

H B

4 7 1

BILL CONTACT/ACTION

DATE	CONTACT/ACTION
4/22	NOTIFIED PETER GOLL 4/17
	PUBLIC SAFETY 4322 JIM WARDEN
	H&SS 3030 NORMA LANG
4/28	called Rep Goll
	JIM WARDEN
	NORMA LANG
4/30	NOTIFIED of WING TODAY!
	DHSS
	Rep Goll
	WARDEN

NOTIFIED OF
4/24
MEETING

REPRESENTATIVE
PETER GOLL



P O BOX V
JUNEAU, ALASKA 99811
(907) 465-4925

STATE OF ALASKA
HOUSE OF REPRESENTATIVES

M E M O R A N D U M

April 16, 1986

TO: Senator Pat Rodey
Chairman
Senate Judiciary Committee

FROM: Representative Peter Goll *Peter Goll*

SUBJECT: HB 471

House Bill 471, relating to the reporting of child abuse, was introduced on the recommendation of the Departments of Law and Public Safety. It is considered a top legislative priority of these agencies, the Department of Health and Social Services, and local law enforcement personnel.

The legislation plugs a major loophole in the state's reporting requirements for cases of suspected child abuse.

Under present law, certain professionals who deal frequently with children, such as physicians, day care providers and teachers, are required to report cases of suspected child abuse by parents or individuals who are legally responsible for the child's welfare. HB 471 simply requires the same professionals to report all cases of suspected child abuse, regardless of who might be responsible.

The effect of the bill will be to permit reporting of harm to a child without the need to make an accusation against any particular person.

The measure passed the House by a 36-2 vote. In addition to the state agencies mentioned earlier, HB 471 has been strongly endorsed by the Council on Domestic Violence and Sexual Assault, the Network on Domestic Violence and the Alaska Women's Lobby. It also also received positive recommendations from members of the Senate Health, Education and Social Services Committee.

I respectfully request that you schedule a Judiciary Committee hearing on the legislation as soon as possible. Thank you for your cooperation.

STATE OF ALASKA 1986 LEGISLATIVE SESSION FISCAL NOTE

Revision Date : _____

REQUEST

Bill/Resolution No. : CSSSHB471 (Jud)
 Title : "An Act relating to the abuse & exploitation of children"
 Sponsor : Representative Goll
 Requestor : House Rules
 Date of Request : _____

FISCAL DETAIL

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

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

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

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

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

Prepared by : Barbara Miklos, Exec. Director Phone : 465-4356
 Division : Council on DV/SA Date : 3/19/86

Approved by Commissioner : [Signature] Date : 3/21/86
 Agency : Dept of Public Safety

Distribution (by Agency preparing fiscal note):

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

Hein
4/29/86

Original sponsors: Goll, Gruenberg
and Szymanski

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

5 A BILL

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

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

9 * Section 1. AS 11.41.434(a) is amended to read:

10 (a) An offender commits the crime of sexual abuse of a minor in
11 the first degree if

12 (1) being 16 years of age or older, the offender engages in
13 sexual penetration with a person who is under 13 years of age or aids,
14 induces, causes, or encourages a person who is under 13 years of age
15 to engage in sexual penetration with another person; [OR]

16 (2) being 18 years of age or older, the offender engages
17 in sexual penetration with a person who is under 18 years of age and
18 who

19 (A) is entrusted to the offender's care by authority
20 of law; or

21 (B) is the offender's son or daughter, including an
22 illegitimate or adopted child, or a stepchild; or

23 (3) being 18 years of age or older, the offender engages in
24 sexual penetration with a person who is 13, 14, or 15 years of age and
25 the offender

26 (A) is cohabiting in an ongoing spousal relationship
27 with the person's parent, guardian, foster parent, or other
28 custodial caretaker; and

29 (B) exercises parental authority over the person.

1 * Sec. 2. AS 11.41.436(a) is amended to read:

2 (a) An offender commits the crime of sexual abuse of a minor in
3 the second degree if

4 (1) being 16 years of age or older, the offender engages in
5 sexual penetration with a person who is 13, 14, or 15 years of age and
6 at least three years younger than the offender, or aids, induces,
7 causes or encourages a person who is 13, 14, or 15 years of age and at
8 least three years younger than the offender to engage in sexual pene-
9 tration with another person;

10 (2) being 16 years of age or older, the offender engages in
11 sexual contact with a person who is under 13 years of age or aids,
12 induces, causes, or encourages a person under 13 years of age to
13 engage in sexual contact with another person;

14 (3) being 18 years of age or older, the offender engages in
15 sexual contact with a person who is under 18 years of age and who

16 (A) is entrusted to the offender's care by authority
17 of law; or

18 (B) is the offender's son or daughter, including an
19 illegitimate or adopted child, or a stepchild; [OR]

20 (4) being 16 years of age or older, the offender aids,
21 induces, causes, or encourages a person who is under 16 years of age
22 to engage in conduct described in AS 11.41.455(a)(2) - (6); or

23 (5) being 18 years of age or older, the offender engages in
24 sexual contact with a person who is 13, 14, or 15 years of age and the
25 offender

26 (A) is cohabiting in an ongoing spousal relationship
27 with the person's parent, guardian, foster parent, or other
28 custodial caretaker; and

29 (B) exercises parental authority over the person.

1 * Sec. 3. AS 47.17.020 is amended by adding a new subsection to read:

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

20 * Sec. 4. AS 47.17.070(10) is amended to read:

21 (10) "sexual exploitation" includes [MEANS]

22 (A) allowing, permitting, or encouraging [PERMISSION
23 OR ENCOURAGEMENT TO] a child to engage in [FOR] prostitution
24 prohibited by AS 11.66.100 - 11.66.150, by a person responsible
25 for the child's welfare;

26 (B) allowing, permitting, encouraging, or engaging in
27 [PERMISSION, ENCOURAGEMENT, OR] activity [INVOLVED IN THE UNLAW-
28 FUL EXPLOITATION OF A MINOR] prohibited by AS 11.41.455(a)
29 [11.41.455], by a person responsible for the child's [MINOR'S]

1 welfare.

- 1
- 2
- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29

STATE OF ALASKA

DEPARTMENT OF LAW

CRIMINAL DIVISION

March 21, 1986

BILL SHEFFIELD, GOVERNOR

REPLY TO:

CRIMINAL DIVISION CENTRAL OFFICE
POUCH KC
JUNEAU, ALASKA 99811
PHONE: (907) 465-3428

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

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

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

Dear Representative Goll:

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

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

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

The Honorable Peter Goll

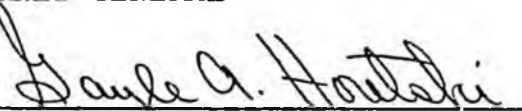
March 21, 1986
Page -2-

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

Very truly yours,

HAROLD M. BROWN
ATTORNEY GENERAL

By:



Gayle A. Horetski
Assistant Attorney General

GAH/gb-09

DEPARTMENT OF PUBLIC SAFETY

POSITION PAPER - CS SS HB 471 (Judiciary)

March 19, 1986

Support

CSSSHB471(Judiciary) - "An Act relating to the abuse and neglect of children."

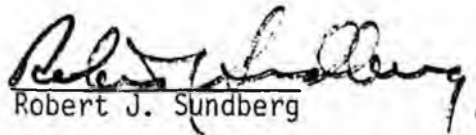
The Council on Domestic Violence and Sexual Assault supports CS SS HB-471 (Judiciary) which adds a new section requiring that reports of harm to children caused by persons not responsible for the child's welfare be reported to law enforcement agencies. Existing legislation requires only reporting child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

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

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

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

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


Robert J. Sundberg

STATE OF ALASKA

DEPARTMENT OF PUBLIC SAFETY

COUNCIL ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

BILL SHEFFIELD, GOVERNOR

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

OFFICE ADDRESS: 450 WHITTIER STREET

October 31, 1985

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

Dear Representative Miller:

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

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

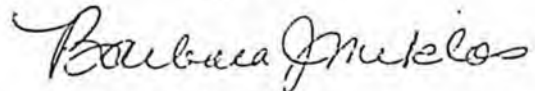
AS 47.17.02 requires reporting to the Department of Health and Social Services if "in the performance of their professional duties", a person listed in statute has "cause to believe that a child has suffered harm as a result of abuse or neglect". Section 47.17.070(i) defines child abuse or neglect as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

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

Representative Mike Miller
October 31, 1985
Page Two

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

Sincerely,



Barbara Miklos
Executive Director

cc: Members, Council on Domestic
Violence & Sexual Assault

Council funded programs

POSITION PAPER

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

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

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

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

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

The department continues to support this bill.

RECOMMENDED:

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

DATE:

March 12, 1986

APPROVED:

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

DATE:

March 12, 1986

ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

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

Abused Women's Aid in Crisis (AWAIC);
Advocates for Victims of Violence (AVV);
Aiding Women in Abuse and Rape Emergencies (AWARE);
Alaska Women's Resource Center (AWRC); Arctic Women in Crisis (AWIC);
Bering Sea Women's Group (BSWG);
Cordova Women's Resource Center (CWRC); Emmonak Women's Shelter;
Kodiak Women's Resource & Crisis Center (KWRC); ME-1, Inc.;
Men's Support Network (MSN); Safe & Fear-Free Environment (SAFE);
Sikans Against Family Violence (SAFV);
Southwestern Alaska Council for the
Prevention of Child Sexual Assault (SWACPSA);
South Peninsula Women's Services (SPWS);
Tundra Women's Coalition (TWC); Valley Women's Resource Center (VWRC);
Women in Crisis Counseling & Assistance (WICCA);
Women in Sale Homes (WISH); Women's Resource & Crisis Center (WRCC)

POSITION PAPER: HB 471

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

The Network supports House Bill 471. Statistics from the U.S. Dept. of Justice's National Symposium, Oct., 1984 (unpublished report), reveal that in 1984, 1 in 3 females and 1 in 4 males between the ages of 3 to 18 years had been sexually abused. 64 percent of these children were abused by non-family members. Most other studies indicate a significantly higher incidence of abuse outside of the family. Further research reports indicate that in 76 to 90 percent of all reported cases of child sexual abuse, the offender is either a relative or is known to the victim (Finkelhor, 1978; U.S. Dept. of Justice Symposium, 1984; Conte and Berliner, 1981). Taken together, the research infers that most reported offenses are committed by non-family members who are known to the children.

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

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

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



STATE OF ALASKA
OFFICE OF THE GOVERNOR

BILL AMENDMENT REPORT

DEPARTMENT Health & Social Serv.	DIVISION <i>Mental & Phys</i> Family & Youth Serv.	BILL NUMBER HB 471	SPONSOR
DEPARTMENT POSITION Support			
PREPARED BY	DATE	COMMISSIONER'S SIGNATURE <i>John By</i>	DATE 3/21/84

SUMMARY

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

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

COMPARISON TO LAST VERSION/PROGRAM EFFECTS

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

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

AMENDMENTS PROPOSED

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

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

Amendments Proposed (Continued)

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

ALASKA WOMEN'S LOBBY

POST OFFICE BOX 10-1571, ANCHORAGE, ALASKA 99510

March 6, 1986

Honorable Mike M. Miller, Chairman
House Judiciary Committee

Mr. Chairman and members of the committee:

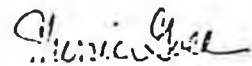
The Alaska Women's Lobby would like to express it's strong support for HB 471 which addresses a serious loophole in the state's reporting statute on child abuse and neglect.

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

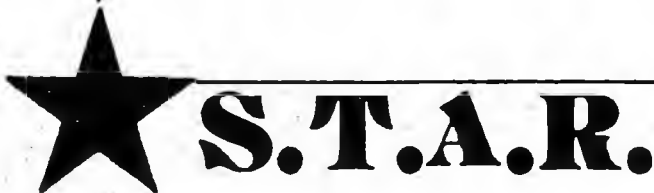
This legislation addresses that flaw by requiring that all suspected cases of child abuse and neglect must be reported regardless of who may have caused the harm. It also clarifies the definition of child sexual exploitation.

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

Thank you for your consideration.



Sherrie Coll
Alaska Women's Lobby



Bus. 276-7279
24-hr.
Crisis 276-RAPE

April 3, 1986

Senate Judiciary Committee
Pouch V
Juneau, AK 99811

RE: HB 471

Dear Senator Pat Rodey, Chair
Senator Tim Kelly, Vice-Chair
Senator Jan Faiks
Senator Rick Halford
Senator Robert Zeigler

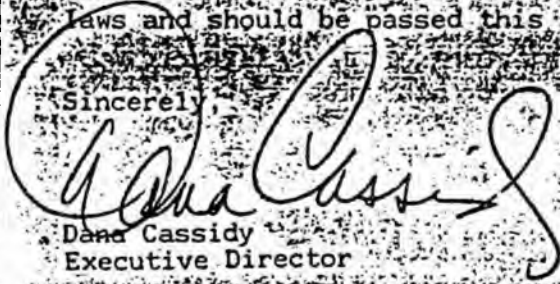
Standing Together Against Rape, Inc., (S.T.A.R.), is the Anchorage sexual assault crisis agency providing services which include a 24-hour crisis line, legal and medical accompaniment, and information on sexual assault to the Municipality and the State since May 1978.


We are writing in strong support of HB 471, a bill which provides for the reporting of child abuse, whether or not the abuse is by someone "responsible for the child's welfare."

As you may already know, our present child abuse reporting law is perplexing, allowing reporting if someone suspects child abuse has been committed by someone responsible for the child's welfare. For citizens wishing to report, the dilemma of ascertaining whether or not the abuse is by someone responsible for the child's welfare is confusing. HB 471 would provide for reporting of all suspected child abuse, regardless of whether or not the citizen reporting has knowledge of who is responsible. This bill also encourages proper authorities versus a private citizen to determine who is responsible for the abuse.

We urge passage of HB 471 when it comes before the Senate Judiciary Committee. HB 471 provides for clarity in existing child abuse reporting laws and should be passed this session.

Sincerely,


Dana Cassidy
Executive Director


Carrie D. Longoria
Legal Advocate

CL/sjl

STANDING TOGETHER AGAINST RAPE
PO BOX 103366 ANCHORAGE, ALASKA 99510

A M E N D M E N T

Offered in the SENATE

By Rodey

TO: SCS CSSSHB 471(Rules)

Page 1, lines 9 - 16:

Delete all material.

Renumber remaining bill sections.