particular child care facilities. An excerpt from the New Hampshire statute is reproduced below:

170-E:4 Applications.

I. Any person who intends to receive children, or arranges for care or placement of one or more children unrelated to the operator, shall apply for a license to operate one or more of the types of facilities for child care. Application for a license to operate a child care facility shall be made to the department in the manner and on forms prescribed by rule by the commissioner under RSA 541-A. In cooperation with the operator, there shall be an examination of the facility, an investigation of the program and person responsible for the care of children.

II. Upon receipt of any application, the department shall in every case examine the child abuse records of the division of welfare and the criminal conviction records of the state police to determine whether the applicant is of proper character. If the applicant is found to have any record in either the child abuse or the state police files, the department shall indicate that the record exists in its files on the applicant. If the applicant is found to have been convicted of child abuse, he shall not be issued a license.

Colorado (§26-6-104) has enacted legislation for screening the administrator, the applicant, an employee, or applicant for a license of a child care facility. The Colorado legislation, which follows, includes the stipulation that no license to operate a family care home or child care center will be issued to anyone convicted of child abuse or an unlawful sexual offense:

26-6-104. Licenses, out-of-state notices, and consent.

No license or certificate to operate a family care home or child care center shall be issued by the department, a county department, or a child placement agency licensed under the provisions of this article if:

(a) The person applying for such a license or certificate has been convicted of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S. 1973, according to the records of the Colorado bureau of investigation; or

(b) The person applying for a license or certificate has not consulted with the Colorado bureau of investigation, as defined in section 13-21-115 (1) (c), C.R.S. 1973, to determine whether any employee of the family care home or child care center has, according to the bureau's records, been convicted of an unlawful sexual offense, as defined in section 18-3-411 (1), C.R.S. 1973.

9. Training for Youth System, Social Services, and Criminal Justice Professionals

While many states specifically mandate training and instructional courses for social services professionals or criminal justice system investigators, few states mandate sufficient training and education in the critical area of child victimization and sexual assault. Professionals who regularly address cases of child victimization need to be prepared for the unique demands that this responsibility places upon them. The basic understanding of the child abuse, child sexual assault, and incest victim is critical to the successful processing of these cases through the social services and criminal justice systems. Sophisticated and effective techniques for understanding the particular needs of the child victim, interviewing the child victim or witness, and investigating these difficult cases is critically needed. Investigators need to understand the use of the National Crime Information Center and Federal Parent Locator systems. State requirements should be examined to ensure that this type of training is specifically included in educational and training programs for these professionals and that a sufficient number of hours are devoted to these types of cases.

The State of New Jersey addressed one part of this need for education and training in its recently created Commission on Missing Persons. New Jersey (1983, Chapter 467) directed its training specifically to cases of missing persons and unidentified bodies. The New Jersey Commission on Missing Persons will do the following:

- e. Provide specialized training to law enforcement officers and medical examiners in this State, in conjunction with the Police Training Commission, which would enable them to more efficiently handle the tracing of missing persons and unidentified bodies on the local level.

It is essential that each state consider mandating *pre-service and in-service training* for law enforcement and social services professionals. In addition, each state should require an additional one-week in-service training program for those investigators who deal specifically with cases of child victimization.

Each state may also want to consider legislative provisions that include in-service educational programs for prosecutors and judges. The State of Colorado (1984, Chapter 157) recently set up a teacher education and training program about laws concerning child abuse and exploitation and how to report such cases. Following is an excerpt from the Colorado statute:

22-32-109. Board of education- specific duties. (1) (z) To provide for a periodic in-service program for all district teachers which shall provide information about the "Child Protection Act of 1975," article 10 of title 19, C.R.S., instruction designed to assist teachers in recognizing child abuse or neglect, and instruction designed to provide teachers with information on how to report suspected incidents of child abuse or neglect and how to assist the child victim and his family.



10. Treatment and Rehabilitation of the Child Victim

It is a harsh reality that the person convicted of child victimization or child molestation is often not required to pay for the treatment and rehabilitation of the child. And, unfortunately, most of the social services and state and local programs do not automatically provide these services to the child victim. As a result, many children who are the victims of sexual assault, incest, child molestation, and other crimes are never effectively treated, counseled, or rehabilitated to give them the opportunity for a normal childhood.

Some states do provide that the person convicted of the assault pay for treatment and rehabilitation of the victim. For example, Colorado (§18-3-414) allows the judge to require the defendant to pay for rehabilitation and counseling of the child victim. Following is an excerpt from the Colorado statute:

18-3-414. Payment of treatment costs for the victim or victims of a sexual offense against a child. (1) In addition to any other penalty provided by law, the court may order any person who is convicted of an unlawful sexual offense, as defined in section 18-3-411 (1), to meet all or any portion of the financial obligations of treatment prescribed for the victim or victims of his offense.

(2) At the time of sentencing, the court may order that an offender described in subsection (1) of this section be put on a period of probation for the purpose of paying the treatment costs of the victim or victims, which, when added to any time served, does not exceed the maximum sentence imposable for the offense.

In South Dakota (1984, H.B. 1097), a similar bill provides that the cost of treatment be paid for by the defendant. An excerpt from the South Dakota statute is reproduced below:

Anyone convicted under §§ 26-10-1, 22-22-7, 22-22-19 or 22-22-19.1, or subdivision (4) or (5) of § 22-22-1, may be required as part of the sentence imposed by the court to pay the cost of any necessary medical, psychological or psychiatric treatment of the minor resulting from the act or acts for which the defendant is convicted.

non profit
mental health
counseling
priorities

11. Court-Appointed Advocates

In many states, abandoned, abused, or neglected children in juvenile family court proceedings receive special treatment by the court. In order to ensure that the specific needs of the child are met and his or her rights fully protected, some states appoint a special attorney to represent the child. This special attorney may be called a *guardian ad litem*.

The guardian ad litem represents only the child and is independent of the state prosecutor and the attorneys representing the parents. The guardian ad litem has full access to all evidence and reports; and he or she may interview witnesses, make recommendations to the court, and request additional examinations by doctors, psychologists, and psychiatrists. The appointment of the guardian ad litem ensures that the child will be effectively represented and his or her best interests protected.

In some states, a guardian ad litem can be a trained volunteer lay person, often called a *court-appointed special advocate*. Nevertheless, this representative of the child has the same privileges to receive notices and pleadings similar to others involved in the juvenile proceedings, such as parents, counselors, and attorneys.

The Guardian Ad Litem in Criminal Proceedings

Traditionally, the guardian ad litem has been appointed to represent abandoned, neglected, or abused children in the special juvenile or family court proceedings. Children who are the victims of crimes, such as physical or sexual assault, rarely have the support and protection of a guardian ad litem. A constructive addition to any state legislation would be to provide for the services of a guardian ad litem—who may or may not be an attorney—for the child who is simply the victim of a crime.

Two states have passed legislation that would expand the protection of the child victim in two ways:

1. Provide for a person to act on behalf of the child victim in criminal cases.
2. Permit a supporting person to assist the child.

Pennsylvania (1984, S.B. 1361) has recently enacted legislation that would provide for a person to act in the best interests of the child involved in juvenile proceedings or criminal proceedings. Following is an excerpt from the Pennsylvania legislation:

§5982. Rights and services.

(a) Designation of persons to act on behalf of children.—Courts of common pleas are directed to designate one or more persons to act in the best interest of the child and provide the following services on behalf of children who are involved in criminal proceedings or juvenile proceedings as victims or witnesses:

- (1) To explain, in language understood by the child, all legal proceedings in which the child will be involved.
- (2) To act, as a friend of the court, to advise the judge, whenever appropriate, of the child's ability to understand and cooperate with any court proceedings.
- (3) To assist the child and the child's family in coping with the emotional impact of the crime and subsequent criminal proceedings in which the child is involved.

Is being done now
on case by case basis.
does Office of Public
Advocacy handle now?

The State of California (Penal Code §868.5) provides that victim witnesses under 16 years of age be accompanied by a parent, guardian, or sibling at hearings and during the trial. The child can choose who will attend and, of course, the person attending need not be an attorney. Part of the California statute is reproduced below:

§868.5 Sex offense cases; attendance of supporting person at testimony of prosecuting witness 16 years of age or under.

(a) Notwithstanding any other provision of law, a prosecuting witness 16 years of age or under in a case involving a violation of Section 243.4, 261, 285, 286, 288, 288a, 289 or 647a, or a violation of subdivision (1) of Section 314, shall be entitled for support to the attendance of a parent, guardian or sibling of his or her own choosing, whether or not a witness, at the preliminary hearing and at the trial, during the testimony of the prosecuting witness. The person so chosen shall not be a person described in Section 1070 of the Evidence Code unless the person *** is related to the prosecuting witness as a parent, guardian or sibling and does not make notes during the hearing.

(b) If the person so chosen is also a prosecuting witness, the prosecution shall present, on noticed motion, evidence that the person's attendance is both desired by the prosecuting witness for support and will be helpful to the prosecuting witness. Upon that showing, the court must grant the request unless information presented by the defendant or noticed by the court establishes that the support person's attendance during the testimony of the prosecuting witness would pose a substantial risk of influencing or affecting the content of that testimony.

(c) The testimony of the person so chosen who is also a prosecuting witness shall be presented before the testimony of the prosecuting witness. The prosecuting witness shall be excluded from the courtroom during the person's testimony. Whenever the evidence given by the person would be subject to exclusion because given before the corpus delicti has been established, the evidence shall be admitted subject to the court's or the defendant's motion to strike that evidence from the record if the corpus delicti is not later established by the testimony of the prosecuting witness.

In the area of court-appointed advocates for the child, state legislation can accomplish two crucial goals:

1. Appointing a representative for children who are simply the victims of crimes.
2. Permitting the representative to be a trained lay person, not necessarily an attorney.

Those states interested in more information about the court-appointed special advocate program should contact the following:

The National Council of Juvenile and Family Court Judges
P.O. Box 8970
Reno, Nevada 89507
(702) 784-6012

12. Parental Kidnapping

A difficult problem encountered by the criminal and civil justice systems is *parental kidnapping*, in which a non-custodial spouse abducts a child. These abducted children are definitely at risk and often are the victims of physical abuse and emotional trauma. Estimates of the annual incidence of parental kidnapping range between 25,000 and 500,000 cases a year. No one knows the exact dimensions of the problem, but they are significant. In recent years, many states have sought to close the traditional loopholes in statutes dealing with parental kidnapping.

Traditional Problems in Enforcement

States differ on the question of whether the taking of a child is in fact a felony crime. Most states consider this offense a felony because of the grave risk and danger to the child. In addition, parental kidnapping is generally considered an interstate crime, which requires extradition (the return of the defendant to the state where the crime was committed). Normally, there is no extradition for minor offenses or misdemeanors. It is important to mandate that this crime will be a felony offense. A federal warrant for unlawful flight can only be issued if the crime is a felony for which extradition is assured.

There are several problems in enforcing the laws against parental kidnapping. Many states restrict enforcement by limiting the children protected to those below a certain age, instead of the traditional limitation being the age of emancipation (18 years in most states).

Many state statutes make parental kidnapping a felony crime only if the child is taken out of the state. In many cases, there is simply no proof of the child's whereabouts, and so it is impossible to establish the fact that the child was actually taken across state lines.

To address this problem, some states do allow enforcement of the law if the child is taken or simply concealed. The concealment provision is effective and should be included in every state statute. It also allows the crime to be regarded as a continuing offense. Therefore, state laws should be strengthened to make it a felony crime not only for taking a child but also for concealment of that child at any later date.

In many cases of parental kidnapping, the offending spouse uses other people to help kidnap the child. States may want to consider legislation that would make the crime applicable to any individual who assists or aids in the kidnapping of the child.

State Legislation for Protecting the Child Against Parental Kidnapping

There are many complex issues that must be considered when enacting legislation that concerns the crime of parental kidnapping. California (Penal Code §§ 277, 278, 278.5, 279, and 784.5) has recently made an attempt to deal with these difficult issues within the framework of a criminal statute. While no law effectively addresses all the issues concerned, the California statute below is a step in the right direction:

277. In the absence of a court order determining rights of custody or visitation to a minor child, every person having a right of custody of the child

no language change necessary.

Kevin check out how Dept. Pub Safety enforcing now.

who maliciously takes, detains, conceals, or entices away that child within or without the state, without good cause, and with the intent to deprive the custody right of another person or a public agency also having a custody right to that child, shall be punished by imprisonment in the county jail for a period of not more than one year, a fine of one thousand dollars (\$1,000), or both, or by imprisonment in the state prison for a period of one year and one day, a fine of five thousand dollars (\$5,000), or both.

A subsequently obtained court order for custody or visitation shall not affect the application of this section.

For the purposes of this section, "a person having a right of custody" means the legal guardian of the child or a person who has a parent and child relationship with the child pursuant to Part 7 (commencing with Section 7000) of Division 4 of the Civil Code.

278. Every person, not having a right of custody, who maliciously takes, detains, conceals, or entices away, any minor child with intent to detain or conceal that child from a person, guardian, or public agency having the lawful charge of the child shall be punished by imprisonment in the state prison for two, three or four years, a fine of not more than ten thousand dollars (\$10,000), or both, or imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

278.5. (a) Every person who in violation of the physical custody or visitation provisions of a custody order, judgment, or decree takes, detains, conceals, or retains the child with the intent to deprive another person of his or her rights to physical custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars (\$10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

(b) Every person who has a right to physical custody of or visitation with a child pursuant to an order, judgment or decree of any court which grants another person, guardian or public agency right to physical custody of or visitation with that child, and who within or without the state detains, conceals, takes, or entices away that child with the intent to deprive the other person of that right to custody or visitation shall be punished by imprisonment in the state prison for 16 months, or two or three years, a fine of not more than ten thousand dollars (\$10,000), or both; or by imprisonment in a county jail for a period of not more than one year, a fine of not more than one thousand dollars (\$1,000), or both.

279. (a) A peace officer investigating a report of a violation of Section 277, 278, or 278.5 may take a minor child into protective custody if it reasonably appears to the officer that any person unlawfully will flee the jurisdictional territory with the minor child.

(b) A child who has been detained or concealed shall be returned to the person, guardian, or public agency having lawful charge of the child, or to the court in which a custody proceeding is pending, or to the probation department of the juvenile court in the county in which the victim resides.

(c) The offenses enumerated in Sections 277, 278, and 278.5 are continuous in nature, and continue for so long as the minor child is concealed or detained.

(d) Any expenses incurred in returning the child shall be reimbursed as provided in Section 4605 of the Civil Code. Those expenses, and costs reasonably incurred by the victim, shall be assessed against any defendant convicted of a violation of Section 277, 278, or 278.5.

(e) Pursuant to Sections 27 and 778, violation of Section 277, 278, or 278.5 is punishable in California, whether the intent to commit the offense is formed within or without the state, if the child was a resident of California or present in California at the time of the taking, or if the child thereafter is found in California.

784.5. The jurisdiction of a criminal action for a violation of Section 277, 278, or 278.5 shall be in any one of the following jurisdictional territories:

(a) Any jurisdictional territory in which the victimized person resides, or where the agency deprived of custody is located, at the time of taking or deprivation.

(b) The jurisdictional territory in which the minor child was taken, detained, or concealed.

(c) The jurisdictional territory in which the minor child is found.

When the jurisdiction lies in more than one jurisdictional territory, the district attorneys concerned may agree which of them will prosecute the case.

The enactment of these laws is significant because they address these issues:

1. The cases where no court order regarding custody or visitation has been issued.
2. Concealment of the child.
3. The individual who is outside the state but who entices or takes a child away from the lawful custodian.
4. The ability of a police officer to take a child into protective custody.
5. The continuing nature of the crime.
6. Reimbursement of the costs of returning the child.

Civil Provisions

Following is an important provision of civil law that may help to deter the incidence of parental kidnapping: Any parent who unlawfully takes or conceals a minor child, or any other person who knowingly aids the parent in the unlawful abduction or concealment of such a child, from the parent or legal guardian with the right to custody shall be liable for civil damages.

Finally, an important provision of state legislation would be to require that the state enter into an agreement with the Federal Parent Locator Service, a federal and state search system to locate the offending spouse. States should, by mandate of state law or by executive order, enter into an agreement with the federal government to use its service. Illinois (§10.3.2) has such a provision in its state law, which follows:

Sec. 10-3.2. Parent Locator Service. The Illinois Department through its Child and Spouse Support Unit shall enter into agreements with the Secretary of Health and Human Services or his designee under which the services of the Federal Parent Locator Service established by the Social Security Act are made available to this State and the Illinois Department for the purpose of locating an absent parent or child when the child has been abducted or otherwise improperly removed or retained from the physical custody of a parent or other person entitled to custody of the child, or in connection with the making or enforcing of a child custody determination in custody proceedings instituted under the Uniform Child Custody Jurisdiction Act, or otherwise in accordance with law. The Illinois Department shall provide general information to the public about the availability and use of the Parent Locator Service in relation to child abduction and custody determination proceedings, shall promptly respond to inquiries made by those parties specified by federal regulations upon receipt of information as to the location of an absent parent or child from the Federal Parent Locator Service and shall maintain accurate records as to the number of such inquiries received and processed by the Department.

*no lang. change
contempt proceeding
any time violation
of court order -
enforcement*

13. Child Pornography and Child Prostitution

Recent Congressional inquiries have indicated that both the exploitation of children in pornography and the issue of child prostitution are critical problems that can be addressed at the state level. Traditionally, there have been significant obstacles to the effective investigation and prosecution of these cases because of the difficulties in enforcing particular state statutes.

The issue of child pornography is complex, involving both the issue of obscenity as well as the power of the First Amendment. Child prostitution has in some cases been a difficult crime to prevent because of relevant conduct that is not proscribed in the particular state law and because of the fact that many of these offenses are treated as misdemeanors or lesser crimes.

Because of the complexity of each issue and the wide variety of state laws impacting upon these crimes, the text of this section contains specific recommended principles for state legislation.

Child Pornography

New York v. Ferber In the summer of 1982, the United States Supreme Court decided a case, *New York v. Ferber*, 458 U.S. 747 (1982), that allowed the individual states to constitutionally regulate the production and distribution of material that depicts children engaged in sexual activity even when the material is not legally obscene. This opened the door for the federal government (the Child Protection Act of 1984, P.L. 98-292), as well as the states, to expand coverage of the proscribed conduct under the topic of child pornography. As a result, many states adopted legislation similar to Georgia's 1983 Sexual Exploitation of Children legislation (§16-12-100), which follows:

16-12-100. Sexual exploitation of children.

(a) As used in the Code section, the term:

(1) "Minor" means any person under the age of 18 years.

(2) "Performance" means any play, dance, or exhibit to be shown to or viewed by an audience.

(3) "Producing" means producing, directing, manufacturing, issuing, publishing, or advertising.

(4) "Sexually explicit conduct" means actual or simulated:

(A) Sexual intercourse, including genital-genital, oral-genital, anal-genital, or oral-anal, whether between persons of the same or opposite sex;

(B) Bestiality;

(C) Masturbation;

(D) Sadomasochistic abuse for the purpose of sexual stimulation; or

(E) Lewd exhibition of the genitals or pubic area of any person.

(5) "Visual or print medium" means any film, photograph, negative, slide, book, magazine, or other visual or print medium.

(b) (1) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to

Sec 3, HB 88
Substantial portion of child porno. that doesn't make it to commercial market. How address "AK const. has privacy statute. need a conspiracy act?"
court writes at danger to the person & others around him

Child porno. doesn't come under 1st amendment 'cause isn't protected speech.

Hard to enforce. Is enforcement occurring?

engage in any sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct.

(2) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of producing any visual or print medium depicting such conduct.

(3) It is unlawful for any person knowingly to employ, use, persuade, induce, entice, or coerce any minor to engage in or assist any other person to engage in any sexually explicit conduct for the purpose of any performance.

(4) It is unlawful for any parent, legal guardian, or person having custody or control of a minor knowingly to permit the minor to engage in or to assist any other person to engage in sexually explicit conduct for the purpose of any performance.

(c) Any person who violates a provision of this Code section shall be guilty of a felony and, upon conviction thereof, shall be punished by imprisonment for not less than three years nor more than 20 years or by a fine not more than \$20,000.00, or both.

Enactment of this kind of statute is significant for the following reasons:

1. It protects children by allowing sexually explicit conduct to be defined as, among other things, "masturbation," or the "lewd exhibition of the genitals or pubic area" of any person. This is significant because much trading and exchange in child pornography is done with "mere nudes," which may involve an exhibition of the genital area.
2. A child or minor is defined to be any person under the age of 18 years. This is significant because in many statutes the protection for children only extends to age 14 or 16.
3. The statute penalizes individuals who use or entice children to engage in sexually explicit conduct as well as parents or individuals having custody or control of a minor who knowingly permit the child to engage in this kind of activity.

The Georgia statute could be improved by what California (Penal Code, § 11160) did when it defined "sexual conduct" to include "exhibition of the genitals, pubic or rectal areas of any person for the purpose of sexual stimulation of the viewer." This definition would assist in covering many of the materials that are traded or exchanged in child pornography.

Of course, the additional provisions of the Penal Code in Georgia prohibit the *sale, loan, and exhibition* of this kind of child pornography.

Commercial Purpose A different kind of legislative improvement to restrict pornography was adopted by Colorado (1984, H.B. 1018). Colorado removed the requirement of a commercial purpose from the offense of sexual exploitation. This is critical because many of the transactions that occur in the world of child pornography are not done for commercial purposes or profit but rather as a straight exchange or trade.

Report by Processors A critical provision enacted by the State of California (Penal Code, § 11166) requires commercial film and photographic processors to report items that they observe in their professional capacity depicting a child under the age of 14 years engaged in the act of sexual conduct.

RICO It will be important for states to consider the use of the RICO (Racketeering Influenced Corrupt Organizations) provisions, which some states currently have and which allow for a judge or jury to be shown evidence of additional acts of a child pornography scheme. The RICO provisions are often used for such offenses as drug dealing, burglary, and car theft. The unique nature of child pornography means that the RICO provisions would give an added advantage to the investigation and prosecution

of these cases. Also, the provisions of these statutes often provide for seizure and forfeiture of the sources used to further the criminal activity.

Basic Principles It is recommended that any child pornography statute include provisions that will accomplish the following:

1. Cover the production, distribution, financing, and reproduction of such pornography, as well as pornographic modeling and performances in shows.
2. Provide for criminal penalties, regardless of whether the material is considered legally obscene.
3. Provide for criminal penalties regardless of whether or not there is any anticipation of profit or other commercial gain. Any distribution of child pornography should be prohibited.
4. Apply to all children through their eighteenth birthday.
5. Provide for the age of the child portrayed in the material to be established by expert testimony.
6. Include penalties for parents or custodians who knowingly allow their children to be used in child pornography.

Proof of Age of the Victim The State of New York has a law that allows the age of the child to be proved by an expert—for example, a physician or sociologist. This is critical because many times investigators have no knowledge of the identity of the child portrayed. That statute is as follows:

§263.25 Proof of age of child—When it becomes necessary for the purposes of this article to determine whether a child who participated in a sexual performance was under the age of sixteen years the court or jury may make such determination by any of the following: personal inspection of the child; inspection of a photograph or motion picture which constituted the sexual performance; oral testimony by a witness to the sexual performance as to the age of the child based upon the child's appearance; expert medical testimony based upon the appearance of the child in the sexual performance; and any other method authorized by any applicable provision of law or by the rules of evidence at common law.

Child Prostitution

Because of the extremely diverse nature and variety of state laws affecting child prostitution, this section will include principles that address some of the typical problems. Each state should consider legislation that accomplishes the following:

1. Creates a separate offense for aiding, assisting, or promoting the prostitution of children, which has criminal penalties greater than those for promoting prostitution generally.
2. Provides for specific penalties for parents, guardians, or custodians who knowingly permit their children to engage in prostitution.
3. Defines a child as anyone under the age of 18.
4. Eliminates any existing statutory language that may require the children involved in prostitution to be of "previously chaste character."
5. Makes the act of patronizing a child prostitute a criminal offense and provides greater penalties where younger children are involved.

Finally, runaway and homeless youth programs like New York's (§ 532) have provided alternatives to the children on the street who often turn to prostitution.

11.66.010 pimp
11.41.43436
prostitution or
encouraging

what about an
age limit?

Additional Sources

Because this legislation package is not comprehensive, additional sources of information are listed below. These agencies and organizations are working diligently in the areas of child abuse, victims' assistance, education, restitution, and parental kidnapping.

American Humane Association
9725 East Hampden Avenue
Denver, Colorado 80231
(303) 695-0811

American Humane offers expertise, technical assistance, training, advocacy, and information on child welfare, child protection, and related areas. While American Humane has published legislative analyses and has been involved in legislative advocacy, its efforts are now directed more toward continuing the compilation of national statistics on intrafamily child abuse and neglect and toward training of child welfare personnel and technical assistance to involved agencies.

Council of State Governments
P.O. Box 11910
Iron Works Pike
Lexington, Kentucky 40578
(606) 252-2291

The Council of State Governments is a non-profit, state-supported service organization of all fifty states and the U.S. territories. The Council collects and distributes information, promotes interstate cooperation, and works to improve state administration and management on both a national and regional basis.

Juvenile Justice Clearinghouse
National Criminal Justice Reference Service
P.O. Box 6000
Rockville, Maryland 20850
(301) 251-5500
(800) 638-8736

The Clearinghouse, as part of the NCJRS, maintains and will access on request a data base containing information and research on all juvenile justice issues, including missing children and child exploitation. The data base includes, but is not a comprehensive source of, state and federal legislation and related materials. The Clearinghouse also provides information on current programs, policy issues, and other areas, and can refer callers to other sources.

National Association of Counsel for Children
1205 Oneida Street
Denver, Colorado 80220
(303) 321-3963

The Association, which serves attorneys representing children, guardians ad litem, juvenile court judges, and other advocates of children, has expertise in legislative developments in the states and litigation related to such areas as child abuse, child protection, children's rights, child prostitution and pornography, and child custody disputes. The Association publishes a newsletter with a section on state legislation, has assisted in the development of relevant state laws, and can make referrals to members throughout the country with expertise on specific legal issues.

National Clearinghouse on Child Abuse and Neglect Information

U.S. Department of Health and Human Services

P.O. Box 1182
Washington, D.C. 20013
(301) 251-5157

The Clearinghouse is a national resource for information on child abuse and child neglect, including medical neglect of handicapped infants and abuse in out-of-home day care facilities. The Clearinghouse disseminates model child protection legislation developed by the National Center on Child Abuse and Neglect and maintains a searchable data base available through DIALOG Information Services that contains, among other materials, portions of state laws relevant to child protection, child exploitation, and related issues. The Clearinghouse distributes several analyses based upon its collection.

National Committee for the Prevention of Child Abuse

332 South Michigan Avenue
Suite 1250
Chicago, Illinois 60604-4357
(312) 663-3520

The National Committee works for the prevention of child abuse and child neglect through state and national public awareness programs, a network of state chapters, and through advocacy and information dissemination. The National Committee supports, with the efforts of the National Child Abuse Coalition, an advocate in Washington, D.C., who tracks state child abuse legislation and lobbies for and monitors federal child abuse legislation. The National Committee publishes a newsletter and a variety of informational materials on child abuse, child neglect, and related issues.

National Conference of State Legislatures

1125 17th Street
Suite 1500
Denver, Colorado 80202
(303) 292-6600

The National Conference of State Legislatures is a nonpartisan organization that provides a wide range of services to the nation's 7,500 state legislators and their staffs. Its Children and Youth Program produces publications, responds to requests for information, conducts research, and provides technical assistance and seminars on child support and child welfare reform.

National Council of Juvenile and Family Court Judges

P.O. Box 8970
Reno, Nevada 89507
(702) 784-0012

The National Council, through its training arm, the National College of Juvenile Justice, provides membership services and training for judges and others involved in juvenile and family courts. Areas of interest include child support enforcement, permanency planning, and child advocacy. The Council's research arm, the National Center for Juvenile Justice, collects and analyzes juvenile court data and conducts statutory analyses in such areas as confidentiality, fingerprinting of juvenile offenders, waiver, and transfer. The Council publishes a newsletter, a quarterly journal, and a monthly digest of juvenile court decisions.

National District Attorneys Association

1033 North Fairfax Street
Suite 200
Alexandria, Virginia 22314
(703) 549-9222

The Association serves the nation's prosecuting attorneys and works to improve the ad-

ministration of justice through educational and informational programs for its members. The Association prepares amicus briefs to assist the court, conducts surveys of prosecuting attorneys, awards scholarships to prosecuting attorneys, and publishes a variety of educational and resource materials, including a national directory of prosecuting attorneys. The Association has information and expertise on juvenile justice, juvenile delinquency, child welfare, and the prosecution of child sexual offenders, and can make referrals through its committees and its membership.

National Governors Association
444 North Capitol Street, N.W.
Washington, D.C. 20001
(202) 624-5300

The National Governors Association, founded in 1908, represents the governors of the fifty states, the Commonwealths of Puerto Rico and the Northern Mariana Islands, and the territories of the Virgin Islands, Guam, and American Samoa. Its missions are to influence the shaping and implementation of national policy and to apply creative leadership to the solution of state problems. The Association's operations are supported by member jurisdictions, and its policies and programs are formulated by the governors.

National Legal Resources Center for Child Advocacy and Protection
American Bar Association
1800 M Street, N.W.
Washington, D.C. 20036
(202) 331-2250

The Legal Resource Center provides technical assistance, consulting, and training on legal issues related to child welfare and child protection. The Center, through these activities and through dissemination of publications and analyses, promotes the reform of child welfare laws and administrative and judicial

procedures. The Center produces publications and has expertise in the areas of parental kidnapping, missing children, and child sexual and criminal exploitation.

National Organization for Victim Assistance (NOVA)
1757 Park Road, N.W.
Washington, D.C. 20010
(202) 232-8560

NOVA, which recently established a child victimization committee, tracks victim-related state legislation and publishes a directory of legislation that reviews and gives citations for state laws related to victim rights and services. The directory includes, in an appendix, some model pieces of legislation. The 1985 edition, which will be available in January 1985, will include new legislative developments relevant to child sexual assault and exploitation. NOVA also publishes a victim service program directory.

National Victim Resource Center
Suite 1342
633 Indiana Avenue, N.W.
Washington, D.C. 20531
(202) 724-6134

The Center is a national clearinghouse of information on victim assistance and compensation and relevant legislation, programs, and organizations. A computerized data base of state laws concerning victimization includes some legislation on child victims of sexual assault and sexual exploitation, as well as videotaping of child victims for use in legal proceedings. The file tracks pending as well as enacted legislation, and includes citations and summaries. The Center also maintains a computerized file of descriptions of national victim assistance programs.

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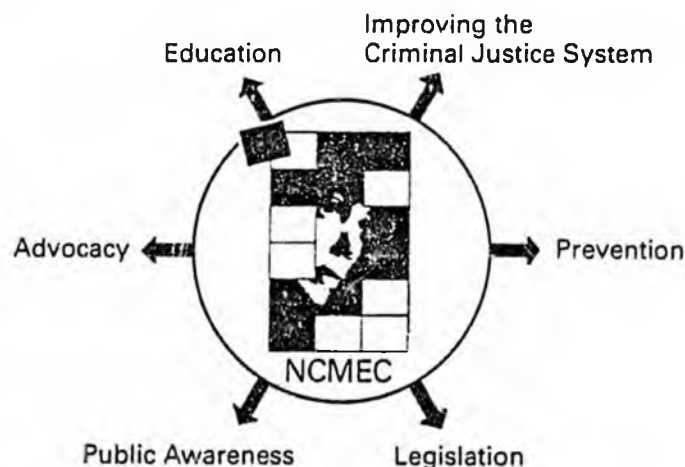
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The National Center for Missing and Exploited Children

- provides training assistance to law-enforcement and child protection agencies to develop effective procedures to investigate and prosecute cases of missing and exploited children
- assists individuals, groups, agencies, and state and local governments involved in investigating and prosecuting cases of criminally or sexually exploited children
- provides information and advice on effective state legislation to assure the safety and protection of children
- provides prevention and education programs for parents, schools, action groups, agencies, communities, volunteer organizations, law enforcement, and local, state, and federal institutions
- distributes comprehensive instruction packages to aid communities in protecting children
- organizes networks of information among school systems, school boards, parent-teacher organizations, and community organizations about proven techniques for implementing educational programs
- conducts an outreach program to alert families, communities, the criminal justice system, and concerned organizations about the nature and extent of child victimization and exploitation
- ensures coordination among parents, missing children groups, and the media to distribute photos and descriptions of missing children
- coordinates the exchange of information regarding child exploitation

. . . Is at the Center of the Problem

The Center is a primary resource for assistance and expertise in all these areas:



Information Please
















The National Center for Missing and Exploited Children offers a national clearing-house that collects, compiles, exchanges, and disseminates information. Anyone who is seeking information or who wishes to contribute information about the problem should write to the following address:

The National Center for Missing and Exploited Children
1835 K Street, N.W.
Suite 700
Washington, D.C. 20006

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-  6. Education and Prevention
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-  8. Licensing and Criminal History Information
-  9. Training for Youth System, Social Services, and Criminal Justice Professionals
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COPY

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

MEMORANDUM

March 28, 1985

SUBJECT: Sections 13 and 17 of CSHB 88 (HESS)
(3/27/85 draft)

TO: Representative Max Gruenberg
Co-Chairman, House Health,
Education and Social Services Committee

FROM: Edward H. Hein *EHA*
Legislative Counsel

You have asked two questions about CSHB 88 (HESS). I address them in the order asked.

1. Is section 13 unconstitutional in that it allows seizure of property without a search warrant?

Section 13 requires photo processors who come across pornographic pictures of children to report that fact to the police and to provide police with copies of the pictures and any information they have about the origin of the pictures.

Article I, section 14 of the Alaska Constitution prohibits unreasonable searches and seizures of property by law enforcement agents. This protection extends only to situations in which the property owner has an actual, subjective expectation of privacy and one that society is prepared to recognize as reasonable. *Smith v. State*, 510 P.2d 793, 797 (Alaska, 1973). ~~There is no reasonable expectation of privacy in an object if the owner knowingly exposes the object to strangers.~~ By providing in the statutes that photo processors must report and turnover to police evidence of child pornography, the public is put on notice that they cannot expect such photos to remain private. In addition, section 13 expresses society's view that such an expectation is unreasonable.

~~Without a reasonable expectation of privacy, a search is not unreasonable and the constitutional provision does not~~

protect the property from search by law enforcement agents. Once police lawfully view evidence of a crime they are entitled to seize it without a warrant. Thus, the search and seizure provided for in section 13 is not unreasonable and does not violate the search and seizure provisions of the constitution.

→ I note that the second sentence of section 13 is somewhat ambiguous and may present some problems of interpretation. The sentence requires processors to provide police with "copies" of the pornography. It is not clear whether this means the processor must make duplicate prints for the police or whether the processor is to send negatives and prints to police and refuse to return any of it to the customer. It may avoid legal and practical problems to rephrase this sentence to require the processor to allow the police access to the photos and let the police decide whether they constitute evidence of a crime and whether they should be seized. The police presumably are better trained than processors to make this initial legal determination.

2. Does section 17 change Rules of Evidence 504 and 505? (It states "a child's harm", not necessarily a child in the family of a husband/wife). Do we need a title change?

Section 17 amends AS 47.17.060 by changing the phrase "judicial proceeding" to "civil or criminal proceeding". The Alaska Court of Appeals in State v. R. H. and Mitchell Wetherhorn, 683 P.2d 269 (1984), held that the phrase "judicial proceeding" in that statute refers only to child protection proceedings under AS 47.10.010. Therefore, the amendment in section 17 extends the applicability of AS 47.17.060 to additional proceedings, such as criminal prosecutions of sexual abusers that arise from reports submitted under the child abuse reporting statutes.

→ Extending the applicability of AS 47.17.060 would change Evidence Rules 504 and 505 only if it changed the applicability of the physician-patient privilege or the husband-wife privileges as they are currently provided for in those court rules. I conclude that the amendment does change both Evidence Rules by further restricting the applicability of the privileges. Therefore, both a title change and the insertion of a new section in the bill explaining the changes is required.

The physician-patient privilege of Evidence Rule 504 is changed by section 17 because it would make the privilege

Representative Max Gruenberg
March 28, 1985
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inapplicable not only in child protection proceedings under AS 47.10.010, but also in other proceedings that might arise from those reports, such as a tort action brought by an abuse victim. The amendment of section 17 has no effect on the physician-patient privilege in criminal proceedings, since the privilege is already excluded in all criminal proceedings by subsection (d)(7) of Evidence Rule 504.

Evidence Rule 505 contains two husband-wife privileges, both of which are changed by the amendment of section 17. The amendment would further restrict the applicability of both the spousal immunity and the confidential marital communications privilege by expanding the coverage of AS 47.17.060 to criminal and civil proceedings other than child protection proceedings under AS 47.10.010. Both husband-wife privileges may not be invoked in certain civil and criminal proceedings specified in subsection (a)(2) and (b)(2) of Evidence Rule 505. But section 17 would make the privileges inapplicable in civil and criminal cases not specified in the exceptions to the rule. Therefore, the amendment changes the evidence rule.

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

EHH:ojb
J13/039

Alaska State Legislature

BETTYE FAHREN'AMP, Chairman
ARLISS STURGU LEWSKI, Vice Chairman
JOE JOSEPHSON
PAUL FISCHER
EDNA ARMSTRONG-DEVRIES



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate Committee on Health, Education and Social Services

MEMORANDUM

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

FROM: Committee Staff

RE: Committee Meeting, February 12, 1985

DATE: February 8, 1985

On Tuesday, February 12 at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will take testimony on a proposed committee substitute for SB 21 (copy attached). The committee substitute contains the language of HB 88, the Governor's child abuse legislation, with the addition of a new Section 26 dealing with background checks on employees who work with young children.

In brief, proposed ^{SB 21/4388} CS SB 21 (HESS) makes numerous changes to existing civil and criminal laws in an effort to enhance the state's ability to protect children who have been the victims of child abuse or neglect. A detailed sectional analysis provided by the Office of the Governor is attached.

Section 1 and 2	endangering the welfare of a minor
Section 3	child pornography
Section 4	statute of limitations for sex crimes against children
Section 5	hearsay evidence
Section 6	admittance of a victims's previous sexual conduct
Section 7 - 9	conviction records for persons working with children
Section 10 and 11	curfews for minors
Section 12	predisposition report
Section 13	emergency custody in neglect cases
Section 14	time frame for emergency custody petitions
Section 15	definition of sexual abuse

Section 16	mental injury
Section 17 - 21	reporting requirements
Section 22	protective injunctions
Section 23	mental injury
Section 24	definition of "practitioners of the healing arts"
Section 25	definitions - child care provider, human services provider, mental injury, organization
Section 26	background checks
Section 27	license violations
Section 28 and 29	applicable court rules
Section 30	effective date

Alaska State Legislature

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



1024 W. 6th Avenue, Suite 203
Anchorage, Alaska 99501
Phone: (907) 274-1426

SENATE ADVISORY COUNCIL

M E M O R A N D U M

TO: SENATOR JAN FAIKS
FROM: ELIZABETH J. HICKERSON *EPH*
SUBJECT: CHILD AND FAMILY PROTECTION LEGISLATIVE PACKET
DATE: MARCH 25, 1985

In the last month, at your request, I have been involved in the meetings held by the Senate and House HESS and Judiciary Committees regarding the overall needs in Alaska concerning child and family protection. The Committee reviewed all recommendations presented by John Walsh and pending legislation. Sandra Schubert did an excellent job in providing a comparison between what Mr. Walsh suggested and the existing conditions in Alaska. A number of bills have been recommended for the legislature's consideration. During the committee's review of these various bills, numerous concerns were raised. Many of these concerns are not reflected in the various bills. Because of this, I would like to take this opportunity to inform you on the specific concerns raised.

SB 3/HB 67, Hearsay Evidence

In the discussions regarding hearsay evidence and its admission at the grand jury, several concerns were raised. These I will summarize as follows.

1. Whether or not there is a need to expand our present hearsay exceptions to provide for this particular type of evidence to be presented to the grand jury was questioned. It is felt, by some, that under our present rules of evidence, this type of hearsay is already admissible.
2. If a hearsay exemption is adopted, many feel that this should be limited to admissions or statements of the ~~child victim only~~. As presently drafted, SB 3 provides for the statement of any child, not necessarily the victim of a sexual assault. Dana Fabe, the Public

Defender, is very concerned that this exception be narrowly drawn and only apply to the child victim.

SB 8, School curriculum

This bill reflects the need by the local school districts to adopt a personal safety curriculum. Teaching children the difference between good touch and bad touch, what to do in case of a personal emergency situation, and what protections are available to children, is an initial step in the prevention of child abuse. This is particularly true in the event that families are not teaching personal safety to children. Since most child abuse occurs in the home it is doubtful that those parents and relatives teach children that this is improper behavior. This bill or similar legislation is definitely needed. In Alaska, some school districts presently provide this type of program, however, it is usually provided on an intermittent basis and is not a part of the ongoing curriculum.

SB 21/HB 308, Background Checks

These bills provide that interested persons may request a list reflecting all convictions of an individual for crimes that might cause a risk of harm to children, if the individual holds or applies for a position in which the individual has or would have a supervisory or disciplinary power over a minor. Crimes that might pose a risk of harm to children are defined and are numerous. There may be some opposition to the individual crimes that are included in this definition. There may also be concern that the existence of an outstanding warrant will be available for release. Concerns were raised that this type of a background check on an individual does not take into consideration that person who has been convicted has served his or her time and should not face reprimand from society. Also regarding the outstanding warrants, people are concerned that an outstanding warrant is not based on a conviction and thus persons that have not been proven guilty will be subjected to possible retaliation through unemployment.

In addition to these concerns, people have stated that background checks should not be optional but should be mandatory. When I attended the Anchorage Crime Commission, the issue was raised that persons that contract with the Anchorage School District are not covered under this bill. It was particularly felt that school bus drivers and other persons under contract in direct association with children should be subject to background checks.

SB 27, Community Training

This bill provides funds for the training of local persons who are involved in the prevention, intervention, investigation and counseling of child victims of sexual assault. The persons

reviewing this bill consistently felt that this was a high priority.

SB 28, Reporting Incidents of Abuse

This bill has passed the Senate. It requires the training of state employees who are required to report the instances of child abuse as well as employees of school districts. This bill also received high priority by the committee. Concern has been voiced that children should be able to petition the court by themselves, and not limited through a parent, guardian or custodian. I support the limiting provision.

SB 88/HB 19, Missing and Runaway Children

Presently law enforcement agencies may detain runaways. These two bills do provide that the agencies shall transmit a runaway report into the Alaska Public Safety Network and the National Crime Information Center Computer System. In regard to the issue of runaways, it should be noted that there is an inadequate number of foster homes and group homes for these children. While everyone realizes that we have a problem with runaways, most people in the field believe that children are running away for reasons. Many of the runaways have been abused at home and thus returning them to an unsafe situation may not be in the best interest of the children. Without adequate facilities for housing runaways it is unclear where these children will be detained since the bills prohibit housing runaways in jails or detention facilities.

SCR 3/HCR 2, School Teacher Background Checks

These bills urge local school districts to implement background checks on all school district employees who come into contact with children. The issue has been raised that school districts should be required to provide background checks for all persons employed and persons under contract.

SCR 5, Missing Children on Milk Cartons

This resolution has already been read by the Governor.

SB 243/HB 88, The Omnibus Bill

These bills make several changes to civil and criminal laws. Most of the time was spent by the committee on these bills, and therefore, I would like to provide you with a list of concerns associated with each section.

Sec. 1 and Sec. 2 expand the current law regarding endangering the welfare of a minor. Two degrees for endangering the welfare of a minor are created. Presently we have only one law regarding endangering the welfare of a

minor. These sections were introduced by the Governor in a response to child care workers who endanger children. Under existing law a child care worker who physically or sexually abuses a child may be prosecuted. However, it was felt by the Department of Law, Criminal Division, that an additional law needed to be enacted to cover other forms of endangerment of minors by a child care provider. The expansion of the law as provided under Section 2 has been highly criticized by the Public Defender's Office. It is their concern that parents will be subject to criminal prosecution for injuries sustained by their children which are often beyond their control.

Sec. 3 and 4 provides a new definition for the distribution of child pornography. Kevin Bruce and I developed this definition based on a recent Supreme Court decision. The expanded definition of distribution provides that people can be prosecuted for the distribution of child pornography if they deliver, sell, rent, lease, lend, give, circulate, exhibit, present or buy or exchange these types of items, whether or not it was done for monetary or other consideration. I feel strongly that this provision is constitutional and leaves no legal loopholes.

Sec. 5 extends the statute of limitation for prosecution of sexual offenses against minors. No one objected to this provision.

Sec. 6 specifically provides that evidence of past sexual conduct of child victims of sexual assault will not be admissible prior to an in camera hearing. The judge would weigh the probative value of the evidence against the probability that undue prejudice, confusion of the issues or invasion of privacy of the victim will result. Presently our law provides this for victims of sexual assault. While no evidence was presented that child victims are being treated differently than adult victims, the Department of Law, Criminal Division, felt that the legislature should express its intent that children are to come under the protections of this section. My concern is that we may be setting a bad precedent whereby courts, not so modified so as to particularly relate to children, may be later interpreted as an intent not applied to children.

Sec. 7 provides for a reduction in time for a predisposition report involving a delinquent minor to be made available to the child, the child's parents, attorneys representing the parties, and the guardian ad litem. Presently this must be made available not less than ten days before the disposition hearing. Great discussion was involved on this section.

Originally HB 88 reduced the time to two days, and therefore, six days reflects a compromise that will be acceptable to most. The reason this time period should not be reduced to two days is the importance that is placed on a predisposition report. Because of this, sufficient time should be available to review the report and investigate alternatives that may not have been recommended.

Sec. 8 provides more discretion for taking emergency custody of a minor by the Department of Health and Social Services. The expanded authority is subtle under these changes. Numerous people including the Public Defender, guardians ad litem, and parents have stated that the Department has wide discretion to take emergency custody of a child presently. I believe that the problem concerning custody is a problem associated with inadequately trained social workers who do not have the necessary skills to determine when a child should be taken into emergency custody. While abuses of the system are few, there have been situations where children have been taken by the Department and lengthy and costly time has been spent in retrieving the children. This poses one of the main problems with child protection. We should provide adequate laws and properly trained people in order to be able to intervene in dangerous situations. However, given the nature of these situations, zealots and incompetents can cause tremendous hardships for families where abuse does not exist. In addition, there is still a problem with an inadequate number of foster homes to care for the children taken into custody.

Sec. 9 is very controversial. This allows the Department additional time to notify the court after the child has been taken into their custody. Presently the court must be notified within 12 hours through a petition filed alleging that a child is in need of aid. A hearing must be held 48 hours after the petition is filed. The proposed change provides that the court will be notified within 24 hours after custody is assumed and then must hold a hearing within 48 hours after that. Therefore, we are extending the time that probably cause hearing must be held. This can be very dangerous, particularly in cases where children were taken without probable cause.

Another issue focuses on notice to parents. Judge Victor Carlson stated in a memo to Carla Forsythe of the Court System, that a letter indicating legislative intent should be attached to any revision concerning this statute. In part, his letter stated the following:

A note expressing the legislative intent that every effort be made to notify the custodian when a child has been taken into custody including the leaving of a note

at the place where custody was taken, informing a neighbor or relative and anything else that will help to inform the custodian should be appended. I believe the court should be informed each time a child has been taken into custody without a court order and a sworn statement of probable cause should be made to the court. Requiring a report to the court with a statement of probable cause will tend to police the discretion of the social workers. The only other policing technique is the civil suit for damages which is generally ineffective.

In addition it has been raised by guardians ad litem that more teeth are needed in this statute for violations by social workers. It has been suggested that civil penalties be imposed for failure to notify the parents or custodians within the time specified.

Sec. 10 expands the definition of sexual abuse. This definition has been criticized by many. The arguments can be summarized in one question: what is the definition of "normal caretaker interactions"? It is feared that actions of parents who have a healthy relationship with their children which includes normal touching, caressing and general loving will fall within the definition of sexual abuse.

Sec. 11 changes the present purpose statement regarding protective services for children. Presently, the Department is to provide protective services, and do so in an effort to prevent future harm to the child, to safeguard and enhance the general well being of the children in this state, and to preserve family life whenever possible. The change advocated here is that the Department will act to preserve family life whenever preserving it is in the best interest of the children. This change was in response to the suggestion that the Department often puts children back into harmful environments which is contrary to the best interest of the child. The Department has stated that this is done because the intent of the legislation governing their action has been to preserve the family unit. I support this change since all protective service should be done in the best interest of the child.

Sec. 12 modifies our reporting statute on child abuse and neglect cases. The persons required to report have been expanded. There may be some opposition to some of the persons required to report under this section, particularly volunteers and counselors. I suggested that guardians and conservators also be required to report these instances, however, SB 243 does not reflect that.

This section changes the procedures to be followed in reporting instances of child abuse and neglect. Presently

No! Existing law only addresses harm by family members.

all reports are to be made to the nearest office of the Department, if that is not available, then people are to contact the nearest office of law enforcement. In reality, cases of abuse or neglect can be reported to either, and in many situations the first agency notified is law enforcement. SB 243, changes this procedure, and in my opinion makes it more difficult for people to report. I base this on the fact that the bill specifies that persons required to report these instances should report instances of harm believed to be caused by a person responsible for the child's welfare to the Department. However, if a person believes that the harm has been caused by a person not responsible for the child's welfare, or is unable to determine who caused the harm to the child, the local law enforcement agency is to be notified. I feel that this change creates an additional burden for persons required to report instances of child abuse and neglect and also imposes a burden on those persons to determine who caused the injury. This can particularly be bad public policy when we are requiring individuals who are not trained in counseling to make the initial inquiry with the child. According to Don Edwards, at the Division of Human Services of the AG's Office, he prefers the existing law which requires that all reports to be made to the Department of Health and Social Services.

Sec. 13 requires that persons who, in the course of processing or producing printed matter, be required to report materials which depict a minor engaged in activity that is defined as pornography. I think that this is a very needed provision in order to stop the processing of child pornography.

Sec. 14 describes the procedure that must be followed by the Department of Health and Social Services once a report of harm is received.

Sec. 15 clarifies that investigation reports may be used by appropriate governmental agencies inside and outside the state.

Sec. 16 clarifies that civil or criminal immunity will be given a person who, in good faith, makes a report of child abuse or neglect.

Sec. 17 provides that the physician/patient and the husband/wife privileges are not grounds for excluding evidence of a child's harm in a civil or criminal proceeding.

Sec. 18 allows the Department or a practitioner of the healing arts, without the permission of the parent, to take photographs or perform radiological examinations of a child

believed to have suffered physical harm as a result of abuse or neglect by a person responsible for the child's welfare.

Sec. 19 deletes the wording "who willfully fails to report" from the statute. Willfully has been determined to be archaic language and thus, is removed from this section. Therefore, the penalty reads, "a person who knowingly fails or refuses to report is guilty of a Class B misdemeanor in cases of suspected cases of child abuse or neglect."

Sec. 19 gives the Attorney General the right to seek a protective injunction. The injunction may limit a person from contact with a child not related to the person, if the person has sexually abused a child; has physically abused a child; has failed, without lawful excuse, to provide necessary food, clothing, care, shelter, supervision or medical attention for a child entrusted to the care of the person; or otherwise constitute substantial danger to the mental, emotional or physical welfare of a child. The intent of this section is to bring injunctions against child care providers. Some criticism was raised that this is subject to abuse by the system.

Sec. 21 redefines abuse and is necessary according to the Department of Health and Social Services.

Sec. 22 expands the persons that are included under the definition of practitioner of the healing arts, and did not receive any criticism.

Sec. 23 expands the definition of sexual exploitation, and did not receive any criticism.

Sec. 24 provides additional definitions for child care provider, human services provider, organization and person responsible for the child's welfare. These definitions are important because they expand the numbers of individuals that are required by law to report suspected cases of child abuse and neglect. I have heard some criticism that these definitions are overly broad.

Sec. 25 provides that a person who violates a provision of this chapter or regulation adopted under this chapter is guilty of a Class B misdemeanor. The civil fine is removed.

Sec. 26 provides that the Department may devise a system of citations for enforcement of this chapter. It is the feeling that civil penalties are more of a deterrent for violations of the chapter and, therefore, a system of enforcement should be created. This section may carry a large fiscal note.

Child Protection Packet

March 25, 1985

Page 9

I will be available to discuss these bills and any other legislation concerning child protection.

TO: BETTYE
FROM: SANDRA

2/12/85

SB 243 / AB 88
CSSB 21 (HESS) RELATING TO THE PROTECTION OF CHILDREN.

MY INITIAL READING IS THAT THE BILL WILL REQUIRE MODIFICATION.
EVERYONE I'VE TALKED TO HAS SOME RECOMMENDATION FOR CHANGE.
SIMILAR TO OUR TITLE 38 REWRITE LAST YEAR, THE BILL CONTAINS
30 SECTIONS AND ADDRESSES ALMOST THAT MANY DIFFERENT ISSUES.

IN GENERAL, IT ENHANCES THE STATE'S ABILITY TO PROTECT CHILDREN
BY STRENGTHENING LAWS RELATING TO PROSECUTION. NOT EVERYONE
WHO WOULD LIKE TO TESTIFY ON THE BILL IS HERE TODAY. COMMENTS
FROM THE ALASKA COURT SYSTEM AND THE PUBLIC DEFENDER'S AGENCY
ARE IN THE COMMITTEE PACKETS. SEVERAL INDIVIDUALS HAVE ASKED
FOR A TELECONFERENCED HEARING AT A LATER DATE. WE SENT COPIES
OF THE BILL TO A VARIETY OF ORGANIZATIONS AND INDIVIDUALS LAST
WEEK, AND ARE STILL AWAITING FEEDBACK FROM THEM.

FISCAL NOTES HAVE BEEN RECEIVED FROM THE FOLLOWING:
(ALL ARE TO HANDLE INCREASED NUMBERS OF CASES)

PUBLIC DEFENDER	437.2	(6 POSITIONS)
COURT SYSTEM	123.9	(3 JUDGES)
HEALTH AND SOCIAL SERVICES	0.0	
PUBLIC SAFETY	0.0	(<u>BUT</u> OPERATING BUDGET \$)
LAW		

REMEMBER THIS BILL IS IDENTICAL TO THE GOVERNOR'S HB 88, WITH
SOME REVISED LANGUAGE ON MANDATORY BACKGROUND CHECKS ROLLED IN
(SECTION 26) PER SENATOR FERGUSON. AN ADDITIONAL AMENDMENT
THAT CLARIFIES THE BACKGROUND CHECK SECTION IS IN THE PACKETS.

MEMORANDUM

State of Alaska

TO: Gayle Horetski
Assistant Attorney General

DATE: August 6, 1984

FILE NO:

TELEPHONE NO:

FROM: Julie Werner-Simon *JWS*
Assistant District Attorney

SUBJECT:

AUG 08 1984

DEPT. OF LAW
CRIMINAL DIVISION

At the District Attorney's Conference we briefly discussed a problem I had with the criminal non-support statute, AS 11.51.120.

In May, 1984, I prosecuted Mamie Alexander a day care home operator, for criminal non-support; I lost. The jurors reported to me that they could not find the non-parent Mamie Alexander "legally charged" with the support of a child in her care under the statute as it exists.

The criminal non-support statute seems to be as we discussed, specifically tailored to parents, who neglect children not to non-parents who care for other peoples' children.

In State v. Alexander, the only reason we were able to charge under the criminal non-support statute was because the defendant had a license to operate a facility in her home. Our expectation was that the license would constitute legal responsibility. Under the existing regulations at Health & Social Services that is a flawed assumption.

At trial I requested the following instruction:

If you find that the child was in the home of the defendant and that the defendant is a (sic) licensed day care home, then the defendant is legally charged with the child's support.

Judge Fuld would not give me that instruction because it was not supported by the law. Since we have no criminal neglect statute, babysitters who fail to provide necessities for the children in their care commit no crime. Under the law they are not legally charged for that which occurs in their home.

Mrs. Alexander operated a day care home at her residence. On Thursday, November 3, 1983 Mrs. Collins dropped off her two children for a four day stay with Mrs. Alexander. It was the mother's expectation that Mrs. Alexander who ran the day care home would be caring for the

To: Gayle Horetski
August 6, 1984
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children with some assistance from Alexander's teenage daughters. When Mrs. Collins arrived at the Alexander home/center on Sunday, November 6th she found her children in the care of Mrs. Alexander's teenagers, Mrs. Alexander was not at home. The two year old's hand was swollen and appeared to be severely burnt. Mrs. Collins took her child to the nearest hospital. Doctors diagnosed the child's hand to have been intentionally immersed by another in scalding water within the preceding 48 hours. Hospital staff also noted that red nail polish was painted over her child's burnt fingernails.

Mrs. Alexander when questioned by the police told them that the child's hand was not burnt and could not have been burnt in her home. She stated that the child's hand had been caught in a door.

At trial the medical testimony refuted Alexander's claim and the issue became was Mrs. Alexander "legally charged" with what happened to the child in her home. Mrs. Alexander claimed that although she had taken the child into her home she was not legally responsible for that child because she was not operating a day care home at the time the child was allegedly injured. Further she stated that it was her teenage daughter who was responsible for the child over the weekend.

After two days of deliberation the jury determined that Mrs. Alexander was not legally charged with the support of the child under the statute.

Several jurors upset with what they felt was a moral injustice, contacted me. One of them said it best and I quote:

Following the strict letter of the law [as it was defined to us] our jury issued a "not guilty" decision for the charge of criminal non-support. As jurors, we were most disturbed by our decision since we were convinced a small child's hand had indeed been burnt. We could not, however, affect a guilty charge due to the technical interpretation of the law.

When in agreement is made to watch a child after business hours [i.e. to babysit] with

To: Gayle Horetski
August 6, 1984
Page Three

someone other than the family registered as the licensed owner of the families home/day care center the laws governing such centers do not extend protection to that child. This condition exists despite the fact that a child may stay at the same home licensed as a family/home day care center, and despite the fact that the licensed day care owner may be involved with a major part of the care of that child. This was the inevitable outcome of our decision.

For example, the child whose hand was burnt was legally left under the care of the teenage daughter of the licensed owner of the family/home day care center. Since it could not be proved that the mother and the licensed owner of the center had legal charge of the child in question, the laws governing criminal non-support, as they apply to family/home day care centers, could not be enforced. The sad irony of this case was that the overwhelming evidence was submitted to show that the young child's hand was indeed burned during her weekend stay at the Alexander home.

Health & Social Services regulations 7 AAC 50.125 (see enclosed) entitled "Family Day Care" do not address the issue of legal responsibility for children left in the care of day care operators. Nowhere in the regulations is it stated that the regulations apply "after hours". It should be noted that day care hours are not set by the state, rather the individual day care operator determines his own hours. A day care operator providing care can easily assert that he was not in operation. The regulations make no provision requiring the day care operator to be responsible for "babysitting" by others that takes place in his facility/home.

I've enclosed (1) a letter from juror Charles Turner which articulates his frustration with the existing law, (2) jury questions from trial (3) a copy of the existing law, (4) a copy of the law which preceded the existing criminal non-support law, (5) a packet of the existing Health & Social Services regulations, (6) neglect

To: Gayle Horetski
August 6, 1984
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statutes from four other jurisdictions, (7) my letter to Health & Social Services which evaluates the existing Health & Social Services regulations, (8) xerox photo of child's hand.

I would like to see a criminal neglect statute enacted. Let me know what I can do to be of assistance.

JWS:sa

July 19, 1984

State of Alaska
Department of Law
Anchorage, Alaska

To whom it may concern:

During the week of May 28, 1984 I was summoned and subsequently served as a juror in a very interesting but disturbing case-- State of Alaska v. Marie Alexander.

Following the strict letter of the law (as it was defined to us) our jury issued a "not guilty" decision for the charge of criminal non-support. As jurors, we were most disturbed by our decision since we were convinced a small child's hand had indeed been burned. We could not, however, effect a guilty charge due to the technical interpretation of the law.

When an agreement is made to watch a child after business hours (i.e., to babysit) with someone other than the family member registered as the licensed owner of a family/home day care center, the laws governing such centers do not extend protection to that child. This condition exists despite the fact that a child may stay at the same home licensed as a family/home day care center, and despite the fact that the licensed day care owner may be involved with a major part of the care of that child. This was the inevitable outcome of our decision.

For example, the child whose hand was burned, was legally left under the care of the teenage daughter of the licensed owner of the family/home day care center. Since it could not be proved that the mother and licensed owner of the center had legal charge of the child in question, the laws governing criminal non-support, as they apply to family/home day care centers, could not be enforced.

The sad irony of this case was that overwhelming evidence was submitted to show that the young child's hand was indeed burned during her weekend stay at the Alexander home. In fact, the defense did not argue that the child's hand was burned. They simply stated they didn't know how it was burned.

Despite who had legal charge however, it was not unreasonable for the mother of the small child to assume that the same regulations governing family/home day care centers would apply afterhours and during weekends since it was, in fact, the same individuals who normally

cared for her children during business hours and it was the same home or center. It also was not unreasonable for the mother to assume that Mrs. Alexander was the responsible adult present to make decisions regarding medical care and treatment since it was Mrs. Alexander who accepted the care of her children (albeit on behalf of her teenage daughter), and it was Mrs. Alexander who provided consent for the use of her home. The laws however, do not reflect these assumptions.

In light of a decision that, in my opinion, was legally correct but morally wrong, I strongly recommend review of the regulations and laws governing family/home day care centers.

Such a travesty of justice should not occur again.

Sincerely,

Charles A. Turner

Charles A. Turner
Juror

5/31/81 - 5:00 pm

CAN A MINOR BE "LEGALLY CHARGED"
WITH THE SUPPORT OF A CHILD?

Yes

505 -

A large, stylized handwritten signature in black ink, appearing to be "W. J. ...".

5/1/89

10:00

IF PARENT X IS LEGALLY CHARGED WITH
MINOR CHILD Y, AND MINOR CHILD Y IS
LEGALLY CHARGED WITH ^{UNRELATED MINOR} CHILD Z, IS PARENT
X LEGALLY CHARGED WITH CHILD Z?

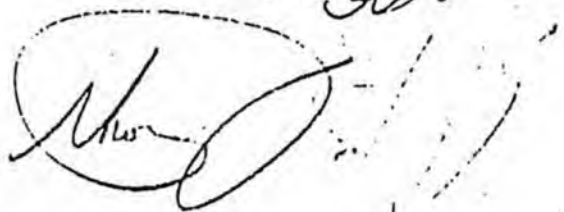
11:10 - This is a factual
decision. We leave to you
to decide under the evidence
and the instructions in 11

01/24 11:07

Question:

CAN A PARENT ACCEPT A LEGAL CHANGE
OF SUPPORT ON BEHALF OF, AND FOR,
THEIR MINOR CHILD WITHOUT THEIR CHILD'S
KNOWLEDGE OR CONSENT.

Yes - 11:10 VJF



Title 11
Criminal Law

Chapter 50: Syndicalism.

[Repealed, § 21, ch. 166. SLA 1978. For Law on terroristic threatening, see AS 11.56.810.]

Chapter 51. Offenses Against the Family.

Section	Section
100. Endangering the welfare of a minor	130. Contributing to the delinquency of a minor
120. Criminal nonsupport	140. Unlawful marrying
125. Failure to permit visitation with a minor	

Collateral references. — 10 Am. Jur. 2d, Bigamy, § 1 et seq.; 42 Am. Jur. 2d, Infants, §§ 16, 17, 55, 65-74; 47 Am. Jur. 2d, Juvenile Courts, Etc., §§ 63-70; 59 Am. Jur. 2d, Parent and Child, §§ 45, 50-87.

10 C.J.S., Bigamy, § 1 et seq.; 43 C.J.S., Infants, §§ 10, 24, 98; 67 C.J.S., Parent and Child, §§ 41, 165-178.

Sec. 11.51.100. Endangering the welfare of a minor. (a) A person commits the crime of endangering the welfare of a minor if, being a parent, guardian, or other person legally charged with the care of a child under 10 years of age, the person intentionally deserts the child in any place under circumstances creating a substantial risk of physical injury to the child.

(b) Endangering the welfare of a minor is a class C felony. (§ 5 ch 166 SLA 1978)

Collateral references. — Liability of parent for injury to unemancipated child caused by parent's negligence — modern cases, 6 ALR4th 1066.

Sec. 11.51.120. Criminal nonsupport. (a) A person commits the crime of criminal nonsupport if, being a person legally charged with the support of a child under 18 years of age, the person fails without lawful excuse to provide support for the child.

(b) As used in this section "support" includes necessary food, care, clothing, shelter, medical attention, and education. There is no failure to provide medical attention to a 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.

(c) Criminal nonsupport is a class A misdemeanor. (§ 5 ch 166 SLA 1978)

#3 Existing law

Washington

JUVENILE COURTS

13.04.170

Key Number Digests:

Infants ◊16.

NOTES OF DECISIONS

On dismissal of delinquency proceeding under Juvenile Court Act, costs were improperly allowed against county, being unauthorized by that act. *Pierce County v Magnuson* (1912) 70 Wn 639, 127 P 302, Ann Cas 1914B 889.

13.04.170 Contributing to delinquency—Penalty—Bond. In all cases where any child is dependent or delinquent under the terms of this title, the parent or parents, legal guardian, or person having custody of such child or any other person, who, by any act or omission, encourages, ~~causes or contributes~~ to the dependency or delinquency of such child shall be guilty of a misdemeanor, and upon conviction thereof, be punished by fine not exceeding one thousand dollars, or imprisonment in the county jail for not more than one year, or by both such fine and imprisonment, and the juvenile court shall have jurisdiction of all such misdemeanors. The court may suspend sentence for a violation of the provisions of this section and impose conditions as to conduct in the premises of any person so convicted, and make such suspension depend upon the fulfillment by such person of the conditions, and, in case of the breach of the conditions, or any thereof, the court may impose sentence as though there had been no suspension. The court may also, as a condition of such suspension, require a bond in such sum as it may designate, to be approved by the court, to secure the performance by such persons of the conditions imposed by the court on such suspension. The bond shall, by its terms, be made payable to the state, and any moneys received for a breach thereof shall be paid into the county treasury.

LEGISLATIVE HISTORY

1. Enacted Laws 1913 ch 160 § 17 p 531.
2. Amended by Laws 1953 ch 116 § 1 p 229, (1) substituting "is" for "shall be" after first "child"; (2) substituting "title" for "act" after "terms of"; (3) substituting "the" for "such" before "conditions" throughout the section; (4) substituting "court" for "judge requiring same" before "to secure performance"; and (5) omitting "of Washington" after "State" in the last sentence.

See RRS § 1987-17.

WELFARE AND INSTITUTIONS CODE - California

Notes of Decisions

Evidence 2

1. In general

Where parent is not deprived of custody in favor of nonparent, correct standard of proof for both jurisdiction and dispositional purposes is proof by preponderance of evidence. Matter of Nicole B. (1979) 155 Cal.Rptr. 916, 93 C.A.3d 874.

In civil dependency proceeding in which children are not removed from parental custody, proper standard of

proof is by a preponderance of evidence. In repher B. (1973) 147 Cal.Rptr. 390, 82 C.A.3d 608.

Standard of proof necessary to support factual allegations of dependency under § 300 is proof by preponderance of evidence, legally admissible in trial of civil cases. In re Lisa D. (1978) 146 Cal.Rptr. 178, 81 C.A.3d 192.

2. Evidence

In child dependency hearing, statement of mother's boyfriend that he was "high" when he burned baby was admissible as adoptive admission where mother was present when statement was made and made no effort to refute it. In re Amos L. (1981) 177 Cal.Rptr. 783, 124 C.A.3d 1031.

§ 355.1. Injuries or detriment to minor; need of proper and effective parental care; findings; prima facie evidence

Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence of the minor's need of proper and effective parental care, and such proof shall be sufficient to support a finding that the minor is described by subdivision (a) of Section 300.

(Formerly § 701.1, added by Stats.1976, c. 89, p. 146, § 1. Amended by Stats.1977, c. 579, p. 1922, § 197. Renumbered § 355.1 and amended by Stats.1977, c. 910, p. 2783, § 8; Stats.1978, c. 380, p. 1211, § 158.)

1977 Legislation.

Subordination of amendment by Stats.1977, c. 579, to other legislation enacted during the 1977 portion of the 1977-78 Regular Session and taking effect on or before Jan. 1, 1978, see note under Bus. & Prof.C. § 1202.

Subordination of renumbering and amendment of this section by Stats.1977, c. 910 to other legislation affecting this section in the 1977 portion of the 1977-78 regular session and taking effect on or before Jan. 1, 1978, see note under § 202.

Law Review Commentaries

Dependency proceedings: Standard of proof. (1977) 14 San Diego L.Rev. 1155.

Library References

Infants ⇄ 171 to 181. C.J.S. Infants §§ 58 to 61.

Notes of Decisions

1. In general

Evidence that parent possessed cocaine and marijuana at their residence was insufficient to justify removal of minor children from home. In re W. O. (1979) 152 Cal.Rptr. 130, 83 C.A.3d 906.

§ 355.2. Injuries or detriment to minor; unfit home by reason of neglect; findings; prima facie evidence

Where the court finds, based upon competent professional evidence, that an injury, injuries, or detrimental condition sustained by a minor, of such a nature as would ordinarily not be sustained except as the result of the unreasonable or neglectful acts or omissions of either parent, the guardian, or other person who has the care or custody of the minor, such evidence shall be prima facie evidence that the minor's home is an unfit place for him by reason of the neglect of either of his parents, his guardian, or other person who has the care or custody of said minor, and such proof shall be sufficient to support a finding that the minor is described by subdivision (d) of Section 300.

(Formerly § 701.2, added by Stats.1976, c. 89, p. 146, § 2. Amended by Stats.1977, c. 579, p. 1922, § 198. Renumbered § 355.2 and amended by Stats.1977, c. 910, p. 2784, § 9; Stats.1978, c. 380, p. 1211, § 159.)

1977 Legislation.

Subordination of amendment by Stats.1977, c. 579, to other legislation enacted during the 1977 portion of the 1977-78 Regular Session and taking effect on or before Jan. 1, 1978, see notes under Bus. & Prof.C. § 1202.

Subordination of renumbering and amendment of this section by Stats.1977, c. 910 to other legislation affecting

this section in the 1977 portion of the 1977-78 regular session and taking effect on or before Jan. 1, 1978, see note under § 202.

Law Review Commentaries

Independent representation for the abused and neglected child: The guardian ad litem. Brian G. Fraser (1976-77) 13 C.W.L.R. 16.

Asterisks * * * indicate deletions by amendment

947.15

CRIMINAL CODE

CRI

947.15 Contributing to the delinquency of children; neglect; neglect contributing to death

Infants 20.

(1) The following persons are guilty of a Class A misdemeanor, and if death is a consequence are guilty of a Class D felony:

(a) Any person 18 or older who intentionally encourages or contributes to the delinquency of any child as defined in s. 48.02(3m) or the neglect of any child. This subsection includes intentionally encouraging or contributing to an act by a child under the age of 12 which would be a delinquent act if committed by a child 12 years of age or older; or

(b) Any parent, guardian or legal custodian who by neglect, or disregard of the morals, health or welfare of his or her child contributes to the delinquency of that child. This subsection includes neglect or disregard on the part of the parents which results in the commission or probable commission by a child under the age of 12 of an act which would be a delinquent act if committed by a child 12 years of age or older.

(2) An act or failure to act contributes to the delinquency or neglect of a child, although the child does not actually become neglected or delinquent, if the natural and probable consequences of that act or failure to act would be to cause the child to become delinquent or neglected.

Historical Note

Source:

L.1955, c. 575, § 7.
St.1955, § 48.45(a).
L.1957, c. 38, §§ 2, 3.

L.1961, c. 485.
L.1977, c. 173, § 163, eff. June 1, 1978.
L.1979, c. 135, § 3, eff. March 13, 1980.

Cross References

- Abandonment of young child, see § 940.28.
Abduction, see § 940.32.
Abuse of children, see § 940.201.
Alcohol beverages, sales to minors or presence of minors in places of sale, see § 125.07.
Enticing a child for immoral purposes, see § 944.12.
Exhibition of explicit sexual material at outdoor theater, see § 134.46.
Exposing minors to harmful materials, see § 944.25.
Felony classifications, see § 930.50.
Reports, abused or neglected children, see § 48.081.
Sale, loan or gift of pistol to minor, see § 941.22.
Sexual exploitation of children, see § 940.203.

Law Review Commentaries

- Abrogation of parental-immunity rule. 1984 Wis.L.Rev. 714.
Pretrial release—bail procedures. Michael D. Guolce. 32 Gavel No. 4, p. 23 (Spring 1972).
Defense of alleged misdemeanants. James J. Murphy. 27 Gavel 11 (1960).

In general 2
Admissibility of evi 7
Amended charge 7
Attorney disciplin 5
Complaints 5
Defenses 8
Double jeopardy c 4
Preliminary exami 4
Sentence and punis 4
Sufficiency of evide 4
Validity 1

1. Validity

This section is vague, nor uncons any other respect. 201 N.W.2d 58, 55 V

Imposition of i offense of contribu a child if a death quence of the dell and not arbitrary, unintended or un? Schuller v. Korraft 39 Wis.2d 342, cer 716, 393 U.S. 1066,

This section is contributing to d from that of a mi lishment of a felon quence of the dell overbroad or indef

2. In general

Sections 947.15, ing to delinquenc tributing thereto pari materia. Ju N.W.2d 58, 55 Wis

A "child," for i governing crime delinquency of a under 18 years Schuller v. Korraft 39 Wis.2d 342, Ct. 716, 393 U.S.

Off 67

BILL SHEFFIELD, GOVERNOR

REPLY TO

DEPARTMENT OF LAW

CRIMINAL DIVISION/THIRD JUDICIAL DISTRICT
OFFICE OF THE DISTRICT ATTORNEY

August 2, 1984

1031 WEST 4th AVENUE, SUITE 520
ANCHORAGE, ALASKA 99501
PHONE: (907) 277-8622

DRAWER 1180
KENAI, ALASKA 99611
PHONE (907) 283-3131

326 CENTER AVE. 2ND FLOOR
KODIAK, ALASKA 99615
PHONE (907) 486-5744

P.O. BOX 1070
PALMER, ALASKA 99645
PHONE: (907) 745-5027

P.O. BOX 671
VALDEZ, ALASKA 99686
PHONE (907) 835-2462

Frank Dalley
Frontier Building
3601 "C" Street
Pouch 6333
Anchorage, Alaska 99502-0333

Dear Mr. Dalley:

On May 25, 1984 the trial of State v. Mamie Alexander began. Alexander, a family day care provider, was charged under the existing criminal non-support statute for failing to render necessary medical assistance to a child in her care. AS 11.51.120.

The facts elicited at trial were as follows: M.C., 2 years old, was left by her mother Mrs. Collins at the Alexander day care home from Thursday, November 3 through Sunday November 6, 1983. Mrs. Collins, relinquished her two children to the custody of Mrs. Alexander at the day care facility on Thursday November 3 during its hours of operation. The expectation of Mrs. Collins was that Mrs. Alexander and Alexander's 16 year old daughter would care for the two children over the weekend. On Sunday when Mrs. Collins returned to the day care home Mrs. Alexander was not present. M.C. and her sister were in the care of Mrs. Alexander's two teenage daughters. The 2 year old's hand was inflamed and swollen. (See attached photo). Mrs. Collins rushed her child to the nearest hospital. Examination at the hospital revealed that the child's hand had been intentionally immersed by another in hot liquid during the preceding 48 hours. The child remained at the hospital burn unit for 11 days.

At trial the state had to prove:

- (1) that on or about the 4th of November, 1983,
- (2) the defendant, Mrs. Alexander, was legally charged with the support of a child under 18 years of age,
- (3) that she failed to knowingly provide medical attention for the child,
- (4) and that this failure was without lawful excuse.

#7 Letter from J.W-S to DFYS*HSS re: change in regulations

To: Frank Dalley
August 2, 1984
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After 5 days of trial and lengthy deliberation the defendant was acquitted. Several jurors contacted the prosecutor because they were distressed with their decision. They believed that the child's hand had been burnt at the Alexander home but felt bound by "the strict letter of the law". Jurors related that the state had proven elements one, three, and four but had not proved and could not prove under the existing law element two, specifically: that Mrs. Alexander had been "legally charged" with the support of the child. Jurors stated that the criminal non-support statute as well as the health and social service regulations: 7 AAC 50.125, were defective. They felt the law allowed a person such as Mrs. Alexander to merely assert that she was not "in operation of a day care home at a specific time"; it enabled her to delegate day care duties to another, thus shielding her from legal responsibility or wrong doing in her home.

The defense in his closing argument pointed out that even the two individuals, Gwen McAlpin and Michelle Decker who testified at trial and who work for Health & Social Services have distinct interpretations of the law. Counsel queried "how can a criminal court hold Mrs. Alexander to knowledge of legal responsibility that even department members do not share?"

The regulations as they exist are flawed. Illegal activity can be easily explained away through an interpretational loop hole. For example:

- (1) 7AAC 50.145 stands for the proposition that if four or fewer children are being cared for in a home then a day care license is not needed. To the lay person operator that regulation could be interpreted to mean that even if licensed, when four or fewer children are in the home, the Health & Social Services regulations are no longer in effect.
- (2) 7AAC 50.175(d) mentions the term "hours of operation", in the context of visits by licensing representatives. Testimony at trial revealed that hours of operation are set by the individual home care provider and are not regulated by Health & Social Services. Health & Social Services merely keeps a record of the hours the provider sets.

To: Frank Dalley
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Page Three

An interpretational problem arises in the following hypothetical: Suppose an individual says his hours of operation are 8:00 to 6:00. At 6:05 a child is injured but the individual, believing he is no longer operating. Since the individual is not operating a day care home an argument can be successfully made that the individual is not legally charged with the care of those children present in his home. Nowhere in the existing regulations does it say otherwise.

- (3) 7AAC 50.195(6) asserts that the day care provider is responsible for screening staff: "for designation of an adult care giver to be in charge of the facility in the operator's absence."

The issue once again becomes when is a facility in operation? When is the day care operator held to the standards of Health & Social Services? The regulations in their present form enable an operator to shield himself from legal responsibility by altering hours of operation. 7AAC50.275(2) states: "a caregiver means a person whose duties include direct care, supervision and guidance of children in a day care facility"; 7AAC50.195(10) requires that any staff who works at the facility in the operator's absence be 19 years of age or older. Under the existing regulations a person under the age of 19 could care for or supervise children at the day care home if the operator asserted that he was not operating at the time the youth was taking care of other children within the home.

- (4) 7 AAC 50.275(3) states: day care is "the care, supervision and guidance of a child or children unaccompanied by a parent or legal guardian on a regular basis for periods of less than 24 hours a day." Since under the regulations "day care" means periods of care less than 24 hours, then if a child remains in a day care home for more than 24 hours even if by agreement

To: Frank Dalley
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Page Four

between the parties, the person caring for the child can assert that they are no longer caring for the child in the capacity of licensed day care home and are not held to Health & Social Services regulations.

The criminal non-support statute and the Health & Social Services licensing regulations relating to children services are inadequate when it comes to protecting a child who is cared for by a non-parent. Both the statute and the Health & Social Services regulations must be revised to address the issue of criminal neglect by a non-parent.

If the inadequacies persist the State, and specifically the the Department of Health & Social Services may be faced with a civil suit, by a parent whose child has been harmed. The parent who leaves his child in a day care home licensed by the State of Alaska and who finds that the law does not make the care giver criminally responsible for conduct that takes place in his home, will seek recourse in the civil courts.

The Health & Social Services regulations must incorporate the expectations of the parents who utilize family day care homes and centers.

The regulations should specifically address the issue of who is "legally charged for the support of the child." The regulations should impose a duty on the provider as follows:

You are a day care provider licensed by the state. As such your home becomes a facility where children are cared for. You are legally charged for any child care that occurs within your home by yourself or others.

Something needs to be done and soon so that another child will not suffer from the inadequacies of the existing law.

I have enclosed a letter from a juror who served on the State v. Alexander trial. Mr. Turner says it best.

... it was not unreasonable for the mother of the small child to assume that the same regulations governing family/home day care centers would apply after hours and during weekends since it was, in fact, the same

To: Frank Dalley
August 2, 1984
Page Five

individuals who normally cared for her children during business hours and it was the same home or center. It also was not unreasonable for the mother to assume that Mrs. Alexander was the responsible adult present to make decisions regarding medical care and treatment since it was Mrs. Alexander who accepted the care of her children (albeit on behalf of her teenage daughter), and it was Mrs. Alexander who provided consent for the use of her home. The laws however, do not reflect these assumptions.

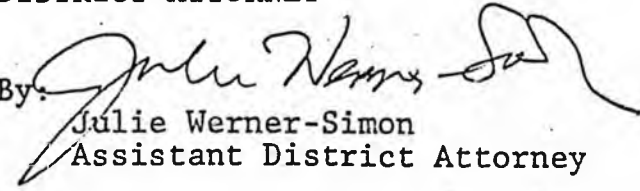
I am equally troubled by the existing state of the law. Please contact me if I can be of any assistance in the revising of the regulations.

Sincerely,

NORMAN C. GORSUCH
ATTORNEY GENERAL

VICTOR C. KRUMM
DISTRICT ATTORNEY

By:


Julie Werner-Simon
Assistant District Attorney

JWS:sa

Enclosures

cc: Gwen McAlpin - DFYS
Michelle Decker - HSS
Dorcas Lewis - HSS
Kathleen Shaw - DFYS
Sue Harris - DFYS
Pat O'Brien - HSS

DISTRICT ATTORNEY

CHILD'S INJURED HAND



#8 xerox of child's hand

CHILD PROTECTION PACKAGE

Background

In November, Gov. Sheffield targeted child abuse as Alaska's most critical social problem."

Reports of child abuse and neglect more than doubled between FY 1978 and FY 1983. During the same period, reports of child sexual abuse increased well over 200 percent, and substantiated reports of sexual abuse skyrocketed by nearly 600 percent - probably due to increased awareness of the problem and better investigative techniques. (More details can be found in "Child Abuse and Neglect in Alaska," a report presented by the Department of Health and Social Services to Gov. Sheffield on Aug. 28, 1984.)

As the caseloads increased dramatically, staffing at the Division of Family and Youth Services did not. In one three-week period in 1983, for example, four social workers received 78 new cases - on top of an already dangerous backlog. In all regions, social workers had to do much of their own clerical work, which further reduced the amount of time spent with abused children and their parents.

Gov. Sheffield took some emergency steps on Sept. 6 of this year: \$90,000 from the Governor's Contingency Fund, \$214,000 from the DYFS, and \$195,000 in "rollover money" from FY 83 (SB 409) went for increased staff and training in the Northern, Southcentral and Southeastern regions. However, he said at the time that the issue must be addressed in the FY 86 budget.

The child protection package proposed by Gov. Sheffield in the Executive Budget Bill draws on resources from two

departments: Health and Social Services (\$1.87 million) and Law (\$1.3 million).

Health and Social Services

* \$732,000 for staff, legal services and training for the Northern Region based in Fairbanks. This would add five social workers (Delta Junction, Galena, Nenana and Fairbanks) and seven administrative support positions (Barrow, Galena, Fort Yukon and Fairbanks). It represents an increase of about 45 percent over the region's current budget.

* \$324,000 for the same purposes in the Southeastern Region based in Juneau. This would add three social workers (Juneau and Ketchikan), three administrative support positions (Craig and Ketchikan) and one community care licensing specialist (Ketchikan). This represents an increase of almost 30 percent over the region's current budget.

* \$817,600 for the same purposes in the Southcentral Region based in Anchorage. This would add seven social workers (Homer, Kenai and Anchorage), six parttime clerk-typists in one-person offices (Glennallen, Cordova, Dillingham, Valdez, Wasilla and Unalaska), two community care licensing specialists (Anchorage) and five administrative support positions (Homer and Anchorage). This represents an increase of almost 30 percent over the region's current budget.

Department of Law

As child abuse reports have risen, so have related criminal and civil actions. The Governor proposes the addition of new attorneys devoted solely to criminal prosecution of accused child abusers in Anchorage and Fairbanks. The attorneys and paralegals added in other areas of the state would also handle civil actions.

Department of Law

The \$1.3 million total accounts for almost all of the department's proposed increase of about 11 percent for FY 86.

* \$119,200 for the First Judicial District (Juneau and Ketchikan).

* \$214,100 for the Second Judicial District (Barrow and Kotzebue).

* \$481,600 for the Third Judicial District (Southcentral).

* \$179,800 for the Fourth Judicial District (Fairbanks).

* \$311,100 for Legal Services.

Nine new attorneys and six new paralegals would be added to work solely on child protection statewide.

TITLE OF INCREMENT/DECREMENT:	AGENCY CONTACT/PHONE NUMBER:	CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.	
Staff Increases, Increased Legal Services, and Staff Development for Northern Region	Joanne Clark 465-3082	100	Personal Services	476.5	476.5	
		200	Travel	41.0	41.0	
		300	Contractual Services	175.6	175.6	
		400	Supplies	6.5	6.5	
		500	Equipment	33.2	33.2	
		600	Lands, Buildings, Etc.			
		700	Grants, Claims, Etc.			
		800	Miscellaneous			
		TOTAL			732.8	732.8
		I-A Transfer (NON-ADD)				
1002	Federal Receipts					
1003	General Fund Match					
1004	General Fund	732.8	732.8			
1005	I-A Receipts					
1028	Program Receipts					
	Other					
	PFT	11	11			
POSITION	PPT	1	1			
INFORMATION	Non Permanent					
	Staff Months	138	138			
<input type="checkbox"/> Enhance Existing Service Compared to FY 85				<input type="checkbox"/> Formula Program		
<input checked="" type="checkbox"/> New Service Compared to FY 85						
<input type="checkbox"/> Continuation of FY 85 Service Level						
IMPACT FROM CAPITAL PROJECT (NAME)						
Chapter _____ SLA _____ Page/Line _____						

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:
 This increment funds: 1) 12 new positions, PFT and PPT, and support costs in the Northern Region which are needed to provide a cost-effective staffing pattern of supervisory, line, and support staff; 2) a full-time attorney to support civil prosecutions for child abuse and sexual abuse cases throughout the region; 3) staff development for the 12 new positions and specialized training in child abuse for existing staff; and 4) additional office space needed to meet Department of Administration Space Standards.

Since 1977, the caseload in the Northern Region has more than doubled. The caseload of the Fairbanks office increased on an average of 2.5% per month throughout FY 84, and the trend is projected to continue in FY 86. The regional licensing load has also grown substantially, especially in the areas of day care and foster care.

Current staff resources are proving inadequate because of the increased demand for child and adult protective services which is the result of a complex interaction of factors including increasing client population (15% growth of the at-risk population between FY 78 and FY 83), changes in the nature and complexity of client problems and needs, and increasing public awareness of abuse and neglect. In order to increase the divisions's capacity to respond and to provide adequate and timely protective services, additional staff are needed in the Fairbanks regional office, and in the Delta, Barrow, Galena, and Ft. Yukon field offices. The 12 positions funded by this increment provide a cost-effective staffing pattern of supervisory, line, and support staff.

C5	INCREMENT/DECREMENT REQUEST
Agency Priority <u>1</u> of <u>108</u>	

AGENCY	Health and Social Services
PROGRAM	Social and Economic Assistance for the General Population
BRU	Social Services
COMPONENT	Northern Region
PROJECT	

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		ADJUSTED BASE	INCREMENT/ DECREMENT
<u>Staff Increases:</u>			
This increment will fund the following 12 new positions and support costs.			
Administrative Assistant III			
Location:	Fairbanks Range 16A		
Personal Services		\$48,782	48.8
Travel	- Administrative support	\$2,000	2.0
Contractual	- Phone, copier, printing, postage, and other communications		
		500	
Space Requirements:	135 sq. ft. @ 2.50 mo. x 12 =	<u>4,050</u>	
Total		\$ 4,550	4.6
Supplies	- General office supplies	\$ 400	.4
Equipment	- Desk \$732, chair \$216, file cabinet \$365, calculator \$249, typewriter \$1,304.	\$ 2,866	2.9
Accounting Clerk III			
Location:	Fairbanks Range 10A		
Personal Services		\$33,375	33.4
Travel		- 0 -	
Contractual	- Phone, copier, printing, postage, other communications	\$ 500	
Space requirements:	135 sq. ft. @ 2.50 mo. x 12 =	<u>4,050</u>	
Total		\$ 4,550	4.6
Supplies	- General office supplies	\$ 400	.4
Equipment	- Desk \$732, chair \$216, file cabinet \$365, calculator \$249.	\$ 1,562	1.6

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AGENCY Health and Social Services
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			ADJUSTED BASE	INCREMENT/ DECREMENT
2 - Clerk Typist III				
Location: Delta, Barrow	Range 8A			
Personal Services		Delta \$30,735 Barrow <u>34,307</u>		
Total			\$65,042	65.0
Travel			- 0 -	
Contractual - Phone, copier, printing, postage, and other communications		\$ 500		
Space Requirements: 75 sq. ft. @ 2.50 mo. x 12		<u>2,250</u>		
Total			\$ 2,750 x 2	4.5
Lease/purchase 1 IBM Displaywriter System w/printer for use by region support staff. \$350/mo x 12 =			\$ 4,200	4.2
Supplies - General office supplies			400 x 2	.8
Equipment - Desk \$732, chair \$216, file cabinet \$365, typewriter \$1,304.			\$ 2,617 x 2	5.2

C5	ADDITIONAL EXPLANATION FORM
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		ADJUSTED BASE	INCREMENT/ DECREMENT
2 - Social Worker III			
Location: Fairbanks, Delta	Range 16A		
Personal Services			
Fairbanks		\$48,782	
Delta		<u>50,444</u>	
Total		\$99,226	99.2
Travel	- Regional travel for supervisory support, home visits, schools, courts	\$ 2,500 x 2	5.0
Contractual	- Equipment Rental - New vehicle, 108D Sedan		
	10,000 mi x \$0.39 =	\$3,900	
	Replacement \$173/mo x 12 =	<u>2,076</u>	
		\$ 5,976	6.0
	Phone, copier, printing, postage, other communications	\$ 500	
Space Requirements:	165 sq. ft. @ \$2.50 mo. x 12	<u>4,950</u>	
Total		\$ 5,450 x 2	10.9
Supplies	- General office supplies	\$ 400 x 2	.8
Equipment	- Desk, \$596, Chair \$247, Side Chairs 2 @ 133 = \$266, Locking File Cabinet \$365	\$ 1,474 x 2	2.9
	108D, Auto, Intermediate Sedan FWD	\$ 8,400	8.4
2 - Clerk Typist III			
Location: Fairbanks, Galena	Range 8A		
Personal Services	- Fairbanks	\$29,935	
	Galena	<u>34,307</u>	
Total		\$64,242	64.2

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			ADJUSTED BASE	INCREMENT/ DECREMENT
2 - Clerk Typist III - cont'd				
Travel	-		- 0 -	
Contractual	-	Lease/Purchase 2 IBM Displaywriter systems w/printers for use by region support staff. \$350/mo x 2 x 12 =	\$ 8,400	8.4
		Phone, copier, printing, postage, other communications	\$ 500	
		Space Requirements: 75 sq. ft. @ \$2.50 x 12 =	<u>2,250</u>	
		Total	\$2,750 x 2	5.5
Supplies	-	General office supplies	\$ 400 x 2	.8
Equipment	-	Desk, \$732, Chair, \$216, File Cabinet \$365, Typewriter, \$1,304 =	\$2,617 x 2	5.2

C5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
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		ADJUSTED BASE	INCREMENT/ DECREMENT
2 - Social Worker III's			
Location: Fairbanks, Galena	Range 16A		
Personal Services			
Fairbanks		\$ 48,782	
Galena		<u>57,393</u>	
Total		\$106,175	106.2
Travel	- Regional travel for home visits, school, court, and development of resources.	2,500 x 2	5.0
Contractual	- Phone, copier, printing, postage, other communications	\$ 500	
	- Space Requirements: 165 sq. ft. @ \$2.50 x 12 =	<u>4,950</u>	
Total		\$ 5,450 x 2	10.9
Supplies	- General office supplies	\$ 400 x 2	.8
Equipment	- Desk, \$596, Chair \$247, 2 side chairs @ \$133 = \$266, Legal File Cabinet w/lock \$365.	1,474 x 2	2.9
Social Services Associate III			
Location: Nenana	Range 12A		
Personal Services		\$ 42,694	42.7
Travel	- Regional travel for supervision, home visits, school, court, development of resources.	\$ 2,500	2.5

C5	ADDITIONAL EXPLANATION FORM
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		ADJUSTED BASE	INCREMENT/ DECREMENT
Social Services Associate III - cont'd			
Contractual	- Phone, copier, printing, postage, other communication	\$ 500	
	Space Requirements - 135 sq. ft. @ \$2.50 mo x 12 =	<u>4,050</u>	
	Total	\$ 4,550	4.6
Supplies	- General office supplies	\$ 400	.4
Equipment	- Desk \$596, Chair \$247, 2 side chairs @ \$133 = \$266, Legal Locking File Cabinet \$365 =	\$ 1,474	1.5
Clerk Typist III, PPT			
Location: Fort Yukon Range 8A			
	Personal Services	\$17,037	17.0
	Travel -	- 0 -	
Contractual	- Phone, copier, postage	\$ 250	
	Space Requirements: 75 sq. ft. @ \$2.50 mo. x 12 =	<u>2,250</u>	
	Total	\$ 2,500	2.5
Supplies	- General office supplies	\$ 200	.2
Equipment	- Desk, \$732, Chair \$216, File Cabinet \$365, Typewriter \$1,304 =	\$ 2,617	2.6

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<u>Increased Legal Services:</u>	ADJUSTED BASE	INCREMENT/ DECREMENT
<p>Increased reports of child abuse and neglect, changes in the nature and complexity of client problems, and formalization of court proceedings necessitate additional legal assistance to support Division child protection proceedings.</p>		
<p>This increment will purchase additional legal services needed for civil prosecution in child sexual abuse cases (preparing notices of appearances, summonses, petitions, and related legal material; preparation of witnesses; preparation of testimony) and will be added to the annual RSA with the Department of Law.</p>		
<p>Attorney IV Location: Fairbanks Range 24A Personal Services \$ 64,168 Travel 5,000 Contractual 2,000 Supplies 732 \$ 71,900</p>		71.9
<p>This position will provide itinerant legal services throughout the region.</p>		
<p><u>Staff Development:</u></p>		
<p>Included are funds for regional training in: 1) division policy and procedures concerning service delivery and basic in-service orientation for the new social worker positions included in this increment, and 2) specialized training associated with the provision of mandated protective services for child abuse, neglect, and sexual abuse victims. Increased staff training reflects an overall emphasis on increasing the professional qualifications of social worker staff. As part of the division's management response to dramatically increasing numbers of child abuse cases, regional training for new and experienced staff will focus on strengthening intake and emergency procedures.</p>		
<p>Travel \$26,520; contractual \$10,600; supplies \$1,920</p>		26.5 10.6 1.9

C5	ADDITIONAL EXPLANATION FORM
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Additional Office Space for the Fairbanks Office:

The Fairbanks office space is short 1,100 sq. ft. as computed by Department of Administration Space Standards. The Northern Region currently has 37 staff in a total of 4,700 sq. ft., including halls, waiting room, rest rooms, and storage. By applying Department of Administration space standards, and allowing for non-office space footage, a real need for the additional semi-private and clerical spaces is established. This office should have a total of 5,800 sq. ft., minimum.

1,100 sq. ft. x \$2.00 x 12 months = \$ 26,400

This increment increases office space for existing staff only, and is based on a recently negotiated lease. Office space for the new positions is computed as part of the support costs on a position-by-position basis, and takes into consideration the possibility that the new positions may have to be located in a higher priced space.

ADJUSTED
BASE

INCREMENT/
DECREMENT

26.4

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TITLE OF INCREMENT/DECREMENT:	AGENCY CONTACT/PHONE NUMBER:	CODE	EX-EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
Staff Increases, Increased Legal Services and Staff Development for Southcentral Region DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES: This increment funds: 1) 20 new positions, PFT and PPT, and support costs in the Southcentral Region which are needed to provide a cost-effective staffing pattern of supervisory, line, and support staff; 2) a full-time attorney to support civil prosecutions for child abuse and sexual abuse cases throughout the region; 3) staff development for the 20 new positions and specialized training in child sexual abuse for existing staff; 4) additional travel needed to respond to increased caseloads throughout the region; 5) a zenith line for reporting child abuse and neglect; and 6) a WATS consultation service. The population of Anchorage has been increasing at an average of 15% annually, the Mat-Su Valley has the fastest growing population in the state, and marked growth has been occurring in the Kenai Peninsula. As a result, dramatic caseload increases in mandated child protective services have occurred. Between FY 78 and FY 83, statewide there was a 122% increase in the total number of children served, a 153% increase in the child protection caseload, and a 272% increase in the number of reports of child sexual abuse. A majority of these caseload increases have occurred in the Southcentral Region as this is the state's population center. The regional licensing load has also grown substantially, especially in the areas of day care and foster care. Current staff resources are proving inadequate due to a complex interaction of circumstances and factors including increasing client population (15% increase in the at-risk population between FY 78 and FY 83), changes in the nature and complexity of client problems and needs, and increasing public awareness of abuse and neglect. In order to increase the division's capacity to respond and to provide adequate and timely protective services, additional staff are needed in Anchorage, Kenai, Homer, Cordova, Wasilla, Dillingham, Valdez, Copper Center, and Unalaska.	Joanne Clark 465-3082	100	Personal Services	514.8	514.8
		200	Travel	61.3	61.3
		300	Contractual Services	192.6	192.6
		400	Supplies	9.0	9.0
		500	Equipment	39.9	39.9
		600	Lands, Buildings, Etc.		
		700	Grants, Claims, Etc.		
		800	Miscellaneous		
		TOTAL		817.6	817.6
		I-A Transfer (NON-ADD)		67.0	67.0
		1002	Federal Receipts		
		1003	General Fund Match		
		1004	General Fund	817.6	817.6
		1005	I-A Receipts		
		1028	Program Receipts		
Other					
POSITION INFORMATION		PFT	14	14	
		PPT	6	6	
		Non Permanent			
		Sta: months	204	204	
<input type="checkbox"/> Enhance Existing Service Compared to FY 85 <input checked="" type="checkbox"/> New Service Compared to FY 85 <input type="checkbox"/> Continuation of FY 85 Service Level		<input type="checkbox"/> Formula Program			
IMPACT FROM CAPITAL PROJECT (NAME)					
Chapter _____ SLA _____ Page/Line _____					

C5	INCREMENT/DECREMENT REQUEST
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	ADJUSTED BASE	INCREMENT/ DECREMENT
(continued)		
<u>Staff Increases:</u>		
The following computations reflect actual personal services costs; and adjustment is necessary to reconcile the adjusted base with the Position Authorization Control System (reference C4 transferring \$118.2 from Central Office)		
Total salary costs for new positions \$633,000 - \$118,200 C4 transfer	= \$514,800	(118.2)
Social Worker III (2)		
Location: Kenai Range: 16A		
Personal Services	= \$ 45,551 x 2	91.1
Travel - regional travel, home visits, school, court, development of resources	= 1,500 x 2	3.0
Contractual - phone, copier, printing, postage, other communication	= 500	
space requirements 165 sq. ft. @ 2.50 per months x 12	= 4,950	
	\$ 5,450 x 2	10.9

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		ADJUSTED BASE	INCREMENT/ DECREMENT
Supplies - General Office Supplies	400 x 2		.8
Equipment - desk \$596, chair \$247, side chairs 2 @ \$133 = \$266, legal locking file cabinet \$365	\$1,474 x 2		2.9
Community Care Licensing Specialist I (2) Location: Anchorage Range 16A Personal Services	42,694 x 2		85.4
Travel - regional travel, home visits, training and development of resources	1,500 x 2		3.0
Contractual - phone, copier, printing, postage and other communications space requirements: 165 sq. ft. @ 2.50 per month x 12	500 4,950 5,450 x 2		10.9
Supplies - General Office Supply	400 x 2		.8
Equipment - desk \$596, chair \$247, side chairs 2 @ \$133 = \$266, legal locking file cabinets \$365	1,474 x 2		2.9
Administrative Assistance III (1) Location: Anchorage Range 16A Personal Services	42,694		42.7
Travel - Regional travel	1,500		1.5
Contractual - phone, copier, printing, postage and other communications space requirements: 135 sq. ft. @ \$2.50 per month x 12 mos.	500 4,050 4,550		4.6
Supplies - General Office Supplies	400		.4

C 5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
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		ADJUSTED BASE	INCREMENT/ DECREMENT
Equipment - desk \$732, chair \$216, calculator \$249, file cabinet \$365	1,562		1.6
Accounting Clerk III Location: Anchorage Range 10A Personal Services	29,727		29.7
Travel -	-0-		
Contractual - phone, copier, printing postage and other communications space requirements: 135 sq. ft. @ \$2.50 per month x 12	500 4,050 <u>4,550</u>		4.6
Supplies - General Office Supplies	400		.4
Equipments - desk \$732, chair \$216, calculator \$249, file cabinet \$365	1,562		1.6

C 5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
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		ADJUSTED BASE	INCREMENT/ DECREMENT
Social Worker IV (1) Location: Anchorage Range 18A Personal Services		\$48,782	48.8
Travel - supervision travel throughout region, development of resources		3,000	3.0
Contractual - phone, copier, printer, postage, other communication space requirements - 165 sq. ft. @ 2.50 per mo. X 12		500 4,950 <u>5,450</u>	5.5
Supplies - General Office Supplies		400	.4
Equipments - desk \$596, chair \$247, side chairs, 2 @ 133 = \$266, file cabinet \$365		1,476	1.5

C 5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
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		ADJUSTED BASE	INCREMENT/ DECREMENT
Social Worker I (2)			
Location: Anchorage Range 13A			
Personal Services		\$35,721 x 2	71.4
Travel - regional travel for home visits, school and court		1,500 x 2	3.0
Contractual - phone, copier, printing, postage and other communications		500	
space requirements - 135 sq. ft. @ \$2.50 mo x 12		4,050	
		4,550 x 2	9.1
Supplies - General Office Supplies		400 x 2	.8
Equipment - desk \$596, chair \$247, side chairs 2 @ \$133 = 266, file cabinet \$365		1,474 x 2	2.9
Clerk Typist III, PPT (6)			
Locations: Valdez, Copper Center, Unalaska, Wasilla, Cordova, Dillingham			
Range: 8A			
Personal Services	Valdez	\$15,333	
	Copper Center	15,333	
	Unalaska	16,281	
	Wasilla	13,591	
	Cordova	14,863	
	Dillingham	16,281	
		91,682	91.7
Travel -		-0-	

C 5	ADDITIONAL EXPLANATION FORM
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		ADJUSTED BASE	INCREMENT/ DECREMENT
Contractual - phone, copier, postage space requirements 75 sq. ft. @ \$2.50 mo x 12	\$ 250 2,250 <u>2,500</u> x 6		15.0
Supplies - General Office Supplies	200 x 6		1.2
Equipment - desk \$732, chair \$216, file cabinet \$365, typewriter \$1,304	2,617 x 6		15.7

C 5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
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	ADJUSTED BASE	INCREMENT/ DECREMENT
Social Worker III (2) Locations: Anchorage, Homer Range: 16A		
Personal Services		
Homer	\$45,551	
Anchorage	\$42,694	
	<u>\$88,245</u>	88.2
Travel - regional travel, supervisors, home visits, school, court, development of resources	1,500 x 2	3.0
Contractual - phone, copier, printing, postage and other communication space requirements: 165 sq. ft. @ \$2.50 mo x 12	\$ 500 \$ 4,950 <u>\$ 5,450</u> x 2	10.9
Supplies - general office supplies	\$ 400 x 2	.8
Equipment - desk \$596, chair \$247, side chairs 2 @ \$133 = \$266, file cabinet \$365	\$ 1,474 x 2	2.9

C 5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
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	ADJUSTED BASE	INCREMENT/ DECREMENT
Clerk Typist III (3) Location: Anchorage, Homer Range: 8A		
Personal Services		
Homer	\$28,917	
Anchorage - 27.5551 x 2 = \$55,102	\$55,102	
	<u>\$84,019</u>	84.0
Travel	- 0 -	
Contractual - phone, copier, printing, postage space requirements: 75 sq. ft. @ 2.50 mo x 12 =	\$ 500 2,250 \$ 2,750 x 3	8.3
Supplies - general office supplies	\$ 400 x 3	1.2
Equipment - desk \$732, chair \$216, file cabinet \$365, typewriter \$1,304	\$ 2,617 x 3	7.9

C 5	ADDITIONAL EXPLANATION FORM
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Increased Legal Services

Increased reports of child abuse and neglect, changes in the nature and complexity of client problems, and formalization of court proceedings necessitate additional legal assistance to support division child protection proceedings.

This increment will purchase additional legal services needed for civil prosecution in child sexual abuse cases, (preparing notices of appearances, summons, petitions and related legal material, preparation of witnesses and testimony), and will be added to the annual RSA with the Department of Law.

Full time Attorney IV, Range 24A - \$56,480; Location - Anchorage
Travel - \$5,000; Contractual - \$3,500; Supplies - \$2,020 =

\$67,000

67.0

This position will provide itinerant legal services throughout region.

Staff Development

Included are funds for regional training in: 1) division policy and procedures concerning service delivery, and basic in-service orientation for the new social worker positions included in this increment, and 2) specialized training associated with the provision of mandated protective services for child abuse, neglect and sexual abuse victims. Increased staff training reflects an overall emphasis on increasing the professional qualification of social worker staff. As part of the division's management response to dramatically increasing child abuse cases, regional training for new and experienced staff will focus on strengthening intake and emergency procedures.

Travel - \$29,800; Contractual - \$15,800; Supplies - \$2,200

29.8
15.8
2.2

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	ADJUSTED BASE	INCREMENT/ DECREMENT
<p><u>Increased Travel</u></p> <p>Because of increased child and adult protection caseloads throughout the region, additional travel funds are needed for increased supervisory travel to field offices throughout the region, needed to ensure quality control and monitoring of protective service caseloads.</p> <p>Travel = \$ 15,000</p>		15.0
<p><u>Zenith Line and WATS Consultation Service</u></p> <p>As part of the division's management response to dramatically increasing abuse caseloads, this increment includes funds for: 1) a zenith line for statewide reporting of child abuse and neglect and 2) a WATS consultation service linking the entire state with national and international child welfare, medical, psychiatric, and legal experts affiliated with the C. Henry Kempe National Center for Prevention and Treatment of Child Abuse and Neglect. Both services will enhance the quality of the division's level of response to increased child abuse and sexual abuse reports. Both services would be coordinated by the Southcentral Region, as this area is expected to account for the heaviest use of the services.</p> <p>Zenith Line: Contractual = \$ 15,000 WATS Consultation Service: Contractual = \$ 15,000</p>		15.0 15.0

C 5	ADDITIONAL EXPLANATION FORM
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TITLE OF INCREMENT/DECREMENT: Staff Increases and Staff Development for Southeastern Region	AGENCY CONTACT/PHONE NUMBER: Joanne Clark 465-3082	CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES: This increment funds: 1) 7 new positions, PFT and PPT, and support costs in the Southeastern Region which are needed to provide a cost effective staffing pattern of supervisory, line, and support staff; and 2) staff development for the new positions and specialized training in child sexual abuse for existing staff. Between FY 78 and FY 83, statewide there was a 122% increase in the total number of children served, a 153% increase in the child protection case-load, and a 272% increase in the number of reports of child sexual abuse. Intakes in Ketchikan and Juneau have risen, averaging 30 a month in both communities. In addition, rural intakes have increased substantially as a result of training in child abuse identification and treatment team networking. Current staff resources are proving inadequate due to a complex interaction of circumstances and factors including increasing client population (the at-risk population has grown 15% between FY 78 and FY 83), changes in the nature and complexity of client problems and needs, and increasing public awareness of abuse and neglect. In order to increase the division's capacity to respond to increased demand and to provide adequate and timely protective services, additional staff are needed in Juneau, Ketchikan, and Craig.		100	Personal Services	250.5	250.5
		200	Travel	19.9	19.9
		300	Contractual Services	36.1	36.1
		400	Supplies	3.5	3.5
		500	Equipment	14.1	14.1
		600	Lands, Buildings, Etc.		
		700	Grants, Claims, Etc.		
		800	Miscellaneous		
		TOTAL		324.1	324.1
		I-A Transfer (NON-ADD)			
		1002	Federal Receipts		
		1003	General Fund Match		
		1004	General Fund	324.1	324.1
		1005	I-A Receipts		
		1028	Program Receipts		
		Other	PFT	6	6
			PPT	1	1
		POSITION	Non-Permanent		
		INFORMATION	Staff Months	78	78
		<input type="checkbox"/> Enhance Existing Service Compared to FY 85 <input checked="" type="checkbox"/> New Service Compared to FY 85 <input type="checkbox"/> Continuation of FY 85 Service <input type="checkbox"/> Level		<input type="checkbox"/> Formula Program	
Staff Increases: Social Worker IV Location: Juneau Range 18A Personal Services: \$ 48,782 \$ 48.8 Travel - Regional travel for supervision of field staff and training: \$ 3,000 \$ 3.0		IMPACT FROM CAPITAL PROJECT (NAME) Chapter _____ SLA _____ Page/Line _____			

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PROGRAM	Social and Economic Assistance for the General Population
BRU	Social Services
COMPONENT	Southeastern Region
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		ADJUSTED BASE	INCREMENT/ DECREMENT
Contractual - Phone, copier, printing, postage, and other communication	\$ 500		
Space requirements: 165 sq. ft. @ \$2.50/mo. X 12 =	\$ 4,950		
	\$ 5,450		5.5
Supplies - General office supplies	\$ 400		.4
Equipment - Desk \$596, chair \$247, 2 side chairs @ \$133 = \$266, legal file cabinet with lock \$365	\$ 1,474		1.5
Social Worker III (1)			
Location: Ketchikan Range 16 A			
Personal Services	\$42,694		42.7
Travel - Regional travel for training, home visits, school, court, development of resources	\$ 1,500		1.5
Contractual - Phone, copier, printing, postage, and other communication	\$ 500		
Space requirements - 165 sq. ft. @ \$2.50/mo. X 12 =	\$ 4,950		
	\$ 5,450		5.5
Supplies - General office supplies	\$ 400		.4
Equipment - Desk \$596, chair \$247, 2 side chairs @ \$133 = \$266, legal locking file cabinet \$365	\$ 1,474		1.5
Clerk Typist III (1)			
Location: Ketchikan Range 8 A			
Personal Services	\$26,852		26.9
Travel	- 0 -		
Supplies - General Office Supplies	\$ 400		.4
Equipment - Desk \$732, chair \$216, file cabinet \$365, typewriter \$1,304	\$ 2,617		2.6
Contractual - Phone, copier, printing, postage, other communications	\$ 500		
Space requirements - 75 sq. ft. @ \$2.50/mo. X 12 =	\$ 2,250		
	\$ 2,750		2.8

C5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
PROGRAM Social and Economic Assistance for the General Population
BRU Social Services
COMPONENT Southeastern Region

FY 86

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	ADJUSTED BASE	INCREMENT/ DECREMENT
Administrative Assistant I		
Location: Ketchikan Range 12 A		
Personal Services	\$33,317	33.3
Travel - Administrative travel for training of clerical support staff throughout region.	\$ 1,500	1.5
Contractual - Phone, copier, printing, postage, and other communications	\$ 500	
Space requirements - 135 sq. ft. @ \$2.50/mo. X 12 =	\$ 4,050	
	<u>\$ 4,550</u>	4.6
Supplies - General office supplies =	\$ 400	.4
Equipment - Desk \$732, chair \$216, side chair \$133, legal locking file \$365, calculator \$249, typewriter \$1,304 =	\$ 2,999	3.0
Social Worker III (1)		
Location: Juneau Range 16A	\$42,694	
Community Care Licensing Specialist (1)		
Location: Ketchikan Range 16A	\$42,694	
Personal Services:	<u>\$85,388</u>	85.4
Travel: Regional travel for supervision and area wide licensing assistance, home visits, school reports, court appearances, and developing of resources.	\$ 2,000 x 2	4.0
Contractual - Phone, copier, printing, postage, and other communications	\$ 500	
Space requirements: 165 sq. ft. @ \$2.50/mo. X 12 =	\$ 4,950	
	<u>\$ 5,450 X 2</u>	10.9
Supplies - General office supplies	\$ 400 X 2	.8
Equipment - Desk \$596, chair \$247, 2 side chairs @ \$133 = \$266, legal locking file cabinet \$365	\$ 1,474 X 2	2.9

C5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
PROGRAM Social and Economic Assistance
for the General Population
BRU Social Services
COMPONENT Southeastern Region

FY 86

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		ADJUSTED BASE	INCREMENT/ DECREMENT
Clerk Typist III PPT			
Location: Craig Range 8A			
Personal Services	\$13,426		13.4
Travel	0		
Contractual - Phone, copier, postage	\$ 200		
Space requirement: 75 sq. ft. @ \$2.50/mo. X 12	\$ 2,250		
	\$ 2,450		2.5
Supplies - General office supplies	\$ 400		.4
Equipment - Desk \$732, chair \$216, file cabinet \$365, typewriter \$1,304	\$ 2,617		2.6
<u>Staff Development:</u>			
Included are funds for regional training in: 1) division policy and procedures concerning service delivery and basic in-service orientation for the new social worker positions included in this increment, and 2) specialized training associated with the provision of mandated protective services for child abuse, neglect, and sexual abuse victims. Increased staff training reflects an overall emphasis on increasing the professional qualifications of social worker staff. As part of the division's management response to dramatically increasing numbers of child abuse cases, regional training for new and experienced staff will focus on strengthening intake and emergency procedures.			
Travel, \$9,900; contractual, \$4,300; supplies, \$720 =	\$14,920		14.9

C5	ADDITIONAL EXPLANATION FORM
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AGENCY Health and Social Services
PROGRAM Social and Economic Assistance
for the General Population
BRU Social Services
COMPONENT Southeastern Region

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DEPARTMENT OF LAW

<u>ADJUSTED BASE</u>	<u>AMOUNT</u>	<u>EXPLANATION</u>
\$16,573.0	\$ 119.2	Child protection prosecution First Judicial District: 1 Attorney and 1 Paralegal.
	\$ 214.1	Second Judicial District: 1 Attorney, 1 Paralegal, and 1 Legal Secretary.
	\$ 481.6	Third Judicial District: 3 Attorneys, 3 Paralegals, and 2 Legal Secretaries.
	\$ 179.8	Fourth Judicial District: 1 Attorney, 1 Paralegal, and 1 Legal Secretary.
	\$ 165.9	Child Protection Legal Services: 3 Attorneys, and 3 part-time Secretaries.

The cost of funding the child protection package in La. is \$1,160.6.

nmb/2650

TITLE OF INCREMENT/DECREMENT: Child Protection - Juneau/Ketchikan	AGENCY CONTACT/PHONE NUMBER: Daniel W. Hickey, 465-3428	CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES: This increment requests an Attorney III (66.9) for Juneau and a Paralegal II (52.3) for Ketchikan in order to address child protection in the First Judicial District. See discussion of Issue No. 1, BRU Issues, Form B2. In Juneau, the number of child sexual assault cases handled in the first half of 1984 was greater than the total for the entire year 1983, thus more than doubling the number of such cases. An attorney position is therefore needed in order to adequately handle these time-consuming cases. The attorney position in Juneau is additionally justified based on the enormous caseload increase in the 9 years since the last position was added to the district attorney's office. See discussion of Issue No. 3, BRU Issues, Form B2. In Ketchikan, the number of child sexual assault cases increased by 50% in 1984 over the same period in 1983. A paralegal position is therefore needed to assist prosecutors in preparing cases for trial and helping children and parents to overcome the trauma of testifying in court. The paralegal position in Ketchikan is additionally justified in order to handle the growing victim-witness assistance responsibility in the Wrangell-Petersburg area.		100	Personal Services	85.2	85.2
		200	Travel	10.0	10.0
		300	Contractual Services	14.0	14.0
		400	Supplies	7.0	7.0
		500	Equipment	3.0	3.0
		600	Lands, Buildings, Etc.		
		700	Grants, Claims, Etc.		
		800	Miscellaneous		
		TOTAL		119.2	119.2
		I-A Transfer (NON-ADD)			
1002	Federal Receipts				
1003	General Fund Match				
1004	General Fund	119.2	119.2		
1005	I-A Receipts				
1028	Program Receipts				
Other					
POSITION INFORMATION		PFT	2	2	
		PPT			
		Non Permanent			
		Staff Months	20	20	
<input checked="" type="checkbox"/> Enhance Existing Service Compared to FY 85 <input type="checkbox"/> New Service Compared to FY 85 <input type="checkbox"/> Continuation of FY 85 Service Level				<input type="checkbox"/> Formula Program	
IMPACT FROM CAPITAL PROJECT (NAME) <hr/> Chapter _____ SLA _____ Page/Line _____					

C5	INCREMENT/DECREMENT REQUEST
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AGENCY DEPARTMENT OF LAW
 PROGRAM DUE PROCESS
 BRU PROSECUTION
 COMPONENT FIRST JUDICIAL DISTRICT
 PROJECT _____

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REVISED DATE <u>11/6/84</u>	

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TITLE OF INCREMENT/DECREMENT: Child Protection in Barrow/Kotzebue	AGENCY CONTACT/PHONE NUMBER: Daniel W. Hickey, 465-3428	<table border="1" style="width:100%; border-collapse: collapse;"> <thead> <tr> <th>CODE</th> <th>EXPENDITURE BY OBJECT</th> <th>AGENCY REQ.</th> <th>GOV'S REQ.</th> </tr> </thead> <tbody> <tr><td>100</td><td>Personal Services</td><td>147.1</td><td>147.1</td></tr> <tr><td>200</td><td>Travel</td><td>12.5</td><td>12.5</td></tr> <tr><td>300</td><td>Contractual Services</td><td>34.5</td><td>34.5</td></tr> <tr><td>400</td><td>Supplies</td><td>9.5</td><td>9.5</td></tr> <tr><td>500</td><td>Equipment</td><td>10.5</td><td>10.5</td></tr> <tr><td>600</td><td>Lands, Buildings, Etc.</td><td></td><td></td></tr> <tr><td>700</td><td>Grants, Claims, Etc.</td><td></td><td></td></tr> <tr><td>800</td><td>Miscellaneous</td><td></td><td></td></tr> <tr><td colspan="2" style="text-align: center;">TOTAL</td><td>214.1</td><td>214.1</td></tr> <tr><td colspan="4" style="text-align: center;">I-A Transfer (NON-ADD)</td></tr> <tr><td>1002</td><td>Federal Receipts</td><td></td><td></td></tr> <tr><td>1003</td><td>General Fund Match</td><td></td><td></td></tr> <tr><td>1004</td><td>General Fund</td><td>214.1</td><td>214.1</td></tr> <tr><td>1005</td><td>I-A Receipts</td><td></td><td></td></tr> <tr><td>1028</td><td>Program Receipts</td><td></td><td></td></tr> <tr><td colspan="2">Other</td><td></td><td></td></tr> <tr><td colspan="2" rowspan="4" style="vertical-align: middle;">POSITION INFORMATION</td><td>PFT</td><td>3</td></tr> <tr><td>PPT</td><td></td></tr> <tr><td>Non Permanent</td><td></td></tr> <tr><td>Staff Months</td><td>30</td></tr> </tbody> </table>	CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.	100	Personal Services	147.1	147.1	200	Travel	12.5	12.5	300	Contractual Services	34.5	34.5	400	Supplies	9.5	9.5	500	Equipment	10.5	10.5	600	Lands, Buildings, Etc.			700	Grants, Claims, Etc.			800	Miscellaneous			TOTAL		214.1	214.1	I-A Transfer (NON-ADD)				1002	Federal Receipts			1003	General Fund Match			1004	General Fund	214.1	214.1	1005	I-A Receipts			1028	Program Receipts			Other				POSITION INFORMATION		PFT	3	PPT		Non Permanent		Staff Months	30
CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.																																																																													
100	Personal Services	147.1	147.1																																																																													
200	Travel	12.5	12.5																																																																													
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600	Lands, Buildings, Etc.																																																																															
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TOTAL		214.1	214.1																																																																													
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POSITION INFORMATION		PFT	3																																																																													
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		Non Permanent																																																																														
		Staff Months	30																																																																													

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

This increment requests an Attorney III (97.4) and Legal Secretary I (52.2) for Barrow and a Paralegal II (64.5) for Kotzebue in order to address child protection in the Second Judicial District. See discussion of Issue No. 1, BRU Issues, Form B2.

In Barrow, the number of child sexual assault cases handled in the first half of 1984 equalled the total number for the entire year 1983, thus doubling the number of such cases. In addition, in Barrow the criminal division attorney is responsible for handling all civil cases related to children, such as termination of parental rights, juvenile delinquency and a wide range of emergency children's proceedings. These civil cases have shown a similar increase in numbers beyond the point where the single Barrow attorney can handle them. The attorney position in Barrow is additionally justified based on the overall caseload in Barrow, and the addition of a second public defender position, which requires the nearly full-time assistance of a prosecutor from Fairbanks, thus reducing the resources of the Fairbanks office.

In the Nome-Kotzebue area, the number of child sexual assaults in the first half of 1984 increased by more than 50% over the total for the entire year 1983, thus indicating that the number of cases has tripled. The addition last year of a Kotzebue district attorney will help handle the startling increase of such cases, but a paralegal assistant is needed in order to prepare cases for trial and to help children and parents (as well as victims and witnesses in other types of cases) overcome the trauma of testifying. The Kotzebue paralegal will also administer the pretrial diversion program, thus freeing up attorney time for more serious cases. Kotzebue is the only office, other than Palmer, which does not have a paralegal position to provide a full range of criminal division services.

<input checked="" type="checkbox"/> Enhance Existing Service Compared to FY 85 <input type="checkbox"/> New Service Compared to FY 85 <input type="checkbox"/> Continuation of FY 85 Service Level	<input type="checkbox"/> Formula Program
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IMPACT FROM CAPITAL PROJECT (NAME)

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C5 INCREMENT/DECREMENT REQUEST

Agency Priority 2 of 18

AGENCY DEPARTMENT OF LAW

PROGRAM DUE PROCESS

BRU PROSECUTION

COMPONENT SECOND JUDICIAL DISTRICT

PROJECT _____

FY 86

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REVISED DATE 11/6/84

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TITLE OF INCREMENT/DECREMENT:
 Child Protection-Southcentral Alaska

AGENCY CONTACT/PHONE NUMBER:
 Daniel W. Hickey, 465-3428

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

This increment requests two Attorneys IV (156.5), a Paralegal II (55.9) and a Legal Secretary I (40.6) for Anchorage, an Attorney IV (77.4) and a Paralegal II (54.7) for Kenai, a Paralegal II (55.8) and Legal Secretary I (40.8) in Palmer, and a Paralegal II (65.3) in Bethel, in order to address child protection in the Third Judicial District. See discussion of Issue No. 1, BRU Issues, Form B2. Also see discussion of Issue No. 3.

In Anchorage, the present sexual assault unit, which had formerly used two prosecutors to handle both adult and child sexual assault cases, now is devoted almost exclusively to cases involving children. In addition, one extra prosecutor has been added to the unit, thus taking away resources from the prosecution of other types of crime. But even this is not nearly enough. The number of child sexual assault cases in 1984 is already up 30% over the same period in 1983, and the need to send Anchorage prosecutors to handle cases in outlying areas further strains the Anchorage office.

In Kenai, child sexual assault cases for the first half of 1984 are already running well ahead of the total for the entire year 1983, thus indicating more than a doubling of those cases. Recent changes in the staffing of other Kenai justice agencies will potentially mean an even greater increase in the next year. In addition, the dramatic increase in overall Kenai caseload, particularly drunk driving and fish and game cases, also justifies an additional prosecutor and paraprofessional position.

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	DV'S REQ.
100	Personal Services	380.9	335.0
200	Travel	35.0	30.0
300	Contractual Services	75.5	66.1
400	Supplies	30.0	26.5
500	Equipment	25.5	24.0
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		546.9	481.6
1-A: Transfers (NON-ADD)			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	546.9	481.6
1005	1-A Receipts		
1028	Program Receipts		
	Other		
POSITION INFORMATION	PFT	9	8
	PPT		
	Non Permanent		
	Staff Months	90	80

Enhance Existing Service Compared to FY 85
 New Service Compared to FY 85
 Continuation of FY 85 Service Level

Formula Program

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

C5 INCREMENT/DECREMENT REQUEST
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AGENCY DEPARTMENT OF LAW
 PROGRAM DUE PROCESS
 BRU PROSECUTION
 COMPONENT THIRD JUDICIAL DISTRICT
 PROJECT _____

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TITLE OF INCREMENT/DECREMENT: Child Protection In Fairbanks		AGENCY CONTACT/PHONE NUMBER: Daniel W. Hickey, 465-3428		CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES: This increment requests an Attorney IV (81.5), a Paralegal II (57.4) and a Legal Secretary I (40.9) in Fairbanks in order to address child protection in the Fourth Judicial District. See discussion of Issue No. 1, BRU Issues, Form B2. In Fairbanks, the present sexual assault unit, which formerly used one prosecutor to handle both adult and child sexual assault cases, now is devoted primarily to cases involving children. In addition, one extra prosecutor has been added to the unit, thus taking away resources from the prosecution of other types of crime. But even this is not enough. The number of child sexual assault cases in 1984 is already up 25% over the same period in 1983, and the need to send Fairbanks prosecutors to other areas, most notably Barrow, further strains the Fairbanks office.				100	Personal Services	133.3	133.3
				200	Travel	10.0	10.0
				300	Contractual Services	16.5	16.5
				400	Supplies	9.5	9.5
				500	Equipment	10.5	10.5
				600	Lands, Buildings, Etc.		
				700	Grants, Claims, Etc.		
				800	Miscellaneous		
				TOTAL		179.8	179.8
				I-A Transfer (NON-ADD)			
1002	Federal Receipts						
1003	General Fund Match						
1004	General Fund	179.8	179.8				
1005	I-A Receipts						
1028	Program Receipts						
Other							
POSITION INFORMATION		PFT	3	3			
		PPT					
		Non Permanent					
		Staff Months	30	30			
<input checked="" type="checkbox"/> Enhance Existing Service Compared to FY 85 <input type="checkbox"/> New Service Compared to FY 85 <input type="checkbox"/> Continuation of FY 85 Service Level				<input type="checkbox"/> Formula Program			
IMPACT FROM CAPITAL PROJECT (NAME)							
Chapter _____ SLA _____ Page/Line _____							

C5 INCREMENT/DECREMENT REQUEST

Agency Priority 2 of 18

AGENCY DEPARTMENT OF LAW

PROGRAM DUE PROCESS

BRU PROSECUTION

COMPONENT FOURTH JUDICIAL DISTRICT

PROJECT _____

FY 86

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00013

TITLE OF INCREMENT/DECREMENT:
Child Protection

AGENCY CONTACT/PHONE NUMBER:
Beverly Haywood 465-3600

DESCRIBE WHY THIS INCREMENT/DECREMENT IS NEEDED AND WHAT IT PURCHASES:

While it is essential that child abusers be prosecuted, as we have proposed in our prosecution budget, it is important as a first priority that abused children be placed in a safe environment. The actual legal protection of abused children is accomplished by civil division attorneys, who must proceed through court forms and hearings to secure aid and safe custody for the victims. Further, child protection involves more than proceedings on behalf of individual victims: for example, we also must pursue day care license revocations where investigation shows there is danger of abuse or neglect. This area of law has grown beyond our capacity to handle. We are particularly strained by the number of cases arising in rural areas, where work time is lost to travel. One of the results of trying to cope with our caseload in this area has been a drop in our timely response to other client agency problems. (For example, at FY 84 year end there were 26 percent more open aid-to-agency files than the year before, even though the number of new matters hadn't grown.) In spite of our efforts, our open children's proceedings files number 35 percent more than the year before. This is a potentially explosive situation, because child protection cases can't wait for us to get around to them.

We need a minimum of three new full-time attorneys to cover the ever-expanding needs for legal support in the child protection area: one based in Anchorage, one in Fairbanks, and in order to improve rural services, one based in Bethel. These attorneys will be hired at the Attorney IV level because of the level of responsibility and independence they will exercise in their outreach away from our field offices. In addition, we need one part-time secretary to

CODE	EXPENDITURE BY OBJECT	AGENCY REQ.	GOV'S REQ.
100	Personal Services	237.6	237.6
200	Travel	15.0	15.0
300	Contractual Services	13.5	13.5
400	Supplies	18.0	18.0
500	Equipment	27.0	27.0
600	Lands, Buildings, Etc.		
700	Grants, Claims, Etc.		
800	Miscellaneous		
TOTAL		311.1	311.1
(-A-Transfer (NON-ADD))			
1002	Federal Receipts		
1003	General Fund Match		
1004	General Fund	165.9	165.9
1005	I-A Receipts	145.2	145.2
1028	Program Receipts		
	Other		
POSITION INFORMATION	PFT	3	3
	PPT	3	3
	Non Permanent		
	Staff Months	45	45

Enhance Existing Service Compared to FY 85

New Service Compared to FY 85

Continuation of FY 85 Service Level

Formula Program

IMPACT FROM CAPITAL PROJECT (NAME)

Chapter _____ SLA _____ Page/Line _____

C5 INCREMENT/DECREMENT REQUEST

Agency Priority 2 of 18

AGENCY DEPARTMENT OF LAW

PROGRAM LEGAL SERVICES

BRU LEGAL SERVICES

COMPONENT OPERATIONS

PROJECT _____

FY 86

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support each new attorney.

The Department of Health & Social Services has agreed to participate in this program to the extent of paying for the cost of two attorneys. The Department of Law is requesting general fund monies to pay for one additional attorney and three part-time secretaries. This increment will provide, in total:

- 1. Attorney IV - Anchorage (Dept. of H&SS RSA)
- 1. Attorney IV - Fairbanks (Dept. of H&SS RSA)
- 1. Attorney IV - Bethel (General Fund)
- Legal Secretary I, PPT - Anchorage (General Fund)
- Legal Secretary I, PPT - Fairbanks (General Fund)
- Legal Secretary I, PPT - Bethel (General Fund)

AGENCY DEPARTMENT OF LAW

PROGRAM LEGAL SERVICES

BRU LEGAL SERVICES

COMPONENT OPERATIONS

FY 86

C5

ADDITIONAL
EXPLANATION
FORM

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CHILD AND FAMILY PROTECTION PACKAGE:

AS YOU KNOW, SEVERAL MEMBERS OF THIS BODY AND THE OTHER BODY HAVE BEEN WORKING ON A PACKAGE OF LEGISLATION TO ADDRESS THE GROWING PROBLEM OF CHILD ABUSE IN THIS STATE. OUR WORKING GROUP HAS DEVELOPED A PRODUCT THAT ATTEMPTS TO ADDRESS THE MOST CRITICAL AREAS, AND IDENTIFIES BOTH STATUTORY CHANGES AND BUDGETARY NEEDS.

THIS MORNING A COPY OF THIS PRODUCT WAS PLACED IN EACH MEMBER'S MAILBOX. IT CONTAINS PROPOSED LEGISLATION WITH SECTIONAL ANALYSIS, A COMPARISON OF WHAT EXISTS IN LAW NOW AND WHAT'S BEING PROPOSED, IDENTIFIED COSTS OF THE PACKAGE, AND A LIST OF ADDITIONAL ISSUES THAT WARRANT CONTINUED DISCUSSION.

IDENTICAL BILLS HAVE BEEN INTRODUCED IN BOTH BODIES, AND HEARINGS WILL BE HELD IN THE H.E.S.S. COMMITTEES ON TUESDAY, MARCH 26. I URGE YOU TO CAREFULLY REVIEW YOUR PACKET, AND JOIN ME IN SUPPORTING THIS MUCH NEEDED LEGISLATION.

NOTE:

SCHEDULED FOR TUESDAY:
IN SENATE HESS

SB 3 (HEARSAY)

SB 8 (SCHOOL CURRICULA)

SB 21 (BACKGROUND CHECKS)

SB 86 (MISSING AND RUNAWAY CHILDREN)

SB 243 (REVISION OF GOVERNOR'S OMNIBUS BILL)

Bettye, generally, SB 243 makes numerous changes to existing civil and criminal laws. Will enhance State's ability to protect children and to prosecute offenders. For example, expands those people required to report incidents, makes distribution of child pornography a crime whether or not distribution is for commercial purposes, extends the statute of

limitations from 5 to 10 years for child prostitution victims, adds a definition of sexual abuse to the statute to prevent constitutional challenges to the state's assumption of jurisdiction over children who are sexually abused by their parents.

Remembers that the substantive issues, like background checks and hearsay evidence and handling missing and runaway children are being addressed in separate bills.

FOR IMMEDIATE RELEASE:

March 1, 1985

LEGISLATORS ANNOUNCE COOPERATIVE EFFORT
ON CHILD SEXUAL ABUSE LEGISLATION

JUNEAU, AK. -- Senator Bettye Fahrenkamp, Chair of the Senate Committee on Health, Education, and Social Services, announced today that the chairmen of three Senate committees and two House committees have agreed to work together to draft new legislation that would toughen Alaska's laws regarding sexual abuse of children.

"There is such a need for comprehensive legislation that strengthens our laws to protect Alaska's children. With so many bills introduced on this issue this session, I thought it imperative that we combine our efforts and our expertise on drafting new laws," Senator Bettye Fahrenkamp (D-Fairbanks), said today.

She said that she and Senators Pat Rodey (D-Anchorage), Jan Faiks (R-Anchorage), and John Sackett (R-Ruby), and Representatives Max Gruenberg (D-Anchorage), Niilo Koponen (D-Fairbanks) and Mike Miller (D-Juneau) are working together to develop a consensus bill regarding child and family protection. "We want to have one package moving through the Legislature with a price tag that we can handle," Fahrenkamp said.

Rodey chairs the Senate Judiciary Committee, Sackett and Faiks co-chair the Senate Finance Committee, Gruenberg and Koponen co-chair the House HESS Committee, and Miller chairs the House Judiciary Committee.

(more)

child abuse, page two

"At least nine bills seeking to rewrite Alaska's child sexual abuse laws have been introduced this year," Gruenberg said. "By working together on this, we hope we can come up with one or two bills that best meet the needs of Alaska's children and parents", he explained.

"The problem of child sexual abuse does not exist in isolation," said Koponen. "It contributes significantly to the problem of runaway children, to juvenile delinquency, and to Alaska's critical need for counseling and mental health facilities. Developing a comprehensive system of law regarding child sexual abuse is an important first step in addressing these problems in a meaningful and effective manner."

Faiks said the group is developing a fiscal note for the legislation that will place a priority on each service element within the proposed legislation.

"We have a serious decline in state revenues this year and money will be short across the board", Faiks said. "The area of combatting child sexual abuse is a priority of both the Legislature and the Governor and it may well be the only area of the budget to see a slight increase this year", she said.

Sackett said one of the key fiscal elements is that of funding a proper training program for appropriate state employees who work with cases of child neglect and abuse.

(more)

child abuse, page three

"The alarming increase statewide in reports of child abuse, both physical and sexual, have rightly made this area a legislative priority this year", Sackett said. "Through this cooperative effort, we can develop a program that will help all Alaskan children."

Rodey said the group plans to carefully examine all the bills introduced on the issue. "We want to take the best sections of each bill and combine them into one comprehensive legislative package that our colleagues and personnel from the areas of law enforcement, social services, and health care can support", Rodey said.

-30-

For further information, contact:

Sandra Schubert, Tel. 465-3834



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

April 10, 1985

Senator Pat Rodey
Chair, Senate Judiciary Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Rodey:

I am writing with regard to CSSB 243 (HESS), relating to the protection of children, which is now before the judiciary committee. My comments are specifically directed to proposed section 12 (page 6), which includes "court investigators" within the group of persons required to report abuse or neglect of a child.

The court system is opposed to this provision. First, the meaning of the term "court investigators" is unclear, since there is no such position title within the court system (although there are custody investigator positions in Anchorage and Fairbanks). Second, 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.

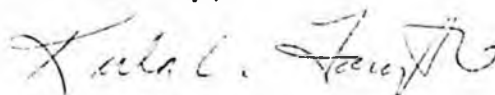
This legislation is complemented by CSSB 28, which provides that a person employed by the state who is required to report abuse or neglect shall receive training. Departments are required to develop curriculum for employees including training about laws relating to child abuse and neglect, techniques 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, and 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: Senator Bettye Fahrenkamp
Chair, Senate HESS Committee

Senator Jan Faiks
Co-Chair, Senate Finance Committee

Senator John Sackett
Co-Chair, Senate Finance Committee

ors awaiting arter figures

capital budget this year, then it appears they'll set aside some construction money for Mat-Su Valley schools, Faiks said.

"That area of the state has been growing like crazy," she said. "There's a human crisis out there.

"If we don't do anything else, we have to save up some capital money for those folks," Faiks said.

Legislative budget builders agreed last month they would trim \$300 million from Gov. Bill Sheffield's proposed spending plan for fiscal '86. Of that total, \$160 million would come from the operating budget, \$31.5 million from loans and the rest from the capital budget.

That would reduce Sheffield's \$2.37 billion operating budget to about \$2.24 billion and have an addition \$248.1 million up for grabs for capital projects.

Those figures reflect money that would be appropriated from the state's general fund.

Sheffield had called for \$547.2 million in capital spending when he released his budget.

Child abuse bills consolidated legislature

By ROBB FULCHER
United Press International

JUNEAU — Lawmakers have gathered together a number of bills designed to combat child abuse and have a sweeping child protection package which they hope to push through the legislature.

"It just puts in a capsule where we stand and where we are heading on child abuse," said Sen. Bettye Fahrenkamp, D-Fairbanks, chairwoman of the Senate Committee on Health, Education and Social Services.

Some of the legislation was introduced earlier in the session by Gov. Bill Sheffield, who has identified child abuse as Alaska's number one social problem.

Six legislators who chair standing committees on both the House and Senate sides spearheaded a two-week effort to refine the measures already before the legislature, and to evaluate recommendations by the National Center for Missing and Exploited Children.

The package of bills they came up with include provisions to expand the scope of evidence that can be presented to a grand jury in child abuse cases, to expand programs to train officials to recognize child abuse, and to broaden laws protecting children from neglect.

Reports of child abuse and neglect increased 219 percent between 1978

and 1983, according to statistics compiled by the Department of Health and Human Services.

Sheffield noted in his Jan. 15 "State of the State" address that the Division of Family and Youth Services receives an average of 33 child welfare referrals each day in Anchorage alone.

"That record caseload is shameful enough in itself. But numbers alone can't tell you about the pain these children feel, and the painful decisions an overworked staff has to make," Sheffield said in the address.

The anti-child abuse package lumps already existing bills together when possible, and leaves separate any bills that may be controversial or which may be questioned as too expensive.

"One thing that is important is that when you increase enforcement to protect the victim, you can end up spending more money in other areas," Fahrenkamp said Thursday.

"For instance, if testimony from a child leads to the breadwinner being removed from the household, you may have to spend more for assistance to that family," she said.

One measure which was placed by itself in the package because of possible controversy was a bill that

would allow grand juries to accept hearsay evidence in cases of alleged child sexual abuse, Fahrenkamp said.

The child must be under the age of 10, and the child need not testify in person if a judge decides the child would suffer "substantial" emotional or physical harm if he or she was required to testify.

Hearsay evidence also would be allowed if the child cannot clearly remember the events in question.

One of the most expensive provisions in the package would call for \$235,900 in funding for the training of teams of community professionals to recognize and report child abuse and neglect.

The training would be done by the Council on Domestic Violence and Sexual Assault, and the professionals who would receive the training would include law enforcement officers and social workers.

Issues that were identified for further study include the possibility of mandatory background checks on employees of child care facilities, encouraging school districts to offer parenting classes, and presumptive sentencing, which gives Alaska judges more discretion in imposing sentences.

RING CLEARANCE



Alaska State Legislature

Senate

Official Business

Pouch V
State Capitol
Juneau, Alaska 99811

TO ALL INTERESTED PARTIES

ATTACHED FOR YOUR INFORMATION IS THE LEGISLATIVE PACKAGE
DEVELOPED TO ADDRESS THE INCREASING PROBLEM OF CHILD
ABUSE IN OUR STATE. HEARINGS HAVE BEEN SCHEDULED IN JUNEAU:

SENATE COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES

TUESDAY, MARCH 26, 1985	SB 3
	SB 8
1:30 - 3:30 P.M.	SB 21
	SB 86
BELTZ ROOM, ROOM 211 CAPITOL	SB 243

HOUSE COMMITTEE ON HEALTH, EDUCATION AND SOCIAL SERVICES

TUESDAY, MARCH 26, 1985 AND WEDNESDAY, MARCH 27, 1985	HB 67
	HB 88
4:30 - 6:00 P.M.	HB 308
ROOM 112 CAPITOL	

PLEASE CONTACT SANDRA SCHUBERT (SENATE H.E.S.S.) AT 465-3834
OR NANCY BENNETT (HOUSE H.E.S.S.) AT 465-3759 WITH QUESTIONS
OR COMMENTS.

The Fairbanks Child Sexual Abuse Task Force

209 Forty Mile Ave- Graehl
Fairbanks, AK 99701

April 29, 1985

Dear Legislator,

The Fairbanks Child Sexual Abuse Task force was formed in 1981 to address the many legal and treatment issues that are involved in cases of child sexual abuse. In the past four years the Task Force has developed effective and cooperative strategies for intervention on prosecution and treatment.

The attention given to child sexual abuse by the media, in conjunction with concerted local education by member agencies of the task Force, has caused a dramatic increase in the number of reported cases of child sexual abuse in Fairbanks and the Northern Region. The Fairbanks office of DFYS received 72 reports of child sexual abuse in the first six months of 1984, 139 in the last six months (total of 211 for 1984), and 105 reports in the first four months of 1985. In addition the Northern Region outside of Fairbanks received 47 cases in 1984. In 1984 Alaska State Troopers investigated 161 cases involving sexual offenses in the Northern Region and Fairbanks Police Department investigated 74 cases within the city. In the first four months of 1985 FPD investigated 32 cases, only 5 of which were adult rapes.

The Governor has requested additional social workers for this region. His request is receiving legislative support through HB 88 and SB 243. However, there are two major areas of need caused by the increased caseload: 1) treatment and advocacy for victims and non-offending parents and 2) law enforcement to investigate the related criminal charges.

Alaska State Troopers has assigned five troopers to do all investigations in the Northern Region, two of whom work almost exclusively on sexual offenses. AST has now given notice to the Task Force that they will have to cut back on investigative work on sexual offenses due to lack of staff time. With the announced further loss of troopers in the Northern region this situation is rapidly becoming critical.

We would request the legislature to endorse the child sexual abuse protocol signed by the Departments of Law, Public Safety, Health and Social Services and Corrections and to direct those agencies to give priority in their budgets to activities involving child sexual abuse cases.

We believe that the legislature must show its support of intervention, prevention and treatment of child sexual abuse by providing adequate funding to these agencies. In particular, we are concerned that the Department of Public Safety receive sufficient funding to maintain adequate investigative units, and through CDVSA, augment prevention and treatment services.

Thank you for your attention to these concerns.

Sincerely,



Myra Munson
Chair, Executive Committee
Fairbanks Child Sexual Abuse Task Force

cc: Commissioner Sundberg
Department of Public Safety

Please distribute to Interior delegation, House & Senate Finance ..

452-2293
LISTER/LSICCA

Robert M. Arvidson, Ph.D.
Box 258
Cordova, Alaska 99574

MAR 5 1985

March 2, 1985

343

House Hess Committee
Alaska State Legislature
Fouch V
Juneau, Alaska 99811

Re: House Bill No. 88, "An Act relating to the protection of children;"

Dear Committee Members,

This is a letter of support for House Bill No. 88. I urge passage of this Bill and in the meantime offer the following comments in three areas for your consideration.

Area 1. I suggest that psychological associates should be inserted between "psychologists" and "religious" in line 1, page 12. Psychological associates are not considered psychologists per se, and are licensed separately under AS 08.86. A distinction is made between psychologists and associates elsewhere in the statutes, namely AS 47.30.915 (11).

Area 2. I support Sec. 20 on page 10, but I am concerned that the term "psychotherapist" lacks statutory definition (the concern here is with the definition of psychotherapist as it relates to psychology, not psychiatry). As I understand it, Sec. 20 is a result of issues raised in Alaska v. R. H. and Wetherhorn, 683 P. 2d 269 (Alaska App. 1984). In the decision, Dr. Wetherhorn, a clinical psychologist is acknowledged as a psychotherapist, but this may be problematic for future reference since the psychology statutes (AS 08.86) do not specifically address the issue of specialty designations, such as clinical or counseling psychologist.

Reference is made in the above decision to Allred v. State, 554 P 2d.⁴¹¹ (Alaska 1976), where psychotherapy and the practice thereof are defined, but this does not solve all conflicts. The Allred court did not extend evidentiary privilege "... to all manner of counselors, social workers, and psychological associates," 554 P 2d. at 418 (the particular focus concerned psychiatric social workers). The problem that I have here is that AS 08.86. 180 (d) recognizes the right of clinical social workers to hold out to the public as psychotherapists. Does this mean that clinical social workers, who are neither statutorily defined nor licensed under Title 8 are included in the exception stated in proposed Sec. 47.17.060 (2) ?

Clinical Social Workers would not typically meet the criteria established by the Allred court for psychotherapist, yet due to the nature of their training and occupational specialty, it is highly probable that these very individuals would be involved in sensitive child abuse consultations and proceedings.

Another area of concern is the exemption granted to qualified members of other professions in AS 08.86.180 (b) (3) where use of the terms psychotherapy and psychotherapeutic is not restricted.

My purpose here is to seek clarity rather than to be critical . The intent of the section is to clarify existing law, yet application of the "plain meaning rule" might indicate that all manner of psychotherapists will be granted evidentiary

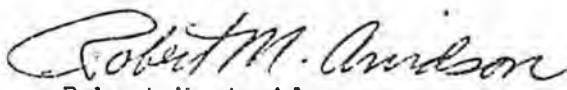
House Hess
Page 2
March 2, 1985

privilege (due to the recency of various amendments to AS 08.86.180; 1980 and 1983 for AS 08.86.180 (b) (3) and (d) respectively v. 1976 for Allred). Is this the intent of Sec. 20?

As a note , psychotherapy is briefly defined in the Standards cited in 12 AAC 60.185 and the term is used in reference to the practice of psychology in AS 08.86.230. This, however, does not mean that all psychologists licensed under AS 08.86 are qualified as psychotherapists. Specialty guidelines (based on the generic Standards) which shed light on the definition of professional clinical psychologist have not been formally adopted in 12 AAC 60 (see, American Psychological Association, Committee on Professional Standards. "Specialty guidelines for the delivery of services by clinical psychologists." American Psychologist , 36, 640-651; also available in booklet form).

Area 3. I request an amendment be made to HB 88 to the effect AS 08.86.200 include the provision that those licensed under AS 08.86 must report knowledge of child abuse or neglect as required by AS 47.17.020 (a) (1). My interpretation is that as it now reads, AS 08.86.200 (Confidentiality of Communication) is in conflict with AS 47.17.020 (Persons required to report). The amendment would bring AS 08.86.200 in line with existing law and with Principle 5 of "Ethical Principles of Psychologists;" (see 12 AAC 60.185). I have called this to the psychology boards' attention in a letter dated Feb. 27, 198[4] (which should have read Feb. 27, 1985).

Sincerely yours,


Robert M. Arvidson

cc: House Judiciary
House Finance
Gov. Sheffield
Rep. Cato
Senate HESS ✓
Sen. Kerttula
Sen. DeVries
Board of Psychologists ... Examiners

* Insert (1981)

Introduced: 3/20/85
Referred: Health, Education & Social Services
and Judiciary

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

SENATE BILL NO. 243

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

8 * Section 1. AS 11.51.100 is amended to read:

9 Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST
10 DEGREE. (a) A person commits the crime of endangering the welfare of
11 a minor in the first degree if, being a parent, guardian, or other
12 person legally charged with the care of a child under 13 [10] years of
13 age, the person intentionally deserts the child in any place under
14 circumstances creating a substantial risk of physical injury to the
15 child.

16 (b) Endangering the welfare of a minor in the first degree is a
17 class C felony.

18 * Sec. 2. AS 11.51 is amended by adding a new section to read:

19 Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND
20 DEGREE. (a) A person commits the crime of endangering the welfare of
21 a minor in the second degree if, being entrusted with the care of a
22 child under 13 years of age, the person with criminal negligence

23 (1) exposes the child to circumstances creating a substan-
24 tial risk of physical injury or sexual abuse; or

25 (2) exposes the child to physical injury by failing to
26 provide the child with necessary food, care, clothing, shelter, or
27 medical attention.

28 (b) Endangering the welfare of a minor in the second degree is a
29 class A misdemeanor.

1 * Sec. 3. AS 11.61.125(a) is amended to read:

2 (a) A person commits the crime of distribution of child pornog-
3 raphy if the person brings or causes to be brought into the state for
4 [SALE OR] distribution, or in the state distributes, or in the state
5 possesses, prepares, publishes, or prints with intent to distribute,
6 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
7 ial that visually depicts conduct described in [UNDER] AS 11.41.-
8 455(a), knowing that the production of the material involved the use
9 of a child under 18 years of age who engaged in the conduct.

10 * Sec. 4. AS 11.61.125 is amended by adding a new subsection to read:

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

15 * Sec. 5. AS 12.10.020(c) is amended to read:

16 (c) Even if the general time limitation has expired, a prose-
17 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
18 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense
19 committed against a person under the age of 16 may be commenced within
20 one year after the crime is reported to a peace officer or the person
21 reaches the age of 16, whichever occurs first. This subsection does
22 not extend the period of limitation by more than five years.

23 * Sec. 6. AS 12.45.045(a) is amended to read:

24 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR
25 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)
26 In prosecutions for the crimes [CRIME] of sexual assault in any de-
27 gree, sexual abuse of a minor in any degree, or unlawful exploitation
28 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-
29 SAULT IN ANY DEGREE], evidence of the complaining witness' previous

1 sexual conduct may [SHALL] not be admitted nor reference made to it in
2 the presence of the jury except as provided in this section. When the
3 defendant seeks to admit the evidence for any purpose. the defendant
4 may apply for an order of the court at any time before or during the
5 trial or preliminary hearing. After the application is made, the
6 court shall conduct a hearing in camera to determine the admissibility
7 of the evidence. If the court finds that evidence offered by the
8 defendant regarding the sexual conduct of the complaining witness is
9 relevant, and that the probative value of the evidence offered is not
10 outweighed by the probability that its admission will create undue
11 prejudice, confusion of the issues, or unwarranted invasion of the
12 privacy of the complaining witness, the court shall make an order
13 stating what evidence may be introduced and the nature of the ques-
14 tions that may [WHICH SHALL] be permitted. The defendant may then
15 offer evidence under the order of the court.

16 * Sec. 7. AS 47.10.081(c) is amended to read:

17 (c) The court shall inform the child, the child's parents, [AND]
18 the attorneys representing the parties, and the guardian ad litem that
19 the predisposition report will be available to them not less than six
20 working [10] days before the disposition hearing.

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

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

25 (1) the minor has been abandoned;

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

1 immediate medical attention is necessary;

2 (3) the minor has been abused by a person responsible for
3 the child's welfare , as "abuse" is defined in AS 47.17.070(1), and
4 the department determines that immediate removal from the minor's
5 surroundings is necessary to protect the minor's life or that immedi-
6 ate medical attention is necessary.

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

8 (c) When a child is taken into custody under (a) or (b) of this
9 section, the department shall immediately, and in no event more than
10 12 hours later unless prevented by lack of communication facilities,
11 notify the parents or the person or persons having custody of the
12 child. If the department determines that continued custody is neces-
13 sary to protect the child, the department shall notify the court of
14 the emergency custody by filing, within 24 hours after custody was
15 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
16 tion alleging that the child is a child in need of aid.

17 * Sec. 10. AS 47.10.290 is amended by adding a new paragraph to read:

18 (8) "sexual abuse" means

19 (A) conduct against a child that would constitute a
20 sexual offense under AS 11;

21 (B) the perpetrator's knowingly touching, directly or
22 through clothing, the genital area, groin, inner thighs, or
23 buttocks of a child, or causing a child to touch, directly or
24 through clothing, the genital area, groin, inner thighs, or
25 buttocks of the perpetrator or another; sexual abuse does not
26 include reasonable touching in the exercise of normal caretaker
27 responsibilities for a child or normal caretaker interactions
28 with a child or touching performed for the purpose of adminis-
29 tering a recognized and lawful form of treatment that is

1 reasonably adapted to promoting the physical or mental health of
2 the child;

3 (C) exposing the genital area, anus, breast, groin, or
4 buttocks of a child to the perpetrator or another for the sexual
5 gratification of the child, the perpetrator, or another, or
6 exposing the genital area, anus, breast, groin or buttocks of the
7 perpetrator or another to a child for the sexual gratification of
8 the child, the perpetrator, or another; or

9 (D) statements to a child that express a desire or
10 intent to have sexual contact or sexual penetration with the
11 child or encourage the child to have sexual contact or sexual
12 penetration with the perpetrator or another.

13 * Sec. 11. AS 47.17.010 is amended to read:

14 Sec. 47.17.010. PURPOSE. In order to protect children whose
15 health and well-being may be adversely affected through the inflic-
16 tion, by other than accidental means, of harm through physical injury,
17 [ABUSE OR] neglect, [OR] sexual abuse, or sexual exploitation, the
18 legislature requires the reporting of these cases by practitioners of
19 the healing arts and others to the appropriate public authorities. It
20 is the intent of the legislature that, as a result of these reports,
21 protective services will be made available in an effort to prevent
22 further harm to the child, to safeguard and enhance the general well-
23 being of the children in this state, and to preserve family life
24 whenever preserving it is in the best interests of the child [POS-
25 SIBLE].

26 * Sec. 12. AS 47.17.020 is repealed and reenacted to read:

27 Sec. 47.17.020. REPORTING OF CHILD ABUSE OR NEGLECT. (a) The
28 following persons are required to report abuse or neglect of a child
29 as required in (b) and (c) of this section:

- 1 (1) practitioners of the healing arts;
- 2 (2) employees and volunteers of private and public schools;
- 3 (3) human services providers;
- 4 (4) peace officers, and officers of the Department of
- 5 Corrections;
- 6 (5) administrative officers of institutions;
- 7 (6) child care providers;
- 8 (7) counselors, including church counselors and therapists,
- 9 whether licensed or not;
- 10 (8) court investigators;
- 11 (9) employees and volunteers of domestic violence programs,
- 12 sexual assault programs, or crisis shelters.

13 (b) A person listed in (a) of this section, who in the perfor-
14 mance of the person's occupational duties has cause to believe that a
15 child has suffered harm as a result of abuse or neglect by a person
16 responsible for the child's welfare, shall promptly report the harm to
17 the nearest office of the department. If the person making a report
18 of harm under this subsection cannot reasonably contact the nearest
19 office of the department and immediate action is necessary for the
20 well-being of the child, the person shall make the report to a peace
21 officer. The peace officer shall take immediate action to protect the
22 child and shall, at the earliest opportunity, notify the nearest
23 office of the department.

24 (c) A person listed in (a) of this section, who in the perfor-
25 mance of the person's occupational duties has cause to believe that a
26 child has suffered harm as a result of abuse or neglect, shall prompt-
27 ly report the harm to the nearest law enforcement agency if the person
28 making the report (1) has cause to believe that the harm was caused by
29 a person who is not responsible for the child's welfare; or (2) is

1 unable to determine (A) who caused the harm to the child; or (B)
2 whether the person who is believed to have caused the harm has respon-
3 sibility for the child's welfare. If a person making a report under
4 this subsection cannot reasonably contact the nearest law enforcement
5 agency, and immediate action appears necessary for the well-being of
6 the child, the person shall make the report to the nearest office of
7 the department. The department shall take immediate action to protect
8 the child and shall, at the earliest opportunity, notify the nearest
9 law enforcement agency.

10 (d) This section does not prohibit the named persons from re-
11 porting cases that have come to their attention in their nonoccupa-
12 tional capacities, nor does it prohibit any other person from report-
13 ing a child's harm that the person has cause to believe is a result of
14 abuse or neglect. These reports shall be made to the nearest office
15 of the department or to the nearest law enforcement agency in the
16 manner set out in (b) and (c) of this section.

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

18 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
19 who, in the course of processing or producing visual or printed
20 matter, either privately or commercially, has reason to believe that
21 the matter visually depicts a minor engaged in conduct described in
22 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
23 ment agency. The person shall provide copies of the material to the
24 law enforcement agency along with all information known about the
25 origin of the matter.

26 * Sec. 14. AS 47.17.025 is repealed and reenacted to read:

27 Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After re-
28 ceiving a report of harm to a child resulting from abuse or neglect by
29 a person responsible for the child's welfare, a law enforcement agency

1 shall immediately notify the Department of Health and Social Services
2 and the Department of Law. The Department of Health and Social Ser-
3 vices shall investigate the report and, within 72 hours after receiv-
4 ing the report, shall provide a written report of its investigation to
5 the Department of Law for review. If after a preliminary investiga-
6 tion the Department of Health and Social Services determines that the
7 harm was not caused by a member of the child's family, the department
8 shall so notify the Department of Law.

9 (b) A report of harm to a child from abuse or neglect required
10 from the department by this section must include:

11 (1) the names and addresses of the child and the child's
12 parents or other persons responsible for the child's care, if known;

13 (2) the age and sex of the child;

14 (3) the nature and extent of the harm to the child;

15 (4) the name and age and address of the person known or
16 believed to be responsible for the harm to the child, if known;

17 (5) information that the department believes may be helpful
18 in establishing the identity of the person believed to have caused the
19 harm to the child.

20 * Sec. 15. AS 47.17.040(b) is amended to read:

21 (b) Investigation reports and reports of harm filed under this
22 chapter are considered confidential and are not subject to public
23 inspection and copying under AS 09.25.110 and 09.25.120. However, in
24 accordance with department regulations, investigation reports may be
25 used by appropriate governmental agencies with child-protection func-
26 tions, inside and outside the state [ALASKA], in connection with
27 investigations or civil or criminal [JUDICIAL] proceedings involving
28 [CHILD] abuse, neglect, or child custody. A person, not acting in
29 accordance with department regulations, who makes public information

1 contained in confidential reports is guilty of a misdemeanor.

2 * Sec. 16. AS 47.17.050 is amended to read:

3 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a
4 report under this chapter, or who participates in civil or criminal
5 [JUDICIAL] proceedings related to the submission of reports under this
6 chapter, is immune from any civil or criminal liability that [WHICH]
7 might otherwise be incurred or imposed.

8 * Sec. 17. AS 47.17.060 is amended to read:

9 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. Neither the physi-
10 cian-patient nor the husband-wife privilege is a ground for excluding
11 evidence regarding a child's harm, or its cause, in a civil or crimi-
12 nal [JUDICIAL] proceeding related to a report made under this chapter.

13 * Sec. 18. AS 47.17.064 is repealed and reenacted to read:

14 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a
15 practitioner of the healing arts may, without the permission of the
16 parents, take the following actions with regard to a child believed to
17 have suffered physical harm as a result of abuse or neglect by a
18 person responsible for the child's welfare

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

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

24 * Sec. 19. AS 47.17.068 is repealed and reenacted to read:

25 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person
26 who knowingly fails or refuses to report as required under AS 47.17.-
27 020 or 47.17.023 is guilty of a class B misdemeanor.

28 * Sec. 20. AS 47.17 is amended by adding a new section to read:

29 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) The attorney

1 general may bring an action to enjoin or limit a person from contact
2 with a child not related to the person if the person

- 3 (1) has sexually abused a child;
4 (2) has physically abused a child;
5 (3) has failed without lawful excuse to provide necessary
6 food, care, clothing, shelter, supervision, or medical attention for a
7 child entrusted to the care of the person; or
8 (4) otherwise constitutes a substantial danger to the
9 mental, emotional, or physical welfare of a child.

10 (b) The court may grant an order in the form that is best suited
11 to protect a child from harm based upon the facts of the case. This
12 section does not limit the authority of the attorney general or the
13 court to act to protect a child.

14 * Sec. 21. AS 47.17.070(1) is amended to read:

15 (1) "[CHILD] abuse [OR NEGLECT]" means nonaccidental [THE]
16 physical injury [OR NEGLECT], sexual abuse, sexual exploitation, or
17 maltreatment of a child [UNDER THE AGE OF 18 BY A PERSON WHO IS RE-
18 SPONSIBLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH]
19 indicate that the child's health or welfare is harmed or threatened
20 thereby;

21 * Sec. 22. AS 47.17.070(5) is amended to read:

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

27 * Sec. 23. AS 47.17.070(7) is repealed and reenacted to read:

28 (7) "sexual exploitation" means
29 (A) permitting, encouraging, inducing, or employing a

1 child to engage in prostitution or in the promotion of prosti-
2 tution as set out in AS 11.66.100 - 11.66.150; or

3 (B) engaging in conduct described in AS 11.41.455;

4 * Sec. 24. AS 47.17.070 is amended by adding new paragraphs to read:

5 (8) "child care provider" means an adult individual, or an
6 employee or volunteer of an organization, who provides care and super-
7 vision to a child;

8 (9) "human services provider" includes an individual human
9 services provider, and an employee or volunteer of a human services
10 organization, such as a social service, youth service, mental health,
11 or substance abuse agency, or a shelter for runaway or homeless youth;

12 (10) "organization" means a group or entity that provides
13 care and supervision to a child not related to the caregiver, and
14 includes a child care facility, pre-elementary school, head start
15 center, child foster home, residential child care facility, recreation
16 program, children's camp, and children's club;

17 (11) "person responsible for the child's welfare" means the
18 child's parent, guardian, foster parent, a person responsible for the
19 child's care at the time of the alleged abuse or neglect, or a person
20 responsible for the child's welfare in a public or private residential
21 agency or institution.

22 * Sec. 25. AS 47.35.070 is amended to read:

23 Sec. 47.35.070. VIOLATIONS. A person who violates a provision
24 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted
25 under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class B
26 misdeemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
27 THAN \$200].

28 * Sec. 26. AS 47.35.070 is amended by adding a new subsection to read:

29 (b) The department may by regulation devise a system of civil

1 enforcement. The system may employ civil penalties not to exceed \$200
2 for each day during which one or more violations of a licensing stat-
3 ute or licensing regulation occurs. The imposition of a civil penalty
4 does not prevent prosecution and sentence for a criminal offense.

Offered: 4/3/85
Referred: Judiciary

Original sponsor: Health, Education and
Social Services Committee

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 243 (HESS)

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; and
amending Rules 504 and 505, Alaska Rules of Evi-
dence."

7

8

9

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

10

* Section 1. AS 11.51.100 is amended to read:

11

Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST

12

DEGREE. (a) A person commits the crime of endangering the welfare of

13

a minor in the first degree if, being a parent, guardian, or other

14

person legally charged with the care of a child under 13 [10] years of

15

age, the person intentionally deserts the child in any place under

16

circumstances creating a substantial risk of physical injury to the

17

child.

18

(b) Endangering the welfare of a minor in the first degree is a

19

class C felony.

20

* Sec. 2. AS 11.51 is amended by adding a new section to read:

21

Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND

22

DEGREE. (a) A person commits the crime of endangering the welfare of

23

a minor in the second degree if, being entrusted with the care of a

24

child under 13 years of age, the person with criminal negligence

25

(1) exposes the child to circumstances creating a substan-

26

tial risk of physical injury or sexual abuse; or

27

(2) exposes the child to physical injury by failing to

28

provide the child with necessary food, care, clothing, shelter, or

29

medical attention.

1 (b) Endangering the welfare of a minor in the second degree is a
2 class A misdemeanor.

3 * Sec. 3. AS 11.61.125(a) is amended to read:

4 (a) A person commits the crime of distribution of child pornog-
5 raphy if the person brings or causes to be brought into the state for
6 [SALE OR] distribution, or in the state distributes, or in the state
7 possesses, prepares, publishes, or prints with intent to distribute,
8 [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any mater-
9 ial that visually depicts conduct described in [UNDER] AS 11.41.-
10 455(a), knowing that the production of the material involved the use
11 of a child under 18 years of age who engaged in the conduct.

12 * Sec. 4. AS 11.61.125 is amended by adding a new subsection to read:

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

17 * Sec. 5. AS 12.10.020(c) is amended to read:

18 (c) Even if the general time limitation has expired, a prose-
19 cution under AS 11.41.410 - 11.41.460, AS 11.66.110 - 11.66.130,
20 former AS 11.41.430, or former AS 11.51.130(a)(4), for an offense
21 committed against a person under the age of 16 may be commenced within
22 one year after the crime is reported to a peace officer or the person
23 reaches the age of 16, whichever occurs first. This subsection does
24 not extend the period of limitation by more than five years.

25 * Sec. 6. AS 12.45.045(a) is amended to read:

26 Sec. 12.45.045. EVIDENCE OF PAST SEXUAL CONDUCT IN TRIALS FOR
27 SEXUAL OFFENSES [OF RAPE AND ASSAULT WITH INTENT TO COMMIT RAPE]. (a)
28 In prosecutions for the crimes [CRIME] of sexual assault in any de-
29 gree, sexual abuse of a minor in any degree, or unlawful exploitation

1 of a minor, or an attempt to commit any of these crimes [SEXUAL AS-
2 SAULT IN ANY DEGREE], evidence of the complaining witness' previous
3 sexual conduct may [SHALL] not be admitted nor reference made to it in
4 the presence of the jury except as provided in this section. When the
5 defendant seeks to admit the evidence for any purpose, the defendant
6 may apply for an order of the court at any time before or during the
7 trial or preliminary hearing. After the application is made, the
8 court shall conduct a hearing in camera to determine the admissibility
9 of the evidence. If the court finds that evidence offered by the
10 defendant regarding the sexual conduct of the complaining witness is
11 relevant, and that the probative value of the evidence offered is not
12 outweighed by the probability that its admission will create undue
13 prejudice, confusion of the issues, or unwarranted invasion of the
14 privacy of the complaining witness, the court shall make an order
15 stating what evidence may be introduced and the nature of the ques-
16 tions that may [WHICH SHALL] be permitted. The defendant may then
17 offer evidence under the order of the court.

18 * Sec. 7. AS 47.10.081(c) is amended to read:

19 (c) The court shall inform the child, the child's parents, [AND]
20 the attorneys representing the parties, and the guardian ad litem that
21 the predisposition report will be available to them not less than six
22 working [10] days before the disposition hearing.

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
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 that immedi-
3 ate medical attention is necessary;

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

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

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

12 (c) When a child is taken into custody under (a) or (b) of this
13 section, the department shall immediately, and in no event more than
14 12 hours later unless prevented by lack of communication facilities,
15 notify the parents or the person or persons having custody of the
16 child. If the department determines that continued custody is neces-
17 sary to protect the child, the department shall notify the court of
18 the emergency custody by filing, within 24 hours after custody was
19 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
20 tion alleging that the child is a child in need of aid.

21 * Sec. 10. AS 47.10.290 is amended by adding a new paragraph to read:

22 (8) "sexual abuse" means

23 (A) conduct against a child that would constitute a
24 sexual offense under AS 11;

25 (B) the perpetrator's knowingly touching, directly or
26 through clothing, the genital area, groin, inner thighs, or
27 buttocks of a child, or causing a child to touch, directly or
28 through clothing, the genital area, groin, inner thighs, or
29 buttocks of the perpetrator or another; sexual abuse does not

1 include reasonable touching in the exercise of normal caretaker
2 responsibilities for a child or normal caretaker interactions
3 with a child or touching performed for the purpose of adminis-
4 tering a recognized and lawful form of treatment that is rea-
5 sonably adapted to promoting the physical or mental health of the
6 child;

7 (C) exposing the genital area, anus, breast, groin, or
8 buttocks of a child to the perpetrator or another for the sexual
9 gratification of the child, the perpetrator, or another, or
10 exposing the genital area, anus, breast, groin or buttocks of the
11 perpetrator or another to a child for the sexual gratification of
12 the child, the perpetrator, or another; or

13 (D) statements to a child that express a desire or
14 intent to have sexual contact or sexual penetration with the
15 child or encourage the child to have sexual contact or sexual
16 penetration with the perpetrator or another.

17 * Sec. 11. AS 47.17.010 is amended to read:

18 Sec. 47.17.010. PURPOSE. In order to protect children whose
19 health and well-being may be adversely affected through the inflic-
20 tion, by other than accidental means, of harm through physical injury,
21 [ABUSE OR] neglect, [OR] sexual abuse, or sexual exploitation, the
22 legislature requires the reporting of these cases by practitioners of
23 the healing arts and others to the appropriate public authorities. It
24 is the intent of the legislature that, as a result of these reports,
25 protective services will be made available in an effort to prevent
26 further harm to the child, to safeguard and enhance the general well-
27 being of the children in this state, and to preserve family life
28 whenever preserving it is in the best interests of the child [POS-
29 SIBLE].

1 * Sec. 12. AS 47.17.020 is repealed and reenacted to read:

2 Sec. 47.17.020. REPORTING OF CHILD ABUSE OR NEGLECT. (a) The
3 following persons are required to report abuse or neglect of a child
4 as required in (b) and (c) of this section:

5 (1) practitioners of the healing arts;

6 (2) employees and volunteers of private and public schools;

7 (3) human services providers;

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

10 (5) administrative officers of institutions;

11 (6) child care providers;

12 (7) counselors;

13 (8) court investigators;

14 (9) employees and volunteers of domestic violence programs,
15 sexual assault programs, or crisis shelters;

16 (10) guardians and conservators.

17 (b) A person listed in (a) of this section, who in the perfor-
18 mance of the person's occupational duties has cause to believe that a
19 child has suffered harm as a result of abuse or neglect by a person
20 responsible for the child's welfare, shall promptly report the harm to
21 the nearest office of the department. If the person making a report
22 of harm under this subsection cannot reasonably contact the nearest
23 office of the department and immediate action is necessary for the
24 well-being of the child, the person shall make the report to a peace
25 officer. The peace officer shall take immediate action to protect the
26 child and shall, at the earliest opportunity, notify the nearest
27 office of the department.

28 (c) A person listed in (a) of this section, who in the perfor-
29 mance of the person's occupational duties has cause to believe that a

1 child has suffered harm as a result of abuse or neglect, shall prompt-
2 ly report the harm to the nearest law enforcement agency if the person
3 making the report (1) has cause to believe that the harm was caused by
4 a person who is not responsible for the child's welfare; or (2) is
5 unable to determine (A) who caused the harm to the child; or (B)
6 whether the person who is believed to have caused the harm has respon-
7 sibility for the child's welfare. If a person making a report under
8 this subsection cannot reasonably contact the nearest law enforcement
9 agency, and immediate action appears necessary for the well-being of
10 the child, the person shall make the report to the nearest office of
11 the department. The department shall take immediate action to protect
12 the child and shall, at the earliest opportunity, notify the nearest
13 law enforcement agency.

14 (d) This section does not prohibit the named persons from re-
15 porting cases that have come to their attention in their nonoccupa-
16 tional capacities, nor does it prohibit any other person from report-
17 ing a child's harm that the person has cause to believe is a result of
18 abuse or neglect. These reports shall be made to the nearest office
19 of the department or to the nearest law enforcement agency in the
20 manner set out in (b) and (c) of this section.

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

22 Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person
23 who, in the course of processing or producing visual or printed mat-
24 ter, either privately or commercially, has reason to believe that the
25 matter visually depicts a minor engaged in conduct described in
26 AS 11.41.455(a) shall promptly report this to the nearest law enforce-
27 ment agency. The person shall allow law enforcement agents access to
28 the material and provide the law enforcement agency with all
29 information known about the origin of the matter.

1 * Sec. 14. AS 47.17.025 is repealed and reenacted to read:

2 Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After re-
3 ceiving a report of harm to a child resulting from abuse or neglect by
4 a person responsible for the child's welfare, a law enforcement agency
5 shall immediately notify the Department of Health and Social Services
6 and the Department of Law. The Department of Health and Social Ser-
7 vices shall investigate the report and, within 72 hours after receiv-
8 ing the report, shall provide a written report of its investigation to
9 the Department of Law for review. If after a preliminary investiga-
10 tion the Department of Health and Social Services determines that the
11 harm was not caused by a member of the child's family, the department
12 shall so notify the Department of Law.

13 (b) A report of harm to a child from abuse or neglect required
14 from the department by this section must include:

15 (1) the names and addresses of the child and the child's
16 parents or other persons responsible for the child's care, if known;

17 (2) the age and sex of the child;

18 (3) the nature and extent of the harm to the child;

19 (4) the name and age and address of the person known or
20 believed to be responsible for the harm to the child, if known;

21 (5) information that the department believes may be helpful
22 in establishing the identity of the person believed to have caused the
23 harm to the child.

24 * Sec. 15. AS 47.17.040(b) is amended to read:

25 (b) Investigation reports and reports of harm filed under this
26 chapter are considered confidential and are not subject to public
27 inspection and copying under AS 09.25.110 and 09.25.120. However, in
28 accordance with department regulations, investigation reports may be
29 used by appropriate governmental agencies with child-protection

1 functions, inside and outside the state [ALASKA], in connection with
2 investigations or civil or criminal [JUDICIAL] proceedings involving
3 [CHILD] abuse, neglect, or child custody. A person, not acting in
4 accordance with department regulations, who makes public information
5 contained in confidential reports is guilty of a misdemeanor.

6 * Sec. 16. AS 47.17.050 is amended to read:

7 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a
8 report under this chapter, or who participates in civil or criminal
9 [JUDICIAL] proceedings related to the submission of reports under this
10 chapter, is immune from any civil or criminal liability that [WHICH]
11 might otherwise be incurred or imposed.

12 * Sec. 17. AS 47.17.060 is repealed and reenacted to read:

13 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. In a civil or criminal
14 proceeding related to a report under this chapter, no privilege is a
15 ground for excluding evidence regarding a child's harm, or its cause,
16 except

- 17 (1) the attorney-client privilege;
18 (2) the psychotherapist-patient privilege; and
19 (3) the clergyman privilege.

20 * Sec. 18. AS 47.17.064 is repealed and reenacted to read:

21 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a
22 practitioner of the healing arts may, without the permission of the
23 parents, guardian, or custodian, take the following actions with
24 regard to a child believed to have suffered physical harm as a result
25 of abuse or neglect:

- 26 (1) take or have taken photographs of the areas of trauma
27 visible on the child; and
28 (2) if medically indicated, have a radiological examination
29 of the child performed by a person who is licensed to administer a

1 radiological examination.

2 * Sec. 19. AS 47.17.068 is repealed and reenacted to read:

3 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person
4 who knowingly fails or refuses to report as required under AS 47.17.-
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13 food, care, clothing, shelter, supervision, or medical attention for a
14 child entrusted to the care of the person; or

15 (4) otherwise constitutes a substantial danger to the
16 mental, emotional, or physical welfare of a child.

17 (b) The court may grant an order in the form that is best suited
18 to protect a child from harm based upon the facts of the case. This
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20 court to act to protect a child.

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26 that the child's health or welfare is harmed or threatened thereby;

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2 cians, physician's assistants, psychiatrists, psychologists, psycho-
3 logical associates, religious healing practitioners, and surgeons;

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6 (A) permitting, encouraging, inducing, or employing a
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12 employee or volunteer of an organization, who provides care and super-
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15 services provider, and an employee or volunteer of a human services
16 organization, such as a social service, youth service, mental health,
17 or substance abuse agency, or a shelter for runaway or homeless youth;

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

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

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1 of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted
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3 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE
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6 (b) The department may by regulation devise a system of civil
7 enforcement. The system may employ civil penalties not to exceed \$200
8 for each day during which one or more violations of a licensing stat-
9 ute or licensing regulation occurs. The imposition of a civil penalty
10 does not prevent prosecution and sentence for a criminal offense.

11 * Sec. 27. AS 47.17.060, as repealed and reenacted in sec. 17 of this
12 Act, has the effect of changing Rules 504 and 505, Alaska Rules of Evi-
13 dence, by preventing the application in civil or criminal cases of certain
14 privileges specified in those rules to evidence obtained through reports
15 made under AS 47.17.

5/10/85

SENATE JOURNAL SUPPLEMENT
FISCAL NOTE

No. 39

CSSB
21
(HESS)

REQUEST	FISCAL DETAIL
Bill/resolution No.: <u>CSSB 21 (HESS)</u>	Agency affected: <u>Public Safety</u>
Title: <u>"...background checks... contact with children"</u>	Program Category affected: <u>Administration of Justice</u>
Sponsor: <u>Ferguson</u>	BRU, Program or Subprogram(s) affected: <u>AST Support & Service - Laboratory Services</u>
Requestor: <u>Sen. HESS</u>	
Date of Request: <u>4/03/85</u>	

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		70.2	70.2	70.2	70.2	70.2
200 TRAVEL		1.5	1.6	1.7	1.8	1.9
300 CONTRACTUAL		6.0	6.3	6.6	6.9	7.2
400 SUPPLIES		3.5	3.7	3.9	4.1	4.3
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		81.2	81.8	82.4	83.0	83.6

CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		81.2	81.8	82.4	83.0	83.6
FEDERAL FUNDS						
OTHER						
TOTAL		81.2	81.8	82.4	83.0	83.6

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		2.0	2.0	2.0	2.0	2.0
PART-TIME						
TEMPORARY						

ANALYSIS:

Prepared By: Marcia Lynn McKenzie Phone: 465-4349
 Division: Administrative Services Date: 4/03/85
 Approved by Commissioner: Robert J. Sundberg Date: 4/6/85
 Agency: Department of Public Safety

SENATE JOURNAL SUPPLEMENT
FISCAL NOTE

5/10/85

No. 39

CS SB
21
(HESS)

REQUEST
Bill/Resolution No.: Proposed CS SB No. 21
Title: An Act relating to background checks
Sponsor: HESS
Requestor: _____
Date of Request: 3/26/85

FISCAL DETAIL
Agency Affected: Health and Social Service
Program Category Affected: _____
Social Services
BRU, Program or Subprogram(s) Affected: _____
Social Services BRU, Southcentral, North and Central Office Components

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES		76.1	79.1	82.3	85.6	89.0
200 TRAVEL		6.6	6.9	7.1	7.4	7.7
300 CONTRACTUAL		37.4	29.1	30.3	31.5	32.7
400 SUPPLIES		1.2	1.3	1.3	1.4	1.4
500 EQUIPMENT		6.7				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		128.0	116.4	121.0	125.9	130.8
CAPITAL		-0-				
REVENUE		-0-				

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FEDERAL FUNDS		128.0	116.4	121.0	125.9	130.8
OTHER						
TOTAL		128.0	116.4	121.0	125.9	130.8

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		1	1	1	1	1
PART-TIME		2	2	2	2	2
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attached

Prepared By: Michael L. [Signature] Phone: 465-3170
Division: Family and Youth Services Date: 3/28/85

Approved by Commissioner: [Signature] Date: 4-2-85 jc
Agency: Health & Social Services

SCSCSHB
88
(FIN)CSSB
21
(NESS)

REQUEST FISCAL DETAIL
 Bill/Resolution SCSCSHB 88(Fin) Agency Affected: Alaska Court System
 Title: Relative to the protection of children Program Category Affected:
Administration of Justice
 SPONSOR: Rules/Governor BRU, Program or Subprogram(s) Affected:
 Requestor: Trial Courts
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

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

- CAPITAL

REVENUE

FUNDING: (Thousands of Dollars)

GENERAL FUND		145.9				
FEDERAL FUNDS						
OTHER						
TOTAL		145.9				

POSITIONS:

FULL-TIME		3				
PART-TIME						
TEMPORARY						

ANALYSIS:

ANALYSIS:

This legislation would require the department to implement state and FBI criminal record checks, which include fingerprinting, for adoptive parents and all facility staff and adult occupants who work or reside within a facility. Because no system exists for this process and because there are numerous legal and logistics problems in implementing it, a full time professional position, Social Worker IV, will be required in the Central Office to work closely with the Department of Public Safety, division field offices, private adoption agencies and the Alaska Bar Association to secure implementation. In addition there will need to be extensive work with the Department of Law regarding confidentiality provisions and potential litigation. There will be a handling burden on offices in Fairbanks and Anchorage, requiring two permanent part-time positions, Clerk Typist III's, in those offices. Until the actual workload is examined it is difficult to measure and predict the actual fiscal impact of this legislation. There are currently 1,016 child and adult foster homes with an average of 2.3 adults in each home. Public Safety has advised that we process clearances at each biennial licensure evaluation. With a 15% turnover this will result in approximately 1,725 clearances in foster homes per year at \$20 per clearance. (\$12.00 FBI processing) (\$8.00 for contracted state processing). This fiscal note assumes that the \$20 background clearance processing cost in adoptions for the 800 new adoptions per year (x 2 adults) will be the responsibility of the adopting applicants.

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

5/10/85

CSSB
311
(FIN)

REQUEST
Bill/Resolution No: CS SB 311
Title: Airport Revenue Bonds
Sponsor: Senate Finance
Requestor: Senate Finance
Date of Request: May 9, 1985

FISCAL DETAIL
Agency Affected: State Bond Cor
Program Category Affected: Debt Service
BRU, Program of Subprogram(s) /
International Airports Revenue
Debt Service

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING					
100 PERSONAL SERVICES	-	-	-	-	-
200 TRAVEL	-	-	-	-	-
300 CONTRACTUAL	-	-	-	-	-
400 SUPPLIES	-	-	-	-	-
500 EQUIPMENT	-	-	-	-	-
600 LANDS & STRUCTURES	-	-	-	-	-
700 GRANTS, CLAIMS	-	-	-	-	-
800 MISCELLANEOUS	5,100	4,400	4,400	4,400	4,400
TOTAL OPERATING	5,100	4,400	4,400	4,400	4,400
GENERAL FUND					
FEDERAL FUNDS	-	-	-	-	-
OTHER	5,100	4,400	4,400	4,400	4,400
TOTAL	5,100	4,400	4,400	4,400	4,400

Assumes issuance of bonds of \$38,000,000 at 11% level debt service for 30 years plus \$700,000 in issuance costs for FY 86.

The appropriation for FY 86 and FY 87 is from the International Airports Construction Fund. Thereafter, appropriations would be from the International Airports Revenue Fund.

Prepared By: Milt Darker MB
Division: Treasury

Phone: 465-2350
Date: May 9, 1985

Approved by Commissioner: Sharon G. Stankala
Agency: Department of Revenue

Date: 5/9/85

5/10/85

No. 39

SCSCSHB
88
(FIN)

REQUEST
Bill/Resolution No. SCSCSH88 (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						
200 TRAVEL		20.0				
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS		100.0				
800 MISCELLANEOUS						
TOTAL OPERATING		120.0				
REVENUE						

FUNDING: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
GENERAL FUND		120.0				
FEDERAL FUNDS						
OTHER						
TOTAL		120.0				

POSITIONS:

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
FULL-TIME		1/2				
PART-TIME						
TEMPORARY						

ANALYSIS:

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 Falks, Co-Chair Phone:
Division: Senate Finance Committee Date: 5/10/85

SC SHB
PC
(FL)

SCSCSB
88
(FIN)

REQUEST **FISCAL DETAIL**
 Bill/Resolution No.: SCSCSHB88 (Fin) Agency Affected: Administration
 Title: Relating to the protection of children Program Category Affected: Due Process
 Sponsor: Rules/Governor BRU, Program or Subprogram(s) Affected:
 Requestor: Office of Public Advocacy
 Date of Request: _____

EXPENDITURES/REVENUES: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
OPERATING						
100 PERSONAL SERVICES						
200 TRAVEL		64.7				
300 CONTRACTUAL		-0-				
400 SUPPLIES		75.0				
500 EQUIPMENT		-0-				
600 LAND & STRUCTURES		7.0				
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:

Prepared By: Senator Jan Faiks, Co-Chair Phone: _____
 Division: Senate Finance Committee 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 Serv
 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						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		1357.3				
FEDERAL FUNDS						
OTHER						
TOTAL		1357.3				

POSITIONS:

FULL-TIME		28				
PART-TIME		7				
TEMPORARY						

ANALYSIS:

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

Approved by Commissioner: _____ Date: _____
 Agency: _____

SCSCSHB
88
(FIN)

REQUEST FISCAL DETAIL
5111/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		356.5				
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						
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:

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

SCSCSHB
88
(FIN)

REQUEST FISCAL DETAIL
5111/Resolution No.: SCSCSHB88 (Fin) Agency Affected: Administration
Title: Relating to the protection of children Program Category Affected: Due Process
Sponsor: Rules/Governor BRU, Program or Subprogram(s) Affected:
Requestor: Public Defender Agency
Date of Request:

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:

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

final version

- SEC. 1-2 TIGHTENS CHILD PORNOGRAPHY LAW.
- SEC. 3 EXTENDS STATUTE OF LIMITATIONS FOR PROSTITUTION CRIMES AGAINST CHILDREN. (SEX CRIMES ALREADY COVERED UNDER EXTENSION)
- SEC. 4 LIMITS INTRODUCTION AT TRIAL OF EVIDENCE OF CHILD'S PAST SEXUAL CONDUCT. (THIS RAPE SHIELD CURRENTLY APPLIES ONLY TO ADULT VICTIMS)
- SEC. 5 CLARIFIES FOR CHILD IN NEED OF AID PROCEEDINGS THAT CHILD IN IMMINENT DANGER OF BEING SEXUALLY ABUSED IS ELIGIBLE.
- SEC. 6 CHANGE THE STANDARD FOR ASSUMING EMERGENCY CUSTODY IN NEGLECT CASES TO CONFORM TO SAME STANDARD USED IN ABUSE CASES.
- SEC. 7 IF DH&SS TAKES EMERGENCY CUSTODY OF CHILD AND THEN DECIDES DON'T NEED TO KEEP CUSTODY, DON'T NEED TO FILE A PETITION WITH THE COURT AS THEY DO NOW, BUT MUST NOTIFY THE COURT IN WRITING OF WHY THE CHILD WAS TAKEN.
- SEC. 8-9 ADDS TO LIST OF PEOPLE REQUIRED TO REPORT INCIDENTS OF ABUSE ALL CHILD CARE PROVIDERS (CURRENT LAW SPECIFIES LICENSED PROVIDERS) AND EMPLOYEES OF CRISIS INTERVENTION PROGRAMS, AND CLARIFIES EXISTING LAW BY DEFINING SCHOOL TO MEAN EITHER PRIVATE OR PUBLIC.
- SEC. 10 CHRISTIAN SCIENTIST'S PROTECTION AGAINST NOT PROVIDING MEDICAL TREATMENT.
- SEC. 11 REQUIRES FILM PROCESSORS TO REPORT SUSPECTED CASES OF CHILD PORNOGRAPHY.
- SEC. 12 CURRENT LAW ALLOWS DEPT. OR DOCTOR TO TAKE X-RAYS AND PHOTOS OF ABUSED CHILD. NEW LANGUAGE REQUIRES THAT PARENTS BE NOTIFIED IF THIS IS DONE.
- SEC. 13 EXTENDS EXISTING "B" MISDEMEANOR PENALTIES FOR FAILURE TO REPORT TO FILM PROCESSORS (SEC. 11).
- SEC. 14 AUTHORIZES STATE TO ENJOIN PERSONS WHO ENDANGER CHILDREN FROM HAVING CONTACT WITH THEM.
- SEC. 15 EXPANDS "PRACTITIONER OF HEALING ARTS" TO INCLUDE DENTAL HYGIENIST, NURSE PRACTITIONER, PHYSICIAN ASSISTANT (FOR REPORTING LAW).
- SEC. 16 NEW DEFINITIONS RELATED TO EXPANDED CLASSES OF PEOPLE WHO MUST REPORT. (SEC. 8)
- SEC. 17-18 CONFORM WITH CRIMINAL CODE BY MAKING VIOLATIONS OF CHILD CARE LICENSING STATUTES A CLASS B MISDEMEANOR, AND ALLOWS DH&SS TO ESTABLISH SYSTEM OF CIVIL ENFORCEMENT (FINES).
- SEC. 19 EFFECTIVE DATE.

For the purposes of this section, "counselor" is defined as a person who is employed primarily to assist, advise, or counsel people on their personal problems, their emotional health, or their mental health; or a person who, whether licensed or not, presents themselves to the public as being available to the public to assist, advise, or counsel people on their personal problems, their emotional health, or their mental health, and who receives a fee for their service.

proposed by the Rev. Steven Moore
Archdiocese of Anchorage

not adopted

SUMMARY OF FISCAL NOTES FOR CS HB 88 (FINANCE)

<u>Agency</u> DHSS	<u>Original Request</u> \$1992.7	<u>HFC Figure</u> \$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

no social work positions cut
Dept Law reduced from 22 to 11

W

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)

	FEKS	ANCH	PALMER	KETCH	JUNEAU	BETHEL	KOTZEBUE	KENAI	BARROW
W&SS	1 clk typ 1 A.A. 1 Acct Clk 2 SW	1 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 1 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

Valdez	1 Clk
Copper Center	1 Clk
Wasilla	1 Clk
Unalaska	1 Clk
Ordova	1 Clk
Billingham	1 Clk
Tomer	1 SW and 1 Clk Typ
Delta	1 SW and 1 Clk Typ
Valena	1 SW and 1 Clk Typ
Kenana	1 SS Assoc.
St. Yukon	1 Clk
raig	1 Clk Typ

Original

	T	PFT	PPT
DHSS	39	31	8
LAW	22	19	3
PD	6	6	0
PA	4	4	0
Total	71	60	11

Reduced

	T	PFT	PPT
DHSS	39	31	8
LAW	11	9	2
PD	5	5	0
PA	4	4	0
Total	59	49	10

= eliminated in Adams' proposed fiscal notes

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

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

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

FISCAL DETAIL

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

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						
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REVENUE						
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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 - ^{APA} 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

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

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

FISCAL DETAIL

Agency Affected: Dept. Law
Program Category Affected: General

Government
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				
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		624.7				

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND		515.8				
FEDERAL FUNDS						
OTHER		108.9				
TOTAL		624.7				

POSITIONS:

FULL-TIME		9				
PART-TIME		2				
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

See Attachment

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)

Fiscal Note Analysis

CS HB 88 (Fin)

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.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

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						
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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

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						
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REVENUE						
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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: 665-3706
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

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 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

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

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

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		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: Attach a separate page if necessary

See Attached.

APA

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 Note Analysis:

CS HB 98 (Fin)

<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

Subsequent fiscal years adjusted to reflect six percent inflation.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

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

Sandra

MAJOR DIFFERENCES BETWEEN HB 88 (HOUSE-PASSED VERSION) AND SENATE HEARS C.S. SB 243:

Deletes sections on endangering welfare of minor. Were controversial because vague; parents and women's groups particularly concerned about how "failure to provide necessary food and clothing" could be interpreted.

This removes conflict between SB 298 child st. Rule 17(c) which says anyone can file on child's behalf.

Adds language from SB 29 redefining domestic violence for purposes of injunctive relief to include parents, grandparents, children and grandchildren (currently limited to spouse).

Deletes provision that would have extended the time the prosecutors have to prepare a predisposition report, thus limiting the time the defense attorney has for review. Public defenders were opposed. (HB 88 leaves at existing 10 days; SB 243 reduced to 6; Governor's request was 2.)

Deletes definition of sexual abuse in Child in Need of Aid statute. Was controversial because vague.

List of persons required to report incidents of abuse differs by exempting volunteers (at schools and of domestic violence programs) from the reporting requirement, and limiting school employees to teachers and administrative staff (SB 243 was all school employees). Was concern that making volunteers criminally liable would be a deterrent to volunteering.

Deletes language that would have established a dual reporting system -- intrafamily abuses to DH&SS, others to Dept. Law. By law, DH&SS only handles intrafamily abuses and refers to Law any other reports they receive. This would not change. Dual reporting was felt to be confusing to the public; reality is they'll dial 911 or call whoever they're aware of if they want to report a crime.

Doesn't require developer of pornographic film to allow police access to pornographic material. Material can be obtained under a warrant, and House Judiciary felt this provided better protection of individual rights.

Doesn't define "judicial" to mean "civil or criminal" for purposes of immunity and confidentiality. Concern is that this definition would allow investigation reports to be used at court proceedings; nothing could be held confidential.

Requires that the court be notified within 12 hours, rather than 24 hours as under SB 243, when a child is taken into custody.

FISCAL NOTES reduced from \$4.2 million to \$2.7 million. All 35 social workers funded, 11 out of 22 prosecutors, 5 out of 6 pub defenders, all 4 public advocates.

BACKGROUND CHECKS will be studied during interim.... *As part review of entire criminal justice information syst*

Bettye

LATEST WORD HB 88 (OMNIBUS CHILD CARE BILL) WILL BE ON TODAY'S SUPPLEMENTAL CALENDAR. THERE IS A SENATE FINANCE COMMITTEE SUBSTITUTE WHICH FAIKS WILL BE PREPARED TO CARRY.

IN BRIEF, THIS IS THE PRODUCT OF A CONCERTED GROUP EFFORT AND THOROUGH COMMITTEE WORK. IT SEEMS TO BE NON-CONTROVERSIAL AT THIS POINT BECAUSE OF THE AMENDMENTS THAT HAVE BEEN MADE ALONG THE WAY.

NOTE: THE REFERENCE TO PRIVATE AND PUBLIC SCHOOLS FOR REPORTING PURPOSES IS STILL IN THE BILL. FAIKS ACCEPTED THIS IN FINANCE COMMITTEE.

WHAT'S ESSENTIAL ARE THE FISCAL NOTES NOW ATTACHED TO THIS BILL -- FOR SOCIAL WORKERS, PROSECUTORS, PUBLIC DEFENDERS, GUARDIANS AD LITEM, JUDGES, AND TO THE COUNCIL ON DOMESTIC VIOLENCE FOR TREATMENT AND COUNSELING. HOUSE AND SENATE FIGURES DO NOT MATCH:

HOUSE FIGURE \$2.7 MILLION

SENATE FIGURE \$2.5 MILLION

(THE SENATE FIGURE CUTS 3 SOCIAL WORKERS BUT GIVES THE COUNCIL ON DOMESTIC VIOLENCE \$100,000 MORE THAN THE HOUSE VERSION.)

THE SENSE IS THAT THE HOUSE WILL CONCUR IN THE SENATE AMENDMENTS TO THE BILL; FISCAL NOTES WILL ULTIMATELY BE DECIDED IN THE OPERATING BUDGET.

BRIEF SECTIONAL ATTACHED. SENATE FINANCE C.S. WAS ONLY PREPARED THIS MORNING.

services, and resident family members, as appropriate. The administrator shall show evidence of being a responsible, mature individual of reputable character. The division will determine compliance with this section by

(1) observation of the administrator's attention to management details, skills in human interaction, and exercise of judgement; and

(2) evaluation of three references, one of which must be from a supervisor in previous work experience, which provides evidence of the administrator's competency in program management.

(b) The administrator shall have experience in the human services field appropriate to the size and function of the facility. An individual who administers a facility which serves 15 or fewer residents shall have two years of experience in the human services field. An individual who administers a facility which serves 16 or more residents shall have three years of experience in the human services field.

(c) An administrator shall also meet the care-provider qualifications in 7 AAC 50.037.

(d) An individual may not be an administrator of a facility if the individual is under indictment or has been convicted of a felony or has had a child adjudicated as a child in need of aid within the last five years. The division will, in its discretion, require a release to review law enforcement records for each administrator. In this subsection, "child in need of aid" means a child who has been adjudicated a dependent child under to AS 47.10.010 or under a similar statute in another state or jurisdiction. (Eff. 5/20/82, Reg. 82)

Authority: AS 47.35.030

7 AAC 50.036. ARTICLES OF INCORPORATION. Repealed 5/20/82.

7 AAC 50.037. CAREPROVIDER QUALIFICATIONS. (a) A careprovider shall be at least 19 years of age.

(b) A careprovider shall furnish the facility with the names, addresses, and telephone numbers of three persons, unrelated to the

careprovider, who will provide character references for the careprovider.

(c) A careprovider shall be a responsible, mature individual of reputable character who exercises sound judgement and displays the capacity to provide good care for children.

(d) A careprovider shall possess tuberculin clearance before contact with children in a facility. The tuberculin clearance must be renewed annually.

(e) A careprovider shall be free from physical or mental disease, including alcoholism or drug abuse, which threatens the health and well-being of children in a facility.

(f) The division will assess compliance with this section through observation of the care-provider, evaluation of references, and review of performance evaluations.

(g) A careprovider who has major supervisory responsibility for program and child care, including one who works without a supervisor on the premises, shall have one year of experience in the human services field. (Eff. 5/20/82, Reg. 82)

Authority: AS 47.35.030

7 AAC 50.038. GOVERNING BOARD. Repealed 5/20/82.

7 AAC 50.039. STAFFING REQUIREMENTS. (a) A facility must have enough careproviders on duty in the facility to provide for the care and safety of children and to otherwise meet the requirements of 7 AAC 50.001 - 7 AAC 50.073.

(b) A careprovider shall be on duty in a facility whenever one or more children are present.

(c) At least one staff member who is able to read and write the English language shall be on duty at a facility at all times.

(d) Except as provided in (e) of this section, the staff-to-child ratio in a facility must be as follows:

(1) one careprovider for every six children in care during waking hours; and

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2
REQUEST
Bill/Resolution No.: HB 88, No.1
Title: Child Protection

FISCAL DETAIL
Agency Affected: Public Safety
Program Category Affected: Administration of Justice
BRU, Program or Subprogram(s) Affected:
1) Alaska State Troopers and
2) Administration (Records & Identification)

Sponsor: Rules Committee
Requestor: Governor's Office
Date of Request: 1/17/85

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 85	FY 86	FY 87	FY 88	FY 89	FY 90
100 PERSONAL SERVICES		214.8	225.5	236.8	248.6	251.0
200 TRAVEL		6.0	6.3	6.6	7.0	7.3
300 CONTRACTUAL		2.9	3.1	3.2	3.4	3.5
400 SUPPLIES		5.0	5.3	5.5	5.8	6.1
500 EQUIPMENT		0.7	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		229.4	240.2	252.1	264.8	277.9

CAPITAL		0				
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REVENUE		0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND		229.4	240.2	252.1	264.8	277.9
FEDERAL FUNDS						
OTHER						
TOTAL		229.4	240.2	252.1	264.8	277.9

POSITIONS:

FULL-TIME		3.0	3.0	3.0	3.0	3.0
PART-TIME		1.0	1.0	1.0	1.0	1.0
TEMPORARY		0	0	0	0	0

ANALYSIS: Attach a separate page if necessary

The reporting, investigative and follow-up functions will require increase in Staff. It is estimated that 3 Troopers (Statewide) at Range 76 will be needed at a total cost of \$72.6 per position in FY86.

Affirmative and detailed reporting requirements by the Records & Identification Section of the Division of Administrative Services is estimated to need one-half

Prepared By: Jos Mapranath Phone: 465-4336
Division: Administrative Services Date: 1/17/85

Approved by Commissioner: [Signature] Date: 1/17/85
Agency: Public Safety

Distribution (by Agency preparing fiscal note):

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

7/1/84

ANALYSIS, con't

HB 88, No. 1, Page 2 of 2

of a position at the level of Range 9, Clerk IV.

For subsequent years, an inflation of 5 percent is calculated.



Alaska Court System
State of Alaska

OFFICE OF ADMINISTRATIVE DIRECTOR

KARLA L. FORSYTHE
General Counsel

303 K Street
Anchorage, AK 99501

February 11, 1985

Senator Bettye Fahrenkamp
Chair, Senate HESS Committee
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Senator Fahrenkamp:

The committee has asked the Alaska Court System to indicate its position regarding CSSB 21, an act~~ing~~ relating to the protection of children.

The Alaska Court System takes no position about the substantive merits of this bill. However, I have attached a memorandum forwarded to me by Judge Victor Carlson, which expresses his individual viewpoint about the proposed legislation. Additionally, Judge Thomas Schulz has expressed his disagreement with proposed section 11 relating to curfew violations. He notes that these matters are handled informally in Ketchikan, an approach which he believes is preferable.

With regard to the fiscal impact of this bill, it is the understanding of the Alaska Court System that the Department of Law has requested nine new attorney positions in its budget to implement this legislation. Three of these attorneys would handle CINA cases (one each in Anchorage, Fairbanks and Bethel), and six would prosecute child protection offenses (two attorneys in Anchorage, and one each in Barrow, Kenai, Ketchikan and Fairbanks). The additional offenses prosecuted by attorneys in these latter positions will have a direct impact upon judicial workloads.

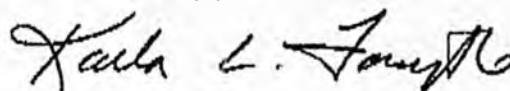
Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional retired judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state. The attached fiscal note reflects a total expenditure of \$123,904 for two

years of pro tempore judge time, and support services of one in-court clerk.

Thank you for this opportunity to provide comments.

If there are any questions about the court system's position on this legislation, please let me know.

Sincerely,



Karla L. Forsythe
General Counsel

KLF:amh

cc: Arthur H. Snowden, II

Memorandum

Alaska Court System

TO: Karla Forsythe
General Counsel

DATE : February 1, 1985

FROM: Victor D. Carlson
Superior Court Judge

SUBJECT: House Bill No. 88,
Protection of Children

In general I find the proposed legislation to be consistent with current practice and will promote the protection of children and the fair determination of cases relating to children. However, I have several specific comments:

1. Section 11 concerning traffic, etc. offenses. The phrase "in a district court" is redundant and serves no purpose, it is possible that a traffic offense would be prosecuted in the superior court and not just before a superior court judge sitting as a judge of the district court. Further, I question if it is the intent of the legislature to have children convicted of traffic, fish and game, and parks and recreation facilities violations sentenced to serve time in jail, e.g., on an operating a motor vehicle while under the influence of alcohol or drug. The current wording of this statute leaves this question and the amendments do not cure it.

→ 2. Section 12 concerning predisposition reports. Two working days for review of a report appears to be reasonable and if more time is needed, the attorney for the child can move for a continuance. Currently, the defense attorneys use the ten-day requirement to create undue strain on the probation officers, it is nearly impossible to prepare a predisposition report and have it typed and distributed within twenty days of disposition, the current rules provide that no more than thirty days are to elapse between adjudication and disposition.

3. Section 14 concerning notification of emergency custody. A note expressing legislative intent that every effort must be made to notify the custodian when a child is taken into custody including the leaving of a note at the place where custody was taken, informing a neighbor or relative and anything else that will help to inform the custodian should be appended. I believe the court should be informed each time a child is taken into custody without a court order and a sworn statement of probable cause made to the court. Requiring a report to the court with a statement of probable cause will tend to police the discretion of the social workers. The only other policing technique is the civil suit for damages which is generally ineffective.

Alaska State Legislature

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



1024 W. 6th Avenue, Suite 201
Anchorage, Alaska 99501
Phone: (907) 274-1426

SENATE ADVISORY COUNCIL

M E M O R A N D U M

TO: SANDRA SCHUBERT-PENCE
FROM: ELIZABETH J. HICKERSON *efh*
SUBJECT: JUDICIAL TRAINING ON CHILD ABUSE
DATE: MARCH 13, 1985

I spoke to Justice Rabinowitz, Chief Justice of the Alaska Supreme Court, regarding judicial training on child abuse. Justice Rabinowitz supervises the training for all justices, judges and magistrates in Alaska. He stated that in the last year, the Judicial Conference has included training on domestic violence and will be including a session on child abuse this spring.

Justice Rabinowitz remarked that he welcomed any and all assistance on appropriate training for the judiciary. I suggested that the Council on Domestic Violence and Sexual *435b* Assault would be the appropriate agency to review and/or provide training for the judiciary. I have not related this to Barbara Miklos at the Council, but thought a letter from the Legislature in support of continued training might be appropriate.

Attached is a publication on judicial training which looks rather comprehensive. I don't know whether the Senate is interested in ordering a copy of this or not, however, the Senate Advisory Council could order a copy for their library. Contact person is Cheryl Roser at SAC in Juneau.

*training came about thru Netusik -
community based programs are most appropriate
to provide training
Rabinowitz should contact Miklos - set something up
for May.*

NEWS NOTES

FOSTER CARE — TAXATION

The Internal Revenue Service on January 31 proposed regulations explaining how foster parents should go about excluding from their gross income special payments they receive from state agencies to help support handicapped children. The special tax exclusion was enacted by Congress in 1983. Payments qualifying for the exclusion must be made by either state agencies or child placement centers and cannot exceed the expense of caring for the handicapped child in the foster parents' home. Payments for providing emergency shelter are not eligible for the exclusion, according to the regulations. The payments must be earmarked as compensation for providing the additional care of a child who suffers from a physical, mental, or emotional handicap. The agency making the payments can designate them as qualified for the tax exclusion by either sending the foster parents a letter or a separate check issued under a program to provide what the IRS calls "difficulty-of-care payments." Comments on the rules and requests for a public hearing should be sent by April 2, 1985 to: Commissioner of Internal Revenue (Attn: CC:LR:T LR-83-83), 1111 Constitution Avenue, N.W., Washington, D.C. 20224.

PUBLICATIONS — CHILD ABUSE

The ABA National Legal Resource Center for Child Advocacy and Protection, assisted by The National Center for State Courts, has developed a manual to assist trial judges in making decisions in child abuse cases. Titled *Child Abuse and Neglect Litigation: A Manual for Judges*, the manual focuses on the practical aspects of a judge's work in child-protection litigation. Judges preside over some 200,000 child abuse and neglect cases each year, at all levels of the legal system. The manual examines the role of judges and their influence and control over such proceedings, and supplies the answers to such questions as: Did abuse or neglect actually occur? Where will the child live? What services will the family receive? When can state intervention into the family unit cease? Should parental rights be terminat-

ed? Each section of the manual is accompanied by a set of supporting readings that are taken from proposed professional standards, law review articles, books, court rules, attorney and social worker guides, and other written aids developed for use in individual jurisdictions. Separate chapters deal with such practical subjects as "Representation of the Child," "Legal Rights of Involved Parents," "Criminal Prosecution of Abusing Parents," and "Coping with the Media and Hysteria." Copies of the 272-page softcover publication can be obtained for \$22 from the National Technical Information Service, 5285 Port Royal Road, Springfield, Va. 22161; or telephone (703) 487-4650. (Order Number SHR-0017443/KAU)

PUBLICATIONS — DIVORCE

A recently published book, *How It Feels When Parents Divorce*, by Jill Krentz, a documentary photographer and author, uses two important techniques for uncovering the concerns of children of divorcing parents: photographs of the children, and interviews with them. Ms. Krentz is also author of two previous publications, *How It Feels When a Parent Dies*, and *How It Feels to be Adopted*, that make use of the same techniques to illustrate and enlighten the reader about family crises and the effects these disturbing events have upon children. The books have been hailed by educators, clergymen, and psychiatrists as invaluable contributions to their fields because of the author's ability to draw from children their truest feelings and thoughts. The nineteen children interviewed and portrayed in this latest book in the series speak with extraordinary honesty and tolerance, and with a remarkable absence of rationalization, illusion, or attempt to justify their own behavior in response to their situations. They reveal the whole range of their emotional responses to the profound disturbance of divorce and tell the reader what they think are the special responsibilities of divorcing parents. The 126-page, hardcover book is available for \$12.95 from Alfred A. Knopf, New York, N.Y.

SUPREME COURT PROCEEDINGS

The U.S. Supreme Court, on February 19, denied review in four family law cases. Also, two family law cases have recently been docketed with the Court.

REVIEW DENIED

CUSTODY

No. 84-969. *POURNARAS v. Pournaras*

Natural parent's rights.

Ruling below (Ohio CtApp. Cuyahoga Cty. 11/17/83):

11 FLR 1187

Ohio statute requiring that both parents request joint custody as condition precedent to court consideration of joint custody award is reasonable and constitutional; joint custody is not constitutionally protected parental right.

EQUITABLE DISTRIBUTION

No. 84-1191. *PULITZER v. Pulitzer*

Property division—Due process.

Ruling below (Fla CtApp 4th Dist. 4/18/84):

adopted by HESS but not attached to final bill

Alaska State Legislature

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



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

Senate Committee on Health, Education and Social Services

LETTER OF INTENT

CS SB 243 (HESS)

It is the intent of the Legislature in enacting CS SB 243 (HESS), an act relating to the protection of children, that the rights of both children and parents be afforded equal protection under the law. Child abuse statistics throughout our state have reached crisis proportions, and the Legislature recognizes that the statutory revisions embodied in CS SB 243 (HESS) are necessarily broad to allow effective enforcement of our child protection statutes and to provide effective tools for preventing child victimization.

However, in developing CS SB 243 (HESS), it has become apparent that the solution to our current crisis is not solely legislative in nature. Proper training of the employees at whom these laws are directed is an integral component of the solution. Time and again members of the Legislature have received reports of state social workers, albeit well intended, who through professional zeal or a lack of proper judgment, have unnecessarily intervened in family affairs, even to the point of removing children from homes without proper cause. Parental attempts to rectify such situations have often proved futile, with devastating effects on both parents and child.

The Legislature is sensitive to the dramatic increase in social work caseloads over the last few years, and to the workload pressures state social workers are under. However, if we are to be successful in protecting the rights of both children and parents, efforts must be made to ensure that the critical decisions being made by social workers are responsible and appropriate.

The Legislature urges the Department of Health and Social Services to review its hiring and training practices for social workers, and to enhance them as necessary to ensure that employees are well qualified and that appropriate ongoing training is being provided. Competent, capable social workers will contribute much to the quality of service, and hence the quality of life, available to Alaska's children and their families.

Alaska State Legislature

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



POUCH V
STATE CAPITAL
JUNEAU, ALASKA 99811
(907) 465-3834
(907) 465-3835

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, March 26, 1985

DATE: March 25, 1985

On Tuesday, March 26, at 1:30 pm in the Beltz Room, the Senate Committee on Health, Education and Social Services will hear five bills relating to child protection. As you know, several members of the legislature met early this session to devise a method of addressing the critical problem of child abuse in our state. A working group of committee staff was formed to review existing law and legislative proposals, and to evaluate recommendations by the National Center for Missing and Exploited Children. The following bills represent the results of that effort.

SB 3, Relating to the admissibility of certain hearsay evidence in grand jury proceedings for certain sexual offenses and amending Rule 6(r), Alaska Rules of Criminal Procedure.

Proposed CS SB 3 (HESS) would allow hearsay evidence to be admitted at grand jury in prosecutions for sexual assault, sexual abuse of a minor, and unlawful exploitation of a minor. The child must be under the age of 10, and the child must either testify before the grand jury or be unavailable as defined in the bill. An earlier version of this bill was heard by the Senate HESS Committee on January 24, 1985.

SB 8, Personal safety curriculum in public schools.

Proposed CS SB 8 (HESS) would urge expansion of existing health curricula to include the identification and prevention of child abuse, child abduction, neglect, sexual abuse, and domestic violence. This bill received a preliminary hearing by the Senate HESS committee on February 19, 1985. A letter of intent addressing development of curriculum guidelines by the Department of Education is attached.

SB 21, Relating to background checks on certain employees who come into contact with children.

Proposed CS SB 21 (HESS) would expand the type of conviction records that may be released to include all crimes that might pose a risk to children (as defined in the bill), and allow the release of outstanding warrants for these crimes. It would require a criminal record check on foster parents and persons seeking to adopt minors.

Mandatory checks on daycare employees are not provided for in the committee substitute. While interest in this concept remains high, many concerns exist as well. It is the intent of the committee Chairman to continue to work towards a resolution of this issue.

SB 86, Relating to runaway and missing minors; and to child abuse and child neglect.

Proposed CS SB 86 (HESS), would require that reports of missing or runaway children be taken immediately and within 24 hours entered into both the State (APSIN) and FBI (NCIC) computer systems. The bill would disallow housing of runaway or missing minors in jail facilities, and require that the legal custodian be immediately notified if the minor is taken into protective custody by the State.

SB 243, Relating to the protection of children.

SB 243, which is a revision of the Governor's HB 88, would make several changes to existing civil and criminal laws, and is intended to enhance the State's ability to protect children. The substance of this bill was heard by the committee on February 5, 1985.

Bill packets with background materials were distributed to all legislators last week. Additional packets are available from the Senate HESS Committee staff.

In addition to the child protection proposals, SB 208 will also be heard.

SB 208, Relating to the formation of federal transfer regional educational attendance areas in certain villages.

Federal transfer schools formerly funded through the BIA in the villages of Akiachak, Akiak, Tuluksak, Chevak, and Cheforvak will no longer receive federal funding after FY 85, and will become part of the state's educational system. SB 208 would allow each village to hold an election to determine to form its own regional educational attendance area (REAA). If the village did not so elect, the schools would become part of the REAA in which the village is located.

PL 98-63 (1983) served to transfer Mt. Edgecumbe and the 20 remaining BIA schools in Alaska to the state. Ten schools and Mt. Edgecumbe were transferred last year; the remaining 10 are being transferred this year. Of these, five have been BIA-operated, and the five addressed in SB 208 have been operating under contract to BIA under the authority of the Indian Self Determination and Education Assistance Act (PL 93-638).

Voice

Vol. 1, No. 1

January-February 1985

**CWLA
CRITTENTON
ORPSCCA**

BUDGET PROPOSES FOSTER CARE CAP AT \$485 MILLION

The President's FY 1986 budget proposals sent to Congress on Feb. 4, would "maintain States' entitlement to reimbursement" for foster care claims at the 1985 current estimate of \$485 million. This restriction would be for one year only, according to the budget document. Foster care has not previously been regarded as a State reimbursement entitlement but rather as the entitlement of eligible dependent children.

Additionally, the budget document says the Administration will be proposing legislation to improve incentives for States in future years to reduce the duration of children's stays in foster care. "A bonus system will be proposed for 1986 to reward States that resolve children's problems quickly, and return them to permanent homes."

The Administration proposes to freeze foster care, child welfare services and child welfare training at estimated 1985 levels in 1986.

Title XX Social Services is proposed for a return to \$2.7 billion in FY 1986 (minus the additional \$25 million for training and plus responsibility for the functions of the Community Services Block Grant which is proposed for termination). Medicaid is targeted for capping at \$22.2 billion (a \$1.3 billion reduction below current estimates for 1986). The budget states that, "to facilitate the transition to a capped program, legislation will be proposed to establish a one-time pool of \$300 million above 1986 expenditures to assist States with justifiable increases above their limit." In future years Medicaid benefits would be constrained by indexing the FY 1986 expenditure limit to the Medical Care Price Index.

continued on page 11

A NEW VOICE FOR CHILDREN

by David S. Liederman
Executive Director
Child Welfare League of America

With the beginning of 1985, we are launching our new comprehensive newsletter, *Children's Voice*. Never has there been a greater need for all of us to make our voices heard on behalf of children.

In my travels across this country, in meetings with agency executives, boards, staff, and advocates, I have found the commitment to serve and represent the interests of children and their families is alive and growing. The League will be a part of this growth by opening new communications.

Children's Voice will keep us all up to date on the most recent developments in the Congress, the Federal agencies and the State houses. Issues such as adoption, foster care, child care, feeding, AFDC, day care, child health and juvenile justice will be covered, as will adolescent parenting and the activities of the State child care associations.

Children's Voice incorporates the news formerly disseminated in *Child Welfare Planning Notes*, *The Crittenton Reporter*, *Perspectives*, and *ORPSCCA NEWS* from the Office of Regional, Provincial and State Child Care Associations.

Sent to CWLA members as part of the membership benefit package, *Children's Voice* is available to non-members by subscription at \$52 a year.

Send us your news and your comments. We are committed to opening new and exciting communications among child advocates and children's service agencies.

(in millions)	1984	1985	1986
Child Welfare Services	\$165	\$200	\$200
Child Welfare Training	4	4	4
Foster Care	478*	517*	485
Adoptior Assistance	27**	35*	42
Child Welfare R&D	10	12	9
Adoption Opportunities	2	2	1
Total	\$686	\$770	\$741

* Includes supplemental amounts equal in 1984 to \$38 million for prior year claims, and in 1985 to \$2 million for prior year claims and \$25 million for 1985 program costs.

** Includes supplemental amounts equal in 1984 to \$7 million for prior year claims and \$15 million for 1984 program costs, and in 1985 to \$1 million for prior year claims and \$10 million for 1985 program costs.

EDITORIAL

Before the debate on the President's budget begins, Congress will be in recess February 8 — 19, and many Members will be back in their home States and Districts. This is an excellent time to discuss priorities with them.

Eliminating the entitlement of abused, neglected and dependent children to necessary foster care, group care and health care would be a morally indefensible act, and this is precisely what the proposed capping of foster care and Medicaid would accomplish.

The Adoption Assistance and Child Welfare Act has clearly furnished the Federal leadership States needed to move children into permanent homes wherever possible. Fast fix bonuses to States for solving children's problems more quickly would fall far short of meeting the nation's responsibility for our needy children. The entitlement in this instance is not a matter of what States are entitled to receive from the Federal government. It is a matter of the entitlement of abused and needy children to basic support and health care.

By no stretch of the imagination does the very small dent these proposed cutbacks would make in the Federal deficit justify the abrogation of our responsibility for our most vulnerable children.

Don A. Linder

CWLA WILL SURVEY CHILD WELFARE BILL ISSUES

The CWLA staff has been meeting with Hill staffers and other national organizations in preparation for upcoming legislation to amend P.L. 96-272, the Adoption Assistance and Child Welfare Act. There is a lack of specific data on the implementation of the Act, so CWLA, as the national membership group, will be surveying its membership regarding how the Act has affected children and agencies serving children. This data is critical to a strong stand in addressing upcoming legislation.

CHILD WELFARE ALLOTMENT PERCENTAGES

The Office of Human Development Services has issued the following chart of allotment percentages to be used in determining States' Title IV-B Child Welfare Services grants in FY 1986 and FY 1987. Allotment percentages are one of the factors used in computing Federal grants under this program. The other factor is the ratio of the State's population under age 21 to the same national population.

State	Allotment percentage
Alabama	60.77
Alaska	90.00
Arizona	54.22
Arkansas	61.87
California	43.05
Colorado	45.33
Connecticut	37.42
Delaware	46.54
District of Col.	93.80
Florida	50.65
Georgia	56.67
Hawaii	47.82
Idaho	58.74
Illinois	45.97
Indiana	54.55
Iowa	52.22
Kansas	47.13
Kentucky	59.33
Louisiana	55.16
Maine	68.41
Maryland	44.78
Massachusetts	44.70
Michigan	51.00
Minnesota	49.12
Mississippi	65.37
Missouri	53.23
Montana	56.78
Nebraska	51.19
Nevada	45.80
New Hampshire	49.86
New Jersey	40.78
New Mexico	58.40
New York	45.20
North Carolina	58.62
North Dakota	50.07
Ohio	51.87
Oklahoma	51.47
Oregon	53.77
Pennsylvania	50.96
Rhode Island	50.75
South Carolina	61.06
South Dakota	57.71
Tennessee	59.31
Texas	49.21
Utah	60.99
Vermont	57.22
Virginia	48.08
Washington	47.33
West Virginia	60.23
Wisconsin	51.43
Wyoming	45.65

HHS REPORTS ON VOLUNTARY PLACEMENTS

One provision of P.L. 96-272, the Adoption Assistance and Child Welfare Act, which will require congressional attention this year is the authorization for States to claim Federal reimbursement on behalf of children placed in foster care under voluntary agreements. This provision which was due to expire last year, was extended for one year to give Congress a chance to evaluate its effectiveness.

HHS has been studying the issue and their preliminary results favor the continuation of this option, especially since their data indicates that voluntary placements tend to be short stays — 89 percent of voluntary placements leave care within 6 months, compared with only 56 percent of court ordered placements.

Since FY 1981, the number of States claiming funds under this provision has increased from zero to 1 in FY 1983, and HHS expects 22 States to claim reimbursements for voluntary placements in FY 1984. HHS is currently doing a follow up its 1983 study.

STATE AGENCIES REMINDED OF FOSTER CARE STANDARDS

A January 1, 1985, program instruction from the Department of Health and Human Services reminds State agencies that, although the foster care standards requirement was inadvertently omitted in 1981 block grant legislation, it was reinstated in 1982 legislation. States are required to designate an agency responsible for establishing and maintaining standards for foster family homes and child care institutions which are "reasonable in accord with recommended standards of national organizations concerned with standards for such institutions or homes, including standards related to admission policies, safety, sanitation and protection of civil rights."

REVISED 1985 TITLE XX ALLOTMENTS

The Department of Health and Human Services has published revised FY 1985 Federal allotments to States for Title XX Social Services. The revisions were necessary because an amendment to Title XX, passed on October 12, 1984 as part of P.L. 98-473, the Continuing Resolution, appropriated an additional \$25 million for Title XX training for FY 1985.

As the revised allotment chart indicates, States are now entitled to their share of \$2.725 billion. The additional funds are earmarked for training "including training in prevention of child abuse in child care settings."

Because the additional funds are provided within the flexible block grant structure, the Department is leaving it up to States to define the terms (child care, juvenile facility, etc.).



Gordon Raley
photograph by Claire Flinders

GORDON RALEY TO HEAD CWLA PUBLIC POLICY

Gordon Raley, M.S.W., who has been Staff Director for the U.S. House of Representatives' Subcommittee on Human Resources since 1977, has been named as the director of the Child Welfare League's public policy unit located in CWLA's Washington office.

Raley graduated from Baylor University; received an M.S.W. from Tulane University; and attended the Institute of Politics at Loyola University. Prior to his work in the Congress, he was Senior Staff Associate for the Criminal Justice Project of the National League of Cities and Conference of Mayors. He also worked for the city of New Orleans and the city of Waco, Texas, in health information, criminal justice and urban design projects. Adding Gordon to our "team" represents a serious statement for the League. The Board, staff, and membership welcome him warmly.

CHILDREN '85 CWLA NATIONAL CONFERENCE

Registration due this week. Contact the hotel and the D.C. Office now! This will be a really special one — see you there.
CWLA Washington (202) 638-CWLA
Mayflower Hotel (800) 325-5000

States	Column 1— Authorized Level P.L. 98-135	Column 2— Authorized Level P.L. 98-473	Column 3— Total
Total	\$2,700,000,000	\$25,000,000	\$2,725,000,000
Alabama	46,725,250	423,282	46,141,968
Alaska	6,079,285	17,031	6,126,326
Arizona	33,106,172	907,094	33,173,268
Arkansas	20,667,727	245,997	20,813,724
California	286,713,437	2,654,764	289,368,191
Colorado	35,311,636	328,859	35,638,495
Connecticut	36,563,945	338,555	36,902,520
Delaware	6,881,191	64,640	7,045,771
District of Col.	7,317,432	67,764	7,385,186
Florida	120,789,806	1,118,424	121,908,230
Georgia	65,393,022	605,491	65,998,513
Hawaii	11,526,084	106,731	11,632,815
Idaho	11,190,684	103,817	11,294,501
Illinois	132,767,460	1,229,236	133,996,696
Indiana	63,444,799	587,462	64,032,251
Iowa	33,683,017	1,926	33,999,943
Kansas	27,924,625	2,960	27,927,585
Kentucky	42,624,599	2,746	42,918,345
Louisiana	60,584,210	4,372	61,052,582
Maine	13,138,906	1,657	13,200,563
Maryland	48,469,344	4,057	48,917,301
Massachusetts	67,039,734	620,738	67,660,472
Michigan	105,033,008	978,084	106,011,092
Minnesota	47,928,697	443,783	48,372,480
Mississippi	29,582,834	273,915	29,856,749
Missouri	57,414,680	531,817	57,946,497
Montana	8,288,848	80,008	8,368,856
Nebbraska	18,582,160	170,298	18,752,458
Nevada	10,210,673	94,598	10,311,171
New Hampshire	11,028,332	102,114	11,130,446
New Jersey	80,255,240	708,860	81,033,100
New Mexico	15,759,730	145,823	15,905,553
New York	204,783,716	1,890,140	206,673,856
North Carolina	60,709,716	646,284	61,356,000
North Dakota	7,760,098	71,942	7,832,040
Ohio	126,138,617	1,158,690	127,297,307
Oklahoma	36,842,282	341,132	37,183,414
Oregon	30,719,207	284,438	31,003,645
Pennsylvania	137,593,227	1,274,011	138,867,238
Rhode Island	11,109,608	102,800	11,212,408
South Carolina	37,143,783	343,824	37,487,607
South Dakota	8,013,225	74,197	8,087,422
Tennessee	51,935,617	498,404	52,434,021
Texas	177,185,491	1,640,690	178,826,181
Utah	18,021,060	166,862	18,187,922
Vermont	6,983,827	65,406	7,049,233
Virginia	63,676,730	589,598	64,266,328
Washington	40,227,412	455,809	40,683,221
West Virginia	22,590,106	208,108	22,798,214
Wisconsin	65,257,025	611,645	65,868,670
Wyoming	5,821,475	63,803	5,885,278



Sandra

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 anomolous 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.

debatable

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 ²⁷~~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 ²⁸~~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 ²⁹~~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.

*Sec 30 - Background checks effective 10-1-85,
No effective date for rest of bill*

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".

Bill Sheffield
Governor

SECTIONAL ANALYSIS FOR

SENATE CS FOR CS FOR HOUSE FOR HB 88 (FINANCE)

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.

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 to provide treatment; and children which have been or are in imminent and substantial danger of being sexually abused.

Section 6.

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." This is a minor change in the wording.

Section 7.

This section modifies the procedure that the Department of Health and Social Services must follow when children are taken into their custody. Presently the person having custody of the child and t' court must be notified immediately, and in no event more than hours after the child is taken into custody. The court must be notified through the filing of a "child in need of aid" petition.

Senate CS for CS HB 88(Finance) still requires the department to notify the parents within 12 hours and file a "child in need of aid" petition within 12 hours after custody was assumed if custody will continue. If, however, the department decides to return the child to ~~their~~ ^{the} parents or guardian~~s~~ within 12 hours after custody was assumed, the department need only file a report with the court which explains why the child was taken into custody. When a petition is filed, the court must open a file on the matter. However, when a report is provided the court, no file is opened, but the court is advised as to the justification for the temporary custody.

This amendment ensures that justification for assuming custody of children will always be promptly presented to the court. Protection of the child, notification to the parents, justification to the court, and reasonable procedures for the department are all assured under this amendment.

Section 8.

This section 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,~~ Senate CS for 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.

Section 9.

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

Section 10.

This section 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.

Section 11.

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

Section 12.

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 must be notified after the photograph or x-ray is taken.

Section 13.

This section provides that a person who knowingly 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 14.

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, or physical welfare of a child. The purpose of this section is to give the Department of Law the ability to enjoin persons from association with children in the event that it is proved by a preponderance of the evidence that the person has committed the act.

Section 15.

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 16.

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

Section 17.

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 18.

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 19.

This Act takes effect July 1, 1985.

STATE OF ALASKA

BILL SHEFFIELD, GOVERNOR

PUBLIC DEFENDER AGENCY

January 29, 1985

800 W. 5th Avenue, Suite 200
Anchorage, Alaska 99501
Phone: (907) 279-7541

Re: HB 88

Attention: Nancy Bennett

Max F. Gruenberg, Jr., Co Chair
House Committee on Health, Education
and Social Services
Alaska State Legislature
Pouch V
Juneau, Alaska 99811

Dear Representative Gruenberg:

Thank you for soliciting my comments on HB 88. This bill addresses a number of different aspects of the important issue of child protection. Many of the provisions will serve to insure that children receive greater protection from our laws. Following is an analysis of the sections of the bill which could cause some problems.

Section 2. This section creates a new crime of Endangering the Welfare of a Minor in the Second Degree. This offense involves exposing a child under 18 to circumstances creating a substantial risk of physical injury as well as sexual abuse. Of particular concern is that the caregiver need act only with criminal negligence, which could theoretically cover any home accident. This section could have broad application to parents and caregivers who accidentally allow children to be hurt, even if there is no intent to do so. Thus, if a caregiver negligently allows a child to crawl into a cabinet which contains toxic cleaning chemicals or allows a child to get too close to a hot wood stove, that caregiver's behavior may expose him or her to criminal prosecution. It should be noted that this would be a Class A misdemeanor, carrying up to one year of jail time.

Section 5. This provision allows the use of hearsay evidence at the grand jury in prosecutions for sexual offenses. A grand jury functions to screen prosecution evidence to determine whether enough

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OFFICE OF THE ATTORNEY GENERAL
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evidence exists to charge a suspect with a felony. Because being charged with a felony involves a potential for stigma as well as incarceration prior to trial, the constitutional right to a grand jury indictment must be carefully guarded. Taken to its extreme, allowing unlimited hearsay evidence at a grand jury proceeding would reduce that proceeding to a police officer reading the police report to the grand jurors. Since grand jurors currently are able to judge for themselves the weight and credibility of live witnesses, the issue of introduction of hearsay at the grand jury should be evaluated carefully.

Current Alaska case law allows the introduction of hearsay testimony at a grand jury when a compelling justification exists. If the legislature wishes to create a statutory exception to protect young victims of sexual assault, it should be as narrow and as close to a compelling circumstance as possible.

I would suggest the following changes in this provision if a hearsay exception is to be created for these cases:

1.) The exception should apply only to very young victims (under the age of 10) since the ability and motive for such children to fabricate is less than that of older children and the trauma of testimony could be gravest for children of a tender age.

2.) The hearsay exception should only apply to the actual victim of the offense. The provision in HB 88 would cover offenses other than child sexual offenses, including many sexual assaults not involving minors. The statute as now drafted would allow hearsay testimony of any witness under the age of sixteen, even if that witness was not a victim and the offense involved an assault on an adult rather than a child. This may allow a broader erosion of the rule against hearsay at the grand jury than first appears on the surface of the bill.

3.) The provisions of this statute allow hearsay testimony to be admitted when a child is unavailable. The definition of unavailability includes situations where the child does not remember what he or she said earlier or the child has been declared incompetent to testify by a judge. Both of these definitions of unavailability raise concerns since the grand jury should have an opportunity to judge the credibility of a witness. If a witness cannot remember details, the grand jury should be aware of this fact. Furthermore, one of the chief reasons a child may be declared by a judge to be incompetent is that the child is not able to distinguish between truth and falsehood.

Section 12. This section reduces the time required to make a pre-disposition report available to counsel in a juvenile delinquency hearing. This provision will create practical problems. If a pre-disposition report recommends institutionalization of the minor, an attorney who represents the juvenile client will often search for a less restrictive alternative placement for the juvenile. Furthermore, the attorney may wish to consult with the client to determine whether factual discrepancies exist in the report and to correct those discrepancies. Receipt of the report only two working days prior to an important disposition hearing in a juvenile delinquency matter will not allow the juvenile's attorney adequate time to prepare for the disposition hearing or to work to locate alternatives to institutionalization.

Section 14. This section removes the requirement that parents of children who have been removed from the home be notified of that event within 12 hours. The substitution of "make reasonable efforts" to immediately notify parents could be a problem. If a child has been removed from his or her home by the State, parents may become frantic when they learn their child is missing if they do not receive immediate notification. The outside limit of 12 hours is certainly not unreasonable and should not be removed.

This section also allows the Department of Health and Social Services to extend the time of notification of the court of the emergency custody by allowing a filing to be made within 24 hours excluding weekends or holidays. The current time limit is 12 hours with no exclusions. In such a serious matter as removing a child from the custody of his or her parents, the court should be notified as quickly as possible. Allowing 24 hours plus the exclusion of weekends or holidays could result in the following scenario. If a child were picked up on the Friday prior to a three day holiday weekend, the court would not have to be notified until the following Tuesday, four full days after the removal of the child.

Section 15. This section expands the conduct which permits the state to remove a child from the home of his or her parents. Certainly, conduct which constitutes a sexual offense against a child under AS 11. is appropriately contained within this section. Unfortunately, this section expands the definition of "sexual abuse" to include touching of a child's thighs, buttocks, or groin, or the child's touching of those areas of the parent or another. Although this section attempts to exclude "reasonable touching" in the exercise of "normal caretaker responsibilities", it cannot possibly contemplate every type of beneficial touching which might occur. For example, if a caretaker were to place a small child on his shoulders so that the child could better see a parade, that conduct could be classified as "sexual abuse" under this definition if the State felt that this was not a "reasonable touching within normal caretaker responsibility". Declaring a child to be in

Max Gruenberg

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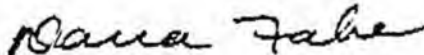
January 29, 1985

need of the state's protection is certainly necessary in many cases, but this expansion of the definition of sexual abuse will cause confusion, problems, and possible abuses of this function.

Section 23. Section 23 adds to the definition of child abuse or neglect the term "mental injury". This greatly broadens the category of children who may be declared in need of aid given the very broad definition of mental injury. Mental injury is defined as any psychological or intellectual injury evidenced by observable and substantial impairment in the child's ability to function within a normal range of performance and behavior. This definition appears to be much too broad, since many basically healthy child/parent relationships may still result in the child having some psychological or behavioral problems.

These are some of the concerns I have with HB 88. The fiscal impact of this legislation, in conjunction with the great increases in staffing requested in the operating budget of the Departments of Law and Health and Social Services as part of the Governor's Child Protection Package will require six new positions for this agency--two attorneys and four paralegals. Our detailed fiscal note and analysis for HB 88 is attached to this letter. Thank you again for asking for my comments on this bill. I also have been requested by your staff to testify on this bill during a teleconference from Anchorage on Wednesday, February 6, 1985 and plan to do so. Please let me know if I can be of any further assistance on this bill or on any other.

Very truly yours,



Dana Fabe
Public Defender

Enclosures

DF:cms



Official Business

Alaska State Legislature

Senate

Sander

Pouch V
State Capitol
Juneau, Alaska 99811

March 20, 1985

Honorable Don Bennett President - State Senate Pouch V Juneau, Alaska 99811	Honorable Ben Grussendorf Speaker - House of Representatives Pouch V Juneau, Alaska 99811
--	--

Dear Mr. President and Mr. Speaker:

Alaska has gradually awakened to the problem of child victimization, realizing perhaps that distance alone is no immunity from this national illness. Although the legislature has responded to child protection needs in the past, it is evident from growing caseloads that a renewed commitment to child safety is now essential. As Governor Sheffield noted in this year's State of the State address, "(The)...record caseload is shameful enough in itself. But numbers alone can't tell you the pain these children feel..." Clearly, it is time to act.

Earlier this session, Senate and House standing committees met jointly to hear from John Walsh, a representative of the National Center for Missing and Exploited Children and a national authority on victimized children. As a result of his testimony, and the realization that Alaska was facing a serious problem, several members of the legislature met to devise an expeditious method of addressing this critical problem. A special working group of committee staff was established to review existing law and to supply the legislature with a comprehensive package for consideration this year.


The staff committee worked extensively for two weeks to refine existing legislation and to evaluate the recommendations of the National Center for Missing and Exploited Children. The attached proposals attempt to address the most critical areas, including both statutory changes and budgetary needs. Further work will certainly be necessary and several issues have been identified for study during the interim.

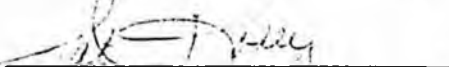
March 20, 1985


Page 2


It is our belief that enactment of these proposals will have a dramatic and measurable impact on Alaska's ability to enforce child protection statutes and to prevent child victimization. We urge all members to review this package and to lend their support in this bi-partisan, bi-chamber effort.

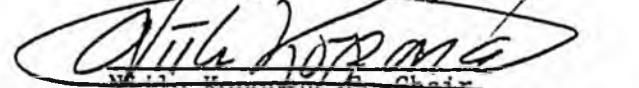
Sincerely,

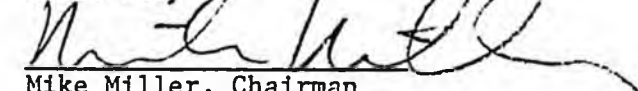

Bettye Ehrenkamp, Chairman
Senate HESS


Patrick Rodey, Chairman
Senate Judiciary


Jan Faiks, Co-Chair
Senate Finance


Max Gruenberg, Co-Chair
House HESS


Niilo Koponen, Co-Chair
House HESS


Mike Miller, Chairman
House Judiciary

cc: All Members of the Alaska State Legislature

Attached for your information:

1. The "package" of bills to be considered.
2. An outline of the John Walsh materials, with a comparison of what exists now in Alaska law, and what's being proposed in this package.
3. A section-by-section analysis of SB 243/HB 88, the "omnibus" bill.
4. Identified costs of the package.
5. A listing of additional issues identified for continuing discussion.

CHILD AND FAMILY PROTECTION

LEGISLATIVE PACKAGE

SB 3
HB 67

HEARSAY EVIDENCE

SB 3 would allow hearsay evidence to be admitted at grand jury in prosecutions for sexual assault in the first and second degrees, sexual abuse of a minor in the first, second, third and fourth degrees, and unlawful exploitation of a minor. The child must be under the age of 10, and the child must either testify before the grand jury or be unavailable as defined in the bill.

SB 8

SCHOOL CURRICULA

SB 8 would urge expansion of existing health curricula to include the identification and prevention of child abuse, child abduction, neglect, sexual abuse, and domestic violence.

SB 21
HB 308

BACKGROUND CHECKS

SB 21 would expand the type of convictions that may be released to include all crimes that might pose a risk to children (as defined in the bill), and allow the release of outstanding warrants for these crimes. It would require a criminal record check on foster parents and persons seeking to adopt minors.

SB 27

COMMUNITY TRAINING

SB 27 would provide funds to the Council on Domestic Violence and Sexual Assault to train teams of community professionals.

SB 28

REPORTING INCIDENCES OF ABUSE

SB 28 would require training of state employees required to report on the recognition and report of child abuse, and would require school districts to devote half of an inservice day to training teachers and administrators on the reporting law.

SB 86
HB 19

MISSING AND RUNAWAY CHILDREN

SB 86 would require that reports of missing or runaway children be taken immediately and within 24 hours entered into both the State (APSIN) and FBI (NCIC) computer systems. The bill would disallow housing of runaway or missing minors in jail facilities, and require that the legal custodian be immediately notified if the minor is taken into protective custody by the State.

Letter of Intent

\$20,000

\$0

Sen Fin.

\$235,900

\$0

H. HESS

*Wash
Recommendations*

SB 243
HB 88

"THE OMNIBUS BILL"

SB 143 would make several changes to existing civil and criminal laws, and is intended to enhance the State's ability to protect children. (See sectional analysis.)

*

SCR 3
HCR 2
\$0

SCHOOL TEACHER BACKGROUND CHECKS

SCR 3 would urge local school districts to implement background checks on all school district employees who come into contact with children.

SCR 5

MISSING CHILDREN ON MILK CARTONS

\$0

SCR 5 requests that milk producers and distributors in Alaska print pictures of missing children and information about them on milk cartons. (Read by the Governor on March 8, 1985.)

* NOTE: These two bills will not have direct fiscal impacts. However, they are expected to result in an increased number of reports of child abuse, which will be handled by an increased number of social workers and prosecuting attorneys per the Governor's proposed FY 86 budget (see attached memo on financial implications). This increase necessitates a like increase in the number of public defenders, guardians ad litem, judges, and mental health counselors which is represented in fiscal notes attached to SB 243.

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files*

*read by
you*

WORK DRAFT

WORK DRAFT

WORK DRAFT

Hein
3/19/85 ✓

Original sponsors: Kerttula, V. Fischer,
Halford and Faiks

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 3 (HESS)

HB 67

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 hearsay evidence in prosecutions
7 for certain sexual offenses; and amending Rule 6(r).
8 Alaska Rules of Criminal Procedure."

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

10 * Section 1. AS 12.40 is amended by adding a new section to read:

11 Sec. 12.40.110. HEARSAY EVIDENCE IN PROSECUTIONS FOR SEXUAL
12 OFFENSES. (a) In a prosecution for an offense under AS 11.41.410 -
13 11.41.440 or 11.41.455, hearsay evidence of a statement related to the
14 offense, not otherwise admissible, made by a child under the age of 15
15 may be admitted into evidence before the grand jury if

16 (1) the circumstances of the statement indicate its reli-
17 ability; and

18 (2) the child

19 (A) testifies at the grand jury proceeding; or

20 (B) is unavailable as a witness, the grand jury mem-
21 bers are informed of the reason for the child's unavailability,
22 and there is additional evidence introduced to corroborate the
23 statement.

24 (b) In this section,

25 (1) "statement" means an oral or written assertion or
26 nonverbal conduct if the nonverbal conduct is intended as an asser-
27 tion;

28 (2) "unavailable" means the child

29 (A) has a lack of memory of the subject matter of the

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statement being offered;

(B) is unable to attend or testify at the hearing because of death or a then existing physical or mental illness or infirmity;

(C) is likely to suffer substantial psychological, emotional, or physical harm if required to testify; or

(D) is absent from the hearing and beyond the jurisdiction of the court to compel appearance and the proponent of the statement has exercised reasonable diligence in attempting to procure the child's attendance.

(c) A child is not unavailable under this section if the unavailability is due to the procurement or wrongdoing of the proponent of the statement to prevent the child from attending or testifying.

* Sec. 2. AS 12.40.110, added by sec. 1 of this Act, has the effect of amending Rule 6(r), Alaska Rules of Criminal Procedure, by making certain hearsay evidence admissible in grand jury proceedings for certain sexual offenses without requiring compelling justification.

Offered: 2/1/85
Referred: Health, Education and
Social Services

Original sponsors: Kerttula, Sturgulewski,
Halford, et al

1 IN THE SENATE BY THE HEALTH, EDUCATION, AND SOCIAL SERVICES COMMITTEE
2 CS FOR SENATE BILL NO. 8 (HESS)
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 a personal safety curriculum in
7 public schools."

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

9 * Section 1. AS 14.30.360 is amended to read:

10 Sec. 14.30.360. CURRICULUM. (a) Each district in the state
11 public school system shall be encouraged to initiate and conduct a
12 program in health education for kindergarten through grade 12. The
13 program should include instruction in physical health and personal
14 safety including alcohol and drug abuse education, cardiopulmonary
15 resuscitation (CPR), early cancer prevention and detection, dental
16 health, family health, environmental health, the identification and
17 prevention of child abuse. ^{CHILD ABDUCTION} ~~A~~ neglect, sexual abuse and domestic
18 violence, and appropriate use of health services.

19 (b) The state board shall establish by regulation guidelines for
20 a health and personal safety education program. Personal safety
21 guidelines are to be developed in consultation with the Council on
22 Domestic Violence and Sexual Assault. Upon request, the Department
23 of Education and the Council shall provide technical assistance to
24 school districts in the development of personal safety curriculum.

25 A school health education specialist posi-
26 tion shall be established and funded in the department to coordinate
27 the program statewide. Adequate funds to enable curriculum and re-
28 source development, adequate consultation to school districts, and a
program of teacher training in health and personal safety education
shall be provided.

Hein
3/19/85

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SENATE BILL NO. 21 (HESS)

HB 308

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 criminal background checks; and
7 providing for an effective date."

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

9 * Section 1. AS 12.62.035(a) is amended to read:

10 (a) Notwithstanding any other provision of law, an interested
11 person [AS DEFINED IN (e) OF THIS SECTION] may request from the com-
12 mission records of all convictions of an individual for crimes that
13 might pose a risk of harm to a child if the individual [INVOLVING
14 CONTRIBUTING TO THE DELINQUENCY OF A MINOR AND ANY SEX CRIMES OF
15 PERSON WHO] holds or applies for a position in which the individual
16 [PERSON] has or would have supervisory or disciplinary power over
17 minor. The commission shall authorize the disclosure of the informa-
18 tion to the requesting interested person and shall provide a copy of
19 the information to the individual [PERSON] who is the subject of the
20 request.

21 * Sec. 2. AS 12.62.035(e)(1) is repealed and reenacted to read:

22 (1) "crime that might pose a risk of harm to a child"
23 includes a violation or attempted violation of present or former
24 Alaska statutes regarding the offenses now designated as murder,
25 manslaughter, negligent homicide, assault, reckless endangerment,
26 kidnapping, sexual assault, sexual abuse of a minor, unlawful ex-
27 ploitation of a minor, incest, indecent exposure, robbery, arson,
28 endangering the welfare of a minor, contributing to the delinquency of
29 a minor, distribution of child pornography, promoting prostitution,

1 and felony offenses involving distribution of controlled substances:
2 it also includes a violation or attempted violation of the laws of
3 another jurisdiction if the offense would have been one of the crimes
4 listed in this paragraph if committed in this state:

5 * Sec. 3. AS 12.62.035 is amended by adding a new subsection to read:

6 (f) In addition to the information for which disclosure is
7 authorized under (a) of this section, the commission may disclose the
8 existence of an outstanding warrant for the arrest of the person who
9 is the subject of the request if the warrant is for a crime that might
10 pose a risk of harm to a child.

11 * Sec. 4. AS 25.23.100(d) is amended to read:

12 (d) Except as provided in (g) and (i) of this section, an inves-
13 tigation shall be made by the department or any other qualified agency
14 or person designated by the court to inquire into the conditions and
15 antecedents of a minor sought to be adopted and of the petitioner for
16 the purpose of ascertaining whether the adoptive home is a suitable
17 home for the minor and whether the proposed adoption is in the best
18 interest of the minor. The department shall request a state and
19 national criminal record background check by the Department of Public
20 Safety on each person who seeks to adopt a minor.

21 * Sec. 5. AS 47.35 is amended by adding a new section to read:

22 Sec. 47.35.058. INVESTIGATIONS OF PROSPECTIVE FOSTER HOMES. The
23 department shall request a state and national criminal record check on
24 each adult residing in a home before that home may be licensed as a
25 foster home.

26 * Sec. 6. This Act takes effect immediately in accordance with AS 11.-
27 10.070(c).

Funding Information
General Fund \$235,900
Other Funds - 0 -
\$235,900

1 IN THE SENATE

BY FAIKS

2 SENATE BILL NO. 27

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act making a special appropriation to the Depart-
7 ment of Public Safety, Council on Domestic Violence
8 and Sexual Assault, for a training program on the
9 prevention, intervention, investigation and treatment
10 of sexual and physical abuse of minors; and providing
11 for an effective date."

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

13 * Section 1. The sum of \$235,900 is appropriated from the general fund
14 to the Department of Public Safety, Council on Domestic Violence and Sexual
15 Assault, for a program under AS 18.66.050 to train teams of community
16 professionals, including but not limited to law enforcement officials,
17 prosecuting attorneys, victim advocates, social workers, teachers and
18 medical personnel on the prevention, intervention, investigation and treat-
19 ment of sexual and physical abuse of minors.

20 * Sec. 2. The unexpended and unobligated portion of the appropriation
21 made by this Act lapses into the general fund June 30, 1986.

22 * Sec. 3. This Act takes effect immediately in accordance with AS 01.-
23 10.070(c).

Offered: 2/1/85
Referred: Finance

Original sponsors: Faiks, Sturgulewski,
Halford, et al

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 28 (HESS) am

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 training state employees, and
7 certain employees of the districts of the state
8 public school system on the recognition and reporting
9 of child abuse and neglect."

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

11 * Section 1. AS 47.17 is amended by adding a new section to read:

12

Sec. 47.17.022. TRAINING. (a) A person employed by the state
13 who is required under AS 47.17 to report abuse or neglect of children
14 shall receive training on the recognition and reporting of child abuse
15 and neglect.

16

(b) Each department of the state that employs persons required
17 to report abuse or neglect of children shall provide

18

(1) initial training required by this section to each new
19 employee during the employee's first six months of employment, and to
20 any existing employee who has not received equivalent training; and

21

(2) appropriate in-service training required by this sec-
22 tion as determined by the department.

23

(c) Each department that must comply with (b) of this section
24 shall develop a training curriculum that acquaints its employees with

25

(1) laws relating to child abuse and neglect;

26

(2) techniques for recognition and detection of child abuse
27 and neglect;

28

(3) agencies and organizations within the state that offer
29 aid or shelter to victims and the families of victims of child abuse

1 or neglect; and

2 (4) procedures for required notification of suspected abuse
3 or neglect.

4 (d) Each department that must comply with (b) of this section
5 shall file a current copy of its training curriculum and materials,
6 with the Council on Domestic Violence and Sexual Assault. Any depart-
7 ment may seek the technical assistance of the council or the Depart-
8 ment of Health and Social Services in the development of its training
9 program.

10 (e) The districts of the state public school system shall devote
11 at least one-half day of existing in-service training time to train
12 school teachers and school administrative staff members on the recog-
13 nition and reporting of child abuse and neglect.

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Hein
3/19/85 ✓

Original sponsor: DeVries

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 CS FOR SPONSOR SUBSTITUTE FOR SENATE BILL NO. 86 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

HB 19

4 FOURTEENTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to runaway and missing minors."

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

8 * Section 1. AS 47.10.140(e) is amended to read:

9 (e) Except for temporary detention pending a detention hearing
10 [OR TEMPORARY DETENTION UNDER (f) OF THIS SECTION], a minor may [NOT]
11 be detained only [EXCEPT] by court order.

12 * Sec. 2. AS 47.10 is amended by adding a new section to read:

13 Sec. 47.10.141. RUNAWAY AND MISSING MINORS. (a) Upon receiving
14 a request to locate a minor evading the minor's legal custodian or
15 otherwise missing, a law enforcement agency shall make reasonable
16 efforts to locate the minor and shall immediately complete a missing
17 person's report containing information necessary for the identifica-
18 tion of the minor. As soon as practicable, but not later than 24
19 hours after completing the report, the agency shall transmit the
20 report for entry into the Alaska Public Safety Information Network and
21 the National Crime Information Center computer system. As soon as
22 practicable, but not later than 24 hours after the agency learns that
23 the minor has been located, it shall request that the Department of
24 Public Safety and the Federal Bureau of Investigation remove the
25 information from the computer systems.

26 (b) A peace officer shall take into protective custody a minor
27 described in (a) of this section if the minor is not otherwise subject
28 to arrest or detention. The peace officer shall honor the minor's
29 preference to either (1) return the minor to the legal custodian or

WORK DRAFT

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1 (2) take the minor to an office specified by the Department of Health
2 and Social Services or a facility or contract agency of the depart-
3 ment. If an office specified by the department or a facility or
4 contract agency of the department does not exist in the community, the
5 officer shall take the minor to another suitable location and promptly
6 notify the department. A minor under protective custody may not be
7 housed in a jail or other detention facility. Immediately upon taking
8 a minor into protective custody the officer shall advise the minor
9 orally and in writing of the right to social services under AS 47.10.-
10 142(b), and, if known, the officer shall advise the legal custodian
11 that the minor has been taken into protective custody.

12 * Sec. 3. AS 47.10.140(f) and (g) are repealed.
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11-0926
Main
3/19/85

1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2 SENATE BILL NO. 243

HB 88

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

8 * Section 1. AS 11.51.100 is amended to read:

9 Sec. 11.51.100. ENDANGERING THE WELFARE OF A MINOR IN THE FIRST
10 DEGREE. (a) A person commits the crime of endangering the welfare of
11 a minor in the first degree if, being a parent, guardian, or other
12 person legally charged with the care of a child under 13 [10] years of
13 age, the person intentionally deserts the child in any place under
14 circumstances creating a substantial risk of physical injury to the
15 child.

16 (b) Endangering the welfare of a minor in the first degree is a
17 class C felony.

18 * Sec. 2. AS 11.51 is amended by adding a new section to read:

19 Sec. 11.51.110. ENDANGERING THE WELFARE OF A MINOR IN THE SECOND
20 DEGREE. (a) A person commits the crime of endangering the welfare of
21 a minor in the second degree if, being entrusted with the care of a
22 child under 13 years of age, the person with criminal negligence

23 (1) exposes the child to circumstances creating a substan-
24 tial risk of physical injury or sexual abuse; or

25 (2) exposes the child to physical injury by failing to
26 provide the child with necessary food, care, clothing, shelter, or
27 medical attention.

28 (b) Endangering the welfare of a minor in the second degree is a
29 class A misdemeanor.

*Separates out
per Sec 2*

*"neglect" definition (care)
AS 47.17.070*

doesn't have to be for
commercial consideration
to cover "trafficking"
language devised per

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* Sec. 3. AS 11.61.125(a) is amended to read:

(a) A person commits the crime of distribution of child pornography if the person brings or causes to be brought into the state for [SALE OR] distribution, or in the state distributes, or in the state possesses, prepares, publishes, or prints with intent to distribute, [SELL, OR EXHIBIT TO OTHERS FOR COMMERCIAL CONSIDERATION,] any material that visually depicts conduct described in [UNDER] AS 11.41.455(a), knowing that the production of the material involved the use of a child under 18 years of age who engaged in the conduct.

* Sec. 4. AS 11.61.125 is amended by adding a new subsection to read:

(d) In this section, "distribution" includes delivering, selling, renting, leasing, lending, giving, circulating, exhibiting, presenting, providing, and exchanging, whether or not for monetary or other consideration.

* Sec. 5. AS 12.10.020(c) is amended to read:

(c) Even if the general time limitation has expired, a prosecution under AS 11.41.410 - 11.41.460, ~~(AS 11.66.11C - 11.66.13C)~~ (former AS 11.41.430, or former AS 11.51.130(a)(4)), for an offense committed against a person under the age of 16 may be commenced within one year after the crime is reported to a peace officer or the person reaches the age of 16, whichever occurs first. This subsection does not extend the period of limitation by more than five years.

* Sec. 6. 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

child prostitution
old sex abuse
statutes
(5-10 yrs)

clarifies that
applies to kids.
current statute
didn't specifically
exclude

1 sexual conduct may [SHALL] not be admitted nor reference made to it in
 2 the presence of the jury except as provided in this section. When the
 3 defendant seeks to admit the evidence for any purpose, the defendant
 4 may apply for an order of the court at any time before or during the
 5 trial or preliminary hearing. After the application is made, the
 6 court shall conduct a hearing in camera to determine the admissibility
 7 of the evidence. If the court finds that evidence offered by the
 8 defendant regarding the sexual conduct of the complaining witness is
 9 relevant, and that the probative value of the evidence offered is not
 10 outweighed by the probability that its admission will create undue
 11 prejudice, confusion of the issues, or unwarranted invasion of the
 12 privacy of the complaining witness, the court shall make an order
 13 stating what evidence may be introduced and the nature of the ques-
 14 tions that may [WHICH SHALL] be permitted. The defendant may then
 15 offer evidence under the order of the court.

16 * Sec. 7. AS 47.10.081(c) is amended to read:

17 (c) The court shall inform the child, the child's parents, [AND]
 18 the attorneys representing the parties, and the guardian ad litem that
 19 the predisposition report will be available to them not less than six
 20 working [10] days before the disposition hearing.

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

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

- 25 (1) the minor has been abandoned;
- 26 (2) the minor has been grossly neglected by the minor's
- 27 parents or guardian as "neglect" is defined in AS 47.17.070(5), and
- 28 the department determines that immediate removal from the minor's
- 29 surroundings is necessary to protect the minor's life or that

6 is a compromise. DFYS
 wanted 2. Predisposition
 report ~~is~~ ^{is} DFYS
 recommendation on where to
 place delinquent minor. Can
 recommend removal from
 home - parents & attorneys need adequate time to review

current:
 neglect only if necessary
 to protect life
 advise if medical
 attention or sexual
 abuse

definition of abuse (p. 10)
 includes sex abuse

1 immediate medical attention is necessary;

2 (3) the minor has been abused by a person responsible for
3 the child's welfare , as "abuse" is defined in AS 47.17.075(1) and
4 the department determines that immediate removal from the minor's
5 surroundings is necessary to protect the minor's life or that immedi-
6 ate medical attention is necessary.

includes sex

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

8 (c) When a child is taken into custody under (a) or (b) of this
9 section, the department shall immediately, and in no event more than
10 12 hours later unless prevented by lack of communication facilities,
11 notify the parents or the person or persons having custody of the
12 child. If the department determines that continued custody is neces-
13 sary to protect the child, the department shall notify the court of
14 the emergency custody by filing, within 24 hours after custody was
15 assumed [AND THE COURT OF THE ACTION AND FILE WITH THE COURT] a peti-
16 tion alleging that the child is a child in need of aid.

17 * Sec. 10. AS 47.10.290 is amended by adding a new paragraph to read:

18 (8) "sexual abuse" means

19 (A) conduct against a child that would constitute a
20 sexual offense under AS 11,41.4

21 (B) the perpetrator's knowingly touching, directly or
22 through clothing, the genital area, groin, inner thighs, or
23 buttocks of a child, or causing a child to touch, directly or
24 through clothing, the genital area, groin, inner thighs, or
25 buttocks of the perpetrator or another; sexual abuse does not
26 include reasonable touching in the exercise of normal caretaker
27 responsibilities for a child or normal caretaker interactions
28 with a child or touching performed for the purpose of adminis-
-4- tering a recognized and lawful form of treatment that is

*notify ct [12] 24 hrs.
Still notify parents 12.
Allows OPS time to determine
if should maintain custody
unnecessary paperwork*

*Child in need of aid
proceedings =
when OPS may
provide services.
Not a prosecution
statute - 11.41.410...
sexual assault in 1st - 4th
degree (penetration +
contact)
age brackets*

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reasonably adapted to promoting the physical or mental health of the child;

(C) exposing the genital area, anus, breast, groin, or buttocks of a child to the perpetrator or another for the sexual gratification of the child, the perpetrator, or another, or exposing the genital area, anus, breast, groin or buttocks of the perpetrator or another to a child for the sexual gratification of the child, the perpetrator, or another; or

(D) statements to a child that express a desire or intent to have sexual contact or sexual penetration with the child or encourage the child to have sexual contact or sexual penetration with the perpetrator or another.

* Sec. 11. AS 47.17.010 is amended to read:

Sec. 47.17.010. PURPOSE. In order to protect children whose health and well-being may be adversely affected through the infliction, by other than accidental means, of harm through physical injury, [ABUSE OR] neglect, [OR] sexual abuse, or sexual exploitation, the legislature requires the reporting of these cases by practitioners of the healing arts and others to the appropriate public authorities. It is the intent of the legislature that, as a result of these reports, protective services will be made available in an effort to prevent further harm to the child, to safeguard and enhance the general well-being of the children in this state, and to preserve family life whenever preserving it is in the best interests of the child [POSSIBLE].

* Sec. 12. AS 47.17.020 is repealed and reenacted to read:

Sec. 47.17.020. REPORTING OF CHILD ABUSE OR NEGLECT. (a) The following persons are required to report abuse or neglect of a child as required in (b) and (c) of this section:

Current statute unclear - not always in best interests of child to remain w/ family. ~~seems to be correct~~

(10) guardian or conservator

Current school teachers & admin.

(licensed) day care providers & staff

report DFYS vs. police
Current statute defines
abuse (47.17.070) as
neglect by person
responsible for child's
welfare. So reporting was
required only of family
members. Expanding to include
definition (sec 27) to include
non-family of offender.
Necessitates gov't taking
to report.

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- (1) practitioners of the healing arts;
- (2) employees and volunteers of private and public schools;
- (3) human services providers; (social workers)
- (4) peace officers, and officers of the Department of Corrections;
- (5) administrative officers of institutions;
- (6) child care providers; (foster homes)
- + (7) counselors, including church counselors and therapists, whether licensed or not;
- + (8) court investigators;
- + (9) employees and volunteers of domestic violence programs, sexual assault programs, or crisis shelters.

(b) A person listed in (a) of this section, who in the performance of the person's (professional) occupational duties has cause to believe that a child has suffered harm as a result of abuse or neglect by a person responsible for the child's welfare, shall promptly report the harm to the nearest office of the department. If the person making a report of harm under this subsection 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.

(c) A person listed in (a) of this section, who in the performance of the person's occupational duties has cause to believe that a child has suffered harm as a result of abuse or neglect, shall promptly report the harm to the nearest law enforcement agency to the person making the report () has cause to believe that the harm was caused by a person who is not responsible for the child's welfare, or (2) is

Contact law enforcement if can't tell who. Then, Sec 14 ->

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unable to determine (A) who caused the harm to the child, or (B) whether the person who is believed to have caused the harm has responsibility for the child's welfare. If a person making a report under this subsection cannot reasonably contact the nearest law enforcement agency, and immediate action appears necessary for the well-being of the child, the person shall make the report to the nearest office of the department. The department shall take immediate action to protect the child and shall, at the earliest opportunity, notify the nearest law enforcement agency.

(d) 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 abuse or neglect. These reports shall be made to the nearest office of the department or to the nearest law enforcement agency in the manner set out in (b) and (c) of this section.

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

Sec. 47.17.023. REPORTS REGARDING CHILD PORNOGRAPHY. A person who, in the course of processing or producing visual or printed matter, either privately or commercially, has reason to believe that the matter visually depicts a minor engaged in conduct described in AS 11.41.455(a) shall promptly report this to the nearest law enforcement agency. The person shall provide copies of the material to the law enforcement agency along with all information known about the origin of the matter.

* Sec. 14. AS 47.17.025 is repealed and reenacted to read:

Sec. 47.17.025. DUTIES OF PUBLIC AUTHORITIES. (a) After receiving a report of harm to a child resulting from abuse or neglect by a person responsible for the child's welfare, a law enforcement agency

new

*reporters
turn over to DFYS
if determine
family offense*

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current law - only addresses intra-family abuses
1) proper notify DFYS immediately
2) DFYS investigate & notify law
3) within 72 hrs, written report to law

adds lang. about non-family offenses

shall immediately notify the Department of Health and Social Services and the Department of Law. The Department of Health and Social Services shall investigate the report and, within 72 hours after receiving the report, shall provide a written report of its investigation to the Department of Law for review. If after a preliminary investigation the Department of Health and Social Services determines that the harm was not caused by a member of the child's family, the department shall so notify the Department of Law.

(b) A report of harm to a child from abuse or neglect required from the department by this section must include:

- (1) the names and addresses of the child and the child's parents or other persons responsible for the child's care if known;
- (2) the age and sex of the child;
- (3) the nature and extent of the harm to the child;
- (4) the name and age and address of the person known or believed to be responsible for the harm to the child, if known;
- (5) information that the department believes may be helpful in establishing the identity of the person believed to have caused the harm to the child.

* Sec. 15. AS 47.17.040(b) is amended to read: *confidentiality*

(b) Investigation reports and reports of harm filed under this chapter are considered confidential and are not subject to public inspection and copying under AS 09.25.110 and 09.25.120. However, in accordance with department regulations, investigation reports may be used by appropriate governmental agencies with child-protection functions, inside and outside the state [ALASKA], in connection with investigations or civil or criminal [JUDICIAL] proceedings involving [CHILD] abuse, neglect, or child custody. A person, not acting in accordance with department regulations, who makes public information

State vs whether harm "judicial" meant only civil (CINA is civil)

1 contained in confidential reports is guilty of a misdemeanor.

2 * Sec. 16. AS 47.17.050 is amended to read:

3 Sec. 47.17.050. IMMUNITY. A person who, in good faith, makes a
4 report under this chapter, or who participates in civil or criminal
5 [JUDICIAL] proceedings related to the submission of reports under this
6 chapter, is immune from any civil or criminal liability that [WHICH]
7 might otherwise be incurred or imposed.

same

8 * Sec. 17. AS 47.17.060 is amended to read:

9 Sec. 47.17.060. EVIDENCE NOT PRIVILEGED. Neither the physi-
10 cian-patient nor the husband-wife privilege is a ground for excluding
11 evidence regarding a child's harm, or its cause, in a civil or crimi-
12 nal [JUDICIAL] proceeding related to a report made under this chapter.

13 * Sec. 18. AS 47.17.064 is repealed and reenacted to read:

14 Sec. 47.17.064. PHOTOGRAPHS AND X-RAYS. The department or a
15 practitioner of the healing arts may, without the permission of the
16 parents, take the following actions with regard to a child believed to
17 have suffered physical harm as a result of abuse or neglect by a
18 person responsible for the child's welfare

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

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

24 * Sec. 19. AS 47.17.068 is repealed and reenacted to read:

25 Sec. 47.17.068. PENALTY FOR FAILURE TO REPORT. A person
26 who knowingly fails or refuses to report as required under AS 47.17.-
27 020 of 47.17.023 is guilty of a class B misdemeanor.

28 * Sec. 20. AS 47.17 is amended by adding a new section to read:

29 Sec. 47.17.069. PROTECTIVE INJUNCTIONS. (a) The attorney

*because removed phrase
"responsible for child's
welfare" from definition
of abuse, necessary here
to add it back in!
Don't change intent!*

*class B - 90 day term
penalty unchanged
film process*

Hein: But then requiring physician to report every injured child that comes in!

1 general may bring an action to enjoin or limit a person from contact
2 with a child not related to the person if the person

3 (1) has sexually abused a child;

4 (2) has physically abused a child;

5 (3) has failed without lawful excuse to provide necessary
6 food, care, clothing, shelter, supervision, or medical attention for a
7 child entrusted to the care of the person; or

8 (4) otherwise constitutes a substantial danger to the
9 mental, emotional, or physical welfare of a child.

10 (b) The court may grant an order in the form that is best suited
11 to protect a child from harm based upon the facts of the case. This
12 section does not limit the authority of the attorney general or the
13 court to act to protect a child.

14 * Sec. 21. AS 47.17.070(1) is amended to read:

15 (i) "[CHILD] abuse [OR NEGLECT]" means nonaccidental [THE

16 physical injury [OR NEGLECT], sexual abuse, sexual exploitation, or
17 maltreatment of a child [UNDER THE AGE OF 16 BY A PERSON WHO IS RE-
18 SPONSIBLE FOR THE CHILD'S WELFARE] under circumstances that [WHICH]
19 indicate that the child's health or welfare is harmed or threatened
20 thereby;

21 * Sec. 22. AS 47.17.070(6) is amended to read:

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

27 * Sec. 23. AS 47.17.070(7) is repealed and reenacted to read:

28 (7) "sexual exploitation" means
29 (A) permitting, encouraging, inducing, or employing a

neglect both defined
child 47.17.070
"responsible for child's welfare"
has been added in as necessary

Sipe: primary definition for separating - Raises ambiguity how know if accidental?

inducing, or employing a

Same conduct against child should be reported whether caused by family or non-family member.

takes out "by person responsible for child's welfare"

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child to engage in prostitution or in the promotion of prostitution as set out in AS 11.66.100 - 11.66.150; or

(B) engaging in conduct described in AS 11.41.455;

* Sec. 24. AS 47.17.070 is amended by adding new paragraphs to read:

(8) "child care provider" means an adult individual, or an employee or volunteer of an organization, who provides care and supervision to a child;

(9) "human services provider" includes an individual human services provider, and an employee or volunteer of a human services organization, such as a social service, youth service, mental health, or substance abuse agency, or a shelter for runaway or homeless youth;

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

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

* Sec. 25. AS 47.35.070 is amended to read:

Sec. 47.35.070. VIOLATIONS. A person who violates a provision of this chapter [AS 47.35.010 - 47.35.100] or a regulation adopted under this chapter [AS 47.35.010 - 47.35.100] is guilty of a class 3 misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE OF NOT MORE THAN \$200]

* Sec. 26. AS 47.35.070 is amended by adding a new subsection to read:

(b) The department may by regulation devise a system of civil

*class B - 90 day
conforming per
criminal code
fine allowed
sec 26*

*not
relating
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enforcement. The system may employ civil penalties not to exceed \$200 for each day during which one or more violations of a licensing statute or licensing regulation occurs. The imposition of a civil penalty does not prevent prosecution and sentence for a criminal offense.

health & safety infractions?

Introduced: 1/23/85
Referred: Health, Education & Social Services
and Judiciary

1 IN THE SENATE

BY DEVRIES

2

SENATE CONCURRENT RESOLUTION NO. 3

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to background checks on school

6

district employees who come into contact

7

with children.

8

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

9

WHEREAS sexual abuse of minors is a serious and widespread problem;

10 and

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WHEREAS existing law permits employers of individuals having contact

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with children to obtain certain information on convictions of these indi-

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viduals relating to sex crimes (AS 12.62.035);

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BE IT RESOLVED by the Alaska State Legislature that local school

15

districts are encouraged to implement appropriate background checks on all

16

school district employees who come into contact with children.

Introduced: 2/12/85
Referred: Judiciary

BY RODEY, V. FISCHER,
KERTTULA, HALFORD,
STURGULEWSKI, FAIKS,
AND ZHAROFF

1 IN THE SENATE

2

SENATE CONCURRENT RESOLUTION NO. 5

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

Relating to printing pictures of and

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information about missing children on

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milk cartons.

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

9 WHEREAS thousands of children in the United States are abducted each
10 year; and

11 WHEREAS a lack of coordination among law enforcement agencies in
12 different jurisdictions has made it difficult to locate missing children
13 taken across state lines; and

14 WHEREAS milk carton manufacturers have developed a program to print
15 the pictures of missing children and information about them on millions of
16 milk cartons across the country; and

17 WHEREAS the program provides wide dissemination on a product that has
18 a short shelf life, allowing frequent rotation of pictures and information:
19 and

20 WHEREAS the program already has been responsible for the return of
21 some missing children;

22 BE IT RESOLVED by the Alaska State Legislature that milk producers and
23 distributors in the state are respectfully requested to participate fully
24 in the program and encourage others in the dairy industry to participate.

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NOTE: References to Senate bills correspond to House bills as follows:

SB 3.....HB 67
SB 21.....HB 308
SB 86.....HB 19
SB 243.....HB 88
SCR 3.....HCR 2

MISSING PERSONS

1) Clearinghouse for Central Registry

EXISTING

Under the authority of AS 12.62, which allows for adoption of procedures to facilitate and regulate the exchange of criminal justice information, the Department of Public Safety accepts missing person reports from local law enforcement agencies. Reports are entered as "locates" in the Alaska Public Safety Information Network (APSIN), and after 48 hours are transferred to the "missing person" list. This computer system is capable of accessing the National Crime Information Center (NCIC, a comprehensive tracking system for missing persons and the unidentified dead established by the FBI), and names are currently entered into the NCIC on a discretionary basis.

PROPOSED

SB 86 would require that within 24 hours of receipt of a missing minor report, the law enforcement agency transmit the report for entry into APSIN and NCIC. Within 24 hours of locating the minor, the information must be removed from the computer.

2) Unidentified Deceased Persons

EXISTING

As mentioned in (1), the Department of Public Safety has the capability of accessing NCIC.

3) Eliminating Waiting Periods

EXISTING

Current statute does not specify a waiting period for filing a missing person report. However, statistics show that missing persons generally return within 48 hours, so many law enforcement agencies do wait 24-48 hours.

PROPOSED

SB 86 would require that, upon receiving a request to locate a missing or runaway minor, a law enforcement agency make reasonable efforts to locate the minor and immediately complete a missing person's report. As soon as practicable, but not later than 24 hours after completing the report, it must be entered into APSIN and NCIC.

CHILD ABUSE AND EXPLOITATION

1) Child Abuse Reporting

EXISTING

AS 47.17.020 lists those persons required to report incidents of child abuse and neglect. Reports are made to the Department of Health and Social Services or to a police officer. The Department must investigate the harm, and provide a written report to the Department of Law. Failure to report (AS 47.17.068) is a Class B misdemeanor.

PROPOSED

SB 243, Section 12 expands the list of those people required to report. In addition it clarifies that intra-family offenses are to be reported to the Department of Health and Social Services and other offenses to police officers, but allows reports to be made to either. This reflects the Department's current scope of services, which is limited to intra-family offenses.

2) Child Protection Teams

EXISTING

Several local areas (Mat-Su, Fairbanks, Homer, Kenai, Dillingham) have adopted a team investigation approach to child sexual abuse cases. Commonly, a complaint is filed with DFYS, who contacts the troopers if a crime has been committed. The troopers interview the child, the offender, and the non-offending parent. A physician performs a sexual assault exam on the child. A non-profit advocacy group counsels the non-offending parent. The troopers are the central information point, and once all the information is gathered they take it to the District Attorney.

PROPOSED

SB 27 would appropriate \$235,900 to the Council on Domestic Violence and Sexual Assault for training teams of community professionals. The Council proposes to provide training to the Division of Family and Youth Services, troopers, medical personnel, district attorneys, sexual assault and mental health programs, private therapists, teachers, police, and others.

3) Physical Exams

EXISTING

Under the authority of AS 18.68.010, the Department of Public Safety has developed a sexual assault examination kit, and has provided training for state and local law enforcement officials and physicians. Protocols governing the use of the kit

have been developed. Troopers pay for exams done as part of an investigation. The Violent Crimes Compensation Board (AS 18.67) pays for follow-up medical exams on a funds available basis.

The Board received \$564,200 in FY 85, and currently has a supplemental appropriation request of \$300,000 pending. The FY 86 budget request is \$564,200. All claims are awarded on a funds available basis.

PROPOSED

The protocols have not been developed specifically for child victims. A formal letter to the Department urging that the protocols be expanded to address the needs of child victims is being prepared.

4) Emergency Protection

EXISTING

AS 47.10.142 authorizes the Department of Health and Social Services to take emergency custody of a child who has been abandoned, for whom medical attention is necessary, for whom removal from surroundings is necessary to protect the minor's life, or who has been sexually abused by the child's guardian.

AS 47.10.140(f) allows a peace officer to detain a minor who is evading the minor's guardian for purposes of returning the minor to the guardian or to the Department of Health and Social Services.

AS 47.10.142(b) allows a child who has left home to obtain services from the Department of Health and Social Services.

PROPOSED

Section 9, SB 243 allows the Department 24 hours in which to file a petition with the court alleging that a child should remain in state custody. This provides the Department an opportunity to determine if continued custody is necessary and avoid filing paperwork if it is not.

SB 86 would clarify that, in instances where detention or arrest is not warranted, a peace officer may take protective custody of a missing or runaway minor.

5) Limiting the Number of Interviews

EXISTING

Per the Department of Law, Public Safety, Health and Social Services, and Corrections interagency agreement (September 1984), protocols to limit the number of interviews of a child victim are being developed. The agencies are currently finalizing procedures, which will be available to communities

in developing local protocols. The Council on Domestic Violence and Sexual Assault will assist in development of local protocols, which are to be filed with the Council.

6) Endangering the Welfare of a Minor

EXISTING

Under AS 11.51.100 it is a Class C felony if a person legally charged with the care of a child under the age of 10 intentionally deserts the child under circumstances creating a risk of physical injury to the child.

PROPOSED

SB 243, Section 2 would clarify that persons entrusted with the care of a child (babysitters, for example) are also liable for criminal penalties (Class A misdemeanor) for exposing a child to physical injury, and would expand the law's coverage to children under the age of 13.

7) Definition of Sexual Abuse

EXISTING

AS 11, the Criminal Code, establishes criminal penalties for sexual offenses against minors, but does not provide a definition of sexual abuse. The term "sexual abuse" is used throughout Title 47, but is not defined.

EXISTING

SB 243, Section 10 adds a definition of sexual abuse to Title 47. This definition would be used in determining when the state should provide services to children who are sexually abused by family members.

8) Temporary Restraining Orders

EXISTING

AS 23.35.010 - .020 provides for injunctive relief and emergency injunctive relief to be granted to victims of domestic violence. By definition, an injunction may be served only when the victim cohabits with the perpetrator.

PROPOSED

SB 243, Section 20 authorizes the state to enjoin or limit persons unrelated to a child victim from having contact with children.

In addition, SB 29 broadens the definition of domestic violence, and hence those who can file petitions for injunctive

relief, to include grandparents and children, regardless of whether they are cohabiting with the abuser.

SB 1 (HB 119), would give the superior court and district court compatible jurisdiction over domestic relations matters. SB 67 would require local law enforcement officers, rather than state troopers, to serve domestic violence injunctions. Both bills are intended to increase the efficiency of the existing TRO process.

CRIMINAL CODE PROVISIONS

1) Statute of Limitations

EXISTING

The general statute of limitations is five years (AS 12.10.010). AS 12.10.020(c) allows an extension of five additional years for a sexual offense committed against a person under age 16.

PROPOSED

SB 243, Section 5 would include prostitution related offenses among those to which the extension applies.

2) Rape Shield

EXISTING

AS 12.45.045 limits introduction in a sexual assault trial of the victim's previous sexual conduct.

PROPOSED

SB 243, Section 6 clarifies that these same protections apply to child victims as well.

3) Mandatory Prison Sentences For Sex Offenders

EXISTING

Current statutes establish presumptive terms for sex offenders. AS 12.55.125 provides for a maximum 30 year sentence with 8 years presumptive for sexual abuse of a minor in the first degree (sexual penetration), a maximum 10 year sentence for sexual abuse of a minor in the second degree (sexual contact under 13; incest), a maximum 5 year sentence for third degree (sexual contact over 13). Presumptive sentences apply in second offenses of second and third degree abuse.

A presumptive sentence provides for a set term, which can be reduced or increased based on aggravating and mitigating factors (AS 12.55.155); there is no parole eligibility under a presumptive sentence. By contrast, mandatory sentences provide for a minimum and maximum term, and the judge has discretion to sentence within that range; parole may be granted after 1/3 of the sentence has been served.

PROPOSED

The recent Serdahely decision in the Cleary case calls for a study (by July 1985) of the impact of presumptive sentencing on prisoner populations. The results of the study should be reviewed and possible recommendations for statutory revision considered.

4) Parole Requirements for Sex Offenders

EXISTING

Our current presumptive sentencing procedure does not provide for parole. Non-presumptive sentences can carry parole of the unserved portion of a sentence (generally 1/3 of the term), and probation as ordered by the court. AS 33.15.065 allows the victim to be notified of and comment on parole hearings.

CHILD IN COURTROOM

Article IV , Section 15 of the Alaska State Constitution authorizes the Supreme Court to promulgate rules governing procedure in civil and criminal cases in all courts. Rules may be changed by a two-thirds vote of the Legislature.

1) Consider the Child a Competent Witness

EXISTING

Evidence Rule 601 does not presume against a child's capacity to testify. All witnesses must demonstrate the difference between the truth and a lie, and the ability to be understood by the court either directly or through interpretation.

2) Permit Leading Questions

EXISTING

Evidence Rule 611 recognizes that leading questions are a proper part of cross-examination, and specifically addresses witnesses having difficulty in communicating because of immaturity.

3) Hearsay Evidence

EXISTING

Alaska Criminal Rule 6(r) allows hearsay evidence to be presented to the grand jury if there is compelling justification for its introduction.

PROPOSED

SB 3 would allow the out of court statement of a child under the age of 10 to be introduced at grand jury proceedings. The child must testify at the proceeding or be unavailable as defined in the bill. The grand jury must be informed of the reason for the child's unavailability, and corroborative evidence must be introduced.

4) Videotaping

EXISTING

AS 12.45.047 allows the court to videotape the testimony of a child victim (under age 16). The trial judge presides at the videotaping, and the defendant is afforded all rights applicable to defendants during trial.

PROPOSED

The videotape of a child victim's statement is considered hearsay evidence. Under proposed SB 3, a videotape could be introduced to the grand jury if the criteria of the bill are met.

5) Closed Circuit TV

EXISTING

Use of closed circuit TV, whereby the child's testimony is recorded in a separate room and televised in the courtroom, is not current practice in Alaska. The Juneau Court System has the capability (with VCRs and monitors) of using closed circuit TV, and has indicated interest in using it before the grand jury. Use of closed circuit TV at trial is currently being challenged in the California courts as a violation of the Sixth Amendment guarantee of the accused to confront the witness.

6) Remove Corroboration Rules

EXISTING

Alaska has no corroboration rules for child sexual assault cases.

7) Anatomical Dolls

EXISTING

Evidence Rules 401 and 402 deem all relevant evidence admissible. Evidence is relevant if it makes the existence of any fact more or less probable. The Alaska Court System currently allows the use of anatomical dolls as evidence.

8) Prompt Disposition of Cases

EXISTING

Criminal Rule 141 requires that trial begin within 120 days of the charge.

9) Bill of Rights for Child Victims

EXISTING

AS 12.61.010 assures that victims will be given certain assistance during the course of a criminal proceeding. Specific rights include: protection from harm, notification of date of trial, notification of procedure to obtain victim compensation, provision of medical assistance.

PROPOSED

10) Guardian Ad Litem

EXISTING

AS 25.24.310(c) allows the court to appoint an attorney or other person to provide guardian ad litem services to a minor in any legal proceeding involving the minor's welfare. If the parties are indigent, the Office of Public Advocacy (AS 44.21.410) serves as the guardian. The Office was established in 1984 and charged with providing public guardian and guardian ad litem services. Offices are located in Fairbanks and Anchorage, with contract services provided throughout the state. FY 85 budget was \$2.176 million. In 1984, 700 guardians ad litem were appointed by the court.

PRIVACY PROTECTION

- 1) Protect child victim's identity from disclosure

EXISTING

AS 47.17.090 prohibits disclosure of all court records and information pertaining to a minor (age 18 and under). Children's Court Rule 26 prohibits release to the public of the name or picture of a child under its jurisdiction. In addition, AS 12.45.048 allows the exclusion of the public from the courtroom during the testimony of a child under the age of 16 who is the victim of a sexual offense.

EDUCATION AND PREVENTION

1) School District Curricula

EXISTING

AS 14.30.360 encourages school districts to conduct health education programs, including instruction in family health and appropriate use of health services. This is the only curriculum (other than bilingual-bicultural education) addressed in the statutes. Standard procedure in Alaska is for local districts to develop curricula through a public hearing process. The Department has developed model curricula, which serve as guidelines for the school districts.

PROPOSED

SB 8 would urge expansion of existing health curricula to include the identification and prevention of child abuse, child abduction, neglect, sexual abuse, and domestic violence. Assistance in developing curricula would be provided by the Department of Education and the Council on Domestic Violence and Sexual Assault.

2) Training for Teachers

EXISTING

AS 14.03.030 authorizes school districts to offer up to 10 days of in-service training. Training programs are left to local discretion.

PROPOSED

SB 28 would require that each school district devote one half day of inservice training to recognition and reporting of child abuse and neglect for both school teachers and administrative staff.

3) Training for Judges

EXISTING

Justice Rabinowitz, Chief Justice of the Alaska Supreme Court, supervises training for all justices, judges, and magistrates in Alaska. In the last year, the Judicial Conference has included training on domestic violence and will be including a session on child abuse this spring.

4) Training State Employees

EXISTING

AS 47.17.020 requires reporting by certain state employees and others of suspected incidents of child abuse and neglect.

PROPOSED

SB 28 would require state agencies that employ people who are required to report to provide ongoing training on the recognition and reporting of child abuse and neglect.

LICENSING AND BACKGROUND CHECKS

1) Criminal History Check on Supervisors of Children

EXISTING

AS 12.62.035 allows any employer to examine the criminal conviction records (sexual offenses only) of persons who hold or are applying for paid or volunteer positions which would give them supervisory or disciplinary power over children.

PROPOSED

SB 21 expands the type of convictions that may be released to include all crimes that might pose a risk to children, and allows the release of outstanding warrants for these crimes.

2) Criminal History Checks on Foster and Adoptive Parents

EXISTING

AS 25.23.100(d) requires that the Department of Health and Social Services, or another qualified agency, as ordered by the courts, determine the suitability of adoptive families. 7AAC 51.420, which governs home evaluations of adoptive families, does not specify that criminal history checks be performed.

7AAC 50.410 governs qualifications of foster parents, and allows for review of state and local law enforcement arrest and conviction records.

PROPOSED

SB 21 would require the Department to request a background check by the Department of Public Safety on persons seeking to adopt a minor and on foster parents.

3) Criminal History Checks on School Employees

EXISTING

The general provisions of AS 12.62.035 apply to school employees as well.

PROPOSED

SCR 3 would encourage local school districts to implement background checks on school employees. This resolution reflects the state board's policy of local control.

TREATMENT/REHABILITATION

1) State Payment for Treatment of Child Victim

EXISTING

The Department of Health and Social Services' policy is to provide initial treatment during the investigation/assessment phase of a child sexual abuse case, and to refer the child elsewhere for ongoing treatment. Some treatment providers charge no fees; others have sliding fee scales. The Department pays for the service when funds are available.

The Department's Preventive Youth Services Grant program provides funding to community mental health programs, local non-profits, and others specifically for treatment and counseling of victims of child abuse and neglect.

The Council on Domestic Violence and Sexual Assault also administers grants. The Council is currently funding 23 programs, 19 of which deal with child sexual assault. FY 85 funding was \$4.3 million.

The Community Mental Health Services Act (AS 47.30.520-.620) provides state funding for locally developed and administered community mental health programs. 26 programs currently exist and many provide services to victims and families of sexual assault. FY 85 funding was \$5.7 million.

Treatment resources are not adequate for the child victim. Some children are going untreated, particularly in rural areas of the state.

PROPOSED

Funding mechanisms and programs exist. However, many programs are not accepting new referrals or have month-long waiting periods because of insufficient staffing. FY 86 budget requests (per Governor's proposed budget):

Preventive Youth Services	\$1,500,000
Council on Domestic Violence	4,985,000
Community Mental Health	6,280,000

2) Perpetrator Pay for Treatment of Child

EXISTING

The courts may order that restitution be made to the victim. Case law states that the amount of restitution must be determined at the time of sentencing, and that a hearing must be held to determine the perpetrator's ability to pay.

In addition, AS 18.67.101 authorizes the Violent Crimes Compensation Board to pay for costs of personal injury resulting from sexual assault, sexual abuse, and contributing to the

delinquency of a minor. This includes psychological counseling.

3) Rehabilitation of Offenders

EXISTING

The Department of Corrections offers treatment programs for sex offenders at the Fairbanks Correctional Center (capacity for 20 offenders) and at Highland Mountain (capacity for 60 offenders), and has recently awarded a contract to Juneau's Lemon Creek facility (40 offenders). Alaska has approximately 400 sex offenders in its corrections system. Policy is to offer treatment to prisoners in the last three years of their sentence, with priority placement based on the age of the victim, the number of victims, whether treatment has been ordered by the court, and the offender's willingness to receive treatment. Treatment continues on an outpatient basis throughout parole. Average annual cost per offender is \$3-4,000. Some offenders are being released without treatment.

PROPOSED

The Department of Corrections' FY 86 budget proposes funding for the expansion of the Highland Mountain program to 80. The Cleary decision mandates an evaluation (by July) of the currently offered rehabilitation programs, and calls for additional offerings at specific facilities. The Department's findings should be reviewed and possible funding needs considered at that time.

PARENTAL KIDNAPPING

1) Penalties for Parental Kidnapping

EXISTING

Under AS 11.41.320-.333, "custodial interference" (a relative of the child taking the child from the lawful custodian) is a Class A misdemeanor. If the child is removed from the state it becomes a Class C felony.

CHILD PORNOGRAPHY AND PROSTITUTION

1) Production and Distribution of Child Pornography

EXISTING

Under AS 11.61.125 it is a Class C felony to bring child pornography into the state for commercial sale or distribution, or to possess or publish such material with intent to sell commercially.

PROPOSED

SB 243, Sections 3 and 4, removes the requirement that distribution be for commercial purposes, and defines distribution to include delivering, selling, renting, lending, giving, exhibiting, presenting, providing, and exchanging, whether or not for monetary or other consideration.

2) Allow for Expert Witnesses to Prove Age of Child

EXISTING

Criminal Rule 28 allows the court to appoint any expert witnesses agreed upon by the parties, and to appoint witnesses of its own selection as well.

3) Penalties for Those Aiding/Promoting Child Pornography

EXISTING

Under AS 11.41.455 it is a Class 3 felony to induce or employ, or as a parent permit, a child under the age of 18 to engage in pornography.

4) Penalties for Those Aiding/Promoting Child Prostitution

EXISTING

Under AS 11.66.110(a)(2) it is a Class A felony to induce a person under the age of 16 to engage in prostitution.

5) Penalties for Patronizing a Child Prostitute

EXISTING

Under AS 11.41.434 sexual penetration of a child under the age of 13 is an unclassified felony. Under AS 11.41.436, sexual abuse of a child under the age of 16 is a Class B felony.

CSSB 243 (HESS), Relating to the protection of children

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 13 (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.

Sections 3 and 4

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. Section 3 strengthens existing law, by explicitly prohibiting sale, and further, prohibits sale and distribution whether or not for commercial consideration.

Section 5

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 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.

Section 7

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 six (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.

Section 8

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 9

Section 9 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 10

Section 10 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.

Section 11

AS 47.17.010 is a statement of legislative intent that protective services should be provided to child victims of abuse and neglect to prevent further harm to the child, enhance the general well-being of children, and preserve family life. Section 11 clarifies that family life should be preserved whenever it is in the best interests of the child to do so.

Section 12

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.

Under present law, persons in the categories listed in AS 47.17.020 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." 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 12 adds a new provision 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.

If the person reporting the abuse is not aware of the perpetrator's relationship to the victim, Section 12 allows a report to be made to either DFYS or a law enforcement officer.

Section 13

Section 13 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 14

The current scope of DFYS services does not extend beyond intra-family offenses. Section 14 clarifies that if, after a preliminary investigation, DFYS determines that the harm was not caused by a family member, the report shall be turned over to a local law enforcement officer.

Section 15 - 17

Sections 15, 16 and 17 amend the confidentiality, immunity, and privileged evidence provisions in existing AS 47.17 to make it clear that the applicability of these provisions applies to both civil and criminal proceedings. 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.

Section 18

Section 18 contains a conforming amendment per the clarified definition of abuse in Section 21.

Section 19

This section contains a conforming amendment extending existing "B" misdemeanor penalties for failure to report suspected child abuse, as explained above regarding Section 13.

Section 20

Section 20 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 21

This section clarifies the definition of abuse in AS 47.17 (reporting statute) in light of existing definitions of "neglect" and "child" in this section. Abuse as used in Title 47 would apply to all incidents of harm against children regardless of who the perpetrator is unless it is specifically stated that the perpetrator must be a person responsible for the child's welfare. This distinction is necessary, as DFYS's scope does not extend beyond intra-family abuses.

Section 22

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 dental hygienists, 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 23

This section clarifies the definition of sexual exploitation in AS 47.17 (reporting statute).

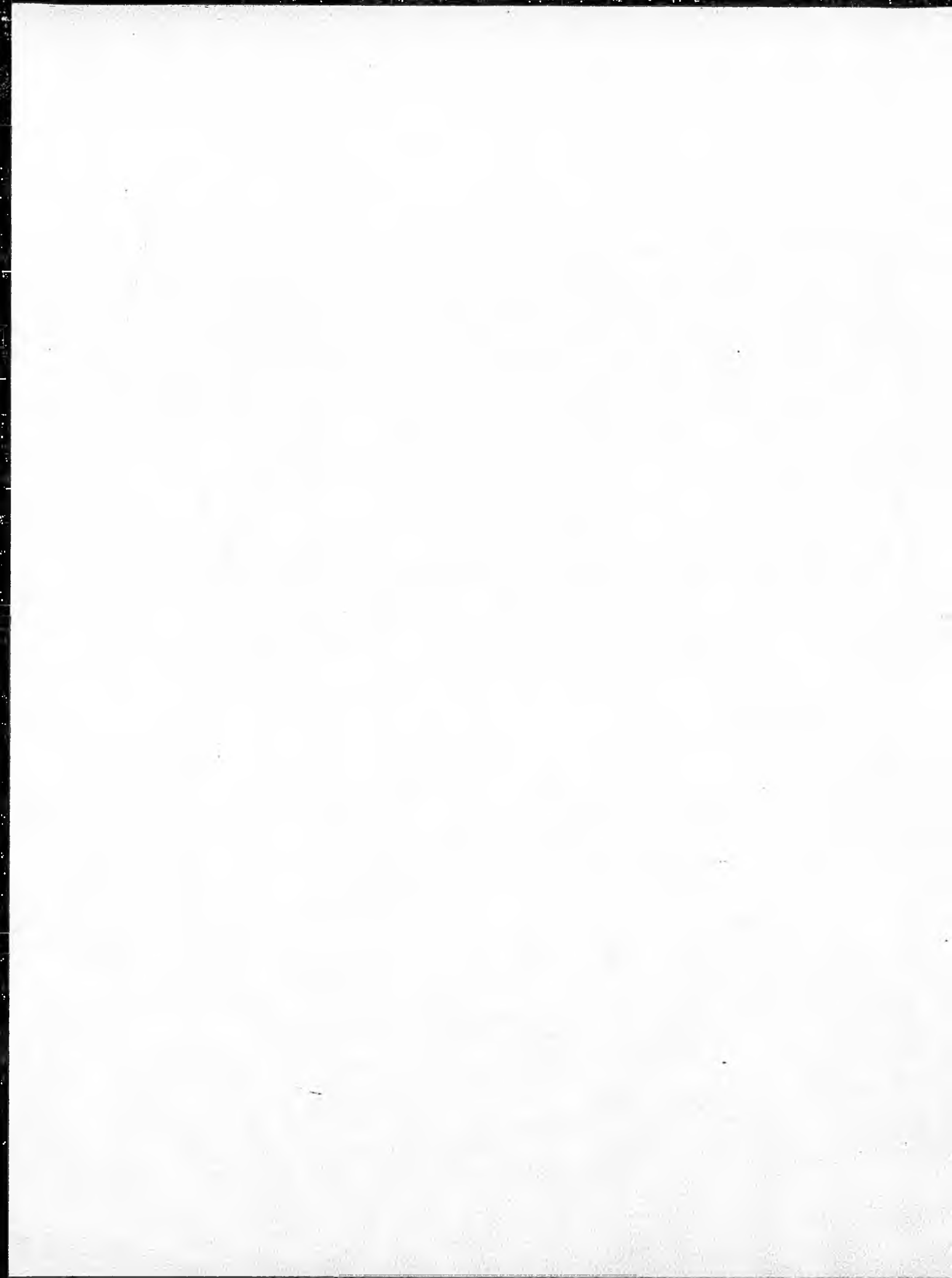
Section 24

This section adds new definitions related to the expanded classes of persons who must report child abuse.

Sections 25 and 26

Section 25 amends AS 47.35.070(a) to bring this statute into conformity with the criminal code by making violations of child care licensing statutes and regulations a class B misdemeanor. Section 26 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.



CHILD AND FAMILY PROTECTION

FINANCIAL IMPLICATIONS

Statistics kept by the Division of Family and Youth Services (DYFS), Department of Health and Social Services indicate a 219% increase in reports of child abuse and neglect during the six year period FY 78 to FY 83. Although a similar statistic has not been developed by the Department of Public Safety, the department's monthly reports indicate a corresponding increase in reports to law enforcement officials. Reports made to DFYS are generally intra-family abuses. Abuse by an individual not related to the child victim is handled by local law enforcement agencies and the state troopers.

Fiscal notes are currently being developed on the proposed legislation. Fiscal notes on the original versions of these bills were primarily for additional staff positions to handle the expected increase in the number of reports of abuse and the corresponding number of prosecutions, incarcerations, and counseling referrals. Many of these increased staffing needs exist now. The following is an identification of services that will be impacted.

The Governor's proposed FY 86 budget contains increased funding, as indicated below, for the following:

<u>DFYS, Social Workers</u>	<u>\$1,873,600</u>
-----------------------------	--------------------

Although the overall DFYS caseload has increased 173% since FY 78, there has been only an 18% increase in social work staff during that period. In many field offices the average number of cases per social worker exceeds the maximum caseload standard of 50, which limits services to a level little greater than crisis response. The Governor's proposed budget contains funding for an additional 15 social workers, 6 clerks, 3 licensing specialists, and 15 field support staff.

<u>Department of Law Prosecutors</u>	<u>\$1,300,000</u>
--------------------------------------	--------------------

The increase of prosecutions in child sexual assault offenses will necessitate an increase in the number of both prosecutors and defense attorneys. The Governor's proposed budget contains funding for an additional 9 prosecuting attorneys and 6 paralegals.

The following agencies have submitted fiscal notes for costs that will be incurred due to the increase in prosecutions additional prosecuting attorneys will allow. The Governor's proposed FY 86 budget contains only maintenance level funding.

<u>Public Defenders</u>	<u>\$437,200</u>
-------------------------	------------------

The Public Defender Agency was established in the Department of Administration in 1969 to serve the needs of indigent defendants.

The agency has requested funding (through a fiscal note) for an additional 2 defense attorneys and 4 paralegals.

Alaska Court System \$145,900

Judges statewide have indicated that additional judicial resources are necessary. The court system has requested funding for 2 additional judges and a clerk, to be assigned on a pro tempore basis.

Office of Public Advocacy \$296,100

The Office of Public Advocacy was established in 1984 and charged with providing public guardian and guardian ad litem services in children's proceedings. The office has requested funding (through a fiscal note) for 4 new positions.

The following programs provide funds for education and treatment of victims of child abuse and their families. Figures noted here are from the Governor's proposed FY 86 budget, and for the most part do not represent increases over FY 85. At this funding level, treatment resources are inadequate for the child victim, and not all children are receiving treatment.

Council on Domestic Violence and Sexual Assault \$4,985,000

*-\$575,000 increase
over FY 85*

The Council on Domestic Violence and Sexual Assault was established in the Department of Public Safety in 1981 to provide for planning and coordination of services to victims of domestic violence or sexual assault and their families, and to provide crisis intervention and prevention programs. The Council is currently administering grants for 19 programs which deal with child sexual assault.

Community Mental Health Programs \$6,280,000

The Community Mental Health Services Act provides state grants for locally developed and administered mental health programs. Many of these programs provide services to victims and families of sexual assault.

Preventive Youth Services Grants, DH&SS \$1,500,000

Administered by the Department of Health and Social Services, this grant program provides funding to community mental health programs, local non-profits, and others for education and treatment of victims of child abuse and neglect.

Violent Crimes Compensation Board \$564,200

The Board is authorized to pay for costs of personal injury resulting from sexual assault, sexual abuse, and contributing to the delinquency of a minor. "Personal injury" includes psychological counseling.

In addition to these general costs:

SB 27 would appropriate \$235,900 to the Council on Domestic Violence and Sexual Assault for training teams of community professionals on the prevention, intervention, investigation, and treatment of sexual and physical abuse of minors.

SB 8 carries a \$20,000 fiscal note ~~from~~ the Department of Education for providing technical assistance to school districts in expanding health curricula.

Impacts on the state corrections system have not been measured.

DFYS Social Workers

APPENDIX A

Recommended Staff Augmentation by Location

SUMMARY OF REQUEST - 35 POSITIONS

Social Workers - 15 Full-Time Positions

Community Care Licensing Specialists - 5 Full-Time Positions

Administrative and Clerical Support - 15 Positions
11 Full-Time Positions
8 Part-Time Positions

Southcentral Region - 17 Positions

Anchorage Service Unit

1 Social Worker IV
1 Social Worker III
2 Social Worker I's
2 Community Care Licensing Specialist I's
2 Clerk Typist III's

Kenai

2 Social Worker III's

Homer

1 Social Worker III
1 Clerk Typist III

Field Office Clerical Support

3 Clerk Typist III's
.5 Valdez
.5 Copper Center
.5 Unalaska
.5 Wasilla
.5 Cordova
.5 Dillingham

Regional Office

1 Administrative Assistant II
1 Accounting Clerk III

Northern Region - 11.5 Positions

Fairbanks Service Unit

2 Social Worker III's
2 Community Care Licensing Specialist I's
2 Social Services Associate III's
1 Clerk Typist III

Delta

.5 Clerk Typist III

Galena

1 Social Worker III

Northern Region (continued)

Barrow

1 Clerk Typist III

Regional Office

1 Administrative Assistant III
1 Accounting Clerk II

Southeastern Region - 6.5 Positions

Juneau Service Unit

1 Social Worker IV
1 Social Worker III

Ketchikan Service Unit

1 Social Worker III
1 Community Care Licensing Specialist I
1 Clerk Typist III

Craig

.5 Clerk Typist III

Regional Office

1 Administrative Assistant I

Department of Law / Prosecutors

The \$1.3 million total accounts for almost all of the department's proposed increase of about 11 percent for FY 86.

* \$119,200 for the First Judicial District (Juneau and Ketchikan).

* \$214,100 for the Second Judicial District (Barrow and Kotzebue).

* \$481,600 for the Third Judicial District (Southcentral).

* \$179,800 for the Fourth Judicial District (Fairbanks).

* \$311,100 for Legal Services.

Nine new attorneys and six new paralegals would be added to work solely on child protection statewide.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 1/22/85

Page 1 of 9

REQUEST
Bill/Resolution No.: HB 88
Title: "An Act relating to the protection of children"
Committee: Rules Committee
Requestor: House Judiciary
Date of Request: 1/19/85

FISCAL DETAIL
Agency Affected: Administration
Program Category Affected: Due Process
Sub-Program or Subprogram Affected: Public Defender Agency

APPROXIMATE REQUIREMENTS: (Thousands of Dollars)

	FY 85	FY 86	FY 87	FY 88	FY 89	
OPERATING:						
PERSONNEL SERVICES		247.7	263.6	290.7	314.1	339.0
OPERATING		30.0	31.3	32.7	35.7	37.3
NON-PERSONNEL		43.5	45.1	48.9	51.2	54.3
OPERATING		6.5	6.9	7.3	7.7	8.2
DEVELOPMENT		9.5	-0-	-0-	-0-	-0-
EQUIPMENT & STRUCTURES						
TRAVEL, CLAIMS						
OTHER SERVICES						
TOTAL OPERATING	-0-	437.2	453.4	480.6	509.3	539.9

FUNDING: (Thousands of Dollars)

FEDERAL FUNDS	-0-	437.2	453.4	480.6	509.3	539.9
STATE						
TOTAL						

POSITIONS:

PERMANENT	-0-	6.0	6.0	6.0	6.0	6.0
TEMPORARY						

ATTACHMENTS: (Attach a separate page if necessary)

See attached fiscal analysis

Dana Fabe
Requested by: Dana Fabe, Public Defender
Division: Public Defender Agency

Phone: 279-7541
Date: 1/22/85

Approved by Commissioner: Lisa Rudd
Agency: Department of Administration

Date: 1/30/85

Distribution (by Agency preparing fiscal note):

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

House Bill 88
 Fiscal Note Analysis
 Prepared by Division of Public Defender Agency
 Department of Administration
January 22, 1985

This legislation has been introduced by the Governor as part of a total child protection package. The various sections of this legislation will increase the number and strength of prosecutions of persons charged with offenses against children, particularly sexual abuse of minors. As part of this child protection package, the Governor's operating budget requests new positions in the Department of Law and the Department of Health and Social services to accomplish this goal.

The increase of prosecutions in child sexual assault offenses will necessitate six new positions for this agency. These positions are the bare minimum necessary to handle the anticipated increase in workload and avoid inordinate delays in processing these cases through the courts:

Fiscal Analysis

Second Judicial District

Attorney III (Nome/Kotzebue)	
Personal Services	83.1
Travel	5.0
Contractual	
(office space, experts, etc.)	10.0
Supplies	2.0
Equipment	
(one time expenditure)	<u>2.0</u>
subtotal	102.1

Third Judicial District

Attorney IV (Anchorage)	70.8
Paralegal Asst II (Kenai)	45.5
Paralegal Asst II (Palmer)	44.2
Personal Services	160.5
Travel	15.0
Contractual	
(office space, experts, etc.)	17.0
Supplies	3.5
Equipment	
(one time expenditure)	<u>4.5</u>
subtotal	200.5

(continued)

House Bill 88
Fiscal Note Analysis
Prepared by Division of Public Defender Agency
Department of Administration
January 22, 1985

Fourth Judicial District

Paralegal Asst II (Fairbanks)	48.7	
Paralegal Asst II (Bethel)	55.4	
Personal Services		104.1
Travel		10.0
Contractual		
(office space, experts, etc.)		16.5
Supplies		1.0
Equipment		
(one time expenditure)		<u>3.0</u>
	subtotal	134.6
TOTAL ALL DISTRICT		437.2

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: 2/13/85

REQUEST

Bill/Resolution No.: HB 88
Title: An Act Relating to Child Protection
Sponsor: Senator Ferguson
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		123.9	131.3	139.2	147.6	156.5
200 TRAVEL		22.0	23.3	24.7	26.2	27.8
300 CONTRACTUAL						
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		145.9	154.6	163.9	173.8	184.3
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND		145.9	154.6	163.9	173.8	184.3
FEDERAL FUNDS						
OTHER						
TOTAL		145.9	154.6	163.9	173.8	184.3

POSITIONS:

FULL-TIME		1	1	1	1	1
PART-TIME		3	3	3	3	3
TEMPORARY						

SOURCE OF FUNDS TO OFFSET FISCAL IMPACT OF BILL:

ANALYSIS: Attach a separate page for analysis

Prepared By: Robert G. Fisher, Fiscal Officer Phone: 264-0561
Division: Alaska Court System Date: 2/13/85

Approved by Commissioner: *L. Cole for A. Snowden* Date: 2/13/85
Agency: Alaska Court System

Distribution (by Agency preparing fiscal note):

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

12/1/83

ALASKA COURT SYSTEM

HB 88 - CHILD PROTECTION
FISCAL IMPACT

PERSONAL SERVICES:

	SALARY	BENEFITS	TOTAL COST
Pro Tem Superior Court Judge Ketchikan - 6 months	\$9,203	\$13,418	\$22,621
Pro Tem Superior Court Judge Kenai - 6 months	9,847	13,563	23,410
Pro Tem Superior Court Judge Anchorage - 12 months	18,405	26,836	45,241
In-Court Clerk (Range 12B) Anchorage - 12 months	24,516	8,116	32,632
			<hr/>
Total Personal Services			\$123,904
TRAVEL			22,000
			<hr/>
TOTAL			\$145,904
			<hr/>

Subsequent fiscal years adjusted to reflect six percent inflation.

ALASKA COURT SYSTEM

HB 88 - CHILD PROTECTION
FISCAL IMPACT

Judges statewide have indicated that this legislation will require additional judicial resources. It is the administrative director's assessment that assignment of additional judges on a pro tempore basis would provide adequate judicial coverage while minimizing the cost to the state. The original submission of this fiscal note overlooked the need for judges to travel to other superior court locations to hear these cases. Funds for judicial travel have been included in the revised fiscal note.

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

Page 1 of 2

REQUEST

Bill/Resolution No.: HB 88

Title: An Act relating to the protection of children.

Sponsor: _____

Requestor: Rules by Governor

Date of Request: January 18, 1985

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	0	155.1	164.4	174.3	184.8	195.9
200 TRAVEL	0	15.0	15.9	16.9	17.9	18.0
300 CONTRACTUAL	0	100.0	106.0	112.4	119.1	126.2
400 SUPPLIES	0	2.0	2.1	2.2	2.3	2.4
500 EQUIPMENT	0	24.0	0	0	0	0
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING	0	296.1	288.4	305.9	324.1	343.5
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	0	296.1	288.4	305.9	324.1	343.5
FEDERAL FUNDS						
OTHER						
TOTAL	0	296.1	288.4	305.9	324.1	343.5

POSITIONS:

FULL-TIME	0	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

Prepared By: Brant McCee

Division: Public Advocate

Phone: 274-1686

Date: January 25, 1985

Approved by Commissioner: Lisa Rudd

Agency: Department of Administration

Date: 1/30/85

Distribution (by Agency preparing fiscal note):

Legislative Finance

Legislative Sponsor

Requestor

Office of Management and Budget

Impacted Agency(ies)

Rev. 7/1/84

HB 88
Fiscal Note Analysis
Prepared by Division of Public Advocacy
Department of Administration
January 25, 1985

Governor Sheffield has introduced this legislation as part of his child protection package. One purpose of the bill is to increase the number of child sexual abuse investigations and prosecutions. The Governor's operating budget requests new positions in the Department of Law and the Department of Health and Social Services to accomplish this goal.

The addition of new staff in the two departments that generate legal action in child abuse cases will necessitate the creation of four new positions in the Office of Public Advocacy. These positions and the additional contractual funds requested to assure the representation of the nonoffending parent in children's proceedings are the minimum necessary to guarantee fulfillment of the Office's function as children's guardians ad litem.

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT
GRANT AWARDS

PROGRAM	FY 84 GRANT AMOUNT	FY 85 GRANT AMOUNT	SERVICES PROVIDED
ANCHORAGE ABUSED WOMEN'S AID IN CRISIS (AWAIC)	\$530.0	\$551.2	shelter, crisis line, client advocacy, preventio education, domestic violence victim counseling, childrens program, batterers' counseling
ALASKA WOMEN'S RESOURCE CENTER (AWRC)	115.0	118.0	crisis intervention, information/referral, preven education, rural outreach, legal advocacy
STANDING TOGETHER AGAINST RAPE (STAR)	215.8	236.3	sexual assault: counseling and advocacy, prevent education, crisis line, child sexual assault educ and prevention
MEN'S SUPPORT NETWORK (MSN) BARROW	17.5	18.3	prevention/education for men
ARCTIC WOMEN IN CRISIS (AWIC)	269.5	269.5	shelter, crisis line, client advocacy, victim counseling, prevention/education, rural outreach
BETHEL SW COUNCIL PREVENTION OF CHILD SEXUAL ABUSE (SWCPCSA)	-0-	10.0	education in rural villages on child sexual abuse
TUNDRA WOMEN'S COALITION (TWC) AND EMMONAK WOMEN'S SHELTER (EWS)	376.8	412.8	shelter, DV/SA counseling; prevention/education, rural outreach, childrens' programs, crisis line, sexual assault crisis intervention, batterers' counseling
CORDOVA CORDOVA WOMEN'S RESOURCE CENTER (CWRC)	-0-	30.0	safe homes, crisis line, public education, advocac
DILLINGHAM SAFE AND FEAR FREE ENVIRONMENT (SAFE)	90.0	110.0	safe homes, dv/sa counseling, client advocacy, prevention/education and community outreach, rural outreach, crisis line
FAIRBANKS WOMEN IN CRISIS-COUNSELING AND ASSISTANCE (WIC-CA)	400.0	445.0	shelter, crisis line, sexual assault crisis intervention and counseling, domestic violence counseling, batterers' counseling, client advocacy, rural outreach, childrens' programs prevention/ education
TANANA CHIEFS COUNCIL (TCC)	-0-	10.0	training for workers in rural areas on domestic violence and sexual assault
HOMER SOUTH PENINSULA WOMEN'S SERVICES (SPWS)	90.0	103.0	safe homes, crisis line, prevention/education, rural outreach, dv/sa counseling
JUNEAU AIDING WOMEN FROM ABUSE AND RAPE EMERGENCIES (AWARE)	375.0	396.0	shelter, dv/sa counseling for adults and children, client advocacy, childrens programs, rural outreach crisis line, prevention/education, crisis intervent
JUNEAU WOMEN'S RESOURCE CENTER (JWRC)	55.0	52.0	crisis intervention, information/referral services, prevention/education
MEN, INC. (MEN)	100.0	107.5	batterers' counseling, prevention/education
KERAI/SOLDOTNA WOMEN'S RESOURCE AND CRISIS CENTER (WRCC)	141.3	200.4	safe homes, crisis line, client advocacy, dv/sa counseling, prevention/education
KETCHIKAN WOMEN IN SAFE HOMES (WISH)	300.3	300.3	shelter, domestic violence & sexual assault counseli and crisis intervention, batterers' counseling, clie advocacy, prevention/education, rural outreach, childrens' programs, crisis line
KODIAK WOMEN'S RESOURCE AND CRISIS CENTER (KWRCC)	175.0	187.5	shelter, dv/sa counseling, childrens' programs, clie advocacy, prevention/education, rural outreach, crisis line
NOME BERING SEA WOMEN'S GROUP (BSWG)	290.0	307.5	shelter, crisis line, client advocacy, domestic violence/sexual assault counseling, batterers' counseling, prevention/education, childrens' programs rural outreach
SITKA SITKA'S AGAINST FAMILY VIOLENCE (SAFV)	130.0	137.0	shelter, domestic violence/sexual assault counseling client advocacy, prevention/education, childrens' programs, crisis line
UNALASKA UNALASKAN'S AGAINST SEXUAL ASSAULT AND FAMILY VIOLENCE (USAFV)	-0-	30.0	counseling, crisis intervention, information referral, education
VALDEZ ADVOCATES FOR VICTIMS OF VIOLENCE (AVV)	90.0	106.0	shelter, prevention/education domestic violence/sexual assault counseling, crisis line
WASILLA VALLEY WOMEN'S RESOURCE CENTER (VWRC)	165.0	172.5	shelter, domestic violence/sexual assault counseling, client advocacy, childrens programs, crisis line, prevention/education

DIVISION OF FAMILY AND YOUTH SERVICES
 FY 85 PREVENTIVE YOUTH SERVICES GRANTS *

<u>Grantee</u>	<u>Service</u>	<u>Funding</u>
Fairbanks Community Mental Health	Coordinative services for delinquency prevention and child sexual abuse agencies, assessment, evaluation and consulting.	\$ 78,000.00
Southwest Council for Prevention of Child Sexual Abuse	Child sexual abuse community education training and inter-agency coordination.	\$ 64,000.00
Central Peninsula Mental Health (Kenai)	Psycho-therapeutic services in Kenai to treat and alleviate victims of child sexual/abuse and family members and delinquency.	\$ 53,074.00
Craig Youth Center	Family and youth counseling. Parenting skills and training. Community education relating to delinquency prevention and child sexual abuse.	\$ 45,610.00
Parents United (Anchorage)	Self help treatment program for families and victims of incest. Early prevention of child sexual abuse.	\$ 50,000.00

*

These grant are specific to programs which address child sexual abuse. Many other grantees also provide service directly or indirectly to the child sexual abuse victim but services being funded are more general.

prevention/intervention - child abuse + neglect

STATE OF ALASKA 1985 LEGISLATIVE SESSION
FISCAL NOTE

Revision Date: _____

REQUEST

Bill/Resolution No.: CSSB8 (HESS)
 Title: ...Personal Safety Curriculum...
 Sponsor: Kerttula
 Requestor: Senate HESS
 Date of Request: 2-20-85

FISCAL DETAIL

Agency Affected: Education
 Program Category Affected: Elementary and Secondary Education
 BRU, Program or Subprogram(s) Affected: Office of School Improvement

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		20.0	10.0	5.0	5.0	5.0
400 SUPPLIES						
500 EQUIPMENT						
600 LAND & STRUCTURES						
700 GRANTS, CLAIMS						
800 MISCELLANEOUS						
TOTAL OPERATING		20.0	10.0	5.0	5.0	5.0

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

FUNDING: (Thousands of Dollars)

GENERAL FUND		20.0	10.0	5.0	5.0	5.0
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: Attach a separate page if necessary

FY-86 and FY-87 costs include staff training, identification of existing materials and resources, and telephone and duplication costs of guideline development. Post FY-87 costs are telephone and duplication cost estimates. This estimate does not include materials or curriculum development.

Prepared By: Steve Hole Phone: 2800
 Division: Commissioner's Office Date: 2-20-85

Approved by Commissioner: Harold Reynolds, Jr. Date: 2-20-85
 Agency: Education

Distribution (by Agency preparing fiscal note):

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

7/1/84

CHILD AND FAMILY PROTECTION

ADDITIONAL ISSUES

The following concepts have been identified vro continuing discussion:

- 1) presumptive vs. mandatory sentencing
- 2) parole term for sex offenders
- 3) mandatory background checks on licensees and employees of child care facilities
- 4) allocation of funds among the various line agencies/ duplication of services
- 5) enhancement of Public Safety's Missing Persons and Exploited Children unit
- 6) encourage school districts to offer parenting classes
- 7) kidnapping/enticement
- 8) curfew

In addition, formal letters are being drafted to:

- 1) The Department of Health and Social Services, asking that they inform licensees of current law allowing release of conviction records,
- 2) The Judicial Conference, endorsing their training program for judges on child abuse, and
- 3) The Department of Public Safety, requesting that they expand their existing protocols on sexual assault to address the child victim.

Sec 11 -

Letter of Intent

Child & family protection

judgment of social worker

training
qualified

in zest for protection of child

See 7 - predisposition report = ?