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Anchorage Legislative Information Office  
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TO: JNU L10

ATTN: (H) HESS FAX: \_\_\_\_\_ PHONE: \_\_\_\_\_

FROM: ANC L10 (NANCY K. Scheetz-Freymiller) PHONE: \_\_\_\_\_

INSTRUCTIONS: \_\_\_\_\_

WRITTEN TESTIMONY FOR

(H) HESS

SENT: Date 4-22-91 Time 8:30

DISPOSAL OF ORIGINAL: Discard \_\_\_\_\_ Hold for Pickup \_\_\_\_\_

NUMBER OF PAGES: 3 (counting cover sheet)

TRANSMITTED BY: Lani



## Abused Women's Aid in Crisis, Inc.

100 W. 13TH AVENUE • ANCHORAGE, AK 99501 • (907) 279-9581

### TESTIMONY IN SUPPORT OF HB156

Submitted by Nancy K. Scheetz-Freymler  
Executive Director

I hope with my testimony this morning to emphasize critical importance and need for HB156 in terms of the safety of women impacted by domestic violence and the ability to provide the services they need.

At AWAIC we have seen more than 600 women per year involved in domestic violence. After 14 years, we have seen thousands of women enter both the shelter and the justice system. Therefore, I believe we speak with some authority. I will divide my testimony into justified support from both the women's and the agency's point of view. Confidentiality needs to be protected for the benefit of both.

1. FOR THE WOMEN/VICTIMS—Confidentiality must be protected for a simple issue of safety or potentially saving one's life. Release of files must be the woman's choice. Just this week, a woman sought help. Her partner had assaulted her and was threatening to kill her. She had moved three times. Still, she received 15 calls per day where he taunted her with, "not today honey". If she brought charges and files could be subpoenaed, could the system guarantee her safety—guarantee prosecution and conviction? I think not. Other pieces of the justice system must be in place before we can continue to place the victim in jeopardy without any choice in the matter. Release of "her files" needs to be "her choice". She is the one taking all the risks. She is the one needing to assess the risks and the consequences. It is her life. Many brave women make the choice to release their file, to prosecute. When they make that choice, we do all we can to support them.

In addition, what are the consequences to the woman, if she seeks help at our agency, tells her story, displays justified frustrations and anger about what has been done to her, then it is used against her in court. She not only loses trust in anyone, she loses the opportunity to receive help to change her situation.

2. FOR AWAIC—How can we help the woman in crisis if everything she says can be used against her in court? The privileges granted to other professionals protect the communication so that the individual may be served.





## Abused Women's Aid in Crisis, Inc.

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### Page 2. Testimony in Support of HB 156

We, on the other hand, have been forced to make some very significant choices: guarding the safety and trusted communication of the client or possibly breaking the law.

We have worked with attorneys to quash subpoenas when the notice and timing have been sufficient. That method can work but depends on the situation and the attitudes and opinions of the attorneys in that particular case. We have stood outside a courtroom waiting to be called and ready to deny the information. Fortunately, our testimony was not needed. We have stood before a judge and compromised for in-camera-review of the file. This was not an effective solution for us. Again, the file is not totally protected, but subject to the opinion and discretion of that particular judge.

We have seen men use the subpoena power for the reason of locating the woman, placing her in jeopardy and going against our prime reason to exist—to provide safety and confidentiality.

We have seen three domestic violence-related murders in Anchorage just this past year. Can the court system promise this woman protection when they have made placed her life in jeopardy. I do not think so. This is a serious social issue with high risks and highly serious consequences.

We are not saying we do not believe in prosecution. We support strong prosecution. We are saying the victim should have the choice to release her files, her confidential communication with a counselor. She suffers the consequences. She should have the choice of whether to take the risks. And AWAIC should be protected so that we can offer the confidentiality needed to provide our helping service. Otherwise, the very nature, the very reason for our existence is eroded.



HOUSE COMMITTEE REPORT

(7)

Date Referred: April 8, 1991

FURTHER REFERRALS:

Judiciary  
Finance

Date of Committee Action: 4-22-91

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

SSHB 156

SPONSOR SUBSTITUTE FOR HOUSE BILL NO. 156

CONFIDENTIALITY/DOM. VIOLENCE COUNSELORS

"An Act providing that communications between a domestic violence or sexual assault victim and a domestic violence or sexual assault counselor are privileged and may not be disclosed, with certain exceptions; prohibiting the disclosure of the location of certain types of facilities used by victims of domestic violence or sexual assault and the identities of domestic violence or sexual assault counselors; and providing for an effective date."

RECOMMENDATIONS:  the same title  
be replaced with \_\_\_\_\_  a new title

have attached amendments(s)

do pass

do not pass

no recommendations

individual recommendations

additional referral to the \_\_\_\_\_ Committee

ADOPTS: \_\_\_\_\_ letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept) \_\_\_\_\_

APPROVES PREVIOUS: (Dept/Date) \_\_\_\_\_

fiscal impact \_\_\_\_\_

fiscal note(s) \_\_\_\_\_

zero fiscal note DPS

zero fiscal note(s) \_\_\_\_\_

SIGNING <u>DO</u> PASS	DP	<u>OTHER</u> RECOMMENDATIONS	DNP	NR	AM
Cheri Davis	✓				
Mary Miller	✓				
Mark P. ...	✓				
Betty Davis	✓				
Kathy ...	✓	(CARNEY)			
...	✓	(LINCOLN)			

*[Signature]*  
CO-CHAIRMAN'S SIGNATURE

4/18/91  
Rep. Kay Brown

## Sectional Analysis

SSHB 156 — Confidentiality Regarding Domestic Violence & Sexual Assault

### Section 1

Findings and Purpose.

### Section 2

Amends AS 18.66 to provide that communications between a domestic violence or sexual assault counselor and a domestic violence or sexual assault victim would be privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the written consent of the victim. Provides for exceptions to this rule of confidentiality in cases involving child abuse, if the victim is deceased, or if the failure to disclose information would place the victim or another person in imminent danger. Provision is also made to allow a minor to waive the confidentiality privilege established under this section.

Further, the legislation provides that the location of a safe house or the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding.

### Section 3

Immediate effective date.

*Sectional Analysis*

## SPONSOR STATEMENT

### SSHB 156 — Providing for Privileged Communications in Cases of Domestic Violence & Sexual Assault

#### Sponsor Substitute for House Bill 156

SSHB 156 would provide that the communications between a victim of domestic violence and/or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal, legislative or administrative proceeding without the written consent of the victim.

This privilege would be held with the following exceptions:

- 1) If there is evidence during the discussion that a child is suffering from abuse or neglect;
- 2) The counselor has reason to believe either the victim or another person is in danger of being severely hurt or killed;
- 3) The victim is deceased.

Further, the legislation provides that the location of a safe house of the identity of a domestic violence counselor may not be disclosed in a civil, criminal, legislative or administrative proceeding.

#### Discussion

Domestic violence and sexual assault are growing problems in Alaska. Communities throughout the state have established shelters and safe homes in an effort to provide counseling and safety to victims of these crimes. Since FY 87, the number of nights of safety provided by funded shelters has increased by 44 percent.

As a result of the fear and stigma associated with domestic violence and sexual assault, many victims fail to seek needed medical care and counseling for their emotional injuries. In order to fully recover from these crimes it is necessary for victims to discuss thoughts and feelings with someone who is trained to address these issues. Domestic violence/sexual assault counselors provide this assistance. The relationship that develops is fragile and requires trust.

Current Alaskan law discourages some victims from coming forward by allowing the court system to subpoena records that disclose all information,

*Sponsor Stmt*

Revision Date: \_\_\_\_\_  
 Title: An Act providing communications  
... are privileged ...  
 Sponsor: Brown, et al  
 Requestor: \_\_\_\_\_

Department Affected: Public Safety  
 BRU: Council on Domestic Violence & Sexual  
 Component: Assault

COMPONENT SERIAL NO. 

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EXPENDITURES/REVENUES: (Thousands of Dollars) (Inflation not Included)

OPERATING	FY 92	FY 93	FY 94	FY 95	FY 96	FY 97
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	-0-	-0-	-0-	-0-	-0-	-0-

<b>CAPITAL</b>	-0-	-0-	-0-	-0-	-0-	-0-
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<b>REVENUE</b>	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER/PROG RCPT						
<b>TOTAL</b>	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

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

Estimate of current year impact None

ANALYSIS: (Attach a separate page if necessary)

This bill is expected to have no fiscal impact on the Council on Domestic Violence and Sexual Assault.

Prepared by: Barbara Miklos, Executive Director *Bm* Phone: 465-4356  
 Division: Council on Domestic Violence & Sexual Assault Date: April 19, 1991

Approved by Commissioner: Richard L. Burton *Richard L. Burton*  
 Agency: Department of Public Safety Date: \_\_\_\_\_

Distribution (by preparer): Legislative Finance, Legislative Sponsor, Requestor, OMB, & Impacted Agency(ies).

# ALASKA NETWORK ON DOMESTIC VIOLENCE AND SEXUAL ASSAULT

130 Seward, No. 301 • 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); Emmonak Women's Shelter;  
Kodiak Women's Resource & Crisis Center (KWRC);  
Manilaq Regional Women's Crisis Program;  
Tongass Community Counseling Center; Parent Aid Family Support Center;  
Safe & Fear-Free Environment (SAFE); Sitkans Against Family Violence (SAFV);  
Seward Life Action Council (SLAC); Southwestern Alaska Council  
for the Prevention of Child Sexual Assault (SWACPCSA);  
South Peninsula Women's Services (SPWS);  
Standing Together Against Rape (STAR); Tundra Women's Coalition (TWC);  
Unalaskans Against Sexual Assault & Family Violence (USAFV);  
Valley Women's Resource Center (VWRC);  
Women in Crisis Counseling & Assistance (WICCA);  
Women in Safe Homes (WISH); Women's Resource & Crisis Center (WRCC)

## HOUSE BILL 156

The Alaska Network on Domestic Violence and Sexual Assault strongly supports House Bill 156, which provides that communications between a victim of domestic violence or sexual assault and a domestic violence/sexual assault counselor are privileged and may not be disclosed in a civil, criminal or legislative proceeding without the victim's consent.

The first rape crisis centers and domestic violence shelters in Alaska opened their doors in the mid-1970's as part of a national movement toward recognizing the pervasiveness of these crimes and the long-term trauma and emotional needs suffered by victims of domestic violence and sexual assault. Rape and domestic violence assaults were commonly underreported and underprosecuted because of the stigma attached to the crimes, and because of the victim's fear--both of the perpetrator, and of the criminal justice system itself, where the victim's credibility rather than the defendant's culpability often became the focus of the trial.

The 7700 victims and minor children served by Alaska's domestic violence and sexual assault programs last fiscal year came to our programs only because they felt that we would respect their confidences and would not take their decision-making out of their hands. The counseling and advocacy offered by sexual assault and domestic violence programs has led to increased reporting and greater success in prosecution of both crimes in Alaska. This has, paradoxically, been based on an assurance to the victim that what is said to a program counselor or advocate will be maintained in absolute confidentiality --- that we won't tell her friends, her family, or even the police or courts what she has said to us unless she decides this is what she wants.

Programs make this promise to their clients, and make it in good faith. However, as rape crisis centers and domestic violence shelters have become an integral part of society, they have attracted the attention of attorneys seeking information about victims. Here, as in

the rest of the nation, tactics such as subpoenas of counselors and their files are threatening to undermine the victim/counselor relationship -- and thereby the effectiveness of the programs themselves -- by forcing disclosure of confidential information. And we know that such forced disclosures do effect the actions of victims. When the Pennsylvania Supreme Court refused to provide privilege in a widely publicized rape case, the number of callers who refused to give even their names on the crisis line of the center involved in the case rose from 32% to 61%.

In response to this problem, states began enacting privilege for the victim/counselor relationship. The first such statute was enacted 11 years ago in California. Since that time 24 states have enacted such statutes which focus on domestic violence and/or sexual assault victims (although 5 states have provisions for all victims of violent crimes).

The Network believes that the victim/counselor relationship clearly meets the criteria laid out by Wigmore in his Rules of Evidence. Communications are originated in confidence that they will not be disclosed; this confidentiality is clearly essential to the relationship between the parties; the relationship is one which society has found to be valuable and which the State of Alaska clearly supports, and the injury done by the violation of confidentiality adversely effects not only the relationship itself, but the very ability of the State to address these crimes effectively.

The Federal Victims of Crime Act also prohibits programs receiving VOCA funds from disclosing records in administrative or judicial proceedings. Fifteen of the twenty-three programs funded by the Council on Domestic Violence & Sexual Assault receive VOCA funds.

The current lack of such a privilege in state law also tends to promote inequity of treatment based on income. If a victim has the money to consult a psychiatrist or an attorney regarding her situation, her communications are protected by State law. Many of the victims who come to our programs cannot afford either of these alternatives, although their need for protected communication is the same.

The Network urges your support for this important bill.

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# ALASKA NETWORK

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ON

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# DOMESTIC VIOLENCE

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AND

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# SEXUAL ASSAULT

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Manilaq Regional Women's Crisis Program;  
Tongass Community Counseling Center; Parent Aid Family Support Center;  
Safe & Fear-Free Environment (SAFE); Sitkans Against Family Violence (SAFV);  
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## NATIONAL ORGANIZATIONS SUPPORTING VICTIM/COUNSELOR PRIVILEGE

- \* President's Task Force on Victims of Crime (1982)
- \* The National Center on Women & Family Law
- \* The National Organization for Victim Assistance
- \* National Victim Center
- \* National Coalition Against Domestic Violence
- \* National Coalition Against Sexual Assault
- \* National Network for Victims of Sexual Assault
- \* National Woman Abuse Prevention Project

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## SOME STATES WITH VICTIM/COUNSELOR PRIVILEGE\*

Alabama  
California  
Connecticut  
Florida  
New Hampshire  
Illinois  
Indiana  
Iowa  
Maine  
Massachusetts  
Minnesota  
New Jersey  
New Mexico  
North Dakota  
Pennsylvania  
Utah  
Washington  
Wyoming

\*Primarily limited to victims of sexual assault and/or domestic violence, although some states include victims of all violent crimes. Also, federal statute under the Victims of Crime Act requires confidentiality of victim records for organizations receiving VOCA funding. About half of Alaska's dv/sa programs receive VOCA funds.

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# ALASKA NETWORK

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ON

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# DOMESTIC VIOLENCE

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What are the recognized requirements for the creation of privileges which provide protection from the disclosure of communications?

1. The communication must originate in confidence that it will not be disclosed.
2. The element of confidentiality must be essential to the full and satisfactory maintenance of the relationship between the parties.
3. The relationship must be one which, in the opinion of the community, must be sedulously fostered.
4. The injury that would inure to the relationship must be greater than the benefit thereby gained for the correct disposal of litigation.

Source: Wigmore's Rules of Evidence, 2291 and 2285, McNaughton Rev. Ed 1961

COUNCIL ON  
DOMESTIC VIOLENCE  
AND SEXUAL ASSAULT

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ANNUAL REPORT  
TO  
GOVERNOR HICKEL  
AND THE  
ALASKA LEGISLATURE

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JANUARY 1991

*excerpts - Council on Dom. Violence Report*

COUNCIL MEMBERS AND STAFF

COUNCIL MEMBERS:

Mary Pete, Chair, Bethel (Public Member)

Paula Haley, Anchorage (Public Member)

Andrew Klamser, Homer (Public Member)

Karen Crane, Department of Education

Gayle Horetski, Department of Public Safety

Vacant, Department of Health and Social Services

Vacant, Department of Law

COUNCIL STAFF:

Barbara Miklos, Executive Director

Marcia Lynn McKenzie, Program Coordinator

Wil Coloma, Statistical Technician

Susan King, Secretary

Council on Domestic Violence  
and Sexual Assault

Department of Public Safety

P.O. Box N

Juneau, AK 99811-1200

Phone: (907) 465-4356

Location:

Public Safety Building

450 Whittier Street

Room 204

Juneau, Alaska

## INTRODUCTION

"We found that the perception you shared when you gave us our charge is unfortunately true. The innocent victims of crime have been overlooked, their pleas for justice have gone unheeded, and their wounds - personal, emotional and financial - have gone unattended."

In a letter to President  
Ronald Reagan from the  
President's Task Force  
on Victims of Crime, 1982

"The problem of family violence has existed for generations, yet it is only recently that this phenomenon has begun to receive the attention it deserves."

Chief William L. Hart  
Chairman, U.S. Attorney  
General's Task Force on  
Family Violence

Societies and shelters for the protection of animals existed in the United States before there was legislation to protect children who were abused. We have made progress since then. As a country, we have developed legislation and programs to protect children and adults who are victims of family violence. As a state, Alaska has programs and policies that are models for the rest of the country. However, much still needs to be accomplished. According to data compiled by the staff of the U.S. Senate Judiciary Committee, there are three times as many animal shelters in the United States as there are shelters for battered women.

Domestic violence and sexual assault continue to be major problems in our country and our state. People continue to be killed, beaten and raped in record numbers. Although violent crime in general is declining, violent crimes against women (including domestic violence) are increasing. Since 1974, the rate of assaults against young women (ages 20 - 24) has risen almost 50%; for young men it has decreased. Data from the National Crime Survey shows that women are the victims of violent crime committed by family members at a rate three times that for men. Also, according to the Survey, spouses or ex-spouses commit more than half of all violent crimes committed by relatives against women.

A woman is beaten every 18 seconds and 4,000 battered women are killed every year in the United States. Nationwide, more than one million abused women each year seek medical assistance for injuries caused by battering. In Alaska, 26% of adult women have been physically abused by a spouse sometime during their lives and most of the battered women were abused at least once a month. It is estimated that a minimum of 13,200 women living in Alaska have required medical treatment by a doctor or hospital for injuries sustained by abuse at some time in their life. In 1988, fifty

percent of female murder victims in Alaska were killed by their husbands or boyfriends.

Children raised in violent homes suffer the effects of living in this environment and are at higher risk for physical and sexual abuse. Children raised in violent homes are 1500% more likely to be physically abused or seriously neglected. Nearly fifty percent of abusive husbands batter their wives when they are pregnant, making these battered women four times more likely to bear infants of low birth weight. These women had twice as many miscarriages as non-battered women.

Former U.S. Surgeon General Dr. C. Everett Koop identified domestic violence as the number one health threat to women and declared it to be a public health issue. In one of his final speeches as U.S. Surgeon General, Koop stated: "The mind set that any type of violence that results in physical and mental damage is a private or family matter or a tradition should be abhorrent to us all. Battery is the single most significant cause of injury to women in this country." Dr. Koop went on to note that in the United States, an estimated 40% of all women have experienced some type of sexual abuse as children and as many as 44% of adult women report completed or attempted rape, including rape by their husbands or other family members.

People from all walks of life have come to recognize the seriousness of the problems and the need for a comprehensive and coordinated response to domestic violence and sexual assault. A study by the National Council of Juvenile and Family Court Judges recommends that courts treat family violence as a serious crime. The Honorable Stephen B. Herrell, Chairman of the group and a judge from Portland, Oregon, says that violence against women and children has created a generational cycle of violence that cannot be broken without strong intervention by the courts.

Responses to sexual assault have been improved, but sexual violence against women continues to rise. During the past ten years, rape rates have risen nearly four times as fast as the total crime rate. According to data provided by a criminological study conducted in 1990, rape remains the most under-reported of all major crimes; only 7% of all rapes are reported to police. One in five adult women will be raped at some time in their lives and one in four women now in college will be attacked by a rapist. Alaska continues to have one of the highest incidences of rape in the country. In 1989 in Alaska, there were 53 reported cases of forcible rape against adult women per 100,000 population compared to the national rate of 38 cases per 100,000.

Services for victims of domestic violence and their children are crucial in order to save lives and reduce the pain and suffering caused by these crimes. Victims of sexual assault must receive crisis intervention services so they can overcome the trauma. Without assistance, they may continue to relive the event and live in fear for their life and safety. The report from the U.S. Attorney General's Task Force on Family Violence states that "Shelters are an important resource for a diverse group of victims of family violence who must leave home to escape life-threatening

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abuse and have nowhere else to go. Among the most important services shelters offer for battered women and their children are immediate safety, counseling, referrals to alcohol and drug treatment programs and assistance in seeking employment and permanent housing.

Services for child victims must be available to help them cope with the horrors they have encountered. Children from violent homes suffer emotional and physical disorders as a result of their family situations. Many of these children are victims of physical and sexual abuse, who need to be protected and helped. Helping these children will not only ease the pain, but also prevent future problems. Alcohol and other drug abuse, suicide and criminal behavior are often caused by abuse suffered in childhood. Services for children are important to stop the cycle of abuse.

Treatment for batterers is an integral part of the system to protect victims. Experience has shown that most battered women return to the violent relationships. This happens for many reasons, including the lack of financial resources to allow them to live independently. Without counseling and treatment for batterers, violence in these relationships generally becomes more frequent and severe, often resulting in death.

Alaska is fortunate to have a comprehensive, coordinated system for addressing the pain and suffering caused by family violence. In FY91, the Council on Domestic Violence and Sexual Assault is funding 23 community-based programs to provide services to victims of domestic violence and their families. These programs also provide important educational services to their communities as well as outlying communities. Without an all-out effort by community members, family violence will not be stopped. In FY90, Council-funded programs served 9,729 clients. Almost 8,000 of these clients were victims of domestic violence and their children. These victims and their children were provided almost 53,000 nights of safety in shelters or safe homes. The need for these services can be seen in the numbers of clients as well as the tremendous increases in demand for services. Since FY87, the number of nights of safety has increased by 44%.

The mission of the Council on Domestic Violence and Sexual Assault is to provide immediate safety and support to victims of domestic violence and sexual assault in life-threatening situations and to reduce the incidence of domestic violence and sexual assault in Alaska. The Council accomplishes this through serving as a funding agency for community-based programs. The Council processes applications for funding and monitors programs that receive grants and provides technical assistance to programs and other community groups. It also serves as a planning and coordinating agency for domestic violence and sexual assault services provided by various agencies. This report presents major Council initiatives in 1990, describes programs funded by the Council, presents statistical data gathered from programs in FY90 and identifies issues of concern and possible solutions.

obtain injunctive relief orders in cases of domestic violence as well as other protections provided to victims of domestic violence be expanded to include people in dating relationships. Police officers may arrest for domestic violence misdemeanor assaults even if it was not committed in their presence; it is also important that this protection be provided in dating relationships.

2. Teen Violence, an Issue for Legislative Consideration

In December, 1989, the Council held a statewide teleconference on teen violence. After hearing from the people testifying, the Council agreed the problem merited the attention of the Legislature and requested that the House and/or Senate Health, Education and Social Services Committees hold hearings on the topic of teen violence. Many people who testified at the Council's teleconference wanted to address their concerns to legislators, and had suggestions for legislation and for needed services.

People who testified work with teens either through domestic violence programs, youth-serving agencies, or schools. Many people testified to the growing trend toward violence among youth and observed that young people state that "violence is a way to have fun". A clinical psychologist in Fairbanks stated that he feels teen violence is symptomatic of societal breakdown.

Many teens are victims of violence. One participant who works with pregnant teenagers spoke of the many young women who are either present or past victims of abuse, as well as some who are abusive to their own child. For some, violence begins in the womb.

A representative from the Division of Public Health, Department of Health and Social Services, testified that violence has replaced infection as the major cause of death for adolescents in the United States, with violent deaths accounting for 77% of all adolescent deaths. Accidents are the highest causal factor, with alcohol being implicated in over half the accidental deaths. Homicide is the second leading cause of teenage fatality in the U.S.; with a 300% increase of teenage homicide between 1950 and 1980. The third leading cause of teenage death is suicide, quadrupling since 1950.

3. Confidentiality of Victim Counseling

Domestic violence and sexual assault programs have identified the need to develop legislation that makes victim counseling legally privileged and not subject to defense discovery or subpoena. This type of legislation is important because it protects victims from further abuse by the system. If the confidential communications exchanged between victims and counselors during treatment can be used as evidence in criminal proceedings, counseling may not benefit victims, and, in fact, may add to their trauma. Victims often speak to their counselors about fears and feelings arising from the crime. Those who are

under the impression that they are revealing such information solely for therapeutic purposes often feel betrayed when their counselors are compelled to disclose their communication before the public at an open trial. Victims who realize in advance that their communications may be subject to disclosure may avoid counseling altogether. The President's Task Force on Victims of Crime recommended that legislation be enacted making designated victim counseling legally privileged.



**PRESIDENT'S  
TASK FORCE ON  
VICTIMS OF CRIME**

**FINAL REPORT**

**DECEMBER 1982**

*I was upset when I was asked about my new location where I lived, and when I had to give my children's names, the man who had caused these problems was sitting in the courtroom and I was telling him how he or someone else could find me.—a victim*

*This experience brought me closer to death than one could ever imagine, not only because of the gun, but because of the rape itself. I felt ashamed, and I thought I wanted to die. My heart felt like it was going to burst. Crying and talking with people I could trust helped to relieve the pressures. I needed to share feelings with people who would keep my secret for however long I needed them to.—a victim*

When victims or witnesses testify, they are frequently asked for their home address, sometimes by the prosecutor. Prosecutors should stop soliciting this sensitive information and should object to defense efforts to obtain it. Only when the defense is able to establish that the address is clearly relevant to credibility or to the facts of the case should the question be allowed.

**Executive and Legislative Recommendation 2:**  
Legislation should be proposed and enacted to ensure that designated victim counseling is legally privileged and not subject to defense discovery or subpoena.

A number of organizations and victim/witness units provide psychological crisis counseling to ease the real and profound psychological trauma of victimization. Since the development of rape crisis centers, the need for and benefits derived from counseling for rape victims has become well established. Testimony before the Task Force confirms that counseling is necessary for many violent crime victims as well as their families. Such counseling has proven extremely beneficial and should be strongly encouraged at all levels.

Although some centers have made psychiatrists or psychologists available, the vast majority of the work has been done by social workers, nurses, or by people who have been victims themselves. During the counseling process, victims speak of their fears and feelings arising from the crime; these reactions are often related to their personal history and psychological makeup.

Failure to extend confidentiality to crisis counseling incurs the risk of undermining the effectiveness of the counseling. Some victims who need this kind of help now fear to seek it. Without the protection of confidentiality, victims have found their files subpoenaed by the defense, and feel betrayed when thoughts and feelings that they considered private are opened to public scrutiny in a courtroom.

Statutes that were passed before the importance of victim counseling became recognized extend confidentiality only to counseling by psychologists and psychiatrists. These statutes protect only those who

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can afford private treatment by these professionals; they do not shield the vast majority of victims.

At least one state has enacted a statute making rape victims' communications to counselors legally privileged.<sup>1</sup> While this is a step in the right direction, we believe that the privilege should encompass the counseling of all crime victims. Because of the responsibility of the prosecutor to afford discovery to the defendant, it is not contemplated that this counseling privilege extend to the prosecutor's office.

*It was a great relief to have someone to talk to, who would in no way pass onto others what I thought, felt, or did at that confusing time.—a victim*

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## Notes

1. The State of Pennsylvania has codified this privilege in 42 Pa. C.S.A. § 5945.1, "Confidential communications to sexual assault counselors."



**Alaska State Legislature**  
**House of Representatives**  
 COMMITTEE ON HEALTH, EDUCATION  
 AND SOCIAL SERVICES

DATE: April 22, 1991

PLACE: Capitol Room 106

**SUBJECT OF MEETING:**  
**WITNESS REGISTER FOR:**  
 \*HB 156 Confidentiality/Dom. Vio. Counsel.  
 \*HB 269 Private Health Care Review Agents  
 \*HB 165 Extend Board of Nursing  
 \*HB 161 Extend State medical Board

NAME	REPRESENTING	BUSINESS/PERSONAL MAILING ADDRESS	ZIP	(H) PHONE	(W) PHONE	DO YOU WANT TO TESTIFY?		WHAT SUBJECT/ WHICH BILL?
Cindy Smith	Network in Domestic Violence Services	130 Seward #301 Seward Juneau 99801			586-3650	<input checked="" type="radio"/>	<input type="radio"/>	HB 156
Barbara Miklo's	Council on DV/SA	P.O. Box N Juneau 99811		364-3124	465-4352	<input type="radio"/>	<input checked="" type="radio"/>	unless questioned HB 156
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
						<input type="radio"/>	<input type="radio"/>	
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						<input type="radio"/>	<input type="radio"/>	

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 \*  
 \* DELIVER TO: LHSCHES \*  
 \* \* \*  
 \* ORIGINAL \*  
 \* SENT: 04/22/91 TIME: 09:54 \*  
 \* FROM: LTCBRET \*  
 \* SUBJECT: \*  
 \* PRINT DATE: 04/22/91 TIME: 10:34 \*  
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SUBJECT LINE TO READ: TC NO.; PL/FS; SHORT SUBJECT; DATE

T/C NO: 91-04-131  
 DATE: APRIL 22, 1991  
 SPONSOR: (H) HEALTH, EDUCATION & SOCIAL SERVICES  
 SUBJECT: HB156, HB249, HB165, HB167  
 MODERATOR: WALLI  
 SITE: BETHEL

FINAL STATE LIST

\*\*\*\*\*  
 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. JENNY CAMILLE,	BOX 503, BETHEL 99559	-T.w.c.	HB156
2. ALICE CRISWELL,	BOX 29, BETHEL 99559		HB156
3. JOAN HAMILTON,	BOX 1270, BETHEL 99559	-T.w.c. Coordinator	HB156
4.			
5.			

\*\*\*\*\*  
 OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. ANNE MARIE SIEBENLIST,	BOX 1765, BETHEL		HB156
2.			
3.			
4.			
5.			

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 TESTIFIED: 3

UNABLE: 0  
 OBSERVED: 1  
 TOTAL: 4

START TIME: 7:50 A.M.                      END TIME: 9:40 A.M.

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 \* DELIVER TO LHSCHES \*  
 \* \*  
 \* \*  
 \* ORIGINAL \*  
 \* SENT 04/22/91 TIME: 09:55 \*  
 \* FROM: LIOCKOT \*  
 \* SUBJECT: 91-04-124,FS;HB156;4-22-91 \*  
 \* PRINT DATE: 04/22/91 TIME: 10:34 \*  
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SUBJECT LINE TO READ: TC NO.,PL/FS,SHORT SUBJECT,DATE

T/C NO: 91-04-124  
 DATE: 4-22-91  
 SPONSOR: (H) HEALTH, EDUCATION AND SOCIAL SERVICES  
 SUBJECT: VARIOUS BILLS  
 MODERATOR: DOUG NEAL AND KAREN JOHNSON  
 SITE: KOTZEBUE

FINAL STATS

\*\*\*\*\*  
 TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			
2.			

\*\*\*\*\*  
 OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. KATHY GARFIELD/WOMEN'S SHELTER,	BOX 256	442-3311	HB 156
2.			
3.			

\*\*\*\*\*  
 TESTIFIED: 0

UNFILED 0  
 OBSERVED 1  
 TOTAL 1

START TIME: 8:00 AM

END TIME: 9:40 AM

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 \*  
 \* DELIVER TO: LHSCHES  
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 \* ORIGINAL  
 \* SENT: 04/22/91 TIME: 10:00  
 \* FROM: LIOCLAI  
 \* SUBJECT: 91-04-124;FS;VARIOUS HB'S,4-22  
 \* PRINT DATE: 04/22/91 TIME: 10:00  
 \*  
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SUBJECT LINE TO READ: TC NO.; FL\FS;SHORT SUBJECT;DATE

TC NO: 91-04-124  
 DATE: 04-22-91  
 SPONSOR: H HESS  
 SUBJECT: HB 156,269,165,161  
 MODERATOR: LANI  
 SITE: ANCHORAGE

FINAL STATS

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 TO TESTIFY

NAME\ REPRESENTING	ADDRESS	PHONE	BILL NO.
1. THEDA FETTMAN	111 W 9TH,99501	276-0528	HB 156
2. LYNN <del>RODD</del>	BOX 196604,99519	261-3078	HB 269

*AK Women's Resource CTR*  
*Rodda - Providence Hospital*

3. DARRYL LOGAN	4300 B ST,#202	562-2812	HB 269 <i>opposed</i>
4. NANCY SCHEETZ-FREYMILLER	100 W 13TH99501	279-9581	HB 156

*Exec. Dir of AWAIC*

\*\*\*\*\*

TO OBSERVE:  
 NAME\ REPRESENTING ADDRESS PHONE BILL NO.

1. MS. G KRUPPER	2530 DE BARR	258-7575	
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TESTIFIED: 4  
 UNABLE: 0  
 OBSERVED: 1  
 TOTAL: 5

STARTING TIME: 8:00

ENDING TIME:

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* DELIVER TO: LHSCHES
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* ORIGINAL
* SENT: 04/22/91 TIME: 09:53
* FROM: LTCKRTH
* SUBJECT: 91-04-124;FS;HEALTH;4-22
* PRINT DATE: 04/22/91 TIME: 09:53
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T/C NO: 91-04-124
DATE: APRIL 22, 1991
SPONSOR: HOUSE HEALTH, EDUCATION & SOCIAL SERVICES
SUBJECT: HB 269: PRIVATE HEALTH CARE REVIEW AGENTS
          HB 156: CONFIDENTIALITY/DOMESTIC VIOLENCE COUNSELORS
          HB 161: EXTEND STATE MEDICAL BOARD
          HB 165: EXTEND BOARD OF NURSING
MODERATOR: JUNE ROBBINS
SITE: KETCHIKAN

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FINAL STATS

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TESTIFIED

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. GIGI FILCHER/WOMEN IN SAFE HOMES	P.O. BOX 6552, KETCHIKAN 99901	225-0202	HB 156

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*****
OBSERVED

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NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. CAROLYN DIXON	346 WARREN KETCHIKAN 99901	225-2044	HB 156

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TESTIFIED: 1
UNABLE: 0
OBSERVED: 1
TOTAL: 2

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START TIME: 8:00 AM
END TIME: 9:20 AM

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* DELIVER TO: LHSCHES
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* ORIGINAL
* SENT: 04/22/91 TIME: 09:50
* FROM: LIOCVAL
* SUBJECT: 91-04-124;FS;HB156;4-22-91
* PRINT DATE: 04/22/91 TIME: 10:33
*
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SUBJECT LINE TO READ: TC NO.;PL/FS;SHORT SUBJECT;DATE

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T/C NO: 91-04-124
DATE: APRIL 22, 1991
SPONSOR: HOUSE HESS
SUBJECT: HB 156, HB 265, HB 161, HB 165.
MODERATOR: DONNA GRENIER
SITE: VALDEZ

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FINAL STATS

\*\*\*\*\*  
TESTIFIED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1.			

\*\*\*\*\*  
OBSERVED

NAME/REPRESENTING	ADDRESS	PHONE	BILL NO.
1. MARY WILLIAMS A.V.V.	F.O. BOX 3504 VALDEZ, 99686	835-2980	HB 156

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TESTIFIED:

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 \*  
 \* DELIVER TO: LIOCROG \*  
 \*  
 \* ORIGINAL \*  
 \* SENT: 04/22/91 TIME: 08:14 \*  
 \* FROM: LTCCMAT \*  
 \* SUBJECT: 124PL HHESS DOM VIOL 4/22 \*  
 \* PRINT DATE: 04/22/91 TIME: 08:14 \*  
 \*  
 \*\*\*\*\*

SUBJECT LINE TO READ: TC NO,; PL/FS;SHORT SUBJECT;DATE

T/C NO: 91-04-124  
 DATE: 4/22/91  
 SPONSOR: H HESS  
 SUBJECT: 4 BILLS/HR 156 - CONFID DOMESTIC VIOLENCE  
 MODERATOR: CHARLOTTE  
 SITE: MAT-SU LIO

PARTICIPANT LIST NUM 1

\*\*\*\*\*  
 TO TESTIFY:

1 LESLIE BOGDA

*Valley Womens Center*

HR 156

2

\*\*\*\*\*

OBSERVED:  
 NAME/REPRESENTING ADDRESS PHONE BILL NO.

1

2

\*\*\*\*\*

TESTIFIED: 1

UNABLE:

OBSERVED:

TOTAL: 1

START TIME: 8 AM

END TIME: