

HB

348

9-LS1187F ✓
Luckhaupt
3/5/96

Rep. James

CS FOR HOUSE BILL NO. 348(STA)

IN THE LEGISLATURE OF THE STATE OF ALASKA

NINETEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE STATE AFFAIRS COMMITTEE

Offered:
Referred:

Sponsor(s): REPRESENTATIVES JAMES, Therriault, Kelly, Toohey

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the interagency work group on agency accountability and
2 child interview methods."

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 * Section 1. AS 47.17 is amended by adding a new section to read:

5 Sec. 47.17.100. INTERAGENCY WORK GROUP AND MEMORANDUM OF
6 AGREEMENT ON AGENCY ACCOUNTABILITY AND CHILD INTERVIEW
7 METHODS. (a) The interagency work group to increase agency accountability for and
8 to improve methods of interviewing minors who are alleged to have been abused or
9 neglected is established in the department. The work group consists of five
10 representatives, whose job description includes participation in the work group, from the
11 following departments:

12 (1) two persons from the department, one of whom shall be an employee
13 of the division of family and youth services;

14 (2) one person from the Department of Public Safety;

15 (3) one person from the Department of Education; and

1 (4) one person from the Department of Law.

2 (b) The interagency work group shall prepare a memorandum of agreement that
3 will guide all participating agencies in their involvement with interviews of minors who
4 are alleged to have been abused or neglected. At a minimum, the memorandum of
5 agreement must

6 (1) identify the best and most effective methods to establish
7 accountability for those who interview minors who are alleged or suspected to have been
8 abused or neglected;

9 (2) identify the best and most effective methods for

10 (A) videotaping;

11 (B) audiotaping;

12 (C) team interviews;

13 (D) note taking;

14 (E) documentation; and

15 (F) enforcing file content standards;

16 (3) provide for interagency cooperation in

17 (A) initial and continuing training or education for interviewers,
18 including education regarding new and updated methods of interviewing minors
19 and regarding new equipment useful for interviewing minors;

20 (B) establishing respect for family members during the interview
21 process;

22 (C) maintaining family unity during the interview process; and

23 (D) sensitivity to public response and public input;

24 (4) focus on increasing agency and interviewer accountability and
25 minimizing negative effects on families; and

26 (5) review the statutory definition of "abuse or neglect" to determine if
27 the definition leads to uniform and fair results.

28 (c) The memorandum of agreement shall be made available for review by the
29 legislature and the public. The work group shall notify the legislature that the
30 memorandum of agreement is available for review.

31 (d) The interagency work group shall meet at the times the members of the work
32 group consider necessary. At a minimum, the memorandum of agreement must be

1 reviewed and updated in the year following each gubernatorial election year as
2 determined under AS 15.35.010, and must be completed in those years before the
3 beginning of the next regular session of the legislature the following year. Each revised
4 and updated memorandum of agreement shall be made available to the legislature and
5 the public for review. The work group shall notify the legislature that the memorandum
6 of agreement is available for review.

7 * Sec. 2. The initial memorandum of agreement required to be prepared under AS 47.17.100,
8 added by sec. 1 of this Act, shall be completed by January 1, 1997. Unless an earlier revision
9 and update to the memorandum of agreement is determined to be necessary by the interagency
10 work group created in sec. 1 of this Act, the first revision and update shall be conducted in 1999
11 and completed before the beginning of the regular legislative session in 2000.

9-LS1187G
Luckhaupt
3/8/96

CS 117 F
7/1/96

CS FOR HOUSE BILL NO. 348(STA)
IN THE LEGISLATURE OF THE STATE OF ALASKA
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2 **child interview methods."**

3 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

4 *** Section 1. AS 47.17 is amended by adding a new section to read:**

5 **Sec. 47.17.100. INTERAGENCY WORK GROUP AND MEMORANDUM OF**
6 **AGREEMENT ON AGENCY ACCOUNTABILITY AND CHILD INTERVIEW**
7 **METHODS. (a) The interagency work group to increase agency accountability for and**
8 **to improve methods of interviewing minors who are alleged to have been abused or**
9 **neglected is established in the department. The work group consists of four**
10 **representatives, whose job description includes participation in the work group, from the**
11 **following departments:**

- 12 **(1) one person from the department;**
- 13 **(2) one person from the Department of Public Safety;**
- 14 **(3) one person from the Department of Education; and**
- 15 **(4) one person from the Department of Law.**

1 (b) The interagency work group shall prepare a memorandum of agreement that
2 will guide all participating agencies in their involvement with interviews of minors who
3 are alleged to have been abused or neglected. At a minimum, the memorandum of
4 agreement must

5 (1) identify the best and most effective methods to establish
6 accountability for those who interview minors who are alleged or suspected to have been
7 abused or neglected;

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9 (A) videotaping;

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15 (3) provide for interagency cooperation in

16 (A) initial and continuing training or education for interviewers,
17 including education regarding new and updated methods of interviewing minors
18 and regarding new equipment useful for interviewing minors;

19 (B) establishing respect for family members during the interview
20 process;

21 (C) maintaining family unity during the interview process unless
22 the nature of the investigation clearly indicates otherwise; and

23 (D) sensitivity to public response and public input;

24 (4) focus on increasing agency and interviewer accountability and
25 minimizing negative effects on families; and

26 (5) review the statutory definition of "abuse or neglect" to determine if
27 the definition leads to uniform and fair results.

28 (c) The interagency work group shall meet at the times the members of the work
29 group consider necessary. At a minimum, the memorandum of agreement must be
30 reviewed and updated in the year following each gubernatorial election year as
31 determined under AS 15.35.010, and must be completed in those years before the
32 beginning of the next regular session of the legislature the following year. Each revised

1 and updated memorandum of agreement shall be made available to the legislature and
2 the public for review. The work group shall notify the legislature that the memorandum
3 of agreement is available for review.

4 * Sec. 2. The initial memorandum of agreement required to be prepared under AS 47.17.100,
5 added by sec. 1 of this Act, shall be completed by January 1, 1997. Unless an earlier revision
6 and update to the memorandum of agreement is determined to be necessary by the interagency
7 work group created in sec. 1 of this Act, the first revision and update shall be conducted in 1999
8 and completed before the beginning of the regular legislative session in 2000.

FISCAL NOTE

STATE OF ALASKA

BILL
NO:

HB 348

1996 LEGISLATIVE SESSION

Revision Date: _____ Dept. Affected: Public Safety
 Title: Video/audiotape Interview of Abused Minor BRU CDVSA
 Component: CDVSA
 Sponsor: Representative James
 Requestor: H. State Affairs COMPONENT SERIAL NO. 0521

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL EXPENDITURES	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES ()	-0-	-0-	-0-	-0-	-0-	-0-
Code Revenue						

FUNDING: (Thousands of Dollars)

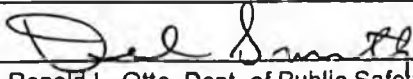
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 96) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)
 No fiscal impact is anticipated to the Council at this time.

Prepared By: Jayne E. Andreen Phone: 907-465-4356
 Division: Council on Domestic Violence and Sexual Assault Date: 3/6/96
 Approved by Commissioner:  Date: 3-6-96
 Agency: Ronald L. Otte, Dept. of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB348

Revision Date: _____
 Title: Videotape/Audiotape Interviews with
Children
 Sponsor: Representative James
 Requestor: House (CRA)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southcentral Region
 COMPONENT SERIAL NO. 254
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	1,189.0	1,189.0	1,189.0	1,189.0	1,189.0	1,189.0
TRAVEL	18.6	4.4	4.4	4.4	4.4	4.4
CONTRACTUAL	844.1	823.5	823.5	823.5	823.5	823.5
SUPPLIES	43.1	36.4	36.4	36.4	36.4	36.4
EQUIPMENT	31.6	7.3	7.3	7.3	7.3	7.3
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	2,126.4	2,060.6	2,060.6	2,060.6	2,060.6	2,060.6

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	2,126.4	2,060.6	2,060.6	2,060.6	2,060.6	2,060.6
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	2,126.4	2,060.6	2,060.6	2,060.6	2,060.6	2,060.6

POSITIONS:

FULL-TIME	29	29	29	29	29	29
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would require that an inte view with children alleged to have been abused or neglected be videotaped. DFYS would need to purchase video camera's for every field office, multiple cameras for larger offices where generally several interviews are occurring at the same time; for example, Anchorage may have four to six interviews proceeding at the same time. DFYS would have to hire six Social Service Associate III's to operate camera's and to support the cataloging and organization of tapes. There would be cleaning, repair, maintenance and replacement cost for the videotape and audiotape recorders. There would be transcription cost assuming two hours of transcription per each report of harm received by DFYS and translation cost assuming 10% of the tapes would requiro translation from Native languages.

[Signature]
 Prepared by:
 Division:

L. Diane Worley
Family & Youth Services

Phone: 465-3191
 Date: 01/22/96

Approved by Commissioner:
 Agency:

[Signature]
Karen Herdrie, Commissioner
Department of Health & Social Services

Date: 1/22/96

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB348

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Vidiotape/Audiotape Interviews with BRU: Family and Youth Services
Children Component: Northern Region
 Sponsor: Representative James COMPONENT SERIAL NO. 255
 Requestor: House (CRA) See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	615.0	615.0	615.0	615.0	615.0	615.0
TRAVEL	27.4	3.2	3.2	3.2	3.2	3.2
CONTRACTUAL	511.3	500.2	500.2	500.2	500.2	500.2
SUPPLIES	32.0	22.2	22.2	22.2	22.2	22.2
EQUIPMENT	21.1	3.8	3.8	3.8	3.8	3.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	1,206.8	1,144.4	1,144.4	1,144.4	1,144.4	1,144.4

CAPITAL EXPENDITURES						
----------------------	--	--	--	--	--	--

CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	1,206.8	1,144.4	1,144.4	1,144.4	1,144.4	1,144.4
1005 GF/Program Receipts						
1008 GF/MHTIA						
Other (please specify)						
TOTAL	1,206.8	1,144.4	1,144.4	1,144.4	1,144.4	1,144.4

POSITIONS:

FULL-TIME	15	15	15	15	15	15
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would require that an interview with children alleged to have been abused or neglected be videotaped. DFYS would need to purchase video camera's for every field office, multiple cameras for larger offices where generally several interviews are occurring at the same time; for example, Anchorage may have four to six interviews proceeding at the same time. DFYS would have to hire six Social Service Associate III's to operate camera's and to support the cataloging and organization of tapes. There would be cleaning, repair, maintenance and replacement cost for the videotape and audiotape recorders. There would be transcription cost assuming two hours of transcription per each report of harm received by DFYS and translation cost assuming 10% of the tapes would require translation from Native languages.

Prepared by: L. Diane Worley Phone: 455-3191
 Division: Family & Youth Services Date: 11/22/96
 Approved by Commissioner: Karen Perdue, Commissioner Date: 11/22/96
 Agency: Department of Health & Social Services

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB348

Revision Date: _____
 Title: Videotape/Audiotape Interviews with
Children
 Sponsor: Representative James
 Requestor: House (CRA)

Dept. Affected: Health and Social Services
 BRU: Family and Youth Services
 Component: Southeastern Region
 COMPONENT SERIAL NO. 258
 See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY97	FY98	FY99	FY00	FY01	FY02
PERSONAL SERVICES	246.0	246.0	246.0	246.0	246.0	246.0
TRAVEL	6.5	2.0	2.0	2.0	2.0	2.0
CONTRACTUAL	185.4	181.8	181.8	181.8	181.8	181.8
SUPPLIES	11.3	9.1	9.1	9.1	9.1	9.1
EQUIPMENT	8.7	1.5	1.5	1.5	1.5	1.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	457.9	440.4	440.4	440.4	440.4	440.4

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
-------------------------	--	--	--	--	--	--

FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	457.9	440.4	440.4	440.4	440.4	440.4
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other (please specify)						
TOTAL	457.9	440.4	440.4	440.4	440.4	440.4

POSITIONS:

FULL-TIME	6	6	6	6	6	6
PART-TIME						
TEMPORARY						

Estimate of any current year (FY96) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

This bill would require that an interview with children alleged to have been abused or neglected be videotaped. DFYS would need to purchase video camera's for every field office, multiple cameras for larger offices where generally several interviews are occurring at the same time; for example, Anchorage may have four to six interviews proceeding at the same time. DFYS would have to hire six Social Service Associate III's to operate camera's and to support the cataloging and organization of tapes. There would be cleaning, repair, maintenance and replacement cost for the videotape and audiotape recorders. There would be transcription cost assuming two hours of transcription per each report of harm received by DFYS and translation cost assuming 10% of the tapes would require translation from Native languages.

5/22/96 Prepared by: L. Diane Worley Phone: 465-3191
 Division: Family & Youth Services Date: 01/22/96
 Approved by Commissioner: Karen Perdue, Commissioner Date: 1/22/96
 Agency: Department of Health & Social Services

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Alaska State Legislature

REPRESENTATIVE
JEANNETTE JAMES
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North Pole, Alaska 99705
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FAX (907) 488-9006



While in Juneau
State Capitol
Juneau, Alaska
99801-1182
(907) 465-3743
FAX (907) 465-2381

House of Representatives
House District 34

SPONSOR STATEMENT HOUSE BILL 348

"AN ACT REQUIRING TAPING OF ALL OFFICIAL INTERVIEWS WITH CHILDREN WHO ARE ALLEGED TO HAVE BEEN ABUSED OR NEGLECTED"

The intent of this bill is to have a video camera or audio tape recorder turned on immediately at the start of the original, initial official interview with an allegedly abused or neglected child and to record the entire interview and all subsequent interviews with the child.

When dealing with emotion-laden situations, adults' perceptions and memories are not necessarily reliable; and children can be led to make imaginary happenings sound like fact and to finally believe these fantasies themselves. The credibility of all parties can become suspect and an accurate objective judgment is then impossible. This bill would help dispel incorrect perceptions and allow fairness to all parties involved.

I met with strong resistance from DFYS and other state agencies when I introduced a similar bill two years ago. This year the agencies should be much more receptive due to a recent Ombudsman's investigation, which found:

"Arguments in favor of videotaping or at least audiotaping are as compelling as those against the practice....

"Administrative convenience does not justify lack of agency accountability in this sensitive area....

"Where video and audio recorders might have intimidated children in the 1960's, the same likely cannot be said in the 1990's. (Sponsor's insert: I also believe that taping makes the child feel validated, not intimidated.) And finally....

"Social workers questioned by the ombudsman investigator either said that audio taping would not be a problem and might be easier than note taking, or said that a videotape would be the best way to review a case."

HB 348 will help implement sound public policy by requiring accountability of agency action in the sensitive area of state interference in private family life, and I strongly urge your support for this important piece of legislation.



State of Alaska
ombudsman
 A Legislative Service Agency

LEGISLATIVE INFORMATION

F A X T R A N S M I T T A L M E M O

TO: Bill Hoover

DEPT: _____ FAX #: _____

FROM: Bureau PHONE _____

CO: _____ FAX #: _____
 Post-it and fax for ST 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000

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Date: June 21, 1995
 From: Stuart C. Hall, Ombudsman

Subject: Division of Family and Youth Services' accountability concerning initial interviews with children who are subjects of child abuse reports.

Summary of the Complaint

On February 22, 1993, the Bethel field office of the Division of Family and Youth Services (DFYS) received a telephone call ("report of harm") reporting possible mental and/or sexual abuse of a five year old child. The "reporter" named the child's father as the alleged abuser. The reporter based the allegations upon the reporter's observations of the child and the child's family some months previously, viewed in light of a booklet the reporter had recently received regarding reporting child sexual abuse.

To investigate the report, two social workers interviewed the child at her preschool. As a result of what the child allegedly said in that interview, the social workers stopped the interview, took the child into emergency custody, and saw in while the child was interviewed again, this time by an Alaska State Trooper. During the second interview the trooper determined that the child's father's wrist had accidentally touched the child's bottom during play. After having been in emergency custody for approximately two hours, the child was returned to her parents' home. The DFYS case was closed as invalid.

The child's father complained to the Ombudsman that the whole experience was extremely upsetting and that the family now lives in fear that DFYS might return on any pretext and take the child. The father alleged that interviewing the child and taking emergency custody of her was unreasonable because the particular "report of harm" was insubstantial and because what went on in the initial interview was unreasonably shielded from review. In response to the father's complaint to them, DFYS said, "participating Division personnel acted within full scope of the law and in accordance with Division policy and procedure."

The father was not satisfied with this answer and complained to the Ombudsman that if social workers actually acted within DFYS policy and procedure in this case, then the policy and procedures should be changed. After an extensive review of the circumstances of the incident, the Ombudsman agreed with the father in several respects.

Summary of Findings

Although the Ombudsman agreed with DFYS that the social workers acted lawfully, the Ombudsman found partially justified under its own standards the overall allegation: *the Division of Family and Youth Services abused its discretion by deciding to interview complainant's child based on an insubstantial report of harm and by thereafter taking complainant's child into emergency custody.* DFYS did not accept the Ombudsman's finding.

The Ombudsman investigation found that, standing alone, the initial report of harm did not provide sufficient basis to launch a child support investigation. The social worker's intake notes left unanswered fundamental questions about the basis for the reporter's conclusions. For example, although the reporter alleged the child's actions were "seductive", the caseworker failed to support that value judgment with examples indicating the "seductive" nature of the behavior. In addition, although the social workers had available information which would have lessened the credibility of the report, that information was

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apparently not used to determine whether the interview should take place. Finally, uninvolved professionals from child protective services in Washington and Oregon, as well as an experienced teacher in the field of child protection, regarded DFYS' written report of harm as bordering, vague, and lacking in specific factual observations which would back up the jargon used on the intake notes.

However, from a public policy perspective, the Ombudsman found another issue even more compelling: the only persons present during the interview were the social workers and the young child. As a result, the Ombudsman was unable to independently review the social workers' decision to take emergency custody because (1) DFYS policy does not require caseworkers to keep their original notes, (2) the interview was not audio or video recorded, and (3) the child's teacher was excluded from witnessing the interview without sufficient basis.

Given these circumstances, the Ombudsman was forced to find indeterminate, the allegation that the agency abused its discretion by taking emergency custody based upon the interview at the preschool. The Ombudsman believes an indeterminate finding is unacceptable when it is based on an insufficiency of agency accountability.

Summary of Recommendations

In the belief that sound public policy supports accountability of agency action, especially in the sensitive area of state interference in private family life, the Ombudsman made the following recommendations:

(1) Caseworkers should never dispose of their original file notes, but should retain them as part of the case file at issue.

(2) DFYS should conduct a feasibility study regarding audiotaping/videotaping of initial interviews with alleged victims of child abuse and neglect. The study will include a cost analysis, review of appropriate literature, pros and cons related to Child Protective Services (CPS) investigations, training needs, legal issues and specified situations that would benefit from taping. This study should be completed by the start of the January 1996 Alaska legislative session.

(3) DFYS policy makers and trainers should continue their efforts to improve social workers' skills, competence and casework knowledge through comprehensive, consistent and timely training opportunities for all DFYS staff.

Agency Response: Ombudsman Disposition

The agency has accepted final recommendations 2 and 3. The agency has refused to accept final recommendation 1. As a result this complaint was closed as partially justified and partially rectified.

The recommendations in this case were a compromise between the Ombudsman's Office and DFYS. DFYS continues to support the actions of its social workers and the Ombudsman continues to believe the agency made several errors in this case. The agency was unwilling to make a commitment to routinely audio or videotape interviews with children based purely on an Ombudsman recommendation. However, the agency recognizes that whether interviews with children should be recorded in some fashion is an important public concern. Therefore, the agency committed to do a timely review of the issue prior to the upcoming legislative session. HB 348, which would require videotaping of interviews with children was introduced at the end of the first session of the 1995 Nineteenth Alaska Legislature. The Ombudsman hopes that this investigation will be helpful in legislative consideration of the issues that are the subject matter of HB 348.

A full public version of the Ombudsman report of this investigation is available upon request.

This report is available to the public upon request

Abuse interviews may be taped

The Associated Press

ANCHORAGE—The state agency in charge of investigating child abuse will consider videotaping its initial interviews with alleged victims following an ombudsman review.

The Department of Family and Youth Services planned to complete its study in time for the next legislative session in January. A bill requiring recorded interviews has been filed for consideration next year.

Bea Hagen, an ombudsman investigator in Fairbanks, said Thursday that the issue arose when a Bethel man complained that his 5-year-old daughter was taken into emergency custody for two hours based on abuse charges that turned out to be false.

Hagen said the ombudsman accepted the case when it turned out that agency policies had been followed and there was no requirement for video or audio recordings of initial interviews with children.

Hagen said there also was no policy requiring case workers to keep original notes made during the children's interviews. Alaska is among states where notes may be reconstructed later and originals may be destroyed.

The department has agreed to study whether interviews should be recorded. It has rejected a recommendation that initial interview notes be retained, Hagen said.

The ombudsman said that failing to record the interviews and permitting original notes to be discarded made it impossible to retrace steps leading up to emergency custody.

"The father was very upset," said Hagen, who said confidentiality rules barred her from identifying the family. "He wanted to know why original notes weren't kept."

Hagen said the 1993 case raised policy issues about how to hold the department more accountable for one-on-one interviews with children.

The ombudsman's office said the department had acted legally in the Bethel case. Telephone messages left with a DFYS supervisor in Fairbanks were not immediately returned Thursday.

Hagen said the case began when DFYS officials received a hot-line report claiming the 5-year-old asked if she was "pretty" and acting in a "seductive" way.

The report also said the child appeared to hate boys and was always with her father when he was not at work.

Hagen said that taken alone, the behavior seemed "fairly benign." But she said she could see how a professional could interpret the girl's actions as symptoms of abuse.

"This vague, social service jargon was used to justify interviewing the child at her preschool," Hagen said. State law permits authorities to approach a child, without a parent's knowledge, if a report of harm appears worth investigating.

But Hagen said the department had erred by failing to check with others before going ahead with an interview. Among sources available was another social worker who knew the family well, Hagen said.

The ombudsman said the child was taken into protective custody and state troopers were called when she made disturbing statements during the initial interview.

Hagen said that after questioning that same day by a trooper, the social workers concluded that the child's bottom had been touched during innocent play. She was released to her parents and remains with them today, Hagen said.

The department has resisted recording initial interviews because it would be expensive, require staff training and may intimidate a child.

Danger lurks in suggestive interviews

In January, 1989, a parent charged Bob Kelly of sexually abusing her son at the Little Rascals Day Care Center in North Carolina. Panic swept the town as the police, parents, and therapists relentlessly questioned the preschoolers. After months of repeated questions, 90 children made charges not only against Bob Kelly but against dozens of people in the town. The charges included rape, sodomy, and fellatio.

Some children said that pins and magic markers were put into their vaginal and anal openings. Others claimed Bob burned a cat with a candle and murdered babies.

Some children said they were taken away on a boat and thrown into a sea of circling sharks.

The jury convicted Bob Kelly and all the other defendants. Bob Kelly was sentenced to serve 12 consecutive life terms. Last May, his conviction was overturned on appeal.

In their new book, *Jeopardy in the Courtroom: A Scientific Analysis of Children's Testimony* (Washington, D.C.: American Psychological Association, 1995), psychologists Stephen Ceci of Cornell University and Maggie Bruck of McGill University examine what goes wrong in such cases.

Their conclusions are the



Judith
Kleinfeld

more convincing because they refuse to cash in on their expertise. They have declined hundreds of requests to serve as expert witnesses. In the five cases where they did testify, sometimes for the prosecution and sometimes for the defense, they refused any fees. Preschool children are able to provide accurate testimony about sexual abuse, Ceci and Bruck conclude, but they are also suggestible.

Aggressive interviewing about events that never happened can distort their memories to the point where the truth may be buried forever.

Researchers have devised clever experiments to examine how children react to false suggestions about being touched.

One fascinating set of studies examined children's memories of ordinary visits to the doctor. The researchers knew what had happened at the doctor's office—a routine examination. But what would children say if

adults asked them leading questions with a sexual whiff, such as "Did the nurse lick your knee?"

The 7-year-old children stuck to the truth 90 percent of the time. The 3-year-old children were far less reliable, especially when asked about the doctor's visit three months later. The researchers discovered a valuable clue to the truth of children's testimony. When the event never happened, many children at first laughed at the question. This happened in the Little Rascals case. As a mother testified:

Mother: I asked him has Mr. Bob ever touched your peebug...

Attorney: And what were his responses?

Mother: He thought it was funny. He was laughing at me...

If we want accurate testimony, say Ceci and Bruck, we should watch for such clues.

We also need to watch out for the powerful impact of interviewer bias where parents or investigators think they know what has happened and attempt to get the child to confirm it.

In a dramatic experiment, Ceci and his colleagues asked preschool children to play a game a lot like "Simon Says." The children touched their stomachs and other children's noses.

A month later trained social workers interviewed them about the game. Some of the social workers were told the truth. Others were misled. They were told, for example, that the children's knees had been licked.

What the social worker believed to be true had an astonishing impact on what the children ending up saying. When the social worker knew the truth, the preschool children gave accurate reports 95 percent of the time.

When the social worker had wrong information, more than a third of the children confirmed these false beliefs. At first the children appeared hesitant when they agreed that someone had done something like licking their knees. But their confidence increased as the interview went on. When these social workers passed on their notes to other social workers, who interviewed the children again two months later, the children stuck to their errors with even greater confidence.

Ceci and Bruck do not deny the reality of sexual abuse. But they provide convincing evidence that suggestive questioning during investigation can provide confident child witnesses testifying to things that never happened.

Judith Kleinfeld is a professor of psychology at the University of Alaska Fairbanks.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB348

Revision Date: _____ Dept. Affected: Public Safety
 Title: Video/Audio taping of interview, with abused BRU: Alaska State Troopers
minors Component: Detachments
 Sponsor: Representative James
 Requestor: H. 570 COMPONENT SERIAL NO. _____

EXPENDITURES/REVENUES: (Thousands of Dollars) (inflation not included)

OPERATING	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES	2.6	2.6	2.6	2.6	2.6	2.6
EQUIPMENT	22.0					
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	24.6	2.6	2.6	2.6	2.6	2.6
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
CHANGE IN REVENUES () Revenue Code	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program						
1006 GF/MHTIA						
Other						
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

Estimate of current year (FY 95) impact: \$ _____

POSITIONS:

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

ANALYSIS: (Attach a separate page if necessary.)

See Attached.

Prepared By: Lt. Dan Lowden Phone: 65-5505
 Division: Alaska State Troopers Date: January 22, 1996
 Approved by Commissioner: *Ronald L. Otte* Date: 1/22/96
 Agency: Ronald L. Otte, Department of Public Safety

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO: HB 348

Revision Date: January 22, 1996

Dept. Affected: Public Safety

ANALYSIS CONTINUED:

To have the ability to videotape the interviews as required under this bill the division would need 22 new video camera kits at about \$1000.00 each (\$22,000.00) and about 750 video tapes at 3.50 each (\$2,625.00). The video tapes would have to be purchased each year as new cases would be coming in and the used tapes would be in storage as evidence.

FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 348

Revision Date: _____ Dept. Affected: Department of Law
 Title: "...requiring that all official interviews with children
...alleged...abused or neglected be videotaped or audiotaped." BRU: Criminal Division
 Sponsor: Representative James Component: Criminal Division
 Requester: House State Affairs COMPONENT SERIAL NO. 2085

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 97	FY 98	FY 99	FY 00	FY 01	FY 02
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL	87.0	87.0	87.0	87.0	87.0	98.0
SUPPLIES	1.2	1.2	1.2	1.2	1.2	1.2
EQUIPMENT	19.0			4.8	4.8	4.8
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	107.2	88.2	88.2	93.0	93.0	93.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	107.2	88.2	88.2	93.0	93.0	93.0
1005 GF/Program Receipts						
1006 GF/MHTIA						
Other						
TOTAL	107.2	88.2	88.2	93.0	93.0	93.0

Estimate of any current year (FY96) cost: \$ 0.0

POSITIONS

FULL-TIME	0.0	0.0	0.0	0.0	0.0	0.0
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 47.17 to provide that upon receiving a report that a child has been abused or neglected, that a government officer (including a school official) or an agent of the government may not interview the child concerning the alleged abuse or neglect unless the initial interview and each subsequent interview is videotaped. The bill also provides that if videotaping of the initial interview or a subsequent interview is impractical, the interview shall be audiotaped.

Department of Law prosecutors and the department's victim/witness paralegals routinely interview children in cases where child abuse and neglect have been alleged. About 360 of these cases are referred to the department annually, and about 200 cases are accepted for prosecution. Prosecutors conduct a prescreening interview with the children involved in about one-half of the cases that are referred to the department. This amounts to one hour each or approximately 180 hours of interview time.

Prepared by: Richard I. Pegues, Director Phone: 465-3672
 Division: Administrative Services Division Date: 1/22/96
 Approved by Commissioner: Bruce M. Botelho, Attorney General Date: 1/22/96
 Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
1996 LEGISLATIVE SESSION

BILL NO. HB 348

ANALYSIS CONTINUATION:

Of the 200 cases that are accepted, prosecutors and paralegals spend about 2 hours in total interviewing the child victim in each case. This amounts to approximately 400 hours of interview time.

The Department of Law does not believe it is feasible to videotape children in child abuse and neglect cases for two reasons. First, the expense of videotaping is prohibitive. This includes video equipment and operators. Also, in many cases interviews are scheduled in the late afternoon, in early evening hours, or on weekends because of prosecutors' trial calendars, making scheduling and logistics very difficult.

Second, the use of videotaping is invasive to victims of any age, and particularly to victims of sexual or physical abuse. It is doubtful that any adult victim of these crimes would even consider participating in such a process, if it was ever required. Therefore, we are concerned that parents would not allow their child to participate in a process that requires the child to be repeatedly placed before a video camera to relate what to most people are horrifying, traumatic experiences. If interpreted to require repeated video taping of abused children, we believe the bill would have a dramatic chilling effect on the willingness and the ability of child victims to speak out against their abusers. Furthermore, the bill's requirement for the unlimited use of recording devices, and the invasiveness of such devices, also raises the issue of whether such unlimited use is lawful under Article I, Section 25 of Alaska's Constitution. Section 25 provides in part: "Crime victims...shall have the following rights...the right to be treated with dignity, respect, and fairness during all phases of the criminal and juvenile justice process..."

Conceivably, an elaborate system of two-way mirrored interview rooms could be established throughout the state so that a child is not aware that videotaping is occurring. However, the costs would be astronomical. The department considered this option, but abandoned the idea due to the high cost of renovating and staffing each of the state's 12 District Attorney's offices and where, in our two larger offices, multiple video interview rooms would be necessary.

We therefore believe that the only alternative is to audiotape interviews. Our prosecutors and paralegals would have to conduct approximately 580 hours of interviews at 12 different locations throughout the state each year. Due to the number of staff involved, the department will require 38 recording machines and 12 duplicating machines for this purpose. The department will also need 1,500 audio tapes annually. Last, the department will require outside court reporter services to transcribe audio tapes, because the recorded interviews will be discoverable by the defense. Normally, 40 pages of transcription is required for each hour of a recorded interview. The number and length of interviews to be conducted by the Department of Law will be relatively small compared to law enforcement officers and social workers, and their cost for interviews will be much higher than the department's. A summary of the Department of Law's costs is attached.

Finally, the bill needs to be amended to define the term impractical to include "lack of budget resources". Otherwise, courts may not permit the department to routinely use audiotaping in lieu of videotaping, if the department is ever challenged because it does not use videotaping.

HB 348 Fiscal Analysis

Contractual Services

580 hours audiotape interviews
 x40 pages of transcription per hour
= 23,200 pages
 x\$3.75 per page court reporter fee
=\$87,000

Supplies

1,500 90 minute audiotape
 x\$0.81 per tape
= \$1,215

Equipment

\$ 383 cassette recorder, each
 x 38 recorders
=\$14,554

\$ 372 tape duplicator, each
 x 12 duplicators
=\$ 4,464

Total Equipment \$19,018

1/22/96